

TOWN OF MARBLEHEAD
BOARD OF APPEALS
Minutes of Meeting
March 23, 2023
(and continued hearing April 18, 2023)

A regularly scheduled and noticed meeting of the Board of Appeals was held on **Tuesday, March 23, 2023**, remotely on Zoom, and was called to order by Chairman Bill Moriarty at 7:30 PM.

Present were five Board members *Moriarty, Lipkind, LaBrecque, Barlow, Casey. Marc Liebman, and Bruce Krasker sat in on continued hearing for 181 Washington Street.*

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.

Zoom recording is available at: ***No Recording available for March 23, 2023 portion of the meeting.***

Roll call was taken to ensure a quorum was present and the meeting was called to order. ***Moriarty, Lipkind, LaBrecque, Barlow, Casey, Liebman, Krasker.***

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7:30 PM 181 Washington Street – Andrew Finley and Nancy Mantilla – change of use from an accessory use to a single family use pursuant to sec 200-31 of the zoning bylaws on a preexisting non-conforming property in a Central Residence District. (*continued from January 24, 2023 – evidence taken*) **Krasker, Casey, Labrecque, Liebman, Moriarty** – to hear Attorney Matt Wolverton Lausier and Attorney Matthew Wolverton reviewed the continued change of use application for 181 Washington Street and presented proposed easement language for the parking spaces at the property. The Board reviewed the easement language. No one spoke in favor or opposition to the applicant and easement language. A motion was made to close the hearing. (Barlow, Labrecque). Liebman, Labrecque, Barlow, Casey, Lipkind, Moriarty. The board voted to issue the change of use permit with the usual conditions in addition to requiring recording of easement at Registry of Deeds. Labrecque, Barlow, Liebman, Casey, Lipkind, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE**

7:30 PM 10 Hawkes Street – Deborah Collier-Comins
The Board of Appeals opened a public on the request of **Deborah Collier-Comins** to vary the application of the present Zoning By-law by allowing a Special Permit to construct new stairs and landing to a preexisting multi-family dwelling on a preexisting non-conforming property with less than the required lot area, rear yard setback, side yard setback open area and parking and exceeds the maximum height located at **10 Hawkes Street** in the Business Residence District. Architect Jeff Tucker presented the application for construction of a set of stairs that will lower the open space ratio by .01. There were no additional questions from the Board. No one spoke in favor or opposition of the application. A motion was made to close the hearing. (Barlow, Labrecque). Labrecque, Barlow, Casey, Lipkind, Moriarty. All in favor. A motion was made to issue a special permit with the usual conditions. Labrecque, Barlow, Lipkind, Casey, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE**

7:30 PM 30 Pilgrim Road – Chris Ronshagen & Jessica Kenney
The Board of Appeals opened a public hearing on the request of **Chris Ronshagen & Jessica Kenney** 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 non-conforming property with less than the required lot area, lot width, frontage, front yard setback, rear yard setback, side yard setback, open area and parking and exceeds the maximum height located at **30 Pilgrim**

Road in the Single Residence District. The new construction will be within the side yard setback, exceed the maximum height and 10% expansion limits for a non-conforming building. Attorney Paul Lyn and architect Jeff Tucker presented the application for 595 sf addition to the basement at the rear of the dwelling and 195 sf first floor addition to allow for a stairway to the basement addition. Applicants have reached out to neighbors and there's no opposition to the project. Mr. Barlow asked when the house was built. The homeowner said that it was a/about a 1925 house. Mr. Lipkind asked if there is access to the property via Briar Lane (an old street that is now just a walking lane). The owner said that the first part of Briar Lane is a shared driveway with the neighbors and at their house Briar Lane becomes a walking path. There were no further questions from the Board. No one in the assembly spoke in favor or opposition. A motion was made to close the hearing. Barlow, Labrecque. Labrecque, Barlow, Lipkind, Casey, Moriarty. (All in favor). With the usual conditions, the Board voted to issue a special permit. Labrecque, Barlow, Lipkind, Casey, Moriarty. (All in favor). **SPECIAL PERMIT WILL ISSUE**

7:45 PM 21 Bessom Street – JB Capital LLC

The Board of Appeals opened a public hearing on the request of **JB Capital LLC** to vary the application of the present Zoning By-law by allowing a Special Permit to 1) change from a preexisting nonconforming use (combined commercial/six residential units) to another nonconforming use (twelve residential studio units) and 2) egress additions on a preexisting non-conforming property with less than the required lot area, rear yard setback, side yard setback, open area and parking and exceeds the maximum height located at **21 Bessom Street** in the Business One District. The new construction will be within the side and rear yard setbacks and further reduce the open area and exceed the maximum height.

Attorney Paul Lynch and architect Derek Bloom presented the application for an egress on the right side of the building that needs access to the public way. The existing building is a mixed use building, commercial on first floor and six (6) units above on three floors. The building lacks egress code compliance. The Building Commissioner and the Fire Captain have reviewed the plans. The proposal will create interior corridors on each floor with access to the new stairway, which will result in creating 32-35 smaller studio apartments (likely 1 person units). The new configuration provides a lower rent solution for renters and a will solve the issue of an unsafe egress, as the stairway will be enclosed. Parking would be available at Roundhouse Road or other streets. Mr. Moriarty asked, if by doubling the rental units, is the project contributing to parking issue. Mr. Barlow asked if the property owner considered asking for permit parking in the shopping

center. Mr. Lynch stated the property is owned by the Rockett family and they patrol parking in the shopping center lot all day long. There were no further questions from the Board.

Tina Holly, 22 Anderson Street, spoke against the project citing decrease in parking spaces in the area and traffic problems and trash overflow as problems. She inquired about the number of occupants allowed to live in each apartment.

Graham Jones, a realtor, 19 Heritage Way, referenced Mr. Lynch's comment about the proposed units being made available at a lower rent price point, stating that only two units have been posted for rent. He asked if the managing company would promote lower income apartments? He inquired about the handling of snow emergencies in the town and how they would handle parking.

Annette Stammnitz, 9 Heritage Way, spoke in opposition, objecting to the design and concerned about number of occupants and additional cars seeking parking in the area. Roundhouse parking would not be an option because it's full all the time and the overflow comes up Heritage Way. She expressed concern for the quality of life for others in the neighborhood and that trash overflow could get worse.

Mark Driscoll is an immediate abutter and owns the property behind the building. He concurs that there is not much parking in the area. He opposed the stair design at the back of the building, the stairs service four stories to the alley at grade – a four story egress is too much. He opposes the doubling amount of the units at the expense of the neighbors and how it will affect property values. He thought the owner should've reached out to neighbors for input.

A motion was made to close hear hearing. (Barlow, Labrecque).

At this point the Zoom meeting was disconnected.

The meeting continued on April 18th. See below.

TOWN OF MARBLEHEAD
BOARD OF APPEALS
Minutes of Meeting
April 18, 2023
(continued hearing from March 28, 2023)

A regularly scheduled and noticed meeting of the Board of Appeals was held on **Tuesday April 18, 2023** remotely on Zoom, and was called to order by Chairman Bill Moriarty at 7:30 PM. **Most of these hearings were continued without evidence taken, from the March 28, 2023 meeting which experienced technical difficulty partially through the hearing, meeting was unable to proceed.**

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.

Zoom recording is available at

https://us06web.zoom.us/rec/share/2arMQz9kBNsr6DxziiWvFenouCo45ydGsyd3Dcv8SZz_RN3EEPxofpxU5dGsj4fD.v3535_wsQyBby1bP

Passcode: 3J%T%L%M

Roll call was taken to ensure a quorum was present and the meeting was called to order. ***Moriarty, Lipkind, Labrecque, Casey, Barlow.***

**7:30 PM 14 Crestwood Avenue – Richard and Lynne Breed –
ADMINISTRATIVE HEARING – windows**

Veronica Hobson, Taproot Design, representing Lynne and Richard Breed, presented a request for administrative approval to relocate winder windows originally shown on the rear elevation to the front elevation and the narrower windows, originally shown on the front elevation to the rear. The reversal of the windows allows for a more consistent window pattern along the street elevation. windows. A ZBA application for an addition on the left side of the home for a

dining room addition went before the Board in October 25, 2022 and was approved. There were no questions from the Board and the request was deemed nonmaterial. Roll call on approving the request, Barlow, Labrecque, Casey, Lipkind, Moriarty (All in favor). **ADMINISTRATIVE REQUEST APPROVED**

7:45 PM 21 Bessom Street – JB Capital LLC

The Board of Appeals opened a public hearing on the request of **JB Capital LLC** to vary the application of the present Zoning By-law by allowing a Special Permit to 1) change from a preexisting nonconforming use (combined commercial/six residential units) to another nonconforming use (twelve residential studio units) and 2) egress additions on a preexisting non-conforming property with less than the required lot area, rear yard setback, side yard setback, open area and parking and exceeds the maximum height located at **21 Bessom Street** in the Business One District. The new construction will be within the side and rear yard setbacks and further reduce the open area and exceed the maximum height.

Paul Lynch requested to withdraw the application without prejudice. A written request to withdraw the application was submitted to the Engineering Department for the file. A motion was made to allow the withdrawal. Barlow, Lipkind, Labrecque, Casey, Moriarty. (All in favor).

MOTION TO WITHDRAW APPLICATION ALLOWED

7:30 PM 20 Puritan Road – Charles Knight

The Board of Appeals opened a public hearing on the request of **Charles Knight** 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 non-conforming property with less than the required lot area, frontage, rear yard setback and side yard setback located at **20 Puritan Road** in the Single Residence District. The new construction will be within the side yard setback and 10% expansion limits for non-conforming building.

Attorney Paul Lynch and architect Jeff Tucker, along with the home owner, Charles Knight presented the application to add a first story addition and one car garage to an existing Bungalow. Mr. Lynch stated the property has been in the Knight family since 1974. The deck and the garage will encroach into the setbacks. A second floor addition includes two bedrooms and a bathroom. The overall design of the firm is in keeping with surrounding properties. The plans have been shared with abutters on either side of the property and two home owners across the street. Mr. Barlow commented that there is very little of the existing building remaining and that it looks like a new construction. That was his observation. Mr. Moriarty stated that the expansion is considerable at 88% but the open area remains close to

1-1. No one spoke in favor or opposition and motion was made to close the hearing (Barlow, Labrecque). Labrecque, Casey, Barlow, Lipkind, Moriarty. (All in favor). Reference was made to Mr. Barlow's previous comments about new construction. Mr. Casey commented and appreciated the overall design of the new addition. A motion was made to issue a special permit with the usual conditions. Barlow, Casey, Labrecque, Lipkind, Moriarty. (All in favor).

SPECIAL PERMIT WILL ISSUE

**7:45 PM 24 Lee Street – Building D – Harborside Condominium Trust –
*Administrative Hearing*** for a deck railing and egress.

Architect Jeff Tucker presented request for new deck railing and egress. He explained that Building D has been before the ZBA twice before and has received Conservation, Old and Historic, and Zoning permits to repair the decks, stairs, and construct a new fire egress. Subsequently, the Condo Trust could not secure a builder and special permits expired, and the project was re-submitted and re-approved.

Condo owners and builders discussed installing sprinklers within the building negating the need for the stairs that were initially proposed. This administrative request seeks to remove the stairs from the plan and a connecting deck/bridge on the third floor, indicating he thinks the changes are not material in nature. There is not an increase GFA and no dimensional changes to the plans.

Mr. Barlow stated that he believes there is a significant change to the exterior of the building and how it functions and that the changes are material changes. Mr. Moriarty commented that the item is on the agenda as an administrative hearing and was not advertised.

Mr. Casey commented that there is a reduction. Mr. Labrecque agreed that there is a change.

Mr. Lipkind aligned his comments with Mr. Barlow indicating that a ZBA application would be appropriate. Mr. Moriarty agrees.

A motion was made vote on whether or not the request is a material change (that would require a public hearing – a yes vote = material change; a no vote = non material change). Barlow = yes, Labrecque = no, Casey = no, Lipkind = yes, Moriarty = yes. 3-2 vote = material change and application and public notice required. **ADMINISTRATIVE HEARING DENIED**

7:45 PM 49 Cloutman's Lane – Bing and Heidi Lim

The Board of Appeals opened a public hearing on the request of **Bing and Heidi Lim** to vary the application of the present Zoning By-law by allowing a Special Permit or variance to construct additions to an existing two-family dwelling on a preexisting non-conforming property with less than the required side yard setback and parking and that exceeds the maximum height limitation located at **49 Cloutman's Lane** in the Single Residence District. The new construction will be within the front yard setback and exceed the maximum height.

Architect Bruce Greenwald presented the application to restore some of the architectural elegance to the building and change the footprint of the porch and entry to represent a more Victorian and historical look, as well as change out windows on the third floor and incorporate a turret.

Mr. Greenwald showed a historic photo of the building that included a very tall turret.

Many of the changes are taking place on the back side of the building and not visible. The bulk of the house is conforming, except for the height of the roof in the back. The encroachment is with the footprint of the front porch and they are asking for relief for this change.

Mr. Moriarty asks about an accessory structure on the property. Mr. Greenwald said that it is an existing garage and will have no changes; it is an existing lawful, nonconforming use, in place since 1970s. The existing height of the building is already excessive and would go up another 12' for the turret.

Mr. Lipkind asked about the current use of the property. Mr. Greenwald said that it is an existing two family home in a single family residence district. There is not a change of use requested in this application. Mr. Barlow commented the on the nice design elements. Mr. Greenwald said that Bing and Heidi Linn have spoken to neighbors and received verbal support. No one spoke in favor or opposition to the renovations a Motion was made to the close the hearing (Barlow, Labrecque). Casey, Lipkind, Barlow Labrecque, Moriarty. (All in favor).

Mr. Lipkind asked if the turret would be habitable and could it be considered floor area but doesn't increase it to use it as a square footage? Mr. Greenwald didn't think so. Mr. Barlow said he visited the site and there was plenty of open space

Mr. Moriarty reiterated the design was very nice and that with the usual conditions the Board could make special permit findings. Barlow, Labrecque, Casey, Lipkind Moriarty. (All in favor). **SPECIAL PERMIT WILL ISSUE**

8:00 PM 16 Washington Square – Laurie Flowers

The Board of Appeals opened a public hearing on the request of **Laurie Flowers** to vary the application of the present Zoning By-law and a previously issued Special Permit by allowing a Special Permit to construct a shed as an accessory to an existing single-family dwelling on a preexisting non-conforming property with less than the required side yard setback and parking and exceeds the maximum height located at **16 Washington Square** in the Central Residence District. The new construction will be within the rear and side yard.

Attorney Paul Lynch represented the application for an 80.3 sf shed that would be placed 5' from rear lot line and 3' from side lot line. Height of shed is 12' (Marblehead bylaw states that height can be 16').

A prior special permit was granted for additions to the main house in 2020 and included a condition for no new changes without applying to ZBA. The shed has received a Certificate of Appropriateness by The Old and Historic Districts Commission.

Ann and Dudley Welch at 55 Lee Street – commented that the shed, where it is proposed, is more in line with design of back yard and is compatible with the plantings and open spaces. They spoke in favor of the application.

Biff Michaud at 37 Lee Street is a direct abutter to the home at 16 Washington and has a very specific objection to the shed. His property sits 5' lower than where the proposed shed will be and the height of shed will impact treasured views of Abbot Hall. He wants his view preserved.

Mr. Barlow stated that he went to the site and appreciates Mr. Michaud's concern about being overwhelmed by structure, given the grade differential. He commented that there are other locations on the property that would be equally within right and would have less impact on abutters. A motion was made to close the hearing (Barlow, Casey). Barlow, Labrecque, Casey, Lipkind, Moriarty. (All in favor). Mr. Barlow restated that there are other locations on the site without deleterious effects on the abutters. The proposed location overruns the property. Mr. Casey agreed, that lot of 1200 sf, has a lot of space and other locations would not have an adverse impact. Mr. Lipkind concurs, as does Mr. Labrecque.

Mr. Lynch suggested continuing the hearing.

The board re-opened the hearing to vote to continue the hearing to June 27, 2023. Barlow, Labrecque, Casey, Lipkind, Moriarty. (All in favor). The Board voted to continue the hearing to June 27, 2023 at 7:45 PM and will allow for the opportunity to amend the plans if that's what the applicant intends to do.

CONTINUED TO JUNE 27, 2023 at 7:45PM (*evidence taken*)

8:15 PM 232 Pleasant Street – Collins Farhat and Brittany Blando

The Board of Appeals opened a public hearing on the request of **Collins Farhat and Brittany Blando** 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 non-conforming property with less than the required lot area, lot width, frontage, front yard setback, side yard setback and parking located at **232 Pleasant Street** in the Single residence district. The new construction will be within the side yard setback and 10% expansion limits for a non-conforming building.

Architect Craig Bosworth presented the application for an addition to the back of the property that would allow for some interior changes to improve the living space of the home. The project has support from neighbors at 6 Bubier Road, 230 Pleasant Street, and 234 Pleasant Street. Currently, there is an unfinished storage room and a bulkhead that would be removed to a space for a bedroom, hallway, laundry room and small dining area and deck. There were no additional questions from the Board. No one spoke in favor or opposition to the project. A motion was made to close the hearing. Labrecque, Casey, Lipkind, Barlow, Moriarty. (All in favor). Mr. Barlow referenced the site plan and had a concern about the two parking spaces in the back and wondered how that would be impacted. The Board voted to issue a special permit with the usual conditions. Barlow, Labrecque, Casey, Lipkind, Moriarty. (All in favor). **SPECIAL PERMIT WILL ISSUE**

8:15 PM 14 Beacon Street – Tia and Mark Gonzales

The Board of Appeals opened a public hearing on the request of **Tia and Mark Gonzales** to vary the application of the present Zoning By-law by allowing a Special Permit to construct additions to an existing single-family dwelling on a preexisting non-conforming property with less than the required lot area, frontage, front yard setback and rear yard setback located at **14 Beacon Street** in the Single Residence District. The new construction will be within the front and rear yard setbacks.

Architect Bruce Greenwald presented the application that would eliminate the entrance on Gingerbread Hill and construct an entrance with mudroom and laundry space closer to the parking area. Additional project work includes window changes and moving a condenser around to the back of a property. No one spoke in favor or opposition to the project. Mr. Greenwald stated that homeowners have spoken with neighbors and have received verbal support for the project. A motion was made to close the hearing (Casey, Barlow). Labrecque, Barlow, Casey, Lipkind, Moriarty. A motion was made to issue a special permit with the usual conditions. Barlow, Labrecque, Casey, Lipkind, Moriarty. (All in favor). **SPECIAL PERMIT WILL ISSUE**

8:30 PM 250 Humphrey Street – John Fedas

The Board of Appeals opened a public hearing on the request of **John Fedas** to vary the application of the present Zoning By-law by allowing a Special Permit to change from one preexisting nonconforming use (personal service - dry cleaner) to another nonconforming use (retail kitchen design showroom) on a preexisting nonconforming property with less than the required front yard setback, open area and located at **250 Humphrey Street** in the Single Residence District. Barry Turkanis (property owner) represented the change of use application to the Board. The space will change from a cleaner business to a retail kitchen design show room. Mr. Lipkind asked out use. Mr. Turkanis replied that space will be for cabinet display a showroom. There were no further questions from the Board. No one spoke in favor or opposition to the application. A motion was made to close the hearing (Casey, Labrecque). Labrecque, Lipkind, Casey, Barlow, Moriarty. (All in favor). A motion was made to issue a special permit for the request. Barlow, Labrecque, Casey, Lipkind, Moriarty. (All in favor). **SPECIAL PERMIT WILL ISSUE**

Motion to adjourn (Labrecque, Moriarty).

Respectfully submitted,
Senior Clerk, Engineering