

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

Meeting April 24, 2019

Members Present: Bridget Murray (Chairperson), James Diedrich, (Clerk), Sarah Mellish, and Kathryn Howe. Matthew MacDonald and James Mitchell (Alternates).

Members Not Present: John Binieris.

Ms. Bridget Murray, the Chairperson, 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 APPLICATION

Ms. Murray introduced the application of **84 Old Essex Revocable Trust, MJP Properties, Inc. Trustee (Michael Panzero)**, 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, for removal and reconstruction of a pre-existing, non-conforming, single-family residence on a non-conforming lot, at **84 Old Essex Revocable Trust, MJP Properties, Inc. Trustee (Michael Panzero)**, Assessor's Map No. 58, Lot 32 in District B, filed with the Town Clerk on March 27, 2019.

Mr. Bob Griffin from Griffin Engineering, Beverly, MA introduced himself as the engineer on this project and also introduced Mr. Michael Panzero of MJP Properties, Inc. Mr. Griffin explained the proposed project as follows: The plan is to remove the existing building on the property and replace it with a new colonial style home. This parcel of land is non-conforming because of the lot area (less than 13,000 square feet of land, where 15,000 square feet is required by Zoning). The existing building is 6 feet off of the side line and 12 feet off of the front line. There is an existing gravel driveway next to the building and a collapsed retaining wall. Test bits were performed for the purpose of testing the soil and for storm water design. Mr. Griffin provided photos of the property and existing building. The height of the existing building is 29 feet, and the proposed building height will be 33 feet.

Mr. Griffin explained the proposed project as follows: The proposed structure will be 2 stories and approximately 60 feet wide. The kitchen, dining room, living room, and family room on the first floor, and 3 bedrooms and a small room on the second floor, a 2 car garage with a 2nd story living space (improve traffic safety), totaling approximately 2,600 square feet of finished living area (existing living area equals 1,080 square feet), and approximately 4,160 square feet, including the garage and full basement. We will be decreasing the non-conformity on the front (from 12 to 15 feet, building the proposed structure further back in the front yard) and side yard

(from 6 to 10 feet). There will be a dry well installed underneath the front stairs and back yard to assist with storm water runoff, and tie in the roof gutters. The proposed infiltration structures are pending Planning Board approval. This proposed project meets the Zoning By-Law requirements. This proposed project is in keeping with the neighborhood, and within the 75th percentile for size of homes in the neighborhood (not taking into account the other homes' lot sizes).

Mr. Mitchell asked for the footprint of the existing house and proposed house, and Mr. Griffin replied the existing house is roughly 600 square feet, and the proposed house is roughly 1,550 square feet, including the garage. The building lot coverage is 12% of the lot area (where 15% is allowed by Zoning regulations), and 18-1/2% impervious coverage (30% required by Zoning). Mr. Mitchell stated that neighbors expressed concern at the site visit about the proximity of the proposed driveway. The existing driveway is a shared driveway.

Ms. Murray opened the hearing for public comment.

Sandra Rogers, 82 Old Essex Road, stated that she was present at the Planning Board meeting and the proposed structure is higher than the existing structure and significantly large for the lot and is out of character for the neighborhood.

Michael Sullivan, 81 Old Essex Road (across the street and to the left of 82 Old Essex), stated that the existing house is a blight on the neighborhood, but the proposed house is clearly too big for the lot and nothing like any other houses in the neighborhood. The proposed house was not sufficiently created for this really peculiar lot.

Mary Hardwick, 86 Old Essex Road, stated that she and her sister are in favor of the proposed project, because the proposed house will be moved 4 feet away from their property and there will not be a need for blasting.

Rick Rogers, 82 Old Essex Road, stated that everyone is excited that the existing house is going to be replaced and respects Mr. Panzero's reputation as a fine builder, but the proposed house is too big and the result will be that their back yard will become our front yard.

Kathy Ryan, 79 Old Essex Road, stated that the size of the proposed house is too big.

Ms. Murray closed the hearing for public comment.

Mr. Mitchell explained that he understands the concerns of the neighbors regarding the scale of the proposed project and the size of the proposed house. As a former builder, I understand the requirements of a builder to build not at a loss, but I also see that this is overall an improvement with regard to the site, the drainage, and the setbacks, but I would suggest a compromise with design. You can achieve the exact square footage, the same number of bedrooms and bathrooms with a more cape-style house with dormered on the front, you would have a much less imposing view from the street and this would change the character and scale of the proposed house dramatically. The garage could have a flat roof with a deck or porch on top. These suggestions will not cost any more to build and it would address the neighbors' concerns. Mr. Mitchell suggested a compromise where the builder will build what he needs to build, but at the same time addresses the needs and concerns of the neighbors. Mr. Griffin replied that he

appreciated the comments and added that Mr. Panzero is an experienced builder who intends to work with the neighbors.

Ms. Murray stated that she would echo what she has heard from the neighbors and added that the proposed house is too much for the lot, whether it is too much volume for the lot or the square design. The proposed project is doubling the size of the existing house.

Ms. Mellish stated that she understands the difficulty with the topography, but the proposed house is considerably larger than the existing house, and would be much more comfortable with whatever is built does not encroach on the setbacks.

Mr. Diedrich stated that the proposed project is too large for the area and for that lot, and would be more comfortable if the setback requirements were met.

Mr. Griffin replied that they will try to reduce the overall size of the house to meet the setbacks, but there are some constraints about the lot regarding topography, so we will be asking for some relief/consideration. Ms. Murray stated that the ZBA members are not suggesting that we wouldn't give you any relief at all, but added that what she is hearing is that the current proposed plans are not going to work.

Ms. Howe stated that the existing house is not fantastic and building a new house is a great idea, but something can be done with the design of the proposed house to make it blend into the neighborhood better, and possibly have a 1 car garage, instead of a 2 car garage. Ms. Howe explained that she appreciates that the builder has done a nice job with the storm water plans, but with a little more finesse you can build something that everyone could be happier with.

Mr. MacDonald asked if they had already considered other options. Mr. Griffin explained that they spent 3 months going through various house footprints, including split-level houses. Mr. MacDonald explained that he agrees with his ZBA colleagues and the neighbors that clearly there is a town benefit to build a new house here, but has real concerns about site adequacy, but some further design work would get me to approve the proposed project.

Ms. Murray explained to Mr. Griffin that the ZBA can vote on this application tonight or continue it. Mr. Griffin replied that he will consult with Mr. Panzero and do further work on these plans and would like to continue this application.

Mr. Griffin stated that he thought that there was an easement, but in researching the deeds, there is no easement that addresses the encroachment, but I am not completely done with the research. Sandra Rogers, 82 Old Essex Road, stated that there is some information on the time that 76 Old Essex Road split up their property to create 82 Old Essex Road. Mr. Griffin replied that there were a number of transactions, but I haven't found in my review an encumbrance in Mr. Panzero's deed that allows somebody else to occupy a portion of his property. Ms. Murray stated that this is a slightly separate issue.

Ms. Murray made a motion to continue the application of **84 Old Essex Revocable Trust, MJP Properties, Inc. Trustee (Michael Panzero)**, 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, for removal and

reconstruction of a pre-existing, non-conforming, single-family residence on a non-conforming lot, at **84 Old Essex Revocable Trust, MJP Properties, Inc. Trustee (Michael Panzero)**, Assessor's Map No. 58, Lot 32 in District B, filed with the Town Clerk on March 27, 2019, to the May 22, 2019 ZBA meeting.

Ms. Mellish seconded the motion. Vote: Ms. Murray, Mr. Diedrich, Ms. Mellish, Ms. Howe, Mr. Mitchell, and Mr. MacDonald voted unanimously in favor of continuing this application to the May 22, 2019 meeting.

Documents Produced: Plan C-1 Permit Site Plan, dated 3/27/18, signed and stamped by Robert F. Griffin (1 copy 8.5 x 11" and oversized). Color Photos 1 Front of Existing Residence, Photo 2 Side of Existing Residence, both dated 8/17/18. Photo 3 Rear of Residence, dated 8/17/18. Plans: House Front Elevation, House Back Elevation (Left and Right), House First Floor Plan, House Second Floor Plan, prepared by Colonial Drafting, Andover, MA, dated March 25, 2019.

ADMINISTRATIVE MATTERS

ZBA Meeting Minutes: Review and approval of the January 23, 2019, February 27, 2019 and March 27, 2019 minutes.

Ms. Murray made a motion to approve the **January 23, 2019** minutes. Mr. Diedrich seconded the motion. Vote: Ms. Murray, Mr. Diedrich, Ms. Mellish, Mr. Mitchell, and Mr. MacDonald voted in favor of approving these minutes.

Ms. Murray made a motion to approve the **February 27, 2019** minutes. Ms. Howe seconded the motion. Vote: Ms. Murray, Mr. Diedrich, Ms. Mellish, and Mr. MacDonald voted in favor of approving these minutes.

Ms. Howe suggested and edit on page 5 and pages 10 of the March minutes, and the other ZBA members agreed. Ms. Murray made a motion to approve the **March 27, 2019** minutes, as amended. Mr. Diedrich seconded the motion. Vote: Ms. Murray, Mr. Diedrich, Ms. Mellish, Ms. Howe, Mr. Mitchell, and Mr. MacDonald voted in favor of approving these minutes.

Recodification Plan Committee to Review/Revise the Zoning By-Laws: Ms. Mellish has volunteered to represent the ZBA on this committee.

ZBA Application Revisions: Final discussion and vote regarding revisions to the ZBA Application. Tabled.

Adjournment: Ms. Murray made a motion to adjourn the April 24, 2019 ZBA meeting at 8:00 p.m. **Second:** Ms. Mellish seconded the motion. **Vote:** Ms. Murray, Mr. Diedrich, Ms. Mellish, Ms. Howe, 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 May 22, 2019.

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