

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
March 5, 2009

MEETING HELD IN THE GRACE GOUVEIA BUILDING

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

Members Absent: Peter Bez (unexcused).

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 6:45 P.M.

MINUTES: February 19, 2009 – *Amy Germain moved to approve the language as written, Patrick Eleey seconded and it was so voted, 4-0-1 (Anne Howard abstaining).*

The Board briefly discussed changing the language on ZBA public notices and will discuss the issue further at the next Work Session.

Chair Patrick Eleey adjourned the Work Session at 6:55 P.M.

PUBLIC MEETING

Chair Patrick Eleey called the Public Meeting to order at 7:00 P.M. There were five members of the Zoning Board of Appeals present and one absent.

POSTPONED CASES:

2009-03 **47C Commercial Street (Residential 2 Zone), David S. Martin** (*postponed from February 19, 2009*) –

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming single-family structure up and along non-conforming east side and rear setbacks. Additionally, the applicant seeks, under the provisions of the Zoning Board of Appeals, the review of Special Permit #2005-038 as required by the ZBA if there is a deviation from the granted SP. The applicant has reduced the scope of the project at the premises. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Attorney E. James Veara appeared to present the application. Also present were David S. Martin and Fred Ambrose. The applicant seeks a change from a previously approved project at the premises. In 2004, a Special Permit was approved by the Board allowing the applicant to build a proposed 23' high structure having a total of 53.3 scale units. That decision was appealed in the Land Court by a direct abutter to the east of Mr. Martin and an accommodation was reached. A reduction in size of the structure was agreed upon and in July of 2005, a Special Permit was granted by the Board allowing the construction of that proposed structure, which was 19' in height, having a total of only 37.39 s.u. No appeal of that decision was filed. The project was delayed for several years by the applicant's prolonged process of obtaining a Chapter 91 license, the stipulation of which called for a

further reduction in the size of the proposed structure. The proposed height would remain the same, but the scale would be reduced by approximately 16%. The approval of the modified plans for this structure is the subject of this application.

Public Comment: Artemis Pinkerson, a direct abutter, spoke against the application, citing encroachment of the structure, along with its hot water pipes, gutters and down spouts on her property. There was one letter in opposition from Ms. Pinkerson in the file.

Board Discussion: The Board questioned Attorney Veara and Mr. Ambrose.

Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming single-family structure up and along non-conforming east side and rear setbacks. Additionally, the applicant seeks, under the provisions of the Zoning Board of Appeals, the review of Special Permit #2005-038 as required by the ZBA if there is a deviation from the granted SP for the property located at 47C Commercial Street (Res 2), Anne Howard seconded and it was so voted, 5-0. Patrick Eleey will write the decision.

NEW CASES:

2009-04 206 Commercial Street (Town Commercial Center Zone), Steven Allen Couch
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the reconfiguration of seating and service area to a previously approved restaurant and for the service of alcoholic beverages. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Steven Allen Couch and Mike Fennelly appeared to present the application. The applicant seeks to change the seating configuration in the courtyard space for a previously approved restaurant. The proposed seating would include 3 café tables in the interior and 6 café tables in the courtyard.

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

Board Discussion: The Board questioned Mr. Couch and Mr. Fennelly. The Board was concerned about how the applicant would monitor the outdoor seats for use by non-customers and for the prevention customers who are consuming alcohol from exiting the premises with same. Mr. Couch indicated that the door to the interior will always be open and that there will be at least three staff on duty at all times. **Patrick Eleey moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the reconfiguration of seating and service area to a previously approved restaurant and for the service of alcoholic beverages for the property located at 206 Commercial Street (TCC), with seating as shown on a site plan by Felco, Inc., dated August 6, 2003, submitted by the applicant, with the following conditions:**

- *the hours of operation will be 8:00 A.M. to 12:00 A.M.;*
- *the hours for the service of alcohol will be 12:00 P.M. to 12:00 A.M.; and*
- *the Special Permit will be granted for a period of one year, to expire on March 31, 2010.*

Robert Littlefield seconded and it was so voted, 5-0. Amy Germain will write the decision.

2009-05 143 Bradford Street (Town Commercial Center Zone), Anathan Benson II. LLC –
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the construction of a screened-in porch with a deck above. Robert Littlefield disclosed that he is an abutter to an abutter, but feels he can render a fair decision and has no financial stake in the outcome of the decision. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Kevin Bazarian, contractor, and Derek Snare, architect, appeared to present the application. There are two buildings on the property. The proposed screened-in porch with a deck above it will be constructed on the second building located in the back of the property. They will be constructed on top of an existing utility shed roof. The deck will serve as a second means of egress for the upstairs unit. An existing deck on the first floor will be removed.

Public Comment: Jim Sheehan, who owns an abutting business, asked a question concerning the location of the proposed screened-in porch. There were no letters in the file.

Board Discussion: The Board questioned Mr. Bazarian and Mr. Snare.

Amy Germain moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the construction of a screened-in porch with a deck above for the property located at 143 Bradford

Street (TCC), with the stipulation that the site plan reflect that the project was considered at the March 5, 2009 ZBA hearing, and not the March 19, 2009 ZBA hearing as currently shown on the site plan, Patrick Eleey seconded and it was so voted, 5-0. Anne Howard will write the decision.

NEXT MEETING: The next meeting will take place on March 19, 2009. 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 8:15 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 March 19, 2009.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2009
Patrick Eleey, Chair