

TOWN OF NAHANT
ZONING BOARD OF APPEALS
MINUTES
October 4, 2023



Scheduled and noticed hearings of the Nahant Zoning Board of Appeals (the “Board”) were called to order by Chairperson Campbell at or about 4:30 P.M. at the Nahant Town Hall, 334 Nahant Road, Nahant, Massachusetts, via Zoom (remote technology). Board members present for the hearings below were David Walsh, Michael Rauworth, Gerardo Raffaele, Cameron Merrill, and Jocelyn Campbell. All votes are taken by roll call.

4:30 PM PUBLIC HEARING, 43 Pleasant Street, Nahant, Massachusetts, Paul and Robin Waters, Owners/Petitioners.

The Board held a public hearing on Wednesday, October 4, 2023, at 4:30 PM via ZOOM at the request of the owners of the property and their potential Buyer, Stephen Guida, for the removal of the existing single-family house and construction of a new single-family house. The Building Inspector has denied their request for a Building Permit, where the proposed new house is in violation of Section 7.03E of the Nahant Zoning By-laws where, notwithstanding any other requirements of Section 7.03, no structure, constituting the principal use, located on a nonconforming lot, whether such structure is conforming or nonconforming, may be removed and reconstructed, or removed and replaced elsewhere on such lot without a special permit. The hearing was advertised in the Lynn Item on September 21, 2023, and September 27, 2023. The advertisement was read into the record. Attorney Stephen Smith presented the petition. Attorney Smith explained that the property was on a corner and therefore included frontage on both Pleasant Street and Sprouting Horn Road and that other than the lot being undersized for the district, the proposed project met all of the dimensional requirements. He stated that the design of the home was intended not to overburden the lot and was currently the smallest house in the neighborhood and that the home would remain a single-family home. The Board members then asked Attorney Smith questions about the footprint, and he stated that it would increase and the removal of the structure. Attorney Smith responded that the structure was unsafe and had to be removed. Member Cameron Merrill asked about the missing existing conditions dimensions in the application packet. The chair was able to locate the existing conditions from a prior application and share the same with all persons present via Zoom. The chair then asked if there was anyone present to speak in favor or opposition. Persons speaking in favor were Dr. Sheldon Sevinor of 4 Sprouting Horn Road. Dr. Sevinor conditioned his favor on the incorporation of mature trees along Sprouting Horn Road and his ability to see the landscape design. Persons speaking in opposition were James and Janet Dolan, of 45 Pleasant Street, and abutters on two sides of the property. Mrs. Dolan expressed that they felt the property was too large for the lot size and that the rendering she received did not accurately depict the rear yard. The developer responded that the building would be in proportion to the lot and that the current home was in bad shape. The Board then deliberated the matter, taking into consideration the Nahant Zoning By-laws, and dimensional requirements. Members then discussed continuing the matter. David Walsh brought a motion to continue the matter, seconded by Michael Rauworth; after discussion on the motion which included questions posed to the developer, David Walsh withdrew his motion. David Walsh then brought a motion to make a finding that the project as proposed, would not be more detrimental to the neighborhood than the existing home. After a roll call vote, Cameron Merrill, David Walsh, Michael Rauworth, Gerardo Raffael, and Jocelyn Campbell all voted in favor of the motion. David

Walsh then brought a motion, seconded by Gerardo Raffale to grant a special permit for the project. After a roll call vote, Cameron Merrill, David Walsh, Michael Rauworth, Gerardo Raffael, and Jocelyn Campbell all voted in favor of the motion. The hearing was adjourned at approximately 5:45 P.M.

5:00 PM PUBLIC HEARING, 43 Colby Way, Sally Sampson, Petitioner.

A public hearing on Wednesday, October 4, 2023, at 5:45 PM via ZOOM on the petition filed by Sally Sampson, owner of the property located at 43 Colby Way, Nahant, Massachusetts, seeking a Special Permit or Variance to relocate the existing main entry door from the right façade to the front façade and erect an associated cantilevered gable end roof and landing, and to selectively demo the existing lower/minor gable roof and erect a new roofline to match the primary/major gable roofline at the residence to accommodate better space within for a code-compliant stair. The Building Inspector issued a Stop Work Order on August 23, 2023, because Building Permit # R-23-00131 was issued in error. Section 3 of the Building Permit application states: "Kitchen and Bath gut renovation, new windows and finish exterior cladding with roof repair." The applicant failed to note that additions were to be made to the 2nd and 3rd floors. These additions, as built, increase the Floor Area Ratio to 1485 sq. ft., which is 59% of the lot area of 2411 sq. ft. The hearing began at 5:45 P.M. In addition to the application, the applicant filed building plans entitled "Renovations 43 Colby Way, Nahant, MA 01908" dated June 11, 2023, by JK Design Collaborative, to be confirmed by an appropriately licensed design professional and a Plot Plan dated September 27, 2023, and stamped by Wayne C. Jalbert, Professional Land Surveyor, from Hancock Survey Associates, Inc. An advertisement for the hearing appeared in the Lynn Item on September 20, 2023, and September 27, 2023. The Chair introduced the members, and the advertisement was read into the record. Joshua Knapper, the contractor for the applicant, presented the petition. Mr. Knapper stated that the changes included moving the entry door from the side to the front of the house which intrudes upon the front setback by 42," and an extension of the roof line into the eaves to accommodate a staircase to the third-floor home office, presently served by a pull-down set of stairs which were difficult for the homeowner to navigate. Mr. Knapper stated that there is no increase in the footprint of the home but that the total increase in square footage is 88 square feet. The Board then asked questions of the applicant about the stop work order, the zoning dimension differences, and why the plans accompanying the application were missing dimensions. Mr. Knapper explained that when he initially filed for the building permit, he inadvertently failed to mention the third-floor stairs and roofline change but that the application was made in good faith and that the initial permit was issued in error. Board members then asked Mr. Knapper about the difference between his calculations for Floor Area Ratio and Lot Coverage compared to the building inspector's calculations; he stated that he used Gross square footage. Mr. Knapper then stated that he could provide all of the calculations needed. A discussion ensued regarding a possible continuance. The chair then asked if there were any persons to speak in favor or opposition. Persons speaking in favor of the application were Sharon Miller and Jow Mack of 41 Colby Way and Donna Levin at 49 Surfview Avenue. Both said they would like to see the project finished, the building materials and dumpster moved, and had no objections. In opposition, Katherine Carr, on Colby Way, spoke. She stated her concern was that there was no compelling reason to increase the size of the home and that she was concerned about a fire hazard due to the increased density. The board deliberated the matter. All members agreed that we needed the dimensions so that we could properly calculate the zoning dimensions. David Walsh brought a motion to continue the matter, seconded by Michael Rauworth, to October 10, 2023, at 3:00 P.M. After a roll call vote, Cameron Merrill, David Walsh, Michael Rauworth, Gerardo Raffael, and Jocelyn Campbell all voted in favor of the continuance. The hearing was adjourned at approximately 6:15 P.M.

The board asked

BOARD OF APPEALS, Jocelyn Campbell, Chairperson
LYNN ITEM September 20, 2023, and September 27, 2023

Respectfully submitted,
Jocelyn J. Campbell, Chair

Approved on October 18, 2023

that the project as presented was not substantially more detrimental than the existing nonconformity to the neighborhood.

III. VOTES. (All votes were taken by roll call.)

David Walsh brought a motion to continue the matter, seconded by Michael Rauworth; after discussion on the motion, which included questions posed to the developer, David Walsh withdrew his motion. David Walsh then brought a motion to make a finding that the project, as proposed, would not be more detrimental to the neighborhood than the existing home. After a roll call vote, Cameron Merrill, David Walsh, Michael Rauworth, Gerardo Raffaele, and Jocelyn Campbell voted in favor of the motion. David Walsh then brought a motion, seconded by Gerardo Raffaele, to grant a special permit for the project. After a roll call vote, Cameron Merrill, David Walsh, Michael Rauworth, Gerardo Raffaele, and Jocelyn Campbell all voted in favor of the motion. The hearing was adjourned at approximately 5:45 P.M.

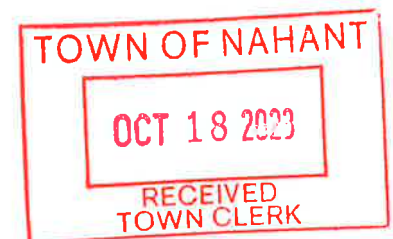
IV. DECISION.

After reviewing the application, the plan(s), and other materials and information submitted, and giving due consideration to testimony given at the public hearing, the Board made the above-referenced findings of fact, and based upon those findings, the Board hereby decides that the required criteria for a Special Permit have been met. Accordingly, the Board grants a Special Permit to remove and reconstruct a residence at 43 Pleasant Street, Nahant, Massachusetts, consistent with the plans provided. However, as a condition, the project must include a meeting with the neighbors to review the landscape plan and be built in accordance with the existing plans pursuant to the Nahant Zoning Board of Appeals Rules and Regulations.

V. ADDITIONAL TERMS AND CONDITIONS.

A duly authorized agent of the Town of Nahant shall have the right to enter upon the Property to ensure compliance with the terms and conditions of this Decision.


This Decision was filed with the Town Clerk on October 18, 2023.



NOTICE OF RIGHT TO APPEAL

Notice is hereby given that any appeal from this Decision shall be made pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty (20) days after the date of filing this Decision in the Office of the Town Clerk for Nahant, Massachusetts.

Respectfully submitted,



Jocelyn J. Campbell, Chair

I hereby certify that I am the Town Clerk for the Town of Nahant, and I further certify that no appeals have been filed with this office within the appeal period.

Diane M. Dunfee
Town Clerk

Date

family home. The Board members then asked Attorney Smith questions about the footprint, and he stated that it would increase. Attorney Smith responded that the structure was unsafe and had to be removed.

5. Member Cameron Merrill asked about the missing existing conditions and dimensions in the application packet. The chair was able to locate the existing conditions from a prior application and share the same with all persons present via Zoom.
6. The chair then asked if there was anyone present to speak in favor or opposition. A person speaking in favor was Dr. Sheldon Sevinor, of 4 Sprouting Horn Road. Dr. Sevinor conditioned his favor on the incorporation of mature trees along Sprouting Horn Road and his ability to see the landscape design. Persons speaking in opposition were James and Janet Dolan, of 45 Pleasant Street, abutters on two sides of the property. Mrs. Dolan expressed that they felt the project as proposed was too large for the lot size and that the rendering she received did not accurately depict the rear yard. The developer responded that the building would be built in proportion to the lot and that the current home was in bad shape.

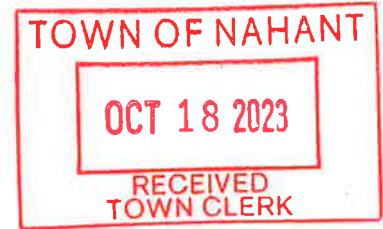
The Board then deliberated the matter, taking into consideration the Nahant Zoning By-laws, and that all dimensional requirements except for the lot area were met. Members then discussed continuing the matter. David Walsh brought a motion to continue the matter, seconded by Michael Rauworth; after discussion on the motion, which included questions posed to the developer, David Walsh withdrew his motion. David Walsh then brought a motion to make a finding that the project, as proposed, would not be more detrimental to the neighborhood than the existing home. After a roll call vote, Cameron Merrill, David Walsh, Michael Rauworth, Gerardo Raffaele, and Jocelyn Campbel, all voted in favor of the motion. David Walsh then brought a motion, seconded by Gerardo Raffaele, to grant a special permit for the project. After a roll call vote, Cameron Merrill, David Walsh, Michael Rauworth, Gerardo Raffaele, and Jocelyn Campbell, all voted in favor of the motion. The hearing was adjourned at approximately 5:45 P.M.

II. FINDINGS.

- i. The Petitioners are Paul and Robin Waters.
- ii. The property is located in the R1 district.
- iii. The Board held a public hearing on the request for relief on October 4, 2023.
- iv. At the public hearing, Stephen Smith, counsel for the Petitioner, presented the case.
- v. After hearing the matter, deliberating, and taking into consideration the Nahant Zoning By-laws, the testimony presented, and the documents filed, the Board found



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**DECISION OF THE
NAHANT ZONING BOARD OF APPEALS**

RE: **43 Pleasant Street**

Application as filed by Paul and Robin Waters for a special permit.

DATE FILED: July 28, 2023

HEARING DATE(S): October 4, 2023

I. PROCEDURAL HISTORY.

1. The Nahant Zoning Board of Appeals held a public hearing on Wednesday, October 4, 2023, at 4:30 PM via ZOOM at the request of the owners of the property and their potential Buyer, Stephen Guida, for the removal of the existing single-family house and construction of a new single-family house. The Building Inspector has denied their request for a Building Permit, where the proposed new house is in violation of Section 7.03E of the Nahant Zoning By-laws where, notwithstanding any other requirements of Section 7.03, no structure, constituting the principal use, located on a nonconforming lot, whether such structure is conforming or nonconforming, may be removed and reconstructed, or removed and replaced elsewhere on such lot without a special permit.
2. The hearing was advertised in the Lynn Item on September 21, 2023, and September 27, 2023.
3. At the start of the hearing, the advertisement was read into the record.
4. Attorney Stephen Smith presented the petition. Attorney Smith explained that the property was on a corner and therefore included frontage on both Pleasant Street and Sprouting Horn Road and that other than the lot being undersized for the district, the proposed project met all of the dimensional requirements. He stated that the design of the home was intended not to overburden the lot and was currently the smallest house in the neighborhood and that the home would remain a single-