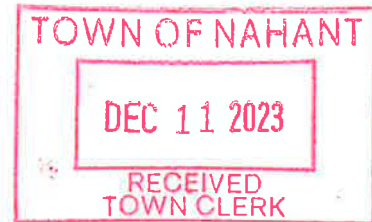


TOWN OF NAHANT  
ZONING BOARD OF APPEALS  
MINUTES  
November 21, 2023



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 David Walsh, Michael Rauworth, Gerardo Raffaele, Cameron Merrill, and Jocelyn Campbell. All votes are taken by roll call.

**3:00 PM PUBLIC HEARING, 215 Nahant Road, Nahant, Massachusetts, David and Kristin Elmer, Petitioners.**

The Board held a public hearing on Tuesday, November 21, 2023, at 3:00 PM via ZOOM at the request of the owners of the property located at 215 Nahant Road, Nahant, Massachusetts, appealing the denial by the Building Inspector of a building permit to erect an accessory building 8’ x 10’ x 10.5” where the proposed construction of the detached accessory building is in violation of Section 5.03 of the Nahant Zoning By-laws. The applicant seeks a special permit and variance for the proposed front setback of 17.25’, where the minimum allowed is 25,’ and the proposed side setback of 2.5,’ where the minimum allowed is 10.’ The hearing was advertised in the Lynn Item on November 7, 2023, and November 14, 2023. The advertisement was read into the record. The matter was presented by David Elmer. Mr. Elmer said he selected a high-quality shed that would go well with his house. He sought the neighbor’s approval and was unaware of the height limit on the shed. Mr. Elmer said that the applicable section of the by-laws was confusing because of the word “or,” and Board member Cameron Merrill agreed. The Board then asked questions of the applicant such as whether the structure could be moved, and the applicant said it could not be due to his lot being a corner lot and the location of the driveway. The chair then asked if any persons were present to speak in favor or opposition. No persons were present at the hearing, but four persons had signed letters in support that were filed with the Building Inspectors’ office by M. Dickenson of 211 Nahant Road, Susan Snow of 2 Valley Road, Alice M. Cort, and Bruce D. Walker of 7 Valley Road and Matt Canty of 217 Nahant Road, all of Nahant, Massachusetts. The board then deliberated the matter. The members discussed whether we could grant the requested relief under the by-laws and whether the structure was a shed or an accessory building. Michael Rauworth brought a motion for a finding that the structure as proposed is not more detrimental to the neighborhood; the motion was seconded by David Walsh. After a roll call vote, the motion passed. All in favor were Michael Rauworth, David Walsh, Gerardo Raffaele, and Cameron Merrill, and opposed was Jocelyn Campbell. Michael Rauworth brought a motion to grant a special permit; the motion was seconded by David Walsh. After a roll call vote, the motion passed. All in favor were Michael Rauworth, David Walsh, Gerardo Raffaele, and Cameron Merrill, and opposed was Jocelyn Campbell. The hearing was adjourned at approximately 3:30 PM.

**3:31 PM PUBLIC HEARING, 41 Wharf Street, Michael Devereaux, Petitioner.**

A public hearing on Tuesday, November 21, 2023, at 3:30 PM via ZOOM on the petition filed by Michael Devereaux, owner of the property located at 41 Wharf Street, Nahant, Massachusetts, appealing the denial by the Building Inspector of a building permit to remove and reconstruct a single-family

dwelling, where the proposed dwelling is in violation of Sections 5.02D and 7.03E of the Nahant Zoning By-laws. The applicant seeks a variance and a special permit for the proposed height of 32'6," where the maximum allowed is 30,' and to remove and reconstruct a single-family dwelling where, notwithstanding any other requirements of Section 7.03, no structure, constituting the principle 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 November 7, 2023, and November 14, 2023. The advertisement was read into the record. The matter was presented by Attorney Stephen Smith; also present were Anthony Roosian and Michael Devereaux, Owner. Attorney Smith reviewed the items that had been filed, the application, the elevation plans, and the plot plan. topographical plan, and floor plans. Attorney Smith stated that the property is 70 + years old on an approximately 5,500-square-foot lot. Elevation drops from the front to the rear. Wetlands and is below the 100-year flood elevation. September 2021, and was devastated by fire. The owner plans to construct his family home on the site. The property is located in the R2 district. The existing nonconformities of the frontage and the lot size will not change; the proposed structure will comply in all other respects. The relief sought is for removing and reconstructing a new residence; the only new nonconformity is the proposed height. The applicant is seeking a finding that the increased height would not be more detrimental to the neighborhood and for granting a special permit. The Board then asked questions of the applicant regarding the location in a flood zone, the resource area, and the plan to file a Notice of Intent with the Conservation Department. The chair then asked if there were any persons present to speak in favor or opposition, no persons appeared. The board then deliberated the matter. The board reviewed the application, the elevation plans, plot plan. topographical plan and floor plans, and discussed the relief sought. Michael Rauworth brought a motion for a finding that the structure, as proposed with a height 2.6' over the allowed height per the Nahant Zoning By-laws, is not more detrimental to the neighborhood than the previous structure, which was seconded by David Walsh. The Board discussed the height of the structure and the necessity to accommodate the building requirements compliant with FEMA regulations for new construction in a flood zone, that the additional height will not cause an overdevelopment of the lot or increase the Floor Area Ratio over the allowed amount, and that no persons opposed the project or presented information that it would interfere with the views or sunlight of adjoining properties. After a roll call vote, the motion passed. Members Michael Rauworth, David Walsh, Gerardo Raffaele, Cameron Merrill, and Jocelyn Campbell voted in favor. Michael Rauworth brought a motion to grant a special permit for a height of 32.6', which was seconded by David Walsh. Where the findings to support a height special permit were made after a roll call vote, the motion passed. Members Michael Rauworth, David Walsh, Gerardo Raffaele, Cameron Merrill, and Jocelyn Campbell voted in favor. The hearing was adjourned at approximately 4:00 P.M.

BOARD OF APPEALS, Jocelyn Campbell, Chairperson  
LYNN ITEM November 7, 2023, and November 14, 2023

Respectfully submitted,  
Jocelyn J. Campbell, Chair  
Approved on December 11, 2023