



MANCHESTER-BY-THE-SEA

ZONING BOARD OF APPEALS

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

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MINUTES

ZONING BOARD OF APPEALS

Virtual On-line Meeting March 16, 2022

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

Members Not Present: Sean Zahn

Ms. Mellish called the meeting to order at 7:01 p.m. and stated the meeting was being recorded for accuracy in minutes.

CONTINUED APPLICATION

Ms. Mellish opened the public hearing for the application of **Seaside Legal Solutions, PC**, on behalf of Deegan Partners, LLC. for a Variance and Special Permit under Sections 4.2.3, 6.1.2 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to retain the existing nonconforming porch on an existing residential structure and to construct an addition to convert the existing single-family residence into a two-family residence in District D at **90 School Street**, Assessor's Map No. 41, Lot No. 87 in District D/B, filed with the Town Clerk on January 18, 2022.

At the request of the Applicant, Ms. Mellish moved to continue the public hearing on the application of Seaside Legal Solutions, PC, on behalf of Deegan Partners, LLC for a Variance and Special Permit under Sections 4.2.3, 6.1.2 and 7.5.2 of the Zoning By-Law, and/or other relief as may be necessary, to retain the existing nonconforming porch on an existing residential structure and to construct an addition to convert the existing single-family residence into a two-family residence in District D at 90 School Street, Assessor's Map No. 41, Lot No. 87 in District D & B, filed with the Town Clerk on January 18, 2022. The public hearing shall be continued to March 19, 2022 at 7:00 pm and the time for filing the decision shall be extended to July 20, 2022. Mr. Sollosy seconded the motion. The motion passed unanimously by roll call vote.

NEW APPLICATIONS

Ms. Mellish opened the public hearing for the Application of **Brian Stein**, on behalf of Kevin and Shayna Potter, KSPS Family Trust, to modify a previously approved Special Permit filed with the Town Clerk on December 1, 2021, 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, for the redesign and relocation of a 14' x 30' pool on grade on three sides, 7' x 7' spa and lighting to be consistent with the Conservation Commission decision at **17 Proctor Street**, Assessor's Map 16, Lot No.17 in District E, filed with the Town Clerk on February 14, 2022.

Mr. Stein presented the modifications to the pool design at 17 Proctor Street. He stated the pool was relocated following input from the Conservation Commission. The pool is now located on the east side of the property north of the house at grade level on three sides. On the west side of the property there is a four-foot retaining wall which acts as a pool fence. The pool fence runs towards the harbor ties into the edge of the property line where there is an existing fence. The pool is now at the lower level of the house. The lighting is the same low-level lighting with the same path lights,

The Board had no questions. Mr. Mitchell stated the plans were clear and well presented.

Ms. Mellish moved to close the Public Hearing and approve the application of Brian Stein (BDS Design Inc) on behalf of Kevin and Shayna Potter (KSPS Family Trust) to modify the previously approved Special Permit, filed with the Town Clerk on December 1, 2021, 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 redesign and relocate, in accordance with the Conservation Commission Decision, a 14' x 30' swimming pool and 7' x 7' spa, stone terrace and planting beds to the north of the previously approved location on-grade on three sides with low voltage lights and 4' high fence enclosing the pool with locking gates at 17 Proctor Street, Assessor's Map No. 16, Lot No. 17 in District E, filed with the Town Clerk on February 14, 2022, based on a finding the proposed modification is in harmony with the purpose and intent of the By-Law, the new location and smaller size will not be more detrimental or injurious to the neighborhood than the previously issued Special Permit 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 following conditions:

- *The pool, spa, terrace, and fence are sited in accordance with the Site Plan prepared by Mill River Consulting dated 10/27/2021, revised 2/10/22*
- *The pool, spa, terrace, 4' wall and planting bed are constructed in accordance with the Pool Application Pool/Terrace Lighting Plan created by BDS Design dated 2.14.22*
- *All lighting shall be low voltage LED contained within the pool/spa walls, on steps, terrace and in planting bed as depicted in the Example lighting fixture plan created by BDS Design dated 10.26.2021*
- *The 4' high fence and gates shall be constructed in accordance with the specifications of the Manchester Zoning By-Law and the Massachusetts Building Code*

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

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

Ms. Mellish opened the public hearing for the Application of **Brian Stein**, on behalf of David McHale, 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 install a 16' x 32' gunite swimming pool, 7' x 9' spa,

patio and pergola at **15 Proctor Street**, Assessor's Map 16, Lot No.44 in District E, filed with the Town Clerk on February 14, 2022.

Mr. Stein introduced the design of the pool for the permitting process stating his firm was not engaged in the design of the project. He indicated revised plans for the pool and spa had been provided noting the initial design did not meet the offset from the septic tank; the revised plan meets the offset. This change pushed the project slightly into the Buffer Zone. Mr. Stein met with the Conservation Commission, and they are deciding if this falls under their RDA process. There is no indication that the Conservation Commission will require anything more there is only a small portion of the project in the Buffer Zone and that is a spillway of eight square feet for the infinity edge.

Mr. Stein walked the Board through the plan which is east of 17 Proctor Street. The pool is on the north side of the house 16 feet by 32 feet with an infinity edge on the north and west sides. The spa is just off the edge of the house with a pergola proposed with a small stonewall and terrace. The pool is 52-feet off the property line easily meeting all set back requirements. There will be minimal down lighting along the path and steps and in the pool and pergola. The pool is at grade level with the stone patio of the house and a few feet above on the north side.

Ms. Mellish asked if the Board had any questions the Board did not have questions. Mr. Mitchell acknowledged Mr. Stein's excellent presentation.

*Ms. Mellish moved to close the Public Hearing and approve the application of **Brian Stein (BDS Design Inc)** on behalf of David McHale 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 install a 16' x 32' swimming pool and 7' x 9' spa, patio and pergola with low voltage lights and 4' high fence enclosing the pool with locking gates at **15 Proctor Street**, Assessor's Map No. 16, Lot No. 44 in District E, filed with the Town Clerk on February 14, 2022, based on a finding the proposed use is in harmony with the purpose and intent of the By-Law, the structure will not be more detrimental or injurious to the neighborhood 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 following conditions:*

- *The pool, spa, patio, lighting, and fence are constructed in accordance with the ZBA Plan L – 1 created by Brown, Richardson + Rowe, dated March 8, 2022*
- *All lighting shall be low voltage LED downlights on the patio, pergola and within the pool and spa walls as identified in the legend on the ZBA Plan L – 1 created by Brown, Richardson + Rowe, dated March 8, 2022*
- *The 4' high fence and gates shall be constructed in accordance with the specifications of the Manchester Zoning By-Law and the Massachusetts Building Code*

Ms. Howe seconded the motion. The motion passed unanimously by roll call vote.

Ms. Mellish will write the Decision and Ms. Howe will review.

ADMINISTRATIVE MATTERS

- Review and approval of meeting minutes – Meeting minutes will be reviewed during the March meeting.

- Status of Decisions –
The following Decisions are outstanding: 14 Coolidge Point, 11 Lincoln Ave., 9 Lincoln Avenue, 151 Bridge Street, and 2 Alpine Rd.

- Any other administrative matters that could not reasonably have been anticipated in advance of the required 48-hour posting.

There were no additional matters to be discussed this evening.

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