

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

Members Present: Jeremy Callahan (participating virtually and left the meeting at 7:52 P.M.), Steven Latasa-Nicks, (participating virtually), Quinn Taylor (participating virtually), Robert Nee (participating virtually), and Erik Borg.

Members Absent: Daniel Wagner, Peter Okun, and Susan Peskin.

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 be stopped. 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.

Vice Chair Steven Latasa-Nicks called the meeting to order at 6:01 P.M.

A. Election of Kenneth Sutton as an alternate Board member with a term to expire on 12/31/2023: Mr. Sutton introduced and explained why he wanted to join the ZBA. The Board briefly questioned Mr. Sutton. *Robert Nee moved to appoint Kenneth Sutton as an alternate Board member with a term to expire on 12/31/2023, Jeremy Callahan seconded and it was so voted, 5-0 by roll call.*

B. Public Hearings:

ZBA 21-23

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 (Town Center Commercial Zone)**. Mr. Latasa-Nicks noted that Board member Peter Okun sat on the previous hearing of this application. Mr. Okun is an abutter and should not have been allowed to sit on the case. Mr. Latasa-Nicks said that Mr. Okun's comments should be stricken from the record and Board members should not consider any comments made by him at the previous hearing. Mr. Okun also submitted a letter commenting on the project. The letter was not received in a timely manner and should be expunged from the record. Jeremy Callahan, Steven

Latasa-Nicks, Robert Nee, and Quinn Taylor sat on the case. Mr. Callahan said that since there were only 4 members seated on the case, he would poll the Board before a decision was rendered.

Presentation: Attorney Robin B. Reid, Howard Burchman, and Ted Smith appeared to discuss the application. Attorney Reid stated that the request in the application is for a deviation in building scale and to alter and extend a lawfully pre-existing, non-conforming structure. She said that the application was re-advertised and re-noticed to abutters in order to alleviate any concerns of the Board regarding the original notice and abutter participation. Since that re-noticing, the Board has received seven letters from abutters in support and two letters from abutters in opposition. One of the latter is from an abutter on the third floor of an abutting structure that could not possibly be impacted by the two-story project referenced in this application as to view or light. The applicant also received a new scale calculation, which confirmed that nothing has changed with respect to the front building and that the revised rear structure plans are still under the allowed building scale for the neighborhood.

Attorney Reid reviewed the south elevation drawings for the principal structure, showing that the majority of the increase in mass that led to the request for scale relief. The proposed increase in scale is due to bringing the two halves of the structure into architectural unity from an historical perspective and to integrating the front and the rear of the principal structure. She noted on the east elevation drawing that none of the additional mass was visible from Center Street. She stated that the structure was already above the allowed neighborhood average scale, which is 26,755 cu. ft. The existing volume is 27,248 cu. ft. The applicant is requesting approval for a scale of 32,616 cu. ft., a 22% increase over the allowable scale. She said that none of the increase in volume will be visible from the street and given the size of the existing structure, few pedestrians will even notice the increase beyond the significant improvement in the historical integrity of the building. She reviewed the scale map of abutting structures, many of which are in excess of their allowable scale by a significant amount. In addition, many of the remaining structures are much smaller. The immediate abutting structure at 14 Center Street has a scale of 85,900 cu. ft. The abutting building to the rear, 143 Bradford Street, has a scale that is larger than the proposed scale for this project. She said that a large building is not out of place in this neighborhood and the renovated structure will be appropriate for its location, as it is surrounded by larger and many little structures and given the actual appearance of the additional massing and the return on the applicant's investment in the Town of the historical value of the property. She said that Article 2, Section 2640E requires that the project reflect the goals and objectives of the Local Comprehensive Plan, which this project does in Chapter 1, Land Use, and Chapter 4, Historical Preservation, in that there is an emphasis on the way that the Town's history is reflected in its architecture. In addition, the project will conform with the requirement that any increase in scale is integrated into its surroundings and 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. In addition, it is consistent with another requirement 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 those Guidelines. The Historic District Commission has approved the project. Attorney Reid said that the requirements of Article 5, Section 5330, referenced in Article 3, Section 3110, have been complied with in that the benefits of the project outweigh any adverse effects. The benefits, she argued, to the

neighborhood and Town of the rehabilitation of the structure have been noted and there will be no adverse effects.

Attorney Reid said that the applicant is also seeking relief under paragraph two of Article 3, Section 3110, and paragraph one of Section 6 of M.G.L. c. 40A, for an extension of the rear structure along the south and west lot lines. She reviewed the site plans for the property. The rear structure is a single-family pre-existing, non-conforming dwelling unit. She noted the non-conformities of the south and west lot lines. The request is to extend the rear structure, which is conforming as to all other dimensional aspects, along the south lot line about 4' and will encroach another 1.2" farther into that side yard setback. The proposed structure will extend about 25' along the west lot line with no additional encroachment. M.G.L. c.40A, Section 6, paragraph one, allows these extensions if they are not substantially more detrimental to the neighborhood than the existing non-conformities, even in an instance where the extension worsens the non-conformity. The relative size of the extension is not the question, but the impact on the neighborhood of the extension. On the south lot line, the abutting structure is located well within its side yard setback. She noted that the unit owner that would be most impacted by the extension on the southern lot line has written a letter of support for the project. The extension on the rear lot line will impact no one as there is a retaining wall topped by a fence that holds the property off an adjacent driveway. There will be no impact on the use of the driveway or the passage of vehicles on that driveway. The extension will not impede the ability of fire and rescue personnel to access the premises or to access neighboring properties any further than the existing retaining wall and fence now do. The benefits of the rear extensions will be an increase in the residential housing stock, in property values, and in the real property tax base of the Town with no adverse effects on the neighborhood.

Attorney Reid rebutted comments made by Attorney Christopher J. Snow, who represents an abutter in opposition to the project. The enormous structure at 14 Center Street encroaches into its side yard setback. She also noted that an accommodation had been made to Attorney Snow's client in 2012 when renovations were last made to the rear structure. She referred to a letter from him and stated that this project met three of the six criteria for relief from the building scale by-law, in sub-paragraphs one, five and six. The height of the rear structure will increase by less than 3'. The height of the principal structure will not increase at all. The integration of mass depends not only upon a mathematical formula, but on consideration of the appearance of the increase in mass and the context within which it occurs. The proposed project is consistent with the guidelines of the HDC, and the renovation will further the purpose and intention of its by-law. She argued that there is case law to support that a non-conformity can be worsened and still be approved by the Board if it determines that the change is not substantially more detrimental to the neighborhood. Just extending a structure doesn't make it automatically detrimental to the neighborhood. The size of the extension is irrelevant, but the impact of that extension on the neighborhood is of significance. She reviewed a picture of the retaining wall and fence and said its integrity would be maintained throughout, and after, the construction project and no new hazards will be created. The light and air available to abutters will not be compromised as a result of the project, given the drop in elevation that necessitates the retaining wall and fence. The easement to the rear, which provides access to vehicles to several properties and parking spaces, will remain. The Town's Zoning By-Law do not protect views per se. The applicant is not creating a tenement on the property, as was charged by Attorney Snow, and is doing his best to steward and honor the historical significance of the property. In fact, she said that

Attorney Snow was asked to submit a letter to the Board stating his client's real reason that he is objecting to the project and the writing that was submitted only rehashes his previous arguments. She said it would not be possible to project the real property value of this property after the renovations, given the heated real estate market in Town. Nor can projected tax rates be predicted. Attorney Reid contended that both would increase after this project. One cannot project what room taxes will be lost as a result of giving up the guesthouse use of the property. There could be an increase in revenue to the Town as a result of the proposed residential use of the property. She added that the loss of guesthouse rooms is not relevant to the Board's discussion or decision. She concluded that no use approvals are needed for the applicant's decision to no longer operate a guesthouse.

Mr. Latasa-Nicks noted that Mr. Borg realized in looking at the photographs submitted that he has a conflict in that he owns a business that abuts the property, so that leaves only four Board members available to sit on the case. He said he will poll the Board before it renders a decision.

Public Comment: Christopher J. Snow, on behalf of an abutter, spoke in opposition to the project. Jim Schreyer, Attorney Snow's client, spoke in opposition to the project. William Krinsky, an abutter, spoke in opposition to the project.

Jeremy Callahan moved to close the public portion of the hearing, Robert Nee seconded and it was so voted, 4-0 by roll call.

Board Discussion: The Board questioned Attorney Reid.

Jeremy Callahan 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, Building 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.), 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, 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 will further the purpose and intent of the bylaw, and further moved that the Board vote to approve a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, to go up and along pre-existing, non-conforming side and rear yard setbacks to add a second story to the structure located at 12 Center Street (TCC), with the condition that the retaining wall be maintained by the applicant, Robert Nee seconded and it was so voted, 4-0 by roll call.

ZBA 21-52

Application by **Robin B. Reid, Esq.**, on behalf of **Brian R. Faidell et al.**, 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 increase the building scale of a structure by adding a shed dormer to a gable roof and slightly increasing the footprint of an existing single-story sunroom with a second-story addition extending up and along a pre-existing, non-

conforming front yard setback on the property located at **78 Bayberry Avenue (Residential 1 Zone)**. Steven Latasa-Nicks, Jeremy Callahan, Eric Borg, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Attorney Robin B. Reid, Carmen L. Vetere, an owner of the property, and Kevin Bazarian, the project contractor, appeared to present the application. The project involves a single-family pre-existing three-bedroom residence located in the Residential 1 Zone. A shed dormer will be added to the main gabled portion of the structure and there will be a small increase in the footprint of an existing sunroom and the addition of a second story on top of that. She noted new scale calculations that were submitted. The change from the original scale calculation showed a slight reduction in the volume of the structure. She reviewed the existing elevation drawings, pointing out the proposed shed dormer and the addition to the sunroom, which were shaded blue on the plans. The maximum allowable scale for the structure is 21,375 cu. ft. The applicant seeks a building scale of 25,020 cu. ft. This is a 17% increase. She argued that the proposed scale is appropriate for the neighborhood, given the size of the lot at 20,000 sq. ft., and the size of the lots in that neighborhood, and given the appearance of the actual massing. The immediate abutting property to the north of this one, whose owner will see the increases in volume the most, has a scale of 32,000 cu. ft. It is the largest in the 250' scale radius. She said that the proposed structure will be integrated 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. She argued that it is a significant improvement of the existing structure and that letters from abutters received by the Board were in support of the changes. She said that there would be no adverse effects as a result of the renovation of the structure. The tax base of the Town will be strengthened, and the neighborhood will also benefit from the proposed structure. She reviewed the site plan, stating that the house is on a corner and therefore has two front yards. One of those front yards is pre-existing, non-conforming and the extension will end up farther away than the existing edge of the structure within the front yard setback, and thus less non-conforming. This lawfully pre-existing single-family structure will be conforming as to all other dimensional requirements. She argued, pursuant to Article 3, Section 3110 that the proposed modest extension will not be substantially more detrimental to the neighborhood than the existing non-conformity. The non-conformity is being decreased in a neighborhood of large lots and a large street front. She said that there were comments from neighbors that supported this contention. The benefits of the renovations will be an improvement in the appearance and functionality of the single-family structure with an attendant increase in the Town's tax base, and with no adverse effects on the neighbors.

Public Comment: None. There were 4 letters in support of the application.

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

Board Discussion: The Board questioned Attorney Reid and commented on the project.

Erik Borg 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, Building 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, 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 second-story addition extending up and along a pre-existing, nonconforming front yard setback on the property located at 78 Bayberry Avenue (Res 1), Robert Nee seconded and it was so voted, 5-0 by roll call.

ZBA 21-40 (postponed from the meeting of November 4th)

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)**. Steven Latasa-Nicks, Jeremy Callahan, Eric Borg, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Ted Smith appeared to present the application. He reviewed the photographs that had been submitted to explain the proposed project. Part of the project seeks to make headroom on the second floor of the structure, where only a narrow pathway of headroom currently exists. He said that this space was, in effect, not habitable. In order to correct this, the sill plate will be lifted about one foot and the existing pitch of the roof will be changed from a 10 in 12 to an 11 in 12. He reviewed the elevation drawings. He said the design of the renovations was driven by the fact that the structure has a great view of the Monument, which the applicant would like to preserve. A garage on the property will be demolished and parts of it will be moved farther back from Alden Street to get an adequate setback for a new leaching field for a Title 5 system. A new septic system will need to be installed, as the current one has failed, or the property must hook up to the Town sewer system. He said that gallons are now available on the sewer system, but the applicant would like to demolish the garage anyway. However, no decision as to that issue has been made yet. He reviewed the floor plans. Where the garage was will be connected to the principal structure and the southwest corner of the house will be filled in. A porch will possibly be added there, but no firm decision has been made yet, and a studio and a dining room will be added to that wing. If no porch is added, the scale deviation requested would be smaller. Mr. Smith said that the project has not yet received the approval of the HDC. The mass will look similar to the existing mass from the street. Two dormers will be added to the structure: one facing west, and one facing south, and a one-story addition with a flat roof will be constructed. The changes to the scale will keep the structure consistent with other neighborhood structures. Mr. Smith argued that even though they were creating more headroom on the second floor, by moving the additional mass back and breaking it up into multiple elements, such as the new garage, family room/study, and by constructing a one-story on the rear of the structure, the appearance of the actual mass from both Standish and Alden Streets will be minimized. He said that there would be no adverse effects as a result of this project.

Public Comment: None. There were no letters in the file.

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

Board Discussion: The Board questioned Mr. Smith and commented on the project. It requested that the porch be removed from the plans.

Erik Borg 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, Building 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, and further moved that the Board vote to approve a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, and Section 3115, Demolition and Reconstruction, to demolish a garage and construct an addition with a shed dormer on the northwest corner of an existing structure, going up and along a pre-existing, non-conforming northwest side yard setback, adding a new second-floor dormer, and to add a new shed dormer on the southeast corner of the structure located at 24 Standish Street (Res 3), with the condition that the porch be removed from the proposed plans, Robert Nee seconded and it was so voted, 5-0 by roll call.

ZBA 21-49

Application by **Kevin O'Brien**, on behalf of **John Burrows**, seeking a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B4, Retail sales or service, a., neighborhood, of the Zoning By-Laws to allow a change of use from an art gallery to a hair salon at the property located at **12 Masonic Place, U1 (Residential 3 Zone)**. Steven Latasa-Nicks, Jeremy Callahan, Eric Borg, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Kevin O'Brien appeared to present the application. He reviewed the change in use. No physical changes will occur to the exterior or interior of the building except the replacement of failing glass. He reviewed the interior floor plan.

Public Comment: None. There was 1 letter from an abutter in support of the application.

Erik Borg 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.

Erik Borg 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 2, Section 2440, Permitted Principal Uses, B4, Retail sales or service, a., neighborhood, to allow a change of use from an art gallery to a hair salon at the property located at 12 Masonic Place, U1 (Res 3), Robert Nee seconded and it was so voted, 5-0 by roll call.

ZBA 21-50

Application by **Ginny Binder**, on behalf of the **Richard R. Bankhead Revocable Trust, Richard R. Bankhead, Trustee**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to create an artist studio/room by enclosing a second-floor porch on a west elevation, thereby increasing the scale of a structure located at **586 Commercial Street, U11 (Residential 3 Zone)**. Steven Latasa-Nicks, Jeremy Callahan, Eric Borg, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Ginny Binder was on the phone to present the application. She reviewed the project, which involves the rear building on the site. The applicant seeks to enclose a Juliet balcony. She reviewed photographs of the balcony that will be enclosed and thus become more useful. She also reviewed the floor plans. She argued that the project was in keeping with the goals and objectives of the LCP, Chapter 4, Section 4.2, Goal 1, Policy A and B, and Goal 2, Policy A, and there would be no adverse effects as a result of the project.

Public Comment: None. There were no letters in the file

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

Board Discussion: The Board questioned Ms. Binder.

Erik Borg 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, Building 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.), 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, 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 to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to create an artist studio/room by enclosing a second-floor porch on a west elevation, thereby increasing the scale of a structure located at 586 Commercial Street, U11 (Res 3), Robert Nee seconded and it was so voted, 5-0 by roll call.

ZBA 21-51

Application by **Leif Hamnquist**, of **Hammer Architects**, on behalf of **Daniel K. O'Donnell et al.**, 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 replace and expand an existing deck up and along a pre-existing, non-conforming south rear yard setback on the property located at **135 Commercial Street, UA (Town Center Commercial Zone)**. Steven Latasa-Nicks, Jeremy Callahan, Eric Borg, Robert Nee, and Quinn Taylor sat on the case.

Presentation: Leif Hamnquist, Dan O'Donnell, and Larry Busching appeared to present the application. Mr. Hamnquist reviewed the site plan. An existing deck on the south elevation is being extended horizontally to the west. The new construction includes an outdoor shower enclosure on the east elevation that will follow the existing setback of .8'. He reviewed the elevation drawings and noted that the project had been approved by the HDC.

Public Comment: None. There were no letters in the file.

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

Board Discussion: The Board questioned Mr. Hamnquist.

Erik Borg 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, and Section 3115, Demolition and Reconstruction, to replace and expand an existing deck up and along a pre-existing, non-conforming south rear yard setback on the property located at 135 Commercial Street, UA (TCC), Robert Nee seconded and it was so voted, 5-0 by roll call.

ZBA 21-53

Application by **Ted Smith**, on behalf of **Whitney Kelly**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to remove an exterior stair and add a portico, thereby increasing the building scale of a structure located at **5 Fishburn Court (Residential 3 Zone)**. The Board did not have a quorum to hear the case. *Robert Nee moved to postpone ZBA 21-53 to the Public Hearing on December 2, 2021 at 6:00 P.M., Erik Borg seconded and it was so voted, 5-0 by roll call.*

ZBA 21-54

Application by **Jeffrey Mulliken** seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Utility/Garden Shed (96 sq. ft. max.), of the Zoning By-Laws to install a shed on the property located at **34A Pearl Street, U1 (Residential B Zone)**. The Board did not have a quorum to hear the case. *Robert Nee moved to postpone ZBA 21-54 to the Public Hearing on December 2, 2021 at 6:00 P.M., Erik Borg seconded and it was so voted, 5-0 by roll call.*

B. Work Session:

- 1) **Pending Decisions:** Tabled until the next meeting.

ZBA 21-44

Application by **Ted Smith**, on behalf of **Richard A. Keyes et al.**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extensions, and Alterations, of the Zoning By-Laws to add dormers along a pre-existing, non-conforming east side yard setback and a west elevation on the property located at **442 Commercial Street, U4 (Residential 3 Zone)**. There were no revisions to the decision.

ZBA 21-45

Application by **Steven Latasa-Nicks**, on behalf of **Latasa-Nicks Properties, LLC**, seeking a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B5, Restaurants, Bars, Entertainment, of the Zoning By-Laws, to add 20 outdoor restaurant seats on the property located at **404 Commercial Street. (Town Center Commercial Zone).**

ZBA 21-46

Application by **Seth Kaplowitz** seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws, for the extension of an existing dormer by 8’4” on both the east and west elevations, adding volume to the building scale, which is already above the neighborhood average scale, on the property located at **457-459 Commercial Street, U1 (Residential 3 Zone).**

ZBA 21-47

Application by **Lynn Mogell**, on behalf of **Sarah K. Peake et ux.**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, of the Zoning By-Laws to extend up and along a pre-existing, non-conforming lot line on a southeast corner to add a second floor on the structure located at **21 Dewey Avenue, U8 (Residential 1 Zone).**

ZBA 21-48

Application by **Ted Smith**, on behalf of **Harbor Hill Condominium Trust**, 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 revise a previously approved Special Permit by altering a dormer and a roof deck, including an access stairway to the roof deck, and a deck cut into a roof gable on the southwest corner up and along pre-existing, non-conforming front and side yard setbacks, thereby increasing the building scale of the structure located at **41 Bradford Street Extension (Residential 1 Zone).**

2) Approval of minutes: November 4, 2021:

November 4, 2021: *Robert Nee moved to approve the language as written, Erik Borg seconded and it was so voted, 3-0-1 (Steven Latasa-Nicks 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, December 2, 2021. It will consist of a hybrid Public Hearing at 6:00 P.M. followed by a Work Session.

ADJOURNMENT: *Robert Nee moved to adjourn the meeting at 7:54 P.M., Erik Borg seconded, and it was so voted unanimously by roll call.*

Respectfully submitted,

Ellen C. Battaglini

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