

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

Meeting February 26, 2020

Members Present: Sarah Mellish (Chairperson), James Diedrich, James Mitchell, and Brian Sollosy

Members Not Present: John Binieris and Kathryn Howe

Ms. Sarah Mellish, the Chairperson, called the Meeting of the Manchester-by-the-Sea Zoning Board of Appeals ("ZBA") to Order at 7:01 p.m. Ms. Mellish introduced the ZBA members to those in attendance. Ms. Mellish stated that this meeting will be digitally recorded by Adele Ardolino, the ZBA Administrative Assistant, and requested that anyone who is also recording this meeting identify themselves. 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 Ms. Mellish. Ms. Mellish stated that normally there are five (5) ZBA members present to review the applications, but this evening there are only four (4) members present, so the applications presented tonight will require a unanimous vote in favor to be approved. The applicants will be given the option of withdrawing without prejudice or continuing their applications.

NEW APPLICATIONS

Ms. Mellish introduced the application of **William G. Shipman** 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, to construct a 3-bay garage with a 5 foot setback from side yard for accessibility purposes, at **15 Overledge Road**, Assessor's Map No. 50, Lot No. 56, in District C, filed with the Town Clerk on January 13, 2020.

Mr. William G. Shipman introduced himself as the applicant and explained his proposed project as follows: We would like to construct a three-bay garage, and because of the construction of the garage and the lot lines, we would like to have a 5 foot setback instead of the 15 foot required setback. If we can't get approval for the 5 foot setback, we will have to remove ledge, because the proposed garage encroaches on our driveway, and our abutter would not incur a burden with the 5 foot setback versus the 15 foot setback.

Mr. Mitchell stated that the ZBA members received a letter from Chuck Gallant and Lori Fonseca, 27 University Lane, dated February 15, objecting to the proposed project's encroachment into the setback. Mr. Shipman replied that he had met with Mr. Gallant approximately six months ago to discuss the possibility of the proposed garage, and asked if he had any questions or comments regarding this project. Mr. Gallant replied that he would speak to his wife, and then Mr. Shipman did not hear back from them. Mr. Shipman explained that he had gone to the Gallant/Fonseca home and provided them with the plans for the proposed project, and didn't hear any objections from them until last week when I received the letter dated February 15th expressing concern about their leeching field, not the garage itself. Mr. Mitchell

replied that the letter states that "if the garage is within 15 feet of our leeching field is not concerning, but decreasing it to 5 feet is greatly concerning."

Ms. Mellish stated that the challenge is that there is a 15 foot setback requirement, and the proposed structure is a very large structure. My question is do you really need a three-car garage? Mr. Shipman replied yes, because he has three cars. Mr. Mitchell stated that it looks like you are looking for 5 foot setbacks on two property lines, is that correct? Mr. Shipman replied yes, the proposed garage will be constructed on an obtuse angle and one of the sides is all woods. Ms. Mellish stated that it is very thin woods and there is a house on that lot that could look directly at the proposed garage, if some of the trees were cut down.

Ms. Mellish explained that the ZBA has to be careful when approving a Variance—there has to be a hardship, and suggested reworking the structure so that it doesn't encroach into the setbacks, and also suggested having one of the garage doors at the end of the proposed structure.

Mr. Diedrich stated that a typical garage has a depth of 20 feet, a width of 9 to 12 feet, and the ability to accommodate a full sized pickup truck. Mr. Diedrich explained that he has problems with this proposed garage project, because many trees will have to be removed and he shares Ms. Mellish's concern that we are not convinced that there is a hardship in this case. It is not a hardship not to have a 3-car garage or beyond the size of a typical garage. The proposed garage could be made smaller and pulled forward, and you could redesign this garage so that you would not need a Variance. You are asking for a 10 foot relief on both sides, which is significant. I do not see it as a hardship if you have to excavate ledge to accommodate an accessory structure.

Ms. Mellish read into the record the letter from Chuck Gallant and Lori Fonseca to the Shipmans, dated February 15, 2020, expressing concern about the reduction of the setback and their leeching field. Ms. Mellish also read into the record the e-mail dated 2/26/2020 at 10:00 a.m., stating that due to family issues, Mr. Gallant and Ms. Fonseca will not be able to attend the ZBA meeting this evening.

Ms. Mellish read the definition of the Variance Requirements from the Manchester-by-the-Sea By-Laws aloud. Mr. Mitchell pointed out that the proposed garage is an accessory structure, and a 2-3 car garage is somewhat of a luxury. Mr. Diedrich suggested that Mr. Shipman could make the proposed structure smaller, and it doesn't need to have a bend in it to accommodate 3 vehicles. It could be moved a little to the left and moved as far away from the setbacks as possible. Discuss the project with your neighbors, and return to the ZBA with revised plans. Ms. Mellish agreed with Mr. Diedrich and suggested continuing this application to the March 25, 2020 ZBA meeting

Ms. Mellish made a motion to continue the application of **William G. Shipman** 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, to construct a 3-bay garage with a 5 foot setback from side yard for accessibility purposes, at **15 Overledge Road**, Assessor's Map No. 50, Lot No. 56, in District C, filed with the Town Clerk on January 13, 2020, to the March 25, 2020 ZBA meeting.

Mr. Diedrich seconded the motion. Vote: Ms. Mellish, Mr. Diedrich, Mr. Mitchell, and Mr. Sollosy voted unanimously in favor of continuing this application to the March 25, 2020 ZBA meeting.

Ms. Mellish and Mr. Shipman signed the Continuation of Hearing and Deadline.

Documents Produced: Aerial photo of 15 Overledge Road (1 page). Foundation Plan with dimensions (1 page). Drawings of the proposed garage (2 pages). Photo of existing site of the proposed garage (1 page). Plan of Land with proposed project (1 page). As-Built Record Plan Subsurface Sewage Disposal System Upgrade, prepared by Cape Ann Professional Engineers, Inc. and dated 12/22/1999 (2 pages). ZBA Decision filed with the Town Clerk on 2/1/1999, granting a Variance for the construction of an addition to the existing single family dwelling (9 pages). Letter in opposition to the proposed project to William and Judith Shipman from Chuck Gallant and Lori Fonseca, dated February 15, 2020. E-mail to the Zoning Board of Appeals from Chuck Gallant, dated February 26, 2020, explaining why he and his wife are not able to attend the ZBA meeting and re-expressing their concerns about the proposed project.

Ms. Mellish introduced the application of **Jeffrey H. & Cynthia C. Burbank** 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, to construct a garage that will allow five (5) parking spaces (four (4) allowed by right), at **35 Coolidge Point Road**, Assessor's Map No. 3, Lot 20 & 28 in District E, filed with the Town Clerk on January 23, 2020.

Mr. Jack Sullivan from the Sullivan Engineering Group introduced himself as the engineer on this project and representing the applicants, and also introduced Mr. Jeffrey Burbank and Steve Howell, the builder on this project.

Mr. Sullivan explained the proposed project as follows: This property is currently two (2) properties—33 Coolidge Point Road, which is an accessory house, and then 35 Coolidge Point Road, which is the larger house on the ocean side. The previous owner subdivided this lot into two (2) lots, and Mr. Burbank would like to merge the two (2) lots into one (1) lot. We have filed an ANR plan to bring this property back to one (1) lot, and a curb cut plan with the Planning Board. The existing condition is the large house in the back has a 2-car garage and a 2-car carport under construction. The existing house in the front has a 1-car garage and a 3-bay carport, which will be demolished, and an accessory structure will be constructed to the front of the property with a 1-car garage. The existing condition has eight (8) garage spaces on the property, and the proposed condition will have five (5) parking spaces (4 with the main house and 1 with the accessory structure). The proposed accessory structure meets all the zoning requirements and we have met with the Building Inspector.

Ms. Mellish explained that because they were two (2) lots, there were two (2) primary structures, and once the two (2) lots are merged into one (1) lot, there will be a main structure and an accessory structure. Mr. Sullivan stated that there will be two (2) bedrooms in the accessory structure. This will be an overall reduction in parking spaces. We are now formalizing that there will be two (2) driveway entrances per the Planning Board. Mr. Diedrich

remarked that he likes the safety aspect of the planned turnaround space for the vehicles. Mr. Sullivan added that they are waiting to do the demolition until they receive their Permits. Mr. Diedrich asked if they had heard anything from the neighbors, and Mr. Burbank replied no.

There were no further questions or comments from the ZBA members and nobody present from the public.

Ms. Mellish made a motion to approve the application of **Jeffrey H. & Cynthia C. Burbank** 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, to construct a garage that will allow five (5) parking spaces (four (4) allowed by right), at **35 Coolidge Point Road**, Assessor's Map No. 3, Lot 20 & 28 in District E, filed with the Town Clerk on January 23, 2020. Conditions: That Lots 20 and 28 are actually merged and that the project is constructed in accordance with Plans F1.0, A1.1, A2.1, A3.1, A3.2, A3.3, and E1.1, and the Plot Plan dated January 21, 2020 (see Documents Produced below).

Mr. Diedrich seconded the motion. Vote: Ms. Mellish, Mr. Diedrich, Mr. Mitchell, and Mr. Sollosy voted unanimously in favor of approving this application.

Documents Produced: Color Photos of the structures and property (8.5" x 11" size, 4 photos). Curb cut/ZBA Plan, dated January 21, 2020, Cover Sheet Revised Construction Set, dated 1/16/2020, Plan F1.0 Foundation Plan, Plan A1.1 First Floor Plan, Plan A2.1 Exterior Views, Plan A3.1 Section 1 Pitch, Plan A3.2 Section 2 Pitch, Plan A3.3 Porch Sections, Plan E1.1 First Floor Electrical Plan (each 1 page and all 11" x 17" in size).

ADMINISTRATIVE MATTERS

ZBA Meeting Minutes: Ms. Mellish asked the ZBA members if they have reviewed the January 22, 2020 meeting minutes, and the ZBA members replied that they had. Ms. Mellish asked if there were any suggestions for edits, and there were not.

Ms. Mellish made a motion to approve the January 22, 2020 meeting minutes.

Ms. Sollosy seconded the motion. Vote: Ms. Mellish, Mr. Diedrich, Mr. Mitchell, and Mr. Sollosy voted unanimously in favor of approving the January 22, 2020 ZBA minutes.

Ms. Mellish asked the ZBA members if they had any questions or anything further to discuss, and they did not.

Other Administrative Matters: Ms. Mellish explained that she and Mr. Diedrich spoke about the fact that Mr. Diedrich had been very helpful with Mr. Shipman to create acceptable plans. Mr. Diedrich has agreed to assist applicants and the ZBA clerk with plans that are not initially acceptable, because they are not accurate and/or incomplete in advance of the meetings going forward.

Adjournment: Ms. Mellish made a motion to adjourn the meeting. Mr. Diedrich seconded the motion. Vote: Ms. Mellish, Mr. Diedrich, Mr. Mitchell, and Mr. Sollosy voted unanimously in favor of adjourning the meeting. The meeting was adjourned at 7:55 p.m.

The next ZBA meeting will be held on Wednesday, March 25, 2020, and the site visit will be held on Saturday, March 21, 2020, beginning at 9:30 a.m.

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 March 25, 2020.

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