

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
April 16, 2020**

Members Present: Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Robert Nee, and Quinn Taylor.

Members Absent: Susan Peskin (excused).

Others Present: Thaddeus Soulé (Town Planner) and Ellen C. Battaglini (Permit Coordinator).

Mr. Soulé introduced the virtual hearing, explaining the reason the Public Hearing was being held in this manner, detailing how the Board, the applicants, and the public could participate remotely, and the meeting protocol.

VIRTUAL WORK SESSION

Chair Jeremy Callahan called the virtual Work Session to order at 6:02 P.M. There were 7 members of the Zoning Board of Appeals participating in the virtual hearing. None were absent.

1) PENDING DECISIONS:

ZBA 20-59 (Susan)

Application by **Ted Smith, Architect, LLC**, on behalf of **Sean McConnell**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to construct a new foundation and to add a second story, including a cantilevered addition on the south elevation, up and along pre-existing, non-conforming west side and north rear yard setbacks of a cottage located at **25 Watson's Court (Residential 3 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Peter Okun, Daniel Wagner, and Susan Peskin sat on the case.** Mr. Callahan said he had made formatting changes to the decision. *Peter Okun moved to approve the decision as amended, Steven Latasa-Nicks seconded and it was so voted by roll call, 4-0.*

ZBA 20-60 (Jeremy)

Application by **Ted Smith, Architect, LLC**, on behalf of **Strangers & Saints, Inc.**, requesting 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 add a canvas awning over an existing wood deck/terrace on the east elevation of the property located at **404 Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Peter Okun, Daniel Wagner, Susan Peskin, and Robert Nee sat on the case.** Mr. Callahan made

a revision to the decision. *Peter Okun moved to approve the language as amended, Daniel Wagner seconded and it was so voted by roll call, 4-0.*

ZBA 20-61 (Peter)

Application by **Our Moms, Inc., Irvin D. Morgan, Manager**, seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to add an interior service bar and an additional 22 flex-seats at the property located at **177 Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Susan Peskin sat on the case.** The decision was not ready yet.

2) Approval of Minutes:

April 2, 2020: *Peter Okun moved to approve the minutes of the April 2, 2020 Public Hearing, Steven Latasa-Nicks seconded and it was so voted by roll call, 5-0.*

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

VIRTUAL PUBLIC HEARING

Chair Jeremy Callahan called the virtual Public Hearing to order at 6:31 P.M.

1) PUBLIC HEARINGS:

ZBA 20-32 *(continued from the meeting of April 2nd)*

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)**. Both Steven Latasa-Nicks and Quinn Taylor signed a Mullin Rule form attesting to having watched a recording of the previous hearing of this matter. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Quinn Taylor sat on the case.

Presentation: Ted Smith was present at the meeting to discuss the application. He had submitted photographs of decks in the neighborhood as had been requested by the Board at the last hearing. He reviewed several of the photographs.

Public Comment: Arthur Mahoney commented about photographs of the decks in the neighborhood and the proposed decks included in the project.

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

Board Discussion: The Board questioned Mr. Smith about parking and he reviewed the existing and proposed parking scenarios. Mr. Smith reviewed the approval by the Planning Board and some of the conditions imposed on the project.

Peter Okun moved to find that pursuant to Article 5, Section 5330 the social, economic and other benefits of the project for the Town or neighborhood will outweigh any adverse effects such as hazard, congestion or environmental degradation, Steven Latasa-Nicks seconded and it was so voted by roll call, 5-0.

Peter Okun moved to find that pursuant to Article 2, Section 2640E5 the proposed structure 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, Steven Latasa-Nicks seconded and it was so voted by roll call, 5-0.

Peter Okun moved to find that pursuant to Article 2, Section 2470 relief from this requirement may be granted if the lot size or configuration makes meeting this requirement physically impossible, that the applicant has met the criteria for granting under Article 5, Section 5300 and that special circumstances such as proximity to a municipal off-street parking lot render a lesser provision adequate for all parking needs, Steven Latasa-Nicks seconded and it was so voted by roll call, 5-0.

Peter Okun moved to grant 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 (Res 3), Steven Latasa-Nicks seconded and it was so voted by roll call, 5-0. Jeremy Callahan will write the decision.

ZBA 20-43 (request to continue to the meeting of May 7th)

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 May 7, 2020 at 6:30 P.M. *Steven Latasa-Nicks moved to approve the request to continue ZBA 20-43 to the Public Hearing of May 7, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted by roll call, 5-0.*

ZBA 20-53 (request to continue to the meeting of May 7th)

Application by **Christopher Page**, on behalf of **The Pilgrim House**, seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to expand an existing full-service restaurant space, add a live music venue for entertainment and reconfigure seats at the property located at **336 Commercial Street (Town Center Commercial Zone)**. There was a request from the applicant to continue to the Public Hearing of May 7, 2020 at 6:30 P.M. *Steven Latasa-Nicks moved to approve the request to continue ZBA 20-53 to the Public Hearing of May 7, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted by roll call, 5-0.*

ZBA 20-56 (request to continue to the meeting of May 21st)

Application by **Shank Painter Associates, Inc.** seeking a Special Permit pursuant to Article 2, Sections 2470, Parking Requirements, 2630, Roofs, and 2640, Building Scale, of the Zoning By-

Laws to develop workforce housing, including requesting a waiver from parking requirements and to add a third story to, and allow an increase above the neighborhood average building scale of, the structure on the property located at **207 Route 6 (General Commercial Zone)**. There was a request from the applicant to continue to the Public Hearing of May 21, 2020. ***Steven Latasa-Nicks moved to approve the request to continue ZBA 20-56 to the Public Hearing of May 21, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted by roll call, 5-0.***

ZBA 20-57 (*postponed to the meeting of May 7th*)

Application by **Meilli West, LLC**, on behalf of **Shank Painter Medical Bldg. Trust**, seeking a Special permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to develop 11 condominium units in a structure that will be greater than the neighborhood average scale on the property located at **30 Shank Painter Road (General Commercial Zone)**.

ZBA 20-62

Application by **Mark Kinnane, of Cape Associates, Inc.**, on behalf of **Christopher Amplo**, requesting a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish the rear section of a structure and rebuild it up and along a pre-existing, non-conforming west side yard setback on the property located at **18 Prince Street (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun and Robert Nee sat on the case. Mr. Callahan said that Mr. Soulé's staff report indicated that this application is incomplete. The Board briefly discussed the issue and decided to continue the application. ***Steven Latasa-Nicks moved to continue ZBA 20-62 to the Public Hearing of May 7, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted by roll call, 5-0.***

ZBA 20-63 (*request to postpone to the meeting of May 7th*)

Application by **William N. Rogers, II, P.E., P.L.S.**, on behalf of **Builder Boys 286.5, LLC** seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to construct 5 new structures, containing 12 residential units, all of which will exceed the neighborhood average building scale on the property located at **286.5 Bradford Street (Residential 3 Zone)**. There was a request from the applicant to continue to the Public Hearing of May 7, 2020 at 6:30 P.M. ***Steven Latasa-Nicks moved to approve the request to continue ZBA 20-63 to the Public Hearing of May 7, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted by roll call, 5-0.***

ZBA 20-64

Application by **50 Commercial St., LLC**, seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a swimming pool on the property located at **50 Commercial Street (Residential 2 Zone)**. Robert Nee will write the decision. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun and Robert Nee sat on the case.

Presentation: Attorney Christopher J. Snow and Tim Klink were in the meeting to present the application. Attorney Snow reviewed the project, stating that the salt water for the pool will be trucked in and trucked out. It will be located on the westerly side of the property, require little maintenance and its mechanicals will not emit very much sound. He argued that the social, including promoting staying at home and socially distance, economic, including adding to the tax

base of the Town, and other benefits outweigh any adverse effects. The applicant will be able to enjoy water activities while at home.

Public Comment: James Broglioli, Jason Muth, and Jeffrey Westergaard, all abutters, were concerned about the noise generated by the mechanicals, as their dwelling units are located very near the property.

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

Board Discussion: The Board questioned Attorney Snow and Mr. Klink, who said that the mechanicals will be located behind a shed and since it is a smaller pool measuring 10' by 14', the noise level will be reduced.

Jeremy Callahan moved to find that pursuant to Article 5, Section 5330 the social, economic and other benefits of the project for the Town or neighborhood will outweigh any adverse effects such as hazard, congestion or environmental degradation, Peter Okun seconded and it was so voted by roll call, 5-0.

Jeremy Callahan moved to grant a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G12, Swimming pool, of the Zoning By-Laws to install a swimming pool on the property located at 50 Commercial Street (Res 2), subject to the condition that the water will be trucked in and out, Peter Okun seconded and it was so voted by roll call, 5-0.
Robert Nee will write the decision.

ZBA 20-65 (request to postpone to the meeting of May 21st)

Application by **53 Commercial Provincetown, LLC** 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 demolish a structure and replace it with two new structures, one of which will exceed the neighborhood average building scale and extend up and along a pre-existing, non-conforming east side yard setback on the property located at **53 Commercial Street (Residential 2 Zone)**. There was a request from the applicant to continue to the Public Hearing of May 21, 2020 at 6:30 P.M.

Steven Latasa-Nicks moved to approve the request to continue ZBA 20-65 to the Public Hearing of May 21, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted by roll call, 5-0.

NEXT MEETING: The next virtual meeting will take place on Thursday, May 7, 2020. It will consist of a virtual Work Session at 6:00 P.M. and a virtual Public Hearing at 6:30 P.M.

ADJOURNMENT: ***Peter Okun moved to adjourn the Public Hearing at 7:30 P.M., Robert Nee seconded and it was so voted unanimously by roll call.***

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2020
Thaddeus Soulé on behalf of the Zoning Board of Appeals,