

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
July 19, 2007

MEETING HELD IN TOWN HALL

Members Present: Patrick Eeley, Peter Page, Elisabeth Verde, Robert Littlefield, Keith Amato and Amy Germain.
Members Absent: None.
Others Present: Matt Mulvey (Building Commissioner), 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 6:47 P.M.

ADMINISTRATIVE AMENDMENT:

Victor DePoalo, 175 Bradford Street Extension, to discuss issues relative to height of buildings under construction. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Amy Germain sat on the case.

Presentation: Victor DePoalo appeared to discuss the request. The applicant is appearing at the request of the Building Commissioner who had received a complaint by an abutting condominium association about the height of buildings under construction.

Board Discussion: The Board questioned Mr. DePoalo.

Chair Patrick Eeley postponed the Work Session at 7:15 P.M.

PUBLIC HEARING

Chair Patrick Eeley called the Public Hearing to order at 7:15 P.M.

PENDING CASES:

- 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 and Scott Caldwell sat on the case. The applicant made a request to withdraw the case without prejudice.
Amy Germain moved to accept the withdrawal without prejudice, Robert Littlefield seconded and it was so voted, 4-0.
- 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. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Scott Caldwell sat on the case. The applicant made a request to withdraw without prejudice.
Elisabeth Verde moved to accept the withdrawal without prejudice, Peter Page seconded and it was so voted, 4-0.

NEW CASES:

- 2007-38** **5 Sandy Hill Lane (Residential 3 Zone), Carol MacDonald on behalf of The Carrie A. Seaman**

Animal Shelter -

The applicant seeks a Special Permit under Article 2, Section 2440f3b of the Zoning By-Laws for a use authorized by Special Permit under Article 5, Section 5330. Patrick Eeley, Peter Page, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case.

Presentation: Attorney Robin B. Reid, Carol MacDonald and Nancy Dooley appeared to present the application.

Public Comment: Ruth Ann Cowing, animal control officer, Hersh, Stelle Goldberg, Valerie Faulk, Gwen Kazlouskas-Noyes all spoke in favor of the application. No one spoke in opposition to the application. There were 19 letters in favor of the application in addition to a petition signed by numerous people and no letters in opposition.

Board Discussion: The Board questioned Attorney Reid, Ms. MacDonald and Ms. Dooley.

Amy Germain moved to approve a Special Permit under Article 2, Section 2440f3b of the Zoning By-Laws for a use authorized by Special Permit under Article 5, Section 5330 at the property located at 5 Sandy Hill Lane (Res 3), Robert Littlefield seconded and it was so voted, 5-0. Amy Germain will write the decision.

2007-39 306 Commercial Street, Unit #2 (Town Commercial Center), Edward Steblein, d/b/a Small Temptations -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outside display. Patrick Eeley, Peter Page, Robert Littlefield, Amy Germain and Keith Amato sat on the case.

Presentation: Edward Steblein appeared to present the application. The applicant seeks to display 15 items outside his store.

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

Board Discussion: The Board questioned Mr. Steblein.

Robert Littlefield moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outside display of up to 15 items at the property located at 306 Commercial Street (TCC), Peter Page seconded and it was so voted, 5-0.

2007-40 432 Commercial Street (Residential 3 Zone), Katherine Baltivik -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for an outdoor sculpture garden and steel sculptures of various sizes, with 12 being the maximum number of items displayed. The applicant did not appear to present the application. The case is continued until the August 2, 2007 hearing.

2007-41 432 Commercial Street (Residential 3 Zone), Hilda Neily -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for an outside display box for Unit G3 (Art Gallery). Patrick Eeley, Peter Page, Elisabeth Verde, Robert Littlefield and Keith Amato sat on the case.

Presentation: Hilda Neily appeared to present the application.

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

Board Discussion: The Board questioned Ms. Neily.

Peter Page moved to approve a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for an outside display box for Unit G3 (Art Gallery) at the property located at 432 Commercial Street (Res 3), Keith Amato seconded and it was so voted, 5-0.

2007-41 398 Commercial Street (Town Commercial Center), Hilda Neily -

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

Presentation: Hilda Neily appeared to present the application. The applicant seeks to display 3 paintings on the porch at the premises.

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

Board Discussion: The Board questioned Ms. Neily.

Amy Germain moved to approve a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of 3 paintings on a porch at the property located at 398 Commercial Street (Res 3), Elisabeth Verde seconded and it was so voted, 4-1 (Peter Page opposing).

Chair Patrick Eeley adjourned the Public Hearing at 8:15 P.M.

WORK SESSION

Chair Patrick Eeley reconvened the Work Session at 8:15 P.M.

ADMINISTRATIVE AMENDMENT *(continued):*

Victor DePaolo, 175 Bradford Street Extension, to discuss issues relative to height of buildings under construction. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Amy Germain sat on the case.

Board Discussion: The Board continued to question Mr. DePaolo. The Board came to the conclusion that they would write a clarifying amendment to the original decision.

Peter Page moved to hear the request as an Administrative Amendment, Elisabeth Verde seconded and it was so voted, 4-1 (Amy Germain opposed).

Peter Page moved to write an amendment and clarifying language to the original decision written for Case # 2007-04, Elisabeth Verde seconded and it was so voted, 4-1 (Amy Germain opposed).

Steven Schnitzer, representing the property located at 258 Commercial Street, appeared before the Board to discuss a correction in the decision rendered in Case # 2007-19. The decision indicates a “seasonal awning”, whereas Mr. Schnitzer is requesting that the language be changed to “permanent awning”, as the proposed awning is of a type that cannot be taken down when the season is over. It will remain attached to the structure at the premises. Peter Page will change the language and print a new copy of the decision.

PENDING DECISIONS:

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

Patrick Eeley, Peter Page, Robert Littlefield and Amy Germain sat on the case. Amy Germain read the decision. *Robert Littlefield moved to accept the language as written, Patrick Eeley seconded and it was so voted, 4-0.*

2007-17 **89 Bradford Street (Residential 3 Zone), Attorney E. James Veara on behalf of John R. Burrows -**
The Board discussed the decision.

PENDING CASES:

2007-32(Review) **432 Commercial Street (Residential 3 Zone), James Lyman and Katherine Baltivik –**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to replace an outside display case. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Scott Caldwell sat on the case.
Patrick Eeley moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to replace an outside display case at the property located at 432 Commercial Street (Res 3), Keith Amato seconded and it was so voted, 4-0.

MINUTES: June 21, 2007 – Patrick Eeley moved to approve the language as amended, Amy Germain seconded and it was so voted, 5-0.

NEXT MEETING:

The next meeting will be on August 2, 2007 and will be held in the Judge Welsh Hearing Room and will consist of a Public Hearing at 7:00 P.M. with a Work Session to follow.

ADJOURNMENT:

Amy Germain moved to adjourn at 8:45 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 August 2, 2007.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini