

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

**MEETING MINUTES OF**  
**January 17th, 2008**

**MEETING HELD IN TOWN HALL**

**Members Present:** Patrick Eleey, 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), David Gardiner (Assistant Town Manager) and Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

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

**PENDING DECISIONS:**

**2007-53      15 Conant Street, Unit #3 (*Residential 3 Zone*), Jerome Carlson –**  
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Robert Littlefield read the decision. *Patrick Eleey moved to accept the language as written, Anne Howard seconded and it was so voted, 5-0.*

Chair Patrick Eleey adjourned the Work Session at 7:01 P.M.

**PUBLIC HEARING**

Chair Patrick Eleey called the Public Hearing to order at 7:01 P.M. There were 5 members of the Zoning Board of Appeals present and 1 absent.

## PENDING CASES:

**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 Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

**Presentation:** Yuriy Litvinov and Pavel Fiodarau appeared to discuss the case. The applicants had submitted new plans showing existing elevations as requested by the Board. The additional proposed scale units will be for the back addition of the house, which will not be visible from the street. The applicants are adding doghouse dormers in order to make the structure look more like a Cape Cod style house and be more in character with the other houses in the neighborhood.

**Board Discussion:** The Board questioned Mr. Litvinov and Mr. Fiodarau. The Board noted that the applicants had not submitted a full set of existing elevations for the premises. The north and west side existing elevations are still missing.

*Amy Germain moved to continue Case # 2008-02 until the application is completed by submitting the existing north and west side elevations, with the same scale as the south and east side elevations already submitted, Patrick Eleey seconded and it was so voted, 5-0.* The case is continued until the February 7, 2008 hearing.

## 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. Patrick Eleey recused himself because of a conflict of interest. Elisabeth Verde chaired the case and explained that since there were only 4 members seated on the case and a unanimous vote would be needed in order for a Special Permit to be granted, the applicant had the choice of proceeding with 4 members or waiting until 5 members were seated. The applicant chose to proceed with 4 members seated. Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

**Presentation:** Richard Salvador appeared to present the application. The applicant seeks to raise the house 4” (contrary to what was advertised as 20”) and install a foundation.

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

**Board Discussion:** The Board questioned Mr. Salvador. The Board noted that they did not have the correct plans in front of them.

*Amy Germain moved to continue the case until an accurate application, with plans reflecting said application, is submitted, Anne Howard seconded and it was so voted, 3-1 (Robert Littlefield opposed).*

Mr. Salvador informed the Board that he had the correct plans, submitted them, and then corrected the application to clarify the proposed project.

*Robert Littlefield moved to re-open the case, Amy Germain seconded and it was so voted, 4-0.*

The Board continued to question Mr. Salvador.

### FINDINGS OF FACT:

- The project is not substantially detrimental to the neighborhood;
- The project is preserving an existing structure by adding a foundation;
- The proposed structure will be in keeping with the character of the neighborhood; and
- The project proposes to raise the elevation of the structure by 4”.

*Anne Howard moved to grant 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 4” section of block foundation to a one-story cottage within the side yard setback at the property located at 27 Pleasant Street (Res 3), Robert Littlefield seconded and it was so voted, 4-0.* Robert Littlefield will write the decision.

**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). These cases will be heard together. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on both cases.

**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).

**Presentation:** Attorney Lester J. Murphy, Ginny Binder, Doug Dolezal and Greg Welch appeared to present the application. Although the applicants are submitting two different proposals for the development of the same piece of property, they would prefer that the Board approve the second project as described in Case #2007-69, as they feel it is more appropriate to the configuration of and to the buildable areas on the site. Both proposals involve the removal of a structure on the premises that is currently encroaching onto the layout of the street and its replacement with one or more structures. The first proposal, the 'townhouse' proposal, involves the construction of a two-family dwelling along with two accessory garage structures.

The second proposal involves the construction of two single-family 'wings' that are connected by a foundation wall and walkway. Attorney Murphy argued that the scale of the proposed structures, in each of the two options presented, would be consistent and compatible with the character and architectural style of the neighborhood and thus in keeping with the objectives of the Local Comprehensive Plan. The removal of the existing structure, also as proposed in both options, would be a benefit to the neighborhood, as this structure is seen as a traffic hazard on Pleasant Street.

**Public Comment:** Hirschel McGinnis, Miriam Gross, Louis Lema, Cary Raymond and Joe DeMartino, all abutters, spoke in favor of the application. There were 2 letters in opposition to the project and a petition signed by 55 people, 32 of whom are abutters within the 250' radius of the property and 6 of whom are direct abutters to the property, in favor of the project in the file.

**Board Discussion:** The Board questioned Attorney Murphy, Ms. Binder, Mr. Dolezal and Mr. Welch. *Patrick Eleey moved to grant 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) for the property located at 89 Franklin Street (Res3), Robert Littlefield seconded and it was so voted, 5-0.* Patrick Eleey will write the decision. The applicant then requested the withdrawal without prejudice of Case #2007-68.

*Patrick Eleey moved to grant the withdrawal without prejudice of Case #2007-68, Robert Littlefield seconded and it was so voted, 5-0.*

**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. The applicant requested a postponement until the February 21, 2008 hearing and agreed to waive the time constraints for the case.

*Patrick Eleey moved to postpone Case # 2007-73 until the February 21, 2008 hearing, Robert Littlefield seconded and it was so voted, 4-0-1 (Anne Howard abstaining).*

## NEW CASES:

**2008-03**      **17 Kimberly Lane (Residential 1 Zone), Attorney Lester J. Murphy on behalf of David Hurvitz and Ronald Farrer -**

The applicants seek a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Laws for the installation of an in-ground swimming pool. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

**Presentation:** Attorney Lester J. Murphy, Ronald Farrer and David Hurvitz appeared to present the application.

**Public Comment:** Mimi Gross, an abutter, asked several questions concerning the pool and its location. There was one letter in the file from the Homeowner's Association approving the installation of the pool.

**Board Discussion:** The Board questioned Attorney Murphy, Mr. Farrer and Mr. Hurvitz.

**Patrick Eeley moved to grant a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Laws for the installation of an in-ground swimming pool at the premises located at 17 Kimberly Lane (Res 1), Robert Littlefield seconded and it was so voted, 5-0.** Elisabeth Verde will write the decision.

**MINUTES: January 3, 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 February 7, 2008 and will be held in the Judge Welsh Hearing Room. It 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 11:00 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 February 7, 2008.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

Ellen C. Battaglini