

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

Members Present: Jeremy Callahan, Peter Okun, Caleb Eigsti, Susan Peskin, and Robert Nee.
Members Absent: Daniel Wagner, (excused) and Steven Latasa-Nicks (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 6:05 P.M.

1) PENDING DECISIONS:

ZBA 20-24 (Caleb)

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)**. **Jeremy, Peter, Caleb, and Robert sat on the case.** The decision was not ready.

ZBA 20-28 (Daniel)

Application by **Sean Curran**, on behalf of **Michael Goff**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, (2), Change, Extensions or Alterations, of the Zoning By-Laws to construct dormers along an east and a pre-existing, non-conforming west elevation on the front building and add a new foundation with flood vents, construct a single-story addition on the second level, expand a roof deck and add a stairway with access to the roof deck above the addition on the rear building on the property located at **120 Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Caleb Eigsti sat on the case.** Jeremy Callahan read the decision. *Caleb Eigsti moved to approve the language as amended, Peter Okun seconded and it was so voted, 3-0.*

20-30 (Town Counsel)

Application by **Christine Barker** seeking a Variance pursuant to Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws to increase the maximum building height allowed for a proposed structure containing 31 hotel units, 4 condominium units, and a restaurant/bar, with a parking area beneath, on the property located at **227R Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Steven Latasa-Nicks,**

Daniel Wagner, Peter Okun and Robert Nee sat on the case. A quorum was not available to vote on the decision.

ZBA 20-31 (Town Counsel)

Application by **Christine Barker** seeking Special Permits pursuant to Article 2, Sections 2334, 'V' Zones, 2440, Permitted Principal Uses, B3, Hotel, motel or inn, footnote 2, 2560, Dimensional Schedule, 2630E2, Roofs, 2640, Building Scale, and Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to construct a building containing 31 hotel units, 4 condominium units, and a restaurant/bar, with a parking area beneath, on the property located at **227R Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-42 (Town Counsel)

Application by **Christine Barker** seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to construct a building containing 31 hotel units, 4 condominium units, and a restaurant/bar on the property located at **227R Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-33 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the building height up and along a pre-existing, non-conforming north front yard setback and an east side yard setback on the property located at **7 Commercial Street, U1-5 (Residential 1 Zone)**. A quorum was not available to vote on the decision.

ZBA 20-34 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, seeking a Variance pursuant to Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws for the construction of a new landing and egress stairs on a structure that will encroach farther into a pre-existing, non-conforming north front yard setback and an east side yard setback on the property located at **7 Commercial Street, U1-5 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-35 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the building height up and along a pre-existing, non-conforming north

front yard setback on the property located at **7 Commercial Street, U2 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-36 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, seeking a Variance pursuant to Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws for the construction of a new landing and egress stairs on a structure that will encroach farther into a pre-existing, non-conforming north front yard setback on the property located at **7 Commercial Street, U2 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-37 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the height of structures and decks, within their existing footprints, and to construct new egress stairs up and along a pre-existing, non-conforming west side yard setbacks on the property located at **7 Commercial Street, U3-4 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-38 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the height of structures and decks, within their existing footprints, and to construct new egress stairs up and along a pre-existing, non-conforming west side yard setbacks on the property located at **7 Commercial Street, U7-8 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-39 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the height of a building and deck, within its existing footprint, and to construct a new egress stair up and along a pre-existing, non-conforming east side yard setback on the property located at **7 Commercial Street, U17 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-40 (Peter)

Application by **Tom Thompson**, on behalf of **Luis & Vanessa Ruelas**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, and Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to construct a deck extension and an addition up and along pre-existing, non-conforming east side and south rear elevations and to extend a porch up and along a pre-existing, non-conforming north elevation, thereby increasing the building scale of a structure and to demolish a shed on the property located at **419 Commercial Street (Residential 3 Zone)**. **Jeremy Callahan, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

ZBA 20-41 (Robert)

Application by **William N. Rogers, II**, on behalf of **Sandmark Management, LLC**, 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 20' by 46' retractable awning over an existing outdoor seating area (deck) on the property located at **328 Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Daniel Wagner, Peter Okun, Steven Latasa-Nicks and Robert Nee sat on the case.** A quorum was not available to vote on the decision.

2) Approval of Minutes:

December 5, 2019: The minutes were not ready for approval.

3) Any Other Business that may properly come before the Board: The Board briefly discussed the January 2, 2020 Public Hearing. *Caleb Eigsti moved to cancel the January 2, 2020 Public Hearing, Peter Okun seconded and it was so voted, 5-0.*

Chair Jeremy Callahan adjourned the Work Session at 6:30 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 20-43 (*request to continue to the meeting of January 16th*)

Application by **Christine Barker** seeking Special Permit pursuant to Article 2, Section 2470, Parking Requirements, of the Zoning By-Laws to construct a building containing 31 hotel units, 4 condominium units, and a restaurant/bar, with a parking area beneath, on the property located at **227R Commercial Street (Town Center Commercial Zone)**. The applicant requested to continue this matter to the January 16, 2020 Public Hearing at 6:30 P.M. *Caleb Eigsti moved to*

grant the request to continue ZBA 20-43 to the Public Hearing of January 16, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted, 4-0.

ZBA 20-32 *(continued from the meeting of December 5th)*

Application by **Ted Smith**, on behalf of **Mitchell Klein**, seeking a Special Permit pursuant to Article 2, Sections 2470, Parking Requirements, and 2640, Building Scale, of the Zoning By-Laws for relief from parking requirements and an increase in building scale due to the addition of a new dwelling unit in the structure located at **26 Bradford Street (Residential 3 Zone)**. Jeremy Callahan, Peter Okun, Caleb Eigsti, Susan Peskin, and Robert Nee sat on the case.

Presentation: Ted Smith appeared to present the application. He stated that there are two structures on the property; a main one with nine bedrooms and a smaller one with one bedroom. The project includes the transfer of one bedroom from the main to the smaller structure. The main structure is a guesthouse with several hotel rooms. Each bedroom contains a bathroom, but no kitchen. There is an existing shared kitchen on the first floor of the main structure and the applicant seeks to add another kitchen to the second floor and reconfigure the bedrooms. Adding the kitchen makes the second floor an additional dwelling unit. This additional dwelling unit requires parking. Mr. Smith said that there are currently six parking spaces in the rear of the property, two of which are tandem. He said that most of the clientele arrive by means other than vehicles. In rearranging the bedrooms and a kitchen, the rooflines will be modified to create more headroom and space on the second floor, which will increase the building scale of a structure that has a scale greater than the neighborhood average already. The project also will include an existing roof deck in the rear that is on built on two levels; a small upper and a larger lower level. The intent is to raise the lower level to the higher level, which will also contribute to the addition of building scale. The increase in scale is 2.6%. Mr. Smith reviewed the elevation drawings.

Public Comment: Arthur Mahoney, an abutter, spoke in opposition to the project. There were 6 letters from abutters in opposition to the project.

Board Discussion: The Board questioned Mr. Smith and noted that parking was an issue with many of the abutters. After a brief discussion, the Board requested that the applicant seek the approval of the Planning Board for the site plan, which would include a clearer layout of the parking, and will address any drainage issues that are occurring on the property and that he should continue the case until that time. In addition, Town Counsel requested that the application be revised, as currently the green area calculations are the same as the lot coverage.

Peter Okun moved to continue ZBA 20-32 to the January 16, 2020 Public Hearing at 6:30 P.M., Caleb Eigsti seconded and it was so voted, 5-0.

ZBA 20-45

Application by **Sean Curran**, on behalf of **Robert Lieberman**, 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 second story rear additions, with two shed dormers, up and along a pre-existing, non-conforming east side yard setback and to increase the building scale of a structure located at **124 Commercial Street (Town Center Commercial Zone)**. Jeremy Callahan, Peter Okun, Caleb Eigsti, Susan Peskin, and Robert Nee sat on the case.

Presentation: Sean Curran and Robert Lieberman appeared to present the application. Mr. Curran reviewed the project, which includes the construction of a second story rear addition on

top of an existing second floor rear deck. The addition will have a gable roof with shed dormers on the east and west sides of the structure. The addition and increase in building scale will allow the space for a new home office and storage space and allow mechanical systems to be moved from the basement, as the structure is in a flood zone. Mr. Curran said that the massing would be integrated into the existing building and the surrounding neighborhood as well. He said that the proposed increase in building scale is 20%. Attorney Kwesell called the Board's attention to the staff report for the project, which included the fact that this structure had received relief from the Board in 2010 for a 14.7% increase in scale.

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

Board Discussion: The Board questioned Mr. Curran and Mr. Lieberman. The Board discussed the request for an increase in building scale and expressed concern given the 2010 increase. It was noted by the Board that an increase in scale had already been given and that a large increase was being requested. Mr. Curran argued that the addition could not be seen from Commercial Street or the rear of the structure, but was visible from the west elevation, and that he had tried to design the project so that the increase in mass would integrate into the existing structure. It was the sense of the Board to deny the relief. Curran requested a withdrawal without prejudice.

Caleb Eigsti moved to grant the request for a withdrawal without prejudice for ZBA 20-45, Peter Okun seconded and it was so voted, 5-0.

ZBA 20-46 (*request to postpone to the meeting of January 16th*)

Notice of Appeal by **James Savko** of an October 24, 2019 decision by the Building Commissioner regarding parking at the property located at **446 Commercial Street**, and to which applicant believes to be a violation of the Provincetown Zoning By-Laws. The applicant requested to continue this matter to the January 16, 2020 Public Hearing at 6:30 P.M. ***Caleb Eigsti moved to grant the request to continue ZBA 20-43 to the Public Hearing of January 16, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted, 4-0.***

NEXT MEETING: The next meeting will take place on Thursday, January 16, 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 7:40 P.M., Susan Peskin seconded and it was so voted unanimously.***

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2020
Jeremy Callahan, Chair