

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
May 21, 2020**

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

Members Absent: None.

Others Present: Thaddeus Soulé (Town Planner).

VIRTUAL WORK SESSION

Chair Jeremy Callahan called the virtual Work Session to order at 6:00 P.M.

1) PENDING DECISIONS:

ZBA 20-32 (Jeremy)

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)**. *Robert Nee moved to approve the language as written, Peter Okun seconded and it was so voted, 5-0.*

ZBA 20-62

Application by **Mark Kinnane**, of **Cape Associates, Inc.**, on behalf of **Christopher Amplo**, requesting a Special Permit pursuant to Article 2, Section 2640, Building Scale, 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)**. *Robert Nee moved to approve the language as amended, Peter Okun seconded and it was so voted, 5-0.*

2) Approval of Minutes:

May 7, 2020: *Peter Okun moved to approve the minutes of the May 7, 2020 Public Hearing, Susan Peskin seconded and it was so voted by roll call, 5-0-1 (Steven Latasa-Nicks abstaining).*

3) Any Other Business that may properly come before the Board:

April 2 and April 16, 2020: Quinn Taylor moved to approve the amended minutes of April 2 and April 16, 2020 as written, Robert Nee seconded and it was so voted, 6-0 unanimously by roll call.

There will be a joint session of the ZBA, on May 28, 2020, and the Planning Board to consider a motion by Town Counsel to delegate to Town staff some of the duties of the ZBA regarding restaurant seating. Peter, Quinn and Steven are not invited to the meeting because they all own restaurants, however they can participate as public citizens.

Chair Jeremy Callahan adjourned the Work Session at 6:11 P.M.

VIRTUAL PUBLIC HEARING

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.

Chair Jeremy Callahan called the virtual Public Hearing to order at 6:30 P.M.

1) PUBLIC HEARINGS:

ZBA 20-43

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 postpone to the Public Hearing of July 16, 2020 at 6:30 P.M. *Steven Latasa-Nicks moved to approve the request to postpone ZBA 20-43 to the Public Hearing of July 16, 2020 at 6:30 P.M., Robert Nee seconded and it was so voted by roll call, 7-0.*

ZBA 20-53

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 postpone ZBA 20-53 to the Public Hearing of June 4, 2020 at 6:30 P.M. *Steven Latasa-Nicks moved to approve the request to postpone ZBA 20-53 to the Public Hearing of June 4, 2020 at 6:30 P.M., Robert Nee seconded and it was so voted by roll call, 7-0.*

ZBA 20-56

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 ZBA 20-56 to the Public Hearing of June 4, 2020 at 6:30 P.M. *Steven Latasa-Nicks moved to approve the request to continue ZBA 20-56 to the Public Hearing of June 4, 2020 at 6:30 P.M., Robert Nee seconded and it was so voted by roll call, 7-0.*

ZBA 20-57

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 20-66

Application by **Meili West, LLC**, on behalf of **Shank Painter Medical**, seeking a Special Permit pursuant to Article 3, Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish a building and replace it with a three-story multi-family development on the property located at **30 Shank Painter Road (General Commercial Zone)**.

Presentation: Attorney Christopher J. Snow, representing the applicant, was in the meeting to present the application. He reviewed the project, which includes demolishing and reconstructing the building on the property. He explained that this was a scaled-down version of the original version of the project. The project was revised due to a request by the Planning Board. The number of dwelling units proposed has decreased from 11 to 8. He added that this design and scope was reviewed and approved by the Historic District Commission. The applicant has had experience renovating large buildings in Town, as he successfully renovated one recently on Bradford Street. Attorney Snow then stated that a previous project proposed for this site, and reviewed by the Board, was withdrawn, however not before it was granted a Special Permit for a deviation in building scale. The only difference between these two projects is their size, the current being much smaller than what was previously approved. He said that the findings of the Board, in terms of the overall social, economic and other benefits to the Town and the neighborhood and the absence of any detrimental effects, would be similar to those that were written into the decision for the previous Special Permit. The project will be in keeping with the goals and objectives of the Local Comprehensive Plan and will satisfy the requirement of Article 2, Section 2640E, subparagraph 1. He said that a benefit is that a near-derelict building will be demolished and rebuilt and 2 affordable units will be generated as a result of the project; one on-site affordable and one off-site. The design of the building will fit into the streetscape and is similar in look and feel to the other structures in the neighborhood. There will be no commercial aspect to this project, only residential. Attorney Snow argued that as a result of this renovation, traffic in the area will be minimized and quieted because parking is being taken off the street and put under the renovated building, out of the sight of Browne Street and Shank Painter Road. In addition, it will be minimized visually by screening and fencing, concealing any potential adverse effects generated by the parking of vehicles. He said that this development is a product of the best that a zoning development process can feature. It started with a more grandiose design

and in each successive meeting of the PB, it was made smaller and integrated more into the landscape of the neighborhood. He suggested incorporating the findings of the Board in 2019 into the decision that the Board would make regarding this project. He argued that the creation of the Inclusionary By-Law has been a top priority of the Town for several years and in this instance 2 affordable units will be produced. The Chair informed the Board that the project is in keeping with the LCP pursuant to Chapter 6 Goal 1 and Chapter 5.2 Goal 7, satisfying subparagraph 1 of Article 2, Section 2640E. Attorney Snow said that this project would be one step in the improvement of the relative unsightliness of the Shank Painter Road corridor.

Board Discussion: The Board questioned Attorney Snow. He said that the applicant voluntarily presented the project to the HDC, even though the HDC did not have jurisdiction over the it. In that respect, he said that it actually satisfied the requirement of subparagraph 6 of Article 2, Section 2640E. The Board questioned the applicant about the veracity of the building scale numbers and the percentage increase in building scale that were in the application submitted. The Board discussed the issue. Attorney Snow argued that the applicant is proposing a reduction in intensity of use on the site and 2 affordable units are being added to meet the Town's need, and whether they are on-site or off-site is immaterial. Rafael Hernandez, the architect, explained how he arrived at the scale numbers.

Mr. Soule said that he has been informed that participants are not able to phone into the meeting.

Steven Latasa-Nicks moved that ZBA 20-57 and ZBA 20-66 be continued and that ZBA 20-67, ZBA 20-68 and ZBA 20-69 are postponed to the Public Hearing of June 4, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted unanimously by roll call.

The meeting was adjourned at 7:20 P.M.

ZBA 20-65

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 postpone to the Public Hearing of June 4, 2020 at 6:30 P.M. *Steven Latasa-Nicks moved to approve the request to postpone ZBA 20-65 to the Public Hearing of June 4, 2020 at 6:30 P.M., Robert Nee seconded and it was so voted by roll call, 7-0.*

ZBA 20-67

Application by **Robin B. Reid, Esq.**, on behalf of **Marcus Builders, LLC**, seeking a Special Permit pursuant to Article 2, Sections 2460, Special Permit Requirements, and 2470, Parking Requirements, of the Zoning By-Laws to allow the flex-seating of 18 existing interior seats to an exterior parking area and relief from parking requirements for a period of one year on the property located at **175 Bradford Street Extension (Residential 3 Zone)**.

ZBA 20-68

Application by **Tri-T, LLC** seeking a Variance pursuant to Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws to allow for the construction of a new single-family dwelling with a 15' front yard setback, resulting in the creation of a non-conformancy on the property located at **4 Commercial Street (Residential 1 Zone)**.

ZBA 20-69

Application by **Tom Thompson** seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to connect an existing accessory structure with a covered breezeway/shelter resulting in an increase in scale above the neighborhood average on the property located at **3 Fishburn Court (Residential 3 Zone)**.

NEXT MEETING: The next virtual meeting will take place on Thursday, June 4, 2020. It will consist of a virtual Work Session at 6:00 P.M. and a virtual Public Hearing at 6:30 P.M.

Respectfully submitted,
Ellen C. Battaglini

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