

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
December 19, 2013**

MEETING HELD IN THE JUDGE WELSH ROOM

Members Present: Robert Littlefield, Amy Germain, Joe Vasta and Jeffrey Haley.

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

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

WORK SESSION

Acting Chair Robert Littlefield called the Work Session to order at 6:45 P.M.

MINUTES: December 5, 2013 – *Joe Vasta moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 3-0.*

PENDING DECISIONS:

FY14-27 **674A Commercial Street (*Residential 1 Zone*), Brad Locke Development, Inc. on behalf of Elizabeth Reid –**

Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. The applicant has submitted a Non-Conforming Checklist.

FY14-29 **168 Commercial Street (*Town Commercial Center Zone*), Michael McIntyre –**
Robert Littlefield, Harriet Gordon, Joe Vasta and Leif Hamnquist sat on the case. Robert Littlefield read the decision. *Joe Vasta moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 3-0-1 (Amy Germain abstaining).*

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

PUBLIC HEARING

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

POSTPONED CASES:

FY14-28 664R Commercial Street (*Residential 3 Zone*), Brad Locke Development, Inc. on behalf of Basil P. Santos et ux –

The applicant seeks a Special Permit under Article 2, Sections 2440, footnote 8 and Section 2640 of the Zoning By-Laws for the construction of more than six dwelling units on a lot and for a deviation in building scale. This case has been postponed until the February 6, 2014 Public Hearing.

FY14-32 9 Telegraph Hill (*Residential 1 Zone*), Deborah Paine, Inc. on behalf of John R. Lamb –

The applicant seeks a Special Permit under Article 2, Section 2640E of the Zoning By-Laws to remove an existing deck and construct an 18'6" x 21'6" addition with a flat roof/roof deck above on the south elevation; construct a new deck on the south elevation with stairs down to grade and stairs up to the roof deck; modify the existing dormers on the south side of the roof from hip roof dormers to gable roof dormers; push out the front face of the dormers slightly and add a door to the southwest dormer for access to the roof deck; connect the existing dormers on the south side of the roof with a new shed dormer to allow for more windows on the second floor; and modify the existing dormers on the north side of the roof from hip roof dormers to gable roof dormers. There was a request from the applicant to postpone until the January 9, 2014 Public Hearing. *Amy Germain moved to approve the request to postpone Case #FY14-32 until the January 9, 2014 Public Hearing, Joe Vasta seconded and it was so voted, 4-0.*

The Board discussed the quorum issues related to this case.

NEW CASE:

FY14-33 334 Commercial Street (*Town Commercial Center Zone*), Peter and Ann Okun, Broken Wheel Farm, LLC, d/b/a Purple Feather Café –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the renewal of Special Permit FY13-32 for the service of wine, malt and cordials to patrons for indoor consumption, and to modify the application to allow the service of wine, malt and cordials on the enclosed outdoor patio area. Vice Chair Robert Littlefield informed the applicants, Peter and Ann Okun, that there were only four Board members available to sit on the case. The applicants, needing a unanimous vote in order to be granted a Special Permit, could choose to continue until a five-member Board could be seated or to proceed with a four members. The applicants chose to proceed. Robert Littlefield, Amy Germain, Joe Vasta and Jeffrey Haley sat on the case.

Presentation: Peter and Ann Okun presented the application. The applicants seek to renew their Special Permit for the service of alcohol and to extend the area for the service of alcohol to their enclosed outdoor patio. According to Mr. Okun, the establishment has not experienced any problems controlling the sale or service of alcohol to customers. He has discussed the ABCC guidelines regarding outdoor service of alcohol with the Licensing Agent. The patio at the property complies with all the guidelines, as it is a controlled area and is fenced in from preventing

patrons and non-patrons from wandering in or out. It is visible to staff indoors through large windows and is contiguous to the property with sufficient exits in case of an emergency. In addition, food is served on the patio as is preferred by the ABCC. Signs will be placed in conspicuous places stating that the removal of alcohol is prohibited. Most patrons will be served by wait staff and have a tab. Since staff is held responsible for unpaid bills or missing glassware, they will have an incentive to keep an eye on customers who attempt to walk out without paying their bill or stealing property.

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

Board Discussion: The Board discussed and questioned Mr. Okun about the outdoor patio area and its adequacy as a barrier to prevent patrons from leaving the premises. It discussed the conditions placed on last year's Special Permit and what conditions should be imposed on the current Special Permit.

Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the renewal of Special Permit FY13-32 for the service of wine, malt and cordials to patrons for indoor consumption, and to modify the application to allow the service of wine, malt and cordials on the enclosed outdoor patio area at the property located at 334 Commercial Street (TCC) with the following conditions: that the Special Permit expires on January 2, 2017 and that it runs with the applicants; that beverages containing alcohol are to be consumed on the property; and that the applicants will install all necessary and sufficient controls to prevent alcoholic beverages from being removed from the property, including but not limited to, placing signage at the cash registers and all exits stating that no alcohol is to be taken off the premises, Jeffrey Haley seconded and it was so voted, 4-0. Amy Germain will write the decision.

FY14-34 50 Commercial Street (Residential 2, Zone), David High –

The applicant seeks a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale to construct an 8.5' x 21' addition to the west elevation and to add two doghouse dormers. A quorum was not present to hear the case. Tom Fitzgerald, a contractor representing Mr. High, discussed his options with the Board. Maxine will call Mr. High and explain his options for moving forward. *Amy Germain moved to grant the request to postpone Case #FY14-34 until the January 9, 2014 Public Hearing, Joe Vasta seconded and it was so voted, 4-0.*

FY14-35 106 Bradford Street (Residential 3 Zone), Andrew Pollock –

The applicant seeks a Special Permit under Article 2, Section 2440, E3f and Article 3, Section 3420 of the Zoning By-Laws to operate a seasonal outdoor Farmer's Market at the Bas Relief subject to dates approved by the Board of Selectmen. There was a request to postpone this case until January 23, 2014 as the Board of Selectmen is reconsidering their approval of the location. *Amy Germain moved to grant the request to postpone Case #FY14-35 until the January 23, 2014 Public Hearing, Joe Vasta seconded and it was so voted, 4-0.*

FY14-36 15 Commercial Street (Residential 1 Zone), David L. Silva on behalf of the Red Inn –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the renewal of their indoor entertainment license for a Sunday Jazz Brunch from Memorial Day weekend to Columbus Day weekend from 11:00 A.M. to 2:00 P.M. and to extend the time period from Memorial Day weekend through the New Year (January 1st) with hours of operation from 11:00 A.M. to 5:00 P.M. There was a request to postpone this case until the January 9, 2014 Public Hearing. *Joe Vasta moved to grant the request to postpone Case #FY14-36 to the January 9, 2014 Public Hearing, Jeffrey Haley seconded and it was so voted, 4-0.*

Vice Chair Robert Littlefield adjourned the Public Hearing at 7:43 P.M.

WORK SESSION

Vice Chair Robert Littlefield reconvened the Work Session at 7:43 P.M.

The Board discussed constructive grants with Russ Braun. He suggested that the Board meet with Attorney Ilana Quirk to review that topic. He will follow up on the issue.

The Board discussed the 2014 schedule and made revisions. *Amy Germain moved to approve the 2014 ZBA schedule, Joe Vasta seconded and it was so voted, 4-0.*

NEXT MEETING: The next meeting will take place on January 9, 2014. 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 8:00 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on January 9, 2014
David M. Nicolau, Chair