

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
July 21, 2016**

**Members Present:** Robert Littlefield, Joe Vasta, Jeffrey Haley, Jeffrey Gould and Jeremy Callahan.

**Members Absent:** David M. Nicolau (excused), Rob Anderson (unexcused), Bryan Armstrong (unexcused) and Marianne Clements (unexcused).

**Others Present:** Gloria McPherson (Town Planner) and Ellen C. Battaglini (Permit Coordinator).

**WORK SESSION**

Vice Chair Robert Littlefield called the Work Session to order at 6:55 P.M.

**MINUTES: July 7, 2016–** *Jeffrey Haley moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0.*

Vice Chair Robert Littlefield adjourned the Work Session at 6:56 P.M.

**PUBLIC HEARING**

Vice Chair Robert Littlefield called the Public Hearing to order at 7:00 P.M. There were five members of the Zoning Board present and four absent.

**PUBLIC HEARINGS:**

**FY16-54**     **281 Commercial Street (Town Center Commercial Zone), David Endich -**  
The applicant seeks a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display a giant Hershey kiss replica on the sidewalk. Robert Littlefield, Joe Vasta, Jeffrey Haley, Jeffrey Gould and Jeremy Callahan sat on the case.

**Presentation:** David and Paul Endich appeared to present the application.

**Public Comment:** None. There were no letters in the file.

**Board Discussion:** The Board had no questions.

*Jeffrey Haley moved to grant a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display a giant Hershey kiss replica on the sidewalk at the property located at 281 Commercial Street (TCC), Jeffrey Gould seconded and it was so voted, 5-0.*

**FY16-55**     **31 Conwell Street (Residential 3 Zone), William N. Rogers, II, P.E., P.L.S., on**

**behalf of Jason Truluck-Williams et ux –**

The applicant seeks a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish and reconstruct a pre-existing, non-conforming structure with increases to building height and scale. Robert Littlefield, Joe Vasta, Jeffrey Haley, Jeffrey Gould and Jeremy Callahan sat on the case.

**Presentation:** Gary Locke, of William N. Rogers, II, Civil Engineers and Land Surveyors, appeared to present the application. The applicant seeks to replace an existing three-bedroom dwelling in substantially the same footprint. The structure will be moved 4' towards the sideline setback opposite Conwell Street. The property has two front yards and two side yards. The new structure will have proper ceiling heights and does not need scale relief. The design of the structure is sensitive to the nature of the sight. The demolition will be done in sections to lessen noise and vehicle congestion at the site and there will be a police officer on site to make sure passage of vehicles on Conwell Street is maintained. The structure will be raised by 9' and the existing decks will be raised by about 4' to accommodate the new floor heights.

**Public Comment:** Rob Jason, an abutter, spoke in opposition to the application. There were no letters in the file.

**Board Discussion:** The Board questioned Mr. Locke. The Board questioned Mr. Locke about the proposed deck expansion. The existing deck is 5' x 16' with a 2' wrap-around portion that goes toward the east side. The proposed deck will be 12' x 16'. The Board questioned Mr. Locke about parking on the site and requested he submit a new site plan showing 2 legal parking spaces. Mr. Locke said that there will be minimal changes in grade. The Board discussed whether the proposed changes would be substantially more detrimental to the neighborhood than the existing situation.

*Jeffrey Haley moved to grant a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish and reconstruct a pre-existing, non-conforming structure with increases to building height and scale at the property located at 31 Conwell Street (Res 3) contingent upon the submission of a revised plan showing 2 legal parking spaces., Jeremy Callahan seconded and it was so voted, 5-0.* Robert Littlefield will write the decision.

**FY16-56      6 Dyer Street (Residential 3 Zone), John DeSouza, on behalf of Daniel Judas and Daniel Luethi –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2630C, Roofs, of the Zoning By-Laws to deviate from the roof configuration standards by exceeding 50% of the floor area coverage below a dormer. David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Jeffrey Gould sat on the case. The applicant requested a continuation to the August 4, 2016 Public Hearing. *Jeffrey Haley moved to grant the request to continue Case #FY16-56 to the August 4, 2016 Public Hearing at 7:00 P.M., Joe Vasta seconded and it was so voted, 5-0.*

**FY16-57**

**14 Court Street (*Residential 3, Zone*), Revere Guest House, LLC –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Provincetown Zoning By-Laws to allow the sale of alcoholic beverages to registered guests and guests of guests of the Inn for private consumption. Robert Littlefield, Joe Vasta, Jeffrey Haley, Jeffrey Gould and Jeremy Callahan sat on the case.

**Presentation:** Attorney Christopher Fiset and Paul Novak, an employee of the Revere Guest House, LLC, appeared to present the application. Attorney Fiset stated that the applicant seeks to sell alcohol to guests and not to the general public. Mr. Novak has extensive history in the alcohol service industry and will make sure alcohol does not leave the premises, which is entirely fenced in and secure.

**Public Comment:** Irvin Morgan and Susan Webster, both of whom own abutting businesses, spoke in opposition to the application. There was 1 letter in opposition to the application.

**Board Discussion:** The Board questioned Attorney Fiset and discussed whether allowing the proposal would be substantially more detrimental to the neighborhood than what currently exists.

*Jeffrey Haley moved to grant a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Provincetown Zoning By-Laws to allow the sale of alcoholic beverages to registered guests and guests of guests of the Inn for private consumption at the property located at 14 Court Street (Res 3) for one year, expiring on January 2, 2018, and with the condition that appropriate signage and controls be placed on the premises, Joe Vasta seconded and it was so voted, 5-0. Jeffrey Gould will write the decision.*

**FY16-58**

**262 Bradford Street (*Residential 3 Zone*), Tom Thompson, on behalf of Janet G. Beattie and Karen Jasper –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extensions or Alterations of the Zoning By-Laws to create a bump-out along a pre-existing, non-conforming line for a second floor bedroom and closet expansion and to increase the allowable building scale. Robert Littlefield, Joe Vasta, Jeffrey Haley, Jeffrey Gould and Jeremy Callahan sat on the case.

**Presentation:** John DeSouza and Janet G. Beattie appeared to present the application. Mr. DeSouza stated that the structure has a two-story ell addition and a flat roof bump-out on the north side. The applicants would like to extend the existing north side addition by 10' to increase the size of the master bedroom. They also seek to build a second story over the existing flat roof bump-out to create a small walk-in closet. These extensions will be within the pre-existing, non-conforming side and rear yard setbacks. The increase in scale will be 11% and there will be no change in the footprint of the structure. Mr. DeSouza reviewed the non-conforming dimensions. The existing scale is 12,498 cu. ft., the allowable neighborhood scale is 14,372 cu. ft., the existing scale is 14,840 cu. ft.,

the proposed addition is 1,640 cu. ft., for a total proposed scale of 16,480 cu. ft. As to scale, the project meets the criteria of subparagraph #1 of Section 2640E in that it is in keeping with the goals and policies of the Local Comprehensive Plan, Chapter 1, Goal 1, Policy B, and Goal 2, Policy A, and Chapter 4, Goal 2, Policy A. In addition, the project meets the requirement of subparagraph #5 of Section 2640E in that it 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, or views, from neighboring structures. Mr. DeSouza emphasized that the changes will not be substantially more detrimental to the neighborhood than the current situation. He argued that the economic and other benefits to the Town outweigh any adverse effects such as hazard, congestion or environmental degradation. The benefits include an increase in the Town's tax base, providing better accommodations for the property owners and the changes will allow them to live in the community and continue their economic and other contributions to the Town.

**Public Comment:** None. There was 1 letter in the file supporting the application.

**Board Discussion:** The Board questioned Mr. DeSouza and Ms. Beattie.

*Jeffrey Haley moved to find pursuant to Article 3, Section 3110 of the Zoning By-Laws that the proposed project was not substantially more detrimental to the Town or the neighborhood than the existing situation, Jeffrey Gould seconded and it was so voted, 5-0.*

*Jeffrey Haley moved that the project meets tests #1 and #5 of Article 2, Section 2640 of the Zoning By-Laws, Joe Vasta seconded and it was so voted, 5-0.*

*Jeffrey Haley moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extensions or Alterations of the Zoning By-Laws to create a bump-out along a pre-existing, non-conforming line for a second floor bedroom and closet expansion and to increase the allowable building scale at the property located at 262 Bradford Street (Res 3), Joe Vasta seconded and it was so voted, 5-0. Robert Littlefield will write the decision.*

- FY16-59**      **336 Commercial Street (Town Center Commercial Zone).**Application by **Christopher Schultz, on behalf of Sage Inn –**  
The applicant seeks a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws, for the outside display of a sandwich board. Robert Littlefield, Joe Vasta, Jeffrey Haley, Jeffrey Gould and Jeremy Callahan sat on the case.  
**Presentation:** Christopher Schultz appeared to present the application. The sandwich board will be located in a small bricked walkway area next to the sidewalk.  
**Public Comment:** None. There were no letters in the file.

**Board Discussion:** The Board questioned Mr. Schultz. The Board requested that the applicant make sure that the board is weighted down sufficiently so it will not be moved by wind and that it will not block the sidewalk.

*Jeffrey Gould moved to grant a Special Permit pursuant to Article 3, Section 3420, Outside Display, of the Zoning By-Laws, for the outside display of a sandwich board at the property located at 336 Commercial Street (TCC), Jeremy Callahan seconded and it was so voted, 5-0.*

**FY16-60      193 Commercial Street, #6 (Town Center Commercial Zone), Ralph Santora, of Beach, LLC –**

The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Provincetown Zoning By-Laws to revise a seating plan and establish a 110-seat restaurant. Robert Littlefield, Joe Vasta, Jeffrey Haley, Jeffrey Gould and Jeremy Callahan sat on the case.

**Presentation:** Ted Smith and Ralph Santora appeared to present the application. Mr. Santora would like to employ a flex-seating plan for the proposed restaurant. The flex-seating plan will be employed based upon the weather conditions. The maximum number of outdoor seats will be 85. Bus stations will be staged in the interior of the building. Entertainment and speakers will remain inside the building and there will be no exterior amplification. Interior doors that lead to the beach and outside access points will be properly signed to contain patrons, forbidding the carrying of alcoholic beverages outside the building. The business will operate under a seasonal liquor license from April 1<sup>st</sup>-November 30<sup>th</sup>, with a possible extension to January 15<sup>th</sup>. The hours of operation will be from 8:00 A.M. until 1:00 A.M.

**Public Comment:** Susan Webster spoke in support of the application. There were 6 letters of support for the application.

**Board Discussion:** The Board questioned Mr. Santora.

*Jeffrey Haley moved to grant a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Provincetown Zoning By-Laws to revise a seating plan and establish a 110-seat restaurant at the property located at 193 Commercial Street, #6 (TCC) with the condition that the Special Permit run with the applicant, Jeremy Callahan seconded and it was so voted, 5-0.*

Jeremy Callahan will write the decision.

**NEXT MEETING:** The next meeting will take place on Thursday, August 4, 2016. It will consist of a Work Session at 6:30 P.M. followed by a Public Meeting 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 \_\_\_\_\_, 2016  
David M. Nicolau, Chair