

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

### MEETING MINUTES OF January 21, 2010

#### MEETING HELD IN THE GRACE GOUVEIA BUILDING

**Members Present:** Patrick Eeley, Robert Littlefield, Amy Germain and Anne Howard.

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

**Others Present:** Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

#### WORK SESSION

Chair Patrick Eeley called the Work Session to order at 6:45 P.M.

**MINUTES: January 7, 2010** – *Amy Germain moved to approve the language as amended, Anne Howard seconded and it was so voted, 4-0.*

Chair Patrick Eeley adjourned the Work Session at 6:55 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** (*Request postponement until February 4, 2010 Public Hearing*) –

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** (*Request postponement until February 4, 2010 Public Hearing*) –

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. Chair Patrick Eeley explained that since there were only four members of the Board seated, a unanimous decision would be needed in order to grant a Special Permit. The applicant had the choice of presenting the application or postponing the hearing 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:** Attorney Robin B. Reid and Ben deRuyter appeared to present the application. The applicant seeks to establish a bar on the back deck of the Aquarium Mall marketplace. The bar would compliment the existing food service establishments in the Mall, expanding the amenities they can offer their customers and potentially increasing their business revenue. Attorney Reid argued that the economic benefits of the proposal outweigh any adverse effects such as hazard, congestion or environmental degradation.

**Public Comment:** None. There was one letter from an abutter stating that he had no objection to the proposal.

**Board Discussion:** The Board questioned Attorney Reid and Mr. deRuyter.  
*Amy Germain moved to grant a Special Permit under Article 2, Section 2440, B5, of the Zoning By-Laws for the service of alcoholic beverages with the condition that the hours of service are from 12:00 P.M. until 11:00 P.M., Patrick Eleey seconded and it was so voted, 4-0.* Anne Howard will write the decision.

- 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. The applicant seeks a postponement of the application due to on-going discussions with Town Counsel and the Alcohol Beverage Control Commission in regard to the liquor license.  
*Patrick Eleey moved to grant the request for a postponement of Case #2010-05 until the February 4, 2010 Public Hearing, Amy Germain seconded and it was so voted, 4-0.*
- 2010-06**      **4 Mozart Avenue, #4 (Residential 3 Zone), Christopher Daley (Request postponement until February 4, 2010 Public Hearing) –**  
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 (Request postponement until February 4, 2010 Public Hearing) –**  
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 Eleey moved to postpone Cases #2010-01, 2010-02, 2010-05, 2010-06 and 2010-07 until the next Public Hearing on February 4, 2010, Robert Littlefield seconded and it was so voted, 4-0.*

**NEXT MEETING:** The next meeting will take place on February 4, 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 7:40 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 February 4, 2010.

Respectfully submitted,

Ellen C. Battaglini

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

Patrick Eleey, Chair