



TOWN OF FAIRHAVEN
BOARD OF APPEALS
Town Hall, Fairhaven, Mass. 02719

September 6, 2011

The Fairhaven Board of Appeals met on September 6, 2011 at 6:00 PM at the Fairhaven Town Hall. Members present were: Mr. Joseph Borelli, Mr. Rene Fleurent, Jr., Mr. Kenneth Kendall, Mr. Fran Cox, Mr. Peter DeTerra and Ms. Peg Cook. The following petition was considered:

Petitioner: Mark & Ann Johnson 194 Cottonwood Street Plat 43B, Lot 150 Certificate #21644
198-18 Short 16' of the required 30' front setback, short 2' of the required 30' rear setback and 8% over the maximum allowed building coverage of 15% all within a RR district.

The petition was read. There were 35 abutters notified. The petitioner is planning on doing some home improvements and would like to add some living space at the same time. The proposal is for a deck and to square off an 8'x10' area of the house. The new space will provide a better view. The lot is small and the setback variance is required.

In Favor: The petitioner.

Opposed/Questions: none

Motion to grant the Variance was made by Mr. Cox; seconded by Mr. Borelli.

Board members voting to grant the Variance: Mr. DeTerra, Ms. Cook, Mr. Fleurent, Jr., Mr. Kendall and Mr. Borelli.

The Board voted 5-0 to grant the Variance of sixteen feet (16') of the required thirty feet (30') front setback, two feet (2') of the required thirty feet (30') rear setback and eight percent (8%) over the maximum allowed building coverage of fifteen percent (15%) all within a RR District as required in Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot is small and a variance is required. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

Peter DeTerra,
Chairman



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Petitioner: Skipper Realty, LLC/Seaport Inn and Marina LLC 110 Middle Street Plat 11 Lots 2, 6A, 6B, 6C, 3, 97 and
Plat 12, Lots 17-20,20A,21-24 Book 9139, Page 298

Administrative Appeal

The petition was read. There were 34 abutters notified. Mr. Robert Contreras of Skipper Realty LLC/Seaport Inn and Marina LLC stated that his interpretation of the Building Code differs from that of the Building Commissioner who is requiring the company to provide engineered plans and other specific building information along with building permits for issues the petitioner deems to be routine maintenance. Copies of specific areas of the building code were provided and the copies are part of this record. Mr. Andrew Bobola, Assistant Building Commissioner, addressed the issue and stated that under Chapter 40A a zoning board of appeals may only act on dimensional requirements. The petitioner is seeking an appeal of the Massachusetts Building Code, which the Fairhaven Zoning Board of Appeals has no jurisdiction. The appeals board the petitioner must petition is the State Building Code Board of Appeals in Boston. Mr. Contreras requested a letter stating such. Mr. Bobola stated he would provide one.

Motion not to hear the petition because the request for Administrative Appeal is outside the jurisdiction of the Zoning Board of Appeals was made by Mr. Fleurent, Jr.; seconded by Mr. Kendall.

Board members voting not to hear the petition: Mr. Kendall, Ms. Cook, Mr. Borelli, Mr. DeTerra and Mr. Fleurent, Jr..

The Board voted 5-0 not to hear the petition because the request for Administrative Appeals is outside the jurisdiction of the Zoning Board of Appeals.

Peter DeTerra,
Chairman