

# PLANNING BOARD

## Meeting Minutes

Thursday, May 27, 2021

6:00 P.M.

**PB Members Present:** Paul Graves, Jeffrey Mulliken, Paul Kelly, Steven Azar, and Mia Cliggott-Perlt.

**Members Absent:** Brandon Quesnell (excused) and Marianne Clements (unexcused), and Monica Stubner (excused).

**Staff:** Thaddeus Soulé (Town Planner).

Mr. Soulé introduced the virtual hearing, explaining the reason the Public Hearing was being held virtually. He then called the roll.

Chair Paul Graves called the Planning Board Public Hearing to order at 6:00 P.M. and turned the meeting back over to Mr. Soulé, who then explained how the Board, the applicants and the public could participate remotely, and reviewed the meeting protocol.

### 1. Public Comment:

### 2. Public Hearings:

#### *PLN 21-4 (continued from the meeting of May 13<sup>th</sup>)*

Application by **Robin B. Reid, Esq.**, on behalf of **100 Bayberry, LLC**, seeking a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, A1b1., Two Family Dwelling, and Article 4, Section 4180, Inclusionary and Incentive By-Law, and Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1) for developments consisting of the aggregate of three or more residential units, of the Zoning By-Laws to add a modest two-family duplex on the property located at **18 Winslow Street** with requested waivers from Article 4, Sections 4163 (2) and (3) and 4600.

#### *PLN 21-5 (continued from the meeting of May 13<sup>th</sup>)*

Application by **Robin B. Reid, Esq.**, on behalf of **100 Bayberry, LLC**, for Site Plan Review pursuant to Article 2, Section 2320 (A), High Elevation Protection District (A), of the Zoning By-Laws to add a modest two-family duplex to an existing single-family site on the property located at **18 Winslow Street**. The Board heard the two cases together. Paul Graves, Jeffrey Mulliken, Paul Kelly, Steven Azar, and Mia Cliggott-Perlt sat on the case.

**Presentation:** Attorney Robin B. Reid, Jim Savko, and Kevin Bazarian were in the hearing to discuss the applications. Attorney Reid reviewed the list of tasks that the Board had requested. These included generating options for the re-location of the proposed septic system and new duplex, clarifying opportunities to create more planting areas in front of the duplex, providing a plan calling out details of the front yard of the duplex, seeking counsel and approval from the Tree Warden regarding appropriate trees for the front, street-side yard under the power lines, and providing evidence of the relative heights of abutting structures. She said that the following materials were provided to the Town Planner on Monday, May 3rd: a letter from J.E. Landers-Cauley, P.E., dated April 28, 2021, affirming that there were no other possible locations for the Title 5-compliant system on the site, reiterating her client's understanding that

there should be no plantings over the septic system, and stating that trees should be limited to a distance of 15' and shrubs 8-10' away from the septic system and a plan showing more simply the yard details for the proposed duplex, including the fence, the proposed areas to be planted with native grasses, and the location of 3 flowering crabapple trees. She said that the Tree Warden approved planting flowering crabapple trees for the front yard. The applicant will plant 2/10-12" dbh trees on the front, street-side of the property and a third on the rear of the house. Attorney Reid said that she had submitted to Mr. Soulé the emails between her and Mr. Waldo, the Tree Warden. Also submitted was a height plan created by J.E. Landers-Cauley, P.E., showing the peak heights of the 3 dwelling units at 16 and 20 Winslow Street, as well as the proposed duplex. The latter is the shortest of the 3, at a height of 28', 5' lower than what is permitted in the Res 3 zone.

Attorney Reid recapped the project stating that this is a modest proposal that is retaining an existing single-family dwelling and, in addition, is creating 2/1,000 sq. ft. dwelling units on a lot that is sufficiently sized for 8 dwelling units under the current density schedule. The proposed duplex is not a large structure and is, in fact, smaller than the abutting structures on either side of the property, despite starting at a level 12' above sea level and higher than 16 Winslow Street. This neighborhood is zoned as mixed use and includes other larger structures, such as the Monument, the Provincetown school, and the Community Center/DPW building, as well as large use areas, such as the Grace Hall and the Monument parking lots. The property is in the Res 3 zone, which is zoned for high density residential development. The proposed structure is appropriately sited behind an existing structure and to the rear of the condominium at 16 Winslow Street. It is also appropriately sited in relation to the slope and will minimize excavation of the site. On the southern boundary, appropriate measures will be taken during the construction process to protect the slope. The new septic system will be installed to handle wastewater. Abundant stormwater drainage systems will be provided on the site, including 3/4' stone-filled leach basins, and plenty of permeable surfaces will exist throughout the site. All utilities will run underground. The proposed lot coverage is 22.6%, where the limit is 40%. The proposed green area is 61.3%, where the requirement is 30%. This project is in keeping with the goals and objectives of the Local Comprehensive Plan and meets all zoning requirements. The applicant will pay a fee of \$30,805, in lieu of providing an affordable unit pursuant to the Inclusionary and Incentive By-Law. She argued that the Town will benefit from the addition of 2 dwelling units to the housing stock, the Town's tax base will increase, and there will be no adverse effects due to this project, as all parking will be accommodated and wastewater and stormwater will be handled on the site. She reviewed the waiver requests, including the curb radii, the width of the traveled surface, and the street tree requirement. She said that if the Board agreed that the proposed trees meet the condition of the second paragraph of Section 4600 regarding the height of trees under electrical wires, the third waiver would not be necessary.

**Public Comment:** None.

**Board Discussion:** The Board questioned Attorney Reid. Mr. Kelly requested that his questions be reflected in the minutes. He asked if the trash bin at the rear of the property had been sized and if it will be enclosed. Attorney Reid responded that it will be enclosed and it will hold recycling materials and household trash. She added that it is sized for 3 dwelling units. He next asked about a bicycle rack. Attorney Reid said that the bicycle rack was identified on the original site plan and that a cut sheet for the rack had been submitted. Mr.

Kelly asked a question about a door at the rear of the garage on the existing building on the site. He said it is located about 7' above the existing grade and he asked if there would be a stairway built there. Mr. Bazarian responded that there will not be a stairway built there and that they would most likely block the door off. He also clarified that there would be enough area for trash for the 2 new units, as the existing house has a garage to hold its trash and the owner of that structure will be responsible for his or her own trash. Mr. Kelly's last question was for confirmation that his understanding that all the new plantings will be hand-watered until they are stabilized was correct. Attorney Reid responded in the affirmative.

Mr. Soulé reviewed the proposed conditions for consideration by the Board. The payment in lieu of \$30,805 [(2 total new dwelling units) x (16.67%)x(\$279,988 affordability gap for FY 2020)x(33%)] shall be paid at and upon the sale or prior to the issuance of a certificate of occupancy, whichever occurs sooner, and the developer shall enter into a binding written agreement with the Town of Provincetown, before the issuance of the first Building Permit and with appropriate payment surety arrangements, to provide the required payment(s) to the Housing Fund, and with a notice of the required payments to be recorded against the property before any Certificate of Occupancy is issued if full payment has not been made at the time an application is filed for a Certificate of Occupancy.

Mr. Mulliken commented that the plan only showed an area for trash bins, not a trash 'enclosure'. He requested a condition regarding the Board's requirement for an enclosure. Mr. Soulé suggested language to the effect that a wooden enclosure designed to contain barrels shall be provided as indicated on the plan.

***There was a motion by Jeffrey Mulliken to approve PLN 21-4 and PLN 21-5 for the Site Plan Review by Special Permit under Article 4, Section 4015, a. (1) Developments consisting of an increase of residential units that will result in three or more residential units on any parcel; Special Permit under Article 2, Section 2440 A. 1. b. Residential two-family dwelling; Special Permit under Article 4, Section 4180, Inclusionary and Incentive Zoning Bylaw of the Zoning By-Laws, with waivers from: Article 4, Section 4163(2) curb radii; Article 4, Section 4163(3) width of travelled surface; Article 4, Section 4600 street trees; and Site Plan Review under Article 2, Section 2320 High Elevation Protection District on the property located at 18 Winslow Street, subject to the conditions as discussed. Paul Kelly seconded. VOTE: 5-0-0 by roll call.***

**PLN 21-11** (continued from the meeting of May 13<sup>th</sup>)

Application by **Hennep, Inc., Andrew Koudijs, President**, seeking a Special Permit pursuant to Article 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws to re-design an existing retail establishment and sell marijuana products at the property located at **246 Commercial Street**. Paul Graves, Jeffrey Mulliken, Paul Kelly, Steven Azar, and Mia Cliggott-Perlt sat on the case.

**Presentation:** Adam F. Braillard, Esq., representing the applicant, Andrew Koudijs, the applicant, Jim Stukel, of the Stukel Group, LLC, the construction manager for the project, and Alison Alessi, of A3 Architects, an architectural and engineering consultant on the project, were in the meeting to present the application. Attorney Braillard reviewed the project. He said the reason for the redesign is that the facility did not have an outdoor area or a patio area for customers to wait or queue before entering. Attempting to mitigate any outdoor pedestrian

crowding on the narrow sidewalk on Commercial Street is a concern of both the applicant and the Town. There was an effort to design the interior space for improved indoor customer queuing, which reduces any concerns about sidewalk congestion. It also provides for greater social distancing to deal with any existing or future COVID-19 protocols. He said that the design would enhance product storage capability inside the facility. This would reduce the product delivery frequency, also contributing to mitigating the facility's contribution to vehicular traffic on Commercial Street. Most of the enhancements are devoted to customer flow, security, and storage.

Mr. Koudijs reviewed a proposed floor plan of the facility and indicated how the customer flow would work. After customers enter the facility and show their IDs to a security guard, they will move to an indoor waiting area that contains no product. After exiting the waiting area, there is another security checkpoint where IDs will go through a more rigorous testing protocol, such as scanning, for the detection of fraudulent IDs. Once the customers have met the security criteria, they will be granted access to the sales floor. Customers will queue again on the sales floor and then move to the point of sale, where they will conduct their transaction. IDs will again be checked after which customers will exit the premises through another door, next to the entrance door. He said that by adding the larger interior queuing area, it will reduce the possibility of exterior queuing. If there happens to be exterior queuing, those customers will be asked by staff to disperse. The secured storage area will allow for keeping a larger volume of product, which will greatly reduce the number of deliveries to the premises and any risk that may be associated with those deliveries.

Mr. Stukel reviewed the construction elements of the redesign. He said the Cannabis Control Commission requirements for security were followed during the redesign, including adding a wire mesh element before the drywall is installed around the vault and preventing vandalism by fortifying the floors, ceilings, and walls. He reviewed the floor plan and pointed out the secure storage area where the product is stored. Another security element is a vibration monitor that will be installed in these areas to detect movement, such as a breach, and set off the security system. In addition to that, the windows will be covered in drywall and security mesh or a metal bar configuration to prevent entry. He noted images of the wire mesh shown on the screen.

Attorney Braillard said that the application met the Special Permit criteria in that the redesign, including the enhanced customer queuing area, has benefits that outweigh any adverse effects. He added that the redesign meets any concern about public safety.

**Public Comment:** None.

**Board Discussion:** The Board questioned Attorney Braillard. Mr. Koudijs reiterated that there is no exterior queuing. Mr. Kelly had a question about the egresses. Mr. Stukel explained where the egresses were located on the floor plan. Mr. Kelly asked about the sliding door on the abutting bookstore and on a previous iteration of the unit in question. Mr. Stukel explained that there was a sliding door at the entrance to the unit, but that had been replaced due to safety concerns. He said the intention was that the new door look like a 'neighborhood' door, but it will still have the glass inset piece, as did the previous sliding door. Mr. Stukel confirmed that the door will be a swing door pursuant to the requirements of the Building Commissioner and the Police Chief, notwithstanding what is indicated on the plan. Ms. Cliggott-Pearlt asked

about how the prevention of exterior queuing would work in terms of security staff actions. Mr. Koudijs explained that there are interior and exterior security cameras that show the security staff what is happening outside the facility and if queuing is happening, security will disperse those people. He said he has spoken to other dispensaries in Town about sending overflow customers.

Mr. Soulé reviewed the conditions:

1. Routine testing of the generator shall occur between the hours of noon and 4:00 pm on weekdays to be least impactful to abutters.
2. Doors and windows for the building shall provide adequate security for the use.
3. Lighting shall provide adequate public safety while complying with the Zoning Bylaws.
4. All promotional materials and the website for the marijuana establishment shall provide an obvious and clear statement that “There is NO PARKING available onsite” and provide maps, directions, and instructions for locating available public parking.
5. All queuing shall occur inside the building. Any queuing outside of the building on Commercial Street shall be dispersed by the Applicant.
6. Onsite consumption of marijuana products shall not be allowed.

***There was a motion by Jeffrey Mulliken to grant a Special Permit pursuant to the Zoning By-Law, Article 2, Section 2440, Permitted Principal Uses, B14 Marijuana Establishments, Retail to re-design an existing retail establishment and sell marijuana products at the property located at 246 Commercial Street, with the conditions as stated. Mia Cliggott-Pearlt seconded. VOTE: 5-0-0 by roll call.***

**PLN 21-12** (continued to the meeting of June 10<sup>th</sup>)

Application by **Lester J. Murphy, Esq.**, on behalf of **Shank Painter Associates, Inc.**, seeking Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (2), for developments consisting of more than 2,000 sq. ft. of commercial area, and a. (5), for new construction or any excavation, land removal, or earth moving of more than 750 cu. ft. that will alter the topography from natural grade, of the Zoning By-Laws for the construction of a three-story structure containing twenty-eight, 4-person dormitory units, 5 studio apartments, ten 1-bedroom apartments, and one 2-bedroom apartment on the property located at **207 Route 6** with requested waivers from Article 4, Section 4035 b. and referring to Sections 4163, and 4053 (1) (b).

**PLN 21-13** (continued to the meeting of June 10<sup>th</sup>)

Application by **Lester J. Murphy, Esq.**, on behalf of **Shank Painter Associates**, seeking Site Plan Review pursuant to Article 2, Section 2320(A), High Elevation Protection District (A), of the Zoning By-Laws for the construction of a three-story structure containing twenty-eight, 4-person dormitory units, 5 studio apartments, ten 1-bedroom apartments, and one 2-bedroom apartment on the property located at **207 Route 6**.

### **3. Work Session:**

a) Debrief Annual Town Meeting articles: Mr. Soulé said that all the Zoning By-Law amendments were passed at Annual Town Meeting, many on a consent agenda basis. The new illumination by-law was approved as well, after some discussion. The Town is waiting for the

Attorney General, in the next 90 days, to approve the new By-Laws and amendments. Technically, he said, the new By-Laws and amendments are in effect as of the date of the Annual Town Meeting, but need the approval of the AG's office. Mr. Graves thanked Mr. Mulliken for his hard work on the new Illumination By-Law.

b) Inclusionary sub-committee: Mr. Soulé said he was looking for 2 Board members to help him do a thorough review of the Inclusionary and Incentive Zoning By-Law in order to understand the existing By-Law and to determine what changes should be made. This may involve a consultant or Town staff. Mr. Azar volunteered. Mr. Soulé indicated that Ms. Stubner had expressed an interest as well. He asked that if any Board member had suggestions for changes or additions to the By-Law, he or she should email him.

c) Pending Decisions:

**PLN 21-8**

Application by **Christine Barker** seeking a Special Permit pursuant to Article 2, Sections 2314, Special Permit Uses, 2440, Permitted Principal Uses, A2, Multi-Family Dwelling, 2., four units or more, 2560, Dimensional Schedule, footnote 8, Article 4, Sections 4120, Density Schedule, 4150, Green Area, and 4180, Inclusionary and Incentive By-Law, of the Zoning By-Laws to demolish a pre-existing, non-conforming condemned structure and reconstruct it as a new, mixed-use structure consisting of 31 hotel units, 4 residential condominium units, a restaurant/bar, a meeting space, and a ground-level parking area, as well as the reconstruction of a former pier serving the property located at **227R Commercial Street**. The Board will consider the two cases related to 227R Commercial Street together. The decision was not ready.

**PLN 21-9**

Application by **Christine Barker** seeking Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), for developments resulting in an increase of residential units that will result in 3 or more on a parcel, and a. (2) for developments consisting of more than 2,000 sq. ft. of new commercial area, of the Zoning By-Laws to construct a new, mixed-use structure consisting of 31 hotel units, 4 residential condominium units a restaurant/bar, a meeting space, and a ground-level parking area, as well as the reconstruction of a former pier serving he property located at **227R Commercial Street** with requested waivers from Article 4, Sections 4035 b., referring to Section 4163 3., and 4035 h., referring to Article 3, Section 3432 c. The decision was not ready.

d) Minutes of May 13, 2021:

May 13, 2021: *There was a motion by Paul Kelly to approve the minutes of May 13, 2021, as written. Mia Cliggott-Pearlt seconded. VOTE: Unanimous by roll call.*

e) Any other business that may properly come before the Board: Mr. Kelly asked about when Board meetings would be again be in person. Mr. Soulé said that Town Hall would be open on June 1<sup>st</sup> and Board meetings may begin on June 15<sup>th</sup>, but that may change with pending legislation.

Mr. Mulliken asked when revised plans were due for the project at 207 Route 6. Mr. Soulé said that those plans were usually required a week before the next meeting.

***There was a motion by Jeffrey Mulliken to adjourn the meeting at 7:08 P.M. Paul Kelly seconded. VOTE: Unanimous by roll call.***

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2021  
Thaddeus Soulé, Town Planner,  
on behalf of the Planning Board