



Town of Monterey

Zoning Board of Appeals Application

For office use only	
Date application was received & filed with the Town Clerk	
Application Number	
Filing fee/expense reimbursement (check #)	
Property Address	
Dates advertised in the Berkshire Eagle	
Hearing Date	
11 copies submitted	

Be sure to supply all required information and sign the form where indicated. Please refer to the Zoning By-Laws of the Town of Monterey adopted by Town Meeting on May 5, 2012, as amended, and, when necessary, refer to specific sections within.

Section A. Please check the action you are seeking (check all that apply):

Special Permit

Variance

Appeal (to modify a decision of a Town Board)

Section B. Site/Property Information:

Address of property (ex. 123 Main Rd.): 10 Northwest Cove Road, Monterey, MA

Assessor's Map #: 229 Assessor's Lot #: 1

Zoning District(s): Lake Shore District (LS), Ave. Slope Less than 12%

Registry of Deeds Book & Page Number for Applicant's Title: Deed to Rockhead Associates, LLC in Book 1200, Page 138 dated August 29, 2000 and recorded on August 31, 2000. This application is made by a prospective buyer of the property.

Section C. Property Ownership Information:

Full Name of Owner(s) (this must match the name on your deed referenced in Section B): The current owner is Rockhead Associates LLC, with Don Bernard as its manager. This application is made by Gaugarin Oliver, the prospective buyer of the property, with the knowledge of the owner.

Mailing Address: Rockhead Associates LLC: 308 Lenox Road, Richmond, MA 01254.
Gaugarin Oliver: 6 Grist Mill Road, Littleton, MA 01460.

Owner's email address and phone number: Applicant: Gaugarin Oliver, gaugarin.oliver@capestart.com, (781) 883-7381.

Full name and mailing address of owner's agent or representative: Attorney for the applicant, Alexandra H. Glover, 785 Main Street, Great Barrington, MA 01230.

Agent or representative's email address and phone number: Attorney for the applicant, Alexandra H. Glover: glover@lazanlaw.com, (413) 644-0200.

Section D. Project Description (attach additional sheets if necessary):

Please provide a brief description of the Relief Sought and/or Proposed Project:

A Special Permit to allow the construction of a single-family residence on the Premises in accordance with the enclosed Project Narrative and "Oliver Residence" Plans prepared by Pamela Sandler, architect and Matthew D. Puntin, Registered Engineer. The dwelling will have a total square footage of 5,079 sq. ft.

Section E. Variances, if applicable (attach additional sheets if necessary):

From which section of the zoning bylaws are you requesting a variance? N/A

What will the requested variance enable you to do? N/A

If the variance is not granted, what hardship will you endure? N/A

What special circumstances relating to soil condition, shape or topography of the land is prompting your request for a variance? N/A

Explain why your special circumstances are not a result of your own actions? N/A

Section F. Appeals (attach additional sheets as necessary and a copy of any written determination/action)

What action of which Town board is being appealed? N/A

Date of the action: N/A

Describe the remedy you seek: N/A

Section G. Special Permits, if applicable (attach additional sheets if necessary):

Describe the need for a Special Permit: A special permit was granted to reestablish the use of the property as a single-family dwelling, with the restriction that plans for any new dwelling be approved by the ZBA before construction.

List all the nonconforming aspects of the property: The sole nonconforming aspect of the property is the acreage of the lot which does not meet the area (acres) dimensional requirements for a single-family residence as set forth in Section 4.2.1 of the Town of Monterey Zoning Bylaws.

Has a special permit or variance been previously granted to this property which is/are currently active? If yes, please describe and/or attach copies of prior decisions: Please see the Notice of Decision dated September 2, 2020 and recorded in the Registry of Deeds at Book 2640, Page 307, a copy of which is attached hereto.

Each party signing this Application certifies that the information contained herein is true, accurate, complete and that no material fact or statement has been omitted from this Application which would be relevant to the relief requested hereunder. Signing and submitting this Application constitutes permission for the Board and/or its designees to access and walk the exterior portions of the property for the purpose of site visits in connection with the Application.

Applicant or Representative's Signature: _____

Alexander H. Olson

Alexander H. Olson, Atty for

Owner's Signature: _____

Rockhead Associates, LLC

by Atty

Gauguin Oliver,
Contract purchaser

Date: July 15, 2021

Project Narrative
Applicant/Gaugarin Oliver

Property Address: 10 Northwest Cove Road, Monterey
Zoning District: Lake Shore District, Average Slope Less than 12%
Tax Map #229, Lot #1

1. Project Description

The Zoning Board of Appeals previously approved a special permit to reestablish the use of the property as a single-family use with the condition that “a building permit may not be issued for any proposed structure, nor may any structure be constructed on the property, prior to the property owner first obtaining a special permit of other zoning relief for such structure, pursuant to Section 5.1.7 of the By-Law.” (the “2020 Special Permit”). See Attachment 3.

The Applicant is a contract purchaser of the property who seeks a special permit to allow the construction of a single-family dwelling. The new dwelling will conform to the dimensional requirements of the Monterey Zoning By-Law. The sole nonconforming aspect of the property is the acreage of the lot.

2. List of Attachments

Attachment 1, Deed to Rockhead Associates, LLC dated August 29, 2000 and recorded in the Berkshire Southern District Registry of Deeds in Book 1200, Page 138.

Attachment 2, Survey entitled “Lands of Zoltan and Ethel Zantay, Town of Monterey, Berkshire Co., Massachusetts,” by William Kormanik, registered land surveyor, dated March 31, 1977, and recorded in the Berkshire Southern District Registry of Deeds in Map Book 5, Page 110.

Attachment 3, Notice of Recording for Special Permit dated September 2, 2020 and recorded with the Berkshire Southern District Registry of Deeds in Book 2640, Page 307.

Attachment 4, Proposed Grading Plan/Site Plan Outline of Proposed Construction, with Previous Structure outline superimposed.

Attachment 5, Set of Proposed Construction Plans prepared by Pamela Sandler, Architect, including Proposed Basement Plan, Proposed First Floor Plan, Proposed Second Floor Plan, and Proposed Building Elevations.

Attachment 6, Set of Scaled Plans prepared by Matthew D. Puntin, Registered Engineer including a Cover Sheet, Existing Conditions Plan, Site Plan, Proposed Grading Plan, and Section.

3. Zoning

A. Dimensional Requirements

The proposed work does not intensify the nonconforming nature of the property and seeks to continue the single-family use of the property allowed by the current special permit.

REQUIREMENT in LS with Ave. Slope Less than 12%		PREVIOUS DEMOLISHED STRUCTURE	PROPOSED STRUCTURE
Lot Area	2 acres	1.12 acres	1.12 acres
Lot Width/Frontage	200 ft.	>200 ft.	>200 ft.
Front (E)	25 ft.*	>25 ft.	>25 ft.
Side (N)	25 ft.*	>25 ft.	>25 ft.
Rear (W)	25 ft.*	>25 ft.	>25 ft.
Side (S)	25 ft.*	>25 ft.	>25 ft.
Max Building Height	35 ft.	<35 ft.	<35 ft.
Lot Coverage	20%	Not known	6.3%
Parking Spaces	2		2

*The Zoning By-Law permits a reduction of the setbacks from 25 ft to 15 ft for lots existing in the Lakeshore District prior to May 3, 1986; however, the proposed house is designed to comply with the current setbacks.

B. Section 5.1.7 Abandonment or Non-Use

As the previous dwelling was abandoned for a period of over two years, the structure itself lost its protected status. However, the nonconforming structure may be reestablished by the Zoning Board of Appeals. Zoning By-Law Section 5.1.7.

The use as a single-family dwelling has already been approved and the only remaining step is for the ZBA to approve the final construction plans as required by condition to the 2020 Special Permit. As outlined below, there are no changes to the structure, lot, or use which increase the nonconformity of the property.

Structure: The proposed structure is similar in size and location to the previous dwelling, except that it is further centered in the lot, as opposed to the location of the previous house towards the eastern sideline of the property. It is a house in line with the character of the neighborhood and conforms to all current zoning requirements. It is not more nonconforming than the previous structure.

Lot: There are no proposed changes to the lot.

Use: The property is already approved for use as a single-family dwelling by the 2020 Special Permit. There is no proposed change to this use.

C. Section 5.1.4 Nonconforming Structure

Section 5.1.4 of the Zoning By-Law provides that the Zoning Board of Appeals may authorize by special permit any reconstruction of an existing nonconforming structure, provided that it:

- 1. Shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use;**

The proposed dwelling will not be substantially more detrimental to the neighborhood than the previous dwelling. They are similar in size, character, and are identical in use. There is no substantial change between the previous dwelling and the proposed dwelling.

- 2. Would not significantly increase the incidence of air, stream, or water pollution, odor, glare, electrical interference, noises, traffic, or night operation according to the findings of the Zoning Board of Appeals after consideration of any recommendations from the Planning Board, the Conservation Commission and the Board of Health.**

The proposed dwelling will have no impact of air, stream, or water pollution. Similarly, it will not increase odor, glare, electrical interference, or night operation. Noise and traffic will not be significantly increased by the reconstruction of this single family dwelling.

- 3. Would result in a structure no more than 25% greater in total habitable square footage than the structure as it was at the time it first became nonconforming. Total habitable square footage shall not include an unenclosed deck, unfinished basement, or unfinished attic.**

The total square footage of the previous dwelling is not known with precision, but the proposed dwelling is 5,079 square feet of total habitable square footage. The approximate footprint of the previous dwelling is shown on Attachment 4.

- 4. Shall be subject to reasonable conditions, safeguards, or limitations as imposed by the Zoning Board of Appeals so as to lessen any possible adverse impact on adjacent properties and the general neighborhood.**

The applicant does not anticipate any possible adverse impact on adjacent properties or the general neighborhood.

- 5. Shall comply with all other applicable provisions of the By-Law.**

The sole nonconforming aspect of the property is the substandard size of the lot, the proposed dwelling complies with all other zoning requirements under the By-Law.