



# 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 February 16, 2022

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

**Members Not Present:** Brian Sollosy and John Binieris

Ms. Mellish called the meeting to order at 7:03 p.m. and stated the meeting was being recorded for accuracy in minutes.

#### NEW APPLICATIONS

Ms. Mellish opened the public hearing for the application of **Tim and Vicki Cawley** 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 construct a swimming pool, spa and terrace/deck at **2 Alpine Road**, Assessor's Map No. 28, Lot No. 60 in District A, filed with the Town Clerk on January 18, 2022.

Ms. Mellish stated the Board had conducted a site visit on Saturday, February 12, 2022 and requested additional informational regarding lighting and any changes made to the plan after a discussion with the Kellogg's, abutters at 4 Alpine Road. We received a revised plan on Monday, February 14, 2022, as requested.

On February 14, 2022, the Board received an email from Gillian Kellogg, 4 Alpine Road, raising concerns about noise that might come from radios or speakers.

Mr. Breuker introduced himself and stated following the site walk changes had been made to the pool light and pole lighting fixture. The fixture inside the pool now shines away from the neighbor and the pole light with encapsulated dome shines downward. Mr. Breuker summarized the project, the installation of a kidney shaped pool with deck, terrace, and spa will be surrounded by plantings and a privacy fence.

Ms. Kellogg stated she was surprised that the height of the fence was reduced given the height of her property. Mr. Breuker stated he understood the fence height was limited to 6-feet. Ms.

Mellish added the standard fence height is 6-feet, but the Board can consider a 7-foot fence if the site line of the elevated deck is an issue.

Ms. Kellogg stated she and Ms. Cawley had had a good conversation about proposed plantings to separate the properties and conceal the pool.

Mr. Mitchell asked Mr. Breuker if the neighbor's house grade was lower or level with the proposed pool. Mr. Breuker stated the deck is a few feet lower and he believes a 6-foot fence will mask anything because of the angle of the adjoining properties. Ms. Mellish suggested that an experiment be conducted with both a 6-foot and 7-foot screen to see which is more effective. Mr. Breuker agreed.

Board members had no additional questions nor did members of the Public.

*Ms. Mellish moved to close the public hearing and approve the application of Tim and Vicki Cawley 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 construct a 32' x 16' organic shaped swimming pool with an in pool bar stool ledge and additional bar seating on the terrace, a spa and a pool terrace/deck at 2 Alpine Road, Assessor's Map No. 28, Lot No. 60 in District A, filed with the Town Clerk on January 18, 2022, based on a finding the proposed use is in harmony with the purpose and intent of the By-Law, and the proposed project 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:*

- *Pool, spa, bar terrace/deck and 4' high black mesh security fence and gate (which meet the State Building Code and Local By-Laws) are constructed in accordance with the plan design created by James Hickey, Kalmia Design, dated 2.14.22.*
- *A privacy screen of up to 7' and landscaping is constructed/planted in accordance with the design created by James Hickey, Kalmia Design, dated 2.14.22, subject to change, with the agreement from the abutters at 4 Alpine Road.*
- *All lighting shall be low voltage LED contained within the pool/spa walls and any landscape lighting shall be low voltage LED downlights not to exceed 6' in height with a shade that does not exceed the height of the privacy screen.*

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

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

Ms. Mellish opened the public hearing for the application of **Seaside Legal Solutions, PC**, on behalf of Deegan Partners, LLC. for a Variance and Special Permit under Sections 4.2.3, 6.1.2 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to retain the existing nonconforming porch on an existing residential structure and to construct an addition to convert the existing single-family residence into a two-family residence in District D **at 90 School Street**, Assessor's Map No. 41, Lot No. 87 in District D/B, filed with the Town Clerk on January 18, 2022.

The Board conducted a site visit on Saturday, February 12, 2022, at which we requested additional information to be provided to the ZBA by close of business Monday, February 14, 2022, including a plot plan including the driveway and location of parking for the three abutting properties (84, 86 & 90 School Street) owned by Deegan Partners, LLC, and completion of the Table in the application with respect to lot size, setbacks and coverage by structures and impervious surfaces at 90 School Street. The Board did not receive the requested information. The Board received an email today from the Applicant that they were requesting additional clarification of the required information and will seek a continuance.

Ms. Mellish clarified that the Board had also requested a report from a traffic engineer indicating that cars would be able to move freely in and out of parking areas, information around an unapproved curb cut and parking overflow plan due to several vehicles parked at the adjoining properties.

Mr. Bodmer-Turner asked where the additional structure would be situated on the site. Ms. Mellish stated Ms. Hunter would forward the site plans and additional information submitted with the application.

*At the request of the Applicant, Ms. Mellish moved to continue the public hearing on the application of Seaside Legal Solutions, PC, on behalf of Deegan Partners, LLC for a Variance and Special Permit under Sections 4.2.3, 6.1.2 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to retain the existing nonconforming porch on an existing residential structure and to construct an addition to convert the existing single-family residence into a two-family residence in District D at 90 School Street, Assessor's Map No. 41, Lot No. 87 in District D & B, filed with the Town Clerk on January 18, 2022. The public hearing shall be continued to March 19, 2022 at 7:00 pm and the time for filing the decision shall be extended to June 19, 2022. Mr. Zahn seconded the motion. The motion passed unanimously by roll call vote.*

### **ADMINISTRATIVE MATTERS**

- Review and approval of meeting minutes – Meeting minutes will be reviewed during the March meeting.

- Status of Decisions –  
The following are the outstanding Decisions: 8 Kings Way, 14 Coolidge Point, 17 Lincoln Ave., 9 Lincoln Avenue, and 151 Bridge Street.

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

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