



# MANCHESTER-BY-THE-SEA

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## ZONING BOARD OF APPEALS

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

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### MINUTES

#### ZONING BOARD OF APPEALS (ZBA)

**Meeting July 28, 2021**

**Room 5, Town Hall**

**Members Present:** Sarah Mellish (Chairperson), James Mitchell, John Binieris and Kathryn Howe

**Members Not Present:** Sean Zahn, Brian Sollosy and James Diedrich

Ms. Mellish called the meeting to order at 7:03 p.m.

Ms. Mellish indicated four votes are required to support an application. There are four members of the Board present, the votes will need to be unanimous, in order for the Applications to be approved.

#### NEW APPLICATIONS

The Application of William Nolan Architect, on behalf of Robert and Christine Orrall 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 new screened porch to the rear of an existing non-conforming property, the proposed structure will be located within the required side setback but will not increase the existing non-conformity. With the installation of a new 8' tall wood fence to be located a minimum of 6" off the property line at **10 Sea Street**, Assessor's Map No. 14, Lot No. 33 in District A, filed with the Town Clerk on June 29, 2021.

Ms. Mellish requested Mr. Nolan, Architect, to explain the project. Mr. Nolan stated the property at 10 Sea Street is unique and one of the strangest properties he has ever worked on. The site is long and narrow, next to the railroad tracks on one side and a steep cliff of ledge on the other side of the property. The house is less than one foot away from the ledge/cliff. The homeowners would like to remove an existing deck and add a screened-in porch attached to the rear of the house. The property slopes up at this point so it is necessary to create a transition with a small breezeway and add steps up to the screened-in porch.

The existing fence, according to the survey, is over the property line and will be replaced so it is within the property the property lines. The fence will run about 6" within the property line along the stone retaining wall, extending to the end of the property and back ledge. Additionally, the

existing shed on the property is in disrepair and encroaches into the setback, the homeowners have informed Mr. Nolan they plan to replace the shed and locate it so that it does not encroach into the setback. The completed project will match the existing look of the home.

Mr. Mitchell stated he had completed a site visit and the project appeared to be appropriate for the location. He asked about the foundation, Mr. Nolan stated he had not completed a full set of foundation drawings for the ZBA public hearing to save the homeowners the expense. The foundation is a slab, on a grade and pinned to the ledge.

Ms. Mellish noted the Manchester code allowed for a six foot fence and Mr. Nolan is requesting an eight foot fence and asked if that was because of the train. Mr. Nolan stated the eight foot fence was for additional privacy, although he indicated the noise from the train was less harsh than he had anticipated. Ms. Mellish stated the Board could approve the eight foot fence as part of the Special Permit. Mr. Mitchell confirmed the fence was an entirely new fence, Mr. Nolan stated that was correct. Mr. Binieris agreed the site was unique and challenging and understood the need for a taller fence.

No members of the public were present who wished to be heard on this application.

*Ms. Mellish moved to approve the application of William Nolan, Architect, on behalf of Robert and Christine Orrall 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 demolish an existing wood deck at the rear of the property and existing wood stockade fence on a nonconforming structure and construct a 273 square foot one story wood framed screened-in porch and install a new 8' tall wood fence located within 6" of the property line/existing rock retaining wall along the train tracks, and to replace the shed to conform with required setbacks at 10 Sea Street, Assessor's Map No. 14, Lot No. 33 in District A, filed with the Town Clerk on June 29, 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, subject to the condition that the screened-in porch, wood fence and movement of existing shed are constructed/installed/moved in accordance with the following plans:*

- *Proposed Site Plan, prepared by LeBlanc Survey Associates, Inc., dated May 26, 2021*
- *Plans/Drawings, prepared by Savoie Nolan Architects LLC, dated June 25, 2021*
  - *Proposed Floor Plan*
  - *Rear Elevation*
  - *Side Elevation*
  - *3D Model View 1*
  - *3D Model View 2*

*Mr. Mitchell seconded the motion. The motion passed unanimously.*

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

Ms. Mellish added for the record, the Board had received a letter of support from Curtis Kinder, son and heir of Elizabeth Kinder, owner of the property at 1 Spy Rock Hill.

The Application of Remko Breuker 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 for the replacement of an existing non-conforming accessory structure with a larger accessory structure, at **87 Summer Street**, Assessor's Map No. 14, Lot No. 15 in District A, filed with the Town Clerk on June 30, 2021.

Ms. Mellish asked Mr. Breuker whether the proposed project was identical to the previous project the Board had approved two years ago. Mr. Breuker stated the proposed garage is six inches longer and eighteen inches higher than the project previously submitted and approved by the Board.

Mr. Breuker stated the current garage is an old structure, cannot be rebuilt, is falling down and sinking into the ground. He is proposing a new structure with a small place upstairs for his children to play and additional space on the first floor for a workspace and tool storage. The height of the proposed structure is twenty-two feet at the highest point. Mr. Breuker reviewed the proportions for the building and concluded a two car garage would overpower the house and it was important to keep the small area of grass beside the house. The proposed garage will match the house nicely and provide for access to the recently added terrace at the side of the house.

Mr. Breuker also added the neighbors were fine with the proposed new garage. Mr. Mitchell asked if there was a problem with the foundation hitting ledge if Mr. Breuker planned to pin into the ledge. Mr. Breuker confirmed that was correct. Ms. Howe asked if the garage would be heated. Mr. Breuker indicated there would be no plumbing in the structure but there will be electricity and he planned to provide heat in the children's play area. Mr. Mitchell stated the design plan was excellent and the proposed changes were a significant improvement; the project is themed and scaled to the existing home.

There were no members of the public present who wished to be heard on this application.

*Ms. Mellish moved to approve the application of Remko Breuker 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 demolish an existing nonconforming one story accessory one-car garage and shed and construct a new larger 1.5 story with a 561 sq. foot footprint, one car garage with the front and sides in approximately the same location as the existing garage, but extending further to the rear at 87 Summer Street, Assessor's Map No. 14, Lot No. 15 in District A, filed with the Town Clerk on June 30, 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 accessory 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, subject to the condition that the accessory structure is constructed in accordance with the following plans:*

- *Plan of Land, prepared by American Land Survey Associates, Inc., dated 10-15-2005*
- *Proposed Plans/Elevations/Sections, prepared by Breuker Design, LLC, dated August 25, 2018, revised June 25, 2021*

*Mr. Mitchell seconded the motion. The motion passed unanimously.*

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

### **Administrative Matters**

**Approve Minutes:** January 20, 2021, February 17, 2021, March 24, 2021, April 28, 2021 and May 26, 2021. Members of the Board were able to approve the Minutes for January 20, 2021, February 17, 2021 and May 26, 2021, Minutes for March 24, 2021 and April 28, 2021 will be approved at the next Board meeting on when Board members who participated in the meetings are available to approve the Minutes.

*Mr. Mitchell moved to approve the Minutes of January 20, 2021, Ms. Howe seconded the motion. The motion passed unanimously.*

*Ms. Mellish moved to approve the Minutes of February 17, 2021, Mr. Mitchell seconded the motion. The motion passed unanimously.*

*Ms. Mellish moved to approve the Minutes of May 26, 2021, Ms. Howe seconded the motion. The motion passed unanimously.*

Ms. Mellish noted when she was sworn in, she received a copy of the Open Meeting Laws and indicated it was important for the Board to be compliant with the Law and to review and approve minutes in a more timely manner.

### **Nominate and Appoint Chairperson and Clerk for the ZBA:**

*Ms. Howe moved to nominate Ms. Mellish to serve as Chairperson and Mr. Sollosy to serve as Clerk for the Zoning Board of Appeals, Mr. Mitchell seconded the motion. The motion passed.*

### **Next Board Meeting:**

The next regular Board meeting is August 25, 2021, there are two Application one for 151 Bridge Street a sports court and 25 Tappan Street for renovations. The meeting will be an in person meeting.

The September meeting scheduled for the 22<sup>nd</sup> will move to September 15, 2021 with the application deadline on August 25, 2021.

### **40 B Project Update:**

MassHousing has not yet awarded a Project Eligibility Letter to SLV. The Town submitted a letter with additional letters from appropriate Boards and Committees in opposition to the proposed project.

Ms. Mellish stated if MassHousing awards a Project Eligibility Letter to SLV the Board will be required to open a Public Hearing within 30 days. The Board will be provided a 40B consultant to support and inform the Board. The ZBA focus will be on safety, conservation and architecture.

*Ms. Mellish moved to adjourn the meeting, Ms. Howe seconded the motion. The motion passed unanimously.*