

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
September 7, 2017**

**Members Present:** Jeffrey Gould, Jeremy Callahan, Marianne Clements, Daniel Wagner and Steven Latasa-Nicks.

**Members Absent:** David M. Nicolau (excused) and Rob Anderson (unexcused).

**Others Present:** Gloria McPherson (Town Planner) and Ellen C. Battaglini (Permit Coordinator).

**WORK SESSION**

Vice Chair Jeffrey Gould called the Work Session to order at 6:45 P.M.

1) **PENDING DECISIONS:**

**ZBA 18-02**

**6 Tiny's Way (Residential 3, Zone), Pamela W. Barter, Trustee, on behalf of Realty Acquisition Trust –**

Jeffrey Gould, Jeffrey Haley, Jeremy Callahan, Marianne Clements and Daniel Wagner sat on the case. Jeffrey Gould read the decision. *Jeremy Callahan moved to approve the language as written, Marianne Clements seconded and it was so voted, 4-0.*

**MINUTES: August 3, 2017 – Jeremy Callahan moved to approve the minutes as written, Marianne Clements seconded and it was so voted, 5-0.**

Vice Chair Jeffrey Gould adjourned the Work Session at 6:53 P.M.

**PUBLIC HEARING**

Vice Chair Jeffrey Gould called the Public Hearing to order at 7:00 P.M. There were 5 members of the Board present and 2 absent.

4) **ZBA 18-05**

**350 Bradford Street (Residential 3 Zone), BPJC, LLC –**

The applicant is aggrieved by a July 12, 2017 decision by the Building Commissioner regarding the height of a structure at the property and is appealing that decision. There was a request from the applicant to postpone the matter until the September 21, 2017 Public

Hearing. *Steven Latasa-Nicks moved to grant the request to postpone ZBA 18-05 until the September 21, 2017 Public Hearing at 7:00 P.M., Jeremy Callahan seconded and it was so voted, 5-0.*

1) **ZBA 17-64**

**3 Cudworth Street (Residential 3 Zone), KA Bazarian Construction, on behalf of Maria Cirino –**

The applicant seeks a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions and Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish a garage and rebuild in the same footprint, adding dormers on the east and west elevations. There was a request from the applicant to postpone until the September 21, 2017 Public Hearing at 7:00 P.M. *Jeremy Callahan moved to grant the request to postpone until the September 21, 2017 Public Hearing at 7:00 P.M., Marianne Clements seconded and it was so voted, 5-0.*

Building Commissioner Anne Howard addressed the Board in regard to the matter of ZBA 18-05, 350 Bradford Street. She said that the part of the request from the applicant to postpone the case included the request to engage in a discussion with the Town regarding the height of the building that is the subject of the appeal. She asked if the Board had any objection to the continuation of those discussions with the applicant between now and the next hearing on September 21<sup>st</sup>. The Board had no objections to the Town engaging in discussions with the applicant about the matter.

*Steven Latasa-Nicks moved to accept the request for Town staff to engage in a discussion with the applicant in ZBA 18-05, 350 Bradford Street, Jeremy Callahan seconded and it was so voted, 5-0.*

2) **ZBA 18-03**

**39 Pearl Street (Residential 3 Zone), Stephen Baker –**

The applicant seeks 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 two-story atrium on the rear of the structure, to increase building scale and to enlarge and enclose an existing open storage area under a second floor deck. Steven Latasa-Nicks recused himself because of a conflict of interest. Vice Chair Jeffrey Gould explained to the applicant that since only 4 members were present to sit on the case, which would necessitate a unanimous decision in order to be granted a Special Permit, he had the choice of postponing until 5 members were present or proceeding with 4 members. The applicant chose to proceed. Jeffrey Gould, Jeremy Callahan, Marianne Clements and Daniel Wagner sat on the case.

**Presentation:** Steven Baker appeared to present the application. He reviewed the project on the main structure, which includes building a two-story atrium on the east elevation to connect the two existing dwelling units in the structure. In addition, the proposal includes enclosing and enlarging an existing outdoor shed. This will weatherproof the structure and allow for more storage.

**Public Comment:** Paul Kelly, an abutter, spoke in support of the project. There was 1 letter in support of the project.

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

*Jeremy Callahan moved to find that the project met subsection #5 of Article 2, Section 2640 of the Zoning By-Laws, Daniel Wagner seconded and it was so voted, 4-0.*

*Jeremy Callahan moved to find that the project was not substantially more detrimental to the neighborhood than the existing situation, Daniel Wagner seconded and it was so voted, 4-0.*

*Jeremy Callahan moved 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 construct a two-story atrium on the rear of the structure, to increase building scale and to enlarge and enclose an existing open storage area under a second floor deck at the property located at 39 Pearl Street (Res 3), Daniel Wagner seconded and it was so voted, 4-0.* Jeremy Callahan will write the decision.

3) **ZBA 18-04**

**3 Atlantic Avenue (Residential 3 Zone), Tom Thompson** on behalf of **Robert Sanborn** – The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to extend up and along pre-existing, non-conforming southwest and northwest elevations to construct a shed dormer. Jeffrey Gould, Jeremy Callahan, Marianne Clements, Daniel Wagner and Steven Latasa-Nicks sat on the case.

**Presentation:** Tom Thompson and Robert Sanborn appeared to present the application. Mr. Thompson reviewed the project, which he had requested be heard under the *Goldhirsh v. McNear* ruling. He explained that a shed dormer will be constructed on the pre-existing, non-conforming northwest, southwest and west elevations in place of an existing gable roof to increase headroom in second floor bedrooms. On the ground level, a long non-conforming deck will be replaced with egress stairs thereby lessening the non-conformancy. There will be no intensification of the non-conformancy. The non-conformancies on the property include the lot size and the front and rear yard setbacks. The project is consistent with the goals and policies of the Local Comprehensive Plan Chapter 1, Goal 1, Policy B; Chapter 1, Goal 2, Policy A and Chapter 4, Goal 2, Policy A. There will be no disruption in the character of the neighborhood and the structure will be harmonious with the surrounding area. Mr. Thompson argued that the change would not be substantially more detrimental than the existing non-conformancy and there would be several benefits and no adverse effects as a result of the changes. The maximum lot coverage, which is not non-conforming will become conforming.

**Public Comment:** None. There was a letter signed by 11 abutters in support of the application.

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

*Jeremy Callahan moved to find that the changes were not substantially more detrimental to the neighborhood than the existing non-conformancy, Steven Latasa-Nicks seconded and it was so voted, 5-0.*

*Steven Latasa-Nicks moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to extend up and along pre-existing, non-conforming southwest and northwest elevations to construct a shed dormer at the property located at 3 Atlantic Avenue (Res 3), Daniel Wagner seconded and it was so voted, 5-0.*

5) **ZBA 18-05**

**487 Commercial Street (Residential 3 Zone), Ryan Campbell, on behalf of Pamela Cyr & Joyce Holupka –**

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to remove and reconstruct two decks and extend a roof on the south elevation and to remove and replace a wooden walkway on the pre-existing, non-conforming east elevation. Jeffrey Gould, Jeremy Callahan, Marianne Clements, Daniel Wagner and Steven Latasa-Nicks sat on the case.

**Presentation:** Pamela Cyr and Joyce Holupka appeared to present the application. Ms. Cyr reviewed the project, which the applicants requested be heard under the *Goldhirsh v. McNear* ruling. It include the removal of an elevated wood walkway, stairs and building entrance on the west elevation and removing part of an elevated wooden walkway, the addition of stairs to the second floor and construction of a new stairway to the beach on the east elevation and removing and reconstructing two decks and extending the roof southward on the south elevation. She reviewed the compliance table on the site plan. She added that the non-conformancy on the east side will become less than existing non-conformancy.

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

**Board Discussion:** The Board questioned Ms. Cyr and Ms. Holupka.

*Jeremy Callahan moved to find that the project meets the requirements of the Goldhirsh v. McNear ruling, Steven Latasa-Nicks seconded and it was so voted, 5-0.*

*Jeremy Callahan moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to remove and reconstruct two decks and extend a roof on the south elevation and to remove and replace a wooden walkway on the pre-existing, non-conforming east elevation at the property located at 487 Commercial Street (Residential 3 Zone), Marianne Clements seconded and it was so voted, 5-0.*

6) **ZBA 18-07** (staff recommendation to postpone to the hearing of October 5<sup>th</sup>)

**963 Commercial Street, #28 (Residential 1 Zone), Linda E. Salmon -**

The applicant seeks a Special Permit to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to vertically extend a cottage up pre-existing, non-conforming dimensions. Staff recommended that this matter be postponed to the Public Hearing of October 5, 2017 in order to be re-advertised to abutters in Truro. *Steven Latasa-Nicks moved to postpone ZBA 18-07 to the Public Hearing of October 5, 2017 at 7:00 P.M., Jeremy Callahan seconded and it was so voted, 5-0.*

7) **ZBA 18-08**  
**212 Bradford Street (Residential 3 Zone), Michael McIntyre, on behalf of PMR Realty, LLC –**

The applicant seeks 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 second floor dormer up and along pre-existing, non-conforming dimensions and to increase building scale. Jeffrey Gould, Jeremy Callahan, Marianne Clements, Daniel Wagner and Steven Latasa-Nicks sat on the case.

**Presentation:** Michael McIntyre and Gary Pasnick appeared to present the application. Mr. McIntyre said that a new dormer and four bedrooms would be constructed on the east side of the building in order to house employees and which would increase the building scale of the structure.

**Public Comment:** Louise Venden spoke in support of the application. There was 1 letter in support of the application.

**Board Discussion:** The Board questioned Mr. McIntyre and Mr. Pasnick.

*Jeremy Callahan moved to find that the changes met the requirement of Article 2, Section 2640, subsection #1, Steven Latasa-Nicks seconded and it was so voted, 5-0.*

*Jeremy Callahan moved to find that the project was not substantially more detrimental than the existing non-conformancy, Steven Latasa-Nicks seconded and it was so voted, 5-0. Steven Latasa-Nicks will write the decision.*

8) **ZBA 18-09**  
**212 Bradford Street (Residential 3 Zone), Michael McIntyre, on behalf of PMR Realty, LLC –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to revise a seating plan. Jeffrey Gould, Jeremy Callahan, Marianne Clements, Daniel Wagner and Steven Latasa-Nicks sat on the case.

**Presentation:** Michael McIntyre and Gary Pasnick appeared to present the application. Mr. McIntyre reviewed the revision to the seating plan. The change was due to the granting of economic development gallons by the Board of Selectmen.

**Public Comment:** None. There were no letters in the file.

**Board Discussion:** The Board briefly questioned Mr. McIntyre.

*Jeremy Callahan moved to grant a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to revise a seating plan at the property with the Special Permit running with the business located at 212 Bradford Street (Res 3), Marianne Clements seconded and it was so voted, 5-0. Steven Latasa-Nicks will write the decision.*

**NEXT MEETING:** The next meeting will take place on Thursday, September 21, 2017. It will consist of an Executive Session at 6:30 P.M., a Work Session at 6:45 P.M. and a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Daniel Wagner moved to adjourn at 8:30 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2017  
David M. Nicolau, Chair