

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
May 21, 2015**

**Members Present:** David M. Nicolau, Robert Littlefield, Amy Germain (arrived at 7:03 P.M.), Joe Vasta, Jeffrey Haley (left at 7:15 P.M.), Peter Page (arrived at 7:09 P.M.) and Bryan Armstrong.

**Members Absent:** Rob Anderson (unexcused).

**Others Present:** Gloria McPherson (Town Planner) and Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

Chair David Nicolau called the Work Session to order at 6:45 P.M.

**MINUTES: May 7, 2015 – Robert Littlefield moved to approve the language as written, Bryan Armstrong seconded and it was so voted, 5-0.**

**PENDING DECISIONS:**

**FY15-64 Kevin A. Bazarian of B+C Construction on behalf of Lyn Plummer –** Robert Littlefield, Joe Vasta, Peter Page and Rob Anderson 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.*

**FY15-66 166 Commercial Street (Town Commercial Center Zone), Christopher Fiset on behalf of Four Bays, Inc., dba Queen Vic Guest House –** Robert Littlefield, Joe Vasta, Peter Page, Rob Anderson and Bryan Armstrong sat on the case. Robert Littlefield read the decision. *Joe Vasta moved to accept the language as written, Bryan Armstrong seconded and it was so voted, 4-0-1 (David M. Nicolau abstaining).*

**FY15-69 1 MacMillan Wharf (Town Commercial Center Zone/Harbor Overlay Zone), Provincetown Public Pier Corporation –** David M. Nicolau, Robert Littlefield, Joe Vasta, Peter Page and Rob Anderson sat on the case. The decision will be read at the next ZBA Hearing.

Chair David M. Nicolau postponed the Work Session at 6:58 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 present and three absent.

Chair David M. Nicolau recused himself from the next two matters. Vice Chair Robert Littlefield chaired the hearing.

### PUBLIC HEARINGS:

**FY15-68      294 Bradford Street (Residential 3 Zone), Notice of Appeal by Jonathan Sinaiko –**

Mr. Sinaiko seeks to appeal a decision of the Building Commissioner as specified under M.G.L. Chapter 40A, Section 15, regarding Building Permit #15-BPR-00260, which he believes to be in violation of Article 2, Section 2640, Building Scale, of the Zoning By-Laws. There was a request from the Special Permit holder to postpone the matter until the June 18, 2015 Public Hearing. *Jeffrey Haley moved to postpone Case #FY15-68 until the June 18, 2015 Public Hearing, Joe Vasta seconded and it was so voted, 5-0.* There also a request for a waiver of the time constraints. *Jeffrey Haley moved to waive the time constraints for Case #FY15-68, Joe Vasta seconded and it was so voted, 5-0.*

Vice Chair Robert Littlefield announced that the Board would take Case #FY15-72 out of order. *Jeffrey Haley moved to take Case #FY15-72 out of order, Joe Vasta seconded and it was so voted, 5-0.*

**FY15-72      29 Conant Street (Residential 3 Zone), DKR Developers –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale of the Zoning By-Laws to construct an addition on the rear of the structure and new egress stairs. Robert Littlefield, Amy Germain, Joe Vasta, Jeffrey Haley and Bryan Armstrong sat on the case.

**Presentation:** Roxane Pratten and Kay McFadden appeared to present the application. The applicant had been granted a Special Permit in December to put a small addition on the rear of the property. It was subsequently discovered that the addition was going to be placed too close to an existing septic system. The plans were revised and the small addition was relocated 6.5' away from the septic system. The applicant is seeking approval for the new location. The addition that was approved was 1' larger because the connector building had to be reduced by 1', from 10' by 10' to 10' by 9'. Clearance was needed on the east side and between the septic distribution box and the addition. All the setbacks are still conforming.

**Public Comment:** None. There was 1 letter in favor of the application.

**Board Discussion:** The Board questioned Ms. Pratten and Ms. McFadden. *Jeffrey Haley moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale of the Zoning By-Laws to construct an addition on the*

*rear of the structure and new egress stairs at the property located at 29 Conant Street (Res 3), Joe Vasta seconded and it was so voted, 5-0. Joe Vasta will write the decision.*

**FY15-57      143 Commercial Street (Town Commercial Center Zone), Sean A. Curran on behalf of Nicolas G. Tagaris –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2310, Harborfront Regulation, Article 2, Section 2550, Multiple Buildings Per Lot, Article 3, Section 3110, Change, Extension or Alteration, and Article 3, Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to allow the demolition and reconstruction of two existing cottages and to combine the two residential structures into one new principle residential structure with a change in footprint on a non-conforming lot and continue the use of a deck beyond the 195' Harborfront setback.

**FY15-58      143 Commercial Street (Town Commercial Center Zone), Sean A. Curran on behalf of Nicolas G. Tagaris –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws for the construction of a new residential structure outside of the district's setbacks to replace a structure that was demolished 14 years ago. David M. Nicolau, Robert Littlefield, Joe Vasta, Peter Page and Bryan Armstrong sat on both cases.

**Presentation:** Attorney Lester J. Murphy, Sean Curran and George Tagaris appeared to discuss the project. The applicant submitted revised plans. Attorney Murphy stated that the dormers were removed from the front building. The scale of the front building, which was previously proposed at 28,555 cu. ft., had been revised to 26,415 cu. ft. Mr. Curran said that the intent in the design of the front building was to recreate the structure that used to stand on the lot. The maximum allowed scale in the neighborhood was 21,577 cu. ft. and the new proposed scale, minus the dormers, was 26,415 cu. ft., 5,400 cu. ft. of which was due to a deck in the rear of the building, which will not contribute to the mass of the building as viewed from the streetscape. Without the deck included in the scale figure, the scale of the building would only be 21,015 cu. ft., which was below the maximum allowed neighborhood average. In addition, the structure without the dormers will be more true to the original building.

Attorney Murphy said that in his previous presentation he had mistakenly stated that the size of the rear structure was being increased from about 500 sq. ft. to about 2000 sq. ft. After some recalculation, the size of the existing structures was found to be only 1200 sq. ft. If the two structures were to be connected by a minimum connector, the scale would be 11,985 cu. ft. The proposed scale of the new structure would be 18,565 cu. ft. The applicant submitted a picture of the waterside structures in the neighborhood with their corresponding scales for comparison. The average scale of those structures was 24,468 cu. ft. and the applicant was proposing a structure with a scale of 18,565 cu. ft. Mr. Curran argued that with the increase in size of the rear structure and the addition of a half

story, everything was proportional with the abutting beach structures shown in the picture and would be in keeping with the spirit of the two existing separate cottages. He argued that the single structure would not be more detrimental than the existing structures on the beach in that neighborhood. He added that he and the applicant had worked to use design elements and materials on the exterior of the building that would lessen its mass and visual impact from the street.

**Public Comment:** Barbara Fortier, an abutter, said that she did not have the chance to look at the new plans and hoped that the Board would take that into consideration. Rick Murray spoke in favor of the application.

**Board Discussion:** The Board was not prepared to vote on the application, as the revised plans had just been submitted and the Board had not had time to review them. The Board proposed holding a meeting on June 2<sup>nd</sup> in order to continue discussion of the project. The Board questioned Attorney Murphy, Mr. Curran and Mr. Tagaris. The Board was still concerned about the proposed size of the rear structure and noted that the applicant had made no attempt to reduce its size as it had requested. The Board was of the opinion that the size of the proposed rear structure was about the same as many principal structures on other lots in the neighborhood. The Board asked to see the location of the parking spaces on the site plan. As to the front building, the Board noted that the applicant removed the dormers but was still seeking scale relief. The Board was of the opinion that the front building could be built without scale relief and that the size of the two proposed structures on the property was too much for the size of the lot. The Board noted that the height of the top plate was higher on the proposed structure than on the original structure. Attorney Murphy said that the increase in height was only between 1' and 2'. A majority of the Board did not have an objection to allowing the front building as proposed. The Board decided to continue the matter to a special meeting on June 2<sup>nd</sup> at 5:30 P.M.

**Robert Littlefield moved to continue Cases #FY15-57 and #FY15-58 to a special meeting to be held on Tuesday, June 2<sup>nd</sup> at 5:30 P.M., Joe Vasta seconded and it was so voted, 5-0.**

Robert Littlefield moved to adjourn the Public Hearing at 8:00 P.M.

## **WORK SESSION**

Chair David M. Nicolau reconvened the Work Session at 8:00 P.M.

The Board signed documents.

**NEXT MEETING:** The next meeting will take place on Tuesday, June 2, 2015. It will consist of a Public Hearing at 5:30 P.M., with a Work Session to follow.

**ADJOURNMENT:** *Joe Vasta moved to adjourn at 8:10 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on June 4, 2015  
David M. Nicolau, Chair