

**BOARD OF APPEALS**  
**Minutes of Meeting**  
**MARCH 12, 2024**  
**(All agenda items continued from February 27, 2024)**

A regularly scheduled and noticed meeting of the Board of Appeals was held on **Tuesday March 12, 2024**, remotely on Zoom, and was called to order by Chairman Bill Moriarty at 7:30 PM. (All agenda items from the February 27, 2024 were continued to this date)

Present were five Board members *Barlow, Krasker Rudolph, Casey, Moriarty*.

This hearing was held in accordance with the provisions of the Marblehead Zoning Bylaw, and Chapter 40A of the General Laws as amended. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this public hearing of the Marblehead Zoning Board was conducted via remote participation.

**Roll call for attendance:** Bill Barlow, Bruce Krasker, Bill Rudolph, Chris Casey, Bill Moriarty.

**AGENDA ITEMS FOR MARCH 12, 2024 HEARING** are applications that were scheduled to be heard at the February 27, 2024 meeting. An error in posting the February agenda caused the meeting to be rescheduled.

**New Business Topics:** Hearings for Special Permit, or Variance, or Both

**7:30 PM 2 Nonantum Road – Bessom Associates Inc., inclusive of Thomas Groom** – to vary the application of the present Zoning By-law by allowing a Special Permit to construct a new single family dwelling with attached garage to replace an existing single-family dwelling and a detached garage on a preexisting non-conforming property with multiple dwellings on one lot and less than the required front yard setback, located in the Shoreline Single Residence District. The new construction will be within the front yard setback. Attorney Matt Wolverton presented the application for construction of a new home on the site of an existing house and garage. Nonantum Road, part of Bessom Associates, is a unique situation because it is an association of owners and has certain standards including a zero lot line. All the land is owned by Bessom Associates and incorporates multiple dwelling units. When an owner purchases a lot, they get a 99 years lease and shares. There are various internal rules 2 Nonantum Road is an unusual lot off the end of Village Street. The project has received approval from Bessom Associates, Conservation Commission and Planning Board. The existing blue house and detached garage will be removed and a new dwelling constructing. The ZZA application seeks relief for front yard setback along Village Street. Zach Millay (Pitman and Wardley) presented the design – a home on concrete piers with crushed pea stone beneath; height will be 29'10" which is below 30' ZBA requirement. There will be knock-out panels/flow though panels so water can float in and out. Condenser

units will be placed above the floodplain line. There were no questions from the Board. Gregg Thibodeau, Clerk for Bessom Associates, spoke in support of the project. Thomas Amsler and Mary Shilling, 29 Nonantum Road, sent a letter to the Board regarding a Spruce tree on the 2 Nonantum property that they would like to have preserved. Mr. Wolverton said that he has spoken to Mr. Amsler and the project will accommodate preserving the tree and moving it safely to another location. Amended plans submitted on February 5<sup>th</sup> to the Board identify relocated windows. A motion was made to close the hearing (Barlow, Krasker). Bralow, Casey, Krasker, Rudolph, Moriarty. All in favor. A motion was made to issue a special permit with the revised plans (windows) and a special condition to include safe relocation of a spruce tree. Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor.

#### **SPECIAL PERMIT WILL ISSUE**

**7:30 PM 29 Pinecliff Drive – Groom Construction Company, Inc.** – to vary the application of the present Zoning By-law by allowing a Special Permit to construct a new existing single-family dwelling on a conforming property, located in the Shoreline Single Residence District. The new construction will be within the side yard setback and exceed the maximum allowed height. Attorney Matt Wolverton and architect Craig Bosworth represented the application for new construction of a single family home on a vacant lot. The lot is dimensionally conforming but the project seeks relief for sideway setback and for height (due to topography; land slopes from street level to Salem Harbor). The Grooms with met with neighbors to ensure privacy. The lot will have lots of stepping and landscaping and a patio. Mr. Barlow asked about grading being existing or will be manipulated and would there be retaining walls. Mr. Bosworth said no walls and the sloping would be terraced, flat areas meant to follow the natural grade of the land. There were no further questions from the Board. Bryan Poisson, 50 Pinecliff Road, said that he has had a number of conversations with the Grooms and is in favor of the proposal but has concerns about location of HVAC units and would prefer to have them located on the right side of the garage. He also wanted to make sure electrical would be underground, and a question about location of workers' portapotty. Mr. Moriarty commented that Marblehead Electric would field the request about underground. Mr. Groom spoke and stated that it was always the intent to bring electrical underground and an electric pole across the street should be amendable to Marblehead Electric. Regarding the HVAC location, there are code issues with proximity of HVAC to windows, they might be able to adjust. A motion was made to close the hearing. (Krasker, Barlow). Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. A motion was made to issue a special permit with the usual conditions and a condition to make best efforts to work with Marblehead Electric and relocate the electrical service underground. Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE**

**7:30 PM 5 Lafayette Street – Michael Phelan** – to vary the application of the present Zoning By-law by allowing a modification of a Special Permit issued to construct additions to a single family dwelling on a preexisting nonconforming property, with less than the required lot area, front and rear yard setbacks, located in the Single Residence District. The modifications involve eliminating the previously approved ramp and adding open deck, change in location of door and an HP lift. Attorney Paul Lynch represented the application to relocate a handicapped ramp and a garage door (material change) to a previously approved addition and new garage construction at 5 Lafayette Street. The addition and garage project

had been under construction when a number of modifications better served the project. Several modifications were approved administratively by the ZBA Board on January 23, 2024. Several abutters submitted letters of support. No one spoke in favor or in opposition. A motion was made to close the hearing. (Barlow, Krasker). A motion was made to issue a special permit with the usual conditions. Barlow, Casey, Krasker, Rudolph, Moriarty.

#### **SPECIAL PERMIT WILL ISSUE**

**7:45 PM 9 State Street – Michael Ferraresto** – to vary the application of the present Zoning By-law by allowing a Special Permit for the change of use from a commercial/residential use to a multifamily use and to construct an addition to the existing mixed use structure on a preexisting non-conforming property with less than the required lot area, side yard setback, open area and parking, located in the Unrestricted District. The new construction will be within the side yard setback and further reduce the open area and parking required. Architect Walter Jacob presented the application for a change of use application from a mixed use to a residential use, along with a third floor dormer addition, noting that parking requirement goes down for residential use and that the open area ratio would increase (in a good way). The property is located in between Maddie's and Crosby's Market. There were no additional questions from Board. Nobody spoke in favor of the application. John Kelly, on Merrit Street and a Washington Street expressed concerns about parking in an already congested area and doesn't approve a 6-7 units residential use if there isn't adequate parking. Mr Moriarty asked Walter Jacob to address. Mr. Jacob said that application shows a reduction of spaces but a commercial tenant would require more parking, likely has cars and trucks blocking the street. The application helps the neighborhood. Mr. Kelly restated that 7 units will bump parking. The hearing closed. Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. Mr. Casey agreed that a commercial option would present more of a problem. Krasker, Rudolph agree. A motion was made to issue a special permit for the change of use and approve the application with the usual conditions. Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE**

**7:45 PM 291 Ocean Ave – Neha & Pratik Patel** – to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition to an existing single family dwelling on a preexisting nonconforming property, with less than the required lot area, frontage, side yard setback and exceeds the maximum height, located in the Shoreline Single Residence District. The new construction will be within the side yard setback, further reduce the open area and exceed the maximum allowed height, and the 10% expansion limits for a nonconforming building. Architect Walter Jacob presented the application for the Patel's noting that the interesting thing about the home, is that it has a submarine bunker built into the home and can't be removed, but it's also difficult to work with. The bunker is five stories with a basement, it was a lookout tower and there is a permanent right of way to maintain the view corridor. The project before the board is to enclose a porch (adding no square footage) and bumping out five feet and adding a ground level bedroom living space (approx. 75 square feet of additional space, but it comes within the 10' setback. A bridge addition on a second level will connect the house to the tower and will be enclosed within an alcove to the house and helps access a bedroom and connect to the tower. A couple of letters of support were submitted and neighbors are positive about the project. There were no questions from the Board. Chris Casey commented on the unusual and cool petition, likes the

part of local history on the site. Rod Gerraty (neighbor) commented that the Patel's have invested a lot in the house and is happy that the nonfunctional tower can now become functional; work is minimal and will improve the house. No one spoke in opposition. A motion was made to close the hearing. (Barlow, Casey) Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. Mr. Moriarty proposed that, considering the new construction doesn't alter appearance much and having a view corridor is helpful, that Board could proceed with a vote to issue a special permit with the usual conditions. Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE**

**8:00 PM 67 Glendale Road – Barry Yackolow** – to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition to an existing single family dwelling on a preexisting nonconforming property, with less than the required lot area, frontage, lot width, side and front yard setbacks, located in the Single Residence District. The new construction will be within the front and side yard setbacks and exceed the 10% expansion limits for a nonconforming building. Applicant requests to withdraw the application. Motion was made to withdraw the application. (Casey, Barlow). Barlow, Casey Krasker, Rudolph Moriarty. All in favor. **APPLICATION IS WITHDRAWN WITHOUT PREJUDICE**

**8:00 PM 19 Linden Street – Griffin Booth** – to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition to an existing single family dwelling on a preexisting nonconforming property, with less than the required lot area, side and front yard setbacks, located in the Single Residence District. The new construction will be within the side yard setbacks, reduce the open area to less than required and exceed the 10% expansion limits for a nonconforming building. Attorney Paul Lynch and architect Jeff Tucker presented the application for an addition to a property on the corner of Guernsey and Linden that has front and sideway setback deficiencies. The addition will add 22 sf to the first floor and 510sf to the second floor. A new deck will be constructed in place of an existing one. Jeff Tucker walked the Board through the plans. There were no further questions from the Board. Erin McMahon asked a question about the property and encroachment. Cecily and Benjamin Cushman, 15 Guernsey inquired about the driveway and how close it will be to the lot line. Mr. Tucker explained that there will be a curb cut that is not part of the ZBA process. He explained the radius, entry to garage for the project. A motion was made to close the hearing. (Krasker, Rudolph) Barlow, Casey, Barlow, Rudolph, Moriarty. All in favor. Mr. Casey commented applicants should go to neighbors with applications and field any concerns. Given the small lot, the Board can issue a special permit with the usual conditions. Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor.

**SPECIAL PERMIT WILL ISSUE**

**8:15 PM 10 Naugus Avenue – Richard Jordan** – to vary the application of the present Zoning By-law by allowing a Special Permit to construct a new single family dwelling on a preexisting nonconforming property, with less than the required lot area and side yard setbacks, located in the Shoreline Single Residence District. The new construction will be within the side yard setbacks, reduce the open area to less than required and exceed the 10% expansion limits for a nonconforming building. Attorney Paul Lynch and architect Jeff

Tucker presented the application. The application indicates a 1:1 open air ratio, however, the legal ad and abutters notice indicated that the project was below the open air ratio. The application is for a new dwelling on 10,208 sf lot. The lot will be reduced to 8550 sf when the road is removed as part of the development. The project was approved by the Planning Board. The home will be on Naugus Avenue but access through Roydon driveway. The front setback will become the rear setback. The Building will step down with the grade, the roof ridge is perpendicular to the water and will preserve water views. A motion was made to close the hearing. (Krasker, Barlow) Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. A motion was made to issue a special permit with the usual conditions. Casey, Krasker, Barlow, Rudolph, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE**

**8:15 PM 124 Front – Deborah Clarke** – to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition to an existing single family dwelling on a preexisting nonconforming property, with less than the required lot area, side and rear yard setbacks and parking, located in the Shoreline Central Residence District. The new construction will be within the side yard setback. Attorney Matt Wolverton represented the application for an addition at 124 Front Street. Homeowner, David Clarke, was on the Zoom call also. The application is for a proposed shed at the rear of the lot is in the sideyard setback as well as an addition at the rear of the home structure, partially located in the setback. The shed and the addition were approved by the Old and Historic District. Mr. Krasker asked about the location of shed, under 2 feet from the setback, and can it move further in on the lot. Mr. Clarke commented that there is a spruce tree nearby and if the shed is moved inward, they would have to remove the tree. Mr. Casey commented that maintenance of the shed can happen if shed is two feet from property line, as long as the work doesn't require going on neighboring property to maintain it. Mr. Wolverton has a letter of support from neighboring direct abutters. The application will withdraw the request for a shed but seeks relief for the addition at the back of the home. A motion was made to withdraw the shed portion of the application (Barlow, Rudolph). Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. A motion was made to issue a special permit for the addition. Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE**

**8:30 PM 20 Euclid Avenue – Kevin and Caroline Wotjas – (continued from January 23, 2024 - evidence taken)** – construct an addition to an existing single-family dwelling on a preexisting non-conforming property with less than the required lot area and rear yard setbacks, located in the Single Residence District. The new construction will be within the rear yard setback and exceed the 10% expansion limits for nonconforming buildings. Applicant requests to continue to March 26, 2024 at 8:30 PM. A vote to continue the hearing to March 26, 2024 at 8:30 PM. Barlow, Casey, Krasker, Rudolph, Moriarty. All in favor.  
**HEARING CONTINUES TO MARCH 26, 2024 at 8:30 PM**

**Respectfully submitted,**

**Senior Clerk, Engineering**