

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

Meeting February 27, 2019

Members Present: Bridget Murray (Chairperson), James Diedrich, Sarah Mellish, John Binieris, and Kathryn Howe.

Members Not Present: Matthew MacDonald and James Mitchell.

Ms. Bridget Murray, the Chairperson, called the Meeting of the Manchester-by-the-Sea Zoning Board of Appeals ("ZBA") to Order at 7:02 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 Attorney Alexander has another appointment this evening.

Ms. Murray introduced the application of **11 Tuck's Point Road LLC**, 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 allow for a modification of a Special Permit from September 22, 2018, to reduce the size of the garage that was approved from 1600 square feet to 996 square feet, at **11 Tuck's Point Road**, Assessor's Map No. 22, Lot 35 in District E, filed with the Town Clerk on January 24, 2019.

Thomas Alexander, Esq. introduced himself as the attorney representing the applicant along with John Michaud, the architect. Mr. Alexander explained as follows: We propose to modify the Special Permit granted by the Zoning Board of Appeals at the September 22, 2018 meeting, by reducing the size of the garage from 1600 square feet to 996 square feet, and moving from 99 feet from the front property line to 115 feet, thus reducing the side setback from 18 feet to 15 feet; however, it will remain within the setback requirements. We have a signed petition in support of this proposed project from the abutters. The applicants had decided that the originally proposed garage was larger than they needed and more expensive.

Ms. Mellish asked why the garage being moved closer to the setback. Mr. Michaud replied that the owners wanted to see more of the front of the house and have a better view of the ocean from the second floor.

There wasn't anyone present from the public for this application, and no further questions or comments from the ZBA members. The ZBA members agreed that this proposed project is fine.

Ms. Murray made a motion to approve the application of **11 Tuck's Point Road LLC**, 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 allow for a modification of a Special Permit from September 22, 2018, to reduce the size of the garage that was approved from 1600 square feet to 996 square feet, at **11 Tuck's Point Road**, Assessor's Map No. 22, Lot 35 in District E, filed with the Town Clerk on January 24, 2019. Based on the finding that the change in the plan is not more detrimental to the neighborhood and also based on compliance with the plans that were presented to the ZBA

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

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

Documents Produced: Focus Map, West and North Elevations, East and South Elevations, and Plan A2.1 Garage Exterior Elevations. Petition signed by James Starkey and Ann Harrison, 13 Tuck's Point Road and Jeffrey and Karla Kaneb, 9 Tuck's Point Road. Assessors' Map (1 page each).

Ms. Murray introduced the application of **Mark B. Glovsky, Trustee, Twenty-Nine Old Neck Road Trust**, 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 allow modification of a non-conforming lot (three (3) dwellings on one (1) lot and side yard setback violations) by permitting reduction in lot area to allow transfer of one (1) dwelling and 16,337 square feet of land to abutter, at **29 Old Neck Road**, Assessor's Map No 13, Lot 35 in District E, filed with the Town Clerk on January 22, 2019.

Mark Glovsky, Esq. introduced himself as the attorney representing the applicant, along with the architect, Brian Stein. Mr. Glovsky explained as follows: The proposed project involves a reduction in lot area—modifying a non-conforming property with three (3) detached dwellings (a stone cottage, carriage house with second floor apartment, the main house, and 2 sheds), most buildings are close to the property line. The Hood family has owned this property for many years. Judy Hood has lost her husband and the children have grown, so she would like to move out of the main house (29 Eagle Head Road) and into the stone cottage. A caretaker will occupy the one-bedroom apartment above the carriage house and Mrs. Hood plans to sell the main house at 29 Eagle Head Road.

The plan is to reduce the area by 16,000 square feet, a little more than 4 acres to 165,000 square feet, exceeding the required 90,000 square feet and eliminating the side yard setback issues related to the two properties. Most of the access to the property is from 1 Eagle Head Road. The proposed project will involve additional screening between the two properties.

Ms. Murray made a motion to approve the application of **Mark B. Glovsky, Trustee, Twenty-Nine Old Neck Road Trust**, 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 allow modification of a non-conforming lot (three (3) dwellings on one (1) lot and side yard setback violations) by permitting reduction in lot area to allow transfer of one (1) dwelling and 16,337 square feet of land to abutter, at **29 Old Neck Road**, Assessor's Map No 13, Lot 35 in District E, filed with the Town Clerk on January 22, 2019. Based on a finding by the ZBA that the change in the lot line reduces the non-conformity of the existing lot and is in the spirit of the existing By-Law. The changes will be made in accordance with the plot plans submitted with the application—Exhibit Plan of Land of Manchester-by-the-Sea.

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

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

Documents Produced: Exhibit Plan of Land in Manchester-by-the-Sea (1 page). Letter in support from Charles and Jill Brennan, 2 Eaglehead Road (1 page). Petition signed by the owners of 3, 14, 10, 8, 23, and Eaglehead Road, as well as 12 Old Neck Road (2 pages). E-mail response from Paul George, dated February 7, 2019, in response to Mrs. Judith Hood's e-mail to the neighborhood outlining her proposed project (2 pages).

Ms. Murray introduced the application of **Mark G. Glovsky, Trustee, Proud Eagle Realty Trust**, for a Special Permit under Sections 6.1.2 and 7.5.2, and a Variance under Section 7.4.6 of the Zoning By-Law, and/or other relief as may be necessary, to allow the existing 1-1/2 story wood-frame garage to be used and occupied as family living quarters by an employee of the applicant, who will be employed on the property, and a Variance to allow the reduction in the front yard setback from 40 feet to 30.9 feet for the wood-frame garage, at **1 Eagle Head Road**, Assessor's Map No. 13, Lot 36 in District E, filed with the Town Clerk on January 22, 2019.

Mr. Glovsky explained that the first part of the proposed project is to allow two dwelling units on one lot, so that an employee can continue to live on the premises. The Hoods removed a single-family house that was blocking the view of the ocean and has installed a bench and walking path that she encourages the neighbors to enjoy. When the stone cottage is moved on this lot, it will become the principal building and the carriage house/garage will become the accessory building, requiring it to be 40 feet from the street, which will require a Variance.

The existing and proposed structures on the property are in an unusual relationship to the lot lines, and it's the location of the existing structures that constitute circumstances that are unique to this property. If the Zoning By-Law is strictly enforced, it would prove to be a substantial hardship to Mrs. Hood by limiting the appropriate improvement and use of the stone dwelling. The proposed project will have a minimal effect on the neighborhood—we are not increasing the number of dwelling units or traffic, and also will conserve the value of the land and the buildings.

The Hoods have spoken to all the neighbors about this proposed project, and the neighbors are in support of this project.

Ms. Murray asked why the two lots were not previously merged by the Hoods, and Mr. Glovsky replied that there were two separate beneficiaries. Mr. Glovsky explained that the ZBA issued a Variance for the removal of the house without the 2 year time limitation, but the lot would be preserved as a buildable lot. The Eagle Head subdivided in 1953, and the Johnson house was built in the late-50s/early 60s.

Ms. Mellish stated that according to the Assessors' records, the main house at 29 Old Neck Road has a recent build date (after Zoning went into effect). Was there a prior house on that lot and has the stone house been used as a residence. Mr. Glovsky replied that all the buildings have been used continuously as homes. Mr. Stein stated that that original house existed prior to zoning, but he was involved in the renovation of that house for the Hoods in 2005. Mr. Glovsky explained that he had checked with the Assessors' Office, and the stone cottage was built sometime after 1919 and before zoning. Mr. Stein believes it could have been built in the 1930s.

Ms. Mellish explained that by using the stone cottage as a single residence, without tearing it down, you will be preserving more open space. Mr. Glovsky stated that Mrs. Hood will most likely further restrict this property as time goes by. Ms. Mellish concluded that the proposed project will benefit the neighborhood.

Mr. Diedrich asked about the possibility of subdividing 29 Old Neck Road. Mr. Glovsky replied that the property is limited by a pond, preventing extra parking, etc., and that house is relatively new; therefore, it is unlikely that the lot will be subdivided.

Ms. Murray explained that it would be beneficial to allow the elderly people of Manchester-by-the-Sea to live in single-floor housing with a caretaker on the premises. Ms. Mellish added that Mrs. Hood will also be preserving open space.

There was no one present from the public on the 29 Old Neck Road and 1 Eagle Head Road applications, and no further questions or comments from the ZBA members.

Ms. Murray made a motion to approve the application of **Mark G. Glovsky, Trustee, Proud Eagle Realty Trust**, for a Special Permit under Sections 6.1.2 and 7.5.2, and a Variance under Section 7.4.6 of the Zoning By-Law, and/or other relief as may be necessary, to allow the existing 1-1/2 story wood-frame garage to be used and occupied as family living quarters by an employee of the applicant, who will be employed on the property, and a Variance to allow the reduction in the front yard setback from 40 feet to 30.9 feet for the wood-frame garage, at **1 Eagle Head Road**, Assessor's Map No. 13, Lot 36 in District E, filed with the Town Clerk on January 22, 2019. This application will also conform with the plans that were submitted with the application: Exhibit Plan of Land in Manchester-by-the-Sea, Elevations labeled A1, A2, A3, A4, A5, A6, X1, X2, X3, X4, X5. The project will be built in compliance with the materials presented, as listed. Based on the finding that the new project creates a less non-conforming parcel. The hardship is that the moving of the existing axillary dwelling is not a practical way to

continue to use the property. Also referencing the hardship explanation presented to the ZBA under Section 7.4.6 Variance of the applicants' Narrative accompanying the application.

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

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

Documents Produced: Letter in support from Charles and Jill Brennan, 2 Eaglehead Road (1 page). Petition signed by the owners of 3, 14, 10, 8, 23, and Eaglehead Road, as well as 12 Old Neck Road (2 pages). E-mail response from Paul George, dated February 7, 2019, in response to Mrs. Judith Hood's e-mail to the neighborhood outlining her proposed project (2 pages).

Plan of Land of Eagle Head Road, Plan A1 Proposed First Floor Plan, Plan A2 Proposed Second Floor Plan, A3 Proposed Elevations, Proposed Waterside East Plan, Plan A5 Proposed Elevations, Proposed North Elevation, Plan X1 Existing Plans, Plan X2 Existing Plans, Plan X3 Existing Elevations, X4 Existing Elevations, X5 Existing Elevations. Each one page, dated 12/14/18 and prepared by bds design inc, Andover, MA.

Ms. Murray introduced the application of **Mirza and Nora Cifric**, 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 add gables and dormers to existing roof, at **16 Smith's Point Road**, Assessor's Map No. 20, Lot 6 in District E, filed with the Town Clerk on January 23, 2019.

Mr. Brian Stein introduced himself as the architect representing the applicants and explained as follows: The applicants recently purchased this home, and they have four (4) children. There are currently four (4) rooms on the third floor. The proposed project will add 3-1/2 feet over the height restriction to the roof and add gabled dormers to the roof, adding more space to the third floor. Mr. Stein presented a photo simulation/sketch of the existing and proposed conditions.

Mr. Stein continued to explain that the north side has an unusual roof line. The front is the east side. It will continue with the same plane of the roof hip, but it becomes a gable on one end and an added Nantucket dormer. There will be nothing added to the footprint, roof line, or height. We will be working with the present Victorian house. There will be approximately 300 square feet added to the third floor space. We will correct the odd roof line in the rear of the house by adding a double gable (view of the harbor). We will stay within the same plane of the hip roof and the ridge height. The gables will create more roof area on the south side, with a Nantucket dormer in the center in between two existing dormers. Mr. Stein presented a photograph of the Victorian house next door, which also has gables, but with more height than the 16 Smith's Point Road home.

Mr. Cifric stated that he has spoken to the neighbors, and there were no objections, and added that he and his wife had introduced themselves to the neighbors when they moved in and mentioned their plans for renovations at a neighborhood party.

Mr. Binieris stated that the proposed project will be a significant improvement and it will solve the space problem, but keeping the character of the house. Mr. Diedrich stated that he appreciates the proposed project. It will make the house even more attractive, and this type of project will probably become a normal request of the ZBA in the future. Ms. Howe also feels that the proposed project is a good one.

There was no one present from the public on this application. The ZBA members had no further questions or comments.

Ms. Murray made a motion to approve the application of **Mirza and Nora Cifric**, 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 add gables and dormers to existing roof, at **16 Smith's Point Road**, Assessor's Map No. 20, Lot 6 in District E, filed with the Town Clerk on January 23, 2019. Based on the finding that the proposed changes are not substantially more detrimental to the neighborhood than the existing structure. The project will proceed in compliance with drawings and plans presented to the ZBA members: Plan of Land in Manchester-by-the-Sea, Existing Conditions Plan, dated 1/9/19, and including plans labeled C1, X1, X2, X3, X4, X5, A1, A2, A3, A4, and A5.

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

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

Documents Produced: Plan of Land in Manchester-by-the-Sea, signed and stamped by Jay Jarosz (1 page). Plan C1 Proposed Site Plan, dated 11/6/18, Plan X1 Existing Third Floor Plan, dated 1/22/19, Plan X2 Existing Elevations, dated 1/22/19, Plan X3 Existing Elevations, dated 1/22/19, Plan X4 Existing Elevations, dated 1/22/19, Plan X5 Existing Elevations, dated 1/22/19, Plan A1 Proposed Third Floor Plan, dated 1/22/19, Plan A2 Proposed Elevations, dated 1/22/19, Plan A3 Proposed Elevations, dated 1/22/19, Plan A4 Proposed Elevations, dated 1/22/19, Plan A5 Proposed Elevations, dated 1/22/19, each one page and all submitted in 11" x 17" by bds design inc, Andover, MA.

ADMINISTRATIVE MATTERS

ZBA Meeting Minutes: Review and approval of the January 23, 2018 minutes. Two ZBA members who were present at the January 23rd meeting were not present at tonight's meeting, and Ms. Howe was not present at the January meeting. These minutes will be approved at the March 27, 2019 meeting.

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

Ms. Murray stated that the 15 Friend Street application will be back for the March 27, 2019 ZBA meeting. The plans that were submitted with the decision did not have the 3 foot 10 inches written on them. The Building Inspector is asking that the ZBA open this

application in a public hearing for a verification that the ZBA did in fact get plans and approve the plans with the 3 foot 10 inch increase towards the back.

ZBA Application Revisions: Ms. Mellish suggested that an amendment to the By-Law regarding the required number of copies be added to the Fall Town Meeting agenda.

ZBA Agendas: Ms. Murray suggested that language be added to the Site Visit section stating that if applicants do not attend the site visit, it is possible that their applications will be continued.

Adjournment: Ms. Murray made a motion to adjourn the February 27, 2019 ZBA meeting at 8:13 p.m. Ms. Mellish seconded the motion. Vote: Ms. Murray, Mr. Diedrich, Ms. Mellish, Mr. Binieris, and Ms. Howe 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.