

TOWN OF NAHANT
ZONING BOARD OF APPEALS
Minutes of Meeting
March 13, 2019

A scheduled and noticed meeting of the Board of Appeals was called to order by Chairperson Campbell, at or after 7:00 p.m. at the Nahant Town Hall. Present were Board members Campbell, Walsh, Barba, Leonardo, Kasper, and Morse.

HEARINGS:

7:04 p.m. 96 Willow Road, Petitioner Paul G. Smith.

The Board of Appeals held a continued public hearing on **Wednesday March 13, 2019 at 7:04 p.m.** at the Nahant Town Hall, on the request of Paul G. Smith, Petitioner and resident of 94 Willow Road, to appeal from the determination of the Nahant Building Inspector to issue a Building Permit for the alteration and expansion of a pre-existing nonconforming structure located at **96 Willow Road**. Prior to the hearing, Mr. Smith filed an amendment to his appeal raising several additional issues. At the start of the hearing, Mr. Smith was informed that we would not be able to address the new issues raised in his amendment where the new issues had not been filed timely and were not noticed on the agenda for the hearing. The hearing was previously advertised in the Lynn Item on January 30th and February 6th, 2019. The Board read into the record a comment from the Town of Nahant Planning Board. The Board read into the record a question that was posed to the Nahant Building Inspector, specifically, we asked him to confirm the garage measurements and calculation of lot coverage and he responded that he measured the garage himself and that it was actually 210 sq. feet, and that as to other information he took it from the plans and assessors records and scaled it to arrive at the lot coverage and floor area. Mr. Smith presented the reasons for his appeal of the issuance of the building permit. Mr. Smith expressed his dissatisfaction with the Building Department and indicated that he had been given the wrong plans initially. The Board advised that the Petitioner was given the correct plans at the last hearing. Attorney Moore representing Mr. Rizzo, owner of 96 Willow Road presented his client's position as to why the building permit should not be rescinded along with a memorandum. Attorney Moore mentioned a Supreme Judicial Court opinion, Bellalta vs. Zoning Board of Appeals of Brookline SJC-12516 issued just prior to the last hearing. The Board advised that was already aware of the case. The chairperson asked if there was anyone in the assembly to speak in favor or in opposition to the Appeal. The following persons spoke in favor/in support of the appeal; Paul G. Smith, 94 Willow Road, and in opposition; Mr. Robert Rizzo, 96 Willow Road. Exhibits received included; Memo from Attorney Moore (for Mr. Rizzo). A motion was made by member Kasper to make a finding that the building project does not increase the non-conformity of the structure, 4 members in favor 1 opposed (Walsh). The board deliberated the issues in the initial appeal and sufficiency of the plan (sufficient) and noted the applicant did not have the correct plan initially. A motion was made by member Barba to affirm the determination of the building inspector, all were in favor.

8:10 p.m. 46 Breezy Hill Terrace, Curtin Stroeble and Elena Gendron.

The Board of Appeals held a continued public hearing on **Wednesday March 13, 2019 at 8:10 p.m.** at the Nahant Town Hall, at the request of Curtin Stroeble and Elena Gendron, Petitioners, to vary the application of the present Zoning By-law by allowing a Special Permit or Variance to allow them to build an addition which would expand their home to a three (3) bedroom home and replace a spiral staircase located at **46 Breezy Hill Terrace**. Prior to the hearing, the Petitioners filed updated plans. The Petitioners sought relief from the requirements for lot coverage, proposed at 36% where the maximum allowed is 25%, floor area ratio, proposed at 81% where the maximum

allowed is 45%, Harris Road setback proposed at 14' where the minimum allowed is 25', and side setback proposed at 7' where the minimum allowed is 10'. The hearing was previously advertised in the Lynn Item on January 30, 2019 and February 6, 2019. The Board read into the record a comment from the Town of Nahant Planning Board. Attorney Stephen Smith spoke for the applicants. Attorney Smith argued that the petitioners need to expand for safety reasons and provide more space for their family. Attorney Smith also argued that the alterations as proposed were similarly situated in regard to lot coverage and floor area ratio as other homes in the area and therefore would not be more detrimental to the neighborhood. The chairperson asked if there was anyone in the assembly to speak in favor or in opposition to the request for relief. No persons other than the petitioners were present to speak. The board deliberated. A motion was made by member Kasper to make a finding that the proposed alterations would not be more detrimental to the neighborhood, 4 members in favor, 1 opposed (Campbell). A motion was made by member Barba to grant a special permit for the project as proposed, 4 members in favor, 1 opposed (Campbell).

8:45 p.m. 109 Little Nahant Road, Edward Price

The Board of Appeals held a public hearing on **Wednesday March 13, 2019 at 8:45 p.m.** at the Nahant Town Hall, at the request of Edward Price, Petitioner, and Richard Bernstein, Architect, to vary the application of the present Zoning By-law by allowing a Special Permit or Variance to allow him to make alterations to his property including adding a conservatory, balcony and pool to be located at **109 Little Nahant Road**. The Petitioner is seeking relief from the requirements for lot coverage, proposed at 35% where the maximum allowed is 25%, and floor area ratio, proposed at 62% where the maximum allowed is 45%. The hearing was advertised in the Lynn Item on February 27th and March 6th, 2019. The Board read into the record a comment from the Town of Nahant Planning Board. The applicant was asked if he would continue the matter, but he declined to do so. The chairperson asked if there was anyone in the assembly to speak in favor or in opposition to the request for relief. No persons other than the petitioners were present. The Petitioners did submit email correspondence from his next-door neighbor indicating his support. The Petitioner was asked about a public right of way along the left side of the property and whether there were any encroachments upon that public right of way. The applicant responded that there were no encroachments by his property and provided an existing conditions plan entitled "Topographic Plan of Land located at 109 Little Nahant Road, Nahant, MA" prepared for Edward Price, signed and stamped by Richard G. Loud, Registered Professional Land Surveyor, dated January 16, 2019. The board deliberated. A motion was made by member Kasper to make a finding that the proposed alterations would not be more detrimental to the neighborhood, 4 members in favor, 1 opposed (Campbell). A motion was made by member Morse to accept the documents submitted which included conservation commission documents and above-mentioned plan, 4 members in favor, 1 opposed (Campbell). A motion was made by member Barba to grant a special permit for the project as proposed, including a pool, balcony and conservatory, with the condition that the plan provided be filed at the Land Court Department of the Essex South District Registry of Deeds, 4 members in favor, 1 opposed (Campbell).

Respectfully submitted,
Jocelyn Campbell
Chair