

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
June 20, 2013**

**MEETING HELD IN THE JUDGE WELSH ROOM**

**Members Present:** Robert Littlefield, Amy Germain (arrived at 6:45 P.M.), Tom Roberts, Harriet Gordon and Leif Hamnquist.

**Members Absent:** David M. Nicolau (excused) and Joe Vasta (excused).

**Others Present:** Russ Braun (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

Vice Chair Robert Littlefield called the Work Session to order at 6:35 P.M.

**MINUTES: June 6, 2013 –** *Tom Roberts moved to approve the language as written, Harriet Gordon seconded and it was so voted, 4-0.*

**PENDING DECISIONS:**

**FY13-73**     **74 Shank Painter Road (General Commercial Zone), Ewa Nogiec on behalf of Gallery Ehva –**

David M. Nicolau, Robert Littlefield, Harriet Gordon, Tom Roberts and Joe Vasta sat on the case. Harriet Gordon read the decision. *Tom Roberts moved to approve the language as written, Leif Hamnquist seconded and it was so voted, 4-0.*

**FY13-76**     **133 Bradford Street (Town Commercial Center Zone), Krista Kranyak of Ten Tables Restaurant & Bar –**

David M. Nicolau, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case. Tom Roberts read the decision. *Harriet Gordon moved to approve the language as written, Robert Littlefield seconded and it was so voted, 3-0-1 (Leif Hamnquist abstaining).*

**FY13-78**     **8 Brewster Street (Residential 3 Zone), Ted Smith Architect LLC on behalf of Mark Albert –**

David M. Nicolau, Tom Roberts, Joe Vasta and Leif Hamnquist also sat on the case. Tom Roberts read the decision. *Leif Hamnquist moved to approve the language as written, Harriet Gordon seconded and it was so voted, 4-0-1 (Amy Germain abstaining).*

**FY13-49**     **16 Harry Kemp Way (Residential B Zone), Joy Futch Reis –**

Robert Littlefield, Amy Germain, Harriet Gordon, Joe Vasta and Leif Hamnquist

sat on the case. Amy Germain read the decision. *Tom Roberts moved to approve the language as written, Leif Hamnquist seconded and it was so voted, 5-0.*

**FY13-77**      **150 Bradford Street (Residential 3 Zone), Farland, Inc. d/b/a Farland Provisions –**  
David M. Nicolau, Amy Germain, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. Amy Germain read the decision. *Harriet Gordon moved to approve the language as amended, Tom Roberts seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).*

Vice Chair Robert Littlefield postponed the Work Session at 7:00 P.M.

## **PUBLIC HEARING**

Vice Chair Robert Littlefield called the Public Hearing to order at 7:00 P.M. There were five members of the Zoning Board of Appeals present and two absent.

### **POSTPONED CASES:**

**FY13-40**      **44-48 Winslow Street (Residential 3 Zone), William N. Rogers, II, P.E., P.L.S. on behalf of Winslow Trading Company –**

The applicant seeks a Special Permit under Article 2, Section 2440 of the Zoning By-Laws to construct six buildings with eleven two-bedroom dwelling units. Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Leif Hamnquist sat on the case.

**Presentation:** Attorney Lester J. Murphy, William N. Rogers, II and Stephen Cook presented the application. Attorney Murphy explained that the project entails the construction of 11 dwelling units on the property. Multi-family dwelling units are allowed in the Res 3 Zoning District in which it is located. If more than 6 dwelling units are proposed, a Special Permit is required. He stated that the social, economic and other benefits of the proposal for the Town or neighborhood must outweigh any adverse effects. A 20' access drive off of Winslow Street to a cul-de-sac is proposed. The project complies with all provisions of the Zoning By-Laws. 11 dwelling units require a parcel that has at least 31,500 sq. ft of land. This lot has 32,861 sq. ft. of land. All parts of this development either complies with, or exceeds, the minimum requirements under the Zoning By-Laws, such as scale, building height, building separation, number of parking spaces and setbacks. The buildings have been sited in order to best protect existing trees on the site and several new trees will be planted along Winslow Street. The green space will be 37% of the lot. There is 19% lot coverage. According to Attorney Murphy, one benefit to the Town will be a significant increase in real estate tax revenue, more than is being generated by the lot as it currently exists. No significant demand will be placed on municipal services beyond those of other residential properties in Town. He saw no possibility of hazard, congestion or environmental degradation occurring as a

result of this project. He alleged that there is currently little traffic on Winslow Street as it is partially one-way heading away from Town and its northeast side is a ball field and a cemetery. He asserted that Winslow Street will be able to handle the traffic from an 11 dwelling unit development. He reiterated that the applicant is not seeking relief and the proposal is in full compliance with all Zoning By-Law requirements. In addition, the Board of Fire Engineers has given its approval of the plans with the cul-de-sac. Attorney Murphy also stated that the applicant is willing to work with the neighbors to insure that privacy to the greatest extent is provided and to address any other issues they may have about the project. Mr. Cook reviewed the architectural plans. Mr. Rogers clarified that the 25' radius required at the entrance to the development is only required for subdivisions. There is a 12' radius on the pavement going into Winslow Street, which is more than acceptable in his experience in Provincetown.

Russ Braun disclosed that he has a small financial relationship with one of the developers of the project, but that it would not affect any opinion that he may be required to offer.

**Public Comment:** Kevin Walsh, Patricia Benatti, Kathleen Meads, Patrick Flaherty and Richard Henrique all abutters, had concerns and clarifications about the project. Sheila Sheehan had a point of clarification regarding traffic on Winslow Street. There were 4 letters, 3 from abutters and 1 from a non-abutter, in support of the application and 12 letters, 11 from abutters and 1 from a non-abutter, in opposition to the application. There was 1 letter of concern about the project.

**Board Discussion:** The Board addressed the concerns of the neighbors, including the impact of the development on events held in the area which currently inconvenience the neighbors, such as the Pan Mass Challenge. The Board concluded that there is no affordable housing element required of the project. The Board clarified that all of the dwelling units would not be built at the same time due to the requirements of the Growth Management By-Law. The rate at which they could be built cannot be determined as it depends upon what building projects will be proposed in the near future. The Board questioned Attorney Murphy about the privacy barrier proposed for the property and what the plan was for maintaining the integrity of the retaining wall on the site. Attorney Murphy said that the applicant would be responsible for that and would most likely post a bond in case the wall was damaged in any way. The Board discussed the density of the proposed dwelling units on the site and whether they were in the interest of the Town and the neighborhood or whether the development would end up creating more hazard, congestion or environmental degradation in the area. The sense of the Board was that the site was too small for the proposed number of units and that the project would negatively impact both the Town and the neighborhood. Attorney Murphy requested to withdraw without prejudice on behalf of his client. The Board briefly discussed whether or not to grant a withdrawal without prejudice

***Robert Littlefield moved to grant the request to withdraw Case #FY13-40 without prejudice, Amy Germain seconded for discussion purposes.***

The Board briefly discussed the motion.

*The motion was so voted, 4-1 (Amy Germain opposed).*

**FY13-54      173 Bradford Street (Residential 3 Zone), William N. Rogers, II, P.E., P.L.S., on behalf of Young's Court East Condominium –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-laws for the renovation of an existing structure including modifying existing dormers and creation of a roof deck up and along pre-existing, non-conforming setbacks. Harriet Gordon recused herself because of a conflict of interest. Vice Chair Robert Littlefield informed Attorney Murphy that there was only a four-member Board seated and asked how he would like to proceed. He replied that his client would like to be heard by a five-member Board and, to that end, would like to waive the time constraints and request that the case be postponed until the July 11, 2013 Public Hearing

***Robert Littlefield moved to grant the request to postpone Case #FY13-54 to the July 11, 2013 Public Hearing, Tom Roberts seconded.***

The Board discussed the motion and whether the application should be postponed given the number of times it has already been postponed or whether the application should be opened and heard by the Board.

**Public Comment:** An abutter to the project, George Libone, addressed the Board and objected to this, and previous, postponements and requested that he be heard on the matter notwithstanding the Attorney Murphy's request. Attorney Murphy stated that his client was not present because it was his understanding that there would only be four members available to sit on the case.

Vice Chair Robert Littlefield called for a vote on the motion.

***The motion was so voted, 3-1 (Amy Germain opposed).***

**NEW CASES:**

There was a request to take Case #FY13-83 out of order. ***Amy Germain moved to hear Case #FY13-83 out of order, Tom Roberts seconded and it was so voted, 5-0.***

**FY13-83      230 Commercial Street (Town Commercial Center Zone), John Niblock, d/b/a Hook Provincetown –**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of a mannequin with clothing and a shirt bin.

Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Leif Hamnquist sat on the case.

**Presentation:** John Niblock appeared before the Board.

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

**Board Discussion:** The Board had no questions for the applicant.

***Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of a mannequin with clothing and a shirt bin at the property located at 230 Commercial Street (TCC), Leif Hamnquist seconded and it was so voted, 5-0.***

**FY13-80      385 Commercial Street (Town Commercial Center Zone), Collette "Coco" Glaude of Ptown Scoop –**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of a sandwich/sign board and inflatable monkey. Leif Hamnquist recused himself because of a conflict of interest. Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case.

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

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

**Board Discussion:** The Board discussed whether the inflatable monkey should be allowed as part of the outside display and decided that it would not.

*Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of a sandwich/sign board only at the property located at 385 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 4-0.*

**FY13-81      427 Commercial Street (Town Commercial Center Zone), Jeff Lovinger of Lovinger Gallery –**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of an easel with two photographs. Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Leif Hamnquist sat on the case.

**Presentation:** The applicant did not appear. This is a renewal

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

**Board Discussion:** There was no discussion by the Board.

*Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of an easel with two photographs at the property located at 427 Commercial Street (TCC), Harriet Gordon seconded and it was so voted, 5-0.*

**FY13-82      214 Commercial Street (Town Commercial Center Zone), Jonathan Guevara of D. Flax, Inc. –**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of two baskets of clothing. Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Leif Hamnquist sat on the case.

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

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

**Board Discussion:** There was no discussion by the Board.

*Tom Roberts moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of two baskets of clothing at the property located at 214 Commercial Street (TCC), Harriet Gordon seconded and it was so voted, 5-0.*

**FY13-84      432 Commercial Street (Residential 3 Zone), Mary T. Feeley, Trustee of Hutson Gallery –**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the renewal of an outdoor exhibit case for the display of paintings or posters. Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Leif Hamnquist sat on the case.

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

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

**Board Discussion:** There was no discussion by the Board.

*Harriet Gordon moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the for the renewal of an outdoor exhibit case for the display of paintings or posters at the property located at 432 Commercial Street (Res 3), Tom Roberts seconded and it was so voted, 5-0.*

Vice Chair Robert Littlefield adjourned the Public Hearing at 9:45 P.M.

## **WORK SESSION**

Vice Chair Robert Littlefield reconvened the Work Session at 9:45 P.M. The Board signed documents and discussed its policy regarding case postponements. The Board came to the conclusion that each member should look at agendas when posted and let Maxine or the Chair know whether he or she will need to be recused from a particular case or be absent from a particular meeting.

**NEXT MEETING:** The next meeting will take place on July 11, 2013. It will consist of a Work Session at 6:45 P.M. followed by a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Amy Germain moved to adjourn at 10:30 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on July 11, 2013  
David M. Nicolau, Chair