



FAIRHAVEN PLANNING BOARD

Town Hall • 40 Center Street • Fairhaven, MA 02719
Telephone (508) 979-4023 ext. 9

I certify that 20 days have elapsed since the date of filing with the Town Clerk and no appeal and no revisions have been made since the date of filing.

Date: _____

Elisabeth Horan, Interim Town Clerk

Town Clerk/Registry of Deeds

FAIRHAVEN TOWN CLERK
RCUD 2023 SEP 14 AM 10:47

The Fairhaven Planning Board as required by Massachusetts General Laws Chapter 40A Section 9 and Town of Fairhaven Zoning By-Laws Section 198-29 requiring Special Permit Review scheduled a Public Hearing on August 22, 2023. The August 22, 2023 Public Hearing was conducted and continued to September 12, 2023 when the special permit application was closed with deliberation and decision and voted on.

PETITIONER: Michael Panagakos
133 Faunce Corner Road
Dartmouth, MA 02747

OWNERS: Michael Panagakos
133 Faunce Corner Road
Dartmouth, MA 02747

ENGINEER: Farland Corp
154 Huttleston Avenue
Fairhaven, MA 02719

LOCATION: 27-29 Alden Road
Map 26 Lots 13G and 13H
Fairhaven, MA 02719
Book: 2994 Page: 180
Book: 2994 Page: 179

PETITION: Request for Special Permit approval to construct a new approximately 2,458 sf Starbucks Cafe Building with a Pickup Window.

PLANS: The applicant submitted drawings, plans, details, sections and illustrations in support of their application for a Special Permit as detailed below prepared by Farland Corp.

- Plan set: Plan set titled "Site Plan Starbucks Assessors Map 26 Lots #13G &13H , Fairhaven, Massachusetts 02719" dated Revised August 31, 2023. Plans consisting of the following sheets: Cover Page (#1); Existing Conditions (#2), Layout (#3); Grading and Drainage (#4); Utilities (#5); Landscape and Lighting (#6); Notes & Legend (#7), Detail (#8-9), Building Floor Plan (#A101R), and Exterior Elevations (#A201-203).
- Special Permit Application Package stamped July 12, 2023.
- Sign detail received September 5, 2023.

OTHER EXHIBITS:

- Minutes of the Fairhaven Planning Board Meetings on the following dates: August 22, 2023 and September 12, 2023.
- Staff Reports dated August 4, 2023, August 16, 2023, and September 9, 2023.
- Staff Slide Show dated August 22, 2023 and revised September 12, 2023.
- Fairhaven TV recording of the Planning Board public hearings August 22, 2023 and September 12, 2023.

FINDINGS OF FACT:

The Planning Board finds, based on the information submitted and testimony from the public hearing, that:

- The proposal is to construct a new approximately 2,458 sf Starbucks Café Restaurant Building with a Pickup Window on a pad on 27 and 29 Alden Road.
- The overall site owned by Michael Panagakos is 34,944 sf and includes two buildings. The proposal includes demolishing the defunct Duncan Donuts and Tropical Smoothie buildings.
- The applicant widened the drive thru lane and turning radius, widened the entrance on Alden Road and removed two proposed parking spaces to address concerns raised by the Police and Fire Departments.
- Layout Sheet #3 indicated a 25 foot pylon sign near the entry way on Alden Road whereas Zoning Bylaw 198-26.D.[2(b)] states "no part of the sign face or the sign support structure shall be more than 16 feet above the average grade of the site." Zoning Bylaw Section 198-26.K states "Variances shall not be granted for any sign, as ample provision has been made for premises identification within this chapter, and because true hardship as defined by state law cannot be demonstrated in signage situations." Due to these provisions, the applicant agreed to reduce the height of the sign to 16 feet.

Subject to these findings and the conditions set forth herein the Planning Board finds that the project as proposed in the Plan Set submitted as part of the application will be consistent with the general purposes and intent of the Fairhaven Zoning Bylaw and that the grant of the special permit is in the public interest and will preserve community values because, among other reasons:

Section 198-29.D(1)

- (a) The design assures safety with respect to internal circulation and egress of traffic and will not cause congestion, hazard or substantial change in established neighborhood character.
- (b) The design provides adequate access for fire and service equipment. The design provides adequate utility services and drainage facilities consistent with the Fairhaven Zoning Bylaws or as granted.
- (c) The intent of the performance standards of Section 198-24 (Noise, Litter and Smoke Standards) will be met.
- (d) The proposed use will not adversely affect the continued operation or development of adjacent uses; and
- (e) The proposed use will not create a nuisance or hazard.

Section 198-29.D(2)

Any Special Permit issued pursuant to this § 198-29 may also impose conditions and safeguards, including a requirement that the development of the site thereunder shall be in strict compliance with the plan submitted to the Planning Board pursuant to Subsection B and any amendments to that plan which may have been approved by the Board.

ACTION: *Motion to approve Special Permit SP 2023-05 made by Mr. Carr, and second by Mr. daSilva. Petition GRANTED to approve the Special Permit with the following conditions by 7 members in favor; 0 opposed.*

<i>Member</i>	<i>YES</i>	<i>NO</i>	<i>ABSTAIN</i>	<i>NOT PRESENT</i>
<i>Cathy Melanson, Chair</i>	<i>X</i>			
<i>Jessica Fidalgo, Vice Chair</i>	<i>X</i>			
<i>Sharon Simmons, Clerk</i>	<i>X</i>			
<i>Patrick Carr</i>	<i>X</i>			
<i>Ruy daSilva</i>	<i>X</i>			
<i>Kevin Grant</i>	<i>X</i>			
<i>Jeffrey Lucas</i>	<i>X</i>			

Conditions:

1. Once endorsed by the Planning Board, the applicant shall record the Planning Board Special Permit Decision and approved plan at the Registry of Deeds and provide the Book and Page number to the Planning Board within six months of its endorsement. The Certificate of Occupancy shall not be signed by Planning unless a copy of the recorded decision has been submitted.
2. After the 20-day appeal period and if no appeal is filed, a certified copy of the Special Permit Decision from the Town Clerks Office shall be recorded by the applicant/owner at the applicant/owner's expense in the Registry of Deeds, indexed in the grantor index under the name of record owner and noted on the owner's certificate of title. The applicant/owner shall submit

to the Planning Department proof of such recording.

3. Special Permit approval shall be void after two years from the date of approval unless a substantial use thereof or construction has begun.
4. All site development including grading, drainage and landscaping shall be carried out in accordance with the approved plan set noted above titled "Site Plan Starbucks Assessors Map 26 Lots #13G &13H, Fairhaven, Massachusetts 02719" dated Revised August 31, 2023
5. Except as expressly allowed by this special permit, or by any other lawfully granted special permit, the applicant shall comply with all other applicable laws, including, but not limited to, the procedural, dimensional and use provisions of the zoning by-law and permits required by Building, Fire and Health regulations.
6. The Planning Board hereby approves a waiver to Chapter 198-27.C.(4)(b) regarding the size of the buffer strips between adjoining properties and uses. The Planning Board notes that the proposal improves the access for public safety vehicles.
7. The applicant and owner will monitor the operation of the business and make adjustments as necessary with respect to ensuring that vehicular circulation, noise, lights and trash do not become a problem.
8. The hours of operation will be no earlier than 5:00 am and no later than 11:00 pm. All deliveries will be made during operating hours.
9. Prior to the start of site construction, the applicant shall submit site and utility construction plans for approval and schedule a pre-construction conference with the Board of Public Works and Police Department.
10. The post-development surface runoff patterns shall be consistent with the approved grading plans noted above on file at Town Hall.
11. The property owner shall maintain the grading, drainage, stormwater management facilities, snow removal and landscaping in accordance with the maintenance plans listed on the approved plans noted above on file in Town Hall. All notes on plans and conditions within the operation and maintenance and other plans within the approved plan set cited above are incorporated herein by reference.
12. All new utility services shall be underground.
13. All landscaping required and approved by the Board shall be installed prior to issuance of Final Occupancy Permits.
14. All landscaped areas indicated on the approved plans and as clarified at the public hearing shall be installed and maintained as described. Shrubs and trees, which die, shall be replaced within one (1) growing season.
15. The landscape maintenance plan shall be as follows:
 - (a) Tree, shrubs and groundcover shall be maintained by pruning, cultivation, watering, weeding, fertilizing, restoring planting saucers, tightening and repairing stakes and

guy supports, and resetting to proper grade or vertical position, as required to establish healthy, viable plantings. Spray as required to keep trees and shrubs free of insects and disease.

- (b) Plants shall receive 1" of water per week either through a manual watering program or from natural rainfall during an establishment period of two years.
 - (c) Dead plant material shall be replaced as a condition of annual occupancy renewal and shall be planted at the first available planting season.
16. All exterior lighting shall be dark sky compliant, downward shielded and be on timers and have cut-off fixtures. No glare shall be emitted beyond the property line or into the public right-of-way.
 17. The parking spaces/layout shall be striped per accepted industry standards. The parking lot shall be asphalt or other acceptable hard surface and any places, which are worn, shall be repaired as necessary.
 18. The applicant shall be responsible to repair and/or replace, with in kind material, any damaged, broken or missing sidewalk or curbing along all street and way frontages abutting the property that occurs during construction.
 19. The pylon sign as shown on Layout Sheet Page 3 and the sign detail shall be no higher than 16 feet pursuant to Zoning Bylaw 198-26.D.[2[b]
 20. The applicant shall have the building inspected by the Building Commissioner and apply for any and all necessary Building Permits. Building permits must be secured prior to construction.

A copy of this Decision will be filed with the Town Clerk of Fairhaven and the Fairhaven Building Commissioner. Within twenty (20) days of filing, any person aggrieved by the above Decision may appeal in accordance with Section 17 of Chapter 40A of Massachusetts General Laws.


Cathy Melanson, Chair
Cathy Melanson, Chair
Fairhaven Planning Board