

TOWN OF NAHANT
ZONING BOARD OF APPEALS
MINUTES OF MEETING
January 8, 2020

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, Campbell, Walsh, Barba (via telephone), Kasper and McCool.

SCHEDULED HEARINGS:

7:00 p.m. 2 Linda Lane, Petitioner Paul Gallagher

The Board of Appeals held a public hearing on January 8, 2020 at 7:11, on the petition filed by Paul Gallagher of 51 Wilson Road, to Appeal the Determination of the Building Inspector. On October 25, 2019, the Building Inspector denied a request for zoning enforcement with respect to a rock wall along the property on Linda Lane, where the request for enforcement failed to cite a specific zoning by law violation, and, that the encroachment onto public land or any other property is not a zoning violation enforceable by the Building Inspector's office. The petition was presented by Attorney Michael Sullivan. Attorney Sullivan argued that the two surveys he filed showed that the retaining wall encroached on town land (the street). He also argued that the zoning board of appeals had jurisdiction over the matter because the wall was in violation of setbacks and therefore should be enforced by the zoning board. Attorney Sullivan also agreed that the situation was also a trespass. Attorney Sullivan submitted an additional photo of the property but it did not depict the wall in question, at the hearing. The Chair asked if there was anyone to speak in favor or in opposition. No persons spoke in favor or in opposition. The Board deliberated and discussed setbacks, whether an encroachment onto a public street was a zoning issue or instead a trespass or a nuisance and questioned whether the rocks along the Linda Lane side of the property fit the definition of a 'retaining wall' or not. A motion was made by David Walsh and seconded by Peter Barba to determine that another department in the Town of Nahant would be more suited to deal with the public encroachment issue, and therefore to affirm the decision of the Building Inspector. The following persons voted in favor: Jocelyn Campbell, David Walsh, Peter Barba, Max Kasper, David McCool, none opposed.

7:30 p.m. 143 Nahant Road, Petitioner Brett Henry

The Board of Appeals held a public hearing on Wednesday, January 8, 2020 at 7:50 p.m. at the Nahant Town Hall, on the petition filed by Brett Henry, as a tenant for the property located at **143 Nahant Road**, owned by Stephen Viviano, for a special permit. The Building Inspector has denied a building permit stating that the "proposed catering establishment" requires a Special Permit Use according to Section 4.13 of the Zoning By-Laws of the Town of Nahant, Table of Use Regulations. The property is in the B1 District. A hearing was advertised in the Lynn Item on December 24, 2019 and December 31, 2019. The petition was presented by Brett Henry, tenant in the property. Mr. Henry stated that he planned to install cooking equipment for a wholesale catering establishment. The board asked questions of the Petitioner, regarding square footage of the rented space, deliveries, access, number of employees, hours of operation, and parking. The Petitioner provided a copy of his lease for review and a plan of the proposed installation. The Petitioner indicated that he had two parking spaces with his

lease and that the total square footage under the lease is 648 sq. feet. The Chair asked if there was anyone to speak in favor or in opposition. The following persons spoke in favor: George Mastoras, 5 Linda Lane, Nahant, MA. No persons spoke in opposition. The Board deliberated and discussed the applicability of a Special Permit to the facts, specifically; deliveries, square footage and parking. A motion was made by David Walsh and seconded by David McCool to approve the special Permit to allow the installation of catering equipment and operation of a wholesale catering facility with hours of operation between 5:00 am. And 11:00 p.m. The following persons voted in favor: Jocelyn Campbell, David Walsh, Peter Barba, Max Kasper, David McCool, none opposed.

Respectfully submitted,
Jocelyn Campbell
Chair