

TOWN OF NAHANT  
ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
May 17, 2021



A scheduled and noticed meeting of the Nahant Zoning Board of Appeals was called to order by Chairperson Campbell at or about 5:00 P.M. at the Nahant Town Hall, 334 Nahant Road, Nahant, Massachusetts, via Zoom (remote technology, pursuant to the Governor's order regarding same). Present were Board members, Jocelyn Campbell, David Walsh, Peter Barba, Max Kasper and David McCool and Associate Board Members, Michael Rauworth and Caitlin Kelly. All proceedings following the published meeting notice and all votes were taken by roll call.

**5:00 P.M. 4 Copper Beach Lane, Petitioner Richard Moleti**

The Board of Appeals held a public hearing on May 17, 2021, at 5:00 P.M. on the petition filed by Richard Moleti for the property located at **4 Copper Beech Lane, Nahant, MA**, seeking a Special Permit. The Inspector of Buildings has denied a building permit because the proposed accessory building is in violation of Section 5.03 of the Zoning By-Laws of the Town of Nahant where the proposed left side setback is 3' where the minimum allowed is 10', and the proposed rear setback is 3' where the minimum allowed is 20'. The hearing was advertised in the Lynn Item on May 3, 2021, and May 10, 2021. Hearing this matter were members Jocelyn Campbell, Peter Barba, David McCool, Michael Rauworth and Caitlin Kelly. The chair read into the record the Governor's order regarding suspension of the requirement to meet in person and to allow Zoom meetings. Attorney Steven Smith representing Richard Moleti, presented his request for a variance or special permit to build a new garage stating that the lot at 4 Copper Beach Lane is uniquely placed at a dead end and shaped as an irregular polygon or irregular quadrilateral, not allowing the owner and resident, Richard Moleti, to construct without zoning relief. In location of the existing shed, Moleti is proposing to construct a single-story garage with dimensions of 28' long, 12' wide, and with a pitched roof of 12' high, where 16' is allowed. The property is surrounded by a stockade fence, enabling better privacy for all. Requesting for a variance owing to the lot's soil condition, shape, and topography of the property; a literal enforcement would be a hardship to the property owner. This could be granted with little detriment to the public, and without nullifying the intent of the Zoning By-laws. In result to those findings, the original plan was supplemented with three exhibits that illustrated possible construction if this lot was more regularly shaped. Moleti has received unanimous support from neighbors on Copper Beach Lane and Nahant Road for the building of his garage. Shown for the record, a petition signed by many of the neighbors for approval. Shown for the record, plans of the existing conditions. Shown for the record, maps displaying a better lot placement and size, which would allow for the structure without need for petition for variance. The Chair asked, and no one spoke in favor or opposition of the Petition. The Board asked questions of the Petitioner regarding the placement of the garage, the topography of the incline of the lot, and the setbacks of current structure. The Board deliberated and discussed the request for variance in regard to the by-laws, the petition from the neighborhood, and the detrimental effect of the structure. The Chair raised the issue of density, light and air and the left setback. A motion was brought by Peter Barba and seconded by David McCool, to make a finding that the structure as proposed would not be more detrimental to the neighborhood than the existing shed and condition. A roll call vote was taken and the motion passed, all voting in favor were Peter Barba, David McCool, Michael Rauworth and Caitlin Kelly, voting against was Jocelyn Campbell.

A motion was brought by Peter Barba and seconded by David McCool, to grant a Variance for the construction of the garage where owing to circumstances relating to the soil, topography, or shape of the land and structures affecting such parcels and buildings, but not where it is located, enforcing the provisions of the zoning by-law would result in hardship, financial or otherwise, to the applicant. And that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intended purpose of this by-law. A roll call vote was taken and the motion passed, all voting in favor were Peter Barba, David McCool, Michael Rauworth and Caitlin Kelly, voting against was Jocelyn Campbell. A further motion was brought by Peter Barba and seconded by David McCool to grant the variance, with the added stipulations that the garage may never be occupied and it must be built as presented for this appeal. A roll call vote was taken and the motion passed, all voting in favor were Peter Barba, David McCool, Michael Rauworth and Caitlin Kelly, voting against was Jocelyn Campbell.

**5:45 P.M. 238 Wilson Road, Petitioners Theunis Arend J.DeJong and  
Habitat for Humanity et. al**

The Board of Appeals held a public hearing, on May 17, 2021 at 5:45 PM. on a petition filed by Theunis Arend J.DeJong and Habitat for Humanity et al. for the property located at **238 Wilson Road, Nahant, MA**, seeking Dimensional Variances or Special Permit to build new residence in place of demolished (fire damaged) original dwelling. Hearing this matter were members: David Walsh, Peter Barba, Max Kasper, David McCool and Jocelyn Campbell. The chair read into the record the Governor's order regarding suspension of the requirement to meet in person and to allow Zoom meetings. The Inspector of Buildings has denied a building permit because the proposed building is in violation of Section 5.03 of the Zoning By-Laws of the Town of Nahant where the existing area of the lot is 2,708 square feet and the minimum allowed is 10,000 square feet; the proposed lot coverage is 40% where the maximum allowed is 25%, the proposed floor area ratio is 90% where the maximum allowed is 45%; the proposed number of stories is 3 where the maximum allowed is 2.5; the proposed front setback is 19.5' where the minimum allowed is 25'; the proposed left side setback is 4.3' where the minimum allowed is 10'; and the proposed right side setback is 4.3' where the minimum allowed is 10'. A letter was received from the Nahant Planning Board dated May 10th, 2021, and read into the record, stating the fire occurred on or about January 1, 2018, and therefore, the timing requirements of section 703D were not met. Attorney Sam Vitalli representing the Petitioner argued that the size, shape, and topography of the lot is unchangeable. He stated that the prior owner obtained permission to rebuild their home, however they did not do so in a timely manner and the building permit expired. The homeowner donated the property to the Habitat for Humanity, who would benefit from the approval of this variance. The charitable group currently in possession of ownership have put the lot up for sale, and Theunis Arend J.DeJong is the interested buyer. This purchase and building would benefit the community as a replacement for a vacant lot. Attorney Vitalli argued that the previous home was larger in height and had less secure parking placement. At this point in time, due to current by-laws, no dwelling structure could be erected, even though this is a residential lot, that would correlate with the ordinances without the need for variance. The Chair then asked if anyone would like to speak in favor of the petition. The architect spoke to his plan for the proposed home, as a residence and an improvement to the neighborhood. The Chair then asked if anyone would speak in opposition. Charles Buchan, 98 Little Nahant Road, Nahant, MA, said that due to the proposition of only allowing 4' 3" setback on either side of the home, it would not allow for firefighters to

safely surround the house in case of another fire. Matt Ackerman, 240 Wilson Road, Nahant, MA, presented questions relating to the building plan and if it would be permitted to be different from the original home. The Board of Appeals deliberated and discussed the requests for variances in regard to the location and size of the proposed home versus the original structure, the legality of building anything at all within the time period of abandonment of protection versus inactivity, and the timing, status, and relief requests of the previous building permit. David McCool brought a motion, seconded by David Walsh, to continue the matter so that the board could obtain the opinion of Town counsel as to the effect (if any) of the prior owner's expired building permit on the two-year restoration period. A roll call vote was taken and the motion passed, all voting in favor were David Walsh, Peter Barba, Max Kasper, David McCool and Jocelyn Campbell, none opposed. The matter was continued on June 14th, 2021.

**6:30 P.M. 15 Simmons Road, Petitioners Benjamin Brooks and Angela Munro**

The Board of Appeals held a public hearing on May 17, 2021 at 6:30 P.M. on the Petition filed by Benjamin Brooks and Angela Munro for the property located at **15 Simmons Road, Nahant, MA**, seeking a Special Permit and/or Variance. Hearing this matter were members: David Walsh, Peter Barba, Max Kasper, David McCool and Jocelyn Campbell. The chair read into the record the Governor's order regarding suspension of the requirement to meet in person and to allow Zoom meetings. The Inspector of Buildings has denied a building permit because the proposed addition is in violation of Section 5.03 of the Zoning By-Laws of the Town of Nahant where the proposed lot coverage is 39% where the maximum allowed is 25%; the proposed Burpee Road Setback is an extension of the same where the minimum allowed is 25'; and the proposed side setback is an extension of the same where the minimum allowed is 10'. Benjamin Brooks spoke on his own behalf, explaining the details of the current home which is 1300 square feet, and the petition to add 189 square feet, and only adding to one floor of their home. Petition attached to the application shows Gregory Zahora and Judy Zahora, 17 Simmons Road, Paul Bertin, 16 Baker Road, Edie Cardie, 19 Simmons Road, Jonathan Lock, 14 Baker Road, as in favor of application. The Chair then asked anyone present to speak in favor. Judy and Greg Zahora, 17 Simmons Road, spoke in favor. No one present spoke in opposition. Jocelyn Campbell presented a question to the applicants regarding the addition of a second level, which the applicants explained is not in the building plans and they want to keep the integrity of the house as is. The Board of Appeals deliberated and discussed the request for variance or special permit in regard to the modest addition to this family home and its lack of detriment to the neighborhood. A motion was brought by Peter Barba and seconded by David Walsh, to make a finding that the addition as proposed would not be more detrimental to the neighborhood than the existing home and condition. A roll call vote was taken and the motion passed, all voting in favor were: David Walsh, Peter Barba, Max Kasper, David McCool and Jocelyn Campbell, none opposed. A motion was brought by Peter Barba and seconded by David Walsh, to grant a special permit for the addition with the stipulation that it is built as presented. A roll call vote was taken and the motion passed, all voting in favor were: David Walsh, Peter Barba, Max Kasper, David McCool and Jocelyn Campbell, none opposed.

**6:45 P.M. 116 Willow Road, Petitioner Carl Jenkins**

The Board of Appeals held a public hearing, on May 17, 2021 at 6:45 P.M., on the Petition filed by Carl Jenkins for the property located at **116 Willow Road, Nahant, MA**, seeking a Special Permit or Variance for the reconstruction of his garage. Hearing this matter were members Jocelyn Campbell, David Walsh, David McCool, Michael Rauworth and Caitlin Kelly. The chair read into the record the Governor's order regarding suspension of the requirement to meet in person and to allow Zoom meetings. The Inspector of Buildings has denied a building permit because the proposed garage is in violation of Section 5.03 of the Zoning By-Laws of the Town of Nahant where the proposed lot coverage is 33% where the maximum allowed is 25%; the proposed Willow Road setback is 3.9' where the minimum allowed is 25'; and the proposed Intervale Road setback is 2.2' where the minimum allowed is 25'. A letter received from the Nahant Planning Board dated from May 10th, 2021, was read into the record. The suggestion proposed by the planning board is for the garage to be moved 90 degrees or placed further back into the lot. Attorney Stephen Smith representing the Petitioner spoke on their behalf. Attorney Smith described the current residence: an 8,000 square foot lot with a single-family home, located on a corner lot, is unique in that it has three front yards. It is 110' wide at the widest point and comes to a small point at the intersection. There is a topography grade change moving up the property. He discussed all of the setbacks and that the property is a non-conforming structure on a non-conforming lot. The petitioner is proposing to remove and replace the current garage, measuring 22.5' by 14', with a new garage measuring 24' by 24'. Front yards at Willow Road will be 4'ft where 25' is required, Intervale Road with 2' where 25' is required, and Winter Street 13' where 25' is required. Attorney Smith concedes that there may be traffic conflicts, which is why the petitioners have pivoted the garage access, allowing for improved sight lines. The maximum height of the structure is 10' because the structure will be integrated into the grade to reduce its elevation. There is also a proposed roof deck and exterior stairs for aesthetic reasons. Due to lot's irregular shape and topography, without any relief, the result would be a hardship for the owner and resident. The existing garage is in poor condition. The reconstructed garage cannot be placed anywhere else on the lot in accordance with the by-laws, and because of utility and natural obstructions. Carl Jenkins spoke in favor of the application, stating that the roof deck is specifically designed to enhance the aesthetic of the structure, and that the new proposition is a much safer way to exit and enter their garage. Webb Primason, attorney for neighbors Paul and Michelle Lenzei, 18 Intervale Road, and Mark Hale and Tracey Simpson, 2 Winter Street, spoke on their behalf in opposition. Paul Lenzei of 18 Intervale Road spoke in opposition. Mark Hale of 2 Winter Street spoke in opposition in regard to the height of the structure being both confusing and higher than originally said. The attorney then spoke to the placement of the roof deck and stairway externally behind the garage, the detriment to the views of his clients. The Board of Appeals deliberated and discussed the request for variance or special permit in regard to the application of construction. A small break was taken for Attorney Steven Smith to converse privately with the petitioner, Carl Jenkins. After the break, the applicant reported that he was willing to forgo the roof deck and the access stairway. The board continued

its deliberations on the matter, discussing that the reconstructed garage would actually be lower in height than the existing garage and removing the roof deck and access stairway would be a good compromise. The board discussed the Bellalta case and the extension of a non-conforming structure. A motion was brought by Michael Rauworth and seconded by David McCool, to make a finding that the reconstruction of the garage as proposed, but without the roof deck and exterior stairway, would not be more detrimental to the neighborhood than the existing garage. A roll call vote was taken and the motion passed, all voting in favor were: David Walsh, David McCool, Michael Rauworth, Caitlin Kelly and Jocelyn Campbell, none opposed. A motion was brought by David Walsh and seconded by Michael Rauworth, to grant a special permit for the reconstructed garage with the stipulation that there be no roof deck or staircase in perpetuity, and it is built as otherwise presented. A roll call vote was taken, and the motion passed, all voting in favor were: David Walsh, David McCool, Michael Rauworth, Caitlin Kelly and Jocelyn Campbell, none opposed.

Respectfully submitted,  
Jocelyn J. Campbell, Chair