

TOWN OF NAHANT  
ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
February 11, 2025

Chairperson Campbell called a scheduled and noticed meeting of the Nahant Zoning Board of Appeals to order at or about 4:30 P.M. at the Nahant Town Hall, 334 Nahant Road, Nahant, Massachusetts, via Zoom. Present were board members David Walsh, Gerado Raffaele, Cameron Merrill, Jake Brown and Jocelyn Campbell. All votes were by roll call. At the hearing, the Chair first requested approval of the minutes from prior hearings on January 21, 2025, and January 27, 2025. David Walsh brought a motion to approve the minutes, seconded by Cameron Merrill. After a roll call vote, all were in favor: David Walsh, Gerado Raffaele, Cameron Merrill, Jake Brown, and Jocelyn Campbell.

HEARING:

**4:30 P.M. Continued Administrative Appeal of Building Permit for 30 and 30A Emerald Road, Nahant, Massachusetts, Bruce and Karen Marshall Petitioners.** The Board of Appeals held a continued public hearing on the appeal filed by Bruce and Karen Marshall of 28 Emerald Road, Nahant, Massachusetts (the “Appellants”). This appeal is from the determination of the Building Inspector to issue a Building Permit for the property located at 30 and 30A Emerald Road, Nahant, Massachusetts, owned by Eight One Eight Design and Development LLC. The Chair noted that the Board had received three pieces of correspondence since the last hearing. The first was from Ms. Deborah Barnes of 37 Valley Road, which was a compilation of comments from Nahant residents. The Chair pointed out that we could not accept public comment without the person present and their name and address. The Board received correspondence from Doug Breithaupt, 32 Emerald Road, who is an abutter, and this was his third letter to us regarding this matter. Mr. Breithaupt raised issues related to the filling of land, the foundation of the rear house, which he felt should be on pilings, water intrusion to his property, and parking. The third correspondence received was from Deanna Kallenback, who along with Chris Kallenback are the managers and owners of the LLC that owns the subject property. The letter was read by their attorney Benjamin Tymann. Ms. Kallenabck stated that she is a third-generation resident of Nahant and that she and Chris had been bullied on social media over this matter. She stated that persons through social media had made false claims about them and their businesses. The Chair told Ms. Kallenback that she was sorry to hear that this happened to them and mentioned that none of the Board members get involved in social media. The Chair then called on Mr. Wilson, the Building Inspector who was present, and asked if when he made the decision to issue the building permit, he had made a finding, and he said that he did make a finding that the proposed structures were not more non-conforming than what was there and that was the determining factor. The Chair then introduced Mr. Robert Ives, who was retained by the Board, to review the As-Built plan and Elevation provided by the property owner and verify the calculations. Mr. Ives was introduced as a retired Building Commissioner who worked for many years for the towns of Marblehead and

Swampscott. Mr. Ives read his report into the record. Mr. Ives's Report shall be incorporated herein by reference as if fully stated. A copy shall be available at the town hall. Specifically, Jake Brown asked how Mr. Ives made the assumption that the basement was seven feet high. Mr. Ives responded that he estimated the height by looking at pictures and adding the estimated foundation height to that of the floor below and what looked like a 3.5' or 4' window. The Chair then asked Mr. Ives whether the definitions in the Nahant Zoning By-laws for Footprint and Gross Floor Area could be interpreted in more than one way. For example, the definition of "Footprint" excludes open porches, and the definition of "Gross Floor Area" excludes open porches and basement areas devoted to the operation of the building and those areas of a structure that have a ceiling of less than seven (7) feet in height. Mr. Ives responded that it was open to interpretation and different towns have different meanings. Attorney Sherman introduced himself as representing the Marshalls and asked Mr. Ives what he based his pre-existing information on, Mr. Ives replied that he was using the figures prepared by the surveyor hired by the property owner and the assessor's records. Attorney Sherman asked if Mr. Ives had taken into account the .49% Floor Area Ratio (the "FAR") that Mr. Wilson, the town building inspector, had written on the first permit application dimensional sheet. Mr. Ives said he was unaware of that figure and that he relied on the figures provided by the surveyor. He also said that he included the front porch as part of his calculation for the Gross Floor Area even though it was an unenclosed porch because of the area underneath it, albeit with some makeshift boards and windows. Attorney Sherman showed a brief slide show presentation of Marshall's claims. He showed pictures of the property after the building had been completely removed. He argued that there were two areas where there were increases in non-conformities (1) the increase in the FAR and (2) the building in the front setback. Attorney Sherman said the explanations do not even pass the "sniff" test because you are increasing the FAR and not removing square footage elsewhere. Attorney Sherman then showed a brief, one minute video of the basement that showed the small area under the front porch in lattice. The video was reported to have been taken in 2023. Attorney Tymann spoke on behalf of the property owner and said that the building permit was properly issued and that the building inspector determined a special permit was not required because there were no new nonconformities. The board members then asked Attorney Tymann questions about 703C and 703E. He and Attorney Sherman responded with opposing views. David Walsh brought a motion to close the hearing and not accept any more evidence, it was seconded by Jake Brown, after a roll call vote, all were in favor. David Walsh brought a motion to continue the hearing to February 18, 2025 at 4:30 P.M., seconded by Jake Brown. After a roll call vote, all were in favor, David Walsh, Gerardo Raffaele, Cameron Merrill, Jake Brown and Jocelyn Campbell.

Respectfully submitted,  
Jocelyn Campbell, Chair  
Approved on March 6, 2025