

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
December 6, 2018**

Members Present: Jeremy Callahan, Rob Anderson, Marianne Clements, Daniel Wagner and Peter Okun.

Members Absent: Steven Latasa-Nicks (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 6:31 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. Marianne Clements read the decision. *Peter Okun moved to approve the language as written, Rob Anderson seconded and it was so voted, 4-0.*

ZBA 19-19 (Steven)

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

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

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. Jeremy Callahan read the decision. *Rob Anderson moved to approve the language as revised, Daniel Wagner seconded and it was so voted, 3-0-1. (Peter Okun abstaining).*

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. Jeremy Callahan read the decision. *Daniel Wagner moved to approve the language as written, Peter Okun seconded and it was so voted, 3-0.*

2) **Approve minutes of the November 15, 2018 meeting.**

MINUTES: November 15, 2018 – *Peter Okun moved to approve the minutes as written, Daniel Wagner seconded and it was so voted, 5-0.*

3) **Any Other Business that may properly come before the Board.** None.

Chair Jeremy Callahan adjourned the Work Session at 7:00 P.M.

B. PUBLIC HEARING

Chair Jeremy Callahan called the Public Hearing to order at 7:00 P.M. There were 5 Board members present and 1 absent.

1) **ZBA 18-69** (*postponed to the meeting of February 21st*)
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.

2) **ZBA 19-21** (*postponed from the meeting of November 15th*)
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 life 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 a one-story addition on a northwest elevation of a structure. Jeremy Callahan, Rob Anderson, Marianne Clements, Daniel Wagner and Peter Okun sat on the case.

Presentation: Attorney Lester J. Murphy, Ted Smith and Kaye McFadden appeared to present the application. Attorney Murphy explained that several revisions had been made to the plans at the request of the Historic District Commission. The structure is located in the A flood zone and will be raised 2' for future storm protection. A dwelling unit will be removed from the multi-family structure, leaving two units. Attorney Murphy said that many design changes and exterior modifications were made to the original project. The proposed structure will be much more in

keeping with other structures in the Historic District. Mr. Smith explained that an addition will be made only to the northwest corner of the structure as proposed and not to both the northeast and northwest corners, as originally proposed. On the northwest corner and along the west elevation, a stairway to the side yard on the first floor and a deck on the second floor will be removed and that area filled in with a dormer, which will increase the building's scale. The west elevation is a pre-existing, non-conforming front yard setback. A stairway will be added to the elevation in order to be able to access the front door after the building has been raised. Mr. Smith added that most of the changes will be on the northwest corner, the least visible area of the structure when viewed from Commercial Street, and the massing and volume has been minimized as much as possible. Attorney Murphy argued that the alterations and extensions of the structure are not substantially more detrimental to the neighborhood than the existing structure. And pursuant to Article 5, Section 5330, the economic, social and other benefits of the proposed changes will outweigh any negative impacts such as hazard, congestion or environmental degradation. He said that the lot is non-conforming as to dwelling unit density, lot coverage and front and side yard setbacks. The alterations include a new access stairway on the east, which is in the side yard setback, and authorized pursuant to Article 3, Section 3110 because of the raising of the structure due to flood considerations, and the dormer on the northwest elevation. He concluded that the project will result in a more attractive and historically consistent and usable two-family structure. He added that the green area is being reduced slightly, there will be a slight increase in lot coverage and a reduction in unit density. Attorney Murphy then argued that the deviation in scale meets the requirements of Section 5330 and explained how the requirements of Article 2, Section 2640E, subparagraphs 5 and 6, were met as well. The changes are consistent with the guidelines of the HDC and they minimize massing from the streetscape. The average neighborhood scale is 17,940 cu. ft., the allowable scale is 20,641 cu. ft., the existing scale is 21,352 cu. ft., 6,168 cu. ft. are being added for a total of 27,520 cu. ft. This increase in scale is 28.8%.

Public Comment: None. There were 3 letters in support and 1 letter in opposition to the application.

Jeremy Callahan moved to close the public portion of the hearing, Rob Anderson seconded and it was so voted, 5-0.

Board Discussion: The Board questioned Attorney Murphy, Mr. Smith and Ms. McFadden. **Rob Anderson moved to find that pursuant to Article 5, Section 5330, the economic, social and other benefits of the project outweigh any adverse effects such as hazard, congestion or environmental degradation, Marianne Clements seconded and it was so voted, 4-1-0. (Peter Okun opposed).**

Rob Anderson moved to find that pursuant to Article 2, Section 2640E, subparagraphs 5 and 6, Daniel Wagner seconded and it was so voted, 3-2-0. (Marianne Clements and Peter Okun opposed).

Rob Anderson 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 life 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 a one-story addition on a northwest elevation of a structure at the property located at 122 Commercial Street (TCC), Daniel Wagner seconded and it was so voted, 5-0. Jeremy Callahan will write the decision.

3) **ZBA 19-28**

53 Commercial Street, Rear (Residential 2 Zone), Don DiRocco, of Hammer Architects, on behalf of Jay Anderson –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to renovate and convert a pre-existing, non-conforming three-story structure located within a pre-existing, non-conforming east elevation setback into a two-story structure, making it less non-conforming and reducing its scale. There was a request by the applicant to withdraw without prejudice. ***Rob Anderson moved to grant the request to withdraw ZBA 19-28 without prejudice, Peter Okun seconded and it was so voted, 5-0.***

4) Vote on changing the starting time for ZBA Public Hearings and approve 2019 Meeting Schedule: The Board decided to change the time of the ZBA Public Hearings to 6:30 P.M., with Work Sessions to begin at 6:00 P.M., unless otherwise scheduled, and approved the 2019 Meeting Schedule.

NEXT MEETING: The next meeting will take place on Thursday, January 3, 2019. It will consist of a Work Session at 6:15 P.M. followed by a Public Hearing at 6:30 P.M.

ADJOURNMENT: ***Rob Anderson 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 _____, 2019
Jeremy Callahan, Chair