



Fairhaven Planning Board
40 Center Street
Fairhaven, Massachusetts 02719

Town Clerk/Registry of Deeds

FAIRHAVEN TOWN CLERK
RCUD 2024 JAN 25 AM 10:12

I, Elisabeth E. Horan, Interim Town Clerk of the Town of Fairhaven, hereby certify pursuant to MGL Ch. 40A § 9 that the decision of the Fairhaven Planning Board was filed in the Office of the Town Clerk on _____ and that twenty (20) days have elapsed after the decision has been filed.

I further certify that:

NO APPEAL pursuant to Ch. 40A § 17 has been filed with the Fairhaven Town Clerk.

AN APPEAL has been filed in the _____ Court, case number _____ Entitled _____ vs _____

ATTEST: _____ Date: _____
Elisabeth E. Horan, Interim Town Clerk

The Fairhaven Planning Board as required by Massachusetts General Laws Chapter 40A Section 9 and Town of Fairhaven Zoning By-Law Sections 198-16 and 198-32.1 requiring Special Permit Review scheduled a Public Hearing on **January 23, 2024**.

OWNER/PETITIONER: Matthew and Chelsea Varao.
50 Rodman Street
Fairhaven, MA 02719

LOCATION: 50 Rodman Street
Map 25 Lot 211
Fairhaven, MA 02719
Book: 12591 Page: 154

PETITION: Add an Accessory Dwelling Unit above the garage.

PLANS: The applicant submitted drawings, plans, details, sections and illustrations in support of their application for a Special Permit entitled "Plot Plan in Fairhaven, Massachusetts; Prepared for Matthew Varao" and prepared by American Land Surveys dated June 3, 2023.

OTHER EXHIBITS: On file at the Fairhaven Planning Department Office.

- Detached Garage, Varao Residence, 50 Rodman Street prepared by Residential Design Services, dated October 26, 2022.

- Minutes of the Fairhaven Planning Board Meetings on the following dates: January 23, 2024.
- Staff Report dated January 18, 2024.
- Fairhaven TV recording of the Planning Board public hearing January 23, 2024.

FINDINGS OF FACT:

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

- The applicant is proposing to add a second level residential unit (20.3 ft x 20.2 ft or 410 s.f.) above an existing garage
- The property is part of the Single Residence District (RA).
- There will be no expansion to the footprint of the existing structure.
- The project will have no effect on the impervious area.
- Parking will be accommodated on the existing driveway.
- The proposed accessory dwelling unit will connect to Town water and sewer.
- The Zoning Board of Appeals (ZBA) issued the following variances on :
 - A 10 inch variance for a second story addition to an existing 20.2 ft by 20.3 ft garage to be 20 ft 10 inches tall, as compared to the maximum 20 ft height allowed for an accessory building per 198-22.A(2) Accessory Buildings and Uses
 - A variance for the proposed second story addition to be an Accessory Dwelling Unit on a 6,867 sf lot as compared to the minimum 22,500 sf lot size requirement, pursuant to 198-32.1.A. Accessory Dwelling Units

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.

Section 198-32.1

- (a) The applicant received a variance on the lot size from the Zoning Board of Appeals from 22,500 square feet to 6,867 square feet.
- (b) The unit created through conversion will be less than 1,000 square feet which is consistent with Massachusetts General Law Chapter 40A Section 1A which states an accessory dwelling unit cannot be larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller”.
- (c) The applicant submitted plans related to the construction of the building and all requirements of the State Building Code must be met prior to occupation.
- (d) Site Requirements:
 - (1) No expansion to the existing footprint of the structure.
 - (2) Parking for the unit will be on the existing driveway.
 - (3) No portion of the basement, attic, or garage will be used for dwelling purposes.
 - (4) The unit will not be utilizing a septic system.

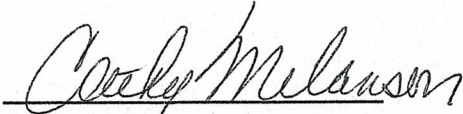
ACTION: *Petition GRANTED to approve the Special Permit pursuant to Fairhaven Zoning Bylaw Sections 198-16 and 198-32.1 with the following conditions by 7 members in favor; 1 opposed. Those in favor: Chair Cathy Melanson; Sharon Simmons; Jessica Fidalgo; Diane Tomassetti; Ruy DaSilva; Patrick Carr; Kevin Grant. Those opposed: Jeffrey Lucas.*

Conditions:

1. Once endorsed by the Planning Board, the applicant shall record the Planning Board 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.
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. All site development must be in accordance with the plans submitted with this application.
4. 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.
5. Special Permit approval shall be void after two years from the date of approval unless a substantial use thereof has begun.

6. All requirements of the State Building Code must be met prior to occupation. For further information regarding building permits and/or related building code issues, please contact the Building Department.

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
Fairhaven Planning Board