

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
June 7, 2018**

Members Present: Jeremy Callahan, Rob Anderson, Daniel Wagner and Steven Latasa-Nicks.

Members Absent: Marianne Clements (excused).

Others Present: David Gardner (Assistant Town Manager) and Ellen C. Battaglini (Permit Coordinator).

A. WORK SESSION

Interim Chair Jeremy Callahan called the Work Session to order at 6:33 P.M.

1) **BOARD ELECTIONS:** *Steven Latasa-Nicks moved to elect Jeremy Callahan as Chair, Daniel Wagner seconded and it was so voted, 4-0.*

Jeremy Callahan moved to elect Rob Anderson as Vice Chair, Steven Latasa-Nicks seconded and it was so voted, 4-0.

2) **PENDING DECISIONS:**

a) **ZBA 18-45 (Marianne)**

78 Bradford Street (Town Commercial Center Zone), Eliot Parkhurst, on behalf of **Thomas Walter** and **David Sanford, dba Crowne Pointe Inn & Spa** – Jeffrey Gould, Rob Anderson, Marianne Clements, Daniel Wagner and Steven Latasa-Nicks sat on the case. The decision was not ready.

b) **ZBA 18-46 (Marianne)**

78 Bradford Street (Town Commercial Center Zone), Eliot Parkhurst, on behalf of **Thomas Walter** and **David Sanford, dba Crowne Pointe Inn & Spa** – Jeffrey Gould, Rob Anderson, Marianne Clements, Daniel Wagner and Steven Latasa-Nicks sat on the case. The decision was not ready.

c) **ZBA 18-56**

331 Commercial Street, UB (Town Center Commercial Zone), Gabriel Rivera Aquilar – Jeremy Callahan, Rob Anderson, Marianne Clements and Daniel Wagner sat on the case. Jeremy Callahan read the decision. *Rob Anderson moved to approve the language as written, Daniel Wagner seconded and it was so voted, 3-0-1 (Steven Latasa-Nicks abstaining).*

d) **ZBA 18-63 (Rob)**

336R Commercial Street (Town Center Commercial Zone), 336R Commercial St., LLC – Jeremy Callahan, Rob Anderson, Marianne Clements and Daniel Wagner sat on the case. Rob read the decision. *Jeremy Callahan moved to approve the language as written, Daniel Wagner seconded and it was so voted, 3-0-1 (Steven Latasa-Nicks abstaining).*

MINUTES: May 17, 2018 – *Jeremy Callahan moved to approve the minutes as amended, Rob Anderson seconded and it was so voted, 5-0.*

Chair Jeremy Callahan adjourned the Work Session at 6:50 P.M.

B. PUBLIC HEARING

Chair Jeremy Callahan called the Public Hearing to order at 7:00 P.M.

1) **ZBA 18-05** (*request to postpone to the meeting of July 5th*)
350 Bradford Street (Residential 3 Zone), Attorney Lester J. Murphy, on behalf of BPJC, LLC –

The applicant seeks a reconsideration of a **Notice of Appeal** regarding a July 12, 2017 decision by the Building Commissioner that a flat-roofed structure was in excess of 23' and was in violation of Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws. Attorney Lester J. Murphy appeared to request a postponement to the July 5, 2018 Public Hearing. *Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-05 to the July 5, 2018 Public Hearing at 7:00 P.M., Rob Anderson seconded and it was so voted, 4-0.*

2) **ZBA 18-23** (*request to postpone to the meeting of July 5th*)
509 Commercial Street (Residential 3 Zone), KA Bazarian on behalf of 509 Commercial, LLC –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to raise a structure 9' to conform with FEMA regulations, going up and along east and west pre-existing, non-conforming elevations, to add and enclose the space below a deck on the south elevation and to add an egress stairway on the west elevation. There was a request by the applicant to postponed to the July 5, 2018 Public Hearing. *Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-23 to the July 5, 2018 Public Hearing at 7:00 P.M., Rob Anderson seconded and it was so voted, 4-0.*

3) **ZBA 18-53** (*request to postpone to the meeting of June 21st*)
143 Commercial Street (Town Center Commercial Zone), George Tagaris –

The applicant seeks a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions and Alterations, of the Zoning By-Laws to modify a condition related to the installation of a sprinkler system pursuant to an existing Special Permit, FY15-57. There was a request from the applicant to postpone the matter to the June 21, 2018 Public Hearing at 7:00 P.M. *Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-53 to the June 21, 2018 Public Hearing at 7:00 P.M., Rob Anderson seconded and it was so voted, 4-0.*

4) **ZBA 18-54** (*request to postpone to the meeting of June 21st*)

143 Commercial Street (Town Center Commercial Zone), George Tagaris –

The applicant seeks a Special Permit pursuant to Article 2, Section 2310, Harborfront Regulation, of the Zoning By-Laws to construct a boardwalk and stairs in the Harborfront Overlay District. There was a request from the applicant to postpone the matter to the June 21, 2018 Public Hearing at 7:00 P.M. ***Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-54 to the June 21, 2018 Public Hearing at 7:00 P.M., Rob Anderson seconded and it was so voted, 4-0.***

5) **ZBA 18-55**

15 Atwood Avenue (Residential 1 Zone), Don DiRocco, of Hammer Architects, on behalf of Mark Boucher and Peter Gherardi -

The applicants seek a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to construct two bays and a screened-in porch within a pre-existing, non-conforming southwest elevation on the structure and for an increase in building scale. Jeremy Callahan, Rob Anderson, Daniel Wagner and Steven Latasa-Nicks sat on the case.

Presentation: Mark Hammer, Don DiRocco, Mark Boucher and Peter Gherardi appeared to present the application. Mr. DiRocco reviewed the project, which involves add two small single-story bump-outs and a screened-in porch on the southwest elevation of the structure. He alleged that there was an error in the scale calculation done by the Town and that their analysis of the added scale was less than what the Town claimed.

Public Comment: None. There were 8 letters of support for the project.

Board Discussion: The Board had no questions. Mr. Callahan said that he thought the design minimized the appearance of additional mass. He then suggested the findings that pursuant to Article 3, Section 3110, the alteration was not substantially more detrimental than the existing situation, that pursuant to Article 5, Section 5330, the social, economic and other benefits to the Town or neighborhood outweighed any adverse effects such as hazard, congestion and environmental degradation and that pursuant to Article 2, Section 2640E, subparagraph 5, the proposed additions successfully integrated into their surroundings and were sited in a manner that minimized the appearance of mass from the streetscape and would not have a significant negative impact on the natural light to, or views from, neighboring structures.

Steven Latasa-Nicks moved to approve the Chair's three findings, Rob Anderson seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to approve the Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to construct two bays and a screened-in porch within a pre-existing, non-conforming southwest elevation on the structure and for an increase in building scale at the property located at 15 Atwood Avenue (Res 2), Rob Anderson seconded and it was so voted, 4-0. Jeremy Callahan will write the decision.

6) **ZBA 18-57** (*postponed to the meeting of June 21st*)

177 Commercial Street (Town Center Commercial Zone), Christopher J. Snow, Esq. –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to extend a pre-existing, non-conforming structure southward by adding a deck along a non-conforming west elevation.

7) **ZBA 18-58** (*postponed to the meeting of June 21st*)

177 Commercial Street (Town Center Commercial Zone), Christopher J. Snow, Esq. –

The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow 30 exterior flex seats for the service of food and alcohol on the deck.

8) **ZBA 18-64**

Application by **James McNeilly** requesting a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display items for sale outside a retail store located at **220 Commercial Street, U2 (Town Center Commercial Zone)**. Rob Anderson disclosed that he was an abutter to the property but could render an objective decision and had no financial interest in the outcome of the matter. Jeremy Callahan, Rob Anderson, Daniel Wagner and Steven Latasa-Nicks sat on the case.

Presentation: James McNeilly appeared to present the application. He explained the items that he would display outside his garden store and where they would be located.

Public Comment: None. There was a letter from the applicant's landlords giving permission for the outside display along with two conditions.

Board Discussion: There were no questions, however the Board recommended that the conditions in the letter from the applicant's landlords similarly be a condition of the Special Permit.

Steven Latasa-Nicks moved to approve the Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display items for sale outside a retail store located at 220 Commercial Street, U2 (TCC) with the two conditions stated in the landlord's letter of approval, Jeremy Callahan seconded and it was so voted, 4-0.

9) **ZBA 18-65**

Application by **Monty's, Inc.** requesting a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display items for sale outside a retail store located at **349 Commercial Street (Town Center Commercial Zone)**. Chair Jeremy Callahan explained to the remaining applicants that since there were only 4 members seated and a unanimous decision was needed to grant a Special Permit, they could postpone until 5 members were available or proceed with 4 members, with an option of polling the Board before it voted. The applicant for this matter chose to proceed. Jeremy Callahan, Rob Anderson, Daniel Wagner and Steven Latasa-Nicks sat on the case.

Presentation: Frederick Schulenburg appeared to present the application. Mr. Schulenburg explained that he would like to display various products that he sold inside his store on the pavement outside on a cement area at the bottom of the steps.

Public Comment: None.

Board Discussion: The Board briefly questioned Mr. Schulenburg and recommended that the placement of items for sale in front of his retail store not impede the passage of pedestrians or vehicles in the public right-of-way.

Rob Anderson moved to approve the Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display items for sale outside a retail store located at 349 Commercial Street, (TCC) with the condition that the nature and size of the items displayed will not impede the public way and will remain on the cement foundation area at the bottom of the stairway to the retail store, Daniel Wagner seconded and it was so voted, 4-0.

10) ZBA 18-66

Application by **Andre LeBlanc**, on behalf of **Ptown Café**, requesting a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display items for sale outside a retail store located at **349 Commercial Street (Town Center Commercial Zone)**. The applicant chose to proceed with 4 members. Jeremy Callahan, Rob Anderson, Daniel Wagner and Steven Latasa-Nicks sat on the case.

Presentation: Andre LeBlanc appeared to present the application. He noted the location of the sandwich board in a photograph that was submitted.

Public Comment: None.

Board Discussion: The Board had no questions.

Steven Latasa-Nicks moved to approve the Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display items for sale outside a retail store located at 353A Commercial Street,#5 (TCC), Jeremy Callahan seconded and it was so voted, 4-0.

NEXT MEETING: The next meeting will take place on Thursday, June 21, 2018. It will consist of a Work Session at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Rob Anderson moved to adjourn the Public Hearing at 7:45 P.M. and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
Jeremy Callahan, Chair