

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
October 1, 2020**

Members Present: Jeremy Callahan, Daniel Wagner, Peter Okun, Robert Nee?? Quinn Taylor, and Erik Borg.

Members Absent Steven Latasa-Nicks (excused) and Susan Peskin (excused).

Others Present: Thaddeus Soulé (Town Planner).

Town Planner Thaddeus Soulé, the moderator of the meeting, introduced the virtual Public Hearing at 6:00 P.M. He then called the roll.

Chair Jeremy Callahan called the meeting to order.

Mr. Soulé then explained 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.

A. Public Hearings:

ZBA 20-43 (*request to postpone to the meeting of October 15th*)

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)**. **Peter Okun moved to postpone ZBA 20-43 to the Public Hearing of October 15, 2020 at 6:00 P.M., Erik Borg seconded and it was so voted, 5-0 by roll call.**

ZBA 20-53 (*request to postpone to the meeting of October 15th*)

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)**. **Peter Okun moved to postpone ZBA 20-53 to the Public Hearing of October 15, 2020 at 6:00 P.M., Erik Borg seconded and it was so voted, 5-0 by roll call.**

ZBA 20-56 (*continued from the meeting of September 17th*)

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)**. Jeremy

Callahan, Daniel Wagner, Peter Okun, Quinn Taylor, and Erik Borg sat on the case. Mr. Callahan reviewed the status of the application and what the Board was looking for in continuing the matter.

Presentation: Attorney Lester J. Murphy, Patrick Patrick, the proponent of the project, Alison Alessi, the architect, David Hawk, of Hawk Design, a landscape architect and designer, and Stacy Kanaga, of Coastal Engineering, were present in the hearing. Attorney Murphy said that he had submitted a written Development Impact Statement and is willing to review it if the Board so requires. Mr. Patrick reviewed the financials, some construction details, and the reason for the scale request. He said that his parents have contributed to the arts in Town by providing studio space on the property and have donated a portion of the lot to the Town for conservation purposes. He explained his intent in wanting to develop the property with workforce housing, one of which is that there is currently a lack of such housing. He said that the project includes modular housing units, which are oversized loads, that would need to be delivered over a period between 3 days and 2 weeks via Province Road. The access from Route 6 is not configured to handle such loads. This is a more expedient way to build the project than using regular construction techniques.

Ms. Alessi reviewed some updates of the architectural drawings. She said that the initial drawings showed space for 72 bicycles in the basement level. Those drawings have been reconfigured to provide now for over 133 bicycles. She said that the site sections presented were conceptual and have been revised to include landscaping and more details, such as an increase in bicycle parking. She reviewed the sections. She pointed out that the ridgeline for the west site section is 5.5' lower than the ridgeline for the structure at 6 Ship's Way Road Extension. In another site section, it shows that the ridgeline of 12 Ship's Way Road Extension is 5.5' lower than the proposed ridgeline.

Mr. Hawk reviewed the landscaping design, which includes a screening plan. He has proposed staggered rows of evergreens, measuring 8-10', running from the northeast corner to the southwest corner, along the property line, of the site. He said some deciduous trees would be planted on the slope to provide additional screening. Vegetated slopes with small retaining walls by the terraces, from 30" to 4' in height, are also proposed to screen the property from structures on Ship's Way Road Extension.

Attorney Murphy emphasized that the landscape plan is preliminary and would be presented in more detail at a Planning Board hearing in the future. He said that every effort has been made to screen the property and the building from abutting structures. He said that regarding concerns about the property towering over the neighborhood, the abutting structures will only see part of the second and the third story of the structure and thus the visual impact to the neighbors would be reduced. He said that Mr. Patrick wants to be a good neighbor and is willing to work on additional screening to minimize visual impacts further if necessary.

Ms. Kanaga addressed updates on the site plan, changes to the interior of the building, and shoring and stabilizing the existing topography, the latter of which would be coordinated by the contractor with the geotechnical, structural, and civil engineers. In addition means and methods of construction will be determined when a contractor is hired. She and the structural engineer have reviewed the project and made some determinations. She said that earthwork will occur on

the property and no abutting properties will likely be disturbed. The contractor will be responsible for monitoring the construction process to make sure damage is not done to these properties. No supportive excavation or shoring will be required, however the contractor may decide to do so anyway. She added that erosion control mechanisms, which she briefly reviewed, will be employed throughout the construction process and soil testing will be performed to determine the composition and characteristics of the soils on the site to help in the design of the foundation. She said that she is aware of the hazards and concerns about slope stability and the engineers will be working on mitigating those hazards as much as possible. She reviewed the bicycle parking, which was the result of a concern of the Board at the last meeting. There are more bicycle spaces than there will be occupants of the new building. The largest addition of spaces was internal, but some were external to the building. The applicant would like the flexibility regarding the demand for vehicle and bicycle parking based upon what time of year it is, as the demand for bicycle parking increases in the summer. There will be a total of 56 outdoor spaces, an increase of 20, for bicycles. She said that the interior addition of bicycle spaces has been 61 spaces.

Attorney Murphy concluded that the concerns of the Board and the neighbors had been in mind when the revisions were made. He reminded the Board that this building is located in a commercial zoning district, even though the neighbors are located in a residential zone. He reviewed the scale of buildings in the immediate neighborhood that exceed the neighborhood average scale. He noted that there are very large buildings on Shank Painter Road. This building is not out of character with other buildings in the neighborhood and the development, by necessity, had to be large in order to realize a small return in investment by the applicant. The development will benefit other businesses in Town, as well as the applicant's. Every effort has been made by the applicant to site the building into the landscape and minimize its visual impact on the abutters.

Public Comment: There were 33 more letters in support and 1 in opposition received, in addition to 2 from members of the public that have already commented. The Board allowed only new comments from the public. Sonia Vallianos, an abutter, asked several questions. Ian Edwards, an abutter, asked a question. Lori Reilly, an abutter, spoke in opposition to the project. Attorney Robin B. Reid, representing an abutter, spoke in opposition to the project. An abutter at 21 Ship's Way spoke in opposition to the project.

Robert Nee moved to close the public portion of the meeting, Quinn Taylor seconded and it was so voted, 5-0 by roll call.

Board Discussion: The Board commented on the presentation and the consensus was that the applicant had revised the plans to meet the concerns of the Board and the neighbors. Attorney Murphy said that the property had a lot more land if more bicycle or vehicle parking were to be needed in the future. And the applicant would be willing to provide more parking if the need arises. The Board discussed the project.

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, Quinn Taylor seconded and it was so voted, 5-0 by roll call.

Peter Okun moved that the Board vote to approve a Special Permit pursuant to Article 2, Section 2470 Parking Requirements, that the applicant has met the criteria for granting under

section 5300 and that special circumstances of providing workforce housing and proximity to a municipal off-street parking lot render a lesser provision adequate for all parking needs, Quinn Taylor seconded and it was so voted, 5-0 by roll call.

Peter Okun moved that the Board vote to approve a Special Permit pursuant to Article 2, Section 2630 Roofs, that deviation from the standard is in keeping with the objectives of the Local Comprehensive Plan, is appropriate where the function of the structure is important to the community as a whole justifies a different roof configuration, and that the proposed design is not disruptive to the character of the area, Quinn Taylor seconded and it was so voted, 5-0 by roll call.

Peter Okun moved that the Board vote to approve a Special Permit pursuant to Article 2, Section 2640, Building Scale, that increasing the building scale above the neighborhood average scale is allowed where the proposed new construction is 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 within the property located at 207 Route 6 and the project is in keeping with the goals and objectives of the Local Comprehensive Plan, Quinn Taylor seconded and it was so voted, 5-0 by roll call.

ZBA 20-2006 (*request to withdraw without prejudice*)

Application by **William N. Rogers, II**, on behalf of **Demetrios Daphnis**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to construct four new structures, three of which will exceed the allowed neighborhood average scale on the property located at **67 Harry Kemp Way (Residential B Zone)**. There was a request to withdraw without prejudice. *Daniel Wagner moved to grant the request to withdraw ZBA 20-2006 without prejudice, Erik Borg seconded and it was so voted, 5-0 by roll call.*

ZBA 20-2007 (*request to continue to the meeting of October 15th*)

Application by **Steven Azar** seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow entertainment on the property located at **210 Bradford Street (Residential 3 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee sat on the case. *Peter Okun moved to continue ZBA 20-2007 to the Public Hearing of October 15, 2020 at 6:00 P.M., Erik Borg seconded and it was so voted, 5-0 by roll call.*

ZBA 20-2008

Application by **Lyn Plummer**, on behalf of **Ed Stuart**, seeking a Special Permit pursuant to Article 2, Section 2640E, Building Scale, and Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to add a covered porch, extending along a pre-existing, non-conforming west elevation, and for an increase in building scale on the property located at **416 Commercial Street (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Robert Nee, Quinn Taylor, and Erik Borg sat on the case.

Presentation: Lyn Plummer was in the meeting to present the application. She reviewed the project. The proposed scale increase is 1225 cu. ft. to add a roof over the existing porch. The west elevation is pre-existing, non-conforming and the roof would go up that side of the

structure. The addition of the roof would add more scale to the structure, making it higher than the neighborhood average scale. That is why relief for building scale is being requested.

Public Comment: None.

Robert Nee moved to close the public portion of the meeting, Quinn Taylor seconded and it was so voted, 5-0 by roll call.

Board Discussion: The Board had no questions for Ms. Plummer.

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, Robert Nee seconded and it was so voted, 5-0 by roll call.

Jeremy Callahan moved that the Board find pursuant to Article 2, Building Scale, Section 2640E that the applicant has demonstrated that the deviation is appropriate and meets the criteria of subparagraph 5, that the proposed new construction of a roof above an existing porch is 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 within the property located at 416 Commercial Street (Res 3), Robert Nee seconded and it was so voted, 5-0 by roll call.

Jeremy Callahan moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, to add a covered porch, extending along a pre-existing, non-conforming west elevation at the property located at 416 Commercial Street (Res 3), Robert Nee seconded and it was so voted, 5-0 by roll call.

1) Pending Decisions:

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)**. *Peter Okun moved to approve the language as written, Robert Nee seconded and it was so voted, 4-0 by roll call.*

ZBA 20-2001

Application by **Doug Dolezal**, of **Design Matters, LLC**, on behalf of **Miriam Gallardo & Courtney Spitz**, 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 utility/garden shed on the property located at **62 Mayflower Avenue (Residential 1 Zone)**. A quorum was not available to vote on the decision.

ZBA 20-2003

Application by **Adam Rogers** seeking a Special Permit pursuant to Article 3, Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish a garage and build a studio, adding a half story, in the same footprint on the property located at **10-12 West Vine Street, U3**

(Residential 2 Zone). *Peter Okun moved to approve the language as written, Erik Borg seconded and it was so voted, 4-0 by roll call.*

ZBA 20-2004

Application by **William N. Rogers, II** on behalf of **Escargot, LLC**, seeking a Special Permit pursuant to Article 3, Section 3110 Change, Extensions or Alterations, of the Zoning By-Laws to raise a structure and repair a foundation on the property located at **437-439 Commercial Street (Residential 3 Zone)**. The decision was not ready.

ZBA 20-2005

Application by **Douglas McCall** seeking a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display products for sale on the property located at **205-209 Commercial Street (Town Center Commercial Zone)**. The decision was not ready.

2) **Approval of minutes: September 17, 2020:** *Peter Okun moved to approve the language as written, Robert Nee seconded and it was so voted, 6-0 by roll call.*

3) **Any other business that may properly come before the Board:** Request for an Extension of a Special Permit for 20 Province Road until November 1, 2022. Mr. Soulé reviewed the request. *Robert Nee moved to extend the Special Permit ZBA 19-15 for the property located at 20 Province Road for a period of two years, to November 1, 2022, Peter Okun seconded and it was so voted, 6-0 by roll call.*

NEXT MEETING: The next virtual meeting will take place on Thursday, October 15, 2020. It will consist of a virtual Public Hearing at 6:00 P.M. followed by a Work Session.

ADJOURNMENT: *Robert Nee moved to adjourn the meeting at 7:45 P.M., Peter Okun 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,