

Town of Nahant



Zoning Board of Appeals/Online Format (PDF) <http://www.nahant.org>

Zoning Enforcement, Appeals, Special Permits and Variances

This is a summary of Massachusetts's law and the Nahant's Zoning By-law, prepared by the Planning Board in September 1990. While we believe it is accurate, this summary does not modify the Law or the Bylaw, and those sources should be consulted for more accurate and complete information.

Zoning Enforcement

The primary means of enforcement of the Nahant Zoning Bylaw is the review of applications and issuance of Building Permits and Occupancy Permits by the Building Inspector, after review of plans and necessary inspectors.

Citizens also have the right to begin the enforcement process by making a written request to the Building Inspector to enforce the Zoning Bylaw. This procedure may be used to report a suspected zoning violation or to challenge the issuance of a Building Permit. The Building Inspector is required to respond within 14 days after receiving a request, stating action he intends to take (or that he will not take action). The Building Inspector's decision may be appealed to the Board of Appeals.

The time period for requesting enforcement is generally limited to six years after a structure is built or a use is begun with a valid Building Permit, or ten years after a structure is built without a valid permit. There is no similar protection for use begun without a valid permit.

Variances, Special Permits and Appeals

Under the Massachusetts Zoning Act, Massachusetts General Laws Chapter 40A, and the Nahant Zoning Bylaw, certain matters are considered by the Board of Appeals or, in limited circumstances, the Planning Board. Rules and regulations for filing with the Board of Appeals and the Planning Board are available from the Town Clerk.

Appeals

Any person aggrieved by a decision of the Building Inspector or other officer, department of Board of the Town under the Zoning Bylaw may appeal to the Board of Appeals. This may include a person who is refused a Building Permit or Occupancy Permit, or a person whose request for enforcement action is refused by the Building Inspector. Appeals must be filed with the Town Clerk within thirty (30) days after the decision, which is being appealed.

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Variances

A Variance is a decision by the Board of Appeals that a particular part of the Zoning By-law will not be applied to a specific parcel of land. Under the law, the standard for granting a Variance is extremely strict. The Board of Appeals must find:

- a. There are special circumstances relating to the soil conditions, shape or topography of a particular of land or building, which especially affect the particular land or building but do not generally affect other land or buildings in the same zoning district, and
- b. As a result of those unique factors, literal enforcement of the Zoning Bylaw would cause substantial hardship, financial or otherwise, to the applicant, and
- c. A Variance can be granted without substantial detriment to the public good and without substantially derogating from the intent or purpose of the Zoning Bylaw.

The Board of Appeals may place conditions or restrictions on Variances.

Variations are generally not required to alter nonconforming one-family and two-family houses; see the discussion of Special Permits below.

Special Permits

Special Permits may be issued in several circumstances allowed by the Zoning Bylaw. Special Permits may allow property to be used in certain ways, or may allow structures to be built or altered under certain conditions. The Bylaw provided for some general factors to be considered in issuing a Special Permit, and certain portions of the Bylaw require specific standards for particular types of Special Permits. Generally, the legal standard for Special Permits is less strict than for Variations.

Special Permits may be issued only circumstances which are consistent with the general purpose and intent of the Zoning Bylaw (which is expressed in various parts of the Bylaw, including securing safety from fire and other dangers, providing adequate light and air, preventing overcrowding of land, conserving the value of land and buildings, protection views, and preserving the coastal character of the Town).

The most common form of Special Permit in Nahant involves the alteration of a nonconforming structure. A structure is nonconforming if it met all zoning requirements when built, but the building or land does not meet all of the requirements of the present Zoning Bylaw. A nonconforming one-family or two-family home may be altered without a Special Permit if the change will not make the home more nonconforming. Any other change to a nonconforming structure requires a Special Permit, with a finding that the proposed building or use will not be substantially more detrimental to the neighborhood than the existing building or use.

Certain Buildings or uses in the Business Districts require a Special Permit with the Site Plan Review by the Planning Board. That process is subject to its own regulations, which are available from the Town Clerk.

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Other than the business uses requiring Site Plan Review, Special Permits are issued by the Board of Appeals. The Board of Appeals of Planning Board may impose conditions on Special Permits.

Nahant Planning Board, September 1990
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Thomas G. McIntyre
John Hayes Mason
Eden G.R. Milroy
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Enforcement Authorities

The following Town employees and Board are responsible for implementing and enforcing the various laws and regulations.

The **Building Inspector** works on a part-time basis in an office in the Town Hall. Telephone messages may be left at the Selectmen's office at 781-581-0088 ext. 22. Applications for Building Permits are filed with the Selectmen's Office.

The **Plumbing Inspector** and **Inspector of Wires** work on a part-time basis. Applications for Plumbing and Electrical Permits are available in the Selectmen's Office but are filed with the Inspectors.

The **Board of Selectmen/Board of Health** maintains an office in the Town Hall, which is open daily: telephone 781-581-0088.

The **Board of Appeals** meets at the Town Hall as necessary. Appeals, petitions and applications are filed with the Town Clerk's Office.

The **Planning Board** normally meets at Town Hall twice monthly. Special Permit Application and Subdivision plans are filed with the Town Clerk's Office.

The **Town Clerk** maintains an office in the Town Hall, which is open daily; telephone 781-581-0018. The Town Clerk accepts applications for filing with the Board of Appeals and Planning Board.

The **Conservation Commission** normally meets at the Town Hall monthly.

The **Fire Department** is headquartered at 68 Flash Road; telephone 781-581-1235.

The mailing address for the employees and Boards, other than the Fire Department is: Nahant Town Hall, 334 Nahant Road, Nahant, MA 01908. Meeting dates and times are posted in the Town Hall Lobby.

We gratefully acknowledge the assistance of Town Officials, employees and citizens in preparing this new Zoning By-Law. We are especially indebted to Paul Morse, former Chairperson, and other former members of the Planning Board who initiated the revision process, and to John Brown of John Brown Associates, our consultant during the revision.

NAHANT PLANNING BOARD – October 1991

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