

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
April 15, 2010

MEETING HELD IN THE GRACE GOUVEIA BUILDING

Members Present: Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts.

Members Absent: Anne Howard (excused).

Others Present: Russell Braun (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair Patrick Eeley called the Work Session to order at 6:30 P.M.

PENDING DECISIONS:

- 2010-21 2 Bradford Street (*Residential 3 Zone*), William N. Rogers, II, P.E. & P.L.S. on behalf of Sheila A. Oliver –
Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Tom Roberts sat on the case. Patrick Eeley read the decision. *Amy Germain moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 5-0.*
- 2010-02 27 Conant Street (*Residential 3 Zone*), Neal Kimball, of Neal Kimball Designs, on behalf of Brad Howarth –
Patrick Eeley, Elisabeth Verde, Robert Littlefield, Anne Howard and Tom Roberts sat on the case. Patrick Eeley read the decision. *Elisabeth Verde moved to approve the language as written, Robert Littlefield seconded and it was so voted, 4-0.*
- 2010-16 258 Commercial Street (*Town Commercial Center Zone*), Saki, LLC, Steven Schnitzer, President (*postponed from March 18, 2010*) –
Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case. Amy Germain read the decision. *Patrick Eeley moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

- 2010-20 18 Pleasant Street (*Residential 3 Zone*), Gordon J. Siegel –
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case. David Nicolau read the decision. *Patrick Eleey moved to approve the language as written, Robert Littlefield seconded and it was so voted, 4-0.*
- 2010-18 129 Bradford Street, Unit #1 (*Town Commercial Center Zone*), Michael MacIntyre, the Michael MacIntyre Living Trust –
Patrick Eleey, Robert Littlefield, Amy Germain, Anne Howard and Tom Roberts sat on the case. Tom Roberts read the decision. *Patrick Eleey moved to approve the language as written, Robert Littlefield seconded and it was so voted, 4-0.*
- 2010-19 129 Bradford Street, Unit #1 (*Town Commercial Center Zone*), Michael MacIntyre, the Michael MacIntyre Living Trust –
Patrick Eleey, Robert Littlefield, Amy Germain, Anne Howard and Tom Roberts sat on the case. Tom Roberts read the decision. *Amy Germain moved to approve the language as amended, Patrick Eleey seconded and it was so voted, 4-0.*

MINUTES: April 1, 2010 – *Patrick Eleey moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 6-0.*

Chair Patrick Eleey adjourned the Work Session at 7:05 P.M.

PUBLIC HEARING

Chair Patrick Eleey called the Public Hearing to order at 7:05 P.M. There were six members of the Zoning Board of Appeals present and one absent.

POSTPONED CASES:

- 2010-12 4 Atwood Avenue (*Residential 2, Zone*), Lester J. Murphy, Jr., Attorney, on behalf of G. Bruce Head, III –
The applicant seeks a Special Permit under Article 4, Section 4170 of the Zoning By-Laws for a change in use from a Lodging House to a three-unit multi-family residential use. Patrick Eleey recused himself because of a conflict of interest. Robert Littlefield chaired the case. Elisabeth Verde, Amy Germain, David Nicolau and Tom Roberts also sat on the case.
Presentation: Attorney Lester J. Murphy, Andrew Parkington, Alan Cabral and Ron Slowek appeared to present the application. The applicant seeks to renovate an existing lodging house with an attached cottage and two free-standing cottages, reducing the total number of bedrooms, and changing the use from lodging house to residential. There are three existing structures on the site; two separate single family residential cottages and a main structure with an attached cottage for a

total of four dwelling units in three separate structures. All of the structures are in serious need of work. According to Attorney Murphy, the applicant seeks to change the use because by modifying the main structure to conform to the current State Building Code and ADA requirements, the charm and architectural attributes of the main structure would be lost. The lodging house has not been operating as such in at least three years. The benefits to the neighborhood would include a significant reduction in foot and car traffic due to the decrease in the number of bedrooms and the preservation of the historical character of the main house. There would be no hazard, congestion or environmental degradation as a result of the renovation project.

Public Comment: None. There were 2 letters of support, a letter from the Health Agent Jane Evans confirming the septic capacity and a letter from the engineer.

Board Discussion: The Board questioned Attorney Murphy, Mr. Parkington, Mr. Cabral and Mr. Slowek. The Board questioned Attorney Murphy about the parking plan for the site. Attorney Murphy indicated that there is restriction imposed on the property limiting it to a maximum of three parking spaces. He promised to submit the restriction of record and a site plan showing parking to the Board.

David Nicolau moved to grant a Special Permit under Article 4, Section 4170 of the Zoning By-Laws for a change in use from a Lodging House to a three-unit multi-family residential use at the property located at 4 Atwood Avenue (Res 2), with the contingency that the applicant show the three parking spaces on the site plan, Robert Littlefield seconded and it was so voted, 5-0. Robert Littlefield will write the decision.

2010-13

4 Atwood Avenue (Residential 2, Zone), Lester J. Murphy, Jr., Attorney, on behalf of G. Bruce Head, III –

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale for alterations and an addition to the principal structure. Patrick Eleey recused himself because of a conflict of interest. Robert Littlefield chaired the case. Elisabeth Verde, Amy Germain, David Nicolau and Tom Roberts also sat on the case.

Presentation: Attorney Lester J. Murphy, Andrew Parkington, Alan Cabral and Ron Slowek appeared to present the application. According to Attorney Murphy, the social, economic and other benefits of this renovation project outweigh any adverse effects such as hazard, congestion and environmental degradation that would result from the scale deviation. The neighborhood average scale is 78.76 scale units, the maximum allowable scale is 90.57 s.u., the existing scale is 105.60 s.u. and the proposed total scale is 124.49 s.u. The attached cottage will be removed and replaced with a new structure and will be brought into conformity with the side and rear yard setbacks. Attorney Murphy argued that making the cottage more conforming is a benefit to the neighborhood and an improvement in public safety. The renovation will not result in a disruption to the character of the neighborhood, but will the structures will be harmonious with their surroundings. The proposed modification, he continued, will only be visible from very few properties, and hardly at all from Atwood Avenue or Commercial Street. The

impact from the front of the structure is minimal. He also argued that the scale deviation is in keeping with the objectives of the Local Comprehensive Plan, pursuant to the section dealing with Land Use and Growth Management Goal 1, Policy B in that it is a re-development of existing residential property, Goal 2, Policy A, in that it maintains a compact form of development. In addition, pursuant to Goal 3, the modifications and re-construction will conform to historic setbacks, scale and massing, reinforcing traditional streetscapes and community and historic character.

Public Comment: None. There were 2 letters of support, a letter from the Health Agent Jane Evans confirming the septic capacity and a letter from the engineer.

Board Discussion: The Board questioned Attorney Murphy, Mr. Parkington, Mr. Cabral and Mr. Slowek. The Board was concerned with the scale of this project.

Robert Littlefield moved to continue Case #2010-13 until the May 6, 2010 Public Hearing in order that the applicant can submit revised plans, showing a reduction in scale for the second floor of the main structure, to the Assessor's Office for a re-calculation of scale, a complete set of elevations showing the existing and proposed elevations, side-by-side and for each side of the structure, on or before April 29, 2010, Elisabeth Verde seconded and it was so voted, 5-0.

NEW CASES:

- 2010-22 1 Harbour Drive (*Residential 1 Zone*), William N. Rogers, II, P.E. & P.L.S. on behalf of Bay Harbour, LLC I –
The applicant seeks a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Laws to install an in-ground 15' wide x 29' long saltwater swimming pool. Patrick Eleey and David Nicolau recused themselves because of conflicts of interest. Robert Littlefield will chair the case. Elisabeth Verde, Amy Germain and Tom Roberts also sat on the case. Mr. Littlefield explained that since four votes are necessary for the granting of the Special Permit, necessitating a unanimous vote from the four Board members seated, the applicant had the choice of moving forward with a four-member Board or could postpone until a five-member Board was seated. The applicant chose to proceed.
Presentation: Gary Locke and Jason Stone appeared to present the application.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. Locke.
Robert Littlefield moved to grant a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Law to install an in-ground 15' wide x 29' long saltwater swimming pool at the property located at 1 Harbour Drive (Res 1), Elisabeth Verde seconded and it was so voted, 4-0. Tom Roberts will write the decision.
- 2010-23 12 Cottage Street (*Residential 3 Zone*), John Reis, John Reis, Inc., d/b/a Golden Hammer, on behalf of Laurie Liss –
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a second-story addition up and along a pre-existing, non-conforming side and rear yard setbacks. Patrick Eleey, Elisabeth Verde, Amy Germain and Tom Roberts sat on the case.

Presentation: John Reis appeared to present the application. The applicant seeks to add a second floor to a small cottage by continuing the non-conforming line up.

Public Comment: Rachel White, an abutter, spoke in favor of the applications. There were no letters in the file.

Board Discussion: The Board questioned Mr. Reis.

Elisabeth Verde moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a second-story addition up and along a pre-existing, non-conforming side and rear yard setbacks at the property located at 12 Cottage Street (Res 3), Robert Littlefield seconded and it was so voted, 5-0. Patrick Eeley will write the decision.

2010-25 **29 Alden Street, Unit #6 (Residential 3 Zone), Richard Flores, d/b/a Riptide Building Company –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct an addition along a pre-existing, non-conforming side yard setback. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case.

Presentation: Richard Flores appeared to present the application. The applicant seeks to increase the dining area in the dwelling by bumping out the structure, which would also lessen the non-conformancy.

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

Board Discussion: The Board questioned Mr. Flores.

Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct an addition along a pre-existing, non-conforming side yard setback at the property located at 29 Alden Street, Unit #6 (Res 3), Elisabeth Verde seconded and it was so voted, 4-0-1 (David Nicolau abstaining). Elisabeth Verde will write the decision.

NEXT MEETING: The next meeting will take place on May 6, 2010. It will consist of a Work Session at 6:00 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Amy Germain moved to adjourn at 9:30 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 6, 2010.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2010
Patrick Eeley, Chair