

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

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

Members Absent None.

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 20-53 (*request to postpone to the meeting of April 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 grant the request to postpone ZBA 20-53 to the Public Hearing of April 1, 2021 at 6:00 P.M., Robert Nee seconded and it was so voted, 8-0 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 21-4

Application by **Nancy Lockwood** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to add a second floor and deck up and along pre-existing, non-conforming front and side yard setbacks on the property located at **1**

Holway Avenue, U1A (Residential 3 Zone). Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Susan Peskin sat on the case.

Presentation: Nancy Lockwood was in the meeting to present the application. She reviewed the project which includes altering the footprint of a structure to include an existing deck, located on the side of the structure, and which will go up and along pre-existing, non-conforming dimensions. She wants to stay within what is existing, which includes a shed in the rear of the property. The shed contains the heating unit for the structure.

Public Comment: There were no letters or other public comment.

Steven Latasa-Nicks moved to close the public portion of the hearing, Robert Nee seconded and it was so voted, 5-0 by roll call.

Board Discussion: The Board had no questions for Ms. Lockwood.

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 neighborhood or Town 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, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to add a second floor and deck up and along pre-existing, non-conforming front and side yard setbacks on the property located at 1 Holway Avenue, U1A Res 3, Steven Latasa-Nicks seconded and it was so voted, 5-0 by roll call.

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 side yard setback on the property located at **213 Commercial Street, U1 (Town Center Commercial Zone)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Susan Peskin sat on the case.

Presentation: Ted Smith was in the meeting to present the application. Mr. Smith reviewed the project, which is being done on a long, narrow lot. There is an existing stair in the courtyard that the applicant seeks to remove, relocate and rebuild. The property is pre-existing, non-conforming as to the east and west side yard setbacks. He reviewed the site plan. The existing stair projects into the courtyard and is inconveniently located. The stair will be moved 8' to the north and 3.5' to the west of its current location. There will also be a fence erected that will give privacy to the first-floor unit. The stair will be shorter, by about 1', than the existing. He said that the change is not substantially more detrimental to the neighborhood than what exists. The project has been approved by the Historic District Commission and there are no Conservation Commission issues related to the project.

Public Comment: There was no public comment or letters in the file.

Steven Latasa-Nicks moved to close the public portion of the hearing, Susan Peskin seconded and it was so voted, 5-0 by roll call.

Board Discussion: The Board 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 neighborhood or Town 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 Avenue, to demolish and reconstruct a set of stairs

along a pre-existing, non-conforming west side yard setback on the property located at 213 Commercial Street, U1 (TCC), Susan Peskin seconded and it was so voted, 5-0 by roll call.

ZBA 21-9 *(postponed to the meeting of April 1st)*

Application by **Susan Packard** seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a swimming pool on the property located at **71 Bayberry Avenue (Residential 1 Zone)**.

ZBA 21-11

Application by **KerenShemesh Auxley** seeking a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to place a sandwich board on the driveway/slope of the property located at **353 Commercial Street, #AU5 (Town Center Commercial Zone)**.

Robert Nee and Peter Okun recused themselves because of conflicts of interest. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, and Susan Peskin sat on the case.

Presentation: KerenShemesh Auxley was in the meeting to present the application. She reviewed the request to place a sandwich board on the property in the center of the driveway/slope. She said that the Trustees of the condominium approved the location and the sandwich board will not interfere with other signs for businesses located on the property.

Public Comment: There was a letter from the condominium association consenting to the request. Robert Nee said that he thought the area was already too cluttered and opposed the application.

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

Board Discussion: The Board questioned Ms. Auxley about the location of the sandwich board and will not interfere with the public way. She responded to Mr. Nee's comments.

Jeremy Callahan moved that the Board vote to grant pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to place a sandwich board on the driveway/slope of the property located at 353 Commercial Street, #AU5 (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 effect 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 advertises a retail sale sales, service or restaurant establishment located on the same premises; that a majority of abutters within a 300' radius have not submitted a petition objecting to the proposed display; and that the proposed display has not been opposed by a petition signed by 150 voters and with the condition that this Special Permit is issued for a period of three calendar years and that the Special Permit may be renewed for succeeding three-year periods thereafter, Susan Peskin seconded and it was so voted, 5-0 by roll call.

B. Work Session:

1) **Request for Minor Modification at 6 Winston Avenue/ZBA 20-2050.** Mr. Callahan reviewed the project that involved a shed. The owner has decided that he wanted to modify the size of the shed that was approved by the Board by 2'. The public comment that was delivered at the hearing was reviewed and the Board briefly considered the request. Jeremy Callahan, Erik Borg, Robert Nee, Steven Latasa-Nicks, and Susan Peskin sat on the case.

Jeremy Callahan moved that the Board find pursuant to Article 5, Section 5350, Amendments and Minor Modifications of the Zoning By-Laws that the proposed modification to the approved Special Permit does not represent a substantive change of the findings or conditions of approval of the project and may be administered by a notation to the file, Eric Borg seconded. The Board discussed the proposed motion. Several Board members were opposed to the modification. Mr. Latasa-Nicks requested that the neighbors be consulted as to whether the new, larger shed was a detrimental change to them. Mr. Soulé will reach out to the applicant and explain that there was not a super majority in favor of granting the minor modification and suggest that he speak with his neighbors. The matter was tabled.

2) Pending Decisions:

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)**. *Steven Latasa-Nicks moved to approve ZBA 21-3 as written, Peter Okun seconded and it was so voted, 5-0 by roll call.*

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)**. *Robert Nee moved to approve ZBA 21-6 as written, Steven Latasa-Nicks 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)**. *Peter Okun moved to approve ZBA 21-7 as written, Quinn Taylor seconded and it was so voted, 5-0 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)**. *Robert Nee moved to approve ZBA 21-8 as written, Peter Okun seconded and it was so voted, 5-0 by roll call.*

ZBA 21-10

Application by **Lester J. Murphy, Esq.**, on behalf of **Robert B Sieban, Jr.**, seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a swimming pool on the property located at **9 Willow Drive (Residential B Zone)**. The decision was not ready,

3) Approval of minutes: March 4, 2021:

March 4, 2021: *Peter Okun moved to approve the language as written, Susan Peskin seconded and it was so voted, 7-0-1 (Steven Latasa-Nicks abstaining) by roll call.*

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

NEXT MEETING: The next virtual Public Hearing will take place on Thursday, April 1, 2021. 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 7:00 P.M., Susan Peskin 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