

**MINUTES
MANCHESTER-BY-THE-SEA
ZONING BOARD OF APPEALS**

Meeting January 23, 2019

Members Present: Bridget Murray, (Chairman), Sarah Mellish, John Binieris, Matthew MacDonald (alternate), and James Mitchell (alternate), Ms. Sue Brown (Town Planner).

Members Not Present: James Diedrich (Clerk) and Kathryn Howe.

Ms. Bridget Murray, the Chairman, called the Meeting of the Manchester-by-the-Sea Zoning Board of Appeals ("ZBA") to Order at 7:00 p.m. Ms. Murray introduced the ZBA members to those in attendance. Ms. Murray stated that this meeting will be digitally recorded by the ZBA Administrative Assistant. It is noted that the typed minutes represent the permanent record of the Board. The format of the hearing was explained to those in attendance by the Chairman.

Ms. Murray explained the standard ZBA meeting procedures to the applicants and to the members of the public.

NEW APPLICATIONS

Ms. Murray announced that the applications will be taken out of order, due to the fact that the first applicant will be arriving late this evening.

Ms. Murray introduced the application of **Tami Paumier (owner), Stuart Disston (architect)**, for a Special Permit under Sections 6.1.2 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to lower the ridge height on the south elevation (2.2 feet lower than existing ridge, and exceed the zoning requirements by 5.1 feet), at **7 Smith's Point Road**, Assessor's Map No. 20, Lot 1 in District E, filed with the Town Clerk on December 19, 2018.

Mr. Trey Gregory introduced himself as the architect representing the applicant and explained as follows: The proposed project includes removal of the stucco from the elevations and restoring the home to a shingle-style home, move the existing chimney, and reduce the ridge height on the south elevation (2.2 feet lower than existing ridge)—resulting in the proposed ridge to exceed the zoning requirements by 5.1 feet. Also, the renovation will replace all the exterior siding and windows, restoring the house to a level similar to the neighboring properties.

Ms. Murray asked if there were any comments from the neighbors, and Mr. Gregory replied no. Ms. Murray asked if there was anyone present from the public who would like to comment on this application, and there were not.

Ms. Murray asked for comments by the ZBA members. Mr. Binieris stated that he was okay with this application. Mr. Mitchell commented that this is a wonderful design and applauds

the owner for bringing this property to its original condition. Ms. Mellish and Mr. MacDonald stated that they are also in favor of the project.

Ms. Murray asked if there were any questions or comments from the public, and there were none.

Ms. Murray closed the public hearing to the public. There were no further comments or questions by the ZBA members.

Ms. Murray made a motion to approve the application of **Tami Paumier (owner), Stuart Disston (architect)**, for a Special Permit under Sections 6.1.2 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to lower the ridge height on the south elevation (2.2 feet lower than existing ridge, and exceed the zoning requirements by 5.1 feet), at **7 Smith's Point Road**, Assessor's Map No. 20, Lot 1 in District E, filed with the Town Clerk on December 19, 2018.

Ms. Mellish seconded the motion. Vote: Ms. Murray, Ms. Mellish, Mr. Binieris, Mr. MacDonald, and Mr. Mitchell voted unanimously in favor of approving this application.

Ms. Mellish will write the decision, and Mr. Binieris will review it.

Documents Produced: Plans: Site Plan, Existing Conditions Site Plan, EXG-201, EXG-202, EXG-203, EXG-204. Proposed Plans A-201, A-202, A-203, and A-204. Each one (1) page.

Ms. Murray introduced the application of **Brian and Kelley Kelly**, for a Special Permit under Sections 6.1.2, 7.5.2, and 4.1.10 (f) of the Zoning By-Law, and/or other relief as may be necessary, to install an inground swimming pool, at **19 Woodholm Road**, Assessor's Map No. 30, Lot 7 in District A, filed with the Town Clerk on December 19, 2018.

It was noted by the ZBA members that there was no one present at the Saturday, January 19, 2019 site visit.

Mr. Brian Kelly and Mrs. Kelley Kelly introduced themselves as the owners and applicants and explained as follows: Mr. Kelly explained that the proposed project includes removal of the existing sunroom, deck, and terrace to allow for the construction of a new inground swimming pool that will be 18 x 32 feet and 8 feet deep and will include low-level lighting, no additional lighting to the house or flood lights, and surrounded by terraces, a 4 foot high perimeter black iron fence on three sides, with a solid side facing the street, and an automatic pool cover. The project also includes decks and a fire pit (the fire pit will be located below the pool area). Adequate draining will be installed to accommodate the fire pit and manage any water issues. There are no water issues at this time.

An initial excavation was performed to locate the site of the exiting ledge. The pool will be located in the center of the ledge/rock, so blasting will be required, involving low-level

charges and jack-hammering for a couple of days to remove the ledge to make space for the pool. There is existing landscaping around the property, including tall pines located in the rear of the property. There will be additional landscaping around the decks and pool. The existing garage will be modified to be slightly larger and will provide additional privacy for the swimming pool area.

Mr. Mitchell asked if the neighbors have been made aware of the planned ledge blasting and if alternatives to blasting had been explored. Mr. Kelly replied that alternatives had been explored, which included extensive jack-hammering. Mr. Kelly also stated that they had sent notifications to the nine (9) abutters. Pre-examination of the nine (9) abutters' homes will be performed as standard procedure.

Ms. Murray asked if there has been any comments from the neighbors, and Mrs. Kelly replied that the abutting neighbors seem to be on board. There wasn't anyone present from the public on this application.

Ms. Murray asked if there were any questions or comments from the public, and there were none.

Ms. Murray closed the public hearing to the public. There were no further comments or questions by the ZBA members.

Ms. Murray made a motion to approve the application of **Brian and Kelley Kelly**, for a Special Permit under Sections 6.1.2, 7.5.2, and 4.1.10 (f) of the Zoning By-Law, and/or other relief as may be necessary, to install an inground swimming pool, at **19 Woodholm Road**, Assessor's Map No. 30, Lot 7 in District A, filed with the Town Clerk on December 19, 2018. Provided that the lighting (low-level only) and fencing (fence at least 4 feet high) rules are followed, and that any blasting is done in compliance with the relevant regulations.

Mr. Binieris seconded the motion. Vote: Ms. Murray, Ms. Mellish, Mr. Binieris, Mr. MacDonald, and Mr. Mitchell voted unanimously in favor of approving this application.

Mr. Mitchell will write the decision, and Ms. Murray will review it.

Documents Produced: Existing Site Plan L1.0, Site Plan Proposed L2.0. Each one (1) page.

Ms. Mellish introduced the application of **Maryann Wood**, for a Special Permit under Sections 6.1.2, 7.5.2, and 4.7 of the Zoning By-Law, and/or other relief as may be necessary, to add a farmer's porch to the front of an existing structure, at **6 Highwood Road**, Assessor's Map No 29, Lot 25 in District A, filed with the Town Clerk on December 19, 2018.

Ms. Murray recused herself from this application.

It was noted by the ZBA members that there was no one present at the Saturday, January 19, 2019 site visit.

Ms. Mellish informed Ms. Wood that a positive ruling requires a vote of 4 in the affirmative, so approval will require a unanimous vote. Ms. Mellish gave Ms. Wood the option of continuing this application to the February 27, 2019 ZBA meeting, when there will be two (2) additional members present. Ms. Wood decided to move forward at this meeting with her application.

Ms. Wood introduced herself as the owner of the property and applicant and explained as follows: The proposed project includes the construction of a Farmer's Porch on the existing structure. This property was renovated in 2014. During this renovation, two (2) catch basins with grills were installed—one near the middle of the proposed front porch (approximately 10 feet in front). The second was installed in the lower yard. In addition, our neighbor's downspout was run through our yard and out to the drain on Highwood Road. Even though this property is listed as being in the Flood Control District; however, Walker Road has undergone significant repairs by the DPW, so that the flooding is no longer an issue on Highwood Road.

Ms. Wood explained that her contractor told her that no ZBA permit was necessary for this project; however, at a future date, the Building Inspector informed her that a ZBA permit will be required for this proposed Farmer's Porch project, with the applicable safety requirements.

Ms. Mellish explained that the existing house is 28 feet from the street, and the zoning requirement is 30 feet from the street, so this is a pre-existing, non-conforming structure on a pre-existing, non-conforming lot, which requires a Special Permit. However, the proposed Farmer's Porch does not further increase the non-conformity. Ms. Mellish asked if a calculation has been done to confirm that the drains are sufficient to support the addition of this porch and roof, which is required information. Mr. Binieris added that the difference for lot coverage by structures and impervious surface is 7.1% (existing) to 8.3% (requested), and the zoning requirement is 30%. Ms. Mellish asked if the drainage requirement will be met, because this property is located in the Flood Control District and the requirements for the Flood Control District in Section 4.7 of the Zoning By-Laws must be met. Ms. Mellish explained that for the ZBA to issue a Special Permit, the ZBA shall request the opinions of the Board of Health, the Planning Board, and the Conservation Commission with respect to any use this permit is sought. Ms. Mellish asked if the gutters and downspouts will actually connect into the existing drainage system. Mr. Binieris stated that the applicant has adequate lawn coverage. Ms. Wood explained that the two drains connect into the culvert and Town Storm Sewer, as well as two catch basins and a cast iron grate (2 feet x 2 feet) installed during the 2014 renovation project. Ms. Wood stated that she has two (2) existing gutters and plans to add a third gutter at the end of the porch, and added that there hasn't been a water issue on her property with puddles of water, etc.

Mr. MacDonald stated that the other Town Boards were not notified prior to this meeting. Ms. Murray explained that the decisions are conditioned upon the requirement for input from the other Town Boards. The ZBA administrative assistant stated that all the Town Boards receive a copy of the ZBA agendas and new applications via e-mail well ahead of the ZBA meetings, and decisions are sent via e-mail as well.

Ms. Mellish asked if there were any questions or comments from the public, and there were none.

Ms. Mellish closed the public hearing to the public. There were no further comments or questions by the ZBA members.

Ms. Mellish made a motion to approve the application of **Maryann Wood**, for a Special Permit under Sections 6.1.2, 7.5.2, and 4.7 of the Zoning By-Law, and/or other relief as may be necessary, to add a Farmer's Porch to the front of an existing structure, at **6 Highwood Road**, Assessor's Map No 29, Lot 25 in District A, filed with the Town Clerk on December 19, 2018. Provided that, because this property is located in the Flood Control District that there will be no objections from the Board of Health, the Planning Board, or the Conservation Commission.

Mr. Binieris seconded the motion. Vote: Ms. Mellish, Mr. Binieris, Mr. MacDonald, and Mr. Mitchell voted unanimously in favor of approving this application.

Mr. MacDonald will write the decision, and Mr. Binieris will review it.

Ms. Wood asked if the 20-day appeal period could be waived by the ZBA, and Ms. Murray replied it would be at the applicant's own risk. Ms. Murray added that the Garth application for a porch on Walker Road did include the required plans, drawings, and flood calculations, which explained exactly where the water was going, how they knew where the water was going, and what their plans were.

Documents Produced: Property Lines from Mortgage Inspection Plan. Plan A1.0. Each one (1) page.

ADMINISTRATIVE MATTERS

ZBA Meeting Minutes: Review and approval of the November 28, 2018 minutes. Ms. Murray asked the ZBA members if they had any comments or questions regarding the minutes, and they did not.

Ms. Murray made a motion to approve the November 28, 2018 meeting minutes. Ms. Mellish seconded the motion. Vote: Ms. Murray, Ms. Mellish, Mr. Binieris, Mr. MacDonald, and Mr. Mitchell voted unanimously in favor of approving these minutes.

ZBA Application Revisions: Ms. Murray explained that Ms. Ardolino, the ZBA Administrative Assistant, has requested that the ZBA members vote on the application revisions regarding the required number of copies and the size of the plans, because there has been a lot of confusion caused by the application requirements regarding what applicants are required to submit. Oversized plans, thumbnails, and electronic copies are being submitted, which are not necessary. The required number of applications is one (1) original and eight (8) copies of the application and all plans. The size should be 8.5" x 11", as required by the Registry of Deeds.

Ms. Mellish expressed concern over the 8.5" x 11" not being clear enough to read, and we need larger copies for ZBA members' review. Ms. Murray suggested the original and eight (8) copies in 8.5" x 11" for filing with the Registry of Deeds, and one (1) copy in 11" x 17" for

each member to be included in the packets that are mailed. Mr. Binieris suggested having an electronic copy sent via e-mail, along with the agenda, and then the other copies in 8.5" x 11".

Missing Required Information on ZBA Applications: Ms. Mellish commented that based on some of the situations that have arisen at the ZBA meetings, the ZBA doesn't require information regarding prior Special Permits or Variances that have been granted on the properties. Ms. Mellish is concerned that the ZBA members agree to things that might be contrary to a prior decision that was made with contingencies (for example). Ms. Ardolino offered to look in the files to see if there were previous applications/decisions filed on each new application.

Applicants and/or Representatives Non-Attendance at Scheduled Site Visits: Ms. Murray pointed out that it is becoming more common that applicants and/or their representatives are not present at the scheduled site visits. These site visits are scheduled for the benefit of the applicants and ZBA members give up their free time—sometimes in inclement weather—to meet with applicants, ask questions of the applicants/representatives, address the applicants/representatives' questions and review the properties.

Ms. Murray suggested that if the applicant or a representative is not present at the site visit, then the application should automatically be continued. Ms. Brown agreed and stated that is the practice of the Planning Board. Ms. Murray suggested adding to the Site Visit paragraph on the Agenda that if the applicant or representative is not present, then the application will automatically be continued.

Planning Board and Zoning Board-Specific Training Session: Ms. Brown reminded the ZBA members that Jonathan Silverstein, Esq. of KP-Law (our Town Counsel) will be presenting this training session on Monday, January 28, 2019, beginning at 7:00 p.m. in Room 5. Ms. Brown suggested bringing up these issues with Mr. Silverstein.

Planning Board Recodification of the Zoning By-Laws: Ms. Brown stated that the Planning Board has added to its budget for a recodification of the Zoning By-Laws. Therefore, the Planning Board would like to have Zoning Board input. These sessions should begin in March of 2019. Ms. Brown explained that an attorney will be assisting the Planning Board with the recodification project, in addition to reorganization and incorporating a use chart, etc.

ZBA Application Revisions Continued: Ms. Murray Ms. Murray made a motion to revise the Application Requirement Specifications portion of the ZBA Application as follows:

1. One (1) original and eight (8) copies of the ZBA Application, Narrative, and all supporting plans and documents in 8.5" x 11" format/size for the ZBA members' packets.
2. One (1) complete sets of the plans and related documents e-mailed in PDF format to all ZBA members, along with the ZBA Application and Agenda.
3. Add a question to the application to include whether or not there have been prior Variances or Special Permits granted on the property.

4. Site Visits will be held on the property of each application and the date and time will be listed on the agenda for each month. The applicant(s) or their representative(s) are required to be in attendance at these site visits to answer questions from the ZBA members. If the applicant(s) and/or their representative(s) are not present at the scheduled site visit, the application will be continued to the following month.

Ms. Mellish seconded the motion. Vote: Ms. Murray, Ms. Mellish, Mr. Binieris, Mr. MacDonald, and Mr. Mitchell voted unanimously in favor of the application requirement revisions.

An administrative matter that could not reasonably have been anticipated in advance of the required 48-hour posting:

Manchester Memorial School ZBA Application: Debi McDonald of JCJ Architects called to inform us that they will be submitting a ZBA application (as well as applications to the other Town Boards) regarding the construction of the Memorial School, and requested a special meeting.

The ZBA members discussed the possible upcoming ZBA application for the Manchester Memorial School and whether or not a special meeting is necessary, and if so, when that meeting should be. Ms. Mellish cautioned that sufficient time be provided for proper notice. Ms. Mellish stated that the Finance Committee has agreed to cancel their March 13th or March 20th meeting in order to attend the ZBA meeting for the Manchester Memorial School.

The ZBA members had a discussion and decided that due to the magnitude of this project and the anticipated attendance from the public, this application requires a special meeting. It was decided that the Special ZBA Meeting will be held tentatively on Wednesday, March 20, 2019, beginning at 7:00 p.m., location to be determined, once agreed upon by the Manchester-by-the-Sea School Committee.

Adjournment: Ms. Murray made a motion to adjourn the January 23, 2019 ZBA meeting at 8:42 p.m. Ms. Mellish seconded the motion. Vote: Ms. Murray, Ms. Mellish, Mr. Binieris, Mr. MacDonald, and Mr. Mitchell voted unanimously in favor of adjourning the meeting.

Respectfully submitted,
Adele Ardolino, Administrative Assistant
Manchester-by-the-Sea Zoning Board of Appeals

These Minutes were approved by the members of the Zoning Board of Appeals on March 27, 2019.

N.B. These minutes are not verbatim. They are the clerk's interpretation of what took place at the meeting.