

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
September 5, 2019**

Members Present: Jeremy Callahan (arrived at 6:28 P.M.), Daniel Wagner, Steven Latasa-Nicks, Peter Okun, Caleb Eigsti, and Robert Nee.

Members Absent: Susan Peskin (excused).

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

WORK SESSION

Vice Chair Steven Latasa-Nicks called the Work Session to order at 6:00 P.M.

1) PENDING DECISIONS:

ZBA 19-74 (Jeremy)

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, Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti 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, 4-0-1 (Robert Nee abstaining).*

ZBA 20-01(Jeremy)

Application by **Brian Bosse**, on behalf of **NSTAR, dba Eversource Energy**, seeking a Special Permit pursuant to Article 2, Sections 2440, Permitted Principal Uses, C8, Public utility, 2470, Parking Requirements, and 2640, Building Scale of the Zoning By-Laws to construct a lithium-ion battery storage system on the property located at **90 Race Point Road (Municipal Zone)**. **Jeremy Callahan, Daniel Wagner, and Caleb Eigsti, and Robert Nee sat on the case.** Peter Okun read the decision. *Caleb Eigsti moved to approve the language as written, Robert Nee seconded and it was so voted, 3-0-2 (Steven Latasa-Nicks & Peter Okun abstaining).*

ZBA 20-03 (Robert)

Application by **William Lord** seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to add a sunroom to the structure located at **5 Nelson Avenue (Residential 3 Zone)**. **Jeremy Callahan, Daniel Wagner, and Caleb Eigsti, and Robert Nee sat on the case.** The decision was not ready.

ZBA 20-04 (Steven)

Application by **Jason Chapman** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to connect two structures and extend them along pre-existing, non-conforming east and west side yard setbacks on the property located at **19 Winthrop Street, #3 (Residential 3 Zone)**. **Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti, and Robert Nee sat on the case.** Steven Latasa-Nicks read the decision. *Caleb Eigsti moved to approve the language as written, Robert Nee seconded and it was so voted, 4-0.*

ZBA 20-05 (Peter)

Application by **Doug Dolezal**, of **Design Matters, LLC**, on behalf of **Miriam Gallardo & Courtney Spitz**, 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, 180 sq. ft. addition on the rear northwest corner, along a pre-existing, non-conforming west side yard elevation, and to increase the building scale of the structure located at **62 Mayflower Avenue (Residential 1 Zone)**. **Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti, and Robert Nee sat on the case.** The decision was not ready.

- 2) **Minor Modification: 13 Creek Round Hill Road.** Mr. Ribeiro reviewed the request, which is a project that the Board approved in ZBA 18-73, pursuant to Article 2, Section 2640, Building Scale. The applicants had originally wanted a curved roof and when pricing out the project, that style was too expensive for their budget. They are now asking to build a standard pitched roof instead. He said that this style of roof would not be substantially more detrimental to the neighborhood.

Peter Okun moved to approve the request for a minor modification for ZBA 18-78, 13 Creek Round Hill Road, to revise the project to a shallow pitched roof at the property located at 13 Creek Round Hill Road, Robert Nee seconded and it was so voted, 5-0.

- 3) **Approval of Minutes:** No minutes were available.
- 4) **Any Other Business that may properly come before the Board.** Mr. Ribeiro said that the Cape CDP, Community Development Partnership, is holding their Lower Cape Housing Institute training for anyone involved in housing, zoning and land use at from the beginning of October to the first week in November. In addition, a second forum for the VFW housing development on September 17th at 5:30 P.M. will be held at Town Hall.

Vice Chair Steven Latasa-Nicks adjourned the Work Session at 6:22 P.M.

PUBLIC HEARING

Chair Jeremy Callahan called the Public Hearing to order at 6:30 P.M. There were 6 Board members present and 1 absent.

1) **PUBLIC HEARINGS:**

ZBA 19-78 (continued to the meeting of September 19th)

Application by **Dol-Fin Development, LLC** seeking a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B7, Parking Lots, garages, of the Zoning By-Laws to establish a parking lot on the property located at **3 Cudworth Street (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Susan Peskin, and Caleb Eigsti sat on the case.

Jeremy Callahan moved to hear ZBA 20-06 & 20-07 next, Caleb Eigsti seconded and it was so voted, 5-0.

ZBA 20-06

Application by **David Nelson Burbank**, on behalf of **Kenneth Horgan**, seeking a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to display outdoor sandwich boards on the property located at **336 Commercial Street (Town Center Commercial Zone)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Robert Nee, and Caleb Eigsti, sat on the case.

Presentation: David Nelson Burbank appeared to present the application. He reviewed the sandwich boards that he was requesting to put on the property, including up to a maximum of 8 sandwich boards advertising entertainment up the alleyway that leads to the entrance of the Pilgrim House, 2 sandwich boards just off the sidewalk in front of the property and a 24” by 36” board showing dining. This is a way to attract business for the establishment from the street. The sandwich boards will not impede pedestrian traffic in the alleyway. The number of boards will increase or decrease during the season according to the schedule of entertainment.

Public Comment: None.

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

Board Discussion: The Board questioned Mr. Burbank.

Caleb Eigsti moved that the social, economic and other benefits outweigh any adverse effects such as hazard, congestion or environmental degradation, Steven Latasa-Nicks seconded and it was so voted, 5-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to display outdoor sandwich boards on the property located at 336 Commercial Street (TCC), Steven Latasa-Nicks seconded and it was so voted, 5-0.

ZBA 20-07

Application by **Frank Christopher** seeking a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to display outdoor sandwich boards on the property located at **193 Commercial Street, #AU6 (Town Center Commercial Zone)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti sat on the case.

Presentation: Frank Christopher appeared to present the application. He reviewed the sandwich boards, which will number up to 6. He said that having sandwich boards will attract customers to his club and will not impede pedestrian access to the establishment.

Public Comment: None.

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

Board Discussion: The Board had no questions.

Caleb Eigsti moved that the social, economic and other benefits outweigh any adverse effects such as hazard, congestion or environmental degradation, Peter Okun seconded and it was so voted, 5-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to display outdoor sandwich boards on the property located at 336 Commercial Street (TCC), Peter Okun seconded and it was so voted, 5-0.

ZBA 19-79 (continued from the meeting of August 15th)

Application by **Lisa Pacheco Robb**, on behalf of **Travis & Wendy Connors**, seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alterations, of the Zoning By-Laws to extend two bays along pre-existing, non-conforming front and side yard setbacks and to add a widow's walk on the structure located at **14 Thistlemore Road (Residential 1 Zone)**.

Jeremy Callahan, Daniel Wagner, and Caleb Eigsti, and Robert Nee sat on the case.

Presentation: Lisa Pacheco-Robb appeared to discuss the application. She said that the structure was pre-existing, non-conforming as to the height and the applicants were seeking to extend it to a fourth story and install a 35 sq. ft. widow's walk. Mr. Ribeiro said that Town Counsel had been consulted as to whether this was consistent with the Zoning By-Laws. She did give an opinion that the widow's walk would constitute a fourth story and since the structure is a single-family house and pre-existing, non-conforming as to the number of stories, the latter could be extended and a Special Permit could be granted by the Board.

Public Comment: None.

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

Board Discussion: The Board questioned Ms. Pacheco-Robb.

Caleb Eigsti moved that the social, economic and other benefits outweigh any adverse effects such as hazard, congestion or environmental degradation, Robert Nee seconded and it was so voted, 5-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 3, Section 3110, subsection 1, Change, Extension or Alterations, of the Zoning By-Laws to extend two bays along pre-existing, non-conforming front and side yard setbacks and to add a widow's walk on the structure located at 14 Thistlemore Road (Res 1), Robert Nee seconded and it was so voted, 5-0. Jeremy Callahan will write the decision.

ZBA 20-08

Application by **PV Development** seeking a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G11, Other Customary Accessory Uses, of the Zoning By-Laws to construct a gazebo on the property located at **170 Bradford Street Extension (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti sat on the case.

Presentation: Pavel Fiodarau appeared to present the application. The applicant seeks to construct a 12' by 28' by 15' high wood gazebo to be located next to the proposed pool on the property. It will have a shingled roof and no exterior lighting is proposed, only down-lighting will be used to light the interior of the structure. The green space and the lot coverage will still be within the required percentage of the lot. Photographs of the proposed gazebo had been submitted to the Board.

Public Comment: None.

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

Board Discussion: The Board questioned Mr. Fiodarau.

Caleb Eigsti moved that the social, economic and other benefits outweigh any adverse effects such as hazard, congestion or environmental degradation, Peter Okun seconded and it was so voted, 5-0.

Caleb Eigsti moved to grant a Special Permit pursuant to Article 2, Section 2450, Permitted Accessory Uses, G11, Other Customary Accessory Uses, of the Zoning By-Laws to construct a gazebo on the property located at 170 Bradford Street Extension (Res 3), Daniel Wagner seconded and it was so voted, 5-0. Steven Latasa-Nicks will write the decision.

ZBA 20-09

Application by **Ted Smith, Architect, LLC**, on behalf of **Jonathan Price**, seeking a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to raze an existing dwelling unit and to build a new garage and single-family structure on the property located at **21 Off-Cemetery Road (Residential 3 Zone)**. Jeremy Callahan, Daniel Wagner, Steven Latasa-Nicks, Peter Okun, and Caleb Eigsti sat on the case.

Presentation: Ted Smith appeared to present the application. He stated that the existing building on the lot is in disrepair and needs a utility overhaul and the existing septic system needs an upgrade. The proposal is to tear down the existing house and reconstruct it at the back of the lot in a larger form, replace the existing house with a two-car garage in the footprint, and to install a new septic system between the garage and the house. The proposed new dwelling will have a larger scale than the neighborhood average. He reviewed the elevation drawings. He said that that the increase in building scale will result in a structure that will present a modest massing to the streetscape, as the main building bulk and volume is in the rear. The new house will be conforming as to its setbacks. The garage will be pre-existing, non-conforming as to its front and one of its side-yard setbacks. The entrance to the new garage will require a car to pull in or back out onto the property before exiting into the road. He said that he had tried to make the garage conforming as to setbacks, however it turned out to be unfeasible because of the distance requirements from the septic system.

Public Comment: None.

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

Board Discussion: The Board questioned Mr. Smith. No plans for the proposed garage had been submitted, so the Board decided to continue the matter to the next Public Hearing.

Caleb Eisti moved to continue ZBA 20-09 to the September 19, 2019 Public Hearing at 6:30 P.M., Peter Okun seconded and it was so voted, 5-0.

NEXT MEETING: The next meeting will take place on Thursday, September 19, 2019 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: *Caleb Eigsti moved to adjourn the Public Hearing at 7:15 P.M., Robert Nee seconded and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2019
Jeremy Callahan, Chair