

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

Members Present: Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, and Peter Okun.
Members Absent: Caleb Eigsti (excused), Susan Peskin (excused), and Robert Nee (excused).
Others Present: Amy Kwesell (Town Counsel), 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.** A quorum was not available to vote on the decision.

20-30 (Town Counsel)

Application by **Christine Barker** seeking a Variance pursuant to Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws to increase the maximum building height allowed for a proposed structure 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)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.** *Steven Latasa-Nicks moved to approve the language as amended, Peter Okun seconded and it was so voted, 4-0.*

ZBA 20-31 (Town Counsel)

Application by **Christine Barker** seeking Special Permits pursuant to Article 2, Sections 2334, 'V' Zones, 2440, Permitted Principal Uses, B3, Hotel, motel or inn, footnote 2, 2560, Dimensional Schedule, 2630E2, Roofs, 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 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)**. **Jeremy Callahan, Steven Latasa-Nicks,**

Daniel Wagner, Peter Okun, and Robert Nee sat on the case. *Steven Latasa-Nicks moved to approve the language as amended, Peter Okun seconded and it was so voted, 4-0.*

ZBA 20-42 (Town Counsel)

Application by **Christine Barker** seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to construct a building containing 31 hotel units, 4 condominium units, and a restaurant/bar on the property located at **227R Commercial Street (Town Center Commercial Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee sat on the case. *Steven Latasa-Nicks moved to approve the language as amended, Peter Okun seconded and it was so voted, 4-0.***

ZBA 20-33 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the building height up and along a pre-existing, non-conforming north front yard setback and an east side yard setback on the property located at **7 Commercial Street, U1-5 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee sat on the case. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0.***

ZBA 20-34 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, seeking a Variance pursuant to Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws for the construction of a new landing and egress stairs on a structure that will encroach farther into a pre-existing, non-conforming north front yard setback and an east side yard setback on the property located at **7 Commercial Street, U1-5 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee sat on the case. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0.***

ZBA 20-35 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the building height up and along a pre-existing, non-conforming north front yard setback on the property located at **7 Commercial Street, U2 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee sat on the case. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0.***

ZBA 20-36 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, seeking a Variance pursuant to Article 2, Section 2560,

Dimensional Schedule, of the Zoning By-Laws for the construction of a new landing and egress stairs on a structure that will encroach farther into a pre-existing, non-conforming north front yard setback on the property located at **7 Commercial Street, U2 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee** sat on the case. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0.*

ZBA 20-37 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the height of structures and decks, within their existing footprints, and to construct new egress stairs up and along a pre-existing, non-conforming west side yard setbacks on the property located at **7 Commercial Street, U3-4 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee** sat on the case. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0.*

ZBA 20-38 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the height of structures and decks, within their existing footprints, and to construct new egress stairs up and along a pre-existing, non-conforming west side yard setbacks on the property located at **7 Commercial Street, U7-8 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee** sat on the case. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0.*

ZBA 20-39 (Town Counsel)

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Delft Haven II Condominium Association**, 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 increase the height of a building and deck, within its existing footprint, and to construct a new egress stair up and along a pre-existing, non-conforming east side yard setback on the property located at **7 Commercial Street, U17 (Residential 1 Zone)**. **Jeremy Callahan, Steven Latasa-Nicks, Daniel Wagner, Peter Okun, and Robert Nee** sat on the case. *Steven Latasa-Nicks moved to approve the language as written, Peter Okun seconded and it was so voted, 4-0.*

ZBA 20-40 (Peter)

Application by **Tom Thompson**, on behalf of **Luis & Vanessa Ruelas**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, and Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to construct a deck extension and an addition up and along pre-existing, non-conforming east side and south rear elevations and to extend a porch up and along a pre-existing, non-conforming north

elevation, thereby increasing the building scale of a structure and to demolish a shed on the property located at **419 Commercial Street (Residential 3 Zone)**. **Jeremy Callahan, Daniel Wagner, Peter Okun, and Robert Nee sat on the case.** Peter Okun read the decision. *Daniel Wagner moved to approve the language as written, Steven Latasa-Nicks seconded and it was so voted, 3-0.*

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, Daniel Wagner, Peter Okun, Steven Latasa-Nicks, and Robert Nee sat on the case.** The decision was not ready.

2) Approval of Minutes:

December 5, 2019: *Daniel Wagner moved to approve the minutes of the December 5, 2019 Public Hearing, Steven Latasa-Nicks seconded and it was so voted, 4-0.*

December 19, 2019: *Daniel Wagner moved to approve the minutes of the December 19, 2019 Public Hearing, Steven Latasa-Nicks seconded and it was so voted, 4-0.*

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 4 members of the Zoning Board of Appeals present and 3 absent.

1) PUBLIC HEARINGS:

ZBA 20-32 (*request to continue to the meeting of February 6th*)

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.** There was a request from the applicant to continue ZBA 20-32 to the meeting of February 6, 2020 at 6:30 P.M. *Peter Okun moved to grant the request to continue ZBA 20-32 to the Public Hearing of February 6, 2020 at 6:30 P.M., Steven Latasa-Nicks seconded and it was so voted, 4-0.*

ZBA 20-43 (*request to continue to the meeting of February 6th*)

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 ZBA 20-43 to the meeting of February 6, 2020 at 6:30 P.M. **Steven Latasa-Nicks moved to grant the request to continue ZBA 20-43 to the February 6, 2020 Public Hearing at 6:30 P.M., Peter Okun seconded and it was so voted, 4-0.**

ZBA 20-46 (*request to withdraw without prejudice*)

Notice of Appeal by **James Savko** of an October 24, 2019 decision by the Building Commissioner regarding parking at the property located at **446 Commercial Street**, and to which applicant believes to be a violation of the Provincetown Zoning By-Laws. There was a request from the applicant's attorney to withdraw ZBA 20-46 without prejudice. **Steven Latasa-Nicks moved to grant the request to withdraw ZBA 20-46 without prejudice, Peter Okun seconded and it was so voted, 4-0.**

Mr. Callahan informed Mr. Smith, the applicant of the following 2 cases, that since only 4 members were available and a unanimous decision would be needed in order to grant a Special Permit, he had the choice of moving forward with 4 members or continuing until 5 members were available. He chose to proceed with both cases.

ZBA 20-47

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.

Presentation: Ted Smith appeared to present the application. He reviewed the project, which involves the addition of a family room and a new deck in the rear of a single family structure. He reviewed the existing and proposed site plans. The property is a corner lot, which means that there are 2 front yard setbacks and 2 side yard setbacks. The deck will extend along a pre-existing, non-conforming east side yard setback. The existing structure is nearly on the east lot line, at a distance of .4'. The addition will be situated along and within the east side yard setback, 9.2' feet away from the lot line, at a greater distance than the existing structure.

Public Comment: None. There was 1 letter in opposition to the application.

Steven Latasa-Nicks moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 4-0.

Board Discussion: The Board questioned Mr. Smith.

Peter Okun moved the Board find that pursuant to Article 5, Section 5330, Special Permit Consideration, of the Zoning By-Laws 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 at the property located at 240½ Bradford Street (Res 3), Steven Latasa-Nicks seconded and it was so voted, 4-0.

Peter Okun moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, subparagraph 1., 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), Steven Latasa-Nicks seconded and it was so voted, 4-0. Jeremy Callahan will write the decision.

ZBA 20-48

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.

Presentation: Ted Smith and Steven Schnitzer appeared to present the application. Mr. Smith reviewed the project for this single family structure. There is an existing bump-out measuring 4' by 11'4" on the rear of the existing structure. The rear dimension is pre-existing, non-conforming. The applicant is requesting to extend the existing bump-out, which is currently one story, 14" to the left and to the right and increase the entire appendage to 2 stories.

Public Comment: None.

Steven Latasa-Nicks moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 4-0.

Board Discussion: The Board briefly questioned Mr. Smith.

Steven Latasa-Nicks moved the Board find that pursuant to Article 5, Section 5330, Special Permit Consideration, of the Zoning By-Laws 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 at the property located at 119 Bradford Street (TCC) Peter Okun seconded and it was so voted, 4-0.

Steven Latasa-Nicks moved to grant pursuant to Article 3, Section 3110, Change, Extensions, or Alterations, subparagraph 1., 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), Peter Okun seconded and it was so voted, 4-0. Jeremy Callahan will write the decision.

NEXT MEETING: The next meeting will take place on Thursday, February 6, 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: *Seven Latasa-Nicks moved to adjourn the Public Hearing at 7:00 P.M., Peter Okun seconded and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2020
Jeremy Callahan, Chair