

**TOWN OF PROVINCETOWN**  
**ZONING BOARD OF APPEALS**

**MEETING MINUTES OF**  
**January 3<sup>rd</sup>, 2008**

**MEETING HELD IN TOWN HALL**

**Members Present:** Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard.

**Members Absent:** Keith Amato (excused).

**Others Present:** Russ Braun (Acting Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

Chair Patrick Eeley called the Work Session to order at 6:50 P.M.

**PENDING DECISIONS:**

- 2007-75**      **179 Commercial Street (Town Commercial Center Zone), Raife Menold -**  
Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Keith Amato sat on the case. Amy Germain read the decision. *Patrick Eeley moved to accept the language as written, Robert Littlefield seconded and it was so voted, 4-0-1 (Anne Howard abstaining).*
- 2007-72**      **10 Garfield Street (Residential 1 Zone), Frank Deschaine, Deschaine Construction on behalf of Gerry Spiniello and Dianne Sommer -**  
Peter Page, Elisabeth Verde, Robert Littlefield, Amy Germain and Keith Amato sat on the case. Patrick Eeley read the decision. *Robert Littlefield moved to accept the language as written, Elisabeth Verde seconded and it was so voted, 4-0-1 (Anne Howard abstaining).*

**MINUTES: December 20, 2007 – Amy Germain moved to approve the language as amended, Elisabeth Verde seconded and it was so voted, 4-0-1 (Anne Howard abstaining).**

## **BOARD NOMINATIONS AND ELECTIONS:**

### **CLERK:**

*Patrick Eeley nominated Robert Littlefield for the position of Clerk of the Zoning Board of Appeals, Amy Germain seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).*

### **VICE-CHAIR:**

*Elisabeth Verde moved to nominate Anne Howard for the position of Vice Chair of the Zoning Board of Appeals, Patrick Eeley seconded and it was so voted, 4-0-1 (Anne Howard abstaining).*

### **CHAIR:**

*Elisabeth Verde moved to nominate Patrick Eeley for the position of Chair of the Zoning Board of Appeals, Robert Littlefield seconded and it was so voted, 4-0-1 (Patrick Eeley abstaining).*

Chair Patrick Eeley adjourned the Work Session at 7:05 P.M.

## **PUBLIC HEARING**

Chair Patrick Eeley called the Public Hearing to order at 7:05 P.M. There were 5 members of the Zoning Board of Appeals present and 1 absent.

### **PENDING CASES:**

- 2007-70      35B Pleasant Street (Residential 3 Zone), Vernon Brown, Trustee of Baldwin Realty Trust -**  
The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale to expand/construct a structure that exceeds the maximum allowed scale. Patrick Eeley, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case.  
**Presentation:** Attorney Lester J. Murphy, David Nicolau and Vernon Brown appeared to discuss the application. Attorney Murphy asked if Board members had had a chance to view the property, and if they had any further questions/concerns about the project or needed more information from the applicant. He also inquired of the Board whether there were any members that had serious reservations about the project because if that were the case, the applicant would consider withdrawing the application.  
**Board Discussion:** Board members briefly stated their position on the case. Attorney Murphy requested to withdraw the application without prejudice.  
*Patrick Eeley moved to grant the withdrawal without prejudice, Robert Littlefield seconded and it was so voted, 4-0.*

### **POSTPONED CASES:**

- 2007-62      27 Pleasant Street (Residential 3 Zone), Richard Salvador on behalf of Mark Waldrop and Jeffrey Libby -**  
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming structure by adding a 20" section of block foundation to a one-story cottage within the side yard setback. This case is postponed until the January 17, 2008 hearing.
- 2007-68      89 Franklin Street (Residential 3 Zone), Doug Dolezal and Greg Welch -**  
The applicant seeks a Special Permit under Article 3, Section 3110 and Section 3340E of the Zoning By-Laws to change a pre-existing, non-conforming structure and increase scale units above the neighborhood average (proposed two-family dwelling and accessory buildings). This case is postponed until the January 17, 2008 hearing.
- 2007-69      89 Franklin Street (Residential 3 Zone), Doug Dolezal and Greg Welch -**

The applicant seeks a Special Permit under Article 3, Section 3110 and Section 3340E of the Zoning By-Laws to change a pre-existing, non-conforming structure and increase scale units above the neighborhood average (proposed two-family dwelling). This case is postponed until the January 17, 2008 hearing.

- 2007-73**      **781 Commercial Street (*Residential 1 Zone*), Long Point Condominium Association -**  
The applicant seeks an appeal of the Building Commissioner's decision of October 31, 2007 under Article 5, Section 5223. This case is postponed until the January 17, 2008 hearing.
- 2007-53**      **15 Conant Street, Unit #3 (*Residential 3 Zone*), Jerome Carlson –**  
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend up and along a pre-existing, non-conforming east (rear) and south (side) setbacks. (Remove an existing one-story structure and replace with a two-story structure in the same footprint). Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.  
**Presentation:** Neil Kimball appeared to present the application. This project involves a hip-roofed cottage with a large deck on the front. The structure sits on the property line and the space within the structure is impractical. The applicant seeks to remove the cottage, put in a foundation, and then rebuild it, increasing its width thereby creating more usable space. There will be a dormer added making it a one and a half story cottage. The proposed cottage will sit farther back from the lot line, thereby reducing the non-conformancy.  
**Public Comment:** None. There were two letters in favor of the application in the file.  
**Board Discussion:** The Board questioned Mr. Kimball.  
*Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend up and along a pre-existing, non-conforming east (rear) and south (side) setbacks. (Remove an existing one-story structure and replace with a two-story structure in the same footprint) at the property located at 15 Conant Street, Unit #3 (Res 3), Anne Howard seconded and it was so voted, 5-0. Robert Littlefield will write the decision.*

## **NEW CASES:**

- 2008-01**      **237-241 Commercial Street (*Town Commercial Center Zone*), Robin B. Reid, Esq. on behalf of Kross, Inc. -**  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to amend an annual liquor license to a seasonal liquor license. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.  
**Presentation:** Attorney Robin B. Reid and Ken Ross appeared to present the application.  
**Public Comment:** None. There were no letters in the file.  
**Board Discussion:** The Board questioned Attorney Reid and Mr. Ross. The Board requested a seating plan from the applicant and Attorney Reid provided one to the Board shortly thereafter.  
*Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to amend an annual liquor license to a seasonal liquor license at the property located at 237-241 Commercial Street (TCC), Elisabeth Verde seconded and it was so voted, 5-0.*  
Attorney Reid submitted a written decision for the Board's approval.  
Patrick Eeley read the decision. *Elisabeth Verde moved to approve the language as written, Anne Howard seconded and it was so voted, 5-0.*
- 2008-02**      **9 Carnes Lane (*Residential 3 Zone*), Yuriy Litvinov and Pavel Fiodarau -**  
The applicant seeks a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to extend a pre-existing, non-conforming two-family dwelling up and along pre-existing non-conforming setbacks and for a deviation in building scale. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.  
**Presentation:** Yuriy Litvinov and Pavel Fiodarau appeared to present the application. The applicant submitted two applications, but it was noticed out as one case.  
**Public Comment:** None. There were no letters in the file.  
**Board Discussion:** The Board questioned Mr. Litvinov and Mr. Fiodarau. The Board noted an error in the applicants' application for the Special Permit under Article 3, Section 3340E. The Board debated

whether they should continue to hear the application.

*Robert Littlefield moved to hear Case #2008-02 and manually correct the application where it says, "Allowed Scale", by striking '87.73' scale units and replacing it with '70.18' scale units and (see Assessor's Scale Calculation) and where it says " Neighborhood Average", by striking '70.18' scale units and replacing it with '56.14' scale units, Elisabeth Verde seconded and it was so voted, 4-1 (Amy Germain opposed).*

The plans submitted did not show existing elevations and the Board requested that the applicants submit a plan showing those calculations with the same scale as the plan showing the proposed elevations. Robert Littlefield would like to do a site visit.

*Patrick Eleey moved to continue the case until the January 17, 2008 hearing and that the previously stated corrections be made to the application, Amy Germain seconded and it was so voted, 5-0.* The Board requested that the applicants submit the plan on or before January 14, 2008.

## **BOARD DISCUSSION:**

The Board discussed the issue of applicants submitting written decisions for the Board's approval the same evening that the case is heard.

*Patrick Eleey moved that the Board no longer accept written decisions from applicants to be read into the record at the hearing, but will accept them only for use as a reference for Board members in writing their decisions, Amy Germain seconded and it was so voted, 5-0.*

Russell Braun addressed the Board briefly, reminding them that their role, as a ZBA member in hearing applications for Special Permits and Variances, should be as impartial as possible. None of the board members disagreed. Assistant Town Manager David Gardiner joined the discussion.

The Board briefly discussed the 2008 schedule of ZBA hearings.

## **NEXT MEETING:**

The next meeting will be on January 17, 2008 and will be held in the Judge Welsh Hearing Room. It 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 9:30 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 January 17, 2008.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

Ellen C. Battaglini