

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
May 7, 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 (excused).

Others Present: David Gardner (Assistant Town Manager), 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 6:50 P.M.

PENDING DECISION:

2009-18 **15 Montello Street (*Residential 3 Zone*), Christine Dipree** –
Patrick Eleey, Robert Littlefield, Amy Germain, Anne Howard and Peter Bez sat on the case. The reading of this decision was postponed until the May 21, 2009 hearing.

MINUTES: April 30, 2009 – *Patrick Eleey moved to approve the language as amended, Anne Howard seconded and it was so voted, 5-0.*

Patrick Eleey adjourned the Work Session at 7:00 P.M.

PUBLIC HEARING

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

CONTINUED CASES:

2009-11 **83 Shank Painter Road (*GC Zone*), CHR 83 SPR, LLC** -
The applicant seeks a Comprehensive Permit under M.G.L. c. 40B, s. 21 to renovate an existing structure on a 14,000 square foot lot to reconfigure its floor plans to convert its existing fifteen bedrooms to twelve efficiency apartment, including two handicapped-accessible units, and three one-bedroom apartments, including one handicapped-accessible apartment, all to be operated as permanently affordable rental housing. The structure presently includes a commercial use as a portion of the first floor and basement, which will be separated through condominium conversion, designated as Unit A of the condominium as a separately-owned space with commercial use. The rest of the structure will be designated as Unit B of the condominium, consisting of all of the fifteen affordable units. This case is continued until the June 4, 2009 hearing.

2009-17 **359 Commercial Street (*Town Commercial Center*), Lester J. Murphy, Attorney on behalf of ATL Holdings, LLC, Todd W. Colpitts, Senior Vice-President** –
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the re-establishment of a 100-seat restaurant at the site of a former 156-seat restaurant and to seek permission to increase the seating by 40 seats pending the approval of an Economic Development Permit for the addition 20 seats. This case is continued until the May 21, 2009 hearing.

2009-20

90 Shank Painter Road (General Commercial Zone), The Community Builders, Inc. on behalf of the Town of Provincetown –

The applicant under M.G.L. c. 40B, section 21, seeks the approval of a Comprehensive Permit to construct six buildings on a vacant 2.5 acre site for the development of a 50-unit, mixed-income, residential rental complex to consist of twenty-five one-bedroom units, twenty-one two-bedroom units and four three-bedroom units and approximately 2500 square feet of commercial/retail usage. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: David Gardner appeared to present a follow-up report on the project. He addressed the Board in regard to actions it had requested about several issues of concern at the site. He discussed a submitted report that included the status of various Town Departmental reviews of the project and which Town Boards have reviewed the application at this point in time. The Town has, in addition to in-house review, sought outside review and technical assistance from the Cape Cod Commission in regard to traffic and storm water issues. It has also sought information from its own consultants, including a report from Metcalf & Eddie on the waste water infrastructure, a report from Woodward & Curran on the water infrastructure and a report from Environmental Partners Group, Inc. regarding the scope of the work of the remediation of the old burn dump at the site. Mr. Gardner also submitted a letter from the Conservation Agent, Brian Carlson, concerning wetlands in the area, stating that the Conservation Commission does not have jurisdiction at the site. He informed the Board that the Cape Cod Commission would be reviewing the entire application and issuing a report before June 4, 2009 when the case will be heard again. Kate Mitchell, attorney for the applicant, submitted copies to the Board of the proposed lighting plan and a picture of the globes to be used in the exterior lights.

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

Board Discussion: The Board questioned Mr. Gardner. The Board sought assurance from Mr. Gardner that the pending technical reports would be available to them before the May 21, 2009 hearing. The Board was also concerned about the remediation issue and on-going monitoring at the site, especially in light of the applicant's 99-year lease at the premises. The Board discussed the idea of a monitoring protocol for the site with Mr. Gardner and Attorney Mitchell. After this discussion, Attorney Mitchell offered, on behalf of her client, to request a monitoring plan from Environmental Partners Group, Inc. The Board would then seek to hire a consultant to peer review that plan. David Gardner offered to contact David Bennett, of Bennett Environmental, to request a monitoring plan for the site as well.

Amy Germain moved to require The Community Builders, Inc. to provide a site monitoring plan for the property located at 90 Shank Painter Road, Patrick Eeley seconded and it was so voted, 5-0.

Amy Germain moved that the Zoning Board of Appeals hire a licensed site professional to peer review a site monitoring plan for 90 Shank Painter Road to be provided by Environmental Partners Group, Inc., Robert Littlefield seconded and it was so voted, 5-0.

The Board discussed how the peer review consultant would be funded.

Amy Germain moved to instruct Town Counsel to establish an escrow account to hold funds for the payment of the peer review of the Environmental Partners Group, Inc. monitoring plan for 90 Shank Painter Road, based on an estimate provided by the licensed site professional hired by the Board, Anne Howard seconded and it was so voted, 5-0.

The Board will continue the case until the May 21, 2009 hearing.

Amy Germain moved to continue Case #2009-20 until the May 21, 2009 hearing, Patrick Eeley seconded and it was so voted, 5-0.

NEW CASES:

2009-21

212E Commercial Street (Town Commercial Center), Lydia Hamnquist –

The applicant requests a Special Permit under Article 3, Section 3420 of the Zoning By-laws for the display of outdoor merchandise (clothing and statue).

Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Lydia Hamnquist appeared to present the application. The outdoor display will be the same as has been at the site for the previous 3 years.

Public Comment: None. There was 1 letter in opposition to the application in the file.

Board Discussion: The Board questioned Ms. Hamnquist.

Patrick Eeley moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-laws for the display of outdoor merchandise (clothing and statue) at the property located at 212E

Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 5-0. Elisabeth Verde will write the decision.

- 2009-22** **173 Commercial Street (Town Commercial Center), William Todd Dever, on behalf of J.E.T. Enterprises, Inc. –**
The applicant requests a Special Permit under Article 3, Section 3420 of the Zoning By-laws for the display of outdoor merchandise (not more than 20 small items & plants). Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.
Presentation: Todd Dever appeared to present the application.
Public Comment: None. There was 1 letter in opposition to the application in the file.
Board Discussion: The Board questioned Mr. Dever.
Patrick Eeley moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-laws for the display of outdoor merchandise (not more than 20 small items & plants) at the property located at 173 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 5-0. Patrick Eeley will write the decision.
- 2009-23** **265-267 Commercial Street (Town Commercial Center), Geraldine Boccio, on behalf of Way Down Town –**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to relocate an existing interior bar and interior seating arrangement.
Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.
Presentation: Gerry Boccio appeared to present the application. She is proposing to move the bar from the back to the front of the premises and rearrange the seating plan in the restaurant.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Ms. Boccio.
Anne Howard moved to continue the discussion to later in the evening, Patrick Eeley seconded and it was so voted, 5-0.
- 2009-24** **32 Bradford Street (Residential 3 Zone), Robert Valois, on behalf of Enco Realty, Inc. –**
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 the non-conforming front (Pleasant Street) dimension to construct a dormer.
- 2009-25** **32 Bradford Street (Residential 3 Zone), Robert Valois, on behalf of Enco Realty, Inc. –**
The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale to construct a dormer on the west and east elevation. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on both cases. The Board heard these cases together.
Presentation: Robert Valois and Lenny Enos appeared to present the applications. The applicant seeks to construct a dormer on the west side of the house, while maintaining the same footprint, and to construct an egress stairway to serve the top floor unit of the structure. The increase in volume of the building as a result of adding the dormer will be 1.14%. The style of the dormer is in keeping with the character of the neighborhood.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. Valois and Mr. Enos. The Board requested an engineer-stamped site plan from the applicant.
- 2009-24** *Patrick Eeley 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 the non-conforming front (Pleasant Street) dimension to construct a dormer at the property located at 32 Bradford Street (Res 3) contingent upon the receipt of an engineer-stamped site plan by the Board, Amy Germain seconded and it was so voted, 5-0.*
- 2009-25** *Patrick Eeley moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale to construct a dormer on the west and east elevation for the property located at 32 Bradford Street (Res 3) contingent upon the receipt of an engineer-stamped site plan by the Board, Elisabeth Verde seconded and it was so voted, 5-0.* Amy Germain will write both decisions.
- 2009-23** **265-267 Commercial Street (Town Commercial Center), Geraldine Boccio, on behalf of Way Down**

Town (*continued*) –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to relocate an existing interior bar and interior seating arrangement.

Patrick Eeey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Board Discussion: The Board continued questioning Ms. Boccio.

Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to relocate an existing interior bar and interior seating arrangement at the property located at 265-267 Commercial Street (TCC) with the condition that the applicant provide a clean, clear copy of the proposed seating plan to the Board, Robert Littlefield seconded and it was so voted, 5-0. Robert Littlefield will write the decision.

Chair Patrick Eeey adjourned the Public Hearing at 7:43 P.M.

NEXT MEETING: The next meeting will take place on May 21, 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 8:45 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 May 21, 2009.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2009

Patrick Eleey, Chair