

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
October 15, 2020**

Members Present: Jeremy Callahan, Daniel Wagner, Peter Okun, Susan Peskin, Robert Nee, and Quinn Taylor.

Members Absent Steven Latasa-Nicks (excused) and Erik Borg (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 (*request to postpone to the meeting of November 5th*)

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)**. **Peter Okun moved to postpone ZBA 20-43 to the Public Hearing of November 5, 2020 at 6:00 P.M., Robert Nee seconded and it was so voted, 6-0 by roll call.**

ZBA 20-53 (*request to postpone to the meeting of November 5th*)

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)**. **Peter Okun moved to postpone ZBA 20-53 to the Public Hearing of November 5, 2020 at 6:00 P.M., Robert Nee seconded and it was so voted, 6-0 by roll call.**

ZBA 20-2007 (*request to withdraw without prejudice*)

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)**. There was a request to withdraw ZBA 20-2007 without prejudice. **Robert Nee moved to grant the request to withdraw ZBA 20-2007 without prejudice, Peter Okun seconded and it was so voted, 6-0 by roll call.**

ZBA 20-2009

Application by **Robin B. Reid, Esq.**, on behalf of **Jackie LaLonde**, seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a pool on the property located at **5 Dyer Street (Residential 23 Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Robert Nee and Susan Peskin sat on the case.

Presentation: Attorney Robin B. Reid, Jackie LaLonde, and Christa Kelly were in the meeting to present the application. Attorney Reid reviewed the project. The proposal calls for the installation of a saltwater pool/spa that is too small to swim in. One can only sit and soak in it. It will contain 3360 gallons of water and does not meet the definition of a structure, but at a depth of more than 2', it does meet the state Building Code definition of a 'swimming pool'. She reviewed the site plan of the property showing the spa and equipment location. The water will be trucked in and out and the pool will have a cover. The spa will be in the southeast corner of the lot and the equipment for the spa will be in the northeast corner of the property and will only generate 65 decibels of noise, the equivalent of a normal conversation. It is considerably quieter than a generator that has been removed from that area. The property will remain conforming as to the percentage of green area required. She addressed concerns of several abutters by saying that the property has never received any noise complaints, there is no stereo located on the patio, and all work currently being done on the site is property permitted. She said that the applicant had met with abutters and even contributed \$1500 to a stockade fence with an abutter on Young's Court. Attorney Reid argued that there would be no adverse effects, such as hazard, congestion, or environmental degradation as a result of the project. She added that a benefit is that there is an improvement of the property and the Town's tax base.

Public Comment: John Krajovic and Kevin Tucker, direct abutters, spoke in opposition to the application. There were 11 letters in support and 1 letter in opposition to the project. Wendy Jolles, an abutter, spoke in support of the application. Paul Bertozzi, an abutter, had a concern about the location of the pool. Ms. LaLonde rebutted Mr. Krajovic's arguments.

Robert Nee moved to close the public portion of the hearing, Quinn Taylor seconded and it was so voted, 6-0 by roll call.

Board Discussion: The Board questioned Attorney Reid. Ms. LaLonde described the proposed lighting and vegetation around the spa. The Board discussed conditions.

Peter Okun moved that the Board grant a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a pool on the property located at 5 Dyer Street (Res 3) with the conditions that all water shall be delivered or removed by a tanker truck and that the decibel level will remain at or below the decibel level of 65, Robert Nee seconded and it was so voted, 5-0 by roll call.

Jeremy Callahan moved that the Board find pursuant to Article 5, Section 5330, Special Permit Considerations, the project's social, economic and other benefits of the project outweigh any adverse effects such as hazard, congestion, or environmental degradation, Robert Nee seconded and it was so voted, 5-0 by roll call.

1) **Pending Decisions:**

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)**. The decision was not ready.

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

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)**. *Robert Nee moved to approve the language as written, Susan Peskin seconded and it was so voted, 5-0 by roll call.*

ZBA 20-2005

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)**. *Robert Nee moved to approve the language as written, Peter Okun 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 approve the language as written, Quinn Taylor seconded and it was so voted, 4-0 by roll call.*

2) **Approval of minutes: October 1, 2020: Robert Nee moved to approve the language as written, Susan Peskin seconded and it was so voted, 6-0 by roll call.**

3) **Any other business that may properly come before the Board:**

NEXT MEETING: The next virtual meeting will take place on Thursday, November 5, 2020. It will consist of a virtual Public Hearing at 6:00 P.M. followed by a Work Session.

ADJOURNMENT: *Susan Peskin moved to adjourn the meeting at 7:00 P.M., Robert Nee 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,