

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

**MEETING HELD IN THE JUDGE WELSH ROOM**

**Members Present:** David M. Nicolau (departed at 7:03 P.M.), Robert Littlefield, Harriet Gordon, Joe Vasta and Leif Hamnquist.

**Members Absent:** Amy Germain (excused), Tom Roberts (resigned) and Jeffrey Haley (excused).

**Others Present:** Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

Chair David M. Nicolau called the Work Session to order at 6:31 P.M.

**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 neither submitted a Non-Conforming Checklist nor dated the plans as requested by the Board. *Robert Littlefield moved to postpone the approval of the decision for Case #FY14-27 until the December 19, 2013 Public Hearing, Joe Vasta seconded and it was so voted, 5-0.*
- FY14-31**      **284 Commercial Street (*Town Commercial Center Zone*), William N. Rogers, II, P.E., P.L.S., on behalf of Edward Fallas –**  
David M. Nicolau, Amy Germain, Tom Roberts, Leif Hamnquist and Jeffrey Haley sat on the case. David M. Nicolau read the decision. *Harriet Gordon moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).* The Board decided not to file the decision until the dated and signed plans are submitted per its request.
- FY14-30**      **303 Commercial Street (*Town Commercial Center Zone*), John Drago of Timtanman Corp., dba Post Office Café –**  
Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. Robert Littlefield read the decision. *Harriet Gordon moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0-1 (Leif Hamnquist abstaining).*

**MINUTES: November 7, 2013 – Harriet Gordon moved to approve the language as written, Leif Hamnquist seconded and it was so voted, 5-0.**  
**November 21, 2013 – Harriet Gordon moved to approve the language as written, Leif Hamnquist seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).**

Chair David M. Nicolau adjourned the Work Session to order at 6:56 P.M.

## **PUBLIC HEARING**

Chair David M. Nicolau 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.

Robert Littlefield requested that the Board have a workshop when the new Zoning By-Laws are approved by the Attorney General. The Board agreed to appoint Leif Hamnquist as a permanent member to the seat vacated by Tom Roberts. It is subject to the approval of the Board of Selectmen.

### **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 December 19, 2013 Public Hearing. ***Robert Littlefield moved to approve the request to postpone Case #FY14-32 until the December 19, 2013 Public Hearing, Joe Vasta seconded and it was so voted, 5-0.***

**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. There was a request from the applicant to postpone until the December 19, 2013 Public Hearing. *Robert Littlefield moved to approve the request to postpone Case #FY14-33 until the December 19, 2013 Public Hearing, Joe Vasta seconded and it was so voted, 5-0.*

**NEW CASE:**

**FY14-29**      **168 Commercial Street (Town Commercial Center Zone), Michael McIntyre –**  
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a dormer up and along a pre-existing, non-conforming setback; Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale; and Article 2, Section 2630 of the Zoning By-Laws for relief from dormering more than 50% of the rear roof. Vice Chair Robert Littlefield informed Gary Reinhardt, representing Michael McIntyre, and informed him that there were only four Board members available to sit on the case. The applicant, 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. Mr. Reinhardt chose to proceed. Robert Littlefield, Harriet Gordon, Joe Vasta and Leif Hamnquist sat on the case.  
**Presentation:** Gary Reinhardt appeared to discuss the application and submitted a Non-Conforming Checklist. The third floor is a small, summer rental. The applicant seeks to increase the habitable space in the structure so he can live in it year round. The dormer on the rear on the east side of the structure has been made smaller per the request of the Historic District Commission. A sliver of the new dormer will be within the existing setback, but will not create any new non-conformancies. The streetscape of Commercial Street in this area is comprised of both large and small structures. The existing scale of the structure is 28,174 cu. ft., the neighborhood average is 23,703 cu. ft. and the maximum allowable scale without a Special Permit is 27,258 cu. ft. The addition will add 2,211 cu. ft. for a total of 30,385 cu. ft. The integrity of the neighborhood will not be compromised because the dormer is located in the rear of the building. The roofline of the building is split into two and the rear roofline is lower than the front roofline. While the proposed dormer is small in comparison to the length of the entire roof, it is 50% of the rear roof. Mr. Reinhardt argued that the benefits of the project outweigh any adverse effects. The social benefits will be that the proposed project will allow this unit to become a year round dwelling unit, enhancing the vibrancy and character of the Town and neighborhood. Economically, the larger structure will trigger a re-evaluation by the Assessor and result in an increase in property taxes. He contended that there will be no adverse effects as a result of the project. The project is in keeping with the intent of the Local Comprehensive Plan; Section 1.2, Goal 1, Policy B, Section 5.2, Goal 1, Policy E and Goal 7. As to

scale by-law, the project 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, of views from, neighboring structures. The mass of the proposed dormer will not be visible from the streetscape. The addition is located in the Historic District and is consistent with the HDC guidelines and the deviation will further the purpose and intent of the by-law. Mr. Reinhardt argued, pursuant to Section 2630, that there is no disruption to the character of the neighborhood because the proposed dormer is located in the back of the structure.

**Public Comment:** None. There were 10 letters in support of the application.

**Board Discussion:** The Board briefly questioned Mr. Reinhardt.

*Harriet Gordon moved to approve a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a dormer up and along a pre-existing, non-conforming setback; Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale; and Article 2, Section 2630 of the Zoning By-Laws for relief from dormering more than 50% of the rear roof at the property located at 168 Commercial Street (TCC), Joe Vasta seconded and it was so voted, 4-0. Robert Littlefield will write the decision.*

**NEXT MEETING:** The next meeting will take place on December 19, 2013. It will consist of a Work Session at 6:45 P.M. followed by a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Harriet Gordon moved to adjourn at 7:30 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on December 19, 2013  
David M. Nicolau, Chair