



# MANCHESTER-BY-THE-SEA

## ZONING BOARD OF APPEALS

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

#### ZONING BOARD OF APPEALS

#### Hybrid Meeting February 25, 2026

**Members Present:** Sarah Mellish (Chair), John Binieris, Georgia Pendergast, Colleen Moore

**Members Not Present:** Robert Scott, Sean Zahn,

**Staff Present:** Marc Resnick via Zoom

**Select/Planning Board Member:** Brian Sollosy

Chair Mellish called the meeting to order at 7:00 PM and stated that the meeting was a Hybrid meeting on Zoom with members of the Board, Applicants, and Public in Town Hall, Room 5. Ms. Mellish introduced herself and the Board members.

#### **Continued Applications:**

#### **2 Blossom Lane: Appeal of Administrative Decision**

*Motion by Chair Mellish to open the continued Public Hearing for the application of Benjamin B. Tymann, Esq., on behalf of Samuel & Tracey Byrne, 1-3 Blossom Lane, for the appeal of an Administrative Decision under Section 7.4.5 of the Zoning By-Law dated November 13, 2025, regarding a request for zoning enforcement filed with the Building Inspector on October 30, 2025, for action against structures, conditions, and uses at 2 Blossom Lane that allegedly were not in compliance with the Zoning By-Laws or the Special Permit granted by the ZBA on September 5, 2019 at 2 Blossom Lane, Assessors Map No. 17, Lot No. 12 in District E filed with the Town Clerk on December 15, 2025. Seconded by Ms. Pendergast. Motion passed unanimously.*

Attorney Benjamin Tymann and Stuti Venkat of Tymann, Davis & Duffy LLP provided opening remarks, explaining that a Special Permit was granted in 2019 for redevelopment at 2 Blossom Lane under Chapter 40A, Section 6 for extensions of prior nonconforming structures. The Board's decision required that the project be built in conformance with the Special Permit plans. Mr. Tymann noted that part of this case had been litigated at Massachusetts Land Court, where Judge Michael Vhay separated issues into those tried (pool size, pool house size, and elevation changes) and four issues that were dismissed without prejudice and could return to the ZBA: pool house use, parking spaces, outdoor lighting, and the second floor deck.

Attorney Julie Barry, representing property owners Rodney and Carla Smith, clarified this was not an appeal of the 2019 Special Permit, which became final. Rather, it was an appeal of the Byrnes' Zoning Enforcement request that Building Inspector Orlando denied because the project was substantially in compliance. Ms. Berry argued that none of the four issues required Special Permit approval and questioned whether the Byrnes were people aggrieved by these matters.

The Board addressed each issue separately:

### **Pool House Use:**

Chair Mellish read the Building Inspector's Decision on each of these 4 topics since that is what is being appealed. Stuti Venkat argued the Special Permit plans showed an "equipment shed" but a pool house was built that functions as a recreational gathering space with fireplace, speakers, and seating, creating noise impacts for neighbors. They submitted photos and videos as evidence. Chair Mellish noted the board was aware of the fireplace and chimney when they previously approved the reduced-size structure in their 2022 decision. Board members questioned how regulating pool house use differed from regulating patio use, which is not subject to restrictions. The Board concluded that only structural relief, not use relief, was requested in the 2019 Special Permit, and accessory structures are limited to residential uses without board-imposed restrictions.

### **Outdoor Lighting:**

The Byrnes complained about gas lanterns, floodlights, and landscaping lighting. Mr. Tymann argued any obtrusive lighting should have been included in the original site plan. However, Chair Mellish noted the Zoning By-Law section was added after the 2019 Special Permit and only applies when applying for Special Permits. The board determined residents can install exterior lighting without permits, so site plan review requirements don't apply.

### **Second Floor Deck:**

Mr. Tymann argued the Special Permit plans showed a sloped roof, not a deck, making the built deck an unauthorized expansion. However, Rodney Smith clarified that the plans showed the original house outline with construction envelope boundaries, and the deck area was indicated. The Board had previously addressed this issue in their 2022 decision, finding the deck consistent with approved building permit plans and not a substantial departure from the special permit.

### **Parking Spaces:**

Mr. Tymann argued cobblestone parking areas in the front yard setback violated Zoning By-Laws. However, the Board determined the lot line runs along the granite posts and stone wall, making the parking areas street-side rather than within the front setback. Chair Mellish noted zoning doesn't regulate on-street parking, which would be a police matter.

No public comments were received

*Motion by Ms. Pendergast to close the Public Hearing. Seconded by Ms. Moore. Motion passed unanimously.*

After deliberations, the Board found no violations and denied the appeal on all four issues.

*Motion by Chair Mellish to deny the appeal filed with the Town Clerk on December 15, 2025, and uphold the enforcement officer's Administrative Decision dated November 13, 2025, based on the following findings: The Board finds that only structural relief was*

*requested from the Board in the granting of the 2019 Special Permit. The structure label on the plan is irrelevant, and the revised plan approved by the Board in its decision denying a prior appeal filed with the Town Clerk on August 8, 2022 included the fireplace and chimney. Under the By-Law, an accessory structure is limited to residential uses, and the Board has never replaced restrictions on these uses. The section of the By-Law cited by the applicant requiring the site plan review was not in effect when the Special Permit was granted in 2019. The Board finds that on the onsite visit, it was clear that the alleged balconies were merely low decorative trim around a relatively flat roof, not balconies. There is a small second floor deck with railing. Although the railing was not depicted on the ZBA permits, it was included in the Building Permit application, and the Board finds the addition of the railing is a de minimis change from the plans approved under the Special Permit. The Board finds that the lot line is at the front of the granite pillars and a few inches in front of the stonewall consistent with all setback calculations used in the Special Permit and Building Permit applications. The alleged parking spaces are along the street in front of the stone wall, not in the front yard setback contained in the By-Law. Furthermore, the decorative paver in front of the stonewall is part of the landscaping plan and not necessarily parking spaces consistent with other properties on the street. Ms. Pendergast seconded. Motion passed unanimously.*

## **New Applications:**

### **70 Pleasant Street- Special Permit**

*Motion by Chair Mellish to open the Public Hearing of Karin Aucone's application for Special Permits under Sections 7.2 and 12.5 of the Zoning By-Law and or other relief as may be necessary to add one and a half stories on the existing footprint of a single story non-conforming residence and add a six-foot-five by 10 foot five rear addition to accommodate a stairwell on a lot containing 2 residence (Numbers 68 and 70) at 68 Pleasant Street Assessors Map No. 41, Lot No. 54 in Districts D2/B, filed with the Town Clerk on January 28, 2026. Seconded by Mr. Binieris. Motion passed unanimously.*

John Andrews from JFA Design Group presented the project, explaining the existing single-story dwelling has two bedrooms, one bath, and approximately 760 square feet. The family of four needs additional space, so they propose adding a second story to create three bedrooms while staying at only 1,600 total square feet. The only addition beyond the existing footprint would be the small rear mudroom/bathroom addition. The project includes a half-story attic with 4-foot walls for storage access.

Chair Mellish noted the height definition issue, explaining that in Manchester's By-Law, a half-story is defined as having 50% of space with wall heights of 4 feet, and asked if the wall height could be reduced to 3'6" to clearly remain under the half-story definition. Mr. Andrews agreed this was acceptable since the space was intended only for storage.

Mr. Andrews explained they want to preserve the existing footprint and first-floor walls while shoring up the old fieldstone basement that varies from 4-6 feet in height. The project will meet all current building codes including HERS rating and insulation requirements. He noted

the property has long contained two separate structures on one lot, making it nonconforming since D2 district requires connected units for two-family use.

The Board received a supportive letter from neighbors at 72 Pleasant Street. Board members appreciated the provided streetscape showing how the addition would fit with neighboring homes. Mr. Bineiris noted the project stays under allowable lot coverage and impervious surface limits despite having room to expand further.

No public comments were received.

*Motion by Chair Mellish to close the Public Hearing. Seconded by Ms. Pendergast. Motion passed unanimously.*

*Motion by Chair Mellish to approve the application of Karin Aucone for Special Permits under Section 7.2 and 12.5 of the Zoning By-Law and or other relief as may be necessary to add one and a half stories on the existing foot print of a single-story non-conforming structure and add a 6.5 foot by 10.5 foot addition to the rear on a lot containing two residences (Number 68 and 70) at 68 Pleasant Street, Assessors Map No.41, Lot No. 54 in District D2/B filed with the Town Clerk on January 28, 2026 based on finding the proposed project is in harmony with the purpose and intent of the By-Law, will not be substantially more detrimental or injurious to the neighborhood in which it is located than the existing nonconforming dwelling and the requirements under Section 12.5.2 of the Zoning By-Law for the grant of a Special Permit have been met, based on the following conditions:*

- *The addition is located as depicted on the Certified Plot Plan prepared by Northern Associates, dated January 23, 2026.*
- *The half-story attic walls are limited to 3'6" height*
- *The project is constructed substantially in accordance with the following plans prepared by JFA Design Group, filed with the Town Clerk on January 28, 2026*
  - *Proposed Elevations- A1, A2, A3 and A4*
  - *Proposed Floor Plans- A5, A6, A7 and A8*
  - *Existing Elevations - EX1, EX2, EX3 & EX4*

*Seconded by Mr. Binieris. Motion passed unanimously.*

### **Determination of De Minimis Change (14 Coolidge Point)**

Chair Mellish explained that Eduardo Vivanco, property owner at 14 Coolidge Point, requested a determination that his revised building permit plans represent de minimis changes to the Special Permit granted April 11, 2023. The original permit was set to expire April 10, 2026, and the owner, currently in Madrid, Spain, submitted revised plans to begin construction without needing a new Special Permit application.

Chair Mellish detailed the changes:

- The design is completely different but improves conformance
- The peak height decreased from 35 feet to 32'11"
- Side setbacks improved from 15'/20'/17.9' to 20'/23'/20' (now fully conforming)
- Gross floor area reduced from 3,900 to 3,730 square feet,
- Building lot coverage decreased from 2,223 to 2,658 square feet (under the 2,979 maximum)
- Total impervious surface will be 3,302 square feet (well under the 4,966 maximum).

The garage was relocated for better driveway flow and to preserve more green space while providing neighbors additional privacy.

The Board found these changes represented improvements in conformance rather than detriments and constituted de minimis modifications.

*Motion by Chair Mellish to confirm that the ZBA determined that plans submitted December 30, 2025, requesting a building permit include de minimis changes to the plans included in the Special Permit granted on April 11, 2023, for the property at 14 Coolidge Point, Assessors Map No. 3, Lot No. 11 in District E and authorize the Chair to notify the Building Inspector of this Decision. Seconded by Ms. Moore. Motion passed unanimously.*

### **Administrative Matters**

Review and approve January 28, 2026, Meeting Minutes

*Motion by Ms. Pendergast to approve the January 28, 2026, meeting minutes (which contained only a continuation of 2 Blossom Lane). Seconded by Chair Mellish. Motion passed unanimously.*

### **Status of Decisions**

The Board noted that 38 Sea Street Decision is still outstanding with a March 15 deadline, and 22 Union Street Decision needs completion. 3 Eaglehead Road was submitted by Ms. Pendergast the day prior.

### **Correspondence**

No specific correspondence was discussed.

### **Applications Submitted for Next Meeting**

The Board has one application for next month at 9 Masconomo Street. The existing church-like structure will be demolished for new construction, likely requiring both Variance and Special Permit approvals for attaching a garage currently in the setback. Chair Mellish requested the applicant provide existing structure height information and survey data showing the current footprint.

**Any Other Administrative Matters**

The next meeting is scheduled for March 25, 2026, though some Board members noted scheduling conflicts with travel plans.

*Motion by Mr. Binieris to adjourn. Seconded by Mr. Pendergast. Motion passed unanimously.*