

MINUTES OF BOARD OF APPEALS MEETING OF March 5, 2013: Town Hall, East Room

I. ADMINISTRATIVE BUSINESS

Chairman Peter DeTerra – Opened the meeting at 6:00 p.m.

Quorum/Attendance

Members Present – Chairman Peter DeTerra, Francis Cox, Jr., Daryl Manchester, Peg Cook, Al Silva, Rene J. Fleurent, Jr. (Assoc.), Ken Kendall (Assoc.), and Jaime DeSousa (Assoc.)

Members Absent – Joseph Borelli

Minutes: Chairman DeTerra asked for a motion to accept the minutes of February 5, 2013. Mr. Kendall motioned to accept the minutes. Mr. DeSousa seconded. The vote was unanimous.

II. PUBLIC HEARING:

1. Petitioner: James R. Gilbert, 58 Ocean Avenue, Plat 29C, Lot 249-250; Book 9563 and Page 17; 198-18: Short 9' of the required 30' front setback, short 10' of the required 20' east and west side setbacks and 5% over the maximum allowed building coverage of 15% all within a RR District.

The petition was read and there were 51 abutters notified. The petitioner stated the Board approved the same request for a single family dwelling in 2010. Due to financial circumstances he did not do the project. He asks now to approve the same plan approved May 4, 2010. A letter in opposition from abutters Paul & Kate Correia, 60 Ocean Avenue, was read and is part of this record. Ms. Cook asked the square footage and if it is a single story house. It is 720 square feet and 1½-stories. Mr. DeTerra asked if the house was for the petitioner's personal use. The petitioner stated he has lived in Fairhaven since 1990 and would like to retire at this house. Mr. Cox, Jr. asked if the house and site plans are the same as those approved in 2010. Yes. The plans from 2010 were reviewed by the Board.

Mr. Fleurent, Jr. motioned to grant the Variance with the condition that the house and site plans remain the same as those approved in 2010. Mr. Silva seconded.

Members voting to grant the Variance: Ms. Cook, Mr. Manchester, Mr. Cox, Jr., Mr. Silva and Mr. Fleurent, Jr.

The Variance is GRANTED with a vote of five (5) in favor and none (0) opposed.

2. Petitioner: EM & CM Family Limited Partnership, 17 Shore Drive, Plat 29C, Lot 619-620; Book 6508 and Page 235 and Book 4707 and Page 32; 198-18: Short 5' of the required 20' north and east side setbacks, short 10' of the required 30' front west side setback and 7% over the maximum allowed lot coverage of 15% all within a RR District.
Special Permit required for expansion of a non-conforming lot.

The petition was read and there were 36 abutters notified. No one was present to represent the petitioner.

Mr. Kendall motioned to table the petition until the end of the public hearings. Mr. Cox, Jr. seconded. The vote was unanimous.

At the end of the public hearings Mr. Cox, Jr. motioned to reopen the hearing. Mr. Kendall seconded. The vote was unanimous.

No one was present to represent the petitioner. Abutters who were present spoke. Mr. Daniel Ryan, 50 Gilbert Street, stated the site plans are not accurate and the proposed dwelling is too large for the small lot. The lot used to only have a seasonal camper on it. Mr. Joe Perry, 5 Shore Drive, stated the same, noting the site plans show an existing rip-rap wall that does not exist. The house is too large for the small lot. The chairman asked Wayne Fostin, Zoning Enforcement Agent, if the hearing could be postponed to the next meeting and was informed that the timeframe based upon receipt of the petition would require action at this time or the proposal would be automatically approved because of no action within the required timeline.

Mr. Cox, Jr. motioned to grant the Variance. Mr. DeSousa seconded.

Members voting to grant the Variance: None

Members voting not to grant the Variance: Ms. Cook, Mr. Manchester, Mr. Cox, Jr., Mr. Silva and Mr. Fleurent, Jr.

The Variance is DENIED with a vote of none (0) in favor and five (5) opposed.

Mr. Cox, Jr. motioned to grant the Special Permit. Mr. Silva seconded.

Members voting to grant the Special Permit: None

Members voting to not grant the Special Permit: Ms. Cook, Mr. Manchester, Mr. Cox, Jr., Mr. Silva and Mr. Fleurent, Jr.

The Special Permit is DENIED with a vote of none (0) in favor and five (5) opposed.

3. Petitioner: Baycoast Bank, 75 Alden Road, Plat 30A, Lot 86D; Book 3713 and Page 250;
198-18: Short 12' of the required 50' front setback in an Industrial District.

Mr. Jaime DeSousa recused himself from the meeting due to business dealings with the petitioner. Mr. Fleurent, Jr. stated that as a member of the Planning Board he has dealt with the proposal prior to this hearing before the Board of Appeals. The petition was read and there were 31 abutters notified. The petitioner was represented by Attorney Don Fleming, Mattapoisett on behalf of Brian Dunn, MBL Land Development & Permitting Corp. The property is part of the Fairhaven Center for Business Condos. Plans were presented and are part of this record. The proposal is to create a by-pass lane for the drive through in order to maintain traffic back-up on the property and not onto Alden Road. The existing 50' buffer has plantings and a grassed area. They will remove some of the grass area. The hardship is in the dimensional requirements. There will be no structures within the 50' buffer requirement. The proposal is a better use of the lane, is in harmony with the zoning requirements and has been approved by the Planning Board. Speaking in favor of the proposal was Mr. James Vieira, Chairman of the Fairhaven Center for Business Condo Association who stated the association has unanimously approved the project.

Mr. Silva motioned to grant the Variance. Mr. Kendall seconded.

Members voting to grant the Variance: Ms. Cook, Mr. Cox, Jr., Mr. Manchester, Mr. Kendall and Mr. Silva.

The Variance is GRANTED with a vote of five (5) in favor and none (0) opposed.

III. OTHER BUSINESS:

None

ADJOURNMENT

Mr. Fleurent, Jr. motioned to close the public hearing. Mr. Silva seconded. The vote was unanimous.

Mr. Kendall moved to adjourn the meeting. Mr. Silva seconded. The vote was unanimous.

The meeting was adjourned at 6:35 PM.

Respectfully Submitted,
Patricia Fowle, Secretary
To the Board of Appeals