

TOWN OF NAHANT
ZONING BOARD OF APPEALS
MINUTES OF MEETING
December 5, 2019 *Amended

A scheduled and noticed meeting of the Nahant Zoning Board of Appeals was called to order by Chairperson Campbell at or about 7:00 P.M. at the Nahant Town Hall, 334 Nahant Road, Nahant, Massachusetts. Present were Board members, Jocelyn Campbell, David Walsh, Max Kasper and Donnalee Leonardo, member Peter Barba participated via telephone.

Old Business: The Board voted (all in favor) to approve the minutes from the last hearing. The Board Chair reviewed the procedure for a member to participate via telephone.

New Business:

HEARING(S):

7:00 p.m. 96 Willow Road, Paul G. Smith, Petitioner

The Board of Appeals held a continued public hearing on Thursday December 5, 2019 at 7:15 p.m. at the Nahant Town Hall, at the request of Paul G. Smith (the "Petitioner") (filed August 6, 2019) for an zoning appeal of the building inspector's denial of Petitioner's request for enforcement dated July 9, 2019 for the property located at 96 Willow Road, Nahant, Massachusetts. Also, at the request of the Petitioner, an appeal of the building inspector's termination of Cease and Desist Order (filed September 5, 2019). Both matters were consolidated and continued at the request of the Petitioner and opened on October 9, 2019, then continued to October 30, 2019, and continued again to December 5, 2019. The hearing was previously advertised in the Lynn Item on August 28th and September 4th, 2019. The petitioner spoke on his own behalf, where his counsel, Dennis Murphy Esq. submitted a letter to the board indicating he could not attend. Prior to the hearing, the property owner, Mr. Robert Rizzo, filed an updated list of project costs and a letter from a licensed contractor attesting to the costs. At the hearing, the property owner was represented by James D. Moore, Esq. Each party was afforded an opportunity to speak and present an update of their position. The Board discussed the updated list of project costs from Robert Rizzo, the owner of 96 Willow Road. The board deliberated extensively regarding the best method for determining the value of the home and the costs according to the FEMA regulations (assessed value vs. appraised value), the reasonableness of the figures, the applicability of the appraisal and the validity of the project costs.

In regard to the building inspector's decision to accept total project costs alleged to be in excess of the FEMA 50% rule, a motion was made by David Walsh and seconded by Donnalee Leonardo to make a finding that the market value of the structure on the property was \$221,000 prior to the start of construction. The vote was as follows: Max Kasper, Donnalee Leonardo, Jocelyn Campbell and Peter Barba voted no, David Walsh voted yes, therefore the motion did not carry. An amended motion was made by Jocelyn Campbell and seconded by Max Kasper to make a finding that the market value of the structure on the property was \$295,900 prior to the start of construction. The vote was as follows: Max Kasper, Donnalee Leonardo, David Walsh and Peter Barba voted no, Jocelyn Campbell voted yes, therefore the motion did not carry. A motion was made by Max

Kasper and seconded by David Walsh to make a finding that the market value of the structure on the property was below \$292,200.00 prior to the start of construction. The vote was as follows: Max Kasper, David Walsh, Donnalee Leonardo and Peter Barba voted yes, Jocelyn Campbell voted no, therefore the motion carried. A motion was made by Max Kasper and seconded by David Walsh to make a finding that the project costs of \$146,100, as presented by the homeowner as a supplement to his prior filings, were in excess of the FEMA 50% rule. The vote was as follows: Max Kasper, David Walsh, Donnalee Leonardo and Peter Barba voted yes, Jocelyn Campbell voted no, therefore the motion carried and the Building Inspector's decision was revoked.

In regard to the Building Inspector's decision revoking a prior Cease and Desist order as to the installation of windows. A motion was made by Peter Barba and seconded by David Walsh to affirm the Building Inspector's ultimate decision to revoke the Cease and Desist order to allow a permit to issue for the installation of new windows, where the Cease and Desist letter was issued in error on the part of the Building Department. The vote was as follows: Peter Barba, Donnalee Leonardo, David Walsh and Jocelyn Campbell voted yes, Max Kasper voted no, therefore the motion carried and the Building Inspector's decision was affirmed.

In regard to the Building Inspector's decision that the project work completed as of July 9, 2019, was not in excess of the initial building permit. A motion was made by Peter Barba and seconded by Max Kasper to affirm the decision of the Building Inspector. The vote was as follows: Max Kasper, Donnalee Leonardo, Peter Barba and Jocelyn Campbell voted yes, David Walsh abstained, therefore the motion carried and the Building Inspector's decision was affirmed.

*Lastly, in regard to the building permits, David Walsh brought a motion which was seconded by Max Kasper, to rescind the building permits. The vote was as follows: David Walsh, Max Kasper, Donnalee Leonardo voted yes and Peter Barba and Jocelyn Campbell voted no, therefore the motion was not carried and the building permits were not rescinded.

The meeting was adjourned.

Respectfully submitted,
Jocelyn Campbell
Chair

*These Minutes were amended to include the final motion which was inadvertently omitted from the first draft, this amendment does not affect the original Decision.