

TOWN OF NAHANT

Planning Board

January 18, 2022

Dan Berman called the meeting to order at 6:02 pm, stating that the meeting was properly noticed, and called the roll of those members attending:

Daniel Berman, Chairman – Here

Calvin Hastings, Vice Chairman – Here

Sheila Hambleton – Here

Patrick O'Reilly – Here

J Shannon Bianchi – Here

Steven Viviano – Here

Rob Steinberg, Recording Secretary – Here

John Stabile (alternate member) – Here

Kristen Standish -- absent

Dan Skrip, counsel to the Town, and Mr. Capachietti also attended.

Dan Berman first raised the issue of recording meetings in view of the article in the Lynn Item. Dan Berman said there are two issues: (i) the posting on youtube and (ii) the recording of the meeting. Steve said he read the backlash and he said he would revisit the vote, even though he didn't agree with everything said. Sheila said the meeting minutes are the official records but the recording can be heard. Dan said if there is a video recording, it is an official government record that can be cited. Shannon asked why the Conservation Commission doesn't receive backlash because they don't record their meetings, and is that recording an official town record. Shannon said what set this off was 28 videos posted by the Town Administrator all at once and we weren't notified that the Town was collecting these recordings. Shannon asked what is the lawful process of posting. Dan Skrip said he doesn't know why the ConCom didn't have backlash, but it could be because they never recorded the meeting. Shannon asked shouldn't there be a uniform rule regarding recording of meetings for all bodies. Dan Berman said that we were told that all zoom meeting were being recorded but we determined that we had authority not to record. Dan Skrip then said if there is a PB recording, it is a public record. Dan Skrip said he was unaware of a requirement that the Town post on social media. Skrip continued that if someone requests a recording, the Town is required to disclose it.

Dan Berman said we want open meetings and are meeting fully in public, more so than when we met in a small room at Town Hall. Dan Berman said the recording is a public record, and the process for obtaining access to public records is for the person seeking the record to identify themselves and fill out a form. While youtube posting is a convenience to people, it is not required. Dan Berman said publishing on youtube is something different than the recording itself. Steve said for the sake of transparency, he said he would entertain a motion to reestablish recording. Shannon said we never made a decision to record and Dan Berman said our first decision was to stop recording until we made a decision to record. Shannon said we need more information on where the policy to record meetings originated. Patrick noted that when we started recording meetings, it was cumbersome to get it to

people and there was a need to find a way to distribute recorded meetings. Dan Berman said there are other ways to distribute. Patrick said we publish our minutes on the website and Dan said we don't require a records request for them.

Dan Skrip asked Shannon to explain his comment that he wants more privacy from the last meeting. Shannon noted that instantly after he said that he misspoke with the word privacy and walked it back immediately following that comment. Shannon said he isn't trying to not be transparent, but that wasn't included in the editorial. Shannon said he doesn't want a surprise release of 28 videos on YouTube. Dan Berman said we don't control the public records we create, and we can set our own policy. Dan Berman asked if we resume recording, would we have authority to keep them off of YouTube, or if the clerk decides to publish it the PB couldn't stop it?

Dan Berman said we should have a vote whether or not to resume recording, and then discuss a policy on dissemination. Patrick said perhaps authorize a discussion between the Chairman and the Town Clerk how the recording might be disseminated would be helpful. Patrick said there is an accessibility issue because YouTube supports closed captioning.

Steve moved to resume video recording of PB meetings on zoom for purposes of ensuring clarity and transparency of PB proceedings. Shannon seconded. The vote was as follows:

Daniel Berman, Chairman – yes
Calvin Hastings, Vice Chairman – yes
Sheila Hambleton – yes
Patrick O'Reilly – yes
J Shannon Bianchi – yes
Steven Viviano – yes
Rob Steinberg, Recording Secretary – yes

Recording of the meeting then started and Dan summarized what was said during the first part of the meeting from 6:02 to 6:50 pm est.

Dan asked for a motion to authorize the Chairman to discuss with relevant personnel in Town Hall the possibility of establishing methods of providing access to the recording for our meeting other than published them on youtube or other social media. Patrick so moved, seconded by Sheila. The vote was a follows:

Daniel Berman, Chairman – yes
Calvin Hastings, Vice Chairman – yes
Sheila Hambleton – yes
Patrick O'Reilly – yes
J Shannon Bianchi – yes
Steven Viviano – yes
Rob Steinberg, Recording Secretary – yes

Dan then asked to review the minutes of December 21, 2021. Rob asked that Board members review the summary of the discussion in the first paragraph. Sheila moved to approve the minutes of December 21, 2021 but edit the minutes to note that the Selectmen did not jointly participate and attended only portions of the meeting. The motion was seconded by Cal. The vote was as follows:

Daniel Berman, Chairman – yes

Calvin Hastings, Vice Chairman – yes

Sheila Hambleton – yes

Patrick O'Reilly – yes

J Shannon Bianchi – yes

Steven Viviano – yes

Rob Steinberg, Recording Secretary – yes

Dan Berman noted that we needed to get dropbox documents indexing done, and asked if others want to provide input or other documents. No one responded.

Dan Berman asked Sheila about the budget discussion and whether the \$5k budget was what we submitted. Sheila confirmed.

Dan Berman then turned to Coast Guard housing and noted that he distributed the revised plan. Dan Skrip said the question of use of the property was addressed at the Town Meeting and it is not relevant to determine whether there could be a different use. John Stabile asked if we have input into low income housing. Skrip said it has nothing to do with the PB vote tonight which is an ANR. Dan Berman said this is not a subdivision plan as there are no changes to the roads. Dan Skrip said that under the ANR rules we don't have a lot of discretion because approval is not required so rejection is not permitted. Dan Berman noted that the PB concerns in the last meeting centered around the number of variances to execute this law. Dan said the minimal zoning requirements are not being met and we asked that it would be tweaked to have fewer lots needing a variance.

Tony Capachietti went over the amended plan where only one lot, lot 3, does not conform to zoning. Now all other lots conform. Tony said any of the lots that are on a curve can go down to 50 feet of frontage if they are at minimum lot set back line with PB approval at a later date. Tony noted that he used a 30x50 feet structure to determine if the structure would be conforming. Tony said the Town accepted the subdivision control act after the state enacted it in 1953 and not in the 1930's. Sheila then explained the history of the property at issue in terms of approval of use and ownership. Sheila said there were no buildings on the lots in 1955. The building on the property in 1950 were all moved or demolished. Sheila said that since 1955, there was not a building on each of these lots, and there was a break in the timeline when the lots were vacant. Dan Skrip and Tony Capachietti said they needed to review the documents presented by Sheila. Tony said if the houses are determined to be built after subdivision control, we could ask for a variance because of the hardship due to the Town's recordkeeping and the PB could sign off as the lots all have adequate frontage and comply with zoning. Dan Skrip said they would have to go to the ZBA, get the variance, and then come to the PB for an ANR. Skrip said we are not creating new real estate where subdivision review makes sense. Thus, Skrip concluded that we should move forward based on variances from the ZBA and an ANR. Dan Skrip suggested we table the issue now and determine a path forward. Tony said he would send in a formal

request for extension to act beyond tomorrow and then there would have to be another request for extension.

Dan Berman then turned to the proposed Army Corps study regarding Bear Pond. The letter was sent by Pat and he received an email response from Mark Cullinan that points out that the BOS have already started thinking about related issues, but said he will ask Tony to put the PB on the agenda re this issue. The Chairman said he will follow-up with the BOS.

Dan noted there is a quarterly planning meeting for tomorrow night, and John said he can attend.

Dan asked to book zoom through April, and to get the other zoom channel for the meeting on February 15.

Dan asked if there is a motion to adjourn the public meeting and go into an executive session pursuant to G.L. c. 30A, §21(a)(3) to discuss strategy with respect to litigation – Northeastern University Marine Science Center, 430 Nahant Road, Nahant, v. Town of Nahant Planning Board. The chair noted that an open meeting may have a detrimental effect on the litigating position of the public body. Sheila moved to adjourn to executive session, seconded by Cal. The vote was as follows:

Daniel Berman, Chairman – yes
Calvin Hastings, Vice Chairman – yes
Sheila Hambleton – yes
Patrick O'Reilly – yes
J Shannon Bianchi – yes
Steven Viviano – yes
Rob Steinberg, Recording Secretary – yes

The Chairman the made the declaration to allow the executive session.

Dan then asked for a motion to adjourn the meeting. Cal so moved, seconded by Sheila. The vote was as follows:

Daniel Berman, Chairman – yes
Calvin Hastings, Vice Chairman – yes
Sheila Hambleton – yes
Patrick O'Reilly – yes
J Shannon Bianchi – yes
Steven Viviano – not present
Rob Steinberg, Recording Secretary – yes

Meeting adjourned at 8:15 pm.

Meeting Minutes prepared by Recording Secretary Rob Steinberg.

Approved by Planning Board on February 1, 2022.