

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
September 16, 2021**

Members Present: Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, and Robert Nee (participating virtually), and Quinn Taylor (participating virtually).

Members Absent: Peter Okun (excused), Susan Peskin (excused), and Erik Borg (excused).

Others Present: Thaddeus Soulé (Town Planner).

Mr. Soulé introduced the hybrid meeting, explaining how applicants and the public could participate in the meeting remotely, either via phone or Microsoft Teams. Since there is not a quorum in the meeting room, if there are technical difficulties, the meeting will cease. He announced the information, phone number and conference ID needed to call into the meeting. He explained how public comment would work and asked that the public keep their electronic devices on mute until they are recognized by the Chair. The meeting is being broadcast live by PTV.gov, Channel 18, and will be posted on its website as soon as possible.

Chair Jeremy Callahan called the meeting to order at 6:02 P.M.

A. Public Hearings:

ZBA 21-23 (*postponed to the meeting of October 7th*)

Application by **Ted Smith**, on behalf of **Howard Burchman**, seeking 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, by adding and expanding, two structures operating as a guesthouse, including converting the front building to three residential units by constructing a one-story bay on the south elevation and increasing an existing one-story appendage on the north elevation to two stories, thereby increasing its building scale above the neighborhood average, and to go up and along pre-existing, non-conforming side and rear yard setbacks to add a second story to the rear building on the property located at **12 Center Street (Residential 3 Zone)**.

ZBA 21-35

Application by **Olivier Jamin Changeart** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations of the Zoning By-Laws to install a 909 sq. ft. deck on the south elevation and up and along a pre-existing, non-conforming east side elevation on the property located at **259-263 Commercial Street (Town Center Commercial Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Olivier Jamin Changeart, participating virtually, presented the application. He described the request to extend an existing deck on the south elevation of the property over a storage area. He reviewed photographs of the building and drawings of the existing and proposed

south elevation. He said that the east lot line is pre-existing, non-conforming and the deck will be expanded along that dimension.

Public Comment: None.

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

Board Discussion: The Board had no questions or comments.

Steven Latasa-Nicks 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 moved that the Board vote to approve a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, to install a deck on the southeast side of the building up and along a pre-existing, non-conforming side yard setback on the property located at 259-263 Commercial Street (TCC), Robert Nee seconded, and it was so voted, 5-0 by roll call.

ZBA 21-36

Application by **Irfan Ali**, on behalf of **Hatches Harbor Condominium**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations of the Zoning By-Laws to extend a deck by 3' along a pre-existing, non-conforming side yard setback on the property located at **75 Province Lands Road. (Residential 1 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Irfan Ali, the applicant, along with April Evans and Roger Bonomi, all Trustees of the Condominium Association on the property, were in attendance. Mr. Ali reviewed the project, stating that the Association had to rebuild the lower-level decks on the elevation overlooking Province Lands Road. This came about as the result of a structural inspection, requested by the Building Department, of both the upper-level and lower-level decks. He said the inspection concluded that the upper-level decks were fine, but the lower-level ones had some deficiencies, including extensive rot in the supporting joists and in the number of sono-tubes supporting those joists. The latter were too few for adequate support pursuant to the current Building Code. He noted that the structural plan to address the safety concerns and deficiencies had been submitted. The plan includes replacing all the joists and girders and adding 17 more sono-tubes. In addition, a 3' extension in the depth from the main structure is being requested. The change does not affect the current use of the land, the footprint of the deck, or any walkways.

Public Comment: None. There were 2 letters, from abutters, in support of the application.

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

Board Discussion: The Board had no questions for Mr. Ali.

Steven Latasa-Nicks 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 moved that the Board vote to approve a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, to extend a deck along a pre-existing, non-conforming side yard setback within the property located at 75 Province Lands Road (Res 1), Robert Nee seconded, and it was so voted, 5-0 by roll call.

ZBA 21-37

Application by **Deborah Morrison** seeking 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 construct a shed dormer and staircase alcove to extend up and along a pre-existing non-conforming rear yard setback and to increase the building scale of the structure on the property located at **5 Cottage Street, U1 (Residential 3 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Tom Thompson, a designer, and Deborah Morrison and Raquel Alvarez, the unit owners, were in attendance. Mr. Thompson described the project, which includes an increase in volume. A shed dormer will be added, which is why the building scale increase is being requested, and an existing open deck will be filled in, which requires extending the structure up and along a pre-existing, non-conforming east, rear yard setback. There will be no change in the footprint of the structure. The dormer will allow for the installation of a code-compliant interior staircase from the first to the second floor. It will also improve the floor area of the attic that can become more useful as a second bedroom at some point in the future. The existing scale is 24,980 cu. ft. The proposed increase in scale is 1,683 cu. ft. The neighborhood average scale is 22,123 cu. ft. and the maximum allowable neighborhood scale is 25,428 cu. ft. The proposed total building scale is 26,663 cu. ft. The lot coverage is 16.5%. He argued that there would be no adverse effects created as a result of this project. He reviewed the benefits of the project, such as supporting the goals and objectives of the Local Comprehensive Plan, Chapter 1, Goal 1, Policy B, and it will not create any disruption in the character of the neighborhood. The result of the project will be harmonious with the surrounding area and of limited visibility. In addition, the local tax base will be increased, the changes will allow the applicants to live year-round in the unit, allowing them to age in place, and will allow for an increase the voting base. He said the project met the criteria of Article 2, Section 2640E because it was in keeping with the goals and objectives of the LCP and the renovation will successfully integrate into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural light to, or views from, neighboring structures. He added that the project meets the criteria also of Article 5, Section 5330 as the benefits to the neighborhood or Town outweigh any adverse effects.

Public Comment: None.

Robert Nee 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 had no question for Mr. Thompson.

Steven Latasa-Nicks 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 find pursuant to Article 2, Section 2640, Scale, Subsection E that the applicant has demonstrated that the deviation is appropriate and meets one or more of the following criteria: that the proposed building or addition is in keeping with the goals and objectives of the Local Comprehensive Plan (Economic Development GOAL 2: To locate development so as to preserve Provincetown's environmental and cultural heritage, minimize adverse impacts and enhance the quality of life.); and that the proposed building or addition successfully integrates into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural

light to, or views from, neighboring structures, and further moved that the Board vote to approve a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, to construct a shed dormer and staircase alcove to extend up and along a pre-existing nonconforming rear yard setback and to increase the building scale of the structure on the property located at 5 Cottage Street, U1 (Res 3) Robert Nee seconded, and it was so voted, 5-0 by roll call.

ZBA 21-38

Application by **David High** seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to add a porch and increase the building scale of a structure that is above the neighborhood average on the property located at **36 Commercial Street (Residential 2 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Alan Cabral, representing the applicant, was online to present the application. He said the applicant seeks to add an 8' by 20' front entry porch and since the structure is already above the average neighborhood scale and the addition will increase the scale by 1600 cu. ft., it will remain so. The neighborhood is comprised of large single-family houses and there is an inn located across the street. He said the porch was designed to integrate successfully into its surroundings and will be sited in a manner that minimizes the appearance of mass from the streetscape and not have a significant negative impact on the natural light to, or views from, neighboring structures. The lot coverage is 27%, still within the relevant criteria for this Zoning District.

Public Comment: None.

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 Mr. Cabral.

Steven Latasa-Nicks 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 moved that the Board find pursuant to Article 2, Section 2640, Scale, Subsection E that the applicant has demonstrated that the deviation is appropriate and meets one or more of the following criteria: that the proposed building or addition is in keeping with the goals and objectives of the Local Comprehensive Plan (Economic Development GOAL 2: To locate development so as to preserve Provincetown's environmental and cultural heritage, minimize adverse impacts and enhance the quality of life.); and that the proposed building or addition successfully integrates into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural light to, or views from, neighboring structures on the property located at 36 Commercial Street (Res 2), Robert Nee seconded, and it was so voted, 5-0.

B. Work Session:

1) Pending Decisions:

ZBA 21-29

Application by **Lester J. Murphy, Esq.**, on behalf of **Timothy A. Maher**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, of the Zoning By-Laws to renovate an existing one-story single-family structure by constructing a new flood zone compliant foundation and add a second story on the property located at **963 Commercial Street, U23 (Residential 1 Zone)**. There were no revisions to the decision.

ZBA 21-32

Application by **Dan Gallagher**, on behalf of the **Lynn A. Kappelman Trust et al.**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to add 145 sq. ft. of indoor space to the upper floor of a structure, to remove a tower and two dormers, and to create an 8' eave line resulting in an increase in the building scale that is already in excess of the neighborhood average scale on the property located at **3 Harbour Drive (Residential 1 Zone)**. There were no revisions to the decision.

ZBA 21-33

Application by **Ted Smith**, on behalf of the **Michael T. Careno Revocable Trust**, 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 remove, rebuild, and reconfigure a pre-existing, non-conforming exterior stair and a deck at grade on the property located at **43 Commercial Street, UA (Residential 2 Zone)**. There were no revisions to the decision.

2) **Approval of minutes: August 5 and September 2, 2021:**

August 5, 2021: *Steven Latasa-Nicks moved to approve the language as written, Daniel Wagner seconded, and it was so voted, 5-0 by roll call.*

September 2, 2021: *Steven Latasa-Nicks moved to approve the language as written, Daniel Wagner seconded and it was so voted, 5-0 by roll call.*

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

NEXT MEETING: The next meeting will take place on Thursday, October 7, 2021. It will consist of a hybrid Public Hearing at 6:00 P.M. followed by a Work Session.

ADJOURNMENT: *Steven Latasa-Nicks moved to adjourn the meeting at 6:34 P.M., Daniel Wagner seconded, and it was so voted unanimously by roll call.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2021.
Jeremy Callahan, Chair