

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
August 1, 2019**

Members Present: Jeremy Callahan, Daniel Wagner, and Caleb Eigsti, and Robert Nee.

Members Absent: Steven Latasa-Nicks, Susan Peskin, and Peter Okun (all excused).

Others Present: Jeff Ribeiro (Town Planner) and Ellen C. Battaglini (Permit Coordinator)

WORK SESSION

Chair Jeremy Callahan called the Work Session to order at 6:00 P.M.

1) PENDING DECISIONS:

ZBA 19-65 (Jeff)

Application by **George Tagaris** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to modify a condition of Special Permit #FY15-57 requiring the installation of a sprinkler system in a structure on the property located at **143 Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti sat on the case.** The decision was not ready.

ZBA 19-74 (Jeremy)

Application by **Peter Brox** seeking 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 a 10' by 12' addition with a 20' by 31' addition and to extend an overhang into a pre-existing, non-conforming front yard setback on the structure located at **74 Franklin Street (Residential 3 Zone)**. **Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti sat on the case.** The decision was not ready.

2) Approval of Minutes:

July 18, 2019: Jeremy Callahan moved to approve the minutes as written, Caleb Eigsti seconded and it was so voted, 4-0.

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

Chair Jeremy Callahan adjourned the Work Session at 6:17 P.M.

PUBLIC HEARING

Chair Jeremy Callahan called the Public Hearing to order at 6:30 P.M. There were 4 Board members present and 3 absent.

1) PUBLIC HEARINGS:

ZBA 19-46 (*request to withdraw without prejudice*)

Application by **Stanley Sikorski & Eva Sikorski**, on behalf of **David Mayo**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, to construct a single-family structure that will exceed the allowable building scale on the property located at **294 Bradford Street (Residential 3 Zone)**. There was a request from the applicants to withdraw ZBA 19-46 without prejudice. **Caleb Eigsti moved to grant the request to withdraw ZBA 19-46 without prejudice, Robert Nee seconded and it was so voted, 4-0.**

ZBA 19-78 (*continued to the meeting of September 19th*)

Application by **Dol-Fin Development, LLC** seeking a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B7, Parking Lots, garages, of the Zoning By-Laws to establish a parking lot on the property located at **3 Cudworth Street (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Susan Peskin, and Caleb Eigsti sat on the case.

Chair Jeremy Callahan announced that there were only 4 members of the ZBA in attendance and each case would need a unanimous decision in order to be approved as a Special Permit. The applicant can request that the Chair poll the Board before an official vote is taken.

ZBA 19-79

Application by **Lisa Pacheco Robb**, on behalf of **Travis & Wendy Connors**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alterations, of the Zoning By-Laws to extend two bays along pre-existing, non-conforming front and side yard setbacks and to add a widow's walk on the structure located at **14 Thistlemore Road (Residential 1 Zone)**. Jeremy Callahan, Daniel Wagner, and Caleb Eigsti, and Robert Nee sat on the case.

Presentation: Lisa Pacheco-Robb and Travis Connors presented the application. Ms. Pacheco-Robb reviewed the project. There are two existing additions, or cantilevered bays, on the structure in pre-existing, non-conforming setbacks. There is an existing roof deck on the structure and the applicants seek to add a widow's walk. She submitted photographs of the structure and a stamped site plan. She explained that the project involves extending one of the cantilevered additions to the ground and then 4' to the west of the house to make a new entryway. In addition a living bay on the south elevation will be extended over to a corner of the house, below a balcony.

Board Discussion: Mr. Ribeiro said that there is an issue with extending the height, which can be heard under section 3110, however he recommended that the Board continue the hearing so staff can determine whether the widow's walk would constitute a story.

Caleb Eigsti moved to continue ZBA 19-79 to the August 15, 2019 Public Hearing at 6:30 P.M., Robert Nee seconded and it was so voted, 4-0.

ZBA 20-01

Application by **Brian Bosse**, on behalf of **NSTAR, dba Eversource Energy**, seeking a Special Permit pursuant to Article 2, Sections 2440, Permitted Principal Uses, C8, Public utility, 2470, Parking Requirements, and 2640, Building Scale of the Zoning By-Laws to construct a lithium-ion battery storage system on the property located at **90 Race Point Road (Municipal Zone)**. Jeremy Callahan, Daniel Wagner, and Caleb Eigsti, and Robert Nee sat on the case.

Presentation: Attorney Alex M. Rodolakis and Brian Bosse, of Eversource, presented the application. Attorney Rodolakis reviewed the project, which will improve the reliability of the electrical service to its customers in Town. The proposed energy storage facility will improve reliability by about 50%, depending upon the needs of customers. He reviewed an aerial photograph of the site and its surrounding area. The proposed structure will be one-story, measuring 9928 sq. ft., with a flat roof partially covered with solar panels. Highly efficient lithium-ion batteries will be placed inside the building and an HVAC system will be located on the exterior to maintain the interior temperature. The building will be remotely monitored 24-hours a day, with a back-up system, and there will no emissions emanating from the building. Sound walls will be erected to dampen the sound of transformers associated with the generator and the noise will have a negligible impact on neighbors. The applicant has met with the Fire Dept. and there will be a fire hydrant installed on the site and a water line will be extended from Race Point Road to service it. He reviewed the Special Permit requirements, the use as a public utility, which is allowed in the Municipal Zoning District, the reduction, by 7 spaces, in the parking requirements, and the building scale. He reviewed the definition of public utility and said that Eversource fit the definition. He said that very few parking spaces will be needed as a result of the addition of the facility, and would only be needed on a limited and transient basis. As to the building scale, the facility is new construction and a scale calculation has been completed. The only structures within the required radius of building scale determination are municipal structures, which are not considered in the calculation, meaning that the building scale was zero, so any new structure will be more than a 25% increase in scale and require a Special Permit. He argued that the economic, social and other benefits to the neighborhood and the Town outweigh any adverse effects, as it will improve the reliability and efficiency of the electrical system and mitigate outages. It is in keeping with the goals and policies of the Local Comprehensive Plan. The project will result in improvements to the site, such as the extension of the water line and the addition of a fire hydrant. In addition, real estate taxes will be collected, adding to the tax base. There will be no adverse impacts on traffic, as the site will be unmanned, and no wastewater will be generated. It will not add to the parking needs of the Town, as the applicant is, on the contrary, seeking a parking reduction. There is a request for 7 parking spaces, whereas based upon the square footage, a total of 28 would otherwise be required. Under s. 2640E, the project is compliant with subparagraphs 1, as it is in keeping with the goals and policies of the LCP; 2, as it will be an important structure to the Town; 3, as the proposed building, by necessity, must be large and that the location is suited for that larger scale use; and 5, as it will not be visible from the street and will not disrupt the nature of the parcel nor will it be visible from the streetscape.

Public Comment: Douglas Sherk and Barbara Yates, of 60 Race Point Road and abutters to the site, had questions related to noise, fire safety, visibility from Race Point Road, and the proposed construction schedule.

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

Board Discussion: The Board questioned Attorney Rodolakis and Mr. Bosse.

Caleb Eigsti moved to find that pursuant to Article 5, Section 5330, the social, economic and other benefits of the proposal for the neighborhood or Town outweighed any adverse effects such as hazard, congestion or environmental degradation, Robert Nee seconded and it was so voted, 4-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 2, Sections 2440, Permitted Principal Uses, C8, Public utility, 2470, Parking Requirements, and 2640, Building Scale of the Zoning By-Laws to construct a lithium-ion battery storage system on the property located at 90 Race Point Road (Municipal), Robert Nee seconded and it was so vote, 4-0. Jeremy Callahan will write the decision.

ZBA 20-02

Application by **Paul Goncalves**, on behalf of **Megan Grant**, seeking a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to place a sandwich board outside the retail store Kiehl's located at **200 Commercial Street (Town Commercial Center Zone)**. Jeremy Callahan, Daniel Wagner, and Caleb Eigsti, and Robert Nee sat on the case.

Presentation: Paul Goncalves presented the application.

Public Comment: None.

Jeremy Callahan moved to close the public hearing, Caleb Eigsti seconded and it was so voted, 4-0.

Board Discussion: The Board briefly questioned Mr. Goncalves.

Caleb Eigsti moved to find that pursuant to Article 5, Section 5330, the social, economic and other benefits of the proposal for the neighborhood or Town outweighed any adverse effects such as hazard, congestion or environmental degradation, Robert Nee seconded and it was so voted, 4-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to place a sandwich board outside the retail store Kiehl's located at 200 Commercial Street (TCC), Robert Nee seconded and it was so voted, 4-0.

ZBA 20-03

Application by **William Lord** seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to add a sunroom to the structure located at **5 Nelson Avenue (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, and Caleb Eigsti, and Robert Nee sat on the case.

Presentation: Rick Russell presented the application. The applicant seeks to install a three-season sunroom in the rear of the structure.

Public Comment: None.

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

Board Discussion: The Board briefly questioned Mr. Russell.

Caleb Eigsti moved to find that pursuant to Article 5, Section 5330, the social, economic and other benefits of the proposal for the neighborhood or Town outweighed any adverse effects such as hazard, congestion or environmental degradation, Robert Nee seconded and it was so voted, 4-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to add a sunroom to the structure located at 5 Nelson Avenue (Res3), Robert Nee seconded and it was so voted, 4-0.

NEXT MEETING: The next meeting will take place on Thursday, August 15, 2019 in the Judge Welsh Room. It will consist of a Work Session at 6:00 P.M. and a Public Hearing at 6:30 P.M.

ADJOURNMENT: *Caleb Eigsti moved to adjourn the Public Hearing at 7:30 P.M., Robert Nee seconded and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2019
Jeremy Callahan, Chair