

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
September 4, 2008

MEETING HELD IN TOWN HALL

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

Members Absent: None.

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

WORK SESSION

Chair Patrick Eleey called the Work Session to order at 6:32 P.M.

PENDING DECISIONS:

2008-42 **290D Bradford Street, Unit #1 (*Residential 3 Zone*), Attorney Lester J. Murphy on behalf of Lori A. Wein –**
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eleey read the decision. *Amy Germain moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

MINUTES: August 7, 2008 – Anne Howard moved to approve the language as written, Amy Germain seconded and it was so voted, 4-0-1 (Elisabeth Verde abstaining).

2008-43 **96 Commercial Street, Unit #3 (*Residential 3 Zone*), Harry J. Moraitis –**
The Board discussed changing the date that had originally been set for the applicant to remove the deck. *Patrick Eleey moved to change the date for the removal of the deck at the property located at 96 Commercial Street (Res 3) to October 5, 2008, Anne Howard seconded and it was so voted, 5-0.*

Patrick Eleey adjourned the Work Session at 7:02 P.M.

PUBLIC HEARING

Patrick Eleey called the Public Hearing to order at 7:02 P.M. There were five members of the Zoning Board of Appeals present and none absent.

NEW CASES:

2008-45 **361 Commercial Street (*Town Commercial Center Zone*), T and Celine Gandolfo/Tonga Trust –**
The applicants seek a Special Permit under Article 4, Section 4170 2. (a) of the Zoning By-Laws for a change in use from commercial to mixed use. Attorney Lester J. Murphy, representing the applicants appeared to request a withdrawal of the case without prejudice. *Patrick Eleey moved to grant the request to withdraw Case #2008-45 without prejudice, Anne Howard seconded and it was so voted, 5-0.*

12 Somerset Road (Residential 3 Zone), Mark P. Kinnane of Cape Associates, Inc. on behalf of Jerry Albright –

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale for the construction of an addition exceeding the allowable scale. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Mark P. Kinnane and Jerry Albright appeared to present the application. The applicant has already been issued a building permit for the project and had started to clear the site and dig a foundation when it came to the attention of the Assessor's Office that the scale calculations hadn't been done. However, Cape Associates and the architect, after checking their records, both said that the scale calculations had been submitted, but neither had a record of that submission. The Building Commissioner requested that the applicant apply for a Special Permit for a deviation in building scale. The applicant seeks to build two additions. One, on the left side of the house, will project out 13' and be two stories in height, matching the ridgeline on the existing house. The second, on the right side of the house, will be a small bump-out with a staircase to access the second floor. The screened porch on the rear of the building will also be increased.

The neighborhood average scale calculation, per the Assessor's Office, is 109.6 scale units, which would allow the applicant to reach a total of 136.32 s.u. without seeking relief. The proposed scale is 156 s.u. However, Mr. Kinnane alleges that the scale calculations of the Assessor's Office are out-of-date and incorrect. And, according to his calculations, the neighborhood average should be 119.62 s.u., which would allow the applicant to reach a scale of 149.7 s.u. without seeking relief. Thus, Mr. Kinnane thus argues that the proposed scale is only slightly higher than his calculated neighborhood average.

Public Comment: Steven DeRose, an abutter had a question about the height of a retaining wall. There were no letters in the file.

Board Discussion: The Board questioned Mr. Kinnane and Mr. Albright. After Board discussion, the applicant requested a continuance in order to challenge the scale calculations of the Assessor's Office. *Patrick Eleey moved to accept the request for a continuance until the September 18, 2008 hearing, Elisabeth Verde seconded and it was so voted, 5-0.*

The Board briefly discussed the scale by-law.

NEXT MEETING:

The next meeting will be on September 18, 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 8:10 P.M. and it was so voted unanimously.

Respectfully submitted,
Ellen C. Battaglini

These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on September 4, 2008.

Zoning Board of Appeals Signature