

PLANNING BOARD
Meeting Minutes
Thursday, January 23, 2020
Judge Welsh Room
6:30 P.M.

Members Present: Jason Potter, Paul Graves, John Peters-Campbell, Ross Zachs, and Jeff Mulliken.

Members Absent: Brandon Quesnell (excused).

Staff: Amy Kwesell (Town Counsel), Thaddeus Soulé (Town Planner), and Ellen C. Battaglini (Permit Coordinator).

Jason Potter called the Planning Board Public Hearing to order at 6:30 P.M.

1. Public Comments: Rex McKinsey, Marine Coordinator, appeared to alert the Board about a program that the Harbor Committee was working on. As part of the Harbor Plan that was recently approved, the Town is trying to bring all properties subject to Chapter 91 into compliance. The program is administered by the Department of Environmental Protection and is tasked with improving public access to Commonwealth tidelands. He said this involved a lot of properties in Town and there were about 200 properties that are not currently licensed under Chapter 91. The Harbor Committee's goal is to generate a compliance program with help from its consultant, Jim Vincent, in conjunction with the DEP, to help local properties through the Chapter 91 approval process and to create and maintain a database on the Town's website of properties that have Chapter 91 licenses in order to make sure the public has access to conditions imposed on those properties. He said that if the Board had questions about the Chapter 91 process or public access, he would be happy to answer them.

Approval Not Required:

PLN 20-29

Application by **William N. Rogers, II** on behalf of the **Town of Provincetown** for endorsement of a plan believed not to require approval (ANR) to combine four parcels at **25 Winslow Street (8-2/23 & 26 (3))** to form one lot with the required frontage on a public way and in accordance with the Provincetown Zoning By-Laws and with M.G.L. c. 41, s. 81P. William N. Rogers appeared and reviewed the request.

There was a motion by Paul Graves to endorse a plan believed not to require approval (ANR) to combine four parcels at 25 Winslow Street (8-2/23 & 26 (3)) to form one lot with the required frontage on a public way and in accordance with the Provincetown Zoning By-Laws and with M.G.L. c. 41, s. 81P. Ross Zachs seconded. VOTE: 5-0-0.

2. Public Hearings:

PLN 20-14 (*request to continue to the meeting of February 13th*)

Application by **Edward Roach**, on behalf of **Meili West, LLC**, requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, a. (1), Site Plan Review by Special Permit, of the Zoning By-Laws to construct a three-story, multi-family development that will

result in three or more residential units on the property located at **30 Shank Painter Road** with waivers from Article 4, Sections 4035, Review Criteria, e, 4053, Commercial Design Standards, 4120, Density Schedule, 4140, Lot Coverage, 4150, Green Area, and 4600, Street Trees. Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, and Ross Zachs sat on the case as originally presented. There was a request from the applicant to continue PLN 20-14 to the February 13, 2020 Public Hearing at 6:30 P.M. ***There was a motion by Paul Graves to continue PLN 20-14 to the Public Hearing of February 13, 2020 at 6:30 P.M. Jason Potter seconded. VOTE: 5-0-0.***

PLN 20-15 (*request to continue to the meeting of February 13th*)

Application by **Edward Roach**, on behalf of **Meili West, LLC**, seeking a Special Permit pursuant to Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, to develop 13 condominium units, 4 of which will be affordable, on the property located at **30 Shank Painter Road**. Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, and Ross Zachs sat on the case as originally presented. There was a request from the applicant to continue PLN 20-15 to the February 13, 2020 Public Hearing at 6:30 P.M. ***There was a motion by Paul Graves to continue PLN 20-15 to the Public Hearing of February 13, 2020 at 6:30 P.M. Jason Potter seconded. VOTE: 5-0-0.***

PLN 20-19 (*request to continue to the meeting of February 13th*)

Application by **Ted Smith**, on behalf of **Mitchell Klein**, seeking Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), of the Zoning By-Laws to move one bedroom from the main structure to another structure on the site and to create a new dwelling unit in the main structure, resulting in three or more dwelling units, on the property located at **26 Bradford Street**. There was a request by the applicant to continue PLN 20-19 to the Public Hearing of February 13, 2020 at 6:30 P.M. ***There was a motion by Paul Graves to continue PLN 20-19 to the Public Hearing of February 13, 2020 at 6:30 P.M. Jason Potter seconded. VOTE: 5-0-0.***

PLN 20-20 (*request to continue to the meeting of February 13th*)

Application by **Ted Smith**, on behalf of **Mitchell Klein**, seeking Site Plan Review pursuant to Article 2, Section 2320 (A), High Elevation Protection District (A), of the Zoning By-Laws to move one bedroom from the main structure to another structure on the site and create a new dwelling unit in the main structure on the property located at **26 Bradford Street**. There was a request by the applicant to continue PLN 20-20 to the Public Hearing of February 13, 2020 at 6:30 P.M. ***There was a motion by Paul Graves to continue PLN 20-19 to the Public Hearing of February 13, 2020 at 6:30 P.M. Jason Potter seconded. VOTE: 5-0-0.***

PLN 20-24

Application by **Christine Barker**, on behalf of **Bradford Rose**, seeking a Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1) & (2), of the Zoning By-Laws for the development of 31 hotel rooms and a restaurant/bar, consisting of 2,000 sq. ft. of new commercial area and the development of an aggregate of residential units that will result in four condominium units on the property located at **227R Commercial Street**.

PLN 20-25

Application by **Christine Barker**, on behalf of **Bradford Rose**, seeking a Special Permit pursuant to Article 2, Sections 2314, Special Permit Uses, 2440, Permitted Principal Uses, A2, Multi-Family Dwelling, 2560, Dimensional Schedule, and Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, of the Zoning By-Laws for the development of 31 hotel rooms and 4 condominium units in the Harborfront Overlay District and an increase in the allowable lot coverage on the property located at **227R Commercial Street**.

Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, and Ross Zachs sat on both cases. Mr. Potter explained the hearing process.

Presentation: Eliza Cox, Esq., Jeannie Kampas, Esq., Guy Busa, Christine Barker, Raul Lizardi Rivera, Ginny Binder, and Jeffry Burchard appeared to discuss the project. Attorney Kampas said that the additional material on various aspects of the project requested by the Board had been submitted, including a development impact statement, a traffic impact assessment, a revised site plan showing the right-of-way and the location of proposed bike racks, a revised list of waivers, planting plans, signage plans, lighting plans, a building height study, and information regarding public access. In addition, she submitted to the Board a response to a letter ready by the abutter, Patrick Patrick, at a previous hearing. She said that the material submitted satisfied the approval criteria for site plan review and the standards for a Special Permit, such as the fact that the economic, social and other benefits of the project to the Town or neighborhood would outweigh any adverse effects, such as hazard, congestion, or environmental degradation. She spoke of how the project would bring numerous economic, public and environmental, and safety benefits to the Town and the neighborhood. She argued that there would be no hazard, congestion, or environmental effects, but rather the project would eliminate long-standing public safety and environmental hazards currently existing on the site. She added that detailed traffic measures have been developed to mitigate congestion on Commercial Street and on the site.

Public Comment: Rob Anderson and Loic Rossignon, abutting business owners, spoke in opposition to the project. Ben Ravelson, Doug Dolezal, and John Swanson spoke in support of the application. There was 1 letter in opposition.

Board Discussion: The Board questioned Attorneys Cox and Kampas, Ms. Barker, Mr. Busa and Mr. Burchard. The Board was concerned about public access to the site and asked Mr. Burchard to clarify the language on the proposed signage plan regarding access for hotel guests and condominium residents, asking whether the public would be allowed to access the right-of-way. The Board asked for an explanation of the construction sequencing, including the use of the barge for staging, how equipment will arrive on the site and how the transport of materials would occur on Commercial Street. Mr. Burchard answered that the team was currently in talks with potential contractors about those issues, but no contractor had yet been chosen for the project. He said that the barge would be subject to tidal considerations, but other than that, the deliveries would be similar to those as if delivered by truck to the site. He added that construction activity would be avoided in the summer, that some access would be required via Commercial Street, and that larger equipment could be brought to the site and staged from the barge. He said that pre-fabrication assembly options were being considered as well. The Board asked about lighting in the easement and the plan to refurbish the existing fixtures on the building and the landscaping that was proposed in the easement area. Mr. Burchard said that the exterior lighting would be dark sky compliant and reviewed the landscaping plan. Mr. Lizardi-Rivera said that all utilities servicing the building would be placed underground.

The Board asked about the access issue on the right-of-way, to which Attorney Kampas responded by referring to their letter, dated January 21st, submitted to the Board. She reminded the Board that the issue was related to the title, and thus outside its purview, but briefly summarized the letter. She said that the grant of the easement was very broad in regard to its use, which was sufficient for all the purposes proposed for Ms. Barker's businesses. She added that the applicant had been in touch with the current property owner, Scott Ravelson, in regard to negotiations pertaining to providing for access to the public. Attorney Kampas said that a solution had not been reached in those discussions and added that the issue will likely be addressed during the Chapter 91 permitting process. The Town's Harbor Plan is currently being reviewed by the Department of Environmental Protection and after that, properties under the Chapter 91 amnesty program, including this one, will have a year to apply for a license and public access to the waterfront will be a major focus of the application process. Mr. Potter said that even though the issue was outside the jurisdiction of the Board, a condition can be imposed requiring the applicant to improve the easement. The Board discussed the public benefit of the project with the Attorney Kampas.

Mr. Burchard again was asked about a construction schedule and the impact of vehicles delivering materials to the site on Commercial Street traffic. The Board was concerned about mitigation of traffic on Commercial Street while deliveries of material were being made to the site. He reviewed a very preliminary schedule, including duration, for the construction process and said that the heavier materials would be brought in via a barge from the water side and via the easement using smaller vehicles. He mentioned an idea that involved having off-site staging areas with a provision that the contractor only would be able to make deliveries to the site. The issue was discussed and it was suggested that a provision for a construction mitigation plan be included in the conditions. Mr. Burchard said that the contractor would be required to make improvements to the easement before construction started.

The Board discussed the parking issues and how guests would be informed about the limited parking on the site. Mr. Busa said that trash barrels will be wheeled out to Commercial Street for pick up and that the restaurant will generate the most trash on the site. He said that he would recommend composting for the wet food trash from the restaurant. He indicated that Ms. Barker is concerned about the environment and will be looking for ways to cut down on the generation of trash. Her intention is to run an environmentally-friendly hotel. The number of bike racks was discussed. Green space was clarified by Town Counsel and briefly discussed.

PLN 20-24: There was a motion by Paul Graves to grant a Special Permit pursuant to Article 2, Sections 2314, Special Permit Uses, 2440, Permitted Principal Uses, A2, Multi-Family Dwelling, 2560, Dimensional Schedule, and Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, of the Zoning By-Laws for the development of 31 hotel rooms and 4 condominium units in the Harborfront Overlay District and an increase in the allowable lot coverage on the property located at 227R Commercial Street with the requested waivers and with the following conditions;

- *All deliveries shall be carted to the property down the access easement;*
- *Lighting on the property and access easement shall provide adequate public safety while complying with the Zoning By-Laws. Furthermore, all lighting on the property*

and access easement shall be dark sky compliant. Existing lighting that does not meet these requirements shall be replaced or refurbished.

- *To the extent the applicant employs a generator, routine testing and exercising of such generator shall occur between noon and 4:00 P.M. on weekdays;*
- *All promotional materials shall state that there is limited parking on site and shall provide directions to nearby public parking;*
- *In consultation with Town staff, the applicant shall meet with and receive recommendations from the Bicycle Committee before a building permit is issued. Bicycle racks shall be “post and ring” or “inverted u” type, or such type as may be recommended by the Bicycle Committee. Racks shall be located both proximate to the hotel entrance and either on the pier or pier-side, or in such places as may be recommended by the Bicycle Committee. Any proposed changes to number, type, and placement of bicycle racks shall be submitted to Town staff for review and approval before a building permit will be issued;*
- *A review of traffic and safety associated with the operation of the establishment shall be scheduled with the project applicant, Town staff, the Fire Chief, and the Police Chief, and shall take place the first October after receipt of the certificate of occupancy. A report shall be provided to the Planning Board by the Town Planner outlining any issues discussed and any recommended changes to address the issues. The Planning Board shall determine whether any agreed upon changes are within the scope of this approval or require the filing of an amendment to the approved permit(s);*
- *All plantings on the property (with the exception of plantings on the roof), and any new plantings within the access easement, shall be native species and drought-tolerant;*
- *All stormwater runoff will be fully contained and treated on site;*
- *The applicant shall install at least one electric vehicle charging station. The applicant shall submit specifications and plans showing the location of such charging station(s) for review and approval by Town staff;*
- *Prior to the issuance of a certificate of occupancy, and per the Fire Chief’s written recommendations, the applicant shall request in writing for the Select Board to create an additional fire lane or loading zone across from Seamen’s Bank;*
- *The applicant shall ensure that the public has sufficient access across the beach at all tide levels during construction;*
- *All utilities for the property and access easement shall be underground;*
- *The applicant shall submit a revised signage plan for review and approval by Town staff; and*
- *A Construction Mitigation Plan shall be submitted for review and approval by Town staff and shall occur by the time the applicant applies for a building permit.*

Jason Potter seconded. VOTE: 4-1-1 (Jeffrey Mulliken opposed). Town Counsel will write the decision.

PLN 20-25: There was a motion by Paul Graves to grant a Special Permit pursuant to Article 2, Sections 2314, Special Permit Uses, 2440, Permitted Principal Uses, A2, Multi-Family Dwelling, 2560, Dimensional Schedule, and Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, of the Zoning By-Laws for the development of 31 hotel rooms

and 4 condominium units in the Harborfront Overlay District and an increase in the allowable lot coverage on the property located at 227R Commercial Street with the same conditions as listed in the decision for PLN 20-24. Jason Potter seconded. VOTE: 5-0-0. Town Counsel will write the decision.

PLN 20-26

Application by **Eliot Parkhurst, Esq.**, on behalf of **Five Star Pet Services, LLC**, seeking Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1) & (2), and a Special Permit pursuant to Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, of the Zoning By-Laws to add a dwelling unit and 3 dormers and a new egress on an existing structure an remove a shed, animal runs, and fenced pens in the rear of the site to construct a duplex on the property located at **79 Shank Painter Road**, with waivers from Article 4, Sections 4053, Commercial Design Standards, 4163, Residential Design Standards, and 4150, Green Area, of the Zoning By-Laws.

Mr. Potter asked for a clarification regarding the site plan that was approved by the Planning Board on November 14, 2019 for a marijuana dispensary on the property. He said that the site plan presented for this application would have to be the same, and subject to the same conditions as enumerated in the decision issued, as the site plan approved by the previous application. He said, however, that it was not the same or supplementary, but instead conflicted with the previous site plan.

Presentation: Eliot Parkhurst, Esq. and Tom Walter appeared to present the application.

Attorney Parkhurst said that the applicant seeks to add one dwelling unit to the second floor of the building, in addition to three new dormers and a rear access escape. The back of the property had a storage shed, animal pens and artificial turf, which the applicant proposes to remove and construct a duplex, containing two units, each with two bedrooms. The additional parking spaces for the new residential units are shown on the site plan. He said that the most of the requested waivers were acted upon by the Board in 2015. The benefit of this proposal is that the Town's inventory of housing units will be increased, the noise from barking dogs that had disturbed abutters will cease, and the unsightliness of the back yard will be removed. The duplex will be pre-fabricated, trucked into the site and placed on a poured foundation, resulting in fewer days of construction and disruption to the neighborhood. He said the proposal was in keeping with the goals and objects of the Local Comprehensive Plan, was consistent with the design requirements of Article 4, s. 4163, in that all stormwater will be contained on the site and two new drywells will be installed to handle runoff from the duplex structure, all utility services to that building will be installed underground, and pervious, crushed stone will used for driveways and parking areas. The site will be serviced by Town water and sewerage. The illumination standards of the Zoning By-Laws will be met. He argued that these benefits outweighed any adverse effects. Finally, pursuant to Article 4, s. 4180, the applicant will make a payment in lieu.

Public Comment: None.

Board Discussion: The Board questioned Attorney Parkhurst and Mr. Walter about the how the site plan submitted was different than the previously approved site plan, such as regarding the location of a bike racks and landscaping in the front of the property. Mr. Potter said that the proposed bike rack is not the right type that is required by the Board and the lighting plan does not give enough information about the fixtures to confirm that they are dark sky compliant. A more detailed lighting plan will have to be submitted. He said that a disabled parking space was required for the marijuana dispensary and there was none indicated on the site plan and a

signage plan showing the text and location of proposed signs is required to lessen confusion of dispensary customers. In addition, he noted that the planting plan submitted includes non-native and invasive plant species, which are not allowed. The Board requested a revised planting plan showing drought-resistant, native plant species. The Board discussed the site plan with Attorney Parkhurst and Mr. Walter. A continuance to the February 27, 2020 Public Hearing in order to reconcile the two site plans was requested.

There was a motion by Jason Potter to grant the request for a continuance to the February 27, 2020 Public Hearing at 6:30 P.M. Ross Zachs seconded. VOTE: 5-0-0.

3. Work Session:

a) Pending Decision:

PLN 20-21 (Gloria)

Application by **John DeSouza** seeking Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), of the Zoning By-Laws to add a dwelling unit on the site, resulting in three or more dwelling units at **22 Conwell Street, UD**. Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, and Ross Zachs sat on the case. The decision was not ready.

b) **Minutes of April 23, August 27 and October 22, 2015, January 14, March 24, April 28, June 9, 2016 and December 12, 2019.**

December 12, 2019: ***There was a motion by Jason Potter to approve the minutes of December 12, 2019 as amended. Ross Zachs seconded. VOTE: 5-0-0.***

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

There was a motion by Jason Potter to adjourn the Planning Board meeting at 9:45 P.M. Jeffrey Mulliken seconded. VOTE: Unanimous.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2020
Brandon Quesnell, Vice-Chair