

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
September 17, 2020**

Members Present: Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, Robert Nee, Quinn Taylor, and Erik Borg.

Members Absent Susan Peskin (excused).

Others Present: Thaddeus Soulé (Town Planner).

Town Planner Thaddeus Soulé, the moderator of the meeting, introduced the virtual Public Hearing at 6:00 P.M. He then called the roll.

Chair Jeremy Callahan called the meeting to order.

Mr. Soulé then explained the reason the Public Hearing was being held in this manner, detailing how the Board, the applicants, and the public could participate remotely, and the meeting protocol.

A. Public Hearings:

ZBA 20-43 (*postponed to the meeting of October 1st*)

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)**.

ZBA 20-53 (*request to postpone to the meeting of October 1st*)

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)**. **Steven Latasa-Nicks moved to postpone ZBA 20-53 to the Public Hearing of October 1, 2020 at 6:00 P.M., Peter Okun seconded and it was so voted, 7-0 by roll call.**

ZBA 20-56 (*request to continue to the meeting of October 1st*)

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)**. There was a request to continue ZBA 20-56 to the Public Hearing of October 1, 2020 at 6:00 P.M.

Steven Latasa-Nicks moved to continue ZBA 20-56 to the Public Hearing of October 1, 2020 at 6:00 P.M., Peter Okun seconded and it was so voted, 7-0 by roll call.

ZBA 20-2005 (*postponed from the meeting of September 3rd*)

Application by **Douglas McCall** seeking a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display products for sale on the property located at **205-209 Commercial Street (Town Center Commercial Zone)**. Jeremy Callahan, Peter Okun, Daniel Wagner, Steven Latasa-Nicks, and Quinn Taylor sat on the case.

Presentation: Douglas McCall was in the meeting to present the application. He reviewed the items under a tent that he displays outside his store.

Public Comment: None.

Peter Okun moved to close the public portion of the hearing, Quinn Taylor seconded and it was so voted, 5-0 by roll call.

Board Discussion: The Board briefly questioned Mr. McCall.

Jeremy Callahan moved to approve a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display products, such as clothing, jewelry, household items, gifts, etc., for sale on the north side of the property between the building and Commercial Street at 205-209 Commercial Street (TCC), as depicted in the photographs submitted with the application where the Board finds all of the following: that the proposed display does not create any adverse effects due to hazard or congestion; that the proposed display is consistent with, and does not cause any adverse impacts to, the character of the surrounding neighborhood; that the proposed display is an adjunct display to and for representative merchandise or wares of retail sales, services, or restaurant establishment located on the same premises; that a majority of the abutters within a 300' radius have not submitted a petition objecting to the proposed display; that the proposed display has not been opposed by a petition signed by 150 voters; and that the Special Permit will run with the business and not the land, Steven Latasa-Nicks seconded and it was so voted, 5-0 by roll call. Quinn Taylor will write the decision.

ZBA 20-2006 (*request to postpone to the meeting of October 1st*)

Application by **William N. Rogers, II**, on behalf of **Demetrios Daphnis**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to construct four new structures, three of which will exceed the allowed neighborhood average scale on the property located at **67 Harry Kemp Way (Residential B Zone)**. There was a request to continue ZBA 20-56 to the Public Hearing of October 1, 2020 at 6:00 P.M. ***Steven Latasa-Nicks moved to postpone ZBA 20-2006 to the Public Hearing of October 1, 2020 at 6:00 P.M., Peter Okun seconded and it was so voted, 7-0 by roll call.***

ZBA 20-2007 (*postponed from the meeting of September 3rd*)

Application by **Steven Azar** seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow entertainment on the property located at **210 Bradford Street (Residential 3 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.

Mr. Callahan said that the Board will hear the application, ask questions of the applicant, and take public comment, however it will need more time to review the material that was submitted.

He also added that it would be up to the Board whether a decision was rendered this evening or if the matter is continued until the next Public Hearing.

Presentation: Steven Azar and Attorney Mike Cupoli, were present in the meeting to discuss the application. Mr. Azar reviewed his proposed entertainment plans for the property. He intent was to help people and other businesses that had been impacted by the COVID-19 pandemic by sponsoring events on the lawn of his property. He said he is seeking an entertainment license. He had been speaking with the Town for a few months about how to go about realizing his proposal to provide a variety of entertainment on the property. He said that other guesthouses had entertainment licenses, such as the Pilgrim House and the Crown & Anchor in the center of Town, and others that are in residential neighborhoods. He reviewed the history of the Stowaway guesthouse, including the events, such as weddings, and entertainment that have been held there before his ownership of the property. A video presentation was shown depicting the types of entertainment, classes, events, programs, including educational ones, intimate musical gatherings, and activities that have been held on the property. He said that there had only been 4 complaints made to the Provincetown Police Dept. related to events at the site. He suggested using the property as an overflow streaming site for events that take place elsewhere in Town, but do not have the space to accommodate a large crowd. He does have a gallery license to sell art already. He would like to spoken-word, literary and spiritual events as well. He said that he is willing to have conversations with the licensing Board about days and times to be able to hold certain events.

He reviewed a site plan of the property, depicting various colored areas of the site, and where events would be held. He said that he has spoken with his neighbors with whom he shares an easement to his parking area. He provides free wi-fi and coffee for those in the community who would like to sit on his porch and work. He wants to support the arts community in Town without being impactful on the neighborhood. He then reviewed a series of photographs of the exterior of the property and the exterior and interior of the building to indicate where events have been held. He said that he had knocked on the doors of all of his neighbors within a radius of 300' and showed a slide of those properties, showing commercial and residential uses in the neighborhood. He indicated which abutting properties have supported his proposal. He said that he had had two loud parties when he first bought the property in April of 2019, however no one in the neighborhood complained. He said that the majority of his neighbors are seasonal. He would be willing to use small speakers with spoken-word events and directs sound to middle areas and not to the sides of a location. He also said that he would be open to increasing the height of hedges by 6" for visibility issues and install a gateway where there is an egress point off the sidewalk in the hedges. He argued that he was in compliance with the Town's FY20 goals in terms of economic development and supporting local artists and entrepreneurs.

Public Comment: 71 letters; 20 letters from non-residents, 17 from abutters and 34 from non-abutters were received. Attorney David Reid, representing the unit owners at 208 Bradford Street, and who had written two letters concerning the proposal, spoke in opposition to it. William Hildreth, an abutter at 12 Howland St., spoke in opposition to the project, but supported the intent of the applicant. Maureen Travis, David McFarlane, Kathleen Perry, Margaret Dwyer, and Bernard LaCasse, unit owners at 208 Bradford St., spoke in opposition to the application. Daniel Chak, an abutter at 12 Howland St., spoke in opposition to the application. Wes Slate, an abutter at 205A Bradford St., spoke in opposition to the application. Mr. Callahan called for more public comment from abutters who got a notice. No one responded.

Board Discussion: Mr. Soulé clarified the jurisdiction of the Board in terms of the entertainment requested. He said that entertainment could be allowed pursuant to Article 2, a. 2440, Hotel, Motel, or Inn, footnote 2, allowing it under ‘ancillary services’ associated with those establishments. Anne Howard joined the discussion and reviewed her concerns about the application and the implications of reclassifying the property as a ‘new use’, necessitating new Building Code and Architectural Access Board requirements, including the number of bathrooms available for the public, that would have to be considered as a result of the request. She suggested a one-year trial period. Attorney Cupoli said that his client was asking for a Special Permit to have new uses allowed at the property. All other concerns would come under the purview of the Licensing Board. He noted the requirements of Article 5, s. 5300 and said that his client cannot do anything with the property until a license is granted to him. The Board questioned Attorney Cupoli and Mr. Azar. One of the Board’s concern was the broadness of the request. Attorney Cupoli said that Mr. Azar had revised his request to give as much specificity as possible.

Mr. Callahan proposed a continuance so that Board members could read all letters and materials submitted to the Board. The Board was polled and members were inclined not to approve the request as proposed. Mr. Azar responded to the overwhelmingly negative comments from the public, defending his application and arguing that it would be a benefit to the community. He added that most people who spoke did not live in Town and rented out their properties. Mr. Callahan said that he would consider a motion to continue from a Board member and stated that the public portion of the meeting would remain open.

Steven Latasa-Nicks moved to continue ZBA 20-2007 to the Public Hearing of October 1, 2020 at 6:00 P.M., Robert Nee seconded and it was so voted, 5-0 by roll call.

ZBA 20-2008

Application by **Lyn Plummer**, on behalf of **Ed Stuart**, seeking a Special Permit pursuant to Article 2, Section 2640E, Building Scale, and Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to add a covered porch, extending along a pre-existing, non-conforming west elevation, and for an increase in building scale on the property located at **416 Commercial Street (Residential 3 Zone)**. *Robert Nee moved to postpone ZBA 20-2008 to the Public Hearing of October 1, 2020 at 6:00 P.M., Quinn Taylor seconded and it was so voted, 5-0-2 (Peter Okun and Steven Latasa Nicks abstaining).*

B. Work Session:

1) Pending Decisions:

ZBA 20-65

Application by **53 Commercial Provincetown, LLC** 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 demolish a structure and replace it with two new structures, one of which will exceed the neighborhood average building scale and extend up and along a pre-existing, non-conforming east side yard setback on the property located at **53 Commercial Street (Residential 2 Zone)**. *Steven Latasa-*

Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 5-0 by roll call.

ZBA 20-68

Application by **Tri-T, LLC** seeking a Variance pursuant to Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws to allow for the construction of a new single-family dwelling with a 15' front yard setback, resulting in the creation of a non-conformancy on the property located at **4 Commercial Street (Residential 1 Zone)**. The decision was not ready.

ZBA 20-73

Application by **Ted Smith, Architect, LLC**, on behalf of **Michael Fullen**, requesting 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 renovate an existing structure by adding new dormers and new porches with decks above up and along pre-existing, non-conforming front, side and rear elevations and to increase the building scale of a structure located at **3 Soper Street (Residential 2 Zone)**. *Robert Nee moved to approve the language as written, Quinn Taylor seconded and it was so voted, 5-0 by roll call.*

ZBA 20-75

Application by **Judith R. Osowski** requesting a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Utility/Garden Shed (96 sq. ft. max.), of the Zoning By-Laws to replace a metal shed on the property located at **7 Cudworth Street (Residential 3 Zone)**. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0 by roll call.*

ZBA 20-2001

Application by **Doug Dolezal**, of **Design Matters, LLC**, on behalf of **Miriam Gallardo & Courtney Spitz**, seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Utility/Garden Shed (96 sq. ft. max.), of the Zoning By-Laws to install a utility/garden shed on the property located at **62 Mayflower Avenue (Residential 1 Zone)**. The decision was not voted on.

ZBA 20-2002

Application by **Michael Andrews** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to extend a deck and stairway along a pre-existing, non-conforming rear dimension on the property located at **8 Seashore Point Park Drive, U9 (Residential 3 Zone)**. *Peter Okun moved to approve the language as written, Quinn Taylor seconded and it was so voted, 5-0 by roll call.*

ZBA 20-2003

Application by **Adam Rogers** seeking a Special Permit pursuant to Article 3, Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish a garage and build a studio, adding a half story, in the same footprint on the property located at **10-12 West Vine Street, U3 (Residential 2 Zone)**. The decision was not ready.

ZBA 20-2004

Application by **William N. Rogers, II** on behalf of **Escargot, LLC**, seeking a Special Permit pursuant to Article 3, Section 3110 Change, Extensions or Alterations, of the Zoning By-Laws to raise a structure and repair a foundation on the property located at **437-439 Commercial Street (Residential 3 Zone)**. The decision was not ready.

2) **Approval of minutes: September 3, 2020: Robert Nee moved to approve the language as written, Steven Latasa-Nicks seconded and it was so voted, 7-0 by roll call.**

3) **Any other business that may properly come before the Board: None.**

NEXT MEETING: The next virtual meeting will take place on Thursday, October 1, 2020. It will consist of a virtual Public Hearing at 6:00 P.M. followed by a Work Session.

ADJOURNMENT: *Robert Nee moved to adjourn the meeting at 9:00 P.M., Quinn Taylor seconded and it was so voted unanimously by roll call.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2020
Thaddeus Soulé on behalf of the Zoning Board of Appeals,