



MANCHESTER-BY-THE-SEA

ZONING BOARD OF APPEALS

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

Telephone (978) 526-6405

MINUTES

ZONING BOARD OF APPEALS

Hybrid Meeting August 30, 2023

Members Present: Sarah Mellish (Chair), John Binieris, Brian Sollosy, Jim Diedrich, and Sean Zahn – Robert Scott, participating not voting.

Members Not Present: Kathryn Howe

Ms. Mellish called the meeting to order at 7:00 p.m. and stated that the meeting was a Hybrid meeting on Zoom with members of the Board, Applicants, and Public in Town Hall, Room 5. Ms. Mellish introduced herself and Board members present.

New Application

Ms. Mellish opened the public hearing for the Application of **Peter Levasseur, Phase 2 Design Studio**, on behalf of **Lucy Noyes** for a Special Permit under Sections 5.4 and 12.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to renovate an existing nonconforming structure which encroaches into the side setback by adding 38 sq. ft on the first floor between two existing sections of the structure and constructing a second floor addition over that section of the first floor creating 288 sq. ft. additional living space at **2 Pulaski Drive**, Assessor's Map No. 41, Lot No. 41 in District B, filed with the Town Clerk on July 17, 2023.

Mr. Levasseur stated that the renovation was to add 38 square feet on the first floor with a second-floor addition of 288 square feet. The first floor is currently a three-season porch which will be enclosed and become a home office. The second-floor expansion will become a bedroom, an expanded bath, and new bath for primary bedroom. The elevations of the house remain the same and there are no changes proposed to the front of the house.

Mr. Scott asked which part of the house was expanding into the non-conforming setback. Mr. Levasseur indicated that the side of the house. Ms. Mellish clarified that any changes to the non-conforming side setback requires a Special Permit from the ZBA.

Ms. Mellish noted an abutter from Pleasant Street attended the site visit and had been concerned the house was being pushed further back, but when she saw the plans she indicated she was fine with the project but could not attend the hearing.

Letters of support for the project were received from:

Patricia Ambrose, 4 Pulaski Drive

Anita Brewer-Siljeholm, 6 & 8 Pulaski Drive

Mary and Bob Foley, 1 Pulaski Drive (via email).

Ms. Mellish asked if any member of the public wished to be heard on this Application? There were no comments from the public.

*Ms. Mellish moved to close the Public Hearing and approve the application of **Peter Levasseur, Phase 2 Design Studio**, on behalf of **Lucy Noyes** for a Special Permit under Sections 5.4, and 12.5.2 of the Zoning By-Law, and/or other relief as may be necessary to renovate an existing nonconforming structure which encroaches into the side setback by adding 38 sq. ft. on the first floor between two existing sections of the structure, removing the first floor porch, placing it on a foundation to create an office and pushing back the façade several inches to align with the existing mudroom and half bath and adding a second floor over those sections of the first floor, with compliant second floor egress windows, to create an additional 288 sq. ft. of living space at **2 Pulaski Drive**, Assessor's Map No. 41, Lot No. 41 in District B, filed with the Town Clerk on July 17, 2023, based on a finding that the proposed project to renovate the first floor and to construct a second floor addition, creating 288 sq. ft. of additional living space, is in harmony with the purpose and intent of the By-Law, will not be more detrimental or injurious to the neighborhood in which it is located than the existing nonconforming structure and the requirements and conditions under Section 12.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, based on the condition that the project is constructed in accordance with the following plans:*

- *Proposed Site Plan prepared by Phase 2 Design Studio, dated July 20, 2022, revised 7-17-23, based on the Site Plan prepared by Olde Stone Plot Plan Service, LLC, dated September 17, 2017.*
- *Noyes Residence Plans prepared by Phase 2 Design Studio, dated July 20, 2023, revised 7-17-23:*
 - *E1.0 Existing Floor Plan*
 - *E1.1 Existing Elevations*
 - *A2.0 Proposed Floor Plan*
 - *A3.0 Exterior Elevations*

Mr. Zahn seconded the motion; the motion passed 5-0.

Mr. Zahn will write the Decision and Mr. Diedrich will review the Decision.

Ms. Mellish opened the public hearing for the Application of **Brian Stein, BDS Design Inc.** on behalf of **Joseph & Elyse Campanelli** for a **Special Permit** under Sections 10.1, 12.5 and 12.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to raise the existing nonconforming structure in the flood zone 1 foot, add additional levels for additional living space and adjust the footprint which will result in it encroaching an additional inch into the west side setback and adding a deck which will encroach an additional 5 inches into the setback and a **Variance** under Sections 5.5 and 12.4.6 of the Zoning By-law, and/or other relief as may be necessary, to allow 3 stories on a portion of the residential structure which does not exceed 35' in

height at **4 Butlers Avenue**, Assessor's Map No. 1, Lot No. 33 in District B, filed with the Town Clerk on May 15, 2023.

Ms. Mellish asked if Mr. Stein would like to present the project. Mr. Binieris asked if there were any changes to what had previously been presented adding the Board is familiar with the project. Mr. Stein indicated there were no changes other than the request to apply for a variance due to the Flood Zone and the need to raise the house with the addition of a partial third story.

Ms. Mellish requested that Mr. Stien clarify which of the plans showed the structure. Mr. Stein indicated the Site Plan. Mr. Scott asked how the house was being raised. Mr. Stein replied that the current home uses the garage as living space and that will be returned to a garage because the space is below the Flood Zone. Mr. Scott asked if the foundation was being changed. Mr. Stein stated no, the entire house will be raised one foot with the addition of an additional split floor.

Ms. Mellish clarified that the variance was requested because of the addition of an additional story to the home because the Flood Zone required all living space to be above the Zone. The Board had previously discussed that a variance applied for would address the additional story due to the hardship of the Flood Zone. The Board agreed that the variance addressed the issue and resolved any debate around the number of stories of the house.

Ms. Mellish asked if any member of the public wished to be heard on this Application? There was no public comment this evening.

*Ms. Mellish moved to close the Public Hearing and approve the application of **Brian Stein, BDS Design, Inc.** on behalf of **Joseph & Elyse Campanelli** for a **Special Permit** under Sections 7.2, 12.5 and 12.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to raise the existing nonconforming structure in the flood zone one foot, add additional levels, including additional mass in the setback and an addition encroaching an additional inch into the side setback, adjust the footprint and add a new second level deck which will encroach an additional 5 inches into the side setback at **4 Butler Avenue**, Assessor's Map No. 1, Lot No. 33 in District B, filed with the Town Clerk on May 15, 2023, based on a finding that the proposed use is in harmony with the purpose and intent of the By-Law, the proposed alteration to the structure will not be more detrimental or injurious to the neighborhood in which it is located than the existing nonconforming structure and the requirements and conditions under Section 12.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, based on the condition that the residential structure renovation is constructed in accordance with the following plans:*

- *Zoning Board of Appeals Plan, prepared by Gateway Consultants, Inc., dated 5/9/23.*
- *Plans prepared by BDS Design Inc. dated 5/9/23:*
 - *Z1.0 Existing Basement Plan*
 - *Z1.1 Existing Main Floor Plan*
 - *Z1.2 Proposed Garage & Foundation Plan*
 - *Z1.3 Proposed Entry & Level 1 Plan*
 - *Z1.4 Proposed Levels 1.5 & 2*
 - *Z1.5 Proposed Roof Plan*
 - *Z1.6 South Elevation*
 - *Z1.7 East Elevation*

- Z1.8 North Elevation
- Z1.9 West Elevation

Mr. Diedrich seconded the motion. The motion passed 5 – 0.

*Ms. Mellish further moved to approve the application of **Brian Stein, BDS Design, Inc.** on behalf of **Joseph & Elyse Campanelli** for a **Variance** under Sections 5.5 and 12.4.6 of the Zoning By-Law, and/or other relief as may be necessary, to construct 3 stories on a portion of this split-level home with a height of less than 35’, where 2.5 stories is allowed, based on a finding that wetland buffers and FEMA flood zone requirements limit the ability to expand the structure horizontally owing to circumstances relating to the shape and topography of the land, especially affecting such land and structure but not generally affecting the zoning district in which it is located, a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise, by not allowing expansion of the structure and compliance with the FEMA flood zone requirements, and that the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-Law, based on the condition the residential structure renovation is constructed in accordance will all plans listed above under the conditions for the issuance of the Special Permit and the height of the structure does not exceed 35 feet above the mean pre-construction grade. Mr. Binieris seconded the motion. The motion passed 5 – 0.*

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

Administrative Matters

Review and approval of meeting minutes

Mr. Sollosy moved to approve the meeting minutes as amended for June 21, 2023, Mr. Diedrich seconded the motion. The motion passed with Mr. Sollosy, Mr. Diedrich, Mr. Binieris, Mr. Zahn, and Ms. Mellish voting affirmatively.

Mr. Sollosy moved to approve the meeting minutes for July 19, 2023 as amended, Mr. Diedrich seconded the motion. The motion passed with Mr. Sollosy, Mr. Diedrich, Mr. Binieris, Mr. Zahn, and Ms. Mellish voting affirmatively.

Status of Decisions: Decisions are current.

40B Update: Ms. Mellish stated that a pretrial conference had been held on August 15, 2023 with a second conference scheduled for September 15, 2023. Ms. Mellish stated that the timeline will be changed on the website to reflect the delay in proceedings. A Decision is not expected until second half of 2025.

Any other administrative matters that could not reasonably be anticipated in advance of the required 48-hour posting. There were no additional matters to discuss this evening.

Mr. Sollosy moved to adjourn the meeting; Mr. Zahn seconded the motion. The motion passed unanimously.

