

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
November 7, 2019**

Members Present: Jeremy Callahan, Peter Okun, Caleb Eigsti, and Robert Nee.

Members Absent: Steven Latasa-Nicks (excused) Daniel Wagner (excused) and Susan Peskin (excused).

Others Present: Amy Kwesell (Town Counsel) 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 19-78 (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, Daniel, Steven, Susan, and Caleb sat on the case.** The decision was not ready.

ZBA 20-10 (Peter)

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, #2(Residential 2 Zone)**. **Jeremy, Steven, Daniel, Peter, and Caleb 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, 3-0.*

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, Steven, Daniel, and Caleb sat on the case.** The decision was not ready.

ZBA 20-18 (Steven)

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, Steven, Daniel, Peter, and Caleb sat on the case**. The decision was not ready.

ZBA 20-20 (Jeremy)

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, Steven, Daniel, Peter, and Caleb sat on the case**. The decision was not ready.

2) Approval of Minutes:

October 17, 2019: *Caleb Eigsti moved to approve the minutes as written, Robert Nee seconded and it was so voted, 4-0.*

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 4 members of the Zoning Board of Appeals present and 3 absent. Mr. Callahan informed all applicants that since only 4 members were available and a unanimous decision would be needed in order to grant a Special Permit, the applicant had the choice of moving forward with 4 members or continuing until 5 members are available. All applicants chose to proceed with 4 members.

1) PUBLIC HEARINGS:

ZBA 20-21

Application by **Ian & Eric Tzeng** seeking a Special Permit pursuant to Article 2, Sections 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a pool on the property located at **8 Cudworth Street (Residential 3 Zone)**. **Jeremy Callahan, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.**

Presentation: Dan Solien, a landscape architect, appeared to present the application. He indicated that renovations of the site are being undertaken and no other changes are proposed on the site. The project seeks to improve outdoor living areas in the rear of the property and includes

the installation of a small pool, measuring 9' by 17'. Mr. Solien said that the pool will meet all Zoning By-Law setback requirements. There will be a pool cover to protect prevent individuals from accessing the water when necessary and a 4'-6' fencing configuration around the pool has been approved by the Historic District Commission. The equipment will be located in the lower level of the main structure. He anticipates that there will be no, or very little, noise heard outside the structure. He said the pool will be an enhancement to the property and to the neighborhood in general and there will be no negative effects as a result of its installation.

Public Comment: No. There was 1 letter in support of the application.

Peter Okun moved to close the public portion of the hearing, Robert Nee seconded and it was so voted, 4-0.

Board Discussion: The Board questioned Mr. Solien and discussed conditions that are considered when proposed pool installations are being reviewed.

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

Peter Okun moved to grant a Special Permit pursuant to Article 2, Sections 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a pool on the property located at 8 Cudworth Street (Res 3) subject to the condition that the water for the pool be trucked into the site, Caleb Eigsti seconded and it was so voted, 4-0. Robert Nee will write the decision.

ZBA 20-22

Application by **KA Bazarian Construction and Development**, on behalf of the **Steven Ballerini**, seeking a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws remove and renovate 200 sq. ft. of a structure located along a pre-existing, non-conforming east side setback on the property located at **72B Commercial Street (Residential 2 Zone)**. Jeremy Callahan, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.

Presentation: Kevin Bazarian appeared to present the case. He reviewed the project to demolish and renovate a portion of the structure on the east elevation. There will be no change in the footprint and the project has been approved by the HDC.

Public Comment: None.

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

Board Discussion: The Board questioned Mr. Bazarian.

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

Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Sections 3110, (1) Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws remove and renovate 200 sq. ft. of a structure located along a pre-existing, non-conforming

east side setback on the property located at 72B Commercial Street (Res 2), Peter Okun seconded and it was so voted, 4-0. Peter Okun will write the decision.

ZBA 20-24

Application by **Chris Hartley**, of **Provincetown Brewing Co.**, seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow indoor entertainment on the property located at **141 Bradford Street (Town Center Commercial Zone)**. Peter Okun disclosed that he was an abutter, but is of the opinion that he can render a fair decision and has sat on previous applications by the applicant. The applicant agreed to let him sit on the case. Jeremy Callahan, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.

Presentation: Chris Hartley and Trevor Pettinger, and Eric Borg, owners of Provincetown Brewing Co., appeared to present the application. He reviewed the proposed entertainment that he would be presenting. Any music presented will not be amplified and the entertainment will end at 11:00 P.M., as that is the closing time for the brewery.

Public Comment: Jackie Kelly, an abutter, spoke in support of the application. There was 1 letter from a direct abutter asking that the Board require that the music end at 11:00 P.M.

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

Board Discussion: The Board questioned Mr. Hartley.

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

Peter Okun moved to grant a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow indoor entertainment on the property located at 141 Bradford Street (TCC) subject to the condition that there shall be no instrumental amplification and that all music shall end by 11:00 P.M., Caleb Eigsti seconded and it was so voted, 4-0. Caleb Eigsti will write the decision.

ZBA 20-25

Application by **James J. Rifino & Harry F. Pihl** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to elevate and renovate a structure, including adding a foundation, up and along a pre-existing, non-conforming front yard setback on the property located at **8 Bradford Street (Residential 3 Zone)**. Jeremy Callahan, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.

Presentation: James Rifino appeared to present the application. He reviewed the proposed elevation renovation of the structure. The front yard setback is pre-existing, non-conforming. There will be a second floor addition built over a rear section of the house that will be demolished and rebuilt, and the footprint of the entire structure will remain the same. He added that the HDC has approved the changes to the architectural features of the structure's exterior.

Public Comment: None. There were 4 letters in support of 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 Mr. Rifino.

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

Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Section 3110, (1), Change, Extensions or Alterations, of the Zoning By-Laws to elevate and renovate a structure, including adding a foundation, up and along a pre-existing, non-conforming front yard setback on the property located at 8 Bradford Street (Res 3), Peter Okun seconded and it was so voted, 4-0. Jeremy Callahan will write the decision.

NEXT MEETING: The next meeting will take place on Thursday, November 21, 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