

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
October 3, 2013**

**MEETING HELD IN THE JUDGE WELSH ROOM**

**Members Present:** David M. Nicolau (left at 8:05 P.M.), Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon, Joe Vasta and Jeffrey Haley.

**Members Absent:** Leif Hamnquist (excused).

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

**WORK SESSION**

Chair David M. Nicolau called the Work Session to order at 6:47 P.M.

**MINUTES: September 19, 2013** – *Amy Germain moved to approve the language as written, Tom Roberts seconded and it was so voted, 7-0.*

Chair David M. Nicolau adjourned the Work Session at 6:50 P.M.

**PUBLIC HEARING**

Chair David M. Nicolau called the Public Hearing to order at 7:00 P.M. There were seven members of the Zoning Board of Appeals present and one absent.

**POSTPONED 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. Robert Littlefield recused himself because of a conflict of interest. David M. Nicolau, Amy Germain, Tom Roberts, Harriet Gordon and Joe Vasta  
**Presentation:** Chris Stein presented the application. He seeks to display small garden furniture and home décor items.  
**Public Comment:** None. There were no letters in the file.  
**Board Discussion:** The Board requested that a new photo of the proposed outside display be submitted and that the outdoor display not go beyond the stoop of the applicant's establishment, as the concern was that too many items were

encroaching into the sidewalk area.

*Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of up to eight items of patio furniture and accessories to be placed in front of the store, not to go beyond the landing or the width of the building, and which will run in perpetuity as long as the applicant's business occupies the space at the property located at 214 Commercial Street (TCC), Joe Vasta seconded and it was so voted, 5-0.*

Chair David M. Nicolau announced that the Board will hear Case #FY14-22, followed by Case #FY14-24 out of the order of the published agenda. Case #FY14-23 will be heard last. *Amy Germain moved to hear Case #FY14-23 out of order, after Case #FY14-24, Joe Vasta seconded and it was so voted, 5-0.*

## **NEW CASES:**

### **FY 14-22 133 Commercial Street (Town Commercial Center Zone), Audrey Mostaghim on behalf of Diarmuid O'Neil –**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to make changes to an existing restaurant seating plan. David M. Nicolau, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case.

**Presentation:** Attorney Christopher J. Snow and Diarmuid O'Neil presented the application. The applicant seeks permission for less seating, by approximately 20 seats. According to Attorney Snow, any change in seating requires, as a formality, the affirmation of the Board.

**Public Comment:** Keith Stone and Michael Pontiakowski, both abutters, spoke in favor of the application, but had concerns about noise and the increase in the number of bar stools. There were no letters in the file.

**Board Discussion:** The Board had concerns about the change in the number of bar seats and the possible generation of additional noise and other problems that may be associated with that increase. Attorney Snow stated that the bar had been designed to accommodate single diners, for which there was a need in Town, according to the applicant. When asked what hours of service he was requesting, the applicant responded 11:00 A.M. to 1:00 A.M. The Board requested that windows and doors be closed at all times and that no live music be allowed.

*Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to make changes to an existing restaurant seating plan to a 66 seat bar/restaurant at the property located at 133 Commercial Street (TCC) with the conditions that windows and doors be closed at all times, that no live music be allowed and that the Special Permit expire on 01/02/15, Robert Littlefield seconded and it was so voted, 5-0. Amy Germain will write the decision.*

### **FY14-24 8 Washington Avenue (Residential 3 Zone), Scott William Grady, Architect, on behalf of Matt Marcotte –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a small addition to the existing three-season porch up and

along pre-existing, non-conforming setbacks. Harriet Gordon recused herself because of a conflict of interest. David M. Nicolau, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case.

**Presentation:** Scott William Grady presented the application. The applicant seeks to add a small bay window/addition to the front elevation of the house. The front and side setbacks are non-conforming. The bay window will be put in a niche that does not violate the front, or east, setback, but will make a modest intrusion into the side, or north, setback. The house encroaches about 5' into the north setback and the proposed bay will encroach about 2' into that setback. The proposed addition measures 7' wide by 3'5' deep. The bay will not protrude into the parking area. Mr. Grady explained that the proposed bump-out had a functional purpose, as the access from the kitchen area into the porch area is severely hampered.

**Public Comment:** None. There were 2 letters against the application.

**Board Discussion:** The Board questioned Mr. Grady about the project. Chair David M. Nicolau pointed out that the structure is pre-existing, non-conforming as to lot coverage and the proposed addition will result in a slight increase in lot coverage, so the Board will need to decide whether the change is substantially more detrimental to the neighborhood than what exists. After some discussion with Mr. Grady, the consensus of the Board was that the proposed change was not substantially more detrimental than what existed.

**Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a small addition to the existing three-season porch up and along pre-existing, non-conforming setbacks at the property located at 8 Washington Avenue (Res 3), Joe Vasta seconded and it was so voted, 5-0.** Robert Littlefield will write the decision.

**FY14-23      292 Bradford Street (Residential 3/Residential 1 Zones), William N. Rogers, II P.E. & P.L.S. on behalf of Jonathan Sinaiko –**

The applicant seeks a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale for the construction of a one-story addition at ground level. David M. Nicolau recused himself because of a conflict of interest. Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case.

**Presentation:** Gary Locke and Jon Sinaiko presented the application. The applicant seeks to construct a one-story addition at ground level. The applicant seeks relief for the scale of the proposed addition of a bedroom and small living area on the first floor. The existing scale is 14,676 cu. ft. and the proposed addition is 13,030 cu. ft., for a total of 27,706 cu. ft. The neighborhood average is 8,626 cu. ft. and the maximum allowable scale is 10,782 cu. ft.

**Public Comment:** None. There were 2 letters against the application.

**Board Discussion:** The Board decided that the proposed addition successfully integrates into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural light to, or views from, neighboring structures.

**Robert Littlefield moved to grant a Special Permit under Article 2, Section 2640**

*of the Zoning By-Laws for a deviation in building scale for the construction of a one-story addition at ground level at the property located at 292 Bradford Street (Res 1/Res 3), Harriet Gordon seconded and it was so voted, 5-0.*

Robert Littlefield will write the decision.

The Board discussed that, in the future, any proposed seating plans submitted are required to be to scale.

**NEXT MEETING:** The next meeting will take place on October 17, 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 8:20 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on October 17, 2013  
David M. Nicolau, Chair