

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
June 6, 2019**

**Members Present:** Jeremy Callahan, Daniel Wagner, Peter Okun, Caleb Eigsti, and Robert Nee.

**Members Absent:** Susan Peskin (excused) and Steven Latasa-Nicks (excused).

**Others Present:** Jeff Ribeiro (Town Planner) and Ellen C. Battaglini (Permit Coordinator)

**WORK SESSION**

Chair Jeremy Callahan called the Work Session to order at 6:12 P.M.

1) **Election of a Vice Chair:** This matter is postponed.

2) **PENDING DECISIONS:**

**ZBA 19-48 (Steven)**

Application by **Don DiRocco**, of **Hammer Architects**, on behalf of **Steve Tait & Dave Cook**, 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 demolish and rebuild portions of a structure up and along a pre-existing, non-conforming dimensions, including height and side yard setbacks, at the property located at **425 Commercial Street (Residential 3 Zone)**. **Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Susan Peskin and Robert Nee sat on the case.** The decision was not ready.

**ZBA 19-64 (Caleb)**

Application by **The Galley Catering, LLC** seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to revise a seating plan on the property located at **225 Commercial Street (Town Center Commercial Zone)**. **Jeremy, Steven, Daniel, Peter and Caleb sat on the case.** Caleb Eigsti read the decision. *Peter Okun moved to approve the language as written, Daniel Wagner seconded and it was so voted, 4-0.*

**ZBA 19-68 (Peter)**

Application by **Deborah Paine, Inc.**, on behalf of **Terrence Meck**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to raise a structure by 18” and to construct entrance stairs and a landing on the northwest corner, extending a pre-existing, non-conforming dimension farther into the east side yard setback on the property located at **72A Commercial Street (Residential 2 Zone)**.

**Steven Latasa-Nicks, Daniel Wagner, Peter Okun, Susan Peskin and Robert Nee sat on the case.** Peter Okun read the decision. *Peter Okun moved to approve the language as written, Daniel Wagner seconded and it was so voted, 3-0.*

**ZBA 19-69 (Daniel)**

Application by **Frederick Latasa-Nicks** seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to add outdoor entertainment on the property located at **404 Commercial Street (Town Center Commercial Zone)**. **Peter Okun, Daniel Wagner, Susan Peskin, and Robert Nee sat on the case.** Daniel Wagner read the decision. *Peter Okun moved to approve the language as written, Robert Nee seconded and it was so voted, 3-0.*

**3) Approval of Minutes:**

May 16, 2019 – *Peter Okun moved to approve the minutes as written, Caleb Eigsti seconded and it was so voted, 5-0.*

**3) Any Other Business that may properly come before the Board.** None.

Chair Jeremy Callahan adjourned the Work Session at 6:37 P.M.

## **PUBLIC HEARING**

Chair Jeremy Callahan called the Public Hearing to order at 6:37 P.M. There were 5 Board members present and 2 absent.

**1) PUBLIC HEARINGS:**

**ZBA 19-46** (*request to postpone to the meeting of June 20<sup>th</sup>*)

Application by **Stanley Sikorski & Eva Sikorski**, on behalf of **David Mayo**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, to construct a single-family structure that will exceed the allowable building scale on the property located at **294 Bradford Street (Residential 3 Zone)**. There was a request from the applicant to postpone the matter to the June 20, 2019 Public Hearing. *Peter Okun moved to grant the request to postpone ZBA 19-46 to the June 20, 2019 Public Hearing at 6:30 P.M., Caleb Eigsti seconded and it was so voted, 5-0.*

**ZBA 19-65** (*request to postpone to the meeting of June 20<sup>th</sup>*)

Application by **George Tagaris** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to modify a condition of Special Permit #FY15-57 requiring the installation of a sprinkler system in a structure on the property located at **143 Commercial Street (Town Center Commercial Zone)**. There was a request from the applicant to postpone the matter to the June 20, 2019 Public Hearing. *Peter Okun*

*moved to grant the request to postpone ZBA 19-65 to the June 20, 2019 Public Hearing at 6:30 P.M., Caleb Eigsti seconded and it was so voted, 5-0*

**ZBA 19-67** (*request to withdraw without prejudice*)

Application by **Ronald Aike** and **David E. Mooney** seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G14, Utility/Garden Shed (96 sq. ft. max.), of the Zoning By-Laws to add a shed on the property located at **13 Willow Drive, Unit B (Residential B Zone)**. There was a request from the applicant to withdraw the matter without prejudice. *Peter Okun moved to grant the request to withdraw ZBA 19-67 without prejudice, Caleb Eigsti seconded and it was so voted, 5-0.*

**ZBA 19-71**

Application by **Guy Busa** 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 two-story addition on the structure located at **2 & 2A Conway Street (Residential 2 Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.

**Presentation:** Ginny Binder and Guy Busa presented the application. Ms. Binder described the project as a two-story addition with a home office above and storage underneath. The project will require an increase in the building scale structure above the allowable scale for the neighborhood. She reviewed how the project met the goals and objectives of the Local Comprehensive Plan, which is a criteria for a Special Permit pursuant to the Zoning By-Laws. The project will be consistent with Article 2, Section 2640E, subparagraph 1, as it will meet the goals and objectives of the LCP and subparagraph 5, in that it is located in the Historic District, is consistent with Historic District Guidelines, and has been approved by the Historic District Commission. Pursuant to the goals and objectives of the LCP, the project includes reducing a northwest corner non-conformancy by removing a shed on the property, promoting the consistency of the massing, density, and architectural style of the existing buildings. The addition will conform to the historic character of the community, fits the context and character of the neighborhood and is consistent with Chapter 4, Section 4.2, Goals 1 & 2 and Chapter 5, Section 5.2, Policy D. The existing building has solar panels and a battery back-up system, thereby promoting energy independence and using an alternative clean energy source. She argued that the social, economic and other benefits to the Town or neighborhood outweigh any adverse effects such as hazard, congestion or environmental degradation, adding that there would be no adverse effects. The benefits include a reduction in non-conformancy by 2' on the northwest corner of the lot, no congestion will result from the project, the new structure with the addition is still well within the requirements for lot coverage and green space, and the use of less energy from the electrical grid, as more solar panels will be added. Windows from the north side of the structure will be reused in the project. She reviewed the scale numbers. Mr. Busa commented on the addition and said that he had consulted with his neighbors about the design of the addition.

**Public Comment:** None. There were 8 letters from abutters in support of the application.

*Jeremy Callahan moved to close the public portion of the hearing, Daniel Wagner seconded and it was so voted, 5-0.*

**Board Discussion:** The Board questioned Mr. Busa and Ms. Binder.

*Peter Okun moved to find that the Social, economic and other benefits to the Town and neighborhood outweighed any adverse effects such as hazard, congestion or environmental degradation, Caleb Eigsti seconded and it was so voted, 5-0.*

*Peter Okun 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 addition on the structure located at 2 & 2A Conway Street (Res 2), Caleb Eigsti seconded and it was so voted, 5-0. Caleb Eigsti will write the decision.*

#### **ZBA 19-73**

Application by **Edward Steblein** seeking a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to place retail items for sale at the front of the structure located at **289 Commercial Street (Town Commercial Center Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.

**Presentation:** Ed Steblein presented the application.

**Public Comment:** None.

*Jeremy Callahan moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 5-0.*

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

*Peter Okun moved to grant a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to place retail items for sale at the front of the structure located at 289 Commercial Street (TCC Zone), Caleb Eigsti seconded and it was so voted, 5-0.*

#### **ZBA 19-74**

Application by **Peter Brox** 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 replace a 10' by 12' addition with a 20' by 31' addition and to extend an overhang into a pre-existing, non-conforming front yard setback on the structure located at **74 Franklin Street (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.

**Presentation:** Steve Magliocco and Peter Brox presented the application. Mr. Magliocco reviewed the project, which involves replacing an existing smaller addition on north side of the house with a larger addition containing a garage on the first floor and a master bedroom and bathroom on the second floor. The new addition will exceed the neighborhood allowable scale. He said that most of the massing is on the side of the structure, not in the front. In addition, he added, an overhang will infringe in the front yard setback. He argued that the project was consistent with subparagraph 5 of Article 2, Section 2640E of the Zoning By-Laws and added that most of the massing would be on the north side of the structure and not visible from the streetscape. He said that there would be no negative impacts to the Town or the neighborhood. He indicated that the applicant had spoken with his neighbors about the project and had not received any negative feedback.

**Public Comment:** None.

*Jeremy Callahan moved to close the public portion of the hearing, Peter Okun seconded and it was so voted, 5-0.*

**Board Discussion:** The Board questioned Mr. Magliocco and Mr. Brox. The Board determined that the request could be heard under the *Goldhirsh v. McNear* ruling. Several Board members were of the opinion that the increase in scale was not modest, as it is proposed to be a 62% increase, and expressed their opinion that they would not approve the project as presented. Mr. Magliocco said that the existing structure was close to the allowable scale already and noted that there were other large structures in the neighborhood. He explained that 1500 square feet was added just for the proposed overhang, contributing to the scale calculation even though there is nothing under it. Mr. Brox reiterated that none of his neighbors had objected to the proposal. Mr. Magliocco said that he did not think the addition was bulky-looking. Mr. Ribeiro commented on the proposed design related to the appearance of mass and how that might be mitigated. After further discussion, the Board requested that the applicant redesign the addition with a smaller building scale than proposed. Mr. Callahan suggested that the applicant provide information as to how the project met the goals and objectives of the LCP and solicit letters from, and appearances by, the neighbors at the next hearing of the matter. The applicant requested a continuance to the July 18, 2019 Public Hearing at 6:30 P.M. and will submit new drawings.

***Peter Okun moved to continue ZBA 19-74 until the Public Hearing of July 18, 2019 at 6:30 P.M., Caleb Eigsti seconded and it was so voted, 5-0.***

#### **ZBA 19-75**

Application by **Frank Vasello, dba Relish**, seeking a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to add 4 seats in the front window of the structure located at **93 Commercial Street, US (Residential 2 Zone)**. Jeremy Callahan, Daniel Wagner, Peter Okun, Caleb Eigsti, and Robert Nee sat on the case.

**Presentation:** The applicant did not appear.

**Public Comment:** None. There were 5 letters in support of the application.

***Jeremy Callahan moved to close the public portion of the hearing, Caleb Eigsti seconded and it was so voted, 5-0.***

**Board Discussion:** After a brief discussion, the Board decided to grant the Special Permit.

***Peter Okun moved to find that the Social, economic and other benefits to the Town and neighborhood outweighed any adverse effects such as hazard, congestion or environmental degradation, Caleb Eigsti seconded and it was so voted, 5-0.***

***Peter Okun moved to grant a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to add 4 seats in the front window of the structure located at 93 Commercial Street, US (Res 2), Caleb Eigsti seconded and it was so voted, 5-0.*** Peter Okun will write the decision.

**NEXT MEETING:** The next meeting will take place on Thursday, June 20, 2019 in the Auditorium. It will consist of a Work Session at 6:00 P.M. and a Public Hearing at 6:30 P.M.

**ADJOURNMENT:** ***Peter Okun moved to adjourn the Public Hearing at 7:45 P.M., Caleb Eigsti seconded and it was so voted unanimously.***

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2019  
Jeremy Callahan, Chair