

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF

June 21, 2007

MEETING HELD IN TOWN HALL

Members Present: Patrick Eeley, Peter Page (arrived at 7:10 P.M.), Elisabeth Verde, Robert Littlefield and Amy Germain.

Members Absent: Keith Amato (excused).

Others Present: Matt Mulvey (Building Commissioner), Maxine Notaro (Permit Coordinator), Ellen C. Battaglini (Recording Secretary) and Peter Bez (Advisor to the Zoning Board of Appeals).

WORK SESSION

Chair Patrick Eeley called the Work Session to order at 6:45 P.M.

PENDING CASES:

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 will be continued, as only 3 out of the 5 members who sat on the case were present. The applicant requests a hearing before a 5 member Board.

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

PUBLIC HEARING

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

2007-36 **174 Commercial Street (Town Commercial Center Zone), Edel M. Byrne -**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to display garden art. Patrick Eeley, Peter Page, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case.

Presentation: Edel M. Byrne appeared to present the application.

Public Comment: None. There was 1 letter in the file from the owner of the property stating that the applicant had his permission to obtain a Special Permit.

Board Discussion: The Board questioned Ms. Byrne.

Robert Littlefield moved to approve a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to display garden art at the property located at 174 Commercial Street (TCC), Elisabeth Verde seconded and it was so voted, 5-0.

2007-37 **212-214 Commercial Street (Town Commercial Center), Robin B. Reid, Esq. on behalf of New Art Realty Corp. -**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to amend Special Permit #2006-82 to re-configure service areas. Elisabeth Verde recused herself because of a conflict of interest. Patrick Eeley explained that there would only be 4 members of the Board seated on the case, necessitating a unanimous vote in order for a Special Permit to be approved. The applicant has

the choice of waiting until a 5 member Board is seated or proceeding with 4. The applicant chose to proceed. Patrick Eleey, Peter Page, Robert Littlefield and Amy Germain sat on the case.

Presentation: Attorney Robin B. Reid, Ben deRuyter and Curt Richardson appeared to present the application. The applicant seeks to expand the area of service for alcohol to include the café located on the premises. The area of service is currently confined to the lobby area of the theaters on site. The applicant believes that the service of alcohol will enhance the business of the café.

Public Comment: Steve Frappolli, chef of the café at the premises, spoke in favor of the application, as did Michael Singer. There were no letters in the file.

Board Discussion: The Board questioned Attorney Reid, Mr. deRuyter and Mr. Richardson.

Robert Littlefield moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to amend Special Permit #2006-82 to re-configure service areas at the property located at 212-214 Commercial Street (TCC), Patrick Eleey seconded and it was so voted, 4-0. Amy Germain will write the decision.

Chair Patrick Eleey adjourned the Public Hearing at 7:30 P.M.

WORK SESSION

Chair Patrick Eeley reconvened the Work Session at 7:30 P.M.

PENDING CASES:

2007-17 **89 Bradford Street (*Residential 3 Zone*), Attorney E. James Veara on behalf of John R. Burrows -**
The applicant is appealing a decision of the Building Commissioner under Article 5, Section 5223 of the Zoning By-Laws. Patrick Eeley, Peter Page, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case.
Presentation: Attorney E. James Veara and James R. Burrows appeared to discuss the application.
Board Discussion: The Board questioned Attorney Veara and Mr. Burrows.
Amy Germain moved to uphold the decision of the Building Commissioner under Article 5 Section 5223 of the Zoning By-Laws, Elisabeth Verde seconded and it was so voted, 3-2 (Peter Page and Robert Littlefield opposed). Patrick Eeley will write the decision.

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. The case is continued, as the applicant would like to wait until 5 Board members are seated.

Attorney Robin B. Reid, who represents the owners of Chach at 73 Shank Painter Road, inquired of the Board that if the hours of service of alcohol at the premises were changed would a new Special Permit be needed. The Board briefly discussed the issue and decided that Attorney Reid's clients would need to apply for a new Special Permit.

2007-34 **328 Commercial Street (*Town Commercial Center Zone*), 328 Commercial Street Inc., d/b/a Patio -**
The Board discussed the possibility of re-opening this case.
Elisabeth Verde moved to re-open Case # 2007-34, Patrick Eeley seconded and it was so voted 2-1 (Peter Page opposed). Town Counsel will be asked to render an opinion as to whether the case can be re-opened.

The Board discussed the application of Larry Flores to join the Board. He will be invited to the July 19, 2007 hearing.

MINUTES: June 7, 2007 – Elisabeth Verde moved to approve the language as amended, Patrick Eeley seconded and it was so voted, 3-0.

NEXT MEETING:

The next meeting will be on July 19, 2007 and will be held in the Judge Welsh Hearing Room and will consist of a Work Session at 6:45 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Amy Germain moved to adjourn at 9:15 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 July 19, 2007.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini