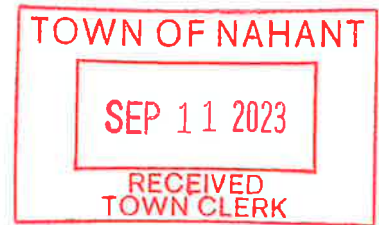


TOWN OF NAHANT
ZONING BOARD OF APPEALS
MINUTES
August 28, 2023



Scheduled and noticed hearings of the Nahant Zoning Board of Appeals (the “Board”) were called to order by Chairperson Campbell at or about 3:00 P.M. at the Nahant Town Hall, 334 Nahant Road, Nahant, Massachusetts, via Zoom (remote technology). Board members present for the hearings below were Michael Rauworth, Gerardo Raffaele, Cameron Merrill, Josephine Reis, Max Kasper, and Jocelyn Campbell. All votes are taken by roll call.

3:00 P.M. Hearing, 5 Ellsworth Road, Massachusetts, Marc and Jennifer Carbone, Petitioners.

The Board held a public hearing on Thursday, August 28, 2023, at 3:00 PM via ZOOM at the request of the owner of the property at **5 Ellsworth Road**, appealing the denial by the Building Inspector of a building permit to remove and replace a garage with a new 1 ½ story wood framed garage with storage above where the proposed garage is in violation of Section 5.03 of the Zoning By-Laws. The applicant seeks a special permit or variance for the proposed garage height of 23’9” where the maximum allowed is 16’, the proposed lot coverage is 31% where the maximum allowed is 25%, and the proposed Wendall Road setback is 15’ where the minimum allowed is 25’. The hearing was advertised in the Lynn Item on August 14, 2023, and August 24, 2023. The advertisement was read into the record. The property owner filed Exhibits with their application, including (1) Certified Plot Plan dated May 16, 2023, prepared by Otte & Dwyer, Inc. Land Surveyors, 59 Appleton Street, Saugus, MA 01906, and signed by David A. Dwyer, Jr., Registered Professional Surveyor, and (2) Architectural plans showing the floor plans and elevations dated June 29, 2023, by Architectural Designworks, 76 Beacon Street, Marblehead, MA 01945. The property owner also submitted a list of 22 Nahant residents who signed in support of their proposed project, which is attached hereto as Exhibit A to the 5 Ellsworth minutes. The Chair asked if there was anyone to speak in favor or in opposition, and the Petitioners spoke in favor; no persons spoke in opposition. The Board deliberated and discussed the issues raised by the petitioner. After deliberation, the board asked if the petitioner would consider revising his plans and continuing the matter due to the board’s concerns regarding the size of the project. Josephine Reis brought a motion to continue the matter, which was seconded by Gerry Raffaele, after a roll call vote; all in favor were Gerardo Raffaele, Cameron Merrill, Josephine Reis, Max Kasper, and Jocelyn Campbell. The matter was continued to October 2, 2023.

3:30 P.M. Hearing, 89 Willow Road, Massachusetts, Katherine Lundberg, Petitioner.

The board held a public hearing on August 28, 2023, at the request of Katherine Lundberg, owner of the property located at 89 Willow Road, Nahant, Massachusetts, appealing the decision of a request for enforcement regarding a shed dated June 15, 2023, stating that the shed was in violation of the Nahant Zoning Bylaws due to (1) a lack of a permit for work on the shed, and (2) the shed is no longer free-standing and therefore needs to comply with setbacks. The enforcement order requires the homeowner to detach the shed from the property or seek relief from the Nahant Zoning Board of Appeals allowing the non-conforming shed. The hearing was advertised in the Lynn Item on August 14, 2023, and August 24, 2023. Submitted with the application was a letter dated August 10, 2022, from Mr. Wayne Wilson to Ms. Katherine Lundberg and a letter dated June 15, 2023, from Mr. Robert Ives, both of which are incorporated herein and into the record. The advertisement was read into the record. A request

for enforcement was filed on June 15, 2022, with the office of the Building Inspector. Due to a conflict with the current building inspector, the Town of Nahant engaged Mr. Robert Ives, a building inspector from Marblehead. The petitioner, Katherine Lundberg, spoke first and presented her case, stating that Mr. Ives had refused to enter her home when he visited the property and that she learned from a friend that no building permit was required. She also stated that the shed was taller but that they had reduced the height. Mr. Ives testified that he was a Certified Building Commissioner and that he had over 29 years of experience. Mr. Ives testified at length about the inspection and applicability of the Nahant by-laws and the Massachusetts building code. Ms. Lazzaro, the abutting neighbor who initiated the complaint with the building department, is Christine Lazzaro, owner of the property at 87 Willow Road. The property owner filed six pictures of the shed, 4 videos, and one picture of a seawall. Ms. Lazzaro testified that she made a complaint. Mr. Wayne Wilson testified that the location was not an issue; Mr. Wilson stated that his hand could fit his hand in between the shed and the building and that it, therefore, met the requirements of the first enforcement, which were that (1) the shed was less than less than eight (8) feet tall and was not attached. Ms. Lazzaro added to her testimony that the reason that this came before us is that the homeowner sought a building permit to remodel the shed, and it was sided and made larger. No persons other than those who testified spoke in favor or opposition. The Board deliberated and discussed the issues raised by the petition. Some board members felt the shed was attached and should be moved to a different location; one member felt it was not attached. The Board focused on whether the shed was attached or not and discussed that it is the Board's discretion to determine this where the by-laws do not. A motion was made by Michael Rauworth to deny the appeal of the Building Inspector's enforcement, where the shed was attached to all intent and purposes. The motion was seconded by Jocelyn Campbell. After discussion, a roll call vote was taken; all in favor were Michael Rauworth, Cameron Merrill, Josephine Reis, and Jocelyn Campbell. Member Gerardo Raffaele voted against the motion. The motion passed, and the meeting was adjourned.

Respectfully submitted,
Jocelyn J. Campbell, Chair

Approved on September 11, 2023