



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 September 26, 2023

Members Present: Sarah Mellish (Chair), John Binieris, Sean Zahn, Robert Scott, and Kathryn Howe.

Members Not Present: Brian Sollosy and Jim Diedrich

Ms. Mellish called the meeting to order at 7:02 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 Jayne Rice for a Special Permit under Sections 2.0, 4.2, 5.4 and 12.5 of the Zoning By-Law, and/or other relief as may be necessary, to raze a nonconforming house, construct a conforming house on a nonconforming lot and install a 9' x 21' pool at 23 Old Neck Road, Assessor's Map No. 13, Lot No. 32 in District E, filed with the Town Clerk on August 14, 2023.

Mr. Stein of BDS Design Inc. introduced the project stating that the existing house would be taken down and a new house would be built fully conforming with setbacks. A two-car garage with a room above will be connected to the house by a roof pergola. Mr. Stein stated that the pool would not be visible from Old Neck Road. The pool at the rear of the garage will be fully enclosed by fencing with an automatic pool cover. The pool is a pre-manufactured plunge pool 9' x 21', there is also a 7' x 7' spa at the side of the house. Both the pool and spa have recessed low lighting. The design of the new house is shingle-style house similar to homes on Cape Cod or Nantucket.

Ms. Howe asked about the stove, Ms. Rice stated that the stove is a Walker & Dunlop stove from the 1800's and is built into brick in the kitchen.

Ms. Mellish stated that the garage is nonconforming; the application addresses the garage and the pool. Ms. Mellish asked about the surface of the patio and driveway. Mr. Stein stated that the existing private driveway is paved and the surfaces in front of the garage, around the patio and

pool will blue pea stone. Mr. Stein added that the front walkway will also be blue stone. Ms. Mellish confirmed that there is a half bath in the garage. Mr. Stein stated there is a half bath as part of the pool side cabana of the garage.

Neither Mr. Scott nor Mr. Zahn had questions.

Ms. Mellish asked Ms. Rice if she had spoken with the neighbors. Ms. Rice stated she had spoken with the neighbors, and they were enthusiastically in support of the project. There were no questions from the public.

Ms. Mellish moved to close the Public Hearing and approve the application of Jayne Rice for a Special Permit under Sections 2.0, 4.2, 5.4, and 12.5 of the Zoning By-Law, and/or other relief as may be necessary to raze an existing nonconforming residential structure, build a conforming residential structure with an attached garage on a nonconforming lot and install a pre-manufactured 9' x 21' plunge pool and spa, approximately 49 square feet, at 23 Old Neck Road, Assessor's Map No. 13, Lot No. 32 in District E, filed with the Town Clerk on August 14, 2023, based on a finding that the proposed project to raze the existing nonconforming residential structure, build a new conforming residential structure with attached garage, install a 9' x 21' pool and 49 square foot spa, 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 following conditions:

- *The house with attached garage is sited as depicted on the Site Plan of Land prepared by American Land Survey Associates, Inc., dated August 10, 2023.*
- *The house with attached garage is constructed substantially in accordance with the following plans prepared by BDS Design Inc dated 8/9/2023:*
 - o *A1.2 Zoning First Floor Plan*
 - o *A1.3 Zoning Second Floor Plan*
 - o *A1.4 Zoning Roof Plan*
 - o *A2.1 and A2.2 Zoning Exterior Elevations*
- *The pool, spa and fence are sited as depicted on A0.2 Zoning Site Plan prepared by BDS Design Inc. dated 9/25/23.*
- *The pool and spa contain interior low-level lights, automatic locking covers and a fence at least 4' high with alarms on any doors entering directly into the fenced-in area and the fence conforms with the requirements of the Manchester Zoning By-Law and the Massachusetts Building Code. Mr. Binieris seconded the motion, the motion passed unanimously.*

Ms. Howe will write the Decision and Mr. Binieris will review.

Administrative Matters

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

Status of Decisions: The Decisions for 4 Butler Avenue and 2 Pulaski Drive are currently outstanding.

40B Update: Ms. Mellish stated that 40B Appeal has an Evidentiary Hearing scheduled for March 4, 2024. There is a site visit scheduled for November 8, 2023 at 10:00 a.m. Ms. Mellish plans to attend the site visit and METC is encouraging people to attend. Ms. Mellish stated that the first day of the hearing will be in Manchester, likely at the Middle High School; after that hearings will be on Zoom.

2 Blossom Lane Appeal – There were originally two parts to the case. The part alleging improprieties with employees in Town Hall has been dismissed. The Appeal of the Decision is moving forward, and Town Counsel will be representing the Town during the Appeal.

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