

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
June 4, 2015**

Members Present: David M. Nicolau, Jeffrey Haley, Rob Anderson (arrived at 7:19 P.M.) and Bryan Armstrong.

Members Absent: Robert Littlefield (excused), Amy Germain (excused), Joe Vasta (unexcused) and Peter Page (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 6:47 P.M.

MINUTES: May 21, 2015 – *Bryan Armstrong moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 4-0.*

PENDING DECISIONS:

**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 Public Hearing.**

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

PUBLIC HEARING

Chair David M. Nicolau called the Public Hearing to order at 7:19 P.M. There were four members of the Zoning Board present and four absent.

PUBLIC HEARINGS:

FY15-68 294 Bradford Street (*Residential 3 Zone*), Notice of Appeal by Jonathan Sinaiko –
The applicant 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. This matter has been postponed until the

June 18, 2015 Public Hearing.

FY15-73

506 Commercial Street (Residential 3 Zone), Derik Burgess –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to construct a second floor addition upon the north portion of a residential structure. Chair David M. Nicolau explained that since there were only four members of the Board present and that the granting of a Special Permit required four assenting votes. The applicant had the choice of moving forward or postponing until a five-member Board could be seated. The applicant chose to proceed. David M. Nicolau, Jeffrey Haley, Rob Anderson and Bryan Armstrong sat on the case.

Presentation: Derik Burgess appeared to present the application. He stated that the proposal includes an addition that will extend vertically along a pre-existing, non-conforming east elevation line and will not increase the non-conformancy. He requested that the matter be heard under the *Goldhirsh v. McNear* ruling. He argued that the addition would not be substantially more detrimental than the existing structure. The addition will be harmonious with the architecture in the neighborhood and will increase the value of the structure and other structures in the neighborhood, which will increase the tax revenue in Town. The restoration of the structure is in keeping with the goals and policies of the Local Comprehensive Plan and the guidelines of the Historic District Commission.

Public Comment: Kristin Hein and Phillip Cozzi, direct abutters, spoke against the project. Mary Martin Shaffer, a direct abutter, had concerns about the construction schedule if the project were to be approved. There were 5 letters from abutters and 2 letters from non-abutters in support of the application.

Board Discussion: The Board questioned Mr. Burgess. The Board discussed whether the changes would be more substantially detrimental to the neighborhood. Chair David M. Nicolau was not prepared to make a decision and suggested that the matter be continued. It will be heard at the July 16, 2015 Public Hearing.

Jeffrey moved to continue Case #FY15-73 until the July 16, 2015 Public Hearing, Bryan Armstrong seconded and it was so voted, 4-0.

FY 15-74

12 Mechanic Street (Residential 3 Zone), Tom Thompson on behalf of William A. Docker –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to construct a second floor addition on the south portion of a residential structure. Chair David M. Nicolau explained that since there were only four members of the Board present and that the granting of a Special Permit required four assenting votes. The applicant had the choice of moving forward or postponing until a five-member Board could be seated. The applicant chose to proceed. David M. Nicolau, Jeffrey Haley, Rob Anderson and Bryan Armstrong sat on the case.

Presentation: John DeSouza, William Docker and Thomas Stearns appeared to present the application. Mr. DeSouza explained that Mr. Docker and Mr. Stearns

seek to put an addition measuring 90 sq. ft. on the structure by extending the south side gabled roofline. This will allow for a second story bathroom to be added. The structure is pre-existing, non-conforming on the south elevation and the addition will go up and along that line, however it will remain outside the west elevation setback. The addition will be harmonious with the neighborhood and not be substantially more detrimental to the neighborhood. It will not have any adverse effects such as hazard, congestion or environmental degradation. The benefits will be that the addition will allow the owners to age in place and continue to contribute to the community and the Town's economy. It will also increase the value of the house, thus increasing the Town's real estate tax revenues.

Public Comment: There were 13 letters, 2 from non-abutters and 11 from abutters, in favor of the application, 1 letter in opposition to the application and 1 letter of concern about the application.

Board Discussion: The Board had no questions for the applicant.

Rob Anderson moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to construct a second floor addition on the south portion of a residential structure at the property located at 12 Mechanic Street (Res 3), Jeffrey Haley seconded and it was so voted, 4-0. Rob Anderson will write the decision.

FY15-75

236 Commercial Street (Town Commercial Center Zone), Unitarian Universalist Meeting House –

The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, to allow entertainment both inside and outside the church and outdoors on the front lawn. Chair David M. Nicolau explained that since there were only four members of the Board present and that the granting of a Special Permit required four assenting votes. The applicant had the choice of moving forward or postponing until a five-member Board could be seated. The applicant chose to proceed. David M. Nicolau, Jeffrey Haley, Rob Anderson and Bryan Armstrong sat on the case.

Presentation: Elaine Anderson appeared to present the application. She stated that the applicant seeks to extend its indoor entertainment license to cover outdoor entertainment events. The Church would like to produce occasional events on the front lawn. These events would include face-painting, recorded music, bingo, magicians, art and craft displays and other similar community events. Most events would occur from June through September, although occasional events may occur during the off-season. No events would start before 8:00 A.M. or end after 10:00 P.M. The Church would agree to minimize amplification and restrict it to the hours between 9:30 A.M. and 9:30 P.M. The Church is mindful of its neighbors and will be responsive to any complaints regarding its events. The Church is an alcohol-free zone.

Public Comment: William Docker spoke in favor of the application. There was 1 letter in support of the application.

Board Discussion: The Board questioned Ms. Anderson about where

entertainment is now held at the Church. The Board discussed the Church's indoor areas of entertainment. The Board requested that the indoor area of entertainment be documented by including a description of it to be added to the file along with the area of outdoor entertainment as shown on a plan that was included in the application.

Jeffrey Haley moved to grant a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, to allow entertainment both inside and outside the church and outdoors on the front lawn at the property located at 237 Commercial Street (TCC), Bryan Armstrong seconded and it was so voted, 4-0. David M. Nicolau will write the decision.

NEXT MEETING: The next meeting will take place on Thursday, June 18, 2015. It will consist of a Public Hearing at 6:30 P.M followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Jeffrey Haley moved to adjourn at 8:45 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on June 18, 2015
David M. Nicolau, Chair