

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
February 18, 2021**

Members Present: Jeremy Callahan, Daniel Wagner, Peter Okun, Robert Nee, Susan Peskin,
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 (*postponed to the meeting of March 4th*)

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 March 4th*)

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 March 4, 2021 at 6:00 P.M., Susan Peskin seconded and it was so voted, 6-0 by roll call.*

ZBA 20-2045 (*continued to the meeting of May 6th*)

Application by **Robin B. Reid, Esq.**, on behalf of **The Bradford House and Motel**, seeking a Special Permit pursuant to Article 2, Sections 2440, Permitted Principal Uses, B5, Restaurant, bar and 2460, Special Permit Requirements, and 2471, Parking Requirements, of the Zoning By-Laws to establish an 11-seat bar on the first floor of an existing guesthouse and to waive the parking requirement of 6 spaces on the property located at **41 Bradford Street (Residential 3 Zone)**.

ZBA 21-5

Application by **Ted Smith**, on behalf of **Bernard Ahearn**, 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 demolish and reconstruct a set of stairs along a pre-existing, non-conforming west side yard setback on the property located at **213 Bradford Street, U1 (Town Center Commercial Zone)**. Mr. Callahan said that this matter was not advertised correctly and will be re-advertised and heard at the Public Hearing of March 18, 2021.

ZBA 21-6

Application by **Robin B. Reid, Esq.**, on behalf of **Rainbow Connection Realty, LLC**, seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow for the service of alcohol and to provide entertainment on the front porch and in the living room of a guesthouse on the property located at **174 Commercial Street (Town Center Commercial Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Susan Peskin, and Robert Nee sat on the case.

Presentation: Robin B. Reid, Esq., and Tom Westmoreland, Brian Calhoun, and Scott Differ, principals of Rainbow Connection Realty, LLC were in the meeting to present the application. Attorney Reid reviewed the request, which is for a permitted use in the TCC Zoning District. She reviewed the site plan and said that the proposed alcohol use will be on the rear patio area and the front porch. In addition, entertainment is being requested on the front porch. She reviewed the first floor interior plan. The service bar will be in the kitchen area and the alcohol service area is being proposed for the interior of the inn and includes the proposed in-room mini-bars in the guestrooms. The applicant is also seeking permission to provide entertainment in the common living room area, particularly in the offseason. Liquor service will end at 8:00 P.M. When the guest service bar is in operation, it will be managed by dedicated staff for service and supervision. Cameras will be located on the front porch and rear patio area with monitors in the service bar. Signage will be in the service areas and at all exits to alert guests that alcohol cannot be taken off the premises. Entertainment is proposed for the hours between 4:00 P.M. and 8:00 P.M. and will feature vocalists and instrumentalists in small acoustic ensembles with amplification for the vocalists and acoustic guitars. This property has a long history of providing live entertainment and this proposal will continue and expand upon that history and will include support for the local artistic community. These requests will allow the business to expand its guest amenities and will bolster the success and longevity of the business. Attorney Reid argued that there will be no adverse impacts on the Town or neighborhood because of these proposals. She reviewed the requirements of Article 2, Section 2460, which her review has shown will be satisfied. She argued that the social, economic, or other benefits to the neighborhood or Town outweigh any adverse impacts. An approval of the Special Permit will allow the applicants to add to the menu of guest services available on the premises and support the sustainability of the business. The proposal will also result in increased employment opportunities. In addition, she noted that guesthouses such as this one, hotels, and inns are important business drivers for other parts of the tourist economy in Town, such as retail shops and restaurants. This approval will support the artistic community in Town. Finally, she noted that the applicants have worked diligently with their neighbors to realize this project.

Public Comment: There were 20 letters in support of the application. There were no other public comments.

Peter Okun moved to close the public portion of the meeting, Robert Nee seconded and it was so voted, 5-0 by roll call.

Board Discussion: The Board questioned Attorney Reid. The Board asked about a condition regarding amplification. Attorney Reid said that the Licensing Board will look at and condition the amplification issue.

Peter Okun moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, that the social, economic, or other benefits of the proposal for the Town or neighborhood outweigh any adverse effects such as hazard, congestion, or environmental degradation, and further move that the Board grant Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow for the service of alcohol and to provide entertainment on the front porch and in the living room of a guesthouse on the property located at 174 Commercial Street (TCC), as depicted on the plan by JHA D. Williams, undated, labeled "Brasswood Inn Delineation of Exterior Service & Entertainment Areas" in one sheet and on the plan by JHA D. Williams, dated January 2021, labeled "Brasswood Inn Floor Plan" in three sheets, and with the conditions that amplification shall be limited to vocalists and acoustic guitars only, that outdoor entertainment shall be from 4:00 P.M. to 8:00 P.M., that signage shall be installed to alert guests not to leave the designated service areas, liquor service shall end at 8:00 P.M., that alcohol service is for guests and guests of guests, and that the owners are responsible for ensuring that audiences do not block adjacent driveways or vehicular traffic on public ways, Robert Nee seconded and it was so voted, 5-0 by roll call.

ZBA 21-7

Application by **Ginny Binder**, on behalf of **419 Commercial Street Partners**, seeking a Special Permit pursuant to Article 2, Section 2630, Roofs, D & E, and Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish and reconstruct a structure with a gambrel roof that will be above the maximum height allowed and to reduce the non-conformancies of east and west side yard setbacks on the property located at **419 Commercial Street (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Susan Peskin, and Quinn Taylor sat on the case.

Presentation: Ginny Binder, Lars Jensen, the project's structural engineer, Jeffry Burchard, the project's architect, and Christine Barker, the property owner were in the meeting to discuss the application. Ms. Binder said that the Historic District Commission approved the plans with a slight modification. The Board had no questions about the structural aspects of the project. Mr. Burchard reviewed the changes requested and adjustments that were made based upon previous public comment. He said that the east and west setbacks are varied in their existing location and the site boundaries are skewed in relation to the structure's location on the lot. The gambrel portion of the structure, located above the front two-thirds of the existing structure, will be maintained in its current footprint pursuant to the request of the HDC. The non-conformancies will be maintained in that front two-thirds of the structure after the reconstruction. The new portion of the south end of the structure, when rebuilt, will improve the setbacks and will be set in slightly from the front two-thirds of the structure. He reviewed the site plans for the property. As to Article 2, Section 2630, the gable addition on the south is at 33', but relief is requested for the gambrel for a ridge height of 31.725', which is 3.725' above the 28' allowed. That height will be below the neighbors' ridge heights. He said based upon previous abutters' comments, the length of the proposed building has been reduced by 2'. The existing shed, which had been demolished, will not be rebuilt. The stair off the south deck will be pulled back into the deck and become part of the deck structure, and not extend as far as in the previous design. The building scale has been calculated and the proposed structure will not be above the allowed neighborhood

scale. The basement will be at a higher elevation than what is required by the state Building Code, which is 14' above sea level. Ms. Binder argued that the social, economic or other benefits to the neighborhood or Town outweigh any adverse effects in that an eyesore of a structure is being renovated and will be a long-term residence of Ms. Barker.

Public Comment: There were 2 letters in opposition and 6 in support of the project. David Gluck, an abutter, spoke in favor of the application. Anne Howard, the Building Commissioner, commented on the accretion of area due to the increase in beach area, which related to a question from Mr. Gluck about the size of the property. She noted that the sand accretion resulting in a larger lot size would have to be officially recorded at the Registry of Deeds in order to be recognized by the Town Assessor.

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

Board Discussion: The Board questioned Ms. Binder and Mr. Burchard.

Peter Okun moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, that the social, economic, or other benefits of the proposal for the Town or neighborhood outweigh any adverse effects such as hazard, congestion, or environmental degradation and further move that the Board grant a Special Permit pursuant to Article 2, Section 2630, Roofs, to deviate from the maximum height standard where the ZBA finds that the deviation from the standard is in keeping the standard criteria for granting a Special Permit, the objectives of the Local Comprehensive Plan, and is appropriate because features of the proposed design are such that the deviation of the roof configuration is not disruptive to the character of the area; and further move that the Board grant a Special Permit pursuant to Article 2, Section 2630, Roofs, D & E, and Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish and reconstruct a structure with a gambrel roof that will be above the maximum height allowed and to reduce the non-conformancies of east and west side yard setbacks on the property located at 419 Commercial Street (Res 3), Susan Peskin seconded and it was so voted, 5-0 by roll call.

ZBA 21-8

Application by **Ted Smith**, on behalf of **Joseph Trepiccione, Jr.**, 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 demolish and reconstruct a structure in an expanded footprint up and along pre-existing, non-conforming rear and west side yard setbacks on the property located at **20 Bangs Street (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Susan Peskin and Robert Nee sat on the case.

Presentation: Ted Smith was in the meeting to present the application. Mr. Smith reviewed the site plan and said that there are two structures on the property and the subject of the application is the one in the rear of the property. The structure includes a one-story furnace room, containing a furnace and yard equipment, on a slab at grade. The project proposes to take out the furnace, fill in the bump-out in which it is located, and install a new laundry room and re-install the furnace. A bathroom will be installed on the second floor. He reviewed the photographs of the site. He then reviewed the proposed changes to the structure on the site plan and the elevation drawings. He argued that the project would not have any adverse effects to the neighborhood or Town and that it would have benefits for the Town.

Public Comment: There was no public comment.

Robert Nee moved to close the public portion of the meeting, Quinn Taylor seconded and it was so voted, 5-0 by roll call.

Board Discussion: The Board briefly questioned Mr. Smith.

Peter Okun moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, that the social, economic, or other benefits of the proposal for the Town or neighborhood outweigh any adverse effects such as hazard, congestion, or environmental degradation and further move that the Board 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 demolish and reconstruct a structure in an expanded footprint up and along pre-existing, non-conforming rear and west side yard setbacks on the property located at 20 Bangs Street (Res 3), Robert Nee seconded and it was so voted, 5-0 by roll call.

B. Work Session:

1) Letter to Select Board in support of Stellwagen Bank Visitor Center. Mr. Soulé explained that he was looking to solicit input from the Board about the proposed Visitor Center. The Planning Board has voted to have a letter of support drafted. The letters of support will be submitted to the Select Board at its March 8th meeting. The Board agreed to support the project.

2) Extension of Special Permit ZBA 18-078 for 25 Cottage Street. Mr. Callahan said that he has read Attorney Lester J. Murphy's request letter. The letter requested an extension of two years. The Board discussed the topic. Mr. Soulé read Attorney Murphy's letter. Anne Howard commented on the request.

Robert Nee moved to extend the expiration date of August 2, 2022, Quinn Taylor seconded and it was so voted, 6-0 by roll call.

3) Pending Decisions:

ZBA 21-1

Application by **Robin B. Reid, Esq.**, on behalf of **Victor's Restaurant**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, of the Zoning By-Laws to extend a pre-existing, non-conforming structure by installing an awning over an outdoor restaurant service area on the property located at **175 Bradford Street Extension, UC1 (Residential 3 Zone)**. *Peter Okun moved to approve the language as written, Susan Peskin seconded and it was so voted, 4-0 by roll call.*

ZBA 21-2

Application by **Casey Clark**, on behalf of **Mischa & Dolly Richter**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to construct a structure that exceeds the neighborhood average scale on the property located at **216B Bradford Street (Residential 3 Zone)**. *Peter Okun moved to approve the language as written, Susan Peskin seconded and it was so voted, 4-0 by roll call.*

ZBA 21-3

Application by **Brandon Motta**, on behalf of the **Town of Provincetown**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to remove and replace fencing along pre-existing, non-conforming side and rear yard

setbacks on the property located at **1 Bradford Street (Residential 3 Zone)**. The decision was not ready.

4) **Approval of minutes: February 4, 2021:**

February 4, 2021: *Robert Nee moved to approve the language as written, Susan Peskin seconded and it was so voted, 6-0 by roll call.*

5) **Any other business that may properly come before the Board:** Mr. Okun commented on requiring narratives as part of application. He finds them very helpful.

NEXT MEETING: The next virtual Public Hearing will take place on Thursday, March 4, 2021. It will consist of a virtual Public Hearing at 6:00 P.M. followed by a Work Session.

ADJOURNMENT: *Peter Okun moved to adjourn the meeting at 7:25 P.M., Robert Nee seconded and it was so voted unanimously by roll call.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2021.
Thaddeus Soulé on behalf of the Zoning Board of Appeals