

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
November 19, 2020**

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

**Members Absent** 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 November 19<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)**. **Robert Nee moved to postpone ZBA 20-43 to the Public Hearing of December 2, 2020 at 6:00 P.M., Peter Okun seconded and it was so voted, 6-0 by roll call.**

**ZBA 20-53** (*request to postpone to the meeting of November 19<sup>th</sup>*)

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)**. **Robert Nee moved to postpone ZBA 20-53 to the Public Hearing of December 2, 2020 at 6:00 P.M., Peter Okun seconded and it was so voted, 6-0 by roll call.**

**ZBA 20-2012** (*postponed from the meeting of November 5<sup>th</sup>*)

Application by **Ted Smith**, on behalf of **John Gaitenby**, 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 a structure, including adding and extending decks, stairways, and terraces, that will include extensions up and along a pre-existing, non-conforming northwest front elevation, a southwest side elevations, and a southeast rear elevation

and to increase building scale on the property located at **41 Bradford Street Extension (Residential 1 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.

**Presentation:** Ted Smith was in the hearing to present the application. He reviewed the project and the history of the building followed by the site plan that had the setbacks on the property delineated. The Zoning District in which the structure is located was changed around 2000, or 2002, and the setbacks became larger; 30' in the front, 15' on the sides, and 20' in the rear. He said that the structure contains 4 condominium units and there are existing interior stairs on the north and south corners, which are in an area that has the best views of the surrounding landscape. The proposal includes moving those stairs outside into the corners where the brick terraces, stairs and decks are located. In addition, the decks are proposed to be extended in the front. The proposed design endeavored to do this by adhering to the new setbacks, however given that the setbacks were changed to become larger, it was not possible. The project needs relief from the Board, as many aspects of the structure are now pre-existing, non-conforming. However, the project will maintain the same footprint as now exists. An exterior stair is going on the back corner of the structure, which will increase the building scale. As stairs can now be considered a structure, the definition of which includes anything 4' above grade and would add to the volume and thus the building scale as well. He reviewed the elevation drawings. He said that the project had been considered by the Planning Board which requested that a proposed roof deck, which is not subject to Zoning Board approval, not be constructed above the ridgeline. He said that no changes will make conditions on the site worse, except the stair to the south. As to building scale, Mr. Smith noted that the scale by-law did not exist when this building was constructed. The building scale is already above the neighborhood average scale. The proposed project will only add a small amount of volume due to the addition of a stair in the rear. He argued that the project was consistent with the requirements of Article 5, s. 5331, which he reviewed quickly.

**Public Comment:** None. There was 1 letter from an abutter in support of the project and 1 letter from the Housing Trust Council, which reviewed the project, and was in support of the project. *Steven Latasa-Nicks moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 5-0 by roll call.*

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

*Steven Latasa-Nicks moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, that the social, economic, and other benefits of the proposal for the neighborhood or Town outweigh any adverse effects such as hazard, congestion or environmental degradation, and further move to grant 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 a structure, including adding and extending decks, stairways, and terraces, that will include extensions up and along a pre-existing, non-conforming northwest front elevation, a southwest side elevations, and a southeast rear elevation and to increase building scale on the property located at 41 Bradford Street Extension (Residential 1 Zone) and further 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 the following criteria: the proposed building or addition is in keeping with the goals and objectives of the Local Comprehensive Plan (Economic Development Goal 2) 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, Robert Nee seconded and it was so voted, 5-0 by roll call.*

#### **ZBA 20-2014**

Application by **Christian Charette** seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Utility/Garden Shed, and Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to place a shed up and along pre-existing, non-conforming rear and side yard setbacks on the property located at **30 Conant Street, U1 (Residential 3 Zone)**. Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Quinn Taylor sat on the case.

**Presentation:** Christian Charette was in the meeting to present the application. He reviewed the project, which involves replacing a 12' by 10' rotten shed with a 10' by 8' shed, keeping the same setbacks on the southeast elevation and increasing the existing setback by 2' on the southwest elevation, making this elevation slightly more conforming.

**Public Comment:** None. There was a letter from an abutter in support of the application.

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

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

*Steven Latasa-Nicks moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, that the social, economic, and other benefits of the proposal for the neighborhood or Town outweigh any adverse effects such as hazard, congestion or environmental degradation, and further move that the Board find pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Sheds, to install a shed within pre-existing, non-conforming rear and side yard setbacks, and further to grant a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Utility/Garden Shed, and Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to replace a shed up and along pre-existing, non-conforming rear and side yard setbacks on the property located at 30 Conant Street, U1 (Residential 3 Zone, Quinn Taylor seconded and it was so voted, 5-0 by roll call.*

#### **ZBA 20-2015** (*request to postpone to the meeting of December 2<sup>nd</sup>*)

Application by **Robin B. Reid, Esq.**, on behalf of **Foxberry Inn, 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 increase the size of 4 existing rooms and to add a new deck to 3 of those rooms, increasing the building scale, on the property located at **29 Bradford Street Extension (Residential 1 Zone)**. There was a request by the applicant to postpone to the Public Hearing of December 2, 2020 at 6:00 P.M. *Robert Nee moved to grant the request to postpone ZBA 20-2015 to the Public Hearing of December 2, 2020 at 6:30 P.M., Peter Okun seconded and it was so voted, 6-0 by roll call.*

#### **B. Work Session:**

1) Vote to extend the May 28, 2020 Amendment and Minor Modification under the Board of Health Rule and Order with a new expiration date of "60 days after the end of the state of emergency." Mr. Callahan introduced the item. Mr. Soulé reviewed the amendment and minor modification. *Steven Latasa-Nicks moved to extend the May 28, 2020 Amendment and Minor*

***Modification under the Board of Health Rule and Order with a new expiration date of “60 days after the end of the state of emergency”, Robert Nee seconded and it was so voted 6-0, by roll call.***

**2) Pending Decisions:**

**ZBA 20-2011**

Application by **Lee Kugler** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, of the Zoning By-Laws to rebuild a deck along a pre-existing, non-conforming north elevation in the same footprint on the property located at **116 Bradford Street, U2 (Residential 3 Zone)**.

**ZBA 20-2013**

Application by **William Sherr** seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Sheds, of the Zoning By-Laws to install a shed within pre-existing, non-conforming north side elevation and east rear elevation on the property located at **10 Cudworth Street (Residential 3 Zone)**.

**3) Approval of minutes: November 5, 2020: Robert Nee moved to approve the language as written, Peter Okun seconded and it was so voted, 6-0 by roll call.**

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

**NEXT MEETING:** The next virtual meeting will take place on Thursday, December 2, 2020. It will consist of a virtual Public Hearing at 6:00 P.M. followed by a Work Session.

**ADJOURNMENT: Steven Latasa-Nicks moved to adjourn the meeting at 6:32 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,