

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
June 19, 2008

MEETING HELD IN TOWN HALL

Members Present: Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain, Keith Amato (arrived at 7:07 P.M.) and Anne Howard.

Members Absent: None.

Others Present: Russ Braun (Acting Building Commissioner) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair Patrick Eleey called the Work Session to order at 6:34 P.M.

PENDING DECISIONS:

2008-24 **355 Commercial Street (*Town Commercial Center Zone*), Carole A. Lanstein on behalf of James McGowan –**

Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Amy Germain read the decision. *Anne Howard moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

2008-40 **361 Commercial Street (*Town Commercial Zone*), Joanne Berardi –**

Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Elisabeth Verde read the decision. *Anne Howard moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

2008-39 **144 Bradford Street Extension (*Residential 3 Zone*), Jeffrey Epstein, Trustee on behalf of 144 Bradford Street Extension –**

Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Anne Howard read the decision. *Amy Germain moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 5-0.*

2008-38 **9 Carnes Lane (Residential 3 Zone), Yuriy Litvinov and Pavel Fiodarau –**
Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.
Patrick Eeley read the decision. ***Robert Littlefield moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 5-0.***

MINUTES: June 5, 2008 – Anne Howard moved to approve the language as amended, Robert Littlefield seconded and it was so voted, 5-0.

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. There were 5 members of the Zoning Board of Appeals present and 1 absent.

NEW CASES:

2008-41 **16 Conwell Street (Residential 3 Zone), Richard K. Mills, Jr. –**
The applicant seeks a Special Permit under Article 2, Section 2560 of the Zoning By-Laws for the installation of a 5' by 8' shed to be located within 50% of the allowed setback. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.
Presentation: Richard K. Mills, Jr. appeared to present the application.
Public Comment: None. There were 2 letters in support of the application.
Board Discussion: The Board questioned Mr. Mills. The Board informed the applicant that due to the building separation requirement of the Zoning By-Laws, which states that there needs to be a 12' separation between buildings on a lot, he could not erect a 5' by 8' shed, but could erect a 5' by 7' one. ***Patrick Eeley moved to approve a Special Permit under Article 2, Section 2560 of the Zoning By-Laws for the installation of a shed to be located within 50% of the allowed setback at the property located at 16 Conwell Street (Res 3), on the condition that the shed is no larger than 5' long and 7' wide, in order that it conform with the building separation requirement of the Zoning By-Laws, Robert Littlefield seconded and it was so voted, 4-0-1 (Amy Germain abstaining).*** Patrick Eeley will write the decision.

CONTINUED CASES:

- 2008-27** **27-31 Bangs Street (Residential 3 Zone), William N. Rogers II, P.E., P.L.S on behalf of Gunther Realty, LLC, Judy K. Mencher, Manager** *(continued from June 5, 2008)* –
The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation in building scale for the construction of two duplex buildings containing four dwelling units. Patrick Eleey, Robert Littlefield, Amy Germain, Keith Amato and Anne Howard sat on the case.
Presentation: Attorney Lester J. Murphy and Gary Locke appeared to discuss the application. The applicant had submitted revised plans showing significant changes to the project, based upon the Board's concerns about the scale and height of the buildings, in particular Building 2, when the application was initially heard. The new proposal shows reduced lot coverage of 4% and an increase in green space of 7%. Building 1 has been reduced in square footage by 123 sq. ft. and Building 2 by 35 sq. ft. The driveway and parking area has been reduced by 27 sq. ft. and the walkway by 357 sq. ft. Building 1's proposed height is now 25' 11". Building 2's roof peak has been reduced by 9 1/2'. A patio area has been re-located at Building 2, negating the need for a proposed stair component, and the covered porches will be removed and will be replaced with covered entryways, measuring 5' by 5'. As a consequence of these changes, the building scale of both Buildings 1 and 2 have been reduced, with both now being below the neighborhood average. These changes also have the effect of easing the visual impact of the two buildings in the neighborhood.
Board Discussion: The Board questioned Attorney Murphy and Mr. Locke.
Robert Littlefield moved to approve a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation in building scale for the construction of two duplex buildings containing four dwelling units at the property located at 27-31 Bangs Street (Res 3), Patrick Eleey seconded and it was so voted, 4-1 (Amy Germain opposed). Robert Littlefield will write the decision.

POSTPONED CASES:

- 2008-28** **27 Tremont Street (Residential 1 Zone), Neal Kimball on behalf of Tom Burke and Axel Brunger** *(postponed from June 5, 2008)* –
The applicants seek a Variance under Article 2, Section 2560 (Dimensional Schedule) of the Zoning By-Laws for an 11'2" high by 15' wide by 6" deep trellis previously erected upon verbal approval of a former Building Inspector. Patrick Eleey had to recuse himself because of a conflict of interest. Anne Howard will take over as chair for the hearing of this application. Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and Keith Amato sat on the case.
Presentation: Neal Kimball appeared to present the application. A former Building Inspector had informed the applicant that he did not need a Special Permit to erect a trellis, and thus the applicants proceeded to have the trellis built. Subsequent to the erection of the trellis, a direct abutter expressed concern to the Department of Community Development about the height of the trellis.
Public Comment: Gary Reinhardt, a direct abutter, spoke against the application. There was one letter in support of the application.
Board Discussion: The Board questioned Mr. Kimball. The Board concluded that the applicant's argument did not satisfy the requirements of the Zoning By-Laws for granting a Variance.
Robert Littlefield moved to deny the request for a Variance under Article 2, Section 2560 (Dimensional Schedule) of the Zoning By-Laws for an 11'2" high by 15' wide by 6" deep trellis previously erected upon verbal approval of a former Building Inspector at the property located at 27 Tremont Street (Res 1), Elisabeth Verde seconded and it was so voted, 4-0-1 (Keith Amato abstaining). The Board advised Mr. Kimball to have his clients remove the trellis by July 31, 2008. Robert Littlefield will write the decision.

Chair Patrick Eleey postponed the hearing for a 5-minute break.

- 2008-42** **290D Bradford Street, Unit #1 (Residential 3 Zone), Attorney Lester J. Murphy on behalf of Lori A. Wein** –
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the alteration and extension of a pre-existing, non-conforming three unit multiple single-family dwelling complex by the addition of a fourth dwelling unit. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.
Presentation: Attorney Lester J. Murphy and Lori A. Wein appeared to present the application. The

applicant seeks to add an additional dwelling unit to the property by converting a storage unit located on the property into a single-family dwelling unit. She is proposing to accomplish this by moving a bedroom from Building B to Building A, both of which comprise Unit #1, and adding a kitchen and bathroom. This proposed project will increase the non-conformancy of the property.

Public Comment: Dean Westcott in favor of the application and Robert Zeller spoke of both his ambivalence and concerns about the application. There were 4 letters in support of the application.

Board Discussion: The Board questioned Attorney Murphy and Ms. Wein. The Board discussed whether the applicant should be applying for a Special Permit or a Variance. The Board requested that the applicant submit new plans with more clarity, detail and information in order that they can make an informed decision. The Board would also like to consult with Town Counsel about the issues raised by this application.

Patrick Eleey moved to continue Case #2008-42 until the July 17, 2008 hearing in order that the Board consult with Town Counsel about the issues involved in the case, Amy Germain seconded and it was so voted, 5-0. The Board also indicated that they would like to make a site visit.

Chair Patrick Eleey adjourned the Public Hearing at 9:30 P.M.

WORK SESSION

Chair Patrick Eleey reconvened the Work Session at 9:30 P.M.

The Board discussed the Zoning Board of Appeals Special Permit and Variance applications. *Amy Germain moved to amend the applications for Special Permits and Variances to include a statement that incomplete submissions "shall not be accepted", Patrick Eleey seconded and it was so voted, 6-0.*

Amy Germain moved to amend the applications for Special Permits and Variances to also include a statement that all respective existing and proposed design drawings shall be drawn at the same scale, Patrick Eleey seconded and it was so voted, 5-0-1 (Keith Amato abstaining).

NEXT MEETING:

The next meeting will be on July 17, 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 9:50 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 17, 2008.

Respectfully submitted,
Ellen C. Battaglini

Zoning Board of Appeals Signature