

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
December 2, 2021**

**Members Present:** Jeremy Callahan, Daniel Wagner (participating virtually), Peter Okun, Susan Peskin (participating virtually), Quinn Taylor (participating virtually), and Erik Borg, and Kenneth Sutton.

**Members Absent:** Steven Latasa-Nicks and Robert Nee.

**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 a quorum in the meeting room, if there are technical difficulties, the meeting will not 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.

Chair Jeremy Callahan called the meeting to order at 6:01 P.M. and called the roll.

**A. Public Hearings:**

1) **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)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Susan Peskin, and Quinn Taylor sat on the case.

**Presentation:** Ted Smith appeared to present the application. He addressed the adequacy of the site plan that was submitted, which shows a garage on the site. He said he had a septic plan as well delineating the site that he could submit, but it does not have the setbacks indicated. However, it does label the garage as an existing studio. He said that the studio is not included in this project. The main building will be converted to a single-family dwelling. He reviewed some photographs of the main building and the front door on the south elevation over which a canopy will be installed. In addition, windows on the left side of it will be modified. An exterior staircase on the west elevation will be removed.

**Public Comment:** There was a letter of concern from an abutter questioning the adequacy of the site plan and if the garage/studio on the site is pertinent to the application. There was 1 letter from an abutter in support of the application. Tom Thompson spoke of a concern about the site plan and encroachment of a lot line, and he suggested that installing the canopy would require a variance. Jeffrey Mulliken, an abutter, spoke in support of the project.

*Peter Okun 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 briefly 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 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, Susan Peskin seconded and it was so voted, 5-0 by roll call.*

## 2) 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)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Susan Peskin, and Erik Borg sat on the case.

**Presentation:** Jeffrey Mulliken and Elbert Ruff, owners of the property, appeared to present the application. Mr. Mulliken reviewed the elevation drawings of the shed, which will sit 6" above grade. Neither the door nor the window will face a public way and the shed is situated 9' from the adjacent structure. He then reviewed the site plan showing the location of the proposed shed. It encroaches into the 6' side yard setback by 1'8", which is less than the 50% allowed, 3', by the Permitted Accessory Uses By-Law.

**Public Comment:** None. There was 1 letter in support in the file.

*Peter Okun 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 had no questions.

*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 where the installation of said shed cannot meet the current side yard setbacks and building separation requirements within the property located at 34A Pearl Street, Unit 1 (Res B), Erik Borg seconded and it was so voted, 5-0 by roll call.*

## 3) ZBA 21-55

Application by **Paul Muldoon**, on behalf of **TMW Properties, LLC Provincetown Series**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to remove and replace

retaining walls and a stair structure up and along pre-existing, non-conforming front and side yard setbacks on the property located at **28 Bradford Street (Residential 3 Zone)**. The applicant did not appear. *Peter Okun moved to postpone to the meeting of December 16, 2021 at 6:00 P.M., Erik Borg seconded and it was so voted, 7-0.*

**B. Work Session:**

1) **Request to extend ZBA 19-38: 16 Jerome Smith Road:** Mr. Soulé reviewed the request related to the proposed siting of a new police station, which is being requested by the Town of Provincetown. The request is for a three-year extension. *Peter Okun moved pursuant to Article 5, Section 5330, that the Board extend the Special Permit ZBA 19-38, 16 Jerome Smith Road, for a period of three years for good cause, as described by the applicant, to the date of January 17, 2025, Erik Borg seconded and it was so voted, 7-0 by roll call*

2) **Pending Decisions:**

**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)**. The decision was not ready.

**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 were no revisions to the decision.

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

#### **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)**. There were no revisions to the decision.

#### **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)**. There were no revisions to the decision.

#### **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)**. There were no revisions to the decision.

#### **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)**. There were no revisions to the decision.

#### **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)**. The decision was not ready.

**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)**. The decision was not ready.

**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)**. The decision was not ready.

**3) Approval of minutes: November 18, 2021:**

**November 18, 2021:** *Erik Borg moved to approve the language as written, Quinn Taylor seconded and it was so voted, 6-0-1 (Peter Okun abstaining) by roll call.*

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

**NEXT MEETING:** The next meeting will take place on Thursday, December 16, 2021. It will consist of a hybrid Public Hearing at 6:00 P.M. followed by a Work Session.

**ADJOURNMENT:** *Peter Okun moved to adjourn the meeting at 6:30 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