

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
October 15, 2015**

**Members Present:** David M. Nicolau, Robert Littlefield, Amy Germain, Jeffrey Haley, Bryan Armstrong and Rob Anderson.

**Members Absent:** Joe Vasta (excused) and Peter Page (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 6:32 P.M.

**PENDING DECISIONS:**

- 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. Rob Anderson read the decision. ***Robert Littlefield moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 3-0.***
- 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. Signatures were obtained.
- FY16-03**      **11 Bradford Street (*Residential 3 Zone*), Don DiRocco of Hammer Associates on behalf of Frank Pantano –**  
David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. Signatures were obtained.
- FY16-06**      **4 Maple Court (*Residential B Zone*), Ted Smith, Architect, LLC on behalf of Paul Schofield and Andrew Jorgensen -**  
Robert Littlefield, Joe Vasta, Jeffrey Haley, Peter Page and Bryan Armstrong sat on the case. Signatures were obtained.
- FY16-07**      **99 Commercial Street, (*Residential 3 Zone*), David Berarducci on behalf of the Nathaniel Hopkins Condominium at Union Wharf –**  
Robert Littlefield, Joe Vasta, Jeffrey Haley, Peter Page and Bryan Armstrong sat on the case. The decision was not ready.

**FY16-08**      **25 Tremont Street, Units E1 & E2 (Residential 2 Zone), Barry Pike and Paul J. Carey –**  
Robert Littlefield, Joe Vasta, Jeffrey Haley, Peter Page and Bryan Armstrong sat on the case. The decision was not ready.

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

## **PUBLIC HEARING**

Chair David M. Nicolau called the Public Hearing to order at 7:00 P.M. There were six members of the Zoning Board present and two absent.

### **PUBLIC HEARINGS:**

**FY16-05**      **26 Montello Street (Residential 3 Zone), Ted Smith, Architect, LLC on behalf of Brad Fowler and Anthony Lofrumento (continued from October 1) –**  
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, of the Zoning By-Laws 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. Chair David M. Nicolau stated that Rob Anderson had watched a video of the previous presentation of the case and the Mullin Rule will be invoked, allowing him to sit on the case.  
***Amy Germain moved to invoke the Mullin Rule to allow Rob Anderson to sit on the case, Jeffrey Haley seconded and it was so voted, 5-0.***  
David M. Nicolau, Robert Littlefield, Jeffrey Haley, Rob Anderson and Bryan Armstrong sat on the case. Chair David M. Nicolau said that at the previous hearing there was a question as to whether the connection of the cottage to the main house needed to be enclosed. It was determined by the Building Commissioner that the connection did not need to be enclosed according the Zoning By-Laws.  
**Presentation:** Attorney Lester J. Murphy and Ted Smith appeared to discuss the application. Attorney Murphy reiterated that the breezeway connection as proposed was a sufficient structure to combine two buildings into one building, effectively removing the non-conformancy related to the number of buildings on a lot. He explained that the applicant had listened to the concerns of a direct abutter and revised the plans, which were submitted to the Board. The new proposal involves placing the proposed structure on a slab at grade and reducing the ceiling height to 7', which would reduce the height of the structure by 1.5'. This will lessen the impact of the structure on the abutting properties and will not have a significant negative impact on the light to those properties.  
**Public Comment:** Ron Souza, an abutter, spoke in opposition to the application.

There was 1 letter from an abutter in support of the application.

**Board Discussion:** The Board questioned Attorney Murphy and Mr. Smith about the revised plans. The Board discussed whether the newly proposed structure would successfully integrate into the neighborhood. Mr. Smith explained how the proposed structure would minimize the appearance of mass from the streetscape. He said the breezeway was only one story in height, minimal in its mass and was comprised of columns and a low-pitched roof. One could see through it and over it and it will be set back midway between the front and the back of the cottage, taking the mass back from the street. One would not be aware of the breezeway unless one was looking straight at the property from Montello Street. Attorney Murphy added that the main structure is not changing at all and the one-story cottage is only going up in height by a little over 5'. The sense of the Board was that the revised structure would not successfully integrate into the neighborhood and that it would be too big for the size of the lot. Attorney Murphy requested a withdrawal without prejudice.

**Robert Littlefield moved to grant the request to withdraw Case #FY16-05 without prejudice, Bryan Armstrong seconded and it was so voted, 5-0.**

**FY16-10      52 Creek Road (Residential 3 Zone), Lester J. Murphy, Esq. on behalf of 3 Cottages, LLC –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2550, Multiple Buildings Per Lot, and Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to demolish three existing single-family structures and construct two duplex structures. David M. Nicolau recused himself because of a conflict of interest. Bryan Armstrong disclosed that he is a member of the Economic Development Committee as is Mike Miller, the principal of the LLC applying for the Special Permit, however he said he would be able to render a fair and impartial decision in the case. Robert Littlefield, Amy Germain, Jeffrey Haley, Rob Anderson and Bryan Armstrong sat on the case.

**Presentation:** Attorney Lester J. Murphy, Mike Miller and Alan Cabral appeared to present the application. Attorney Murphy explained that the primary change to the new plans submitted to the Board involves moving a proposed duplex structure to the rear (south) of the lot and removing two proposed porches, one at each end of two duplexes. The location of the proposed sheds was also changed. These changes were made pursuant to a deed restriction on the property. He explained that the project involves the removal of three existing cottages and an existing shed from the rear portion of the lot and replacing them with two duplex structures and two accessory sheds. There is also an existing one-and-a-half story main house on the lot. He said that the non-conformancy is that there are four principal structures on a lot that is less than the 20,000 sq. ft. required by the Zoning By-Laws. The proposal will reduce this non-conformancy by removing three principal structures and replacing them with two principal structures. The property currently has four dwelling units and the proposal is to add a fifth dwelling unit. The lot is large enough to accommodate five dwellings pursuant to the density schedule in Article 4, Section 4120 of the Zoning By-Laws. Attorney

Murphy said that the property will be enhanced and upgraded as a result of the project, including having a Title V system installed. The project was designed in an effort to minimize its impact on neighboring properties. The proposed structures will be located 7' off the side lot line and 12-13' off the rear lot line, exceeding the required setbacks for the zoning district. The 17' setback of one of the structures off of Creek Road will remain, as that structure will not be touched. The proposed duplexes will be separated by 9', pursuant to Article 2, Section 2550 of the zoning by-law. The lot coverage will be well below the maximum allowed and the green space will be well above the coverage required. No scale relief is needed for the project. More than the minimum amount of parking spaces will be created on the site. Attorney Murphy argued that the benefits to the neighborhood would outweigh any adverse effects. One of the benefits is that three old cottage structures will be replaced with new structures, a Title V septic system will be installed, all utility services will be new, all setbacks will be met or exceeded and the only non-conformancy remaining will be the number of principal structures on a lot. The new structures will comply with all relevant building and health codes. Attorney Murphy said that the applicant will agree to install vegetative screening on the south side of the property if requested.

**Public Comment:** Alex Brown had concerns regarding the project, Robin Wright and Don Eunson, abutters, and Dennis Minsky, spoke in opposition to the application. There were 8 letters, 3 from abutters, in opposition to the project.

**Board Discussion:** The Board questioned Attorney Murphy, Mr. Miller and Mr. Cabral. Several Board members wanted to do another site visit and requested that the applicant stake the site to determine where the two duplexes would be located. Ms. McPherson suggested that the applicant number the stakes on the site and on a plan that would be emailed to Board members before their site visits.

**Jeffrey Haley moved to continue Case #FY16-10 to the November 5, 2015**

**Public Hearing at 7:00 P.M.** There was no second to the motion.

The Board continued to identify and discuss issues related to the application and whether the project would be substantially more detrimental to the neighborhood than what exists. Mr. Miller suggested that the Board visit the duplexes being built on a back lot on George's Path for an idea of what the proposed duplexes will look like.

**Amy Germain moved to continue Case #FY16-10 until the November 5, 2015**

**Public Hearing at 7:00 P.M., Bryan Armstrong seconded and it was so voted, 5-0.**

**FY16-11      293 Commercial Street (Town Commercial Center Zone), Julesan, Inc. dba Twisted Pizza –**

The applicant seeks a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to place an ice cream cone sculpture and pizza slice. The applicant requested a postponement until the November 5, 2015 Public Hearing. **Amy Germain moved to postpone Case #FY16-11 until the November 5, 2015 Public Hearing at 7:00 P.M., Bryan Armstrong seconded and it was so voted, 5-0.**

Chair David M. Nicolau adjourned the Public Hearing at 9:23 P.M.

## WORK SESSION

Chair David M. Nicolau reconvened the Work Session at 9:23 P.M.

**FY16-09 35 Province Road (*Residential 1 Zone*), Jay Gurewitsch -**  
David M. Nicolau, Robert Littlefield, Amy Germain and Jeffrey Haley sat on the case. Robert Littlefield read the decision. The decision needs revising and was not approved.

**MINUTES:** *September 9, 2015 – Jeffrey Haley moved to approve the language as written, Bryan Armstrong seconded and it was so voted, 5-0.*  
*October 1, 2015 – Bryan Armstrong moved to approve the language as written, Amy Germain seconded and it was so voted, 5-0.*

**NEXT MEETING:** The next meeting will take place on Thursday, November 5, 2015. It will consist of a Work Session at 6:30 P.M followed by a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Jeffrey Haley moved to adjourn at 10:00 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

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