

**TOWN OF PROVINCETOWN**  
**ZONING BOARD OF APPEALS**

**MEETING MINUTES OF**  
**January 7, 2010**

**MEETING HELD IN THE GRACE GOUVEIA BUILDING**

**Members Present:** Patrick Eleey, Robert Littlefield, Amy Germain (arrived at 6:50 P.M.) and Anne Howard.

**Members Absent:** Elisabeth Verde (excused).

**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 6:35 P.M.

**PENDING DECISIONS:**

**2009-60**      **24 Franklin Street (Residential 3 Zone), Robert P. Tosner –**  
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Robert Littlefield read the decision. *Anne Howard moved to approve the language as written, Patrick Eleey seconded and it was so voted, 3-0.*

**2009-61**      **277 Commercial Street (Town Commercial Center Zone), Lester J. Murphy, Esq. on behalf of Provincetown St. Peter's Club –**  
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eleey read the decision. *Anne Howard moved to approve the language as written, Robert Littlefield seconded and it was so voted, 3-0.*

**2009-62**      **277 Commercial Street (Town Commercial Center Zone), Lester J. Murphy, Esq. on behalf of Provincetown St. Peter's Club –**  
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eleey read the decision. *Anne Howard moved to approve the language as written, Robert Littlefield seconded and it was so voted, 3-0.*

**MINUTES: December 8, 2009 – Anne Howard moved to approve the language as written, Robert Littlefield seconded and it was so voted, 3-0.**

**2009-59**      **16 Kimberly Lane (*Residential 1 Zone*), Deborah Paine on behalf of Brian Reardon –**  
Anne Howard recused herself. Patrick Eeley, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case. Robert Littlefield read the decision. *Patrick Eeley moved to approve the language as written, Amy Germain seconded and it was so voted, 4-0.*

Chair Patrick Eeley adjourned 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 four members of the Zoning Board of Appeals present and one absent.

### NEW CASES:

**2010-01**      **170 Commercial Street (*Town Commercial Center Zone*), No Ordinary Joe, Inc., Scott J. Lattime, President –**

The applicant seeks a Special Permit under Article 2, Section 2440, B8, of the Zoning By-Laws to relocate a business from 148 Commercial Street to 170 Commercial Street and to increase the food service permit to fast food and to request flex seating.

**2010-02**      **27 Conant Street (*Residential 3 Zone*), Neal Kimball, of Neal Kimball Designs, on behalf of Brad Howarth –**

The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation from building scale requirements to construct a 10'8" x 15 ½' two-story addition on the south elevation.

**2010-04**      **205-209 Commercial Street (*Town Commercial Center Zone*), Robin B. Reid, Esq. on behalf of Aquarium Wharf Realty Trust –**

The applicant seeks a Special Permit under Article 2, Section 2440, B5, of the Zoning By-Laws for the service of alcoholic beverages.

**2010-05**      **205-209 Commercial Street (*Town Commercial Center Zone*), Robin B. Reid, Esq. on behalf of Aquarium Wharf Realty Trust –**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the service of alcoholic beverages.

**2010-06**      **4 Mozart Avenue, #4 (*Residential 3 Zone*), Christopher Daley –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a porch along a pre-existing, non-conforming front yard setback.

**2010-07**      **4 Mozart Avenue, #4 (*Residential 3 Zone*), Christopher Daley –**

The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws to construct a porch along a pre-existing, non-conforming front yard setback.

*Chair Patrick Eeley moved to postpone Cases #2010-01, 2010-02, 2010-04, 2010-05, 2010-06 and 2010-07 until the next hearing on January 21, 2010, Robert Littlefield seconded and it was so voted, 4-0.*

**2010-03**      **19 Alden Street (*Residential 3 Zone*), Daniel Jackson –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct dormers up and along a pre-existing, non-conforming front yard setback. Patrick Eeley explained that since there were only four members of the Board present and, since the vote to approve a Special Permit would require a unanimous decision, the applicant could choose to present the application or postpone until a five-member Board was seated. The applicant chose to proceed. Patrick Eeley, Robert Littlefield,

Amy Germain and Anne Howard sat on the case.

**Presentation:** Dan Jackson and Tom Mueller appeared to present the application. The applicant seeks to construct dormers, three doghouses in the front and a shed along the back, on the structure in order to increase headroom and light. The dormers would be setback 3' from the gable ends. The footprint of the structure will remain the same. The proposed changes are not out of character with the neighborhood and would not be more detrimental to the neighborhood than what currently exists. The applicant requested that the Board hear the case under the *Goldhirsh v. McNear* ruling.

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

**Board Discussion:** The Board questioned Mr. Jackson and Mr. Mueller. The Board was concerned about the roof pitch of the dormers.

*Patrick Eleey moved to hear the case under the Goldhirsh v. McNear ruling, Anne Howard seconded and it was so voted, 4-0.*

*Amy Germain moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct dormers up and along a pre-existing, non-conforming front yard setback under the Goldhirsh v. McNear ruling with the contingency that the applicant submit new plans showing a 4/12 roof pitch for the proposed dormers, Anne Howard seconded and it was so voted, 4-0.* Each Board member will sign the revised plans when received by the Department of Community Development.

**NEXT MEETING:** The next meeting will take place on January 21, 2010. 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 7:45 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 January 21, 2010.

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2010

Patrick Eleey, Chair