

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
September 19, 2019**

Members Present: Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Susan Peskin (arrived at 6:26 P.M.), Caleb Eigsti, and Robert Nee.

Members Absent: Jeremy Callahan (excused).

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

WORK SESSION

Vice Chair Steven Latasa-Nicks called the Work Session to order at 6:02 P.M.

1) PENDING DECISIONS:

ZBA 19-79 (Jeremy)

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, Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti sat on the case.** The decision was not ready.

ZBA 20-03 (Robert)

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.** Robert Nee read the decision. *Caleb Eigsti moved to approve the language as written, Daniel Wagner seconded and it was so voted, 3-0.*

ZBA 20-05 (Peter)

Application by **Doug Dolezal**, of **Design Matters, LLC**, on behalf of **Miriam Gallardo & Courtney Spitz**, 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 construct a two-story, 180 sq. ft. addition on the rear northwest corner, along a pre-existing, non-conforming west side yard elevation, and to increase the building scale of the structure located at **62 Mayflower Avenue (Residential 1 Zone)**. **Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti, and Robert Nee sat on the case.** Peter Okun read the

decision. *Caleb Eigsti moved to approve the language as written, Robert Nee seconded and it was so voted, 4-0.*

ZBA 20-08 (Steven)

Application by **PV Development** seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G11, Other Customary Accessory Uses, of the Zoning By-Laws to construct a gazebo on the property located at **170 Bradford Street Extension (Residential 3 Zone)**. **Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti sat on the case.** Steven Latasa-Nicks read the decision. *Caleb Eigsti moved to approve the language as written, Robert Nee seconded and it was so voted, 4-0.*

2) Approval of Minutes:

August 15, 2019: *Caleb Eigsti moved to approve the minutes as written, Robert Nee seconded and it was so voted, 6-0.*

September 5, 2019: *Caleb Eigsti moved to approve the minutes as written, Robert Nee seconded and it was so voted, 6-0.*

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

Vice Chair Steven Latasa-Nicks adjourned the Work Session at 6:26 P.M.

PUBLIC HEARING

Vice Chair Steven Latasa-Nicks called the Public Hearing to order at 6:30 P.M. There were 6 Board members present and 1 absent. Sylvia Peck who is an abutter to the project at 170 Bradford Street Extension was allowed to comment on the proposed gazebo at the premises.

1) PUBLIC HEARINGS:

ZBA 19-78 (*continued from the meeting of July 18th*)

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)**. Daniel Wagner, Steven Latasa-Nicks, Susan Peskin, and Caleb Eigsti sat on the case. Vice Chair Steven Latasa-Nicks reminded the applicant that there were only 4 Board members available to sit on the case that had also sat on the previous hearing of the case. He said that a unanimous decision would have to be reached in order for a Special Permit to be issued. The applicant chose to proceed if a poll of the Board was taken before the final vote.

Presentation: Attorney Lester J. Murphy and Lyn Plummer appeared to discuss the application. Attorney Murphy reviewed the request, which is to authorize a two-car parking lot. He matter

was heard first by the Board on July 18th, at which time it was requested that the applicant acquire site plan approval by the Planning Board and then return for a Special Permit. He said that the site plan had been approved by the PB for two parking spaces and the proposed third would be allowed when an inclusionary housing unit was developed on the lot in the future. The third space would be used in connection with that unit. For now, the request is for the Board to approve the use as a two-car lot. The applicant had submitted a new site plan based upon conditions imposed by the PB to address abutters' concerns. The site plan shows an 18' wide curb cut closest to the garage, less than the previous curb cut, which ran the entire length of the property. In addition, a landscaped area will be developed on the south, or Cudworth Street, side of the property, which will act as not only a green area, but as a buffer to the street as well. The applicant has agreed to install a light-impervious fence running along the southwestern side of the property to reduce the glare of headlights reaching the abutter's property from vehicles using the two parking spaces. Shrubbery has already been planted along the rear of the property. Attorney Murphy reminded the Board that the PB looks at the site development aspect of the property and the best parking design, pursuant to the PB site plan approval, is that which has been presented on the site plan. This design works because parking is allowed along the easterly side of the street running up close to where the garage is located. If the lot were accessed along the southerly side, there would be a space issue with the cars parked on Cudworth Street, which is a two-way street, and where there is very little width in order to maneuver out of the lot. Farther northward where the garage is located, and because of its location, there is no parking allowed on the street and this would provide greater width for exiting purposes. This is where the cars on the lot are proposed to exit. The PB agreed with the applicant that this egress arrangement is the best option. Also, the railroad-tie wall that encroaches on the abutter's property will be pulled back and become a light-impermeable wall, located entirely on the 3 Cudworth lot. He said that the lot has been cleaned up considerably since the applicant has owned it and landscaped with plantings. The garage structure has been totally rebuilt as a garage. If, in the future, it becomes a dwelling unit, all the appropriate approvals and permits will be sought. Attorney Murphy, pursuant to Article 5, s. 5330, argued that this lot is a benefit to the Town because it will be providing parking for the dwelling units across the street, will help reduce congestion on the street and reduce the hazard of parallel parking more cars in the neighborhood, and because of its considerable aesthetic improvement. He argued that providing off-street parking is a benefit to the Town and the neighborhood and will not have a negative impact. The cars on the lot will be able to exit headfirst onto Cudworth Street. He explained that the Special Permit was necessary because the two proposed parking spaces are not appurtenant to the 2 dwelling units across the street.

Public Comment: Michael Perry and John Moseley, both abutters, spoke in opposition to the application.

Robert Nee 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 Murphy and Ms. Plummer about the parking space location and whether it was the best location given the circumstances. Mr. Latasa-Nicks polled the Board. The applicant did not have a unanimous vote of the Board and requested a continuance to the next hearing in order to have 5 members seated on the case. Mr. Latasa-Nicks recommended that Board members watch the PB hearing of the matter and its discussion of the parking space location, that Mr. Nee review the July 18th ZBA hearing of the case and that staff

contact Jeremy Callahan to watch this hearing in order that both members could be seated on the case at the next hearing and provide the applicant with 5 Board members. The applicant also will submit a time waiver. The Board requested putting a note on the site plan to indicate that the third space would not be implemented until the dwelling unit was approved.

Caleb Eigsti moved to approve the request to continue ZBA 19-78 to the October 3rd Public Hearing, Daniel Wagner seconded and it was so voted, 4-0.

Caleb Eigsti moved to accept the time waiver, Susan Peskin seconded and it was so voted, 4-0.

ZBA 20-09 (continued from the meeting of September 5th)

Application by **Ted Smith, Architect, LLC**, on behalf of **Jonathan Price**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to raze an existing dwelling unit and to build a new garage and single-family structure on the property located at **21 Off-Cemetery Road (Residential 3 Zone)**. Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Caleb Eigsti, and Susan Peskin sat on the case.

Presentation: Ted Smith appeared to discuss the application. He submitted the elevation drawings for the garage as requested by the Board at the previous hearing of the project.

Public Comment: None.

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

Board Discussion: The Board questioned Mr. Smith and reviewed the garage plans.

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

Caleb Eigsti moved that pursuant to Article 2, Section 2640E, subparagraph, 5 the proposed building will successfully integrate 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, 5-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to raze an existing dwelling unit and to build a new garage and single-family structure on the property located at 21 Off-Cemetery Road (Res 3), Peter Okun seconded and it was so voted, 5-0. Steven Latasa-Nicks will write the decision.

ZBA 20-10 (request to postpone to the meeting of October 3rd)

Application by **Ted Smith, Architect, LLC**, on behalf of **Adam Rogers**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to convert a garage to a studio, adding a half-story up and along pre-existing, non-conforming south front and west side yard setbacks, on the property located at **10-12 West Vine Street, (Residential 2 Zone)**. There was a request from Mr. Smith to postpone ZBA 20-10 to the

October 3, 2019 Public Hearing at 6:30 P.M. *Caleb Eigsti moved to grant the request to postpone ZBA 20-10 to the October 3, 2019 Public Hearing at 6:30 P.M., Peter Okun seconded and it was so voted, 5-0.*

ZBA 20-11

Application by **Ted Smith, Architect, LLC**, on behalf of **Tom Tannariello**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to renovate a structure and increase its footprint by adding a new basement and a second story up and along pre-existing, non-conforming west side and north rear yard setbacks on the property located at **420 Commercial Street (Residential 3 Zone)**. Steven Latasa-Nicks recused himself because of a conflict of interest. Caleb Eigsti, Daniel Wagner, Peter Okun, Susan Peskin and Robert Nee sat on the case.

Presentation: Ted Smith appeared to present the application. He reviewed the project, which involves the renovation of two structures on the site. The renovation of the front structure does not require zoning relief. The rear structure project involves the extension of a pre-existing, non-conforming west side yard and a pre-existing, non-conforming north rear yard setback. The west elevation of the structure will move farther south along the west side yard setback and will go up and along both the north and west elevations to add another story to the north elevation of the structure. He argued that the project would have no adverse effects on the neighborhood and Town. The project is in keeping with other properties in the neighborhood, as the abutting property has a rear cottage with a second story as well. He called the Board's attention to the elevation drawings to bolster his contention that the impact would be minimal.

Public Comment: None.

Robert Nee moved to close the public portion of the hearing, Susan Peskin seconded and it was so voted, 5-0.

Board Discussion: The Board questioned Mr. Smith. Mr. Gardner asked if the structure that was being renovated would be demolished given that a lift of the building was necessary in order to install a new foundation. If so, he said, since the applicant was not requesting that relief, Mr. Smith would have to return to the Board to seek that relief if it was discovered that the building would need to be demolished in order to install the new foundation. Mr. Smith said that no demolition would be needed in order to install the new foundation or add a second story.

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

Peter Okun moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to renovate a structure and increase its footprint by adding a new basement and a second story up and along pre-existing, non-conforming west side and north rear yard setbacks on the property located at 420 Commercial Street (Res 3), Robert Nee seconded and it was so voted, 5-0. Peter Okun will write the decision.

ZBA 20-12

Application by **John D. Corcoran** seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to add a dormer to, and increase the scale of, a structure

on the property located at **26 Pleasant Street, U2 (Residential 3 Zone)**. Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Caleb Eigsti, and Susan Peskin sat on the case.

Presentation: John Corcoran appeared to present the application. He reviewed the proposal to add a shed dormer, which will add more headspace in the structure by adding extra space to a kneewall. He argued that it would make the living space seem larger.

Public Comment: None. There were 2 letters in support of the application.

Peter Okun moved to close the public portion of the hearing, Caleb Eigsti seconded and it was so voted, 5-0.

Board Discussion: The Board questioned Mr. Corcoran about increasing the scale of the structure and briefly discussed the issue and what would be seen from the street.

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

Peter Okun moved that pursuant to Article 2, Section 2640E, subparagraph, 5 the proposed building will successfully integrate 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, Caleb Eigsti seconded and it was so voted, 5-0.

Peter Okun moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to add a dormer to, and increase the scale of, a structure on the property located at 26 Pleasant Street, U2 (Res 3), Caleb Eigsti seconded and it was so voted, 5-0. Daniel Wagner will write the decision.

ZBA 20-13

Application by **Ezra Block**, on behalf of **Matthew Metivier & Ricardo Gessa**, seeking a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish, relocate, and rebuild an existing cottage up and along a pre-existing, non-conforming west side setback on the property located at **7 Bradford Street (Residential 3 Zone)**. Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Caleb Eigsti, and Susan Peskin sat on the case.

Presentation: Ezra Block appeared to present the application. He reviewed the application, which involves moving a cottage, a non-conforming structure, closer to Bradford Street and farther away from the pre-existing, non-conforming side and rear yard setbacks. He said that the property owners want to maximize the space between the principal structure and the cottage.

Public Comment: None. There was 1 letter in support of the application.

Caleb Eigsti moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 5-0.

Board Discussion: The Board questioned Mr. Block.

Caleb Eigsti moved that pursuant to Article 5, Section 5330, the social, economic or other benefits of the project to the neighborhood and Town outweigh any adverse effects, such as hazard, congestion or environmental degradation, Susan Peskin seconded and it was so voted, 5-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish, relocate, and rebuild an existing cottage up and along a pre-existing, non-conforming west side setback on the property located at 7 Bradford Street (Res 3), Susan Peskin seconded and it was so voted, 5-0. Susan Peskin will write the decision.

NEXT MEETING: The next meeting will take place on Thursday, October 3, 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 8:00 P.M., Robert Nee seconded and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2019
Jeremy Callahan, Chair