

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
October 3, 2019**

Members Present: Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Susan Peskin (left at 7:10 P.M.), Caleb Eigsti, and Robert Nee.

Members Absent: None.

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

WORK SESSION

Chair Jeremy Callahan called the Work Session to order at 6:02 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, Caleb Eigsti and Robert Nee sat on the case.** Jeremy Callahan read the decision.

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

ZBA 20-09 (Steven)

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.** Steven Latasa-Nicks read the decision. *Peter Okun moved to approve the language as*

amended, Caleb EIgsti seconded and it was so voted, 5-0.

ZBA 20-11 (Peter)

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.** Peter Okun read the decision. *Caleb Eigsti moved to approve the language as amended, Robert Nee seconded and it was so voted, 5-0.*

ZBA 20-12 (Daniel)

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.** Daniel Wagner read the decision. *Peter Okun moved to approve the language as written, Caleb Eigsti seconded and it was so voted, 5-0.*

ZBA 20-13 (Susan)

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.** Susan Peskin read the decision. *Peter Okun moved to approve the language as amended, Robert Nee seconded and it was so voted, 5-0.*

2) Approval of Minutes:

September 19, 2019: *Caleb Eigsti moved to approve the minutes as written, Peter Okun seconded and it was so voted, 7-0.*

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

Chair Jeremy Callahan adjourned the Work Session at 6:31 P.M.

PUBLIC HEARING

Chair Jeremy Callahan called the Public Hearing to order at 6:31 P.M. There were 7 members of the Zoning Board of Appeals present and none absent.

1) PUBLIC HEARINGS:

ZBA 19-78 (*continued from 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 filled out a Mullin Rule form attesting to the fact that he had watched a recording of the previous hearing of the case. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Susan Peskin, and Caleb Eigsti sat on the case.

Presentation: Attorney Lester J. Murphy and Lyn Plummer appeared to discuss the application. Attorney Murphy said that this is the third hearing of the matter before the Board. He reiterated that the Planning Board has approved the site plan already and that this Board must approve the use of the site as a 'parking lot'. Two parking spaces will be established on the site, as delineated on the site plan, each appurtenant to a unit in the structure at 16 Carver Street. It is not a parking lot in the conventional sense of the word, as it will only have two spaces. Any creation of off-street parking is of a benefit to the Town and neighborhood. He said that the applicant would be fine with the condition that a post and chain be used to block off access to the site from the rear corner to the Perry property pursuant to a concern of the Police Chief about non-authorized vehicles being parked on the site. Attorney Murphy referred to the site plan, which is the one approved by the Planning Board, with a third space delineated in case a dwelling unit was developed on the site in the future. The original plan was for 2 spaces, but staff suggested that a third be added in anticipation of a new residential unit being added. He reviewed the changes agreed to by the applicant in response to abutters' concerns, including a light-blocking fence and an entrance on the northerly side of the property, for safer egress, where there is no parking allowed on the street. He noted that all of the driveways in the neighborhood were graveled, including an abutting lot on the west side of the fence, so this lot would not be out of the ordinary because of its existing surface.

Public Comment: Michael Perry and John Moseley, both abutters, spoke in opposition to the project. Ken Ross, an abutter, voiced concerns about the project. There was 1 letter in the file with concerns about the project. Attorney Murphy addressed the concerns of the neighbors.

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 Murphy and Ms. Plummer about how the spaces would be delineated and how the applicant would stop non-authorized vehicles from parking on the lot. The Board and Mr. Ribeiro discussed conditions.

Steven Latasa-Nicks moved that pursuant to Article 5, Section 5330 of the Zoning By-Laws the social, economic and other benefits of the project to the Town or neighborhood outweigh any adverse effects such as hazard, congestion or environmental degradation, Caleb Eigsti seconded and it was so voted, 4-0-1 (Susan Peskin abstaining).

Steven Latasa-Nicks moved to grant 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 (Res 3) with the conditions that only two vehicles can be parked in the two proposed spaces and a third space would only be allowable if a residential dwelling unit was developed under the Inclusionary Incentive Zoning By-Law and that the Planning Board requirement to install light-impermeable fencing, and that a physical, non-movable barrier be placed close enough to the two parking

spaces to prevent a third vehicle from parking on the premises, Caleb Eigsti seconded and it was so voted, 4-0-1 (Susan Peskin abstaining). Steven Latasa-Nicks will write the decision.

ZBA 20-10 (*request to postpone to the meeting of October 17th*)

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 17, 2019 Public Hearing at 6:30 P.M. *Caleb Eigsti moved to grant the request to continue ZBA 20-10 to the October 17, 2019 Public Hearing at 6:30 P.M., Steven Latasa-Nicks seconded and it was so voted, 5-0.*

ZBA 20-14

Application by **Edward Dusek & Paul Kelly**, on behalf of **Ross Dube & Michael Lynch**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to construct a dormer up and along a pre-existing, non-conforming side yard setback and add a second level over an existing addition and construct a small deck with a stairway up and along pre-existing, non-conforming front and side yard setbacks on the property located at **7 Conway Street (Residential 2 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Caleb Eigsti sat on the case.

Presentation: Ed Dusek and Paul Kelly appeared to present the application. Mr. Dusek reviewed the project, which includes removing an interior narrow spiral staircase and replacing it with a new code-compliant staircase, which requires adding a dormer on the east elevation to match the one on the west elevation, and adding a second level on the shed roof addition and a small deck off the new kitchen. The plan was approved by the Historic District Commission and will not be substantially more detrimental to the neighborhood than the existing structure.

Public Comment: None. There were 6 letters in support of the project.

Steven Latasa-Nicks 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. Dusek and Mr. Kelly.

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

Steven Latasa-Nicks moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to construct a dormer up and along a pre-existing, non-conforming side yard setback and add a second level over an existing addition and construct a small deck with a stairway up and along pre-existing, non-conforming front and side yard setbacks on the property located at 7 Conway Street (Res 2), Caleb Eigsti seconded and it was so voted, 5-0. Jeremy Callahan will write the decision.

ZBA 20-15

Application by **Juergen Zimmermann** seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to change a seating plan for the restaurant located at **334 Commercial Street (Town Center Commercial Zone)**. Jeremy Callahan, Daniel Wagner, and Caleb Eigsti sat on the case. Mr. Ribeiro explained that there were only 4 members of the Board available and a unanimous decision would be needed in order to be granted a Special Permit. However the applicant would be able to poll the Board before it takes a final vote and the applicant has the option to continue until 5 members were available.

Presentation: Juergen Zimmermann and Peter Okun appeared to present the application. Mr. Zimmermann reviewed the request.

Public Comment: None.

Steven Latasa-Nicks 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. Zimmermann.

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

Steven Latasa-Nicks moved to grant a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to change a seating plan for the restaurant located at 334 Commercial Street (TCC), Caleb Eigsti seconded and it was so voted, 4-0. Caleb Eigsti will write the decision.

NEXT MEETING: The next meeting will take place on Thursday, October 17, 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