

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
July 19, 2018**

Members Present: Rob Anderson, Daniel Wagner Steven Latasa-Nicks and Peter Okun.

Members Absent: Jeremy Callahan (excused) and Marianne Clements (excused).

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

A. WORK SESSION

Vice Chair Rob Anderson called the Work Session to order at 6:48 P.M.

1) **PENDING DECISION:**

ZBA 18-54 (Jeremy)

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

Jeremy Callahan, Marianne Clements, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. Rob Anderson read the decision. *Steven Latasa-Nicks moved to approve the language as written, Daniel Wagner seconded and it was so voted, 3-0.*

MINUTES: July 5, 2018 – Steven Latasa-Nicks moved to approve the minutes as written, Daniel Wagner seconded and it was so voted, 4-0.

Vice Chair Rob Anderson adjourned the Work Session at 6:55 P.M.

B. PUBLIC HEARING

Vice Chair Rob Anderson called the Public Hearing to order at 7:00 P.M.

1) **ZBA 18-05 (postponed to the meeting of August 2nd)**

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 (request to postpone to the meeting of August 2nd)**

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 from the applicant to postpone to the Public Hearing of August 2, 2018. ***Steven Latasa-Nicks moved to approve the request to postpone ZBA 18-23 to the August 2, 2018 Public Hearing at 7:00 P.M., Peter Okun seconded and it was so voted, 4-0.***

3) **ZBA 18-53** (*request to continue to the meeting of August 2nd*)

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. Jeremy Callahan, Marianne Clements, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. There was a request from the applicant to continue to the Public Hearing of August 2, 2018. ***Steven Latasa-Nicks moved to approve the request to continue ZBA 18-53 to the August 2, 2018 Public Hearing at 7:00 P.M., Peter Okun seconded and it was so voted, 4-0.***

4) **ZBA 18-58** (*postponed to the meeting of September 6th*)

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.

5) **ZBA 18-70**

963 Commercial Street (Residential 1 Zone), William N. Rogers, II, on behalf of The Beach Bucket Trust, Lynn Saucier, Trustee –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extensions and Alterations, of the Zoning By-Laws to add a storage loft with dormers, increase the first floor by 3' towards the south and increase the roof height by 5' 4³/₄" on a structure with less than 9' of separation from an abutting structure. Vice Chair Rob Anderson explained that since there were only 4 members seated, and a unanimous vote would be needed for the granting of a Special Permit, the applicant had the choice of postponing the matter until 5 members were available or proceeding. The applicant chose to proceed. Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case.

Presentation: Gary Locke and Lynn Saucier appeared to present the application. Mr. Locke requested that the application be heard under the *Goldhirsh v. McNear* ruling. He reviewed the project, which includes adding a storage loft and 3' to an existing 18' by 15' cottage that is located just 4' from the deck of a cottage on its north elevation. The ridge height will be raised by 5' 4³/₄" and the 3' extension is southward towards the bay. The project will be compliant with all other Zoning By-Laws and is, in terms of architectural style and size, consistent with other structures in the neighborhood

Public Comment: None. There were no letters in the file.

Board Discussion: The Board declined to hear the case under the *Goldhirsh* decision and questioned Mr. Locke.

Steven Latasa-Nicks moved to find that pursuant to Article 5, Section 5330, the economic, social and other benefits of the project to the Town and neighborhood outweigh any adverse effects such as hazard, congestion and environmental degradation, Rob Anderson seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions and Alterations, of the Zoning By-Laws to add a storage loft with dormers, increase the first floor by 3' towards the south and increase the roof height by 5' 4¾" on a structure with less than 9' of separation from an abutting structure at the property located at 963 Commercial Street, #15 (Res 1), Rob Anderson seconded and it was so voted, 4-0. Daniel Wagner will write the decision.

6) **ZBA 18-71** (*request to postpone to the meeting of August 2nd*)
155 Bradford Street (Residential 3 Zone), Lisa Pacheco-Robb –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extensions and Alterations, of the Zoning By-Laws to extend a deck along a pre-existing, non-conforming south elevation. There was a request from the applicant to postpone to the Public Hearing of August 2, 2018. *Steven Latasa-Nicks moved to approve the request to postpone ZBA 18-71 to the August 2, 2018 Public Hearing at 7:00 P.M., Peter Okun seconded and it was so voted, 4-0.*

7) **ZBA 18-73**

13 Creek Round Hill Road (Residential 1 Zone), Ted Smith, Architect –

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws for the alteration of a second floor, including enclosing an existing deck to create a screened-in porch, that will increase the building scale of a structure. Vice Chair Rob Anderson explained that since there were only 4 members seated, and a unanimous vote would be needed for the granting of a Special Permit, the applicant had the choice of postponing the matter until 5 members were available or proceeding. The applicant chose to proceed. Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case.

Presentation: Ted Smith appeared to present the application. Mr. Smith described the project as minor modifications to a second floor, including a roofline, changing from a pitched to an arc roof, and adding a screened in porch over a deck, for a modest increase in building scale. The footprint of the structure will remain the same. The changes will still be in keeping with the disparate architectural styles in the neighborhood.

Public Comment: None. There was 1 letter of support from an abutter.

Board Discussion: The Board questioned Mr. Smith.

Rob Anderson moved to find that the project was in keeping with subparagraph 5 of Article 2, Section 2640E, Steven Latasa-Nicks seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to find that pursuant to Article 5, Section 5330, the economic, social and other benefits of the project to the Town and neighborhood outweigh any adverse

effects such as hazard, congestion and environmental degradation, Rob Anderson seconded and it was so voted, 4-0.

Rob Anderson moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws for the alteration of a second floor, including enclosing an existing deck to create a screened-in porch, that will increase the building scale of a structure at the property located at 13 Creek Round Hill Road, Steven Latasa-Nicks seconded and it was so voted, 4-0. Rob Anderson will write the decision.

8) **ZBA 18-74**

28 Cottage Street (Residential 3 Zone), Steven Cook, of Cotuit Bay Design, on behalf of Kenneth Hale & Steven Wetzler –

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extensions and Alterations, of the Zoning By-Laws to add a second floor deck with stairs on the southwest elevation and to rebuild a deck with stairs on the southeast elevation and stairs in the pre-existing, non-conforming northwest elevation, thereby increasing building scale. Vice Chair Rob Anderson explained that since there were only 4 members seated, and a unanimous vote would be needed for the granting of a Special Permit, the applicant had the choice of postponing the matter until 5 members were available or proceeding. The applicant chose to proceed. Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case.

Presentation: Steve Cook, Kevin Bazarian, a builder, and Ken Hale appeared to present the application. Mr. Cook reviewed the project, which includes bringing the structure up to current building standards. The four-unit structure had only one egress for each unit, so the project includes providing second means of egress for those units in the form of a deck and two sets of stairs on the rear of the structure to provide egress for the second floor units and the installation of a door on the west side for the south side unit. The north side unit will be given a deck for a second means of egress. A covered porch entry area on the front of the unit will be rebuilt. He said that the front yard setback was derived from an average of the two lots on either side of the building, allowing a smaller setback on the lot to allow for an adequate deck egress area. The building is currently over scale and the project will add scale units.

Public Comments: None. There was 1 letter in the file in opposition to the project.

Board Discussion: The Board questioned Mr. Cook.

Steven Latasa-Nicks moved to find that the increase in building scale is due to the deck structure in the rear of building, however it will not be visible from a public way and it is necessary to provide second means of egress for the building, Rob Anderson seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to find that pursuant to Article 5, Section 5330, the economic, social and other benefits of the project to the Town and neighborhood outweigh any adverse effects such as hazard, congestion and environmental degradation, Rob Anderson seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extensions and Alterations, of the

Zoning By-Laws to add a second floor deck with stairs on the southwest elevation and to rebuild a deck with stairs on the southeast elevation and stairs in the northwest elevation, thereby increasing building scale at the property located at 28 Cottage Street (Res 3), Rob Anderson seconded and it was so voted, 4-0. Peter Okun will write the decision.

9) **ZBA 18-75**

258 Commercial Street (Town Center Commercial Zone), Inna Litvinova, on behalf of Mama Matcha Bar –

The applicant seeks a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display a sandwich board. Vice Chair Rob Anderson explained that since there were only 4 members seated, and a unanimous vote would be needed for the granting of a Special Permit, the applicant had the choice of postponing the matter until 5 members were available or proceeding. The applicant chose to proceed. Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case.

Presentation: Inna Litvinova appeared to present the application. The sandwich board measures 24” by 36”.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board briefly questioned Ms. Litvinova.

Steven Latasa-Nicks moved to grant a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display a sandwich board that measures 24” by 36” at the property located at 258 Commercial Street (TCC) with the condition that it always be located on the right side of the kiosk, Rob Anderson seconded and it was so voted, 4-0.

10) **ZBA 18 18-76 (postponed to the meeting of August 2nd due to a lack of quorum)**

225 Commercial Street (Town Center Commercial Zone), Topknot, LLC –

The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to revise a seating plan. **Steven Latasa-Nicks moved to postpone ZBA 18-76 to the August 2, 2018 Public Hearing at 7:00 P.M., Peter Okun seconded and it was so voted, 4-0.**

11) **ZBA 18-77 (request to postpone to the hearing of August 2nd)**

132 & 134 Bradford Street (Town Center Commercial Zone) and 10 Conwell Street (Residential 3 Zone), Riley Brothers Realty, LLC –

The applicant seeks a Special Permit pursuant to Article 3, Section 3432 c., Illumination Standards, of the Zoning By-Laws for the installation of exterior lighting fixtures mounted on lighting poles. There was a request from the applicant to postpone to the Public Hearing of August 2, 2018. **Steven Latasa-Nicks moved to approve the request to postpone ZBA 18-77 to the August 2, 2018 Public Hearing at 7:00 P.M., Peter Okun seconded and it was so voted, 4-0.**

12) **ZBA 18-78 (request to postpone to the hearing of August 2nd)**

25 Cottage Street (Residential 3 Zone), Mark Sellers and Najjia Mahmoud –

The applicants seek a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extensions and Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish and rebuild a structure located in pre-

existing, non-conforming southwest and northwest elevations and to increase its building scale. There was a request from the applicant to postpone to the Public Hearing of August 2, 2018. ***Steven Latasa-Nicks moved to approve the request to postpone ZBA 18-78 to the August 2, 2018 Public Hearing at 7:00 P.M., Peter Okun seconded and it was so voted, 4-0.***

NEXT MEETING: The next meeting will take place on Thursday, August 2, 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