

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
December 4, 2008

MEETING HELD IN THE GRACE GOUVEIA BUILDING

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

Members Absent: None.

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

WORK SESSION

Chair Patrick Eleey called the Work Session to order at 6:35 P.M.

MINUTES: November 20, 2008 – *Anne Howard moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 4-0-1 (Patrick Eleey abstaining).*

The Board briefly discussed the 2009 Zoning Board of Appeals schedule.

CONTINUED CASE:

2008-57 **963 Commercial Street, Unit #9 (*Residential 1 Zone*), Brian Alexander on behalf of Sandra Pata**
(continued from November 6, 2008) –

The applicant seeks a Special Permit under Article 3340 E of the Zoning By-Laws for a deviation in building scale to construct a first story addition. The Board will hear this case and the following Case #2008-58 together. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on both cases.

PUBLIC HEARING

POSTPONED CASES:

2008-58 **963 Commercial Street, Unit #9 (*Residential 1 Zone*), Brian Alexander on behalf of Sandra Smales**
(postponed from November 6, 2008) –

The applicant seeks a Special Permit under Article 3340 E of the Zoning By-Laws for a deviation in building scale to construct a first story addition.

Presentation: Brian Alexander and Attorney Lester J. Murphy appeared to discuss the applications. Both of the applicants seek to add extensions measuring 8' by 17' 3", which equals approximately 9.79 scale units, to their dwelling units. In addition, the owner of Unit #9 seeks the addition of a deck. The existing scale of the building in which these units are located is 261.02 s.u. and the proposed scale is 280.6 s.u., for an increase of 7.5%. The neighborhood average is 54.68 s.u., with an allowed scale of 68.35 s.u. However, Attorney Murphy pointed out that these scale units are skewed because of the building's location on the Provincetown/Truro line. Only the buildings located in Provincetown, within the 250' radius, have been taken into consideration in the Assessor's scale calculations. In an effort to give the Board a clearer idea of the scale of the entire neighborhood that straddles the Provincetown/Truro line, Mr. Alexander has obtained the scale calculations for the buildings, within the 250' radius, that are located in Truro. If these calculations are considered along with the Provincetown building calculations, Attorney Murphy argued, the neighborhood scale numbers change. In that case, the neighborhood average would be 151.63 s.u., with an allowed scale of 189.53 s.u., which would make the proposed deviation in scale seem much smaller. He added that the Truro structures should be

included when the Board considers the impact of the proposed additions on the character of the entire neighborhood. Even though the structure involved is considered as one for scale purposes, it really appears as two separate structures. If the portion of the structure in which these additions are located could be considered on its own, the proposed scale would be less than 190 s.u. He further stated that the neighborhood is a mixture of large hotel/motel structures, including several whose scale is greater than the building in question, and small structures. Adding the proposed extensions, he argued, totaling approximately 18 s.u., would not disrupt the character of the neighborhood and the building would still be compatible and in harmony with the site and the existing surrounding buildings. He then added that the proposed changes are in keeping with the Local Comprehensive Plan because, amongst other reasons, they will increase revenue for the Town, promote the redevelopment of residential areas and create jobs for local workers.

Public Comment: None. There was 1 letter in the file in support of the application.

Board Discussion: The Board questioned Mr. Alexander and Attorney Murphy. The Board was concerned with the steep pitch of the roof on the additions. The applicant agreed to lower the pitch of the roof.

2008-57 *Anne Howard moved to grant a Special Permit under Article 3340 E of the Zoning By-Laws for a deviation in building scale to construct a first story addition at the property located at 963 Commercial Street, Unit #9 (Res1), with the condition that the gable ridge is reduced by 2' so it conforms (height wise) to the existing ridge height and the submission of revised plans reflecting that change, Robert Littlefield seconded and it was so voted, 4-1-0 (Elisabeth Verde against).*

2008-58 *Anne Howard moved to grant a Special Permit under Article 3340 E of the Zoning By-Laws for a deviation in building scale to construct a first story addition at the property located at 963 Commercial Street, Unit #5 (Res1) with the condition that the gable ridge is reduced by 2' so it conforms (height wise) to the existing ridge height and the submission of revised plans reflecting that change, Robert Littlefield seconded and it was so voted, 4-1-0 (Elisabeth Verde against).*
Robert Littlefield will write the decisions.

CONTINUED CASES:

2008-59 **67 Harry Kemp Way (Residential B Zone), William N. Rogers, II, P.E., P.L.S. on behalf of Demetrios Daphnis –**
The applicant seeks a Special Permit under Article 3340 E of the Zoning By-Laws to construct three new single-family dwellings (Buildings #1, #2 and #5) which exceed the maximum allowable scale units. The applicant has requested a continuance until the December 18, 2008 hearing and has submitted a waiver of the time constraints.
Anne Howard moved to accept the request for a continuance until the December 18, 2008 hearing, Amy Germain seconded and it was so voted, 5-0.

POSTPONED CASES:

2008-60 **226 Bradford Street, rear cottage (Residential 3 Zone), Albert L. Bowen (postponed from November 20, 2008) –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a half-story addition up and along pre-existing, non-conforming rear and side yard setbacks. Anne Howard recused herself because of a conflict of interest. Patrick Eleey, Elisabeth Verde, Robert Littlefield, and Amy Germain sat on the case.
Presentation: Attorney Lester J. Murphy and Len Bowen appeared to present the application. The applicant seeks to enlarge a cottage on his property by building up and along the pre-existing, non-conforming rear and side yard setback lines and to bring the structure into conformity with the State Building Code. The footprint of the building and the lot coverage will remain the same. Attorney Murphy requested that the Board consider hearing this under the *Goldhirsh v. McNear* ruling and determine that the expansion will not cause an intensification or add to the non-conforming nature of the structure. If the Board did not choose to hear it under this ruling, Attorney Murphy argued that the proposed change in the structure will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.

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

Board Discussion: The Board questioned Attorney Murphy and Mr. Bowen.

Patrick Eleey moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws

to construct a half-story addition up and along pre-existing, non-conforming rear and side yard setbacks at the property located at 226 Bradford Street, rear cottage (Res 3), Elisabeth Verde seconded and it was so voted, 4-0. Amy Germain will write the decision.

- 2008-61** **104A Bradford Street (residential 3 Zone), Mike Czyoski on behalf of Elizabeth Brooke –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure along a non-conforming dimension for the construction of a deck. The Board will hear these two cases together. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on both cases.
- 2008-62** **104A Bradford Street (residential 3 Zone), Mike Czyoski on behalf of Elizabeth Brooke –**
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 a deck.
Presentation: Mike Czyoski appeared to present the application. The applicant seeks to construct a 6' by 38' deck, which will be a 10 scale unit increase in building scale.
Public Comment: Gina Cassidy, Carol Gillespie, speaking for herself and several other condominium unit owners, and Randa Krise all spoke in opposition to the project, citing concerns about the large size of the deck, as well as its potential effect on other unit owners, in terms of safety, loss of light, egress blockage, privacy and congestion. There were 2 letters in the file, one from a member of the public who had already spoken, in opposition to the application. There was also a letter from Attorney Nancy Correia informing the Board that the Master Deed of the Condominium states that Unit #4 has the express authority to construct an exclusive-use deck, no larger than 37' by 8', on the south side of the unit.
Board Discussion: The Board questioned Mr. Czyoski. He subsequently requested a continuance. *Anne Howard moved to accept the request for a continuance, Robert Littlefield seconded and it was so voted, 5-0.* Chair Patrick Eleey informed those present that the public portion of the case was closed.
- 2008-63** **333R Commercial Street (Town Commercial Center Zone), Neal Kimball, Kimball Designs, Inc., on behalf of Boatworks Building LLC William Bonn –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along a non-conforming west side dimension by building out living space on the second and third floors in place of the existing third floor covered deck and to build out the south end of the third floor by 9". The west side of the build-out extends along the non-conforming west sideline.
- 2008-64** **333R Commercial Street (Town Commercial Center Zone), Neal Kimball, Kimball Designs, Inc., on behalf of Boatworks Building LLC William Bonn –**
The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation from building scale. The Board will hear these two cases together. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on both cases.
Presentation: Neal Kimball and Gary Locke appeared to present the application. The applicant seeks to renovate a large structure, including re-instating a walkway and an emergency egress stairway on the west side of the building and building out living space on the second and third floors. The third floor living space will be extended by 9", the third floor deck will be enclosed and the second floor deck will be extended out directly underneath it. The first floor will not be extended. The footprint will remain the same. This project will not impede access to the Town Landing abutting the property and will not be substantially more detrimental to the neighborhood. The building has not been occupied and has fallen into disrepair, so the proposed renovations will be a benefit to the neighborhood.
Public Comment: Nancyann Meads, who owns a business located in a building abutting the premises, expressed concern that her business might be disrupted as a result of this renovation project, including her deliveries and her trash pick-up. There were no letters in the file.
Board Discussion: The Board questioned Mr. Kimball and Mr. Locke.
- 2008-63** *Patrick Eleey moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along a non-conforming west side dimension by building out living space on the second and third floors in place of the existing third floor covered deck and to build out the south end of the third floor by 9". The west side of the build-out extends along the non-conforming west sideline at the property located at 333R Commercial Street (TCC), Anne Howard seconded and it was so voted, 5-0.*

2008-64 *Patrick Eeley moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation from building scale at the property located at 333R Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 5-0. Patrick Eeley will write both decisions.*

The Board briefly discussed the application of Peter Bez for a position on the Board. *Patrick Eeley moved to appoint Peter Bez to a position on the Zoning Board of Appeals, Elisabeth Verde seconded and it was so voted, 5-0.*

NEXT MEETING: The next meeting will take place on December 18, 2008. It will consist of Work Session at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Amy Germain moved to adjourn at 9:00P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on December 18, 2008.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2008
Patrick Eeley, Chair