



Town of Provincetown  
Planning Board  
Town Hall, Provincetown, MA 02657

April 9, 2020

## Findings and Decision of the Planning Board

Case Number: PLN 20-14 & PLN 20-15  
Applicant: Meili West, LLC / Edward M. Roach  
Owner: Meili West, LLC / Edward M. Roach  
Property Address: 30 Shank Painter Road  
Assessor's ID: 7-2-69-0  
Deed Book: Certificate 109251 / 414898  
Zoning District: General Commercial (GC)  
Planning Board Members: Paul Graves  
Jeff Mulliken  
Brandon Quesnell  
Ross Zachs

### I. Introduction

The Applicant is proposing a multi-family residential structure (8 condominium units with a parking area beneath a portion of the building) resulting in an increase of residential units that will result in three or more residential units on the property located at 30 Shank Painter Road (General Commercial District and Class A Floodplain Overlay District).

The Applicant is petitioning the Planning Board for the following approvals and relief pursuant to the Town of Provincetown Zoning By-Laws (the Zoning By-Laws):

1. Application PLN 20-14 seeking Site Plan Review by Special Permit under Article 4, Section 4015, a. (1) Developments consisting of an increase of residential units that will result in three or more residential units on any parcel with waivers from:
  - a) Article 4, Section 4120 Density Schedule - Waiver under 4180 5. A. (3)
  - b) Article 4, Section 4140 Lot Coverage - Waiver under 4180 5. A. (3)
  - c) Article 4, Section 4150 Green Area - Waiver under 4180 5. A. (3)
  - d) Article 2, Section 2560 Dimensional Schedule, Min. Front Yard (GC, footnote 3) - Waiver under 4180 5. A. (3) for:
    - o Shank Painter Road
    - o Browne Street
  - e) Article 2, Section 2560 Dimensional Schedule Max. Building Height - Waiver under 4180 5. A. (3);

- f) Article 4, Section 4163 Residential Design Standards 2. Curb radii at street intersections shall not be less than twenty-five feet – Waiver for a curb with a proposed radius of five feet under Section 4163; and
2. Application PLN 20-15 seeking a Special Permit under Article 4, Section 4180, Inclusionary and Incentive Zoning Bylaw of the Zoning By-Laws.

## II. Decision

The Planning Board hereby grants Site Plan Review by Special Permit relief pursuant to the Zoning By-Law, Article 4, Section 4015 a. (1), and Special Permit under Article 4, Section 4180, Inclusionary and Incentive Zoning Bylaw including the grant of waivers pursuant to: Article 4, Section 4120 Density Schedule - Waiver under 4180 5. A. (3); Article 4, Section 4140 Lot Coverage - Waiver under 4180 5. A. (3); Article 4, Section 4150 Green Area - Waiver under 4180 5. A. (3); Article 2, Section 2560 Dimensional Schedule, Min. Front Yard (GC, footnote 3) - Waiver under 4180 5. A. (3) for Shank Painter Road and Browne Street; Article 2, Section 2560 Dimensional Schedule Max. Building Height - Waiver under 4180 5. A. (3); and Article 4, Section 4163 Residential Design Standards 2. Curb radii - Waiver under 4163.

## III. General Findings

1. The Property is located at 30 Shank Painter Road in Provincetown, Massachusetts, is known by the Assessor's Office as Parcel ID: 7-2-69-0, and is registered land in Certificate 109251 / 414898 at the Barnstable County Land Court.
2. The Property is located in the General Commercial zoning district and the Class A Floodplain Overlay District.
3. The Property is 7,826± square feet in size and currently improved with an existing structure formerly used by a professional medical office. The existing structure is proposed to be demolished.
4. The proposed Project includes the construction of a multi-family building consisting of 8 residential units, parking area, and appurtenant improvements within the Property.
5. The Project will provide two Affordable/Community Housing units, one unit located onsite at 30 Shank Painter Road, Unit 102, and one unit located offsite at 36 Nelson Avenue, Unit 3.
6. The proposed project is designed to infiltrate runoff generated from all new onsite impervious surfaces and proposed drainage infiltration capacity will be maintained within the Property.
7. The Applicant submitted the architectural plans to the Historic District Commission for informal review and the Historic District Commission was amenable to the proposed architecture and building design.
8. The Applicant submitted testimony reflecting how the Project is consistent with the goals and objectives of the Inclusionary and Incentive Zoning By-Law.
9. Throughout the public hearing process, the Applicant submitted revised plans that reflected addressing the safety, aesthetics, and wellbeing concerns, including a revised list of Waivers, a revised site plan showing utility improvements, planting plans, lighting specification details, architectural plans, and information regarding improving vehicular circulation by removing parking access to the Property directly from Shank Painter Road.

10. The Board held three public hearings on this matter; December 12, 2019 and February 13, 2020, and March 26, 2020. Note that the March 26, 2020 hearing was held virtually in accordance with Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law and March 23, 2020 Order imposing strict limitation on the number of people that may gather in one place. Attorney Christopher J. Snow, Rafael Hernandez, designer and architect, Randy Carpenter, a representative of ownership group, and Brad Malo of Coastal Engineering as Site Engineer represented the Applicant and presented the Project. A presentation was made at each hearing and the Board provided an opportunity for all those attending the public hearing to be heard.
11. The majority of those in attendance providing public comment at the December 12, 2019 and February 13, 2020 meetings and individuals writing letters offered design ideas and recommendations for improving the project that included: reducing the density and number of units (units were reduced from an initial 13 to 8); reducing the mass/volume of the building (building volume was reduced by approximately 25% through the elimination of 5 units); relocating utilities (utilities moved to a screened area at the south side of the building); enclosing a portion of the drive-under parking (building façade screens a portion of the cars from Browne Street); providing additional parking spaces to mitigate the likelihood of vehicles parking on Browne Street and reducing the appearance of the lot from Browne Street (parking spaces increased from 10 to 11 and additional vegetative screening provided); increasing number of trees and landscaping (additional trees, wild grasses and native shrubs are proposed on the revised landscaping plan); removing the unit that looks into the covered parking area (revised building plans eliminated this unit); reduce pavement (significant portions of pavement have been replaced with pervious pavers and crushed shells); ensuring the proposed architectural details created a vernacular American Second Empire appearance (the building plans and architectural renderings were presented to the Provincetown Historic District Commission for informal review on March 4, 2020 and received the Commission's endorsement); and improve the Browne Street façade (revised plans eliminated electric utilities and added an entrance facing the street). Those providing verbal testimony and written comments included direct abutters, and other members of the public.
12. The applicant submitted plans and renderings of the project along with a project narrative dated March 10, 2020 and the Planning Board members had sufficient time to review the plans prior to the hearing. Plans included:
  - a. Plan set entitled "New Construction: 30 Shank Painter Rd. Provincetown, MA" prepared by Acropolis Design Consultants, in 18 sheets (24x36): T-1 dated Mar. 7, 2020; C2.1.1 and C2.1.2 dated Mar. 12, 2020 and certified by David J. Michniewicz, PE No. 31493; L1 dated February 27, 2020; L2 and L3 dated February 26, 2020; and A-1, A-2, A-3, A-4, A-5, A-5.1, A-6, A-6.1, A-7, A-7.1, A-8, and A-9 dated March 7, 2020.

#### IV. Applicable Law and Decision Criteria and Specific Findings:

##### A. Site Plan Review by Special Permit:

The proposed Project is subject to Section 4015 (a)(1) (Developments consisting of an increase of residential units that will result in three or more residential units on any parcel).

The Planning Board hereby finds the following:

- a) That the proposed project is consistent with the goals of the Local Comprehensive Plan to increase affordable year-round housing and is in accordance with the purpose and intent of the Inclusionary and Incentive Zoning Bylaw of the Zoning By-Laws.
- b) That the plan meets the design requirements outlined in Section 4163, excepting 2. curb radii, where a waiver for a curb with a proposed radius of five feet is proposed, and that all storm water drainage is to be contained within the site, all utilities will be located underground as shown on the plans, and the parking area surfaces are suitable for the proposed uses.
- c) That the Applicant submitted revised plans containing appropriate supporting data, setting forth mitigation measures for the proposed project on the neighborhood and the Town generally. Said revised plans reflected that the Applicant reviewed public comments and abutter concerns in order to address applicable concerns.
- d) That the Applicant presented evidence supporting increasing the building height from 28 feet to 33 feet by providing 20% affordable units and from 33 feet to 34.1 feet to accommodate the number of units, appurtenant parking, utilities, solid waste storage, bicycle rack, and landscaping within a corner lot that is 7,826± square feet that maintains adequate setbacks from two frontages, screening from adjacent lots, and access/egress from Browne Street in support of the wellbeing of the residents without significant detriment to the neighborhood or Town.
- e) That the proposed Project protects public amenities and abutting properties by removing parking spaces accessed directly from Shank Painter Road that are across the street from the Fire Headquarters and adjacent to the front entrance of the Police Station.
- f) That the proposed Project creates an opportunity to enhance the historic aesthetics of the site by improving the Property with a building that mimics similarly designed historic structures located elsewhere in Town, providing variation in size, style, and massing along the Shank Painter Road streetscape.
- g) That the proposed project adequately addresses the safety and convenience of pedestrian and vehicular movement within the site through designating one driveway on Browne Street as the main access/egress, proposed down lighting, and properly designated parking. The Project is designed to improve public safety by eliminating the existing perpendicular parking spaces that require drivers to back out onto Shank Painter Road, a major arterial road within the General Commercial District. Additionally, the Applicant is proposing bicycle racks to promote non-vehicular transportation options and alleviate traffic concerns.
- h) The proposed project is designed to protect the public health and safety within the Class A Floodplain District by maintaining adequate drainage and flood storage capacity within the Property and without obstructing flood flow.
- i) The proposed plans appear to conform to the Illumination Standards of Section 3430, Illumination.
- j) As a result of the above, the Board finds that the social, economic or other benefits of the Project for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

B. Waivers. The Planning Board finds that the following waivers may be granted:

- a) Article 4, Section 4120 Density Schedule. Density permitted as of right for a 7,826± square foot lot would be five (5) residential units and the applicant is proposing 8 condominium units (six (6) 1-bedroom units and two (2) 2-bedroom units). Two units (one onsite and one offsite) will qualify as Affordable/Community Housing Units under Section 4180 of the Provincetown Zoning By-Laws. The Board finds that Section 4180 5. A. (1) allows two additional market rate dwelling units to be added as a density bonus for every deed restricted unit and under Section 4180 5. A. (3) the Board may waive any dimensional regulations as appropriate and necessary to accommodate the additional units on the site as part of the Special Permit relief to allow eight (8) units on the Property.
- b) Article 4, Section 4140 Lot Coverage. The lot coverage allowed as a matter of right is a maximum of 40% of the lot area and the Project is proposing a lot coverage of 50%, a portion of this is due to the covered parking spaces that are designed to screen the parking area and where the Board finds that under Section 4180 5. A. (3) the Board may waive any dimensional regulations as appropriate and necessary to accommodate the additional units on the site and the Applicant presented evidence supporting increasing the lot coverage as part of the Special Permit relief to allow for the Affordable unit.
- c) Article 4, Section 4150 Green Area. The minimum Green Area required is 30% of the lot area. Where the Project is proposing 27% Green Area, the Board finds that under Section 4180 5. A. (3) the Board may waive any dimensional regulations as appropriate and necessary to accommodate the additional units on the site and the Applicant presented evidence supporting decreasing the Green Area by 3% as part of the Special Permit relief to allow for the Affordable unit.
- d) Article 2, Section 2560 Dimensional Schedule, Min. Front Yard (GC, footnote 3). The required minimum setbacks for front lot lines on Shank Painter Road and Browne Street is 20 feet. Where the Project is proposing setbacks of 7 feet to steps and 11 feet to building on Shank Painter Road and 11 feet to stoop and 14 feet to Building on Browne Street, the Board finds that under Section 4180 5. A. (3) the Board may waive any dimensional regulations as appropriate and necessary to accommodate the additional units on the site and the Applicant presented evidence supporting decreasing the setbacks as part of the Special Permit relief to allow for the Affordable unit.
- e) Article 2, Section 2560 Dimensional Schedule Max. Building Height. The maximum height allowed is 28 feet for a Mansard roof. Section 4180 5. B. (1) allows up to an additional 5 feet above the maximum building height when a project proposes greater than 20% affordable units. Where the Project is proposing eight (8) condominium units (six (6) 1-bedroom units and two (2) 2-bedroom units) within the Property. Two units (one 1-bedroom unit located onsite at 30 Shank Painter Road, Unit 102, and one unit to be located offsite at 36 Nelson Avenue, Unit 3) will qualify as Affordable/Community Housing Units under Section 4180 of the Zoning By-Laws, the Project will provide 22% affordable units, the Proposed maximum building height may be increased to 33 feet and the Board finds that under Section 4180 5. A. (3) the Board may waive any dimensional regulations to accommodate the additional unit on the site and the Applicant presented evidence

supporting increasing the building height from 33 feet to 34.1 feet to accommodate the additional units on the site as part of the Special Permit relief to allow for the Affordable unit.

- f) Article 4, Section 4163 Residential Design Standards 2. Curb radii at street intersections shall not be less than twenty-five feet. Where the Project is located on a corner lot with two frontages, and is improving public safety by eliminating existing perpendicular parking spaces that require drivers to back out onto Shank Painter Road, directly across from the Fire Station and adjacent to the Police Station, and is improving vehicular movement within the site through designating one driveway on Browne Street as the main access/egress with properly designated parking spaces, the Board finds that under Section 4163 the Board may waive this design standard which would be unreasonable to enforce due to the peculiarities of the site and allow a curb with a proposed radius of five feet.

C. Special Permit, Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law: *Development of 6 or more new dwelling units shall require the granting of a Special Permit by the Planning Board and at least one-sixth (16.67%) of the new units created shall be established as Affordable or Community Housing units in any one or combination of methods provided for below:*

- (1) The Affordable or Community Housing units shall be constructed or rehabilitated on the site subject to the Special Permit, in accordance with Section 7; or*
- (2) The Affordable or Community Housing units shall be constructed or rehabilitated on a site other than the one subject to the Special Permit, in accordance with Section 7, provided justification is provided that on-site development of units is not feasible and off-site development of units is beneficial to the Town, and Special Permits are granted contemporaneously for both developments;*

The applicant is proposing eight (8) condominium units (six (6) 1-bedroom units and two (2) 2-bedroom units) within the Property. Two units, one 1-bedroom unit located onsite at 30 Shank Painter Road, Unit 102, and one unit to be located offsite at 36 Nelson Avenue, Unit 3, will qualify as Affordable/Community Housing Units under Section 4180 of the Zoning By-Laws. The applicant is proposing Affordable/Community Housing units that will be integrated with the rest of the development or with the off-site location, and are designed to be comparable to and indistinguishable from market rate units in exterior design, including appearance, construction and quality of materials, and in energy efficiency. The Planning Board finds that at least 22% of the proposed new dwelling units developed will be Affordable, year-round, deed-restricted units and meets or exceeds the one-sixth (16.67%) required by the Inclusionary and Incentive Zoning Bylaw of the Zoning By-Laws.

V. Vote

Vote PLN 20-14 and PLN 20-15:

Motion by Jeff Mulliken to grant a Site Plan Review by Special Permit pursuant to Article 4, Section 4015, a. (1) of the Zoning By-Laws with waivers from Article 4, Section 4120 Density Schedule, Article 4, Section 4140 Lot Coverage, Article 4, Section 4150 Green Area, Article 2, Section 2560 Dimensional Schedule, Min. Front Yard (GC, footnote 3), Article 2, Section 2560 Dimensional Schedule Max. Building Height, and Article 4, Section 4163 Residential Design Standards 2 and to grant a Special Permit pursuant to Article 4, Section 4180, Inclusionary and Incentive Zoning Bylaw of the Zoning By-Laws for the development of eight residential units on the Property located at 30 Shank Painter Road, with the conditions noted herein. The Motion was seconded by Paul Graves.  
 VOTE: By 4 in favor, 0 opposed, and 0 abstaining the Planning Board Approved this application.

VI. Conditions:

1. Lighting on the property shall be dark sky compliant.
2. Bicycle racks shall be the “inverted u” type and located as shown on the approved site plan;
3. A copy of the as-built plan shall be submitted to the Provincetown Department of Public Works depicting the areas of pavement removed from the public right-of-way and replaced with lawn;
4. All plantings on the property shall be native species and drought-tolerant;
5. All stormwater runoff from proposed impervious surfaces will be fully contained and treated within the Property;
6. A separate electrical meter will be installed with the electrical wiring necessary to accommodate the future installation of an electric vehicle charging station;
7. All utilities for the property shall be underground;
8. Revised Plans shall be submitted depicting the identified Affordable Unit 102 for review and approval by Town staff and shall occur prior to application for a building permit;
9. Owners and tenants of Affordable units and market rate units shall have the same rights and privileges to access and use any of the development’s amenities and facilities.
10. Evidence that the Regulatory Agreement has been executed and recorded at the Barnstable County Registry of Deeds shall be submitted to the Community Development Department prior to any units in the development receiving a Certificate of Occupancy.
11. The last certificate of occupancy to be issued shall be for a market rate unit and shall not be issued unless and until all Affordable units are occupied.

Signed By:



\_\_\_\_\_  
Chair, Planning Board

4 / 10 / 20  
\_\_\_\_\_  
Date

Date of Filing with the Town Clerk: \_\_\_\_/\_\_\_\_/\_\_\_\_

A copy of the application in this matter, bearing the stamp of this Board, the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Department of Community Development. The applicant is hereby put on notice that any deviation from the above referenced application shall invalidate this Decision and shall require further review by this Board. Furthermore, the Decision issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in the Provincetown Zoning By-Law and G.L. ch. 40A.

Important: Any appeal from the decision of the Planning Board can be made only to the Court and must be made pursuant to MGL ch. 40A, § 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.