



# 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 June 22, 2022

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

**Member Not Present:** All Members Present

**Staff Present:** Town Planner, Sue Brown, Administrative Assistant, Gail Hunter

**Guests:** Geoffrey Engler, SLV School St. LLC., Jonathan Witten, KP Law, Patrice Murphy, Executive Director, METC, Dan Hill, Hill Law METC, Counsel, Cliff Boehmer, Davis Square Architects and Peer Review Consultant, Leslie Fanger, Bohler Landscape Architects and Dan Riggs, Embarc Architects

#### PUBLIC HEARING – 40 B CONTINUED APPLICATION

Ms. Mellish called the ZBA meeting to order at 7:02 p.m. on June 22, 2022 and introduced the Board.

Ms. Mellish opened 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.

Ms. Mellish stated she has received over 50 letters from residents requesting the Board deny the Application. The letters will be uploaded to the website.

- **Architectural Peer Review**

Ms. Mellish established that Mr. Boehmer was in the meeting, and requested he start by reviewing his updated document dated June 19, 2022 by identifying highlights and any outstanding concerns adding that would be appreciated by the Board.

Mr. Boehmer stated the letter of June 19, 2022 is the second revision of his initial letter of March 21, 2022 and the current letter does not have a lot of new language. He noted:

- Recent materials continue to move in a direction that satisfies his concerns.
- His purview was to look at the immediate impact of the Development and pushed to understand what the project would look like from the road.
- He also was interested in the quality of life for issues residents.
- He believes the Developer had worked to satisfy his requests.
- Mr. Boehmer added there are critical pieces the Developer committed to but are not represented in the documentation.
- He suggested those pieces should be included as Conditions of the Board's approval.
- One core piece of missing information in the revised landscape plan is four season renderings.
- Mr. Boehmer believes it is important that the visual buffering of the Development be documented and for that to become part of the record.
- He supports an accessible path to School Street as a critical part of the Development regardless of the Town extending the sidewalk.
- He noted there was missing documentation around the pump house and bus shelter.
- Mr. Boehmer encouraged the Board to review the aesthetics of the retaining walls noting there are significant differences between the two finishes presented and the Board should opine on their preferred finish.
- Programmable open space the Board should understand what is proposed for young children.
- He suggested the Developer look at methods to connect the Development to the existing trail system to help integrate the Development into what is an important part of the community.

Ms. Mellish asked if a natured themed play area and a playground for young children could be added as Conditions. Mr. Boehmer stated he believes those are appropriate Conditions.

Ms. Mellish also asked about the color of the building suggesting that the white building does not appear to fit into the landscape and a more natural color could reduce the impact of the building. Mr. Boehmer thanked Ms. Mellish for that question adding that the color of the building makes it stand out more than it needs to.

### Board Comments

Mr. Mitchell had several comments and observations:

- #4, page 3 – The Applicant provided two new street level renderings and Mr. Mitchell would like to review those on screen.
- #4b, page 4 – The Applicant agreed to fencing to protect retaining walls and an ADA compliant walkway to play area, both good things. Programmable play areas already addressed.
- #5b, page 5 – Applicant has agreed to sidewalk to School Street which is an excellent concession and amenity. Additionally, the Developer has added screening between the units, the common area, and courtyard.

- #5d, page 5 – Architect has proposed revised plantings for a more layered approach vs. a wall of arborvitae. Mr. Mitchell would like Mr. Boehmer to expand on that statement.
- #5d, page 6 – Applicant has agreed to provide four season digital renderings of screening.
- #5f, page 7 – The Applicant has agreed to add stations for electric vehicles.
- #5I, page 8 – Sustainability issues there is evidence the Applicant will exceed Stretch Code minimums, another good thing.
- #5L, page 8 – Mr. Mitchell requested to see the sustainability memo provided by the Applicant.
- 5m, page 8 – Mr. Mitchell noted the Applicant’s clarifications around CMP and cut & fill analysis. The Developer is projecting 100K cubic yards removed from site which is 63% less than the original projections and will result in fewer truckloads of material leaving the site. This is an improvement.
- #5n, page 9 – Construction of walkway to trails. The Developer has stated there is no interest in connecting a walkway to the trail system. Mr. Mitchell would like the Board to discuss and consider adding as a Condition.

Mr. Mitchell concluded stating he is pleased with the progress that is being made and the Developer’s responsiveness to addressing the needs expressed by the Architectural Peer Reviewer and the Board.

Mr. Binieris noted the following:

- Common area programming for children should be an essential part of the Development.
- He agreed that the landscape plan could benefit from a more layered approach.
- Mr. Binieris would like to see the Development connected to the existing trail system for the reason stated by Mr. Boehmer.
- Mr. Binieris expressed concern around the cut & fill analysis dropping from 270K cubic feet of material to 100K cubic feet of material. He added given the scope and scale of the project and would like to know more specifically the proposed construction and site work costs.
- He would also like to see a Developers proforma for the project including changes and the proposed connection to municipal water and sewer.

Mr. Diedrich stated he had nothing to add at this time but agrees with Mr. Boehmer, Mr. Binieris, and Mr. Mitchell on the importance of connecting to the trail system. He is also interested in the color of the building and the possibility of the building blending more into the existing environment.

Mr. Zahn, Mr. Sollosy and Ms. Howe had no additional questions at this time.

Mr. Boehmer thanked Mr. Mitchell for summarizing his report better than he had and highlighted the following:

- Mr. Boehmer believes the difference from 270K cubic yards to 100K cubic yards of material being truck off site is the Developer’s concern. He added that the change may result from the reuse of materials previously discussed and from the construction management perspective that may not have been taken into consideration initially.

- He noted that the layered look had been addressed in the latest renderings with a mix of trees. The area he suggested for additional layering is the area immediately off the cul-de-sac, but that area is steeply sloped. He believes that changing the perspective view helped.
- Common area programming is needed.
- The color of the building should be further discussed
- Mr. Boehmer suggested the Applicant walk the Board through the Sustainability narrative which he had received.

Mr. Engler stated he appreciated Mr. Boehmer’s review and would be happy to show the additional renderings on the screen.

- The color of the building was changed during the LIP process. Originally the building was comprised of more shades of gray and could be adjusted to include more earth tones.
- Mr. Engler stated he would be happy to work to connect to existing trails, but he does not believe MECT would be happy with that suggestion.
- The 270K cubic feet of fill being removed from the site was an estimate presented by MECT. SLV’s preliminary estimate is 100K cubic feet, and it may be less than that. As the project progresses Mr. Engler stated he will be happy to provide a more accurate estimate.
- Ms. Fanger, Landscape Architect, will speak to the landscaping on the cul-de-sac; however, Mr. Engler believes the changes reflect the recommendations from the last meeting.
- Around programming for children SLV takes no exception and will consider any Condition presented by the Board. Mr. Engler specifically mentioned a play structure for toddlers or children aged 5 to age 11.

Mr. Engler at this point turned the meeting over to Mr. Riggs the Architect and Ms. Fanger the Landscape Architect.

Mr. Riggs stated he would be happy to explore and introduce more color to the building. Originally the building had clapboard, shingles, and a more natural wood element which broke up the scale of the building. Mr. Riggs showed the new renderings showing the building from across School Street at the entrance to Utopia Farm Stand. He noted that the power lines at the opening of the Development were underground with the above ground power lines deeper in the Development. The new renderings included the updated landscaping, signage, and the public entrance.



Embarc  
Sustainability Memo

Mr. Riggs briefly addressed sustainability recommendations for the Development as proposed by Embarc and contained in the above PDF.

Ms. Fanger addressed the following changes to the Landscape Plan:

- At the top of the slope where the arborvitae are proposed the width of the flat space will be increased to allow for additional layering. The gap will be closed-in with evergreen shrubs and trees.
- The current renderings show how much of the natural vegetation is retained especially up the driveway.
- The renderings show the retaining walls with 3-5 years of growth.
- The rain garden at the base of the slope enhances the view from the road.
- The landscape plan calls to increase the height of the fence adjacent to the open space which is meant to be an open space area for tossing a frisbee, playing Bocce, or for residents to add a party tent.
- The nature play area will have play equipment along with nature related opportunities for children.
- Additionally, evergreen trees have been added to soften the view from Old School Street.

Mr. Engler added the bus shelter is not fully developed but will be fully ADA compliant. Ms. Mellish asked if the Board had additional questions; they did not. She opened the meeting to public comment.

#### Public Comment

Dave Comb, 1 Norton's Point – Mr. Comb asked about the upper meadow area and if there was any chance of preserving the existing trees? Lesley from Bohler Design stated that due to proposed grading in the area it was not possible to save existing trees. Mr. Comb asked what was planned for the area below the arborvitae. Lesley replied the area would be a wildflower meadow and trees and shrubs would grow naturally overtime. Mr. Comb confirmed there was no plan to plant trees, that was confirmed.

Mr. Comb also asked about the bus shelter and were there plans for public transportation. Ms. Mellish stated there are currently no plans for public transportation and added that children this close to the schools are within walking distance of the schools. Mr. Engler stated the bus shelter was designed for school age children.

Kerry Almog, 69 Bridge Street – Ms. Almog informed Mr. Engler he was rude for invading the Town for financial gain. She found it unusual that during the meeting we were discussing landscaping when the proposed project was tearing down a conservation area and pointed out there are no sidewalks. Ms. Mellish stated the Town has committed to build sidewalks from School Street to the development as part of the Complete Streets program.

Dave Comb, 1 Norton's Point – Mr. Comb asked about runoff into the conservation area specifically mentioning Sawmill Brook. Mr. Engler replied that was under Civil Engineering and had been scrutinized by the Peer Review Consultant the area has been carefully contemplated and planned for. Ms. Mellish stated all documentation is contained on the Town website under 40B and engineering, storm water drainage documents are on the website.

Jeff Cochand, 15 Vine Street – Mr. Cochand asked how many Towns and cities in MA experience a 7% population growth overall the population growth in MA is < 1%. The proposed

project and increase in population is unmanageable for a small Town and the impact on Water, Sewer and Schools will be a problem.

Sarah Pierce, 9 Friend Street – Ms. Pierce asked to have the sidewalk described, she wanted to know what it was going to look like and how it could be used and traversed. Mr. Engler stated there may be confusion between the sidewalk and paths. The paths are to connect to the trail system and the sidewalk is an ADA compliant sidewalk along the side of the road. Ms. Pierce added that no one will be able to afford even the “affordable units” in the proposed development.

Patrice Murphy, Executive Director, MECT – Ms. Murphy stated this evening brings together the Architectural Peer Reviewer, the Developer and the Town all agreeing that the building needs to be hidden, softened, and naturalized in what is now a perfectly natural setting. That is the only way a building of this mass and scale will fit into the proposed setting. Ms. Murphy wanted to clarify that there have been no conversations between the Developer and MECT about connecting the project to any existing trails. Additionally, she urged the Developer to stick with natural plant species for the area that is being ripped open and left vulnerable to invasive species. Ms. Murphy encouraged the Board to get comprehensive plans prior to closing the Public Hearing.

Jeff Cochand, 15 Vine Street – Mr. Cochand asked for the Developers financial statement. Ms. Mellish stated that was not being discussed this evening.

Kerry Almog, 69 Bridge Street – Ms. Almog expressed concern about coyotes in the area. Ms. Mellish stated that was not being discussed this evening.

Dan Hill, MECT Counsel – Mr. Hill asked a process question. When will the water capacity analysis be completed. Ms. Mellish stated that would be available with the Municipal Feasibility Study.

Mr. Engler stated that the data was complete, and the final analysis would be ready in two weeks.

Dave Comb, 1 Norton’s Point – Mr. Comb asked about sustainability noting that the one-page summary provided was a small list of items and asked about solar energy, geothermal energy, and other means to offset the carbon footprint. Mr. Engler stated everything is under consideration, but the design team is not at that point. Sustainability is important to SLV and prior to being provided with a building permit the Town will be provided with additional details.

Gar Morse, 11 Jersey Lane – Asked the Chair if he could ask Mr. Engler a question. Ms. Mellish stated questions for Mr. Engler needed to come through the Chair. Mr. Morse asked if the development was safe for a nine-year-old child walking to school to come down from the building and walk to school. Mr. Engler replied he has built developments in Boston, Brookline and Cambridge and children walk to school on sidewalks in very busy communities. He believes it will be safe for a nine-year-old child to walk to school.

- **Discuss Conditions and Waiver Requests**

Ms. Mellish stated one item deferred and with an outstanding question relates to the height of the building. Ms. Mellish indicated there was an elevator that goes to the top of the building and a roof deck, and she is interested in knowing how that impacts the height of the building. Mr. Engler asked if Mr. Riggs, the Architect, could speak with the Building Inspector for help with interpreting the Zoning By-Law. He admitted he does not know if he needs to request a waiver for the height of the building. Ms. Mellish stated the only thing allowed over 35 feet is a spire. Ms. Engler would like to confirm that with the Building Inspector. Ms. Mellish allowed that Mr. Engler could speak with the Building Inspector.

Ms. Mellish asked about signage indicating Mr. Engler provided a sign depicting a 4'x5' sign and asked if Mr. Engler would be comfortable with that size. He replied he was. The Town allows for signs 3'x3'. Mr. Mitchell stated 6'x6' is too large and 3'x3' is too small but the 4'x5' sign was a good size and favorable compromise. The Board discussed and agreed. Ms. Howe recommended the sign be either backlit or down lighted. The Board discussed and agreed.

Mr. Diedrich had a question about the retaining walls stating given the height of the walls was there a way to assure that no one could climb the walls and accidentally fall off. Mr. Boehmer stated the walls would need to be code compliant. His understanding was the public would not have access to the walls due to landscaping, but it is a good question and a possible consideration for a Condition to assure the safety of residents.

*Ms. Mellish moved to approve the waiver under Section 6.4.3.2 of the Zoning By-Law for a 4'x5' sign either backlit or with down lighting for the Sanctuary-by-the-Sea Development; Mr. Mitchell seconded the motion. The motion passed unanimously by roll call vote.*

- **Next Meeting, Continue Public Hearing to 7/13/2022**

Agenda items will include:

- Environmental with Wildlife Habitat Study
- Water and Sewer Connections
- Environmental Waivers and Conditions

*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 July 13, 2022 at 7:00 p.m. Mr. Diedrich seconded the motion. The motion passed unanimously by roll call vote.*

## **ADMINISTRATIVE MATTERS**

- **Review and approval of meeting minutes:**

*Ms. Mellish moved to approve the Meeting Minutes for April 27, 2022; Mr. Zahn seconded the motion. The motion passed unanimously with Ms. Mellish, Mr. Zahn, Ms. Howe, Mr. Binieris, Mr. Diedrich, Mr. Sollosy, and Mr. Mitchell voting affirmatively.*

- **Any other administrative matters that could not reasonably be anticipated in advance of the meeting.** There were no additional matters to discuss this evening.
- **Adjourn --** *Ms. Mellish moved to adjourn the meeting; Mr. Diedrich seconded the motion. The motion passed unanimously by roll call vote.*