

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
September 3, 2015**

Members Present: David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Peter Page.

Members Absent: Amy Germain (excused), Bryan Armstrong (excused) and Rob Anderson (excused).

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

WORK SESSION

Chair David M. Nicolau called the Work Session to order at 6:30 P.M.

PENDING DECISIONS:

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

David M. Nicolau, Robert Littlefield, Joe Vasta, Peter Page and Bryan Armstrong sat on the case. Robert Littlefield read the decision. *Joe Vasta moved to accept the language as written, Peter Page seconded and it was so voted, 5-0.*

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

David M. Nicolau, Robert Littlefield, Joe Vasta, Peter Page and Bryan Armstrong sat on the case. Robert Littlefield read the decision. *Joe Vasta moved to accept the language as written, Peter Page seconded and it was so voted, 5-0.*

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

Robert Littlefield, Joe Vasta, Peter Page, Rob Anderson and Bryan Armstrong sat on the case. David M. Nicolau recused himself because of a conflict of interest. David M. Nicolau recused himself. Vice Chair Robert Littlefield stated that he had been told by staff to withhold the reading of the decision. Attorneys Christopher J. Snow and Lester J. Murphy, representing the owner of the property and the prospective buyer of the property respectively, objected to Mr. Littlefield's statement. After a brief discussion by the Board, Mr. Littlefield said that the issue would be discussed further during the Work Session after the Public Hearing.

Vice Chair Robert Littlefield postponed the Work Session at 7:03 P.M.

PUBLIC HEARING

Chair David M. Nicolau called the Public Hearing to order at 7:03 P.M. There were five members of the Zoning Board present and three absent.

PUBLIC HEARINGS:

FY16-04 34 Commercial Street (*Residential 2 Zone*), Robin Reid on behalf of Paul and Marilyn deRuyter –

The applicant seeks a Special Permit pursuant to Article 2, Section 2440, Permitted Principle Uses, of the Zoning By-Laws to create a second dwelling unit within an existing accessory garage structure. David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Peter Page sat on the case.

Presentation: Attorney Robin Reid appeared to present the application. She stated that the applicant would like to withdraw the application without prejudice. *Peter Page moved to grant the request to withdraw Case #FY16-04 without prejudice, Robert Littlefield seconded and it was so voted, 5-0.*

FY16-01 16 Ship's Way Road (*Residential 1 Zone*), Tom Thompson on behalf of Nicola Vichert (*postponed from August 6*) –

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to construct a 12' x 13' covered porch on the west side of the structure and a 2' x 11' addition on the north. David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Peter Page sat on the case.

Presentation: John DeSouza and Tom Thompson appeared to present the application. Mr. DeSouza reviewed the project, explaining that the applicants seek a minor increase in building scale to construct a screened-in porch by adding a small extension and enclosing an existing deck, and a bump-out to accommodate a fireplace surround. All changes will occur within conforming areas of the property. The property includes an attached deck measuring 27' by 10' on the west elevation, and an extension off the deck extending 3' by 32' on the north elevation of the lot. The neighborhood consists of predominantly residential structures in a rural setting. The applicant seeks to extend and cantilever an area of the main deck by approximately 3' that will allow the construction of an enclosed screen porch measuring 13' by 13' on top of it. A small extension of the deck off the north side will be reconfigured, thereby reducing the deck area and the non-conformancy. The applicant seeks to push out an existing interior gas fireplace to create a bump-out measuring 2.5' by 12' on the north side of the house, which will allow for the installation of a 'real' fireplace. The change in the deck will reduce the non-conforming area by 17 sq. ft., which is a 40% reduction. The cantilevered extension on the main deck will cover less than 40 sq. ft. of lot area within a conforming area of the lot. The size of the main deck will increase by 314 sq. ft. The existing scale of the structure is 29,390 cu. ft., the proposed

scale is 32,195 cu. ft. and the deviation from the neighborhood average will be 25%.

The changes meet the requirements of Article 2, Section 2640E, subparagraph 1, as they are in keeping with the goals and objectives of the Local Comprehensive Plan, Chapter 1, Goal 1, Policy B; Goal 2, Policy A; and Chapter 4, Goal 2, Policy A. The proposed renovations will not create any disruption in the character of the neighborhood and the structure will be harmonious with other buildings in the surrounding area. The project also meets the requirements of Article 2, Section 2640E, subparagraph 5, as the structure will successfully integrate into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a negative impact on the natural light to or views from neighboring structures. There will be no negative effects such as hazard, congestion or environmental degradation as a result of these renovations and the benefits will include an increase in the Town's tax base and better year-round accommodations for the applicant and her partner, allowing them to continue to contribute to the Town.

Public Comment: None. There were 4 letters from abutters in support of the application.

Board Discussion: The Board briefly discussed the application.

Robert Littlefield moved that the Board make a finding that the project meets test #5 of Article 2, Section 2640E, Peter Page seconded and it was so voted, 5-0.

Robert Littlefield moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, to construct a 12' x 13' covered porch on the west side of the structure and a 2' x 11' addition on the north at the property located at 16 Ship's Way Road (Res 1), Peter Page seconded and it was so voted, 5-0. Jeffrey Haley will write the decision. Mr. DeSouza submitted a draft decision for his consideration.

FY16-03 11 Bradford Street (Residential 3 Zone), Don DiRocco of Hammer Associates on behalf of Frank Pantano –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to construct an addition and two dormers upon a residential structure within front yard setbacks. David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Peter Page sat on the case.

Presentation: Don DiRocco, Mark Hammer and Frank Pantano appeared to present the application. Mr. DiRocco reviewed the project. The applicant seeks to put a 117 sq. ft. addition on the east side of the property with a small covered entry porch and two dormers. The larger one will be added to the east side and a smaller one to the west side to provide adequate headroom for an existing staircase pursuant to the State Building Code. Mr. Hammer explained the advantages of the renovations to the applicants. Mr. DiRocco indicated that the front yard setbacks had been averaged.

Public Comment: None. There was 1 letter from an abutter in support of the application.

Board Discussion: The Board questioned Mr. DiRocco, Mr. Hammer and Mr. Pantano about how the front yard setbacks were averaged and informed the applicant that the method used was incorrect. The Board discussed the issue and the project with the applicant. Mr. DiRocco reiterated that that neither of the additions will result in an increase in the non-conformancies on the east or west sides and are within the existing setbacks.

Robert Littlefield moved to find that the proposed changes are not substantially more detrimental to the neighborhood or the Town, Joe Vasta seconded and it was so voted, 5-0

Robert Littlefield moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, to construct an addition and two dormers upon the residential structure within front yard setbacks at the property located at 11 Bradford Street (Res 3), Joe Vasta second and it was so voted, 5-0. David M. Nicolau will write the decision.

FY16-05 26 Montello Street (Residential 3 Zone), Ted Smith, Architect, LLC on behalf of Brad Fowler and Anthony Lofrumento –

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, Article 3, Section 3110, Change, Extension and Alteration, and Article 3, Section 3115, Demolition and Reconstruction, to demolish and reconstruct an existing accessory structure with a second floor and construct a breezeway to connect the accessory structure to a principle structure. The applicant requested a postponement to the September 17, 2015 Public Hearing. **Robert Littlefield moved to grant the request to postpone Case #FY16-05 until the September 17, 2015 Public Hearing, Jeffrey Haley seconded and it was so voted, 5-0.**

FY16-06 4 Maple Court (Residential B Zone), Ted Smith, Architect, LLC on behalf of Paul Schofield and Andrew Jorgensen –

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, to construct an addition and second floor upon an existing single-story residential structure. David M. Nicolau recused himself because of a conflict of interest. Vice Chair Robert Littlefield explained that since there were only four members of the Board present and the granting of a Special Permit required four assenting votes, the applicant had the choice of moving forward or continuing the matter until a five-member Board could be seated. Mr. Smith, on behalf of the applicant, chose to continue the application until the September 17, 2015 Public Hearing. **Jeffrey Haley moved to grant the request to continue Case #FY16-06 until the September 17, 2015 Public Hearing, Joe Vasta seconded and it was so voted, 4-0.**

Vice Chair Robert Littlefield adjourned the Public Hearing at 7:50 P.M.

WORK SESSION

Vice Chair Robert Littlefield reconvened the Work Session at 7:54 P.M. He stated that in the earlier Work Session, he had misspoken about information he had received concerning the reading of the decision for Case #FY15-68. He explained that he had misconstrued an email from staff indicating that the decision was still in the process of being reviewed and announced that the Board had agreed to have the decision read.

PENDING DECISIONS:

- FY15-68** **294 Commercial Street (Residential 3 Zone), Jonathan Sinaiko -**
Robert Littlefield, Joe Vasta, Peter Page, Rob Anderson and Bryan Armstrong sat on the case. Robert Littlefield read the decision. The Board discussed the decision and made corrections. *Joe Vasta moved to accept the language as amended, Peter Page seconded and it was so voted, 4-0.*
- FY15-73** **506 Commercial Street (Residential 3 Zone), Derik Burgess –**
A signature is needed.
- FY15-76** **O Conway Street (Residential 2, Zone), Salt Spray Sheds on behalf of Gary Danko –**
Joe Vasta, Jeffrey Haley, Peter Page and Bryan Armstrong sat on the case. The decision was not ready.
- FY15-78** **99 Commercial Street (Residential 3 Zone), Lara Papetsas –**
David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Bryan Armstrong sat on the case. Joe Vasta read the decision. *Jeffrey Haley moved to accept the language as written, Peter Page seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).*
- FY15-79** **73 Franklin Street (Residential 3 Zone), Gary Reinhardt on behalf of Jon Goode & Cary Raymond –**
David M. Nicolau, Robert Littlefield, Joe Vasta, Peter Page, and Rob Anderson sat on the case. The decision was not ready.
- FY15-81** **19 Bangs Street (Residential 3 Zone), Scott William Grady, Architect, on behalf of Dwight P. Russell –**
David M. Nicolau, Robert Littlefield, Joe Vasta, Rob Anderson and Bryan Armstrong sat on the case. The decision was not ready.
- FY 15-84** **2 Conway Street (Residential 2 Zone), Regina Binder on behalf of Guy Busa –**
David M. Nicolau, Joe Vasta, Bryan Armstrong and Peter Page sat on the case. David M. Nicolau read the decision. *Joe Vasta moved to accept the language as written, Peter Page seconded and it was so voted, 3-0-1 (Robert Littlefield abstaining).*

FY16-02 **133 Commercial Street (Town Commercial Center Zone), Audrey Mostaghim, dba Joon Bar –**
David M. Nicolau, Joe Vasta, Peter Page and Bryan Armstrong sat on the case. David M. Nicolau read the decision. *Joe Vasta moved to accept the language as written, Peter Page seconded and it was so voted, 3-0-1 (Robert Littlefield abstaining).*

MINUTES: June 2, July 16, August 6 & August 25, 2015 – Robert Littlefield moved to approve the language as written, Peter Page seconded and it was so voted, 4-0.

NEXT MEETING: The next meeting will take place on Thursday, September 17, 2015. It will consist of a Public Hearing at 6:30 P.M followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Joe Vasta moved to adjourn at 8:30 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

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