

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
November 15, 2018**

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

Members Absent: Rob Anderson (excused) and Marianne Clements (unexcused).

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.

1) Pending Decisions:

ZBA 19-12 (Marianne)

347 Commercial Street (Town Center Commercial Zone), Tom Thompson, on behalf of 347 Commercial, LLC -

Jeremy Callahan, Rob Anderson, Marianne Clements, Daniel Wagner and Steven Latasa-Nicks sat on the case. The decision was not ready.

ZBA 19-09 (Jeremy)

170 Bradford Street Extension (Residential 3 Zone), Pavel Fiodarau on behalf of PV Development, LLC –

Jeremy Callahan, Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. Jeremy Callahan read the decision. *Peter Okun moved to approve the language as written, Steven Latasa-Nicks seconded and it was so voted, 4-0.*

ZBA 19-15 (Jeremy)

20 Province Road (General Commercial Zone), William N. Rogers, II, on behalf of Enco Realty Inc. –

Jeremy Callahan, Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. Jeremy Callahan read the decision. *Steven Latasa-Nicks moved to approve the language as written, Daniel Wagner seconded and it was so voted, 4-0.*

ZBA 19-17 (Daniel)

7 Anthony Street (Residential 3 Zone), Stephen Hooper –

Jeremy Callahan, Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. Daniel Wagner read the decision. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0.*

ZBA 19-20 (Steven)

3, 4, & 8 Harbor Hill Road & 37 Bradford Street Extension (Residential 1 Zone), Michelle Jarusiewicz, on behalf of the Provincetown Year-Round Market Rate Rental Trust –

Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. Steven Latasa-Nicks read the decision. *Peter Okun moved to approve the language as written, Daniel Wagner seconded and it was so voted, 4-0.*

ZBA 19-22 (Rob)

473 Commercial Street (Residential 3 Zone), William N. Rogers, II, on behalf of Christopher Pula et al. –

Jeremy Callahan, Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. Jeremy Callahan read the decision. *Peter Okun moved to approve the language as written, Steven Latasa-Nicks seconded and it was so voted, 4-0.*

ZBA 19-23 (Jeremy)

350 Bradford Street (Residential 3 Zone), BPJC, LLC –

Jeremy Callahan, Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. The decision was not ready.

Chair Jeremy Callahan postponed the Work Session at 7:03 P.M.

B. PUBLIC HEARING

Chair Jeremy Callahan called the Public Hearing to order at 7:03 P.M. There were 4 Board members present and 2 absent.

1) **ZBA 18-69** (*request to postpone to the meeting of February 21, 2019*)

199 Bradford Street (Residential 3 Zone), Regina Binder on behalf of 199 Bradford St., LLC -

The applicant seeks a Special Permit pursuant to Article 2, Sections 2450, Permitted Accessory Uses, G17, Accessory Dwelling Unit and 2640, Building Scale and Article 3, Section 3110, Change, Extensions and Alterations, of the Zoning By-Laws to rebuild a foundation, renovate a structure by adding a balcony, a covered porch and stairs on a pre-existing, non-conforming south/southwest elevation, increase building scale by adding a covered porch on a pre-existing, non-conforming north elevation and an accessory dwelling unit. There was a request from the applicant to postpone ZBA 18-69 to the Public Hearing of February 21, 2019 at 6:30 P.M. *Peter*

Okun moved to grant the request to postpone to the Public Hearing of February 21, 2019 at 6:30 P.M., Steven Latasa-Nicks seconded and it was so voted, 4-0.

2) **ZBA 19-18** (continued from the meeting of November 1st)

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. Chair Jeremy Callahan explained that there were only 4 Board members available to sit on the case and since a unanimous decision was required in order to be granted a Special Permit, the applicant had the choice of continuing until 5 members could be seated or proceed with 4 members. Attorney Lester J. Murphy, representing the property owner, chose to proceed as long as he would be able to poll the Board before a vote was taken. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case.

Presentation: Attorney Lester J. Murphy, Lisa Pacheco Robb and Tim Diehl appeared to present the application. Attorney Murphy said that the property owners, Ms. Robb and an abutter, Angela Russo, came to a compromise regarding the size of the deck. Ms. Russo had objected to the size and location of the deck based upon the impact it would have on her privacy. As a result, he said, a modification was made to the project consisting of moving it 2' farther away from Ms. Russo's property. He said that he had understood that this revision was acceptable to Ms. Russo.

Public Comment: Ms. Russo said that one of the owners of the property indicated that he was going to be renting the property and she had concerns about the potential negative consequences of that intention. She was satisfied with the 2' reduction in the width of the fence, however she said that she had spoken to one of the property owners about splitting the cost of installing a very tall fence to mitigate the deck's negative effect on her privacy.

Jeremy Callahan moved to close the public portion of the hearing, Steven Latasa-Nicks seconded and it was so voted, 4-0.

Board Discussion: The Board questioned Attorney Murphy, Ms. Pacheco Robb and Mr. Diehl. Attorney Murphy confirmed with the Board that his client had agreed to split the cost of the fence.

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

Peter Okun moved to grant 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 at the property located at 155 Bradford Street (Res 3), Daniel Wagner seconded and it was so voted, 4-0.

3) **ZBA 19-19**

12 Franklin Street, #1, (Residential 3 Zone), David McMahon, on behalf of Marianne Colacray -

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to replace an existing wing of a structure with a slightly larger addition, thereby increasing its building scale, and to rebuild its failing foundation. Chair Jeremy Callahan

explained that there were only 4 Board members available to sit on the case and since a unanimous decision was required in order to be granted a Special Permit, the applicant had the choice of continuing until 5 members could be seated or proceed with 4 members. David McMahon, the applicant, chose to proceed as long as he would be able to poll the Board before a vote was taken. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case.

Presentation: David McMahon and Marianne Colacray appeared to present the application. Mr. McMahon reviewed the project. He said that the structure would be less non-conforming on a side yard setback and the increase is to the rear of the building scale and not visible from Franklin Street

Public Comment: None. There were 12 form letters, from abutters, in the file expressing support for the application.

Steven Latasa-Nicks moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 4-0.

Board Discussion: Mr. Gardner noted that the project should have been advertised as needing relief pursuant to Article 3, Section 3110 as well, considering that the north side yard lot line is pre-existing, non-conforming due to a stairway that was located within the setback. Since that section of the structure was being demolished and rebuilt, it would need relief to retain its pre-existing, non-conforming status. He said that the Board could make a positive finding regarding that issue if it chose, specifically that the project was not substantially more detrimental to the neighborhood or Town than the existing structure, particularly since all the letters were in support of the project and no abutters attended the hearing to speak against it. The Board agreed to make the finding that given the lack of opposition from the neighbors.

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 or neighborhood outweigh any adverse effects such as hazard, congestion or environmental degradation, Peter Okun seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to find that the project was no substantially more detrimental to the Town or neighborhood than the existing situation, Peter Okun seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to find that pursuant to Article 2, Section 2640, subparagraph 5, the proposed building or addition successfully integrates into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural light to, or views from, neighboring structures, Peter Okun 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 or Alterations, of the Zoning By-Laws to replace an existing wing of a structure with a slightly larger addition, thereby increasing its building scale, along a pre-existing, non-conforming side yard dimension and to rebuild its failing foundation. Steven Latasa-Nicks will write the decision.

4) **ZBA 19-21** (*request to postpone to the meeting of December 6th*)
122 Commercial Street (Town Center Commercial Zone), Ted Smith, on behalf of Joshua Ronnebaum –

The applicant seeks 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 lift a structure 3.5', add a shed dormer and egress stairs on a pre-existing, non-conforming east elevation, rebuild an existing porch in a pre-existing, non-conforming west elevation into interior space and add two one-story additions on a north elevation of a structure. There was a request to postpone ZBA 19-21 to the December 6, 2018 Public Hearing at 7:00 P.M., *Peter Okun moved to grant the request to postpone ZBA 19-21 to the Public Hearing of December 6, 2018, Steven Latasa-Nicks seconded and it was so voted, 4-0.*

WORK SESSION

Chair Jeremy Callahan reconvened the Work Session at 7:35 P.M.

1) Pending Decisions:

ZBA 19-24 (Rob)

48 Shank Painter Road (General Commercial Zone), Katherine Braucher Adams, Esq., on behalf of 48 Shankpainter, LLC et al. –

Jeremy Callahan, Rob Anderson, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. Jeremy Callahan read the decision. *Peter Okun moved to approve the language as written, Steven Latasa-Nicks seconded and it was so voted, 4-0.*

ZBA 12-26 (Steven)

225 Commercial Street (Town Commercial Center Zone), The Galley Catering –

Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. The applicant had not submitted a revised seating plan for what was approved and the decision was not read.

ZBA 19-27 (Peter)

225 Commercial Street (Town Commercial Center Zone), Loic Rossignon –

Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks and Peter Okun sat on the case. Peter Okun read the decision. The Board briefly discussed the decision and decided to add an expiration date for the Special Permit. The Special Permit would expire when the business changed ownership. *Steven Latasa-Nicks moved to approve the decision with the revision that the Special Permit will expire when the business changes ownership, Daniel Wagner seconded and it was so voted, 4-0.*

2) **Approve minutes of the October 18, 2018 meeting.**

MINUTES: October 18, 2018 – *Peter Okun moved to approve the minutes as written, Steven Latasa-Nicks seconded and it was so voted, 4-0.*

3) Any Other Business that may properly come before the Board.

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

ADJOURNMENT: *Steven Latasa-Nicks moved to adjourn the Public Hearing at 8:00 P.M., Peter Okun seconded and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
Jeremy Callahan, Chair