

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
September 5, 2013**

MEETING HELD IN THE JUDGE WELSH ROOM

Members Present: Robert Littlefield, Amy Germain (arrived at 6:52 P.M.), Tom Roberts, Harriet Gordon, Joe Vasta and Jeffrey Haley.

Members Absent: David M. Nicolau (excused) and Leif Hamnquist (excused).

Others Present: Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Vice Chair Robert Littlefield called the Work Session to order at 6:30 P.M.

The Board discussed its decision in Case #FY14-11 concerning 158 Bradford Street. According to Vice Chair Robert Littlefield, there is a discrepancy between the motion that was made at the Public Hearing on August 1, 2013, the minute of that Hearing that were produced and the intent of the Board. Thus, the Board wants to administratively rescind its vote on the motion as originally made, make a new motion and vote on the motion. The intent of the Board was to grant a Special Permit based upon 8 guestrooms, 1 manager's bedroom and 1 bedroom deed-restricted to family use in the basement of the rear building.

Robert Littlefield moved that the vote at the previous meeting on 158 Bradford Street be rescinded for the purposes of replacing it with clarification language relative to condition A, which states that there shall be a deed restriction recorded against the subject property in favor of the Town that permanently restricts the use of the property as follows: There shall be no more than a total of nine units at the property, there shall be no more than eight commercial guest accommodation units and one manager's unit at the property, there shall be no more than ten bedrooms at the property and not more than eight of the ten bedrooms at the property shall be used for commercial guest accommodations, not more than two bedrooms shall be used for the manager's purposes, with one of the manager's bedrooms to be located in the front structure and one to be located in the basement of the rear structure at the property and with these two bedrooms strictly restricted to the personal use of the manager and the manager's family and no rental of these bedrooms shall be permitted. The Building Department shall confirm that the deed restriction has been duly recorded before any occupancy permit issues for the new rear cottage structure at the property, Tom Roberts seconded and it was so voted, 5-0.

The new motion:

Robert Littlefield moved to grant a Special Permit under Article 3, Sections 3110 and 3115 of

the Zoning By-Laws for the demolition and reconstruction of a lawful pre-existing, non-conforming structure, including changes to the footprint and an increase in scale requiring relief under Article 2, Section 2550 regarding side yard and building setbacks with no increase in the number of bedrooms or guest units with the following conditions: There shall be no more than a total of nine units at the property, there shall be no more than eight commercial guest accommodation units and one manager's unit at the property, there shall be no more than ten bedrooms at the property and not more than eight of the ten bedrooms at the property shall be used for commercial guest accommodations, not more than two bedrooms shall be used for the manager's purposes, with one of the manager's bedrooms to be located in the front structure and one located in the basement of the rear structure at the property and with these two bedrooms strictly restricted to the personal use of the manager and the manager's family and no rental of these bedrooms shall be permitted and the Building Department shall confirm that the deed restriction has been duly recorded before any occupancy permit issues for the new rear cottage structure at the property, Tom Roberts seconded and it was so voted, 5-0.

MINUTES: August 1, 2013 – *Tom Roberts moved to approve the language as amended, Robert Littlefield seconded and it was so voted, 5-0.*

PENDING DECISIONS:

FY14-11 **158 Bradford Street (Residential 3 Zone), Lester J. Murphy, Jr., Attorney, on behalf of 158 Bradford, LLC –**
David M. Nicolau, Robert Littlefield, Tom Roberts, Joe Vasta and Leif Hamnquist sat on the case. Robert Littlefield read the decision. *Joe Vasta moved to accept the language as amended, Tom Roberts seconded and it was so voted, 5-0.*

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 six members of the Zoning Board of Appeals present and two absent.

NEW CASES:

FY14-12 **214 Commercial Street (Town Commercial Center Zone), Christopher Stein –**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of patio furniture and accessories. The Board tabled this case as the applicant was not present.

FY14-13 **286 Commercial Street (Town Commercial Center Zone), Ronny Hazel –**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning

By-Laws for the outside display of two hanging chains with clothing. The Board postponed the case.

Amy Germain moved to postpone Case #FY14-13 until the September 19, 2013 Public Hearing, Harriet Gordon seconded and it was so voted, 5-0.

- FY14-14** **346 Commercial Street (Town Commercial Center Zone), Ronny Hazel –**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of two hanging chains/clothing rack with clothing and 8 baskets on the porch with accessory items. Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case.
Presentation: The applicant did not appear.
Public Comment: Albert McMeen spoke against the application and submitted a picture of the existing display that included 23 baskets and 2 clothing racks. There were no letters in the file.
Board Discussion: The Board would like to speak with the applicant to explain the discrepancy between the outside display request and the abutter's photograph. The Board continued the matter.
Amy Germain moved to continue Case #FY14-14 until the September 19, 2013 Public Hearing, Tom Roberts seconded and it was so voted, 5-0.

- FY14-15** **1 MacMillan Pier (Town Commercial Center Zone), Provincetown Public Pier Corporation –**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of a sandwich board located at the beginning of the Pier advertising artists at work, Local Unique Shops. Tom Roberts recused himself because of a conflict of interest. Robert Littlefield, Amy Germain, Harriet Gordon, Joe Vasta and Jeffrey Haley sat on the case.
Presentation: Rex McKinsey presented the application. Mr. McKinsey stated that the sign helps to increase foot traffic on the Pier and shields the Municipal Parking Lot from that area of the Pier.
Public Comment: None. There were no letters in the file.
Board Discussion: In response to a question about the size of the sandwich board, Mr. McKinsey responded that the sign measured 16" by 3'. The sandwich board is only present during the summer season.
Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of a sandwich board located at the beginning of the Pier advertising artists at work, Local Unique Shops at the property located at 1 MacMillan Pier (TCC), Harriet Gordon seconded and it was so voted, 5-0.

- FY14-16** **353-355 Commercial Street (Town Commercial Center Zone), Scott Cunningham of Scott Cakes –**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of a free-standing sandwich board advertising Scott Cakes. The Board tabled this case as the applicant was not present.

FY14-17 355 Commercial Street (Town Commercial Center Zone), Julie Grande, JCG, of Box Lunch –

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of a free-standing A-frame sandwich/menu board advertising the name of the establishment and breakfast and lunch. The Board tabled this case as the applicant was not present.

FY14-18 100 Alden Street (Residential 3 Zone), Seashore Point-Deaconess, Inc. –

The applicant seeks a Special Permit under Article 3, Section 3214 of the Zoning By-Laws for relief from the sign regulations to install a 6' x 8' sign to be affixed to the Alden Street side of the building advertising units for sale within the complex. Tom Roberts recused himself because of a conflict of interest. Robert Littlefield, Amy Germain, Harriet Gordon, Joe Vasta and Jeffrey Haley sat on the case.

Presentation: Ken Weiss presented the application. The applicant seeks to display the sign only for a short period of time. Half of the units being constructed have been sold already. The Cape Cod Commission suggested that the applicant post the sign in order to hasten the sale of the remaining units.

Public Comment: Norman Barry, Hilary Gambrill and Jeff Tagen, all abutters, spoke against the application. There was 1 letter from a resident of Seashore Point in favor of the application.

Board Discussion: Several Board members thought the sign was too large and supported the idea of imposing a time limit for the display of the sign. The Board questioned Mr. Weiss about the size of the sign.

Robert Littlefield moved to grant a Special Permit under Article 3, Section 3214 of the Zoning By-Laws for relief from the sign regulations to install a 6' x 8' sign to be affixed to the Alden Street side of the building advertising units for sale within the complex at the property located at 100 Alden Street (Res 3) with the restriction that the sign be removed no later than March 31, 2014, or an earlier date if all 100% of the units have been sold, Joe Vasta seconded and it was so voted, 4-1 (Amy Germain opposed). Joe Vasta will write the decision.

FY14-19 Corner of Commercial Street and Gosnold Street (Town Commercial Center Zone), John McDonagh on behalf of Pilgrim Monument & Provincetown Museum –

The applicant seeks a Special Permit and/or Variance under Article 3, Sections 3200, Sign Regulations, 3214, 3220, General Sign Regulations and 3221, Off Premises Advertising, of the Zoning By-Laws for relief from the sign regulations to install directional signs for pedestrian traffic, one 18" x 24" on the building located at 248 Commercial Street (Big Vin's Liquors) and one 18" x 24" on the building located at 252 Commercial Street (Adams Building). The applicant was not in attendance. The Board will table the case.

FY14-20 838 Commercial Street (Residential 1 Zone), Mariellen Serena –

The applicant seeks a Special Permit under Article 3, Sections 3110 and 3115 of the Zoning By-Laws to demolish and reconstruct a garage building making the

west side and front side setback less non-conforming. Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case.

Presentation: Mariellen Serena presented the application. The applicant seeks to demolish the existing structure and reconstruct a 2-car garage with a storage area above. The existing garage is in a dilapidated state and is therefore unusable. The garage is currently conforming on the north and east side and non-conforming on the west and south sides. After demolition, the garage will be rebuilt in a location that will make it more conforming on the south side setback, which will be increased from 12' to 21'. On the west side, the existing garage encroached on the lot line, however after re-construction, the setback will increase to 1'. Ms. Serena argued that the proposed garage will have no adverse affects, such as hazard, congestion or environmental degradation. The garage is located across the street from a development that includes houses with large garages and thus the proposed garage will not be more detrimental to the neighborhood.

Public Comment: None. There were 4 letters from abutters in favor and 2 letters from abutters in opposition to the application.

Board Discussion: The Board questioned Ms. Serena about a concern that was expressed in an opposition letter about the accuracy of the site plan. The Board discussed the building plans and whether they contained all of the necessary information required of an applicant. Also discussed was whether the proposed garage was substantially more detrimental to the neighborhood given the large increase in size requested by the applicant. The Board had concerns and questions for the Building Commissioner related to the property. The Board discussed how to move forward, including giving the applicant the choice of continuing to the next meeting and revising her plans to show a smaller structure, proceeding to a vote or continuing until its questions were answered by the Building Commissioner.

Robert Littlefield moved to continue Case #FY14-20 until the September 19, 2013 Public Hearing and ask that the Building Commissioner be in attendance to answer questions regarding this matter, Harriet Gordon seconded and it was so voted, 5-0.

FY14-19 Corner of Commercial Street and Gosnold Street (Town Commercial Center Zone), John McDonagh on behalf of Pilgrim Monument & Provincetown Museum –

The applicant seeks a Special Permit and/or Variance under Article 3, Sections 3200, Sign Regulations, 3214, 3220, General Sign Regulations and 3221, Off Premises Advertising, of the Zoning By-Laws for relief from the sign regulations to install directional signs for pedestrian traffic, one 18" x 24" on the building located at 248 Commercial Street (Big Vin's Liquors) and one 18" x 24" on the building located at 252 Commercial Street (Adams Building). There has been a request to withdraw this case. *Amy Germain moved to grant the request to withdraw Case #FY14-19, Harriet Gordon seconded and it was so voted, 5-0.*

- FY14-16** **353-355 Commercial Street (*Town Commercial Center Zone*), Scott Cunningham of Scott Cakes –**
 The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of a free-standing sandwich board advertising Scott Cakes.
- FY14-17** **355 Commercial Street (*Town Commercial Center Zone*), Julie Grande, JCG, of Box Lunch –**
 The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of a free-standing A-frame sandwich/menu board advertising the name of the establishment and breakfast and lunch.
Amy Germain moved to postpone Cases #FY14-16 and #FY14-17 until the September 19, 2013 Public Hearing, Tom Roberts seconded and it was so voted, 4-1 (Robert Littlefield opposed).

Vice Chair Robert Littlefield adjourned the Public Hearing at 8:50 P.M.

Amy Germain left at 8:52 P.M.

WORK SESSION

Vice Chair Robert Littlefield reconvened the Work Session at 8:50 P.M.

PENDING DECISIONS:

- FY14-08** **7 Commercial Street, #1 (*Residential 1 Zone*), Scott William Grady, Architect, Inc., on behalf of Todd Elmore –**
 Robert Littlefield, Tom Roberts, Harriet Gordon, Joe Vasta and Leif Hamnquist sat on the case. Harriet Gordon read the decision. *Robert Littlefield moved to approve the language as written, Tom Roberts seconded and it was so voted, 4-0.*

Jeffrey Haley left at 9:00 P.M.

- FY14-06** **410 Commercial Street (*Residential 3 Zone*), Brian O'Malley, Trustee for the Ralley Trust –**
 David M. Nicolau, Robert Littlefield, Tom Roberts, Joe Vasta and Leif Hamnquist sat on the case. Tom Roberts read the decision. *Robert Littlefield moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0.*
- FY14-07** **942 Commercial Street (*Residential 1 Zone*), Gregory Delory –**
 David M. Nicolau, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. Robert Littlefield read the decision. *Joe Vasta moved to approve the language as written, Tom Roberts seconded and it was so voted, 4-0.*

Vice Chair Robert Littlefield adjourned the Public Hearing at 9:30 P.M.

NEXT MEETING: The next meeting will take place on September 19, 2013. It will consist of a Work Session at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Tom Roberts moved to adjourn at 9:45 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on September 19, 2013
David M. Nicolau, Chair