

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
March 5, 2020**

Members Present: Daniel Wagner, Peter Okun, Susan Peskin and Robert Nee.

Members Absent: Steven Latasa-Nicks (excused) and Jeremy Callahan (excused).

Others Present: Thaddeus Soulé (Town Planner).

PUBLIC HEARING

Acting Chair Peter Okun called the Public Hearing to order at 6:30 P.M. There were 4 members of the Zoning Board of Appeals present and 2 absent.

1) PUBLIC HEARINGS:

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

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. The applicant requested a continuance to the March 19, 2020 Public Hearing. **Robert Nee moved to continue ZBA 20-32 to the Public Hearing of March 19, 2020 at 6:30 P.M., Susan Peskin seconded and it was so voted, 4-0.**

ZBA 20-43 *(request to continue to the meeting of March 19th)*

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)**. There was a request from the applicant to continue to the Public Hearing of March 19, 2020 at 6:30 P.M. **Robert Nee moved to approve the request to continue ZBA 20-43 to the Public Hearing of March 19, 2020 at 6:30 P.M., Susan Peskin seconded and it was so voted, 4-0.**

ZBA 20-53 *(request to continue to the meeting of March 19th)*

Application by **Christopher Page**, on behalf of **The Pilgrim House**, seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to expand an existing full-service restaurant space, add a live music venue for entertainment and reconfigure seats at the property located at **336 Commercial Street (Town Center Commercial Zone)**. There was a request from the applicant to continue to the Public Hearing of March 19,

2020 at 6:30 P.M. *Robert Nee moved to approve the request to continue ZBA 20-53 to the Public Hearing of March 19, 2020 at 6:30 P.M., Susan Peskin seconded and it was so voted, 4-0.*

ZBA 20-55

Application by **James Terrell & Justin Shaffer** 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 renovate, alter and reconfigure two dwelling units into one dwelling unit requiring changes along pre-existing, non-conforming east front yard and south side yard dimensions of the structure on the property located at **259-263 Commercial Street, U2 (Town Center Commercial Zone)**. Acting Chair Peter Okun explained to Attorney Murphy who was representing the applicants that since only 4 members were present and a unanimous vote was required for the granting of a Special Permit that he could choose to move forward or postpone the matter until 5 members were available. Attorney Murphy chose to move forward. Daniel Wagner, Peter Okun, Susan Peskin and Robert Nee sat on the case.

Presentation: Lester J. Murphy appeared to present the application. He reviewed project, which involves the demolition of a small portion of the building on the right side of the south elevation. It would then be rebuilt and renovated according the plans submitted to the Board. He reviewed the requirements for approval. He explained why the project needed approval pursuant to s. 3115 for demolition, as previously, before a change in the Town's policy, it would not have required it due to the size of the portion being demolished. A non-conforming structure can be demolished and rebuilt as long as it conforms to three requirements, which he then reviewed, stating that this project would conform to all of these requirements. There will be no change to the footprint of the building. There will be a reduction in scale when the structure is rebuilt. Attorney Murphy said that the goal is to take what are currently two separate dwelling units and make them into one dwelling unit. There will be a reduction of one kitchen and one residential unit. The removal of one dwelling unit will result in a reduction in parking demand and congestion and will be a benefit to the neighborhood and Town. The portion changing is in portions of the building that are conforming as to setbacks. The renovation project was approved by the Historic District Commission and has the support of the condominium association. He argued that the benefits of the reduction in the scale and number of dwelling units outweigh any adverse effects.

Public Comment: None.

Robert Nee moved to close the public portion of the meeting, Daniel Wagner seconded and it was so voted, 4-0.

Board Discussion: The Board briefly questioned Attorney Murphy about the construction schedule. He said that all construction would take place after the upcoming season.

Robert Nee moved that pursuant to Article 5, Section 5330, Special Permit Consideration, the social, economic and other benefits of the proposal outweigh any adverse effects such as hazard, congestion or environmental degradation, Susan Peskin seconded and it was so voted, 4-0.

Robert Nee 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 renovate, alter and reconfigure two dwelling units into one dwelling unit requiring changes along pre-existing, non-conforming east front yard and south side yard dimensions of the

structure on the property located at 259-263 Commercial Street, U2 (TCC) with the condition that no traffic will be blocked or obstructed on Commercial Street or other public ways at any time and that no construction shall occur between Memorial Day and Labor Day, Susan Peskin seconded and it was so voted, 4-0.

ZBA 20-56

Application by **Shank Painter Associates, Inc.** seeking a Special Permit pursuant to Article 2, Sections 2470, Parking Requirements, 2630, Roofs, and 2640, Building Scale, of the Zoning By-Laws to develop workforce housing, including requesting a waiver from parking requirements and to add a third story to, and allow an increase above the neighborhood average building scale of, the structure on the property located at **207 Route 6 (General Commercial Zone)**. Acting Chair Peter Okun explained to Attorney Murphy who was representing the applicants that since only 4 members were present and a unanimous vote was required for the granting of a Special Permit that he could choose to move forward or postpone the matter until 5 members were available. Attorney Murphy chose to move forward.

Presentation: Attorney Lester J. Murphy, Patrick Patrick, Stacy Kanega and Alison Alessi appeared to present the application. He said that within the last day or two revised plans had been submitted and he apologized on behalf of his client. He explained why this had occurred, they received important and critical input from the Town Planner, Thaddeus Soulé, last Friday and wanted to address these concerns, such as grading and parking questions and bicycle rack locations, before the project was presented. The Board had not been able to view the new plans. Attorney Murphy said he would be willing to continue until the Board had a chance to review the revised plans. The Board discussed the issue. The applicant requested a continuance to the April 16, 2020 Public Hearing.

Robert Nee moved to grant the request to continue ZBA 20-56 to the Public Hearing of April 16, 2020 at 6:30 P.M., Susan Peskin seconded and it was so voted, 4-0.

ZBA 20-57 (*request to postpone to the meeting of May 7th*)

Application by **Meilli West, LLC**, on behalf of **Shank Painter Medical Bldg. Trust**, seeking a Special permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to develop 11 condominium units in a structure that will be greater than the neighborhood average scale on the property located at **30 Shank Painter Road (General Commercial Zone)**. There was a request by the applicant to postpone ZBA 20-56 to the Public Hearing of May 7, 2020 at 6:30 P.M. *Robert Nee moved to grant the request to postpone ZBA 20-57 to the Public Hearing of May 7, 2020 at 6:30 P.M., Susan Peskin seconded and it was so voted, 4-0.*

ZBA 20-58

Application by **Tim McNulty**, on behalf of **Mark Birnbaum**, seeking a Special Permit pursuant to Article 3, Sections 3230, Sign Size, and 3240, Multiple Signs, of the Zoning By-Laws to remove and replace a sign with a similar-sized sign and to add two individual sign panels to the structure on the property located at **281 Commercial Street (Town Center Commercial Zone)**. Daniel Wagner, Peter Okun, Susan Peskin and Robert Nee sat on the case.

Presentation: Tim McNulty and Mike Caggiano appeared to present the application. Mr. Caggiano reviewed the proposed signs.

Public Comment: None.

Board Discussion: The Board questioned Mr. Caggiano and Mr. McNulty. The Board was concerned about this business not following the sign guidelines, as if it were a new business, and needed a justification for the request. Mr. Okun read the requirements for approval. The Board discussed the issue with the Mr. McNulty and Mr. Caggiano, who argued that a larger sign was required for this business. The Board requested that the applicant redesign and reduce the proposed signs to conform to the sign by-law. Address and present evidence that the performance standards in the by-law and that there are social, economic or other benefits to the Town or neighborhood as a result of the increase in size. The Board requested that the applicant return with a design for a sign that is lit externally, not internally as proposed, and smaller in size. Mr. Caggiano proposed an option for smaller signs that the Board agreed to. The applicant requested to continue the hearing to the March 19th Public Hearing.

Robert Nee moved to grant the request to continue ZBA 20-58 to the Public Hearing of March 19, 2020 at 6:30 P.M., subject to providing revised signage plans, Susan Peskin seconded and it was so voted, 4-0.

WORK SESSION

Acting Chair Peter Okun called the Work Session to order at 7:30 P.M.

1) **PENDING DECISIONS:**

ZBA 20-51 (Jeremy) revise motions and re-approve decision.

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **William Lampeter**, 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 construct a new dormer up and along a pre-existing, non-conforming east front yard setback on the structure located at **10 Atwood Avenue (Residential 2 Zone)**. **Jeremy Callahan, Caleb Eigsti, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.** The revised decision was not ready.

ZBA 20-54 (Jeremy)

Application by **William N. Rogers, II**, on behalf of **Noho Properties, LLC**, seeking a Special Permit pursuant to Article 3, Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish and reconstruct decks and stairs at the rear of the property located at **452 Commercial Street (Residential 3 Zone)**. **Jeremy Callahan, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.** The decision was not ready.

2) **Discussion regarding the Board's policy for reading decisions and applicants' recording requirements.** The discussion was tabled.

3) **Approval of Minutes:**

February 20, 2020: *Susan Peskin moved to approve the minutes of the February 20, 2020 Public Hearing, Robert Nee seconded and it was so voted, 4-0.*

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

NEXT MEETING: The next meeting will take place on Thursday, March 19, 2020 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: *Peter Okun moved to adjourn the Public Hearing at 7:00 P.M., Robert Nee seconded and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2020
Jeremy Callahan, Chair