



# MANCHESTER-BY-THE-SEA

## ZONING BOARD OF APPEALS

Manchester-by-the-Sea, Massachusetts 01944-1399

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### MINUTES

#### ZONING BOARD OF APPEALS

#### Virtual On-line Meeting May 18, 2022

**Members Present Online:** Sarah Mellish (Chairperson), James Diedrich, Kathryn Howe, and Sean Zahn.

**Members Not Present:** James Mitchell, John Binieris, and Brian Sollosy

Ms. Mellish called the meeting to order at 7:00 p.m. and stated the meeting was being recorded for accuracy in minutes. Ms. Mellish introduced herself and Board members present adding the vote to approve the application would need to be unanimous given there are only 4 Board members present.

#### NEW APPLICATION

Ms. Mellish opened the Public Hearing on the Application of **Albert Steg**, for a Special Permit under Sections 4.1.10 (f), 6.1.2 and 7.5.2 of the Zoning By-Law, and or other relief as may be necessary for the construction of an oval swimming pool (approximately 26' x23') with a spa, 4' infinity edge and granite steps to new bluestone deck with a fire pit surrounded by a 4' high fence at **19 University Lane**, Assessor's Map 5, Lot No. 34 in District C filed with the Town Clerk on April 19, 2022.

Mr. Ulrich, Mr. Steg's Landscape and Pool designer, described the project stating currently there is a large multileveled deck leading to the proposed pool area. The area is now comprised of mixed vegetation and a man-made pond. The proposal calls for new decking, granite steps, and fencing that will recede into the landscaping. The fencing will extend along the property line and will be constructed using cedar posts and black mess wire fencing. The pool with vanishing edge will be located at the lower level and nestled into a bowl shape enhanced by natural vegetation.

Mr. Diedrich asked Mr. Ulrich to describe the proposed lighting. Mr. Ulrich stated the lighting along the path will be simple small brass "China hat" fixtures, the lights will be downward directed for safety. Additional lighting will include ground mounted lights, lighting across the steps. In the pool there will be two lights facing away from the deck. All lighting will be dark sky compliant and LED.

Neither Ms. Howe nor Mr. Zahn had questions.

*Ms. Mellish moved to close the Public Hearing and approve the application of Albert Steg for a Special Permit under Sections 4.1.10(f) 6.1.2 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to install an oval swimming pool, approximately 26' x 23' with an infinity edge, which will replace an existing landscape pond, a spa, bluestone patio, fire pit and landscaping with low voltage LED lights and 4' high fence enclosing the pool with locking gates at 19 University Lane, Assessor's Map No. 5, Lot No. 34 in District C, filed with the Town Clerk on April 19, 2022, based on a finding the proposed use is in harmony with the purpose and intent of the By-Law, the structure will not be more detrimental or injurious to the neighborhood and all requirements and conditions under Section 7.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, based on the following conditions:*

- *The pool, spa, patio, firepit, lighting and fence are located and constructed in accordance with the following plans/documents:*
  - *Proposed Pool Plan prepared by Donohoe Survey; Inc. dated April 11, 2022*
  - *L1 Layout and Materials Plan prepared by Ulrich Landscape*
  - *L1 Planting and Lighting Plan prepared by Ulrich Landscape*
- *Lighting shall be low voltage LED similar to Garden Light X-Light and Claro Lux ALI Barletta, no taller than two feet and one or two lights within the pool*
- *The 4' high black mesh fence and gates with cedar posts shall be constructed in accordance with the specifications of the Manchester Zoning By-Law and the Massachusetts Building Code*

*Mr. Diedrich seconded the motion. The motion passed unanimously by roll call vote.*

Ms. Mellish will write the Decision and Mr. Diedrich will review.

## **ADMINISTRATIVE MATTERS**

### **Discuss Zoning Changes on the Warrant for Special Town Meeting, June 11, 2022.**

Ms. Mellish stated she had forwarded materials to the Board regarding proposed zoning changes including:

- Document on her research regarding the proposed changes
- Memo to Planning Board regarding concerns around changes. Specifically, as the changes relate to non-conforming uses and structures.
- Changes to referral requirements regarding what goes to staff and not the Board.

Mr. Diedrich asked Ms. Mellish if she had concerns around the changes. Ms. Mellish stated she does not support ADUs by right indicating that change does not cover the majority of uses that have come before the ZBA. Ms. Mellish suggested the Planning Board take the current By-Law and eliminate lot size requirements and add an option to build an unattached ADU. The new By-Law includes a provision that anything not qualifying under the specific parameters comes before the ZBA. Also, ADUs need to be certified every 5 years which seems overbearing to Ms. Mellish. Mr. Diedrich stated the changes appear to be more complicated than necessary.

Mr. Diedrich asked about the relationship between the Planning Board and ZBA. Indicating that he has never fully understood the relationship. Mr. Mellish stated the Planning Board comes up with the Zoning By-Laws and ZBA is the approval agency as set out by the State, Planning Board reviews bigger projects and ZBA reviews requests from individuals. Planning Board recommends the By-Law and the ZBA hears applications that are appealing the By-Law.

Ms. Mellish clarified that any changes proposed by the Planning Board places the ZBA in a holding pattern. Applications for ADU will be deferred to after Town Meeting and approval by the Attorney General. The By-Law have been renumbered, are in different sections and the Planning Board is asking the ZBA to reference State and local By-Law. Ms. Mellish does not believe this is realistic to ask of a volunteer Board.

Review and approval of meeting minutes – There were no minutes to approve this evening.

- Status of Decisions –

Ms. Mellish is writing the 94 Bridge St. Decision which is the only outstanding Decision.

Mr. Diedrich asked about 151 Bridge Street. Ms. Mellish stated the abutter had appealed and the applicant had requested the Decision be rescinded. Ms. Mellish stated if the applicant does not fight the appeal the 2012 Decision remains in place. The appeal is with Town Counsel.

- Any other administrative matters that could not reasonably have been anticipated in advance of the required 48-hour posting.

There were no additional matters to be discussed this evening.

*Mr. Diedrich moved to adjourn the meeting; Ms. Howe seconded the motion. The motion passed unanimously by roll call vote.*