



MANCHESTER-BY-THE-SEA

ZONING BOARD OF APPEALS

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

Telephone (978) 526-1410

MINUTES

ZONING BOARD OF APPEALS (ZBA)

Virtual Meeting April 28, 2021

Members Present: Sarah Mellish (Chairperson), Brian Sollosy, James Diedrich, John Binieris and Sean Zahn.

Members Not Present: Kathryn Howe and James Mitchell

Ms. Mellish called the meeting to order at 7:05 p.m. Ms. Mellish indicated the meeting was a virtual meeting per order of the Governor, explained the hearing procedures and stated the meeting was being recorded. Ms. Mellish stated given the large number of applications this evening presentations would be limited to ten minutes with comments from the public limited to three minutes.

PUBLIC HEARING—CONTINUED APPLICATIONS

The continued application of **Steve & Jenny Athanas** for a Variance under Section 5.4 and 7.4.6 of the Zoning By-Laws with regard to side setback, lot coverage by structure, and lot coverage by impervious surface, and/or other relief as may be necessary, to construct a 2-story addition on an existing non-conforming lot, at **144 Summer Street**, Assessor's Map No. 39, Lot No. 56 in District A, filed with the Town Clerk on January 20, 2021.

Ms. Mellish stated this is the Board's third hearing on this application and discussion is focusing on the drainage solution. Additionally, 400 sq. feet of impervious surface will be removed from the existing driveway.

Mr. Athanas spoke to his application stating he was constructing a modest addition to his home to accommodate his growing family. He plans to have a French drain installed across his driveway with water emptying into an existing tank. Drainage has been calculated by his engineer and the tank has the capacity to hold the drainage. The new drain has been discussed and developed in collaboration with his neighbors. Asphalt on the driveway will be removed and replaced by pea stone. Mr. Athanas indicated the Conservation Commission has approved the plan and he is waiting to receive the DEP number.

Ms. Mellish asked if the Board had questions. Mr. Binieris, Mr. Diedrich, Mr. Sollosy and Mr. Zahn had no questions related to the changes to Mr. Athanas' plan. Ms. Mellish asked if the

public wished to speak specifically asking if Mr. Logue wished to speak. There was no public comment this evening.

Ms. Mellish moved to approve the application of Steve and Jenny Athanas for a Variance under Sections 5.4 and 7.4.6 of the Zoning By-Law with regard to a side setback of 15 feet where 20 feet is required and coverage by structures of 16% where 15% is required to construct a two story addition to a single family residential dwelling on a non-conforming lot at 144 Summer Street, Assessor's Map No. 39, Lot No. 56 in District A filed with the Town Clerk on January 20, 2021. Based on a finding that owing to circumstances related to lot shape and lot topography with wetlands covering 30% of the lot, adversely impacting this lot and structure but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of the By-Law would involve substantial hardship, financial or otherwise and the desired 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 with the following conditions:

- *400 square feet of asphalt will be removed from the driveway and replaced with pea stone as depicted on the site plan prepared by EPS Associates LLC revised on April 1, 2021, so that coverage by structures and impervious surfaces does not exceed 30%.*
- *18-foot French drain is constructed and piped into an existing leaching chamber as depicted on the site plan prepared by APS Associate LLC and revised on April 1, 2021 in order to alleviate surface flooding.*
- *The addition is constructed in accordance with plans prepared by Andrew Crocker, Architect dated January 4, 2021: L-01 site plan, A-01 Floor Plan, A-02 second floor plan, A-03 and A-04 elevations.*

The motion was seconded by Mr. Sollosy. The motion passed unanimously.

Mr. Binieris will write the decision and Mr. Sollosy will review.

Five (5) Applications of **Binnabah, LLC (Jeffrey Karpowich)** for Special Permits under Sections 6.1.2 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to alter and expand existing non-conforming single-family structures on non-conforming lots in accordance with the plans submitted with the applications filed with the Town Clerk on December 16, 2020 at the following locations:

- 1 Sandpiper Lane**, Assessor's Map No. 1, Lot No. 65 in District G
- 3 Sandpiper Lane**, Assessor's Map No. 1, Lot No. 66 in District G
- 5 Sandpiper Lane**, Assessor's Map No. 1, Lot No. 67 in District G
- 7 Sandpiper Lane**, Assessor's Map No. 1, Lot No. 71 in District G
- 9 Sandpiper Lane**, Assessor's Map No. 1, Lot No. 70 in District G

Ms. Mellish stated the Board had received communication from 18 local residents in the form of a signed petition supporting the project with an additional 3 residents providing verbal support of the project. The Board also received a letter and package from 6 residents at Surf Village who do not support the project and have expressed frustration around lack of communication with the

Developer. Additionally, a memo was received from Mr. Johnson who suggested changes and requested the Board hold a discussion regarding delineation of the right of way.

Mr. Brown presented on behalf of his client Mr. Karpowich stating the Sandpiper Lane sub-division was defined in 1954 and the cottages were built in 1925. The proposed development by Mr. Karpowich will keep the same size and footprint of the sub-division creating no new non-conformities. The current structures are fairly dilapidated and the proposal is adding some side setback non-conformities to adjust for more space between the structures to allow for parking spaces. The Board has been provided 3-D renderings of what the buildings will look like. Mr. Brown noted the plans and the layout conform to existing conditions approved for the subdivision in 1954.

Mr. Brown is aware the proposed building height has received opposition from neighbors. The buildings elevation is 36.10 while the lawn area of Surf Village has an elevation of 37'. The development on Sandpiper Lane proposes increasing the size of the units from 350 square feet to 700 square feet, the size of an average one-bedroom apartment. Mr. Brown noted the architectural improvements are considerable. Mr. Brown is aware the peaked roofs are believed to substantially block the views from Surf Village. He recognizes some beach and water views will be restricted, however the Surf Village condominiums will still have expansive ocean views.

Surf Village residents had proposed flat roofs for the development. Flat roofs do not allow for run off and the Developer is proposing solar panels for the south facing side of the structures. Plus, peaked roofs are a better architectural design and are in keeping with the design of the neighborhood. Mr. Brown requested to show the impact of the design by sharing his computer screen through Zoom.

Mr. Brown indicated Mr. Karpowich had taken photos from the neighbor's perspective and the red line shows some loss of beach view but it was fairly minimal while the expansive ocean views were unimpeded. Additionally, roof lines closest to Surf Village are of two-story buildings. The project is supported by 18 other residents who are happy about the direction the neighborhood is going. Mr. Brown concluded, the view from the deck area of Surf Village experiences no impairment to the views and likely no loss of real estate value. Overall, most neighbors agree the proposed development is architecturally a vast improvement.

Ms. Mellish asked if the Board had questions. There were no questions from the Board, however, Ms. Mellish indicated the source of frustration in the lack of specificity around the project. Indicating there were different houses and likely different heights due to topography. Ms. Mellish would like the Developer to show existing roof lines as well as proposed roof lines. The Board does not have anything that shows each individual house and the change to roof lines. She would like to see the height today and what it will be following construction.

Mr. Brown stated the plot plan shows the footprint of the houses and house plans were submitted to the Board. Mr. Diedrich stated the plans are not showing the current height and the height of the roofs after the structures are built. Ms. Mellish pointed out from the site visit that it appeared some of the foundations were lower than others. Mr. Brown stated all the buildings are the same height at top with an elevation of 36.10. Ms. Mellish requested the height of each individual house where the house is located and how that impacts the view.

Mr. Karpowich, the Developer, stated there is less than a one-foot variance among the new buildings due to code and flood zone issues. The finished elevation of the first floors is 14.0 feet and the top elevation is 22.10 feet for a total elevation of 36.10 feet. Mr. Karpowich reiterated currently there is less than one foot of difference among the buildings. Ms. Mellish stated she understood but needs to see exact specifications for each building. Mr. Brown confirmed that would relate to each lot and he would request a continuation to submit plans required.

Mr. Binieris stated he was good with the plans the Board had on the project. He believes the overall impact to views is minimal and with the exception of waterfront properties views are not guaranteed. Change will happen and residents are getting a better vista with the replacement of the dilapidated structures. He continues flat roofs do not fit in the area and could easily be converted to a roof deck. Additionally, he has seen renderings and view analysis and the project is good with him.

Mr. Sollosy agrees with Mr. Binieris, adding Surf Village did not have unfettered views to begin with, he is satisfied the renderings do not compromise the current view and as Mr. Binieris pointed out the neighborhood is being improved. Mr. Diedrich stated he has reviewed the rendering with the red line and would like to be assured nothing in the area would go above the red line. Mr. Diedrich asked Mr. Karpowich to verify nothing in the development would go above the red line.

Mr. Brown stated plans as reviewed indicate the height elevation is 36.10. Mr. Diedrich asked again for confirmation that nothing is higher than the red line, therefore people above the structures will have in their view of other buildings closer to the beach but not the Sandpiper Lane development. Mr. Diedrich indicated if nothing is above the red line he will agree with Mr. Binieris and Mr. Sollosy but would add this as a condition of the permit.

Mr. Brown stated the land is within the flood zone and the bottom floor of each building is constructed at 14 foot elevation with an additional 22.10 foot of structure height, for a total elevation of 36.10 feet above sea level. Mr. Diedrich asked for Mr. Brown to address the simple question. Please confirm that nothing is higher than the red line as viewed from the condominiums and Mr. Diedrich asked how the red line was constructed. Mr. Karpowich stated the line was defined by utilizing a stick and confirmed nothing will be above the red line, every building is the same height.

Mr. Beggan, 2A Surf Village, clarified that 14 residents signed the letter to the Board. And there are two outstanding points the residents would like to discuss. The first is the project will impact the views and residents were willing to cooperate with the Developer as promised in the January 2021 ZBA meeting. Residents would like to talk about reducing the height of the structures and resolve our issues. We have been consistently contacting Mr. Brown and have not heard back from him until just before this meeting. Mr. Karpowich is proposing developing structures for a total of 4,800 square feet on less than ¼ of an acre. Residents are requesting the Board grant a continuance to allow time for the Surf Village residents to hire Counsel.

Mr. Cowman, 2B Surf Village 2B, requested a detailed rendering of the whole site stating there is one unit with no survey data. He would like to see the tops of existing cottages and the new proposed elevations for all buildings. Mr. Cowman stated from his perspective he will be looking

at a wall of shingle and asphalt. He would like to view detailed plans from a licensed architect which has not, to his knowledge, been presented. He respectfully requested the plan be rejected or continued.

Ms. Mellish stated the red line, as presented, does not provide the abutters with a clear depiction. She would like the applicant to provide information that shows each roof line and would like the application to be continued to next month.

Mr. Brown asked if Ms. Mellish was requesting a third rendering from the perspective of Surf Village. Ms. Mellish is requesting the exact location, size and height of each of the proposed buildings on Sandpiper Lane. Ms. Mellish suggested an additional rendering depicting the peaked roofs of the new structures. She pointed out that the Developer had not provided a depiction of every house and he applied for five Special Permits so the Board needs documentation for each lot.

Mr. Brown requested a consensus of the Board. Mr. Binieris stated he was okay with the information for each parcel and understands what the Development will look like upon completion based on the narrative and various renderings which were presented at the January 20, 2021 meeting. He believes the Board has seen 3D renderings and has sufficient information. Mr. Sollosy agrees with Mr. Binieris and is happy with what he has seen. Mr. Diedrich appreciates abutters issues and requested the applicant provide the Board with computer generated graphics from street level and above. It is not unreasonable to ask for computer generated graphics of the reduced view to satisfy everyone that although the view is reduced, it is not eliminated. He supports a continuance to give Mr. Karpowich an opportunity to show all the buildings from the Surf Village perspective. Ms. Mellish ended the public hearing portion of the meeting stating she was not taking additional comments from the public and Mr. Johnston's request for a right of way discussion will be taken up during the May, 2021 meeting.

Ms. Mellish moved to accept the Applicant's request for a continuance to May 26, 2021 and asked for specific information by lot number, Mr. Diedrich seconded the motion. The motion passed unanimously.

Application of **Lisa Martinez and Chris Williams** for an Appeal of an Administrative Decision by the Building Inspector, dated January 13, 2021, regarding **48 Central Street**, Assessor's Map No. 44, Lot No. 19 in District G, filed with the Town Clerk on February 11, 2021.

Ms. Martinez prepared and presented an historic comprehensive package of information regarding the 48 Central Street project. She stated "the requirement that the permitted project be constructed in compliance with the Site Plan is a fundamental condition of the Special Permit Decision, must be strictly construed against the Applicant". She referenced the Approved Site Plan, which specifically states that "a new lawn area" would be constructed where the area was "previously paved" were incorporated into the ZBA's decision granting the Hawleys a Special Permit for their project.

Ms. Martinez added, as abutters, we are asking nothing more than to have the ZBA enforce its prior decision, one that was rendered after the ZBA encouraged us to consider a revised application by the Hawleys. She stated in every one of the 48 Central Street applications and

modifications that were submitted for the project, it includes a Site Plan and a representation that the impervious surface area (a regulated interest under the Zoning By-Law) will be reduced, including the revised Site Plan without a garage, dated June 26, 2019, which the ZBA approved for 48 Central Street. All applications referenced enhanced landscaping and a reduction in the impervious surface as leverage to gain approval and should be required to abide by the revised Site Plan as approved.

Ms. Martinez continued, in deciding on our Appeal tonight, we specifically request the ZBA to answer the following questions: Is the entire Special Permit enforceable, including the Site Plan and the approved architectural drawings that were submitted on the revised application and revised site plan that is incorporated into the ZBA decision? What is the deadline to comply with the approved impervious design that was approved and incorporated into the ZBA decision?

Mr. Mark Glovsky, the Attorney representing Andy and Liesl Hawley, owners of 48 Central Street, stated he would not respond to Ms. Martinez's misstatements. The Building Inspector's decision was not around replacing impervious surfaces, as the Special Permit granted by the ZBA was related to the structure. The Board filed its Decision, the abutters were aware what was stated in the Decision and had the opportunity to appeal the Decision within 20 days after it was filed with the Town Clerk.

Ms. Mellish clarified that both the Historic District Commission and the Conservation Commission are separate entities from the ZBA and any documents relevant to their decisions do not impact the ZBA decision. Additionally, Ms. Mellish believes the request for enforcement is premature as the construction on the structure has just been completed, no landscaping work has begun on the property and the Special Permit was granted less than two years ago.

Mr. Sollosy stated he has a fundamental problem with the issue, believing if the applicant at 48 Central Street said he would do something, he should do what he said he would do. Mr. Diedrich stated the applicant is not required to do that if it is not a condition of the Decision. The ZBA Decision was regarding renovating the structure by adding a bump-out. If there is dissatisfaction it is not material and not under the jurisdiction of the Board. Mr. Binieris agreed with Mr. Diedrich that the focus of the ZBA was with respect the bump-out being constructing in the existing nonconforming setback and not landscaping or site work.

Mr. Michael Storella, 119 Pine Street, stated he disagrees with Mr. Glovsky and indicated that Attorney Brown stated Site Plans are part of the Decision. He believes that based on the Site Plan, the landscaping is part of the project and the applicant should do what he agreed to do.

Mr. Canny, 3 Knight Circle, believes it is incumbent on the Board to take into consideration everything that is proposed and stated by the applicant; and, if the applicant says he will do something, it is the expectation of the neighbors that it will be done.

Mr. Zahn stated he believed the Site Plan was the basis of the Board's decision and he agrees with the neighbors who agreed to the project, that there was an expectation there would be follow through.

Ms. Mellish stated there is often lots of discussion in meetings on various aspects of the project and it is what is contained in the written Decision that counts. The Building Inspector followed the written Decision.

Mr. Maestranzi, 46 Central Street, stated when it comes to the decisions and agreements, there was a good faith agreement that it was important to reduce impervious surface.

Mr. John Bartlett, 40 Central Street, said that the conversion of properties along Central Street from multi-unit properties to single family homes with decks and patios enclosed for additional living space is changing the nature of the area and agrees with Ms. Martinez.

Ms. Mellish moved to uphold the Building Inspector's decision with respect to 48 Central and DENY the appeal of Lisa Martinez and Chris Williams based on a finding the project contemplated by the Decision is ongoing and no work has been started on the property area between the structure and the harbor.. Thus, it appears the request for enforcement may be premature. Furthermore, the Board intended the term construction contained in the Decision to only include changes in the non-conforming portion of the structure and the condition requiring compliance with the plans refers to construction of the bump out being added to the structure not to all site improvements.

Mr. Diedrich seconded the motion. The motion carries on a vote of 3 to 2.

PUBLIC HEARING—NEW APPLICATIONS

Application **Abigail & Peter Considine** 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 screened-in porch on an existing non-conforming deck which encroaches in the side setback, at **25 Pleasant Street**, Assessor's Map No. 40, Lot No. 5 in District D, filed with the Town Clerk on March 15, 2021.

There was no one available to speak to the application of Abigail and Peter Considine. Ms. Mellish will hold the application, contact the Applicant, with the plan to open the public hearing at the May 26, 2021 meeting.

Application of **Andrew Crocker on behalf of Ian & Debra Wood** for a Variance under Sections 7.4.6 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to construct a second-floor addition to an existing non-conforming garage which encroaches into the front setback, at **5 Alpine Road**, Assessor's Map No. 28, Lot No. 55 in District A, filed with the Town Clerk on March 31, 2021.

Ms. Mellish read the above information for 5 Alpine Road and asked Mr. Crocker, Architect, 13 Elm Street, if he would be speaking on behalf of the applicants. Mr. Crocker stated he would speak for Ian and Debra Wood.

Mr. Crocker stated he is working with the Woods on an addition to add a second story to their existing garage. The family has three active children and space above the garage will serve as a play area. When preparing the design, it became apparent the survey information on file was incorrect as it related to the front setback which was not 30 feet but 27.6 feet. The Building Inspector indicated the addition would require a variance.

Mr. Crocker added the home is built on a hilly site and from the street the home and garage are barely visible since the property slopes down steeply. He concluded the project has the support of the neighbors and he is requesting the variance.

Ms. Mellish stated she had received emails from four of the neighbors all expressing their support for the project: Jayson and Anna Mitchell, 2 Brice Lane; Gillian Kellogg, 4 Alpine Road; Victoria Cawley, 2 Alpine Road and Margaret Timpson, 3 Alpine Road.

Mr. Sollosy asked if the only abutters who could see the addition were residents of Brice Lane. Mr. Crocker indicated given the slope of the hill it was the reverse, abutters from Alpine Road would see the addition to the garage. Mr. Binieris stated he could barely see the home during the site visit. Ms. Mellish stated the topography of the land had a significant drop off to the house and garage. Mr. Sollosy stated it was a challenging site and cannot be seen from the road. Mr. Diedrich thanked Mr. Crocker and stated when he went by the home, he observed that the addition would not be worsening the situation for setback of a ½ foot of overhang. Mr. Diedrich concluded he was happy to support the variance. Mr. Zahn stated he was good.

Ms. Mellish moved to approve the application of Andrew Crocker made on behalf of Ian and Debra Wood for a Variance under Sections 5.4 and 7.4.6 of the Zoning By-Law to construct a second floor addition to an existing non-conforming garage which encroaches 2 feet 7 inches into the front setback at 5 Alpine Road, Assessors Map No. 28, Lot No. 55 in District A. Based on a finding that the house, as built in 1978, inadvertently encroached into the front setback due to the plot line curvature on the circle and the proposed project is a second floor addition slightly overhanging the existing garage situated on a lot with a steep topography resulting in no other viable building space such that the shape and topography affecting this land and structure but not 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, and the desired relief may be granted without nullifying or substantially derogating from the intent or purpose of the By-Law. With the condition that the second-floor addition over the garage is constructed in accordance with the following documents prepared by Andrew Crocker, Architect dated March 24, 2021: L-01 Proposed Site Plans, A-01 Proposed Floor Plans and A-02 Proposed elevations.

Mr. Sollosy seconded the motion. The motion passed unanimously.

Mr. Binieris will write the Decision with Mr. Sollosy reviewing the decision.

Application of **Victor Koufman & Lise Ann Balch** 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 an addition to an existing non-conforming structure which encroaches into the front setback, at **6 Knight Circle**, Assessor's Map No. 51, Lot No. 76 in District D, filed with the Town Clerk on March 31, 2021.

Ms. Mellish read the above information and asked who would be speaking to the application.

Mr. Koufman stated he would present the information. He proposes adding a 12 foot x 25 foot bedroom and bath on the second floor of the existing structure. Mr. Koufman clarified he is requesting a Special Permit not a Variance. The home was originally built in 1918 and is backwards on a triangular lot facing Sawmill Brook. The back of the house encroaches 3 feet

into the 10-foot front setback. Mr. Koufman purchased the home in 1992 and added a garage and bedroom extension to the house. He is requesting a Special Permit as proposed and believes it is not detrimental to the neighborhood.

Mr. Koufman had three points to make regarding the addition. He is not increasing the footprint of the west part of the property near the chicken coop. He is not increasing the usage of the home. He has three sons with partners and not adding traffic to his property. Finally, the use of the bedroom is consistent with the use of his home. Mr. Koufman indicated his correspondence with the neighbors was positive including: John and Patricia Gillis, 8 Knight Circle, Robert and Denise Meyer, 34 School Street and Suzanne Wilczek, 3 Knight Circle with whom we share a driveway.

Mr. Diedrich, Mr. Binieris, Mr. Sollosy and Mr. Zahn were all good with the information as presented.

Ms. Mellish asked if any members of the public wished to speak.

Mr. Peter Canny, 3 Knight Circle, had a question regarding Mr. Koufman's shared driveway with Ms. Wilczek indicating the driveway was on the opposite side of Mr. Kaufman's home and asked if Ms. Wilczek has an easement with 6 Knight Circle. Mr. Koufman confirmed Ms. Wilczek has an easement over our property. Mr. Canny stated he had seen drawings of the addition and has no objection stating it fits in with the home but increases usage by 33%. He indicated the Koufman's primary residence is in Boston and the house gets crowded in the summer and there is an issue around parking. Mr. Canny stated he was not sure if they have more legal parking spaces and mentioned By-Law 6.1.2 and use increase is Section 7.5.2 of the By-Law. Mr. Canny would like to see the application continued to review in detail a surveyed site plan around the number of legal parking spaces and the increase in usage from a three-bedroom home to a four bedroom home.

Mr. Koufman informed Mr. Canny he has been living full time in Manchester for more than a year. He noted one bay of the garage is filled with furniture, but he has recently leased storage at the MAC. His home sits on less than an acre of land and is close to Sawmill Brook. Mr. Koufman stated he had sent Mr. Canny a letter on April 3, 2021 and wished Mr. Canny had come to him prior to the meeting. His children visit and the addition to the home is to accommodate his family.

Ms. Mellish stated the parking requirement is two spaces for a single-family dwelling, whether it has one bedroom or ten bedrooms, and she understands the area is tight but that is true of many neighborhoods in Manchester. Mr. Sollosy is satisfied with the application. Mr. Diedrich stated the request for the application was for a non-conforming structure in the setback; parking spaces were not an issue for the application. Mr. Binieris and Mr. Zahn were good.

Mr. Meyer, 34 School Street, is an abutting neighbor to Knight Circle and reviewed the plans noting parking works out with some cars parked in the back and on side streets. He is fine with the project.

Ms. Mellish moved to approve the application of Victor Koufman and Lise Ann Balch for a Special Permit under Sections 6.1.2 and 7.5.2 of the Zoning By-Law to construct a 300 square

foot second floor addition to an existing non-conforming structure on a non-conforming lot at 6 Knight Circle, Assessor's Map No. 51, Lot No.76 in District D filed with the Town Clerk on March 31, 2021. Based on a finding that the 300 square foot second floor addition within the footprint of the existing structure is in harmony with the purpose and intent of the By-Law, will not be more detrimental or injurious to the neighborhood than the existing non-conforming structure and that all requirements or conditions under section 7.5.2 for the grant of a Special Permit have been met, based on the condition that the second floor is constructed in accordance with the following documents prepared by Laura Winn Designs dated February 1, 2021: A Site Plan, 1 Floor Plan, 2 Front Elevations, 3 Rear Elevations and 4 Side Elevations.

Mr. Zahn seconded the motion. The motion passed unanimously.

Ms. Mellish will write the decision and Mr. Zahn will review the decision.

Application of **Kenneth & Dorota Keverian** 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 sports court, at **27 Old Neck Road**, Assessor's Map No. 13, Lot No. 33 in District E, filed with the Town Clerk on March 31, 2021.

Ms. Mellish read the above information and asked who would be speaking to the application.

Mr. Keverian presented his application to build a sports court. Mr. Keverian is residing in the last home he plans to own and would like to build a sports court about ¼ the size of a full tennis court. The court will tuck into the slope on his property and is over 200 feet from the closest neighbor. The court is designed to appear as if it is not there and disappears into the retaining wall with a thin mesh fence. He plans on keeping the large tree and adding shrubs in the area. He does not plan to install lighting. Mr. Keverian stated he appreciated the Board's consideration and would be happy to answer any questions.

Mr. Diedrich had no questions and was satisfied with the site visit. Mr. Sollosy agreed with Mr. Diedrich and his only question around lighting had been answered. Neither Mr. Zahn nor Mr. Binieris had questions.

Ms. Mellish moved to approve the application of Kenneth and Dorota Keverian for a Special Permit under Sections 4.1.10(f), 6.1.2 and 7.5.2 of the Zoning By-Law to construct a 30 foot by 60 foot sports court at 27 Old Neck Road Assessor's Map No. 13, Lot No.33 in District E filed with the Town Clerk on March 31, 2021. Based on a finding that the sports court is in harmony with the purpose and intent of this By-Law, the use will not be detrimental or injurious to the neighborhood and that all requirements or conditions under Section 7.5.2 for the grant of a Special Permit have been met, subject to the following conditions:

- *The sports court and its retaining walls are built in accordance with the prepared plot plan prepared by Meridian Associates dated March 29, 2021 and L-1 and L-2 plans prepared by Robert Hass Inc. Landscape Construction dated March 25, 2021.*
- *Adequate Landscaping is provided to screen the sports court from neighbors and provide a natural feel to the hillside on which it is located.*

- *A perimeter 10 foot high black mesh screen is included in accordance with the plan SC-1 prepared by Robert Hass Inc. Landscape Construction dated March 25, 2021.*
- *The sports court will not contain any artificial lighting.*

Mr. Diedrich seconded the motion. The motion passed unanimously.

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

Application of **Jessica Tully & Brian Molisse** 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 second floor addition to an existing non-conforming structure on a non-conforming lot which encroaches into front setbacks, at **63 Old Essex Road**, Assessor's Map No. 58, Lot No. 24 in District B, filed with the Town Clerk on March 31, 2021.

Ms. Mellish read the above information and asked who would be speaking to the application.

Mr. Remko Breuker, Breuker Design, stated he would present the application. He indicated 63 Old Essex Road is a non-conforming corner lot with two front setbacks, one on Old Essex Road and one on Millets Lane. Mr. Breuker stated Ms. Tully and Mr. Molisse have a hardship given Ms. Tully's father recently died and her mother will be moving in with the family. The home is small and the most advantageous way to convert the home to accommodate the owner's mother is to convert and blend the existing garage keeping the foundation in place. The land behind the home is Conservation Commission land and there is inadequate space for an addition on the right side of the house. The guest suite is small with a kitchenette seating area and an upstairs bedroom with a ¾ bath. As part of the renovation the front of the house will have a face lift with a dormer extension and bedroom above the existing garage. It was Mr. Breuker's objective to design the addition so it appears contiguous with the existing structure, resulting in a slight increase to the height of two feet.

Ms. Mellish indicated there were letters of support from the neighbors and read them into the record: Anne and Peter Mason, 75 Old Essex Road. Megan and Michael Gordon, 4 Millets Lane. Kathleen and Robert Wilson, 1 Millets Lane and Anne and Bruce Gilson, 59 Old Essex Road.

Mr. Binieris stated the plans were well done and Mr. Diedrich, Mr. Sollosy and Mr. Zhan all agreed and had no additional questions.

Ms. Mellish moved to approve the application of Jessica Tully & Brian Molisse for a Special Permit under Sections 6.1.2 and 7.5.2 of the Zoning By-Law to construct a second floor addition to a non-conforming structure due to encroachment into the side front setback on the non-conforming lot to create a separate guest suite for the owner's recently widowed mother at 63 Old Essex Road, Assessor's Map No. 50, Lot No. 24 in District B, filed with the Town Clerk on March 31, 2021 based on a finding that the second floor addition within the footprint of the existing structure is in harmony with the purpose and intent of the By-Law, will not be more detrimental or injurious to the neighborhood than the existing non-conforming structure and that all requirements and conditions under Section 7.5.2 for the grant of a Special Permit have been met, subject to the following conditions:

- *The guest suite space shall contain a kitchenette, not a full kitchen, as the space does not meet the current By-Law requirements for an accessory dwelling unit.*
- *The construction proceeds in accordance with the plans prepared by Breuker Design LLC dated March 26, 2021: T10 Partial Site Plan, E10 Existing Plans and Elevations, A1.0 Proposed Plans, A2.0 Proposed Elevations.*

Mr. Zahn seconded the motion. The motion passed unanimously.

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

Application of **Andrew Everleigh of Environmental Pools on behalf Robert & Tatum Brooks** 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 gunite swimming pool, pool house and patio with a surrounding fence, at **34 Pleasant Street**, Assessor's Map No. 41, Lot No. 67 in District B, filed with the Town Clerk on March 31, 2021.

Ms. Mellish read the above information and asked who would be speaking to the application.

Mr. Andrew Everleigh of Environmental Pools spoke on behalf of the Application of Robert and Tatum Brooks. Mr. Everleigh indicated the plan was to install a gunite pool with an automatic locking pool cover. The pool will be heated by natural gas and is a saltwater pool with a cartridge filter to mitigate back washing. Mr. Diedrich asked about fencing around the pool and Mr. James Hickey, Kalmia Design, stated the fencing will be a four foot high fence surrounding the pool in compliance with MA pool enclosure regulations. The fence separates the yard and house with more ornamental details facing the house.

Mr. Zahn, Mr. Sollosy and Mr. Binieris had no questions. Mr. Diedrich's question had been answered to his satisfaction.

Mr. Sheila Doherty, 7 Lincoln Avenue, an abutter who lives downhill from 34 Pleasant Street stated she assumed there would be low level lighting. James replied there would be standard LED lighting inside the pool and the landscape lighting was LED 7-10 watts and was in some of the trees and shrubs for accents and to light the path. Ms. Doherty asked about blasting for the pool. James replied the when the home was originally built there were plans for a pool and some preparatory work had already been done.

The pool area is covered with grass and it is unknown how much additional preparation will need to be done to excavate the pool site. It is hoped the work can be completed without blasting. Mr. Everleigh stated there are multiple ways to remove rock drilling, splitting, hammering and in the event, there is blasting there would be blast surveys conducted to mitigate any issues the neighbors may have. He stated until we are into the site, we will not know how much of the ledge needs to be addressed. Ms. Doherty also said some neighbors were concerned with run off from the pool. Ms. Everleigh stated there is subterranean drainage to collect as much water as is possible into a dry well. Ms. Doherty asked for the height of the pool house. Mr. Everleigh stated it was a single story building.

Ms. Doherty also asked about privacy along the wall given she lives below the area. Mr. Everleigh stated the landscaping included planting evergreens and adding shrubs for privacy. Ms.

Doherty also asked about the chain linked fence. Mr. Everleigh stated a chain linked fence does not sound beautiful, however the black fencing with no horizontal bars all but disappears into the background.

Ms. Mellish moved to approve the Application of Andrew Everleigh of Environmental Pools made on behalf of Robert and Tatum Brooks for a Special Permit under Sections 4.1.10(f), 6.1.2 and 7.5.2 of the Zoning By-Laws to construct a gunite swimming pool with pool house and surrounding fence at 34 Pleasant Street, Assessor's Map No. 41, Lot No. 67 in District B, filed with the Town Clerk on March 31, 2021 based on a finding that the swimming pool project is in harmony with the purpose and intent of the By-Law the use will not be detrimental or injurious to the neighborhood and that all requirements or conditions under Section 7.5.2 for the grant of a Special Permit have been met, subject to the following conditions:

- *The pool project is constructed in accordance with the following plans: Plan of Land prepared by Jarosz Land Survey dated March 25, 2021 and the pool and landscape plan prepared by Kalmia Design revision dated January 23, 2021.*
- *A four foot high black chain link fence in back with more ornamental black fencing facing the house with self-latching gates is included to enclose the pool area and complies with the Massachusetts State regulations.*
- *All landscape lighting shall be low level LED path lights and LED pool lights with no flood lights.*

Mr. Binieris seconded the motion. The motion passed unanimously.

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

Application of **28 Masconomo Street Realty Trust (Molly Ryan)** 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 pool and internal spa with surrounding decking and retaining walls which will not encroach into the east side view easement or the 100' coastal buffer zone, at **28 Masconomo Street**, Assessor's Map No. 17, Lot No. 22 in District E, filed with the Town Clerk on March 31, 2021.

Ms. Mellish read the above information and asked who would be speaking to the application.

Eric Fulcurnam, Robin Kramer Garden Design, spoke on behalf of the application for 28 Masconomo Street Realty Trust (Molly Ryan) and explained the pool will be in the rear of the property facing the ocean and situated mid-level with the rear deck. The height is set to capture the view of the ocean with the pool not visible from the beach. The pool will be surrounded by hedging for privacy. The decking contains 1/8 inch gap between boards surrounded by retaining walls back filled for 18 X 42 feet walls with holes for drainage. The infinity pool edge with spill over into a four foot deep trough. The pool and 8' x 8' spa will be surrounded by four foot high self-closing and latching fencing with low-level LED light on the steps for safety.

Ms. Mellish read into the record, a letter from Mr. Bernard M. Gordon, 32 Masconomo Street, expressing concern that because the pool is substantially above ground with an infinity edge, that

damage to the pool might cause the escape of a substantial volume of water which might flood his yard.

Ms. Mellish asked with respect to the infinity pool edge are the retaining walls structurally sufficient to contain any excess spillage? Mr. Everleigh stated the pool has been designed by structural engineers and if there was catastrophic event the water in the pool would surge downhill towards the ocean rather than into neighbors yards. Mr. Everleigh stated the pool will hold 37,000 gallons of water.

There were no questions from the Board members. No members of the public asked to be recognized.

Mr. Diedrich asked if Mr. Everleigh would provide the Board with a written statement to what they said regarding overflow and what would happen in a catastrophic event. That statement will be provided.

Ms. Mellish moved to approve the application of 28 Masconomo Realty Trust (Molly Ryan) for a Special Permit under Sections 4.1.10(f), 6.1.2 and 7.5.2 of the Zoning By-Law to construct a gunite swimming pool with an infinity edge, spa, retaining walls and decking at 28 Masconomo Street, Assessor's map No.17, Lot No. 22 in District F, filed with the Town Clerk on March 31, 2021 based on a finding that the swimming pool project is in harmony with the purpose and intent of the By-Law, the use will not be detrimental or injurious to the neighborhood and that all requirements or conditions under Section 7.5.2 for the grant of a Special Permit have been met, subject to the following conditions:

- *The pool retaining walls and decking will be built in accordance with the proposed plan prepared by Donohoe Survey Inc. revision dated March 20, 2021 and the Master Plan prepared by Robin Kramer Garden Design revision dated March 25, 2021.*
- *Four foot high cable wire railing and glass locking gates shall be built to enclose the pool area with a four foot high hedge for privacy.*
- *All lighting will be low level oriented downwards.*
- *Overflow issues are addressed with applicants wording for inclusion in the decision.*

Mr. Zahn seconded the motion. The motion passed unanimously.

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

ADMINISTRATIVE MATTERS

Review and approval of the November, December and January meeting minutes.

Ms. Mellish asked the Board members to review the minutes from November, December and January and to also review February and March minutes to sign off on all past minutes to post on the Town website.

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. Diedrich seconded the motion. The motion passed unanimously.