

**PLANNING BOARD**  
Meeting Minutes  
Thursday, September 12, 2019  
Judge Welsh Room  
6:30 P.M.

**Members Present:** Jason Potter, Paul Graves, Ross Zachs, and John Peters-Campbell.

**Members Absent:** Brandon Quesnell (excused) and Jeff Mulliken (excused).

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

Chair Jason Potter called the Public Hearing to order at 6:30 P.M.

1. **Public Comments:** None.

2. **Public Hearings:**

**PLN 20-03**

Application by **Lisa Pacheco-Robb**, on behalf of **Travis and Wendy Connors**, requesting Site Plan Review pursuant to Article 2, Section 2320(A), High Elevation Protection District (A) of the Zoning By-Laws to extend a cantilevered addition to the ground on the north elevation, to add a widow's walk that extends above the existing roof deck railing by 3'6", and to add and relocate windows on the structure located at **14 Thistlemore Road**. Jason Potter, Paul Graves, Ross Zachs, and John Peters-Campbell sat on the case.

**Presentation:** Lisa Pacheco-Robb appeared to present the application. She reviewed the proposed project saying that the applicants sought to minimize the height of the structure and make it fit better into the neighborhood by changing the exterior cladding, the simple front façade with little fenestration, and the rectangular nature of the structure, all of which accentuate its height from the streetscape. She submitted photographs of the structure to illustrate her point. There is no entryway in the front of the building. One of the changes proposed is to take the triangular volume on the second and third floors in front and extend it downward to the ground and extend it 4' to the west to create a new entryway. This will change the street façade and allow the structure to blend into the tree canopy. The building is currently clad in clapboards with 3" exposure, which accentuates its height. The proposal is to replace the clapboards with more natural-looking, textured cladding to blend in with the rest of the structures in the neighborhood. The proposal also includes adding a screen-type mechanism that is applied to the exterior of the house over the windows and the stair tower, as part of the cladding, in order to break up the height of the building and to provide privacy on its street side. On the back of the house, the proposed changes involve the glazing. She reviewed the photographs of the structure from various locations. The top floor only is visible from Bradford Street. Instead of just seeing a rectangular box in the tree canopy seen from Bradford Street, adding windows will allow more definition on that elevation of the building and allow it to blend in more with the landscape. The entire existing roof is comprised of a roof deck accessed by a spiral staircase, which is a safety concern with the wind that buffets the building at that height. She has devised a safer way to access the roof deck by installing a head-house to enclose an interior staircase, increasing the height of the structure, and, by extending it to the front, it serves to break up that façade, adding dimensionality to the structure, allowing it to

better blend into the tree canopy. She argued that the addition of glazing on the rear of the structure would create more transparency and reflect more of the tree canopy, making the structure less visible from Bradford Street than the existing façade with its uniformity of gray clapboards. The windows would be low E argon, slightly grayish windows. Mr. Ribeiro commented on the project and said that the Board's biggest concerns should be with the visual impacts, including the addition of the glazing on the rear of the structure and any other changes that could be seen from Bradford Street, and whether the changes as a whole would detract from the site's scenic qualities and the requirement that the structure blend in with the natural landscape. The addition of windows, although adding more reflectivity, could also add transparency and help to break up the large flat wall of the south elevation. The widow's walk and the glass head-house is a relatively small protrusion and will be located on the no-Bradford Street side of the building, but should be discussed in regard to how detrimental the increase in height due to their addition would be.

**Public Comment:** None.

**Board Discussion:** The Board questioned Ms. Pacheco-Robb. The Board requested that Ms. Pacheco-Robb submit a cut sheet for low-E argon windows that are proposed.

***There was a motion by Ross Zachs to approve the site plan pursuant to Article 2, Section 2320(A), High Elevation Protection District (A) of the Zoning By-Laws to extend a cantilevered addition to the ground on the north elevation, to add a widow's walk that extends above the existing roof deck railing by 3'6", and to add and relocate windows on the structure located at 14 Thistlemore Road with the condition that a cut sheet for the proposed windows be submitted to Town staff and all windows shall be low E and argon glass windows. Paul Graves seconded. VOTE: 4-0-0.***

#### **PLN 20-04**

Application by **NSTAR Electric Company, dba Eversource Energy**, requesting Site Plan Review pursuant to Article 2, Section 2320(A), High Elevation Protection District (A) of the Zoning By-Laws to construct an energy storage facility on the property located at **90 Race Point Road**.

#### **PLN 20-05**

Application by **NSTAR Electric Company, dba Eversource Energy**, requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015 a. (2) and (5), of the Zoning By-Laws to construct an energy storage facility consisting of more than 2,000 sq. ft. of new commercial area and that will involve moving more than 750 cu. yds. of earth, altering the topography from natural grade, on the property located at **90 Race Point Road**. The Board heard the two cases together. Jason Potter, Paul Graves, Ross Zachs, and John Peters-Campbell sat on both cases.

**Presentation:** Attorney Alex Rodolakis, representing the applicant, Brian Bosse, a project manager, and Charlotte Ancel, both of Eversource, and Colin Duncan, a consultant with TRC Companies, an advisory group, appeared to present the application. Attorney Rodolakis reviewed the battery storage project at the Transfer Station. The project will take up 1.5 acres at the site and include a single-story structure, not visible at all from Race Point Road, measuring 9,928 sq. ft. with a flat roof with a maximum height of 20' 4", part of which will be covered with solar panels. Its construction will also involve site work to include the removal of trees, some site grading to level the lot, and the construction of a retaining wall and fencing to surround the building. A sound wall will surround portions of the building as well. The site

will be stabilized with native vegetation. Lithium-ion batteries will be contained in the building and the HVAC units will be located outside of it to maintain the climate inside. The building will be unmanned with only occasional maintenance and routine checking required. No septic use is required and the building will include a state-of-the-art safety system. The Eversource team has met with the Fire Dept. concerning safety issues. A water main and utility lines will be laid down under the access road to the site and a hydrant will be associated with the site. The underground distribution cables will connect to electrical poles on Route 6. He reviewed the Board's standards for the high elevation protection district and for site plan review by Special Permit and said the project was consistent with the goals and objectives of the Local Comprehensive Plan. He then reviewed the benefits of the project to the Town, including the improvement and reliability of the electrical service in Town, the mitigation of electrical outages, and a significant contribution of tax dollars to the economy. The building will not be visible from Race Point Road and will be integrated into the surroundings of the transfer station site. There will be no wastewater generation and the site will not be illuminated at night, as only motion sensitive lighting will be used. The project incorporates a detailed stormwater management plan. All runoff will be captured in catch basins on the site that will be diverted to an underground storage system and are designed for a 100-year storm. Attorney Rodolakis said that the residential and commercial design standards of s. 4053 and s.4163 are satisfied and reviewed the requirements. He said that there is a limited landscaping plan and Eversource has made an agreement to compensate the Town for the tree removal on the site. Supplemental material has been provided regarding the requirements of Article 5, s. 5330 of the Zoning By-Laws.

Mr. Bosse reviewed the issues of visibility, sound, work hours and fire safety and other systems that are included in the project. He reviewed what equipment would generate sound, and how much, and how it would be mitigated, including by sound walls. He reviewed the stormwater collection system. He addressed a question that had been raised about hydrogen generation and methane leaks at the landfill site and their potential for generating a fire. He said that both the Department of Public Utilities and the Department of Environmental Protection had reviewed the project. A test was done on the site and indicated that only a small amount of methane was being released. He said that a methane detection system would be installed anyway. The Town is still discussing the issue and any proposed mitigation measures would be included in the lease between Eversource and the Town.

Rick Cwiakala, of NEC Energy Solutions, Inc., addressed the hydrogen generation issue. If lithium-metal batteries were used, hydrogen would be generated if exposed to water, however the proposed lithium-ion batteries are composed of salts and the proper way to extinguish a fire would be to apply water to cool the chemical reaction that was occurring. He added that the proposed fire suppression design incorporates a dry-type, clean agent fire suppression agent and before that there are many layers of safety related to the measurement, monitoring and the architectural design of their systems. There would only be a very small amount of hydrogen generated by the application of water. In the event of a thermal runaway, the chemical reaction would be cooled by water. He reiterated that there is a system for a continuous monitoring and measuring of the temperature and voltage of each battery and was designed to include several safety layers on top of each other.

Ms. Ancel briefly commented on the project, including the commitments that Eversource has made to the Town. She addressed the concerns of abutters to the project regarding safety and explained that the relationship that NEC Energy Solutions, Inc. has with Eversource is a contractual obligation to make sure that the safety systems incorporate best practices for fire safety and suppression. She said that Eversource is confident that there is not an explosion risk with the facility, as they are monitoring the facility 24/7, as with any of their substation equipment. If the unlikely event that a fire was to occur, she said, the first thing to be done would be to keep personnel away from the building and the batteries would be disconnected. Eversource and NEC are developing several firewalls of fire safety protocols built into the system to ensure that there would not be any safety incidents. She then commented on sound emanation from the site, stating that the Town has Eversource's commitment that the batteries have been designed to have no sound impact audible to humans on the closest abutting property, which is about 300' from the site. She added that Eversource would be willing to have the sound tested at any time.

**Public Comment:** None. There was 1 letter from an abutter expressing concerns. Attorney Rodolakis and Mr. Bosse addressed the concerns.

**Board Discussion:** The Board questioned Attorney Rodolakis, Mr. Bosse, Mr. Duncan, Ms. Ancel, and Mr. Cwiakala.

***PLN 20-04: There was a motion by Paul Graves to approve site plan pursuant to Article 2, Section 2320(A), High Elevation Protection District (A) of the Zoning By-Laws to construct an energy storage facility on the property located at 90 Race Point Road with the condition that within one year of the completion of the project, the applicant shall perform a sound study to determine that the operation of the facility is consistent with the sound study performed and if not that appropriate mitigation measures will be made to comply with those levels. Ross Zachs seconded. VOTE: 4-0-0.***

***PLN 20-05: There was a motion by Paul Graves to grant a Special Permit pursuant to Article 4, Section 4015 a. (2) and (5), of the Zoning By-Laws to construct an energy storage facility consisting of more than 2,000 sq. ft. of new commercial area and that will involve moving more than 750 cu. yds. of earth, altering the topography from natural grade, on the property located at 90 Race Point Road with the condition that within one year of the completion of the project, the applicant shall perform a sound study to determine that the operation of the facility is consistent with the sound study performed and if not that appropriate mitigation measures will be made to comply with those levels. Ross Zachs seconded. VOTE: 4-0-0.***

#### **PLN 20-06**

Application by **Dol-Fin Development** requesting Administrative Site Plan Review pursuant to Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for a change in use of a pre-existing, non-conforming lot with a garage to provide off-street parking for a two-family dwelling at 16 Carver Street on the property located at **3 Cudworth Street**. Jason Potter, Paul Graves, Ross Zachs, and John Peters-Campbell sat on the case.

**Presentation:** Attorney Lester J. Murphy and Lyn Plummer appeared to present the application. Attorney Murphy reviewed the proposal to locate 3 parking spaces on a lot that also includes a two-car garage. The site had historically been used for the storage of boats and the parking of motor vehicles. Because two of the parking spaces will be used in conjunction

with the property at 16 Carver Street, the proposal constitutes a change in use of the lot and thus a site plan review was required. The third space may be used for a planned small-scale inclusionary dwelling unit that will be built in the future. In addition to the three parking spaces as shown on the site plan, a shortening of the curb cut to 18' and a planting bed are also proposed. The lot has only in the most recent past been used for parking and storage. The 3 parking spaces will be located perpendicular to the stockade fence on the adjacent property. He said that there is screening to the rear of the lot to reduce the impact on neighbors, as well as the stockade fence to cut down on vehicle headlights. Attorney Murphy said that the proposal has to comply with the Zoning By-Laws and will seek ZBA approval for the use of the property as a parking lot, however they first need to seek approval for the site plan. The garage has been totally rebuilt and the exterior lighting is dark sky compliant. The residential design standards, numbers 3, 5 and 7, have been met, the curb radii of 25' could not be met, and other criteria are not relevant. The stone surface on the site will keep stormwater under control and there will be no drainage runoff. He argued that no development impact statement is necessary given that the proposal is only for a change in use and that the property has historically been used for parking. He added that the use would have no detrimental impacts on the neighborhood. The curb cut and parking spaces have been designed as shown on the site plan because the area across from the garage is a 'no parking' area on Cudworth Street, however the rest of the street allows parking on one side. If the access were moved to the south, it would force cars backing out of the parking spaces to maneuver to avoid parked vehicles on Cudworth and make it more difficult for them to exit into such a tight area. The location of the 3 spaces was to minimize the problems of getting in and out of the lot, given that Cudworth is only 20' wide and allows parking on one side, and to endeavor to make the process safer. The entrance on the south would not allow the safe egress of vehicles from the site. All the driveways in the neighborhood are shell or gravel and the neighborhood vehicles back out of their driveways onto Cudworth. Attorney Murphy added that two of the parking spaces have room to back up on the site in order to exit the site moving forward. The third space is somewhat more limited, but might allow backing up as well before exiting moving forward from the lot.

**Public Comment:** Michael Perry and Paul Houlihan, both abutters, spoke in opposition to the application citing concerns, including about the location of the parking spaces, the loss of green space, the increase in traffic and the gravel on the site. There were 2 letters expressing concerns about the impact of the parking on the neighborhood and the location of the proposed spaces. Attorney Murphy rebutted and addressed the concerns of the public.

**Board Discussion:** The Board questioned Attorney Murphy and Ms. Plummer. The Board asked why the 2 spaces couldn't be approved at this time and the third when the inclusionary unit was developed. Ms. Plummer said it was a recommendation of staff to apply for all 3 spaces now. Mr. Ribeiro commented that staff had recommended that the 3 be applied for and considered in regard to the intensity of use and the configuration of the spaces. Staff suggestion was that the applicant may as well have the parking space already established and that there was no a substantive difference between 2 and 3 parking spaces. It was more the configuration of the spaces. The Board discussed the issue. The applicant agreed to the condition that the third space would not be installed and used until the inclusionary unit is developed on the site. The Board discussed requesting more landscaping of the lot.

***There was a motion by Paul Graves to approve the site plan pursuant to Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for a change in use of a pre-***

*existing, non-conforming lot with a garage to provide off-street parking for a two-family dwelling at 16 Carver Street on the property located at 3 Cudworth Street with the condition that a light-impermeable fence shall be installed on the southerly side of the property, the planting bed shall be planted with drought-resistant native species not greater than 3-4' in height, and that the third parking space shall only be installed if and when the applicant develops an additional dwelling unit pursuant to the Inclusionary Incentive By-Law. Ross Zachs seconded. VOTE: 3-1-0 (John Peters-Campbell opposed).*

**PLN 20-07**

Application by **William N. Rogers, II, P.E., P.L.S.**, on behalf of **Enco Realty, Inc.**, requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, a. (2) and (3), of the Zoning By-Laws to construct a second-floor addition over a storage and landing area, to add dwelling units along a northwest property line, and to enclose a loading dock area under an overhand that will result in more than 2,000 sq. ft. of commercial area on the property located at **20 Province Road**. Jason Potter, Paul Graves, Ross Zachs, and John Peters-Campbell sat on the case.

**Presentation:** Attorney Lester J. Murphy, Gary Locke and Leonard Enos appeared to present the application. Attorney Murphy said that the proposal was to create employee housing and to create 3 cottage units to be located in 2 structures. He explained that workforce housing is considered commercial use by the Town. He said that the project had received an Economic Development Permit from the Select Board for a sewer connection and dormitory and employee housing is a by-right use due to the compelling need for such housing. The increase in scale was approved by the ZBA. The commercial use as a warehouse will remain. He reviewed the criteria under which the project was being reviewed. The project includes an expansion of the main building on the site and an extension of the second floor to include dormitory housing. In addition, three cottages accommodating 2 people each are being developed. He reviewed the requirements of section Article 4, s. 4035 and how the project will comply with them. The use is allowed and the density is appropriate. He reviewed Article 5, s. 5331 of the Zoning By-Laws and reviewed how the project would comply with those requirements, detailing how there would not be any negative impacts on the site, including impacts on public safety services, solid and septic waste disposal, adjacent roadways, utilities, or public amenities, and no new ecological damage will be done. Bike racks will be installed and, he argued, most residents would be riding bicycles to work and not driving vehicles. Lighting on the site will be dark sky compliant and no traffic will be impacted. Native plantings will be installed to upgrade the landscaping on the site. There are no scenic or historic aspects to the site. No changes to the vehicular or pedestrian movement will occur on the site. The same traffic patterns will be used and no increase in vehicular traffic is anticipated. The requirements of s. 4053 have been satisfied. There are no flood hazard areas on the site.

Mr. Locks reviewed the site plan. He said that abandoned trailers, invasive species and compost on the site will be removed. All disturbed areas will be returned to their original state. A minimum of six trees will be planted. The area near the deck, which will be the entrance to the dormitories, will be cleaned up of invasive species and poison ivy, and grass and shrub areas will be created. Two bike racks are proposed, measuring 6' and an 8'. The building will be handicapped accessible and handicapped parking spaces will be provided.

**Public Comment:** None.

**Board Discussion:** The Board questioned Attorney Murphy and Mr. Locke.

*There was a motion by Ross Zachs to grant a Special Permit pursuant to Article 4, Section 4015, a. (2) and (3), of the Zoning By-Laws to construct a second-floor addition over a storage and landing area, to add dwelling units along a northwest property line, and to enclose a loading dock area under an overhand that will result in more than 2,000 sq. ft. of commercial area on the property located at 20 Province Road with the conditions that exterior lighting shall be dark sky compliant and all plantings shall be native species. Paul Graves seconded. VOTE: 4-0-0.*

### **3. Work Session:**

a) **Minor Modification:** 13 Creek Round Hill Road. Mr. Ribeiro reviewed the request. The applicant wants to replace a proposed arched roof with a peaked roof because of the expense. *There was a motion by Jason Potter to approve the minor modification for the property located at 13 Creek Round Hill Road. Ross Zachs seconded. VOTE: 4-0-0.*

#### **b) Approval Not Required:**

##### **PLN 20-08**

Application by **William N. Rogers, II**, on behalf of **John W. Dillon & Jacqueline C. Dillon**, for endorsement of a plan believed not to require approval (ANR) to convey Parcel 1 from the property located at **286 Bradford Street (Map 15-3, Parcel 99)** to form Lots 1A and 2A on the property located at **286½ Bradford Street (Map 15-3, Parcel 99A)** and which will contain the minimum area and frontage required by the Provincetown Zoning By-Laws and in accordance with M.G.L. c. 41, s. 81P. Mr. Rogers presented and reviewed the ANR plan. *There was a motion by Jason Potter to endorse the plan believed not to require approval (ANR) to convey Parcel 1 from the property located at 286 Bradford Street (Map 15-3, Parcel 99) to form Lots 1A and 2A on the property located at 286½ Bradford Street (Map 15-3, Parcel 99A). Ross Zachs seconded. VOTE: 4-0-0.*

#### **c) Decisions:**

##### **PLN 19-45**

Application by **Haven Center, Inc.** requesting a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishment, Retail, of the Zoning By-Laws for a change in use from retail clothing to retail recreational/adult-use marijuana sales on the property located at **308-310 Commercial Street**.

##### **PLN 19-50**

Application by **Haven Center, Inc.** requesting a Site Plan Review pursuant to Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for a change on the property located at **308-310 Commercial Street**. Ross Zachs read the decision for both cases. *There was a motion by Ross Zachs to approve the language as written. John Peters-Campbell seconded. VOTE: 4-0-0*

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**PLN 19-51**

Application by **Jonathan Sinaiko** requesting Site Plan Review pursuant to Article 2, Section 2320(A), High Elevation Protection District (A), of the Zoning By-Laws to increase the size of a shed on the property located at **292 Bradford Street**. The decision was not ready.

**PLN 19-52**

Application by **Cape Cod Pilgrim Memorial Association of Provincetown** requesting Site Plan Review pursuant to Article 2, Section 2320(B), High Elevation Protection District (B), and Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for hardscape modifications in the Monument area to provide access to disabled people and to install two handicapped parking spaces adjacent to the Monument on the property located at **1 High Pole Hill Road**. The decision was not ready.

**PLN 19-53**

Application by **Doug Dolezal**, on behalf of **Mariam Gallardo & Courtney Spitz**, requesting Site Plan Review pursuant to Article 2, Section 2320(A), High Elevation Protection District (A), of the Zoning By-Laws for a two-story addition to the structure on the property located at **62 Mayflower Avenue**. The decision was not ready.

**PLN 19-54**

Application by **Robin B. Reid, Esq.**, on behalf of **BWell Holdings, Inc.**, requesting a Special Permit pursuant to Article 2, Section 2440, B14, Marijuana Establishment, Retail, of the Zoning By-Laws to establish a retail marijuana store on the property located at **220 Commercial Street, #2**. Paul Graves read the decision. *There was a motion by Ross Zachs to approve the language as written. John Peters-Campbell seconded. VOTE: 3-0-0.*

d) **Discussion of potential changes to the Inclusionary and Incentive Zoning By-Law.**  
None.

e) **Minutes of April 23, August 27 and October 22, 2015, January 14, March 24, April 28, June 9, 2016 and August 8, 2019.**

August 8, 2019: *There was a motion by Jason Potter to approve the minutes of August 8, 2019 as written. Ross Zachs seconded. VOTE: 4-0-0.*

f) **Any other business that may properly come before the Board:** Mr. Ribeiro reminded the Board that the Cape CDP is having a series of meetings on housing. Housing Assistance Corporation of Cape Cod is presenting a day-long housing institute on November 15<sup>th</sup>.

Mr. Zachs requested a work session about inclusionary zoning and other by-law revision matters that the Board has been putting off before Mr. Ribeiro leaves his position.

*There was a motion by Ross Zachs to adjourn the Planning Board meeting at 9:30 P.M. Paul Graves seconded. VOTE: Unanimous.*

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2019  
Jason Potter, Chair