

**PLANNING BOARD**  
Meeting Minutes  
Thursday, November 12, 2020  
6:00 P.M.

**PB Members Present:** Brandon Quesnell, Jeffrey Mulliken, Ross Zachs, Monica Stubner, Paul Kelly, Steven Azar, and Marianne Clements.

**Members Absent:** Paul Graves(excused).

**Staff:** Thaddeus Soulé (Town Planner).

Mr. Soulé introduced the virtual hearing, explaining the reason the Public Hearing was being held virtually. He then called the roll.

Chair Brandon Quesnell called the Planning Board Public Hearing to order at 6:00 P.M. and turned the meeting back over to Mr. Soulé, who then explained how the Board, the applicants and the public could participate remotely, and reviewed the meeting protocol.

1. **Public Comment:** Doug Dolezal spoke about proposed amendments to the inclusionary zoning and expressed his interest in reviewing them with the Board. He said that in the last 4 years, the Town has not seen the growth in housing that had been anticipated. He said that inclusionary zoning has worked well in Boston. He is assuming the proposed amendments excluded from the fall Town Meeting warrant will be put on the spring Town Meeting warrant. He wanted to ask if he could appear before the Board to discuss some of the proposed revisions in greater detail. He thought it was important to address housing issues in anticipation of the spring Town Meeting, given the Board's schedule between now and then. Mr. Quesnell said that the Board would be in touch with him when a discussion on the amendments was scheduled.

2. **Consent Agenda:** Approval without objection required for the following item:

**PLN 20-2029**

Application by **John McElwee, of Coastal Engineering Co., Inc.**, on behalf of **ERM Trust 2014, Edmond R. Macri, Trustee**, for endorsement of a plan believed not to require approval (ANR) to combine two parcels at **32 Point Street (Map 5-3, Parcel 19)** and **26R Commercial St. (Map 5-3, Parcel 16A)** to form one lot containing the minimum area and frontage on a public way in accordance with the Provincetown Zoning By-Laws and with M.G.L. c. 41, s. 81P. *There was a motion by Marianne Clements to endorse the plan believed not to require approval (ANR) to combine two parcels at 32 Point Street (Map 5-3, Parcel 19) and 26R Commercial St. (Map 5-3, Parcel 16A) to form one lot containing the minimum area and frontage on a public way in accordance with the Provincetown Zoning By-Laws and with M.G.L. c. 41, s. 81P. Paul Kelly seconded. VOTE: 7-0-0 by roll call.*

3. **Public Hearings:**

**PLN 20-34** (*postponed to the meeting of December 10<sup>th</sup>*)

Application by **Keith LeBlanc**, of **LeBlanc Jones Landscape Architects**, seeking a Site Plan Review pursuant to Article 2, Section 2320(A), High Elevation Protection District (A), of the Zoning By-Laws for changes to parking, stairs, and walkways, and adding a wood deck, and installing a pre-fabricated swim spa, an outdoor shower, retaining walls, and native plantings on the property located at **14 Thistlemore Road**.

**PLN 20-2009** (*postponed from the meeting of October 22<sup>nd</sup>*)

Application by **Lester J. Murphy Esq.**, on behalf of **Jay Anderson**, seeking a Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a.1) and a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, A1b, Two Family Dwelling, of the Zoning By-Laws for the redevelopment of a site to authorize the construction of two single-family structures, resulting in three or more residential units, on the property located at **53 Commercial Street** with requested waivers from Article 4, Sections 4163, Residential Design Standards, (2) and (3), and 4035, Review Criteria, (2). Brandon Quesnell, Jeff Mulliken, Monica Stubner, Marianne Clements and Ross Zachs sat on the case. **Presentation:** Attorney Lester J. Murphy, Stacy Kanaga, of Coastal Engineering, and Peter MacDonald, the project architect, were in the meeting to discuss the application. Attorney Murphy said that the project will include demolishing an existing structure and replacing it with 2 new single-family structures. One of the existing structures is in disrepair as the result of a winter storm in 2018. He said that the Historic District Commission has approved the demolition of the structure, the Zoning Board of Appeals has allowed scale relief and a raise and replace of the structure. He said that the neighborhood and the Town will welcome the new project to replace this structure and construct new historically-designed, single-family units, upgrading the property.

Ms. Kanaga reviewed the site engineering aspects of the project. She gave a brief summary of the existing conditions on the property. There is currently a 3-story, multi-unit structure and 3 sheds on the property and the site includes 2 large wood decks, one of which is connected to a wood deck at 51 Commercial Street and is in common ownership, and the other which is connected to the existing structure along with other decks above it. There is also an existing rinse area, a gravel drive to Commercial Street, various asphalt and concrete aprons and a slate patio. Landscaping includes timber retaining walls and stairs, and there was a lawn and some ornamental trees on the property when the project first started. There is an existing 8-bedroom Title 5 sewage disposal system on the property and an existing Chapter 91 license for the large shed and 2 main decks on the south elevation, below which groins extend into the Harbor. The property encompasses FEMA flood zones AO and V. The proposed structure will be in conformity with FEMA regulations and Massachusetts Building Code as to flood zone compliance requirements and building regulations. The new southern structure will be relocated as much as possible away from the Harbor, by about 8' from its existing location, and out of the V Zone, and elevated to minimize storm damage. Structural improvements will also include the removal of the 3 sheds. The front building will be elevated as well and both buildings will utilize flood vents. The Title 5 system will be removed and the property will be hooked up to the Town sewer system and the design flow reduction will be from 8 bedrooms to 5 bedrooms. Other site feature improvements include the installation of a vinyl-sheet bulkhead to replace deteriorating timber ones on the south elevation. The 2 decks, one of which is connecting to 51 Commercial Street and the existing structure, will be replaced in the same

footprints. New deck framing and surfacing replacement will occur. In addition, a gravel drive with a cobble apron, dry-laid stone walkways and patios, and new wooden decks and stairs will be installed. Stormwater onsite will be managed by using gravel trenches at the roof driplines for roof runoff and use of gutters and downspouts to drywells in certain areas. All new utilities will be placed underground. Less than 6" of grade changes will occur on the site to maintain existing drainage patterns. There will also be less than 750 cu. yds. of earth moving disturbance on the site. Construction access will be via the gravel drive. The landscape design was prepared by Leblanc Jones and will consist of a mixed palette of trees, flowering shrubs, and flowering perennials to blend with the existing vegetative aesthetic. Moving southward, all native plantings will be utilized. A planting list has been submitted.

Mr. MacDonald reviewed the design of the new structures. He said that every effort was made to blend in architecturally with the Provincetown aesthetic and he used similar details and roof pitches to the structures at 51 Commercial Street. He said that there was HDC input, which was incorporated into the design.

Attorney Murphy reviewed the waiver requests. As to s. 4035, a waiver from submitting a Development Impact statement, and as no new dwelling units are being added and there will be a 3-bedroom reduction at the site, he argued that there will be no new impacts or increase in flood damage potential from or at the site. As to s. 4163, (2) and (3), the former is a request for a curb radius of 5' instead of 25' because this is just a driveway for the 2 properties, and the latter, a request for a minimum driveway width of 10' instead of 18' as required. He argued that the relief requested met the requirements set forth in Article 5, s. 5330 that the social, economic or other benefits of this proposal outweighed any adverse effects. The numerous benefits include the removal of the existing dilapidated structure located right next to a public parking area, the new waterfront building being pulled out of the V Zone, the elevation of both structures above flood zone to lessen the damage from flood waters to the structures onsite and the abutting properties, and the removal of an 8-bedroom septic system located close to the Harbor. The construction of more attractive, flood-compliant structures will be an enhancement to the character of the neighborhood and raise property values and add tax dollars to the Town coffers. He argued that there were no adverse effects to the neighborhood or Town as a result of this redevelopment. He reviewed the requirements of s. 4035 and described how the project would conform to them, including the Local Comprehensive Plan, which promotes the redevelopment of existing properties. He said that the project also meets the requirements of s. 4163 and briefly reviewed those.

**Public Comment:** None. There were no additional letters.

**Board Discussion:** The Board questioned Attorney Murphy, Ms. Kanaga, and Mr. MacDonald regarding access by the Fire Dept., the proposed landscaping plans, including whether an irrigation well with appurtenant equipment would be installed, and whether the exterior lighting fixture were dark sky compliant. The Board requested a condition that if any tree proposed to be maintained or planted on the property dies within one year that it be replaced. Mr. Soulé reviewed some potential conditions, including construction timing so as to not block traffic on Commercial Street, all stormwater runoff from impervious surfaces must be contained on the site, the irrigation well will be located between the 2 proposed structures, and if any trees proposed to be maintained are lost that they be replaced within 1 year. Attorney

Murphy discussed the construction condition about blocking the street with the Board and agreed to it. The Board added that any debris containers must be placed on the property. *There was a motion by Jeffrey Mulliken to grant a Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a.1 and a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, A1b, Two Family Dwelling, of the Zoning By-Laws, PLN 20-2009, for the redevelopment of a site to authorize the construction of two single-family structures, resulting in three or more residential units, on the property located at 53 Commercial Street with requested waivers from Article 4, Sections 4163, Residential Design Standards, (2) and (3), and 4035, Review Criteria, (2) with the conditions that traffic not be blocked on Commercial Street, during construction and that all construction debris be contained on site, that all stormwater runoff from impervious surfaces must be contained on the site, the irrigation well will be located between the 2 proposed structures, and if any trees proposed to be maintained are lost that they be replaced within 1 year. Marianne Clements seconded. VOTE: 5-0-0 by roll call.*

#### **PLN 20-2012**

Application by **Ted Smith**, on behalf of **John Gaitenby**, seeking Site Plan Review pursuant to Article 2, Section 2320(A), High Elevation Protect District (A), of the Zoning By-Laws to renovate a structure, including adding a roof deck on the east elevation, reconfiguring decks on the north and south elevations, moving interior stairways to the exterior within existing footprints of stairways, retaining walls and decks, reconfiguring retaining walls and decks, reconfiguring walkways, re-grading, and installing new exterior lighting fixtures on the property located at **41 Bradford Street Extension**. Brandon Quesnell, Jeff Mulliken, Marianne Clements, Monica Stubner, and Ross Zachs sat on the case.

**Presentation:** Ted Smith was in the meeting to present the application. Mr. Smith reviewed the project, which he stated sounds more complicated than it is. There are existing exterior retaining walls and entry stairs on the north and south elevations. There are existing interior stairs on the north and south corners of the structure, which, he added, is where the views are. The proposed project involves putting the existing interior stairs on the outside of the structure. In addition, a roof deck will be added to the back of the structure and will not be visible from Bradford Street Extension. The stairs that are being moved to the exterior and will be maintained in the same footprint of the existing conditions. The walkways, landings and stairs will be re-configured to increase the size of a bathroom and make some interior space more comfortable for unit owners. No landscaping plan has been submitted and any disturbed land will be returned to its existing condition. Most of the landscaping is scrub and includes some trees and groundcover. There will be only a minimal increase in the lot coverage. He reviewed the exterior lighting plan. Only landscape lighting on the walkways and on the lighting on the exterior at the entryways is being proposed. All exterior lighting is dark sky compliant. He argued that the density and water supply are not being impacted, no septic system or drainage runoff patterns will be affected, and there will be little change in the topography. There are not marshes or bogs nearby. No new services are being requested for the site. There will be no impact on public safety, fire or police, no burdens on the Town administration or solar access and no detrimental impact on the ecology of the site.

**Public Comment:** None. There was 1 letter in support of the application.

**Board Discussion:** The Board questioned Mr. Smith about the roof deck and its location above the ridgeline. Mr. Smith was asked if he could reconfigure the shed dormer, lower and decrease

the size of the deck, and drop the railing height, in other words, could the height of the structural part of the deck, which is the railing, be lowered to sit below the ridgeline. Mr. Smith said he would present the option to the unit owners of the condominium. The Board also requested a section drawing of the building showing the height of the proposed roof of the dormer and the deck above. If the plans are revised, Mr. Smith would need to submit a new version to Town staff.

***There was a motion by Jeffrey Mulliken to condition the project that the height of the top railing of the proposed roof deck be located in line with or lower than the existing ridgeline, and whatever accommodation necessary be made to the dormer beneath, and the revised plan submitted to Town staff for review. Marianne Clements seconded. VOTE: 4-2 by roll call (Brandon Quesnell and Ross Zachs opposed).***

***There was a motion by Jeffrey Mulliken to approve the site plan of PLN 20-2012 pursuant to Article 2, Section 2320(A), High Elevation Protect District (A), of the Zoning By-Laws to renovate a structure, including adding a roof deck on the east elevation, reconfiguring decks on the north and south elevations, moving interior stairways to the exterior within existing footprints of stairways, retaining walls and decks, reconfiguring retaining walls and decks, reconfiguring walkways, re-grading, and installing new exterior lighting fixtures on the property located at 41 Bradford Street Extension with the condition that was approved in a previous motion and the conditions that the exterior lighting be dark sky compliant and that stormwater runoff from proposed impervious surfaces be contained on the property. Monica Stubner seconded. VOTE: 5-0-0 by roll call.***

### **PLN 20-2013**

Application by **Richard Figueroa**, on behalf of **Curaleaf**, seeking a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws to expand a retail marijuana establishment at the property located at **170 Commercial Street (Town Center Commercial Zone)**. Marianne Clements and Ross Zachs recused themselves because of conflicts of interest. Brandon Quesnell, Jeff Mulliken, Paul Kelly, Monica Stubner, and Steven Azar sat on the case.

**Presentation:** Patrik Jonsson was in the meeting to present the application. Mr. Jonsson said that since January of 2020, a successful business has been operating in the basement of 170 Commercial Street and has the opportunity to occupy a space on the street level of the building. This would add 700 sq. ft., 36% more space, to the business. It will not necessarily drive more traffic but will allow the business to accommodate its customers in a timelier manner. This would avoid congestion and excessive queuing outside. No additional work will be required on the exterior of the building. The entry will remain the same, which is currently downstairs via a ramp. Customers will continue to exit through the downstairs if they purchase product downstairs and exit upstairs if making a purchase upstairs. This location will be open only from Memorial Day to Labor Day. Additional bike racks were installed at the request of the Town and to accommodate any overflow. He has cooperated with the Provincetown Police Dept. for the use of police details. He reviewed renderings of the interior of the new unit. Two more security cameras would be added to the front of the unit.

**Public Comment:** Chris Mathieson and Paul Schofield, abutters, spoke about concerns regarding an increase in traffic and illegal parking and idling of motor vehicles in the area. There were 9 letters with concerns or in opposition, and 1 letter with comments from the Police

Chief. The former were summarized and the latter was read by Mr. Soulé. Mr. Jonsson was given the opportunity to respond to the public and staff comments. He agreed to work with his staff and the Police Chief to mitigate the concerns, including idling vehicles and the lack of parking, expressed.

**Board Discussion:** The Board in their deliberations expressed apprehension about the amount of public comment regarding parking issues and made suggestions about how to resolve them. Mr. Jonsson responded to the problems that were raised. Mr. Quesnell gave Mr. Jonsson options to proceed. Mr. Jonsson requested a continuance to the January 14, 2021 Public Hearing at 6:00 P.M. in order to work with neighbors on mitigation for the traffic issues.

***There was a motion by Steven Azar to allow PLN 2013 to continue to the Public Hearing of January 14, 2021 at 6:00 P.M. Jeffrey Mulliken seconded. VOTE: 4-1-0 (Brandon Quesnell opposed).***

#### **4. Work Session:**

a) Pending Decision:

##### **PLN 20-2011**

Application by **Tom Thompson**, on behalf of **Steven Descoteaux**, seeking Site Plan Review pursuant to Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws to extend an existing first and second floor with an 8' by 20' two-story addition on a south elevation and to enclose an existing entry porch and to relocate entry stairs to a west elevation on the structure located at **45 Bayberry Avenue**. ***There was a motion by Jeffrey Mulliken to approve the language as written. Monica Stubner seconded. VOTE: 3-0-0 by roll call.***

b) **Minutes of October 22, 2020:**

October 22, 2020: ***There was a motion by Jeffrey Mulliken to approve the minutes of October 22, 2020 as written. Monica Stubner seconded. VOTE: 5-0-0 by roll call.***

c) **Any other business that may properly come before the Board:** Mr. Soulé informed the Board that he had received a notice of an application for a modification of a Chapter 91 license for 111 Commercial Street. He will scan and send it to Board members. Comments are due by the middle of December.

Jeffrey Mulliken commented regarding inclusionary zoning by-law amendments. He said he supported holding a workshop to discuss it and to include Mr. Dolezal and David Gardner, the Assistant Town Manager. Mr. Soulé will put the issue on a Work Session agenda. Mr. Quesnell requested that staff vet Mr. Dolezal's questions and ideas before a proposal is brought before the Board.

***There was a motion by Jeffrey Mulliken to adjourn the meeting at 8:40 P.M. Paul Kelly seconded. VOTE: unanimous by roll call.***

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2020  
Thaddeus Soulé, Town Planner,  
on behalf of the Planning Board