

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
October 17, 2013**

MEETING HELD IN THE JUDGE WELSH ROOM

Members Present: David M. Nicolau, Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Jeffrey Haley.

Members Absent: Joe Vasta (excused) and Leif Hamnquist (excused).

Others Present: Gloria McPherson (Town Planner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair David M. Nicolau called the Work Session to order at 6:30 P.M. He introduced the new Town Planner, Gloria McPherson.

PENDING DECISIONS:

- FY 14-22** **133 Commercial Street (*Town Commercial Center Zone*), Audrey Mostaghim on behalf of Diarmuid O’Neil –**
David M. Nicolau, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case. Amy Germain read the decision. *Tom Roberts moved to approve the language as amended, Jeff Haley seconded and it was so voted, 5-0.*
- FY14-23** **292 Bradford Street (*Residential 3/Residential 1 Zones*), William N. Rogers, II P.E. & P.L.S. on behalf of Jonathan Sinaiko –**
Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. Robert Littlefield read the decision. *Amy Germain moved to approve the language as written, Tom Roberts seconded and it was so voted, 5-0.*
- FY14-24** **8 Washington Avenue (*Residential 3 Zone*), Scott William Grady, Architect, on behalf of Matt Marcotte –**
David M. Nicolau, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case. Robert Littlefield read the decision. *Tom Roberts moved to approve the language as written, Amy Germain seconded and it was so voted, 5-0.*

Chair David M. Nicolau postponed the Work Session at 7:00 P.M.

PUBLIC HEARING

Chair David M. Nicolau 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:

FY14-25 698 Commercial Street (*Residential 1 Zone*), Christopher J. Snow, Esq. on behalf of 698 Commercial Street Realty, LLC –

The applicant seeks the renewal of a Special Permit under Article 2, Section 2460 for Entertainment for a period of three years. David M. Nicolau, Robert Littlefield, Amy Germain, Tom Roberts and Jeff Haley sat on the case.

Presentation: Attorney Ron Friese and Michael Doherty, General Manager of the Harbor Hotel, presented the application. Attorney Friese stated that this was a renewal of an entertainment Special Permit. The original Special Permit was granted in 2001 and renewed last year for a one-year period. The entertainment will remain the same, consisting of movies, pool-playing, karaoke, dancing and live entertainment, including shows and amplified music. He reiterated the reasoning behind the previous Special Permit decision in that the benefits to the Town and the neighborhood outweigh any adverse affects. The applicant is willing to conform to the same conditions as set forth in the previous decision. The Police Department has not received any noise complaints from anyone regarding the Harbor Hotel in the last year.

Public Comment: Bruce Bruen inquired about the three-year period requested by the applicant. There was 1 letter in favor of the application and 1 letter in opposition to the applicant and 2 letters of concern.

Board Discussion: The Board discussed the conditions of the previous Special Permit. The Board questioned Mr. Doherty about music in the pool area. It requested that any music playing at the pool cabana cease at 7:00 P.M.

Amy Germain moved to grant the renewal of a Special Permit under Article 2, Section 2460 for Entertainment for a period of three years at the property located at 698 Commercial Street (Res 1) with the following conditions:

- *the special permit shall lapse 12 months following grant thereof (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17) if a substantial use thereof or construction has not sooner commenced except for good cause as determined by the Board of Appeals;*
- *the special permit shall expire on January 2, 2017;*
- *live entertainment, including amplified music and theatrical shows, is to be located entirely within the building as shown on the revised plan AO.3, drawn by Utile Architecture;*
- *all doors and windows will remain closed during the hours when live entertainment, including amplified music and theatrical shows, is provided;*
- *no outdoor entertainment will be allowed;*

- *no outdoor music will be allowed after 7:00 P.M.*
- *the word 'entire' will be deleted from the revised plan AO.3, dated 8/4/11, drawn by Landworks Studio, Inc.; and*
- *security will be provided during live entertainment, including amplified music and theatrical shows.*

Tom Roberts seconded and it was so voted, 5-0. Amy Germain will write the decision.

Chair David M. Nicolau adjourned the Public Hearing at 7:25 P.M.

WORK SESSION

Chair David M. Nicolau reconvened the Work Session at 7:30 P.M.

MINUTES: October 3, 2013 – *Amy Germain moved to approve the language as written, Tom Roberts seconded and it was so voted, 7-0.*

The Board discussed the e-mail from Town Clerk Doug Johnstone asking for input on revisions to the Town Charter. He would like comments by November 10th. Several of the Board members were not going to be at the next Hearing on the 6th, so David Nicolau asked Maxine Notaro if the Board could submit comments to Mr. Johnstone after the Hearing on the 21st. Amy Germain suggested that the Board read the Charter and make notes for discussion at the next Work Session. Mr. Nicolau asked the Board to send comments to Ms. Notaro, who can then distribute them to the remainder of the Board members before the Work Session on the 21st.

Ms. Germain brought up the topic of enforcement of outside displays, as there are several establishments who are currently in violation of their Special Permits, specifically the businesses located at 349 and 214 Commercial Street. Mr. Nicolau urged Board members to report any violations they might observe. He asked that the Building Commissioner investigate any violation issues and report back to the Board.

Ms. Germain also has a concern about the proliferation of sandwich boards and flags. Mr. Nicolau reminded the Board that it was an adjudicatory body and that it would have to be the Planning Board that would have the authority to look into those by-laws. The Board discussed the issue. Ms. Germain suggested that the Board ask the Planning Board to look at the by-laws related to outdoor displays, signs and flags.

Amy Germain moved to request that the Planning Board look at the by-laws regarding signs, sandwich boards, outdoor displays and flags, Robert Littlefield seconded and it was so voted, 6-0.

NEXT MEETING: The next meeting will take place on November 7, 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 7:45 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on November 7, 2013
David M. Nicolau, Chair