

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
February 6, 2020**

**Members Present:** Jeremy Callahan, Caleb Eigsti, Daniel Wagner, Peter Okun, and Robert Nee.  
**Members Absent:** Steven Latasa-Nicks (excused) and Susan Peskin (excused).  
**Others Present:** Thaddeus Soulé (Town Planner), and Ellen C. Battaglini (Permit Coordinator).

**WORK SESSION**

Chair Jeremy Callahan called the Work Session to order at 6:05 P.M.

**1) PENDING DECISIONS:**

**ZBA 20-24 (Caleb)**

Application by **Chris Hartley, of Provincetown Brewing Co.**, seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow indoor entertainment on the property located at **141 Bradford Street (Town Center Commercial Zone)**. **Jeremy Callahan, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.** Caleb Eigsti read the decision. *Peter Okun moved to approve the decision as amended, Robert Nee seconded and it was so voted, 4-0.*

**ZBA 20-48 (Jeremy)**

Application by **Ted Smith, Architect, LLC**, on behalf of **Steven Schnitzer**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, of the Zoning By-Laws to extend a pre-existing, non-conforming structure along a rear yard setback on the property located at **119 Bradford Street (Town Center Commercial Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, and Peter Okun sat on the case.** Jeremy Callahan read the decision. *Peter Okun moved to approve the decision as written, Daniel Wagner seconded and it was so voted, 4-0.*

**ZBA 20-41 (Robert)**

Application by **William N. Rogers, II**, on behalf of **Sandmark Management, LLC**, 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 20' by 46' retractable awning over an existing outdoor seating area (deck) on the property located at **328 Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Caleb Eigsti, Peter Okun, Steven Latasa-Nicks, and Robert Nee sat on the case.** Robert Nee read the decision. *Peter Okun moved to approve the decision as written, Caleb Eigsti seconded and it was so voted, 4-0.*

**ZBA 20-47 (Jeremy)**

Application by **Ted Smith, Architect, LLC**, on behalf of **Grant Hester**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, of the Zoning By-Laws to construct a one-story addition and a deck on the rear of a structure to extend along a pre-existing, non-conforming front yard setback on the property located at **240½ Bradford Street (Residential 3 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, and Peter Okun sat on the case**. Jeremy Callahan read the decision. *Daniel Wagner moved to approve the decision as written, Peter Okun seconded and it was so voted, 4-0.*

2) **Discussion regarding the Board’s policy for reading decisions and applicants’ recording requirements.** The discussion was tabled until the next meeting.

3) **Approval of Minutes:**

*January 16, 2020: Peter Okun moved to approve the minutes of the January 16, 2020 Public Hearing, Robert Nee seconded and it was so voted, 5-0.*

3) **Any Other Business that may properly come before the Board:** None.

Chair Jeremy Callahan adjourned the Work Session at 6:30 P.M.

## PUBLIC HEARING

Chair Jeremy Callahan called the Public Hearing to order at 6:30 P.M. There were 5 members of the Zoning Board of Appeals present and 2 absent.

1) **PUBLIC HEARINGS:**

**ZBA 20-32** *(continued from the meeting of January 16<sup>th</sup>)*

Application by **Ted Smith**, on behalf of **Mitchell Klein**, seeking a Special Permit pursuant to Article 2, Sections 2470, Parking Requirements, and 2640, Building Scale, of the Zoning By-Laws for relief from parking requirements and an increase in building scale due to the addition of a new dwelling unit in the structure located at **26 Bradford Street (Residential 3 Zone)**. Jeremy Callahan, Peter Okun, Caleb Eigsti, Susan Peskin, and Robert Nee sat on the case. The applicant did not appear. *Peter Okun moved to continue ZBA 20-32 to the Public Hearing of February 20, 2020 at 6:30 P.M., Robert Nee seconded and it was so voted, 5-0.*

**ZBA 20-43** *(request to continue to the meeting of February 20<sup>th</sup>)*

Application by **Christine Barker** seeking Special Permit pursuant to Article 2, Section 2470, Parking Requirements, of the Zoning By-Laws to construct a building containing 31 hotel units, 4 condominium units, and a restaurant/bar, with a parking area beneath, on the property located at **227R Commercial Street (Town Center Commercial Zone)**. There was a request from the

applicant to continue to the Public Hearing of February 20, 2020 at 6:30 P.M. ***Caleb Eigsti moved to approve the request to continue to the Public Hearing of February 20, 2020 at 6:30 P.M., Robert Nee seconded and it was so voted, 4-0.***

**ZBA 20-49**

Application by **Mike Czyoski**, on behalf of **Marianne Colacray**, 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 construct a shed on the property located at **12 Franklin Street, #1 (Residential 3 Zone)**. Jeremy Callahan, Caleb Eigsti, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.

**Presentation:** Mike Czyoski appeared to present the application. He reviewed the site plan showing the location of the shed, which measures 8' by 10' and will have a 5'6" rear yard setback.

**Public Comment:** None.

***Caleb Eigsti moved to close the public portion of the hearing, Peter Okun and it was so voted, 5-0.***

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

***Caleb Eigsti moved to find that pursuant to Article 2, Section 2450, Permitted Accessory uses, Subsection G14, the proposed utility/garden shed meets at least 50% of the side and/or rear yard setback requirements of the district in which the property is located and at least 50% of building separation requirements such that the installation of the shed cannot meet the current front, side and/or rear yard setback and building separation requirements, and that the benefits derived from the issuance of a permit shall outweigh any adverse effects such as hazard, congestion and environmental degradation, Peter Okun seconded and it was so voted, 5-0.***

***Caleb Eigsti moved to grant 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 construct a shed on the property located at 12 Franklin Street, #1 (Res 3), Peter Okun seconded and it was so voted, 5-0.*** Robert Nee will write the decision.

**ZBA 20-50**

Application by **Robin B. Reid, Esq.**, on behalf of **James Savko**, seeking a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B7, Parking Lots/Garages, of the Zoning By-Laws to create one parking space non-appurtenant to the structure on the property located at **446 Commercial Street (Residential 3 Zone)**. Jeremy Callahan, Caleb Eigsti, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.

**Presentation:** Attorney Robin B. Reid appeared to present the application. She submitted a copy of the condominium site plan on the back of a site plan approved by the Planning Board. She reviewed the request and said that the project was heard, and a site plan showing an 8-space parking area approved, by the Planning Board late in 2017. She reviewed the 2 site plans and pointed out the space that is the subject of the request. The applicant seeks to convey the parking space in question to the owner of 436 Commercial Street. She said that this request requires relief from the Board pursuant to the definition of a parking lot in the Zoning By-Laws because the space is not appurtenant to the principal use of the premises. She added that this one space is not a parking lot in the conventional, commercial sense of the word. She said that the space would not be available for use by anyone and no fees would be charged its use. It is solely

controlled by the property owner of 436 Commercial Street, which is a site that is entirely without parking. She said that the benefits of the request outweigh any adverse effects. The transfer will reduce competition for parking spaces on a busy street and provide a property with a parking space that does not now have one. The 8-space area already approved by the Board took into consideration the use of the area by 8 vehicles, potentially. No more congestion or hazard would be anticipated by the use of the space by the neighboring property owner. No work will have to be done on the site. A small benefit will accrue to that property owner and the neighborhood.

**Public Comment:** Jane Larsson, an abutter, and speaking on behalf of several other abutters, spoke in opposition to the application. Joel Harms, an abutter and designated purchaser of the parking space, and Tim Brown spoke in support of the application. There were 3 letters in opposition to the application.

*Peter Okun moved to close the public portion of the hearing, Robert Nee seconded and it was so voted, 5-0.*

**Board Discussion:** The Board questioned Attorney Reid.

*Peter Okun moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, 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, Robert Nee seconded and it was so voted, 5-0.*

*Peter Okun moved that the Board find pursuant to Article 2, Section 2440, Subsection B7, Parking Lots/Garages, that the creation of one parking space non-appurtenant to the structure on the property located at 446 Commercial Street be granted after a public hearing and approval of the Building Inspector, the Fire Department and the Police Department, Caleb Eigsti seconded and it was so voted, 5-0.*

*Peter Okun moved to grant a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B7, Parking Lots/Garages, of the Zoning By-Laws to create one parking space non-appurtenant to the structure on the property located at 446 Commercial Street (Res 3), Caleb Eigsti seconded and it was so voted, 5-0. Peter Okun will write the decision.*

## **ZBA 20-51**

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **William Lampeter**, 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 construct a new dormer up and along a pre-existing, non-conforming east front yard setback on the structure located at **10 Atwood Avenue (Residential 2 Zone)**. Jeremy Callahan, Caleb Eigsti, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.

**Presentation:** Don DiRocco appeared to present the application. He briefly reviewed the project.

**Public Comment:** There were 2 letters in support of the application and 1 letter of concern.

*Caleb Eigsti moved to close the public portion of the hearing, Robert Nee seconded and it was so voted, 5-0.*

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

*Peter Okun moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, 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, Caleb Eigsti seconded and it was so voted, 5-0.*

*Peter Okun moved that the Board find pursuant to Article 3, Section 3110, the lawfully pre-existing, non-conforming single family structure may be altered, reconstructed, extended or changed provided for under M.G.L. c. 40A s. 6, paragraph 1, and any new non-conformancy has obtained necessary dimensional relief, Caleb Eigsti seconded and it was so voted, 5-0. Jeremy Callahan will write the decision.*

#### **ZBA 20-52**

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Michael Rose & Ruben Rodriguez**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to construct a new dormer and a second story addition on a pre-existing, non-conforming north side yard setback, a new deck on the south elevation, and for an increase in building scale of the structure located at **11 Pearl Street (Residential 3 Zone)**. Jeremy Callahan, Caleb Eigsti, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.

**Presentation:** Don DiRocco appeared to present the application. He briefly reviewed the project.

**Public Comment:** None.

*Caleb Eigsti moved to close the public portion of the hearing, Robert Nee seconded and it was so voted, 5-0.*

**Board Discussion:** The Board questioned Mr. DiRocco.

*Peter Okun moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, 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, Caleb Eigsti seconded and it was so voted, 5-0.*

*Peter Okun moved that the Board find pursuant to Article 2, Section 2640, Building Scale, Subsection E2, the proposed additions 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, Caleb Eigsti seconded and it was so voted, 5-0.*

*Peter Okun moved that the Board find pursuant to Article 3, Section 3110, the lawfully pre-existing, non-conforming single family structure may be altered, reconstructed, extended or changed provided for under M.G.L. c. 40A s. 6, paragraph 1, and any new non-conformancy has obtained necessary dimensional relief, Caleb Eigsti seconded and it was so voted, 5-0.*

*Peter Okun moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to construct a new dormer and a second story addition on a pre-existing, non-conforming north side yard setback, a new deck on the south elevation, and for an increase in building scale of the structure located at 11 Pearl Street (Res 3), Caleb Eigsti seconded and it was so voted, 5-0. Jeremy Callahan will write the decision.*

**NEXT MEETING:** The next meeting will take place on Thursday, February 20, 2020 in the Judge Welsh Room. It will consist of a Work Session at 6:00 P.M. and a Public Hearing at 6:30 P.M.

**ADJOURNMENT:** *Caleb Eigsti moved to adjourn the Public Hearing at 7:45 P.M., Robert Nee seconded and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2020  
Jeremy Callahan, Chair