

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
June 21, 2018**

Members Present: Jeremy Callahan, Rob Anderson, Steven Latasa-Nicks and Peter Okun.

Members Absent: Marianne Clements (excused) and Daniel Wagner (excused).

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

A. WORK SESSION

Chair Jeremy Callahan called the Work Session to order at 6:30 P.M.

2) PENDING DECISIONS:

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

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 will be revised.

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

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 will be revised.

c) **ZBA 18-55 (Jeremy)**

15 Atwood Avenue (Residential 1 Zone), Don DiRocco, of **Hammer Architects**, on behalf of **Mark Boucher** and **Peter Gherardi** - Jeremy Callahan, Rob Anderson, Daniel Wagner and Steven Latasa-Nicks sat on the case. Jeremy Callahan read the decision. *Steven Latasa-Nicks moved to approve the language as written, Jeremy Callahan seconded and it was so voted, 3-0-1 (Peter Okun abstaining).*

MINUTES: June 7, 2018 – *Steven Latasa-Nicks moved to approve the minutes as written, Rob Anderson seconded and it was so voted, 3-0-1 (Peter Okun abstaining).*

Chair Jeremy Callahan adjourned the Work Session at 6:55 P.M.

B. PUBLIC HEARING

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

1) **ZBA 18-05** (*postponed 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.

2) **ZBA 18-23** (*postponed 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.

3) **ZBA 18-53** (*request to postpone to the meeting of July 5th*)

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 July 5, 2018 Public Hearing at 7:00 P.M. **Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-53 to the July 5, 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 July 5th*)

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 July 5, 2018 Public Hearing at 7:00 P.M. **Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-54 to the July 5, 2018 Public Hearing at 7:00 P.M., Rob Anderson seconded and it was so voted, 4-0.**

5) **ZBA 18-57** (*request to postpone to the meeting of July 5th*)

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. There was a request from the applicant to postpone the matter to the July 5, 2018 Public Hearing at 7:00 P.M. **Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-57 to the July 5, 2018 Public Hearing at 7:00 P.M., Rob Anderson seconded and it was so voted, 4-0.**

6) **ZBA 18-58** (*request to postpone to the meeting of July 5th*)

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. There was a request from the applicant to postpone the matter to the July 5, 2018 Public Hearing at 7:00 P.M. ***Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-58 to the July 5, 2018 Public Hearing at 7:00 P.M., Rob Anderson seconded and it was so voted, 4-0.***

Chair Jeremy Callahan announced that ZBA 18-68 before ZBA 18-67 at the request of the Board.

7) **ZBA 18-68**

Application by **William Drake** requesting a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to extend a deck along a pre-existing, non-conforming south elevation at the property located at **963 Commercial Street, #24**

(Residential 1 Zone). Chair Jeremy Callahan explained to the applicant that since there were only 4 members present and a unanimous vote would be required for a Special Permit, he could choose to postpone until 5 members could be seated or proceed with 4 members. He chose to proceed. Jeremy Callahan, Rob Anderson, Steven Latasa-Nicks and Peter Okun sat on the case.

Presentation: Will Drake appeared to present the application. He reviewed the project, which involves replacing a deck that is in disrepair and a potential safety risk. The new deck will be better designed and will have removable sections to provide access to the space beneath for repairs. The rear east portion of the deck is located in a pre-existing, non-conforming setback. No new non-conformancy will be created. The new deck will not be a detriment to his neighbors and will create a safer environment for the neighborhood. He requested to be heard under the *Goldhirsh v. McNear* ruling.

Public Comment: None.

Board Discussion: The Board denied Mr. Drake's request to be heard under the *Goldhirsh v. McNear* ruling and had no questions for the applicant.

Rob Anderson moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to extend a deck along a pre-existing, non-conforming south elevation at the property located at 963 Commercial Street, #24 (Res 1), Steven Latasa-Nicks seconded and it was so voted, 4-0. Jeremy Callahan will write the decision.

8) **ZBA 18-67**

Application by **Michela Carew Murphy** requesting a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to remove a bar for the service of alcohol and re-configure seating at Sal's Place located at **99 Commercial Street (Residential 3 Zone)**. Chair Jeremy Callahan explained to the applicant that since there were only 4 members present and a unanimous vote would be required for a Special Permit, she could choose to postpone until 5 members could be seated or proceed with 4 members. She chose to proceed. Jeremy Callahan, Rob Anderson, Steven Latasa-Nicks and Peter Okun sat on the case.

Presentation: Michela Carew Murphy appeared to present the application. She said that the request was to remove a bar in the restaurant and re-configure seating in that area. No service

areas are being expanded and all areas of service in the restaurant have been licensed and previously approved for the service of food and alcohol by the Board.

Public Comment: Attorney Alan Lipkind, representing an abutter, spoke in opposition to the application. Thanassi Kuliopulos, Sal Del Deo, Phillip Cozzi, Ian Leahy, Rachel White and Diarmuid O'Neill spoke in favor of the application. Fred Long, an abutter, had no objections to the application. There were 34 letters of support, 1 letter of opposition and 1 letter of no objection to the application in the file. ***Steven Latasa-Nicks moved to close the public hearing portion of the matter, Jeremy Callahan seconded and it was so voted, 4-0.***

Board Discussion: Chair Jeremy Callahan read Article 2, Section 2460 to the Board. The Board questioned Ms. Carew Murphy and briefly discussed the matter.

Jeremy Callahan moved to find pursuant to Article 5, Section 5330 of the Zoning By-Laws that the social, economic and other benefits of the proposal outweigh any adverse effects such as hazard, congestion or environmental degradation, Steven Latasa-Nicks seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to grant a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to remove a bar for the service of alcohol and re-configure seating at Sal's Place located at 99 Commercial Street (Res 3), Rob Anderson seconded and it was so voted, 4-0. Steven Latasa-Nicks will write the decision.

NEXT MEETING: The next meeting will take place on Thursday, July 5, 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 8:00 P.M. and it was so voted unanimously.***

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
Jeremy Callahan, Chair