

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
October 7, 2021**

**Members Present:** Jeremy Callahan, Steven Latasa-Nicks (participating virtually), Daniel Wagner, Peter Okun (participating virtually), Susan Peskin (participating virtually), and Robert Nee (participating virtually).

**Members Absent** Quinn Taylor (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.

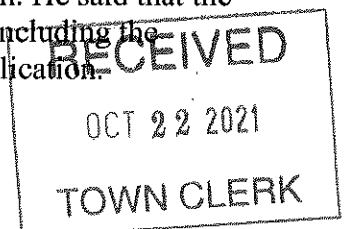
Chair Jeremy Callahan called the meeting to order at 6:00 P.M.

**A. Public Hearings:**

**ZBA 21-23** (*postponed from the meeting of September 2<sup>nd</sup>*)

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)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Susan Peskin sat on the case.

Attorney Christopher Snow, representing an abutter, raised a procedural issue and a deficiency in the material that had been submitted by the applicant for consideration. He said that the scale calculation had expired, as it had been 90 days since it was generated. He also added that the notices for the project date back to the original proposal, which had a second floor going on the rear building. That iteration had been revised. He said that plans submitted yesterday show a revision to the rear building and do not match the original project description. He said that the Board should not hear the application until these issues had been resolved, including the submission of a new scale calculation. The Board proceeded to hear the application.



**Presentation:** Attorney Robin B. Reid, representing the applicant, and Ted Smith, an architect, appeared to present the application. Attorney Reid responded to Attorney Snow by indicating that the changes to the front building did not affect its scale and the revisions to the rear building were smaller than the original proposal, making the building scale smaller. She said that the applicant seeks approval for a deviation in the building scale of the front building and to alter and extend a lawfully pre-existing, non-conforming structure in the rear. She said that the building was a two-dwelling unit, ten-bedroom guesthouse. The project proposes the conversion of the guesthouse into three dwelling units with nine bedrooms. The front building will become a two-dwelling unit structure with four bedrooms in one unit and a second three-bedroom unit. The rear structure will become a two-bedroom dwelling unit. Mr. Smith reviewed the elevation plans for the project. As to the front building, there will be no change to the east elevation. Most of the work will focus on the back part of the front building. The roof will be modified, and a deck will be added to the first-floor wing and a bay window will be added below that. The roof is being raised slightly on the building, which will increase the building scale. There is a bump-out on the north elevation that will be moved back to become part of the two-story element and there will be an expansion upwards of one story, resulting in a change in the roof form. He reviewed elements of the site plan. There are six parking spaces, which number conforms to the requirement.

Attorney Reid said that the change in scale is very similar to a plan for the same property that the Board approved in 2011. She said that the deviation in scale for the front building was a result of bringing the two halves of the structure into architectural unity, to integrate the front and the back of this principal structure. She said the change will make the structure more useful, historically appropriate, and sustainable. The structure is already above the maximum allowable neighborhood volume. The maximum neighborhood allowable scale is 26,755 cu. ft. The increase in building mass will not appear in one's direct view from Center Street. The existing volume is 27,248 cu. ft. The proposed request is for a total of 32,616 cu. ft. She reviewed a map of the building scales in the neighborhood, stating that many of the structures are also over the allowable neighborhood scale. The neighborhood is comprised of very large structures amidst smaller structures, including accessory buildings. The appearance of additional mass would not make the structure look larger, or out of place, to a pedestrian walking north on Center Street, but will be appropriate with its abutting structures, which are all larger, overscale, structures. She argued that Article 2, Section 2640E of the Zoning By-Laws has requirements, including that the project be in keeping with the goals and objectives of the Local Comprehensive Plan, Chapters 1 and 4, whether the structure success integrates into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape, and whether the project furthers the purpose of the Historic District By-Laws. She said that the project does conform to those requirements. This project will satisfy those requirements. She argued, pursuant to Article 5, Section 5330, that the social, economic, and other benefits of the project outweigh any adverse effects. The benefits would accrue to the Town and neighborhood and there would be no adverse effects as a result of this historic rehabilitation.

Mr. Smith reviewed the changes to the rear building, which contains a residential unit with a kitchen. He said that originally, it was proposed that the rear building be expanded, and a second story added, but that aspect of the project has been revised due to abutter and Historic District Commission opposition. That proposal was revised to expand the footprint of the rear structure 4' in the front, with the same width and height, and adding a one-story addition on the north

elevation. None of the changes will be visible from Center Street. He said that the west and south lot lines were pre-existing, no-conforming. Attorney Reid said that the applicant was seeking approval for alterations up and along the south side and west rear lot lines. The rear building is a pre-existing, non-conforming single-family structure and, as such, is eligible for expansion along those lines, as long as the change is not substantially more detrimental to the neighborhood than the existing situation. She argued that the proposed changes will not be substantially more detrimental to the neighborhood than the existing situation. In addition, she argued that pursuant to Article 5, Section 5330, the changes will result in an improvement to the Town's housing stock, increase the property value resulting in higher tax base for the Town.

**Public Comment:** Mr. Callahan reminded members of the public that comments are limited to 3 minutes. He said that there are 5 letters from 3 parties in the file. One letter is in support of the project and 4 letters are from 2 abutters who are in opposition to the second story on the rear building, which has been revised since those letters were submitted. Mr. Burchman commented on the project, characterizing it as modest, and indicated that running a guesthouse and paying employees a living wage is very difficult. He noted that the proposed changes would have a small visual impact on the community and there was still quite a bit of open space on the property. Attorney Snow spoke in opposition to the project, including noticing and scale information deficiencies and arguments as to why the request should be a Variance. Attorney Reid rebutted his arguments, stating that a new scale calculation would be submitted.

**Board Discussion:** The Board commented on the project and expressed its concerns. Attorney Reid requested a continuance to the October 21<sup>st</sup> Public Hearing at 6:00 P.M. She indicated that a new scale calculation would be submitted. Mr. Callahan requested that Attorney Snow submit his client's concerns about the project to the Board. In addition, a clarification of the distance separating the front and the back structures is needed from the applicant, as well as any information regarding the previous ZBA decision from 2011. It was the sense of a Board majority that re-noticing the project would be helpful, however Mr. Callahan ruled that the project did not need to be re-noticed.

*Robert Nee moved to grant the request to continue to the Public Hearing of October 21, 2021 at 6:00 P.M., Steven Latasa-Nicks seconded, and it was so voted, 6-0 by roll call.*

#### **ZBA 21-39**

Application by **Sean Curran**, on behalf of **Ptown Place, LLC**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to remove a rear gable roof and replace it with a flat roof and deck and to extend an existing roof dormer on the west elevation to match an existing shed dormer on the east elevation on the structure located at **16 Bradford Street (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Steven Latasa-Nicks, and Susan Peskin sat on the case.

**Presentation:** Sean Curran, attending the meeting virtually, presented the application. He said that the applicant was seeking relief for a slight increase in building scale over the average neighborhood scale. The maximum allowable scale is 17,500 cu. ft. The requested total building scale is 17,740 cu. ft. That equals 140 sq. ft. of structure, .08% over the maximum allowable scale. There is a rear addition that has a pitched roof, which will be removed, and a flat roof with a deck added. He said that the rear addition did not fit into the design of the structure. This change will better integrate the addition into the original building, which is more architecturally pleasing, and the rooflines will be simplified. There is an existing shed dormer on the east elevation, and it currently goes up to the ridgeline. This dormer will be moved off the ridgeline and lowered. The small, shed dormer on the west elevation will be expanded to mirror the

existing one on the east elevation. This will provide symmetry to the elevations and add to the simplification of the roofline. The roof deck will be accessed from the interior of the building.

**Public Comment:** None.

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

**Board Discussion:** The Board had no questions for Mr. Curran.

*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 find pursuant to Article 2, Section 2640, Scale, Subsection E, that the proposal to remove a rear gable roof and replace it with a flat roof and deck and to extend an existing roof dormer on the west elevation to match an existing shed dormer on the east elevation on the structure located at 16 Bradford Street (Res 3) 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 and that the property is located in the Provincetown Historic District and the addition is consistent with the Historic District Guidelines and approval of the deviation would further the purpose and intent of the bylaw, Susan Peskin seconded, and it was so voted, 5-0 by roll call.*

#### **ZBA 21-40**

Application by **Ted Smith**, on behalf of **Gregory Whitehead et vir.**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, Article 3, Section 3110, Change, Extensions, or Alterations, and Article 3, Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish a garage and construct a one-story addition with a shed dormer on the northwest corner of an existing structure, to be partially located in the demolished garage's footprint, and going up and along a pre-existing, non-conforming northwest side yard setback, to infill a southwest corner, adding a new second-floor dormer, and to add a new shed dormer on the southeast corner of the structure, all of which will result in an increase in the building scale of the existing structure above the neighborhood average scale on the property located at **24 Standish Street (Residential 3 Zone)**. There was a request to postpone ZBA 21-40 to the Public Hearing of October 21, 2021 at 6:00 P.M. *Daniel Wagner moved to postpone ZBA 21-40 to the Public Hearing of October 21, 2021 at 6:00 P.M., Peter Okun seconded, and it was so voted, 6-0 by roll call.*

#### **ZBA 21-41**

Application by **Robert Slifer** seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Utility/Garden Shed, to install a shed on the property located at **4 Race Road, #3 (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Steven Latasa-Nicks, and Susan Peskin sat on the case.

**Presentation:** Robert Slifer, attending virtually, presented the application. He reviewed the request to place a shed where there are currently two existing parking spaces. The shed will hold tools and bicycles. The Pine Harbor shed is 4' by 8' and aesthetically matches the condominium structure.

**Public Comment:** There was a letter from unit owners in the condominium association in support of the project.

*Peter Okun moved to close the public portion of the hearing, Steven Latasa-Nicks seconded, and it was so voted, 6-0 by roll call.*

**Board Discussion:** The Board briefly questioned for Mr. Slifer.

*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 moved that the Board find pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Sheds, to install a shed that meets at least 50% of the yard setback requirements of the district and at least 50% of building separation requirements where the installation of said shed cannot meet the current front and side yard setbacks and building separation requirements within the property located at 4 Race Road, Unit 3 (Res 3), Susan Peskin seconded, and it was so voted, 5-0 by roll call.*

**B. Work Session:**

1) **Pending Decisions:**

**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)**. There were no changes to the decision.

**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)**. There were no changes to the decision.

**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)**. There were no changes to the decision.

**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)**. There were no changes to the decision.

2) **Approval of minutes: September 16, 2021:**

**September 16, 2021:** *Robert Nee moved to approve the language as written, Steven Latasa-Nicks seconded, and it was so voted, 5-0-1 (Peter Okun abstaining) 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 21, 2021. It will consist of a hybrid Public Hearing at 6:00 P.M. followed by a Work Session.

**ADJOURNMENT:** *Daniel Wagner moved to adjourn the meeting at 7:28 P.M., Robert Nee seconded, and it was so voted unanimously by roll call.*

Respectfully submitted,

Ellen C. Battaglini

Approved by Thaddeus J. Sauti on October 21, 2021.  
*on behalf of the Board*