

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
May 17, 2007

MEETING HELD IN TOWN HALL

Members Present: Patrick Eleey, Peter Page (arrived at 7:00 P.M.), Elisabeth Verde, Robert Littlefield, Amy Germain and Scott Caldwell.

Members Absent: Elisabeth Verde (excused) and Keith Amato(excused).

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

WORK SESSION

Chair Patrick Eleey called the Work Session to order at 6:38 P.M.

PENDING DECISIONS:

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

Patrick Eleey, Peter Page, Robert Littlefield and Amy Germain sat on the case. Amy Germain read the decision. *Robert Littlefield moved to approve the language as written, Patrick Eleey seconded and it was so voted, 3-0.* The applicant had not submitted new stamped plans to the Board so the decision will not be filed until the applicant submits the required plans.

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

Patrick Eleey, Peter Page, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case. Patrick Eleey read the decision. The applicant had submitted dimensional plans to the Board. *Robert Littlefield moved to accept the language as written, Amy Germain seconded and it was so voted, 3-0.*

2007-24 82 Bradford Street (Residential 3 Zone), Attorney Eliot Parkhurst on behalf of Boutique Hospitality -

Patrick Eleey, Peter Page, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case. Patrick Eleey read the decision. *Robert Littlefield moved to accept the language as written, Amy Germain seconded and it was so voted, 3-0.*

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

Patrick Eleey, Peter Page, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case. Patrick Eleey read the decision. *Robert Littlefield moved to accept the language as written, Amy Germain seconded and it was so voted, 3-0.*

Chair Patrick Eleey postponed the Work Session at 7:00 P.M.

PUBLIC HEARING

Chair Patrick Eleey called the Public Hearing to order at 7:00 P.M.

- 2007-29** **1 Tremont Street (Town Commercial Center Zone), Robin B. Reid, Esq. on behalf of Tremont Nominee Trust –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the extension of a pre-existing, non-conforming structure along non-conforming dimensions. This case is continued until the June 7, 2007 hearing.
- 2007-26** **240 Commercial Street (Town Commercial Center Zone), Gerald Regucci and Robert Foster –**
The applicants seek a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for an outdoor display of a maximum of 8 items. Patrick Eeley, Peter Page, Robert Littlefield, Amy Germain and Scott Caldwell sat on the case.
Presentation: Gerald Regucci and Robert Foster appeared to present the application.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. Regucci and Mr. Foster.
Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for an outdoor display of a maximum of 8 items at the property located at 240 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 5-0.
- 2007-27** **179 Commercial Street (Town Commercial Center Zone), James McNulty –**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the ability to allow patrons to bring their drinks onto an exclusive use patio while smoking and waiting. Patrick Eeley, Peter Page, Robert Littlefield, Amy Germain and Scott Caldwell sat on the case.
Presentation: James McNulty and Raife Menold appeared to present the application. The applicant seeks to allow patrons to drink and smoke while waiting for tables on an outdoor patio, which is an exclusive use area of the condominium at the premises.
Public Comment: Gary Reinhardt raised a point of order questioning why the applicant was appearing before the Board and questioning whether it was within the purview of the Board to dictate where patrons of restaurants could wait for tables, as there is no serving being done in the waiting area. Steve Melamed, who has a business that directly abuts the property in question, disagreed stating that where patrons wait is an extension of a service area, as patrons frequently will be drinking while waiting to be seated, and is treated as if it were a service area. Furthermore, he spoke against the application, suggesting that what the applicant is requesting will violate Article 3, Section 3410, and the granting of a Special Permit by the Board would also be in violation of Article 5, Section 5300 of the Zoning By-Laws. Diana Hardy and Scott Dinsmore, a unit owner in the condominium, both spoke in favor of the application. Rick Bartl, who was concerned about access to his unit through the patio area, Neva Hanson and Joan Siegfried spoke against the application. There were 5 letters in favor and 4 against the application in the file.
Board Discussion: The Board questioned Mr. McNulty and Mr. Menold. The Board, after deliberation, decided to conduct a site visit, with each member visiting the property on his or her own. The Board also requested that the applicant submit a condominium plan, showing the location of the exclusive use area in question, and a certified plot plan of the site.
Amy Germain moved to continue Case # 2007-27 until the Work Session of the June 7, 2007 hearing, Robert Littlefield seconded and it was so voted, 5-0.
- 2007-28** **293 Commercial Street (Town Commercial Center Zone), Patricia McGuire -**
The applicant seeks a Special Permit to increase interior seating from 8 to 16. Patrick Eeley, Peter Page, Robert Littlefield, Amy Germain and Scott Caldwell sat on the case.
Presentation: Patricia McGuire appeared to present the application.
Public Comment: Ed Steblein, an abutter, spoke against the application. There were no letters in the file.
Board Discussion: The Board questioned Ms. McGuire. The Board requested that the applicant submit an updated seating plan.
Amy Germain moved to grant a Special Permit to increase interior seating from 8 to 16 at the property located at 293 Commercial Street (TCC), Scott Caldwell seconded and it was so voted, 5-0.
Amy Germain will write the decision.

Chair Patrick Eeley adjourned the Public Hearing at 9:00 P.M.

WORK SESSION

Chair Patrick Eleey reconvened the Work Session at 9:00 P.M.

PENDING CASE:

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. This case is continued until the Work Session of the June 7, 2007 hearing.

MINUTES: May 17, 2007 – Amy Germain moved to approve the language as amended, Robert Littlefield seconded and it was so voted, 4-0-1 (Scott Caldwell abstaining)..

NEXT MEETING:

The next meeting will be on June 7, 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.

The Board discussed having former Board member Peter Bez act as an advisor to the Board. ***Robert Littlefield moved to accept Peter Bez as a consultant to the Zoning Board of Appeals, Patrick Eleey seconded and it was so voted, 4-1 (Scott Caldwell opposed).***

The Board briefly discussed issues raised in Case # 2007-27.

ADJOURNMENT:

Amy Germain moved to adjourn at 9:30 P.M. and it was so voted unanimously.

These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on June 7, 2007.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini