

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
October 17, 2019**

**Members Present:** Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Caleb Eigsti, and Robert Nee (left at 6:10 P.M.).

**Members Absent:** Susan Peskin (excused).

**Others Present:** Amy Kwesell (Town Counsel).

**WORK SESSION**

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

**1) PENDING DECISIONS:**

**ZBA 19-78 (Steven)**

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.** The decision was not ready.

**ZBA 20-14 (Jeremy)**

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.** Jeremy Callahan read the decision. *Steven Latasa-Nicks moved to approve the language as written, Caleb Eigsti seconded and it was so voted, 5-0.*

**ZBA 20-15 (Caleb)**

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.** The decision was not ready.

2) **Approval of Minutes:**

October 3, 2019: *Caleb Eigsti moved to approve the minutes as written, Steven Latasa-Nicks seconded and it was so voted, 6-0.*

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

Chair Jeremy Callahan adjourned the Work Session at 6:07 P.M.

## **PUBLIC HEARING**

Chair Jeremy Callahan called the Public Hearing to order at 6:30 P.M. There were 5 members of the Zoning Board of Appeals present and 2 absent.

1) **PUBLIC HEARINGS:**

**ZBA 20-19**

Application by **Margaret Reynolds** seeking a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning Bylaws to display artwork for retail sales on the property located at **174 Commercial Street (Town Center Commercial Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Caleb Eigsti sat on the case.

**Presentation:** Margaret Reynolds appeared to present the application.

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

*Steven Latasa-Nicks moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 5-0.*

**Board Discussion:** The Board had no questions.

*Steven Latasa-Nicks moved that pursuant to Article 5, Section 5330, the social, economic and other benefits of the request outweighed 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 3420, Outside Display, of the Zoning Bylaws to display artwork for retail sales on the property located at 174 Commercial Street (TCC), Caleb Eigsti seconded and it was so voted, 5-0.*

**ZBA 20-10** (continued from the meeting of October 3<sup>rd</sup>)

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)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Caleb Eigsti sat on the case.

**Presentation:** Ted Smith and Adam Rogers appeared to present the application. Mr. Smith reviewed the project, which proposed to convert a structure into an art studio, a use that is

allowed by right, and add a half story. He said that the pre-existing, non-conforming dimensions are involved in adding a half story. He argued that the benefits of the project outweighed any adverse effects.

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

*Steven Latasa-Nicks moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 5-0.*

**Board Discussion:** The Board had no questions.

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

*Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Section 3110, subsection 2, 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, (Res 2), Steven Latasa-Nicks seconded and it was so voted, 5-0. Peter Okun will write the decision*

#### **ZBA 20-18**

Application by **Edward Trainor**, on behalf of **Steven Smith**, seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a swimming pool on the property located at **21 Kimberly Lane (Residential 1 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Caleb Eigsti sat on the case.

**Presentation:** Edward Trainor appeared to present the application. He reviewed the project.

**Public Comment:** Jacob Murray, an abutter, had a concern about the fencing, the proposed lighting, if an exterior sound system was proposed, and the certification of the property line. Mr. Trainor responded to his concerns.

*Peter Okun moved to close the public portion of the hearing, Steven Latasa-Nicks seconded and it was so voted, 5-0.*

**Board Discussion:** The Board questioned Mr. Trainor. The Board discussed conditions including requiring the water to be trucked in and that it cannot be drained on the property, and that there can be no outdoor sound system.

*Steven Latasa-Nicks moved that pursuant to Article 5, Section 5330, the social, economic and other benefits of the project outweighed 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 2, Section 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a swimming pool on the property located at 21 Kimberly Lane (Res 1), with the conditions that the water to fill the pool shall be trucked in to the property and cannot be drained on the property, there will be no outdoor sound system, the fence shall be located 4' off the property line, which will be established and confirmed by a surveyor, and only one light shall be installed in the pool and the spa, Caleb Eigsti seconded and it was so voted, 5-0. Steven Latasa-Nicks will write the decision.*

**ZBA 20-20**

Application by **Tom Thompson**, on behalf of **Stephanie Cave et al.**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to connect two structures going up and along pre-existing, non-conforming east rear and south side yard setbacks and add a second floor to one of the structures on the property located at **6 Duncan Lane (Residential 3 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Caleb Eigsti sat on the case.

**Presentation:** Tom Thompson and Stephanie Cave appeared to present the application. Mr. Thompson reviewed the project. He said that the project was entitled to consideration under the *Goldhirsh v. McNear* ruling. He reviewed the site plan. The project will attach the main structure and the garage with a 7' addition, raise the garage roof 5', construct a three-season porch on a portion of an existing raised sundeck on the west elevation, and remove a 13' section of the same sundeck. The east and west elevations are pre-existing, non-conforming dimensions. He reviewed the non-conforming aspects of the property. He argued that the project was consistent with the goals and policies of the Local Comprehensive Plan and the proposed changes are not substantially more detrimental than the existing situation. He also argued that the economic, social and other benefits outweigh any adverse effects.

**Public Comment:** None. There were no letters.

*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. Thompson.

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

*Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to connect two structures going up and along pre-existing, non-conforming east rear and south side yard setbacks and add a second floor to one of the structures on the property located at 6 Duncan Lane (Res 3), Peter Okun seconded and it was so voted, 5-0. Jeremy Callahan will write the decision.*

**NEXT MEETING:** The next meeting will take place on Thursday, November 7, 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 7:15 P.M., Peter Okun seconded and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2019  
Jeremy Callahan, Chair