

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
May 3, 2007

MEETING HELD IN TOWN HALL

Members Present: Peter Page, Patrick Eeley, Elisabeth Verde, Robert Littlefield, and Amy Germain.

Members Absent: Lynne Davies (resigned), Keith Amato(excused) and Scott Caldwell(excused).

Others Present: Matt Mulvey (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Acting Chair Peter Page called the Public Hearing to order at 7:00 P.M.

BOARD REORGANIZATION:

CHAIRMAN:

Robert Littlefield moved to nominate Peter Page as Chairman of the Zoning Board of Appeals. Peter Page respectfully declined the nomination.

Elisabeth Verde moved to nominate Patrick Eeley as Chairman of the Zoning Board of Appeals, Robert Littlefield seconded and it was so voted 3-2 (Patrick Eeley and Peter Page abstaining).

CLERK:

Amy Germain moved to nominate Robert Littlefield as Clerk of the Zoning Board of Appeals, Elisabeth Verde seconded and it was so voted, 5-0.

NEW CASES:

- 2007-23 307 Commercial Street (Town Commercial Center Zone), Douglas Smart -**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of merchandise. Elisabeth Verde recused herself because of a conflict of interest. Patrick Eeley, Peter Page, Robert Littlefield and Amy Germain sat on the case. Patrick Eeley explained that since there were only four members of the Board seated, a unanimous decision would need to be rendered in order for a Special Permit to be granted. The applicant could proceed with those four seated or continue the application until a five member Board was seated. The applicant chose to proceed.
Presentation: Douglas Smart appeared to present the application.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. Smart.
Peter Page moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of merchandise at the property located at 307 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 4-0.
- 2007-24 82 Bradford Street (Residential 3 Zone), Attorney Eliot Parkhurst on behalf of Boutique Hospitality -**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-laws to approve a seating plan for 25 additional indoor dining seats. Patrick Eeley, Peter Page, Elisabeth Verde, Robert Littlefield and Amy Germain sat on both cases.
Presentation: Attorney Eliot Parkhurst and Tom Walter appeared to present the application. The applicant seeks to expand his business by adding restaurant seats.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Attorney Parkhurst and Mr. Walter.
Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-laws to

approve a seating plan for 25 additional indoor dining seats at the property located at 82 Bradford Street (Res 3), Elisabeth Verde seconded and it was so voted, 5-0. Patrick Eeley will write the decision.

2007-25 82 Bradford Street (Residential 3 Zone), Attorney Eliot Parkhurst on behalf of Boutique Hospitality -

The applicant seeks a Special Permit under Article 2, Section 2470 of the Zoning By-Laws for a Variance from the terms of said laws concerning parking requirements of a hotel with restaurant seating.

Presentation: Attorney Eliot Parkhurst and Tom Walter appeared to present the application. The applicant has contracted with the Catholic Church on Prince Street and the Monument to rent parking spaces for the patrons of the restaurant, but still falls short of the required spaces for the number of restaurant seats. There is also a public parking lot across the street from the premises.

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

Board Discussion: The Board questioned Attorney Parkhurst and Mr. Walter.

Robert Littlefield moved to grant a Special Permit under Article 2, Section 2470 of the Zoning By-Laws for a Variance from the terms of said laws concerning parking requirements of a hotel with restaurant seating at the property located at 82 Bradford Street (Res 3), Peter Page seconded and it was so voted, 5-0. Patrick Eeley will write the decision.

PENDING CASES:

2007-17 89 Bradford Street (Residential 3 Zone) E. James Veara, Esq. on behalf of John R. Burrows –
(continued from April 19, 2007)

The applicant seeks to appeal a decision of the Building Commissioner under Article 5, Section 5223 of the Zoning By-Laws. Lynne Davies, Patrick Eeley, Peter Page, Robert Littlefield and Amy Germain sat on the case. Patrick Eeley explained that since there were only four members of the Board seated, a unanimous decision would need to be rendered in order for a Special Permit to be granted. The applicant could proceed with a four member Board or continue the application until a five member Board was seated. The applicant chose to proceed.

Presentation: Attorney E. James Veara and John R. Burrows appeared to discuss the case.

Board Discussion: The Board discussed the issues involved in the case, but decided that they needed more clarification from Town Counsel. The case is continued until the May 17, 2007 Work Session.

2007-21 293 Commercial Street (Town Commercial Center Zone), Attorney Edward Patten on behalf of MELD, Inc. –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to obtain a new liquor and entertainment license to operate a lounge and dance bar. Lynne Davies, Patrick Eeley, Peter Page, Robert Littlefield and Amy Germain sat on the case. Patrick Eeley explained that since there were only four members of the Board seated, a unanimous decision would need to be rendered in order for a Special Permit to be granted. The applicant could proceed with a four member Board or continue the application until a five member Board was seated. The applicant chose to proceed.

Presentation: Attorney Edward Patten and Ed DiBiasio appeared to discuss the case. The applicant submitted existing and proposed floor plans as per the request of the Board.

Board Discussion: The Board questioned Attorney Patten and Mr. DiBiasio. The Building Commissioner approved the fire safety issues and the safety of the egresses at the premises.

Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to obtain a new liquor and entertainment license to operate a lounge and dance bar at the property located at 293 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 4-0. Amy Germain will write the decision.

2007-22 523 Commercial Street (Residential 3 Zone), Neal Kimball, Kimball Residential Designs on behalf of Richard Siclari -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along the non-conforming east side yard setback (approximately 1'3" +/-) by raising the sidewall 3'0" and by adding a full shed dormer to create a second floor living area.

Presentation: Neal Kimball appeared to present the application. The applicant seeks to raise the ridgeline by 6'9" and the side wall by 3', thereby creating a living space on the second floor.

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

Board Discussion: The Board questioned Mr. Kimball. There were no height dimensions on the submitted plans and the applicant had not submitted a certified plot plan. The Board requested that those items be submitted before the next hearing.

FINDINGS OF FACT:

- The existing structure is in a neighborhood of primarily two-story structures;
- The neighborhood average scale is 94.37 scale units;
- The allowed scale, as per the assessor's data, is 108.53 s.u.; and
- The proposed alterations are in keeping with the character of the other structures in the neighborhood;

Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along the non-conforming east side yard setback (approximately 1'3" +/-) by raising the sidewall 3'0" and by adding a full shed dormer to create a second floor living area at the property located at 523 Commercial Street (Res 3), Peter Page seconded and it was so voted, 5-0. Elisabeth Verde will write the decision.

Chair Patrick Eeley adjourned the Public Hearing at 9:20 P.M.

WORK SESSION

Chair Patrick Eeley called the Work Session to order at 9:20 P.M.

PENDING DECISIONS:

2007-20 43 Race Point Road, (Residential 3 Zone), Edward Malone on behalf of Connie O'Meara - Patrick Eeley, Peter Page, Robert Littlefield and Amy Germain sat on the case. Patrick Eeley read the decision. The applicant had submitted an outdoor seating plan. **Peter Page moved to approve the language as written, Robert Littlefield seconded and it was so voted, 4-0.**

2006-070 150 Bradford Street (Residential 3 Zone), Tom Boland and James Farley - Patrick Eeley, Peter Page, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case. Robert Littlefield read the decision. **Patrick Eeley moved to approve the language as written, Amy Germain seconded and it was so voted, 5-0.**

MINUTES: May 3, 2007 – Robert Littlefield moved to approve the language as amended, Peter Page seconded and it was so voted, 5-0.

NEXT MEETING:

The next meeting will be on May 17, 2007 and will be held in the Judge Welsh Hearing Room and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Amy Germain moved to adjourn at 9:50P.M. and it was so voted unanimously.

These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on May 17, 2007.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini