



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)

Meeting June 30, 2021

Room 5, Town Hall

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

Members Not Present: Kathryn Howe and Sean Zahn

Ms. Mellish called the meeting to order at 7:00 p.m. Lawyers and residents are still discussing the Sandpiper Lane application. Ms. Mellish proposed beginning the meeting with the New Application for Mr. Spring and Ms. Walchuk.

NEW APPLICATION

Application of **Matthew Spring and Elizabeth Walchuk**, 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 bath and laundry room addition under the existing roof of an attached shed on a nonconforming structure at **216 Summer Street**, Assessor's Map No. 10, Lot No. 2 in District C, filed with the Town Clerk on May 26, 2021.

Mr. Spring stated their home was originally a carriage house for the adjacent mansion. They plan to put in a bath and laundry room under the current overhang but not extending the footprint of the house. Ms. Mellish asked if she was correct there is no foundation in the area. Mr. Spring confirmed that was correct. Ms. Mellish also asked if their neighbors on Old County Way had been contacted and if the applicants had spoken with the abutters. Mr. Spring stated they had spoken to their neighbors and there were no issues with their request.

Mr. Sollosy indicated the property was well screened by trees. Mr. Diedrich asked if there were site plans at a larger scale and asked if the structure is 9 feet off the property line. The setback was confirmed. There were no additional questions from the Board.

Ms. Mellish moved to approve the application of Elizabeth Walchuk & Matthew Spring 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 bath and laundry room addition under the existing roof of an attached shed on a nonconforming structure at 216 Summer Street, Assessor's Map No. 10, Lot

No. 2 in District C, filed with the Town Clerk on May 26, 2021, based on a finding the proposed alteration 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 nonconforming structure 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 condition that the bath and laundry room are constructed in accordance with the following plans prepared by bds design inc, dated 5/26/2021:

- *Existing 1st Floor Plan*
- *Existing East Elevation*
- *Existing North Elevation*
- *Proposed 1st Floor Plan*
- *Proposed East Elevation*
- *Proposed North Elevation*

Mr. Mitchell seconded the motion. The motion passed unanimously by voice vote.

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

CONTINUED APPLICATION

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 Sandpiper Lane properties were before the Board this evening to resolve outstanding issues with the Surf Village neighbors and delineation of the right of way with Mr. Bell.

Mr. Brown, attorney for Mr. Karpowich, indicated that 50% of the goal had been achieved with respect to the view and the parties had entered into a private agreement outside of the Special Permit application. Mr. Karpowich has agreed to remove some trees, and to his best ability to bury utility lines and poles (working with National Grid) and to lower the height of the buildings by 18 inches. All are contained in a private agreement between Mr. Karpowich and Surf Village residents Mr. and Ms. Beggen and Mr. and Ms. Cowman, represented by attorney Mr. Costa and the agreement has been signed.

Mr. Brown also stated that each of the Sandpiper Lane (1,3,5,7 and 9) units will be provided a parking space and the right of way with Mr. Bell will be clearly delineated. Mr. Brown does not believe the right of way and parking are part of the Special Permit process and the problems Mr. Bell has had in the past were the result of errant tenants not observing the right of way. That should no longer be a problem. Ms. Mellish stated as long as the right of way is delineated with appropriate markers the Board will agree. She asked Mr. Brown to work with Mr. Bell and his proposed granite markers and share the expense.

Mr. Johnson with C.G. Johnson Engineering, representing Mr. Bell, 8 Sandpiper Lane. Mr. Johnson distributed two documents to the Board one a memo from January 19, 2021 with proposed Discussion Plan regarding the right of way and the second a memo mentioning 100 year Floodplain Elevation, Wetland Buffer Zone both Conservation Commission issues, steps and entry, parking spaces and proximity of 9 Sandpiper Lane to Surf Village.

Mr. Johnson is interested in placing 4 granite stones to delineate the right of way, one of the markers proposed for the right of way defines Mr. Bell's property line in the right of way. Ms. Mellish stated the proposed stones could delineate the right of way but could not be placed in the right of way to define Mr. Bell's property line.

Mr. Brown stated Mr. Karpowich is willing to pay for three stones to delineate the right of way. Additionally, Ms. Mellish stated the Board would not include specific information about parking and the right of way in the Board's Decision. Mr. Brown stated if the right of way is violated a party can get a court order to enforce the right of way and if the court order is violated that is a big problem.

Mr. Johnson stated the proposed building for #9 is no longer located 3.9 feet from the setback but now 1 foot from the setback and indicated that would require an application for a variance. Ms. Mellish stated that was not correct, an increase in an existing non-conformity is addressed with a Special Permit. She pointed out that houses in Manchester are on the property line and grandfathered. New homeowners have the right to improve their property and all that is required is a Special Permit.

Mr. Brown stated he believes everyone will be happier now with the value of their property increasing and improved parking will resolve the right of way issues. Mr. Brown mentioned Mr. Karpowich will enter into a formal road maintenance agreement with Mr. Bell for shared costs.

Mr. Costa clarified he was not representing Surf Village only the Beggan and Cowman residents of Surf Village. His clients were concerned about the project's impact on their ocean views. With the signed private agreement and 18 inch height reduction of the buildings his clients are satisfied with the agreement.

Mr. Brown indicated it was important for the Board to include the 18 inch reduction in the height of the buildings in the Decision to address any questions the Building Inspector may have when issuing the building permit.

Ms. Mellish moved to approve the application of Binnabah, LLC (Jeffrey Karpowich) 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 raze the existing nonconforming (north side setback) one-bedroom, one-story 352 sq. ft. residential dwelling on a nonconforming lot (lot area & frontage) and construct a one-bedroom, two-story residential dwelling with interior living space of about 758 sq. ft. on a 396 sq. ft. footprint at 1 Sandpiper Lane, Assessor's Map No. 1, Lot No. 65 in the General District, filed with the Town Clerk on December 16, 2020, based on a finding the proposed structure is very modest in size, the proposed roofline is below the maximum height allowed under the Zoning By-Law, provides for a much needed parking space, the proposed use is in harmony with the purpose and intent of the By-Law, the proposed 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 7.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, subject to the following conditions:

- *The construction proceeds in accordance with the plans and elevations depicted on Lot 1 House Plan, Sandpiper Lane, Manchester, MA and the Exhibit Site Plan prepared by Hancock Associates dated 12/16/2020, with the exception that the roofline may be lowered by 18" while retaining the roof pitch depicted.*
- *One parking space shall be provided adjacent to the structure comprised of a pervious surface.*
- *The right-of-way is properly delineated with appropriate markers.*

Mr. Mitchell seconded the motion. The motion passed unanimously by voice vote.

Ms. Mellish moved to approve the application of Binnabah, LLC (Jeffrey Karpowich) 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 raze the existing nonconforming (north side setback) one-bedroom, one-story 320 sq. ft. residential dwelling on a nonconforming lot (lot area & frontage) and construct a one-bedroom, two-story residential dwelling with interior living space of about 758 sq. ft. on a 396 sq. ft. footprint at 3 Sandpiper Lane, Assessor's Map No. 1, Lot No. 66 in the General District, filed with the Town Clerk on December 16, 2020, based on a finding the proposed structure is very modest in size, the proposed roofline is below the maximum height allowed under the Zoning By-Law, provides for a much needed parking space, the proposed use is in harmony with the purpose and intent of the By-Law, the proposed 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 7.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, subject to the following conditions:

- *The construction proceeds in accordance with the plans and elevations depicted on Lot 3 House Plan, Sandpiper Lane, Manchester, MA and the Exhibit Site Plan prepared by Hancock Associates dated 12/16/2020, with the exception that the roofline may be lowered by 18" while retaining the roof pitch depicted.*
- *One parking space shall be provided adjacent to the structure comprised of a pervious surface.*
- *The right-of-way is properly delineated with appropriate markers.*

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

*Ms. Mellish moved to approve the application of Binnabah, LLC (Jeffrey Karpowich) 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 raze the existing nonconforming (north & south side setbacks) one-bedroom, one-story 308 sq. ft. residential dwelling on a nonconforming lot (lot area & frontage) and construct a one-bedroom, two-story residential dwelling with interior living space of about 758 sq. ft. on a 396 sq. ft. footprint at **5 Sandpiper Lane**, Assessor's Map No. 1, Lot No. 67 in the General District, filed with the Town Clerk on December 16, 2020, based on a finding the proposed structure is very modest in size, the proposed roofline is below the maximum height allowed under the Zoning By-Law, provides for a much needed parking space, the proposed use is in harmony with the purpose and intent of the By-Law, the proposed 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 7.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, subject to the following conditions:*

- The construction proceeds in accordance with the plans and elevations depicted on Lot 5 House Plan, 7 Sandpiper Lane, Manchester, MA and the Exhibit Site Plan prepared by Hancock Associates dated 12/16/2020, with the exception that the roofline may be lowered by 18" while retaining the roof pitch depicted.*
- One parking space shall be provided adjacent to the structure comprised of a pervious surface.*
- The right-of-way is properly delineated with appropriate markers.*

Mr. Mitchell seconded the motion. The motion passed unanimously by voice vote.

*Ms. Mellish moved to approve the application of Binnabah, LLC (Jeffrey Karpowich) 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 raze the existing nonconforming (north & south side setbacks & front setback) one-bedroom, one-story 320 sq. ft. residential dwelling on a nonconforming lot (lot area & frontage) and construct a one-bedroom, two-story residential dwelling with interior living space of about 758 sq. ft. on a 396 sq. ft. footprint at **7 Sandpiper Lane**, Assessor's Map No. 1, Lot No. 70 in the General District, filed with the Town Clerk on December 16, 2020, based on a finding the proposed structure is very modest in size, the proposed roofline is below the maximum height allowed under the Zoning By-Law, provides for a much needed parking space, the proposed use is in harmony with the purpose and intent of the By-Law, the proposed 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 7.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, subject to the following conditions:*

- The construction proceeds in accordance with the plans and elevations depicted on Lot 7 House Plan, Sandpiper Lane, Manchester, MA and the Exhibit Site Plan prepared by Hancock Associates dated 12/16/2020, with the exception that the roofline may be lowered by 18" while retaining the roof pitch depicted.*
- One parking space shall be provided adjacent to the structure comprised of a pervious surface.*
- The right-of-way is properly delineated with appropriate markers.*

Mr. Mitchell seconded the motion. The motion passed unanimously by voice vote.

*Ms. Mellish moved to approve the application of Binnabah, LLC (Jeffrey Karpowich) 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 raze the existing nonconforming (north side setback) one-bedroom, one-story 320 sq. ft. residential dwelling on a nonconforming lot (lot area & frontage) and construct a one-bedroom, two-story residential dwelling with interior living space of about 758 sq. ft. on a 396 sq. ft. footprint at **9 Sandpiper Lane**, Assessor's Map No. 1, Lot No. 71 in the General District, filed with the Town Clerk on December 16, 2020, based on a finding the proposed structure is very modest in size, the proposed roofline is below the maximum height allowed under the Zoning By-Law, provides for a much needed parking space, the proposed use is in harmony with the purpose and intent of the By-Law, the proposed 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 7.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, subject to the following conditions:*

- *The construction proceeds in accordance with the plans and elevations depicted on Lot 9 House Plan, Sandpiper Lane, Manchester, MA and the Exhibit Site Plan prepared by Hancock Associates dated 12/16/2020, with the exception that the roofline may be lowered by 18" while retaining the roof pitch depicted.*
- *One parking space shall be provided adjacent to the structure comprised of a pervious surface.*
- *The right-of-way is properly delineated with appropriate markers.*

Mr. Mitchell seconded the motion. The motion passed unanimously by voice vote.

Administrative Matters

Next Board meeting is July 28, 2021 in person.

The September meeting scheduled for the 22nd will be moved to September 15, 2021 with the application deadline on August 25, 2021.

Ms. Mellish moved to adjourn the meeting, Mr. Sollosy seconded the motion. The motion passed unanimously.