



MANCHESTER-BY-THE-SEA

ZONING BOARD OF APPEALS

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

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MINUTES

ZONING BOARD OF APPEALS – 40B

ZOOM Meeting January 26, 2022

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

Staff Present: Town Administrator, Greg Federspiel and Town Planner, Sue Brown, Administrative Assistant, Gail Hunter

Guests: Geoffrey Engler, SLV School St. LLC., George Pucci, KP Law, Ezra Glenn, MassHousing Partnership Consultant, Daniel Hill, Counsel for MECT, Luke Legere, Counsel for Citizens Initiative for Affordable Housing (CIMAH, Inc.)

PUBLIC HEARING – 40 B CONTINUED APPLICATION

Ms. Mellish reconvened the Continued Public Hearing on the 40B Application of Geoffrey Engler of SLV School St. LLC, to be known as The Sanctuary at Manchester-by-the-Sea, for a comprehensive Permit under M.G.L. Chapter 40B, Sections 20-23 to construct a 136-unit apartment complex for which the Massachusetts Housing Finance Agency issued a Project Eligibility Decision on September 16, 2021, at School Street, Assessor's Map No. 43, Lot No.18 filed with the Town Clerk on September 27, 2021 at 7:03 p.m.

- **Discuss & Select Environmental Peer Reviewer**

Ms. Mellish stated she would like to discuss and select the Environmental Peer Reviewer this evening and request additional information from the Applicant to provide to the Peer Reviewer. Ms. Mellish added Traffic Circulation & Parking will be discussed at the next meeting. The Board will take comments from the Public during the February 9th meeting.

Ms. Mellish confirmed the Board had reviewed the submitted proposals indicating Beals & Thomas had submitted proposals for both Environmental and Site Plan reviews. She asked if the Board thought there would be efficiencies in selecting Beals and Thomas for both peer reviews.

Mr. Mitchell stated he believes that would make sense as did Mr. Sollosy. Ms. Howe indicated she was not sure whether efficiencies were more important than two perspectives. In her initial

review of the materials from Beta she was impressed by their proposal and management of and billable hours. The Board continued their discussion and Ms. Mellish asked Mr. Gang, Chair of the Conservation Commission for his thoughts.

- **Discuss additional environmental information needed from Applicant**
- **Discuss additional engineering etc. materials needed from Applicant**

Mr. Gang agreed with much of what he heard noting the BETA proposal appeared to be more accurate around billable hours adding this in a complex project and there were no bad choices among the submitted proposals. He suggested the Board make some requests for information from the Developer as soon as possible. Mr. Gang believes the interim reports filed by the Developer did not contain enough specific information around site preparation, engineering, geo-technical challenges, and on-site wastewater management especially related to leeching fields.

Mr. Engler stated an ANRAD had been completed along with a lot of conservation work adding a 40B application is based on schematic plans and he is not planning on completing a full geo technical analysis. Mr. Glen replied the Applicant is correct only preliminary plans are required for the 40B application. When the Board receives the peer reviewer's report the Board can define conditions for the Applicant to complete.

Mr. Pucci added peer reviewers really need to make recommendations and if the Applicant does not comply the application can be denied for lack of sufficient information. Mr. Pucci recommended waiting to hear from peer reviewers around what is required. Mr. Engler stated he is not representing that Traffic Circulation & Parking is completed. The board requested additional information and he had requested enough time to add information. The same will be true for the Environmental Peer Review.

Ms. Mellish asked for more detail around the current list of waivers. Mr. Engler stated it is premature to discuss waivers at this time. Ms. Howe stated there must be a rational now for waiver request and understands this is an evolving process. Mr. Engler agreed to add a column to the spreadsheet providing the rational for waiver requests.

Mr. Gang added the Conservation Commission agrees regarding the waivers and more specific information will make the request clearer. It is important to weigh the impact of the waivers on the environment. Mr. Gang stated he was at a meeting in Hamilton where the Developer presented specific information around the building project including how many cubic feet of soil would be removed and reused, blasting specifics including the number of days and amount of dust that would result. All this information is important and defines the parameters around construction.

Mr. Hill stated the Mr. Engler had indicated there are no test pit logs and provided some limited data but not the critical pieces of information relevant to waivers. Some limited data was provided in preliminary geo technical reports, but it is not complete there was no ground water elevation data and no soil methodology data. These are critical pieces of information every peer reviewer is going to ask for including wetland scientists. This data goes to multiple issues raised

in this project and is directly relevant to waivers. The data will help evaluate the impact of wastewater and stormwater systems on the surrounding wetland resources.

Mr. Binieris agreed with Mr. Hill stating he has never seen an environmental peer review that did not include the test pit data. Mr. Gang stated when Conservation Commission looked at the RAD what was asked for regarding test pits was light. The Commission had expected to see more data. Ms. Mellish asked what level of review needs to occur in the future. Mr. Gang stated the Conservation Commission administers both the Local and State Wetlands Protection Acts and close review is required.

Mr. Pucci stated the Conservation Commission will be providing the Board with a recommendation that represents valid local concerns around the local wetlands regulations. The Board may add the recommendations to your comprehensive permit decision. Mr. Engler stated this is a 40B project and is treated differently local restrictive By-Laws are not necessarily adhered to. There is nothing in the project that does not comply with the State standards.

Mr. Legere stressed the importance of soil requests from the Applicant. Stating the Applicant will need to go before the Conservation Commission under the State Wetlands Protection Act and the Conservation Commission will request the information and the Applicant will need to produce the data.

Mr. Engler requested the Board provide the proposals from the peer reviewers. The proposals were forwarded by Ms. Brown during the meeting.

The Board agreed that the rational for the waivers should be provided.

Ms. Howe moved the Zoning Board of Appeals request all data and information related to the test pits previously constructed and the analysis of that data and related back up information; Mr. Sollosy seconded the motion. The motion passed unanimously by roll call vote. Mr. Binieris, Mr. Sollosy, Mr. Mitchell, Ms. Howe, Mr. Diedrich, Mr. Zahn (by text) and Ms. Mellish voted affirmatively.

The Board further discussed the proposals for Engineering and Site Plan and decided to accept the proposals from Beals & Thomas for both reviews. Ms. Brown stated the completed proposals will take between 3-5 weeks from completion.

Ms. Mellish moved to approve Beals & Thomas as the peer reviewer for Environmental and Civil Engineering & Site Planning; Mr. Sollosy seconded the motion. The motion passed unanimously with Mr. Binieris, Mr. Sollosy, Mr. Mitchell, Ms. Howe, Mr. Diedrich, Mr. Zahn (by text) and Ms. Mellish voted affirmatively.

Ms. Brown requested an invoice for \$29K to cover the cost of the peer reviews to be conducted by Beals and Thomas.

- **Next Public Hearing**

The next Public Hearing is scheduled for February 9, 2022. During the meeting the Board will review responses to the Traffic Circulation and Parking Review and take Public Comment.

Ms. Mellish stated the Board had requested information from the Police Chief regarding requirements for safety and a sidewalk.

Ms. Mellish stated the Board had received correspondence from Mr. Hill on October 25, 2021 and on January 1, 2022 the letters will be posted to the Town website.

Ms. Mellish moved to continue the Public Hearing on the application of Geoffrey Engler of SLV School St. LLC, to be known as The Sanctuary at Manchester-by-the-Sea, for a comprehensive Permit under M.G.L. Chapter 40B, Sections 20-23 to construct a 136-unit apartment complex for which the Massachusetts Housing Finance Agency issued a Project Eligibility Decision on September 16, 2021, at School Street, Assessor's Map No. 43, Lot No.18 filed with the Town Clerk on September 27, 2021 to February 9, 2022 at 7:00 p.m. Ms. Howe seconded the motion. The motion passed unanimously with Mr. Binieris, Mr. Sollosy, Ms. Howe, Mr. Mitchell, Mr. Diedrich, Mr. Zahn (by text), and Ms. Mellish voting affirmatively.

ADMINISTRATIVE MATTERS

- Review and approval of meeting minutes. There were no minutes to review this evening.
- Any other administrative matters that could not reasonably be anticipated in advance of the required 48-hour posting.
- Adjourn

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