

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

**MEETING MINUTES OF**  
**June 17, 2010**

**MEETING HELD IN THE GRACE GOUVEIA BUILDING**

**Members Present:** Anne Howard, Robert Littlefield, Elisabeth Verde, Amy Germain, David Nicolau and Tom Roberts.

**Members Absent:** None.

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

**WORK SESSION**

Chair Anne Howard called the Work Session to order at 6:30 P.M.

**PENDING DECISIONS:**

- 2010-13      4 Atwood Avenue (*Residential 2 Zone*), Lester J. Murphy, Jr., Attorney, on behalf of G. Bruce Head, III – Robert Littlefield, Elisabeth Verde, Amy Germain, David Nicolau and Tom Roberts sat on the case. Robert Littlefield read the decision. *David Nicolau moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 4-0-1 (Amy Germain abstaining).*
- 2010-31      29 Bradford Street Extension (*Residential 1 Zone*), John S. Gagliardi – Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and Tom Roberts sat on the case. Amy Germain read the decision. *Anne Howard moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*
- 2010-32      206-208 Commercial Street (*Town Commercial Center Zone*), Erik Hamnquist – Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and Tom Roberts sat on the case. Tom Roberts read the decision. *Amy Germain moved to accept the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

2010-33      306 Commercial Street, Unit #1 (*Town Commercial Center Zone*), Licia Joy Zurn-Galinsky –  
Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Anne Howard read the decision. *Amy Germain moved to accept the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

2010-34      385 Commercial Street (*Town Commercial Center Zone*), Patricia Ann Burke –  
Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case. Anne Howard read the decision. *Amy Germain moved to accept the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

Chair Anne Howard adjourned the Work Session at 6:52 P.M.

## PUBLIC HEARING

Chair Anne Howard called the Public Hearing to order at 7:00 P.M. There were six members of the Zoning Board of Appeals present and none absent.

### POSTPONED CASE:

2010-35      457 & 459 Commercial Street (*Residential 3 Zone*), Lester J. Murphy, Attorney, on behalf of Richter Nominee Estate Trust (*postponed from June 3, 2010*) -  
The applicant seeks a Variance under Article 2, Section 2560 of the Zoning By-Laws for the reduction in Minimum Lot Frontage from 50 feet to 49.12 feet. Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case.  
**Presentation:** Attorney Lester J. Murphy and Sacha Richter appeared to present the application. The applicant seeks to divide one lot with two residential structures into two lots, each with one residential structure. Attorney Murphy argued that there were hardships owing to adjacent properties and some special circumstances owing to the structures on the lot. When the lot that included the parcel was subdivided, the former owner decided to run the lot line 6' off the deck at 457 Commercial Street, leaving only 99.12' of frontage. The applicant has attempted to gain 11 inches from either side of the property, however both of those properties are non-conforming in regard to frontage and each would have made their lots more non-conforming. One of the existing structures on the lot is over one hundred years old and granting the Variance will preserve the structure as it exists. Absent a Variance, the structures can be significantly altered and/or combined and the historic character of the older structure would be lost. These issues constitute a hardship for the applicant according to Attorney Murphy. In addition, granting a Variance would inhibit further development on the parcel, would be in keeping with the other single family nature of the neighborhood and would not be substantially more detrimental to the Town or neighborhood. If the

Variance is denied, the applicant will consider converting the property into condominiums.

**Public Comment:** Klara Muller spoke against the application. There were 16 form letters and 2 additional letters in support of the application and 1 letter against the application in the file.

**Board Discussion:** The Board questioned Attorney Murphy and Mr. Richter. After much discussion, Board members felt that the Variance requirements, demonstrating a hardship base upon the soil conditions, shape or topography of the lot had not been satisfied. Attorney Murphy requested to withdraw the application without prejudice. *Anne Howard moved to grant Attorney Lester J. Murphy request to withdraw Case #2010-35 without prejudice, Robert Littlefield seconded and it was so voted, 5-0.*

## NEW CASES:

2010-36      307 Commercial Street (*Town Commercial Center Zone*), Douglas E. Smart –  
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of merchandise. Elisabeth Verde filed a disclosure form and requested she not sit on the case. Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case.  
**Presentation:** Douglas E. Smart appeared to present the application.  
**Public Comment:** None. There were no letters in the file.  
**Board Discussion:** The Board questioned Mr. Smart.  
*Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of merchandise at the property located at 307 Commercial Street (TCC), David Nicolau seconded and it was so voted, 5-0.* Anne Howard will write the decision.

2010-37      70-74 Shank Painter Road (*General Commerec Zone*), Gallery Ehva, Ewa Nogiec –  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for entertainment, readings, music, lectures, theater, film, dance and workshops. Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and Tom Roberts sat on the case.  
**Presentation:** Ewa Nogiec appeared to present the application.  
**Public Comment:** Jane Kogan spoke in favor of the application. There were 8 letters in support of the application in the file.  
**Board Discussion:** The Board questioned Ms. Nogiec.  
*Elisabeth Verde moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for entertainment, readings, music, lectures, theater, film, dance and workshops at the property located at 70-74 Shank Painter Road (GC) with the following conditions:*

- *the hours of operation for the gallery shall be from 9:00 A.M. to 10 P.M.;*
- *no amplified music shall be played;*
- *the maximum seating shall be 48;*
- *no alcohol or food shall be sold at the premises;*
- *assembly requirements will be met; and*

- *the occupancy load will be posted.*

*Anne Howard seconded and it was so voted, 5-0.* Elisabeth Verde will write the decision.

**2010-38**      **29R-31 Court Street (*Residential 3 Zone*), William N. Rogers, II, P.E. & P.L.S. on behalf of Stephen P. Johnson –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for a proposed second dwelling on an existing lot with over 10,000 square feet but less than 50 feet of frontage.

**Presentation:** Gary Locke and Jeff Adams appeared to present the application. The applicant seeks to put a second dwelling on an existing lot.

**Public Comment:** Lydia Hamnquist, Elizabeth Welsh and Joan Guerreiro, all abutters, had concerns about flooding problem in the area, which occurs because of a high water table, large impervious surfaces nearby and the low elevation of the neighborhood, and whether the new construction would exacerbate that issue. There was 1 letter in the file about flooding in the neighborhood.

**Board Discussion:** The Board questioned Mr. Locke and Mr. Adams. Mr. Locke said that the house could be put on concrete piers instead of putting in a crawl space. The parking surface will be pervious and the proposed flow well systems will handle roof run-off.

*Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for a proposed second dwelling on an existing lot with over 10,000 square feet but less than 50 feet of frontage at the property located at 29R-31 Court Street (Res 3) with the condition that the engineer submit a revised plan eliminating the crawl space, and showing the proposed structure built on a concrete pier foundation, and indicating the location of the proposed flow wells, Tom Roberts seconded and it was so voted, 5-0.* Tom Roberts will write the decision.

**MINUTES:** June 3, 2010 – *Elisabeth Verde moved to approve the language as written, Anne Howard seconded and it was so voted, 6-0.*

**NEXT MEETING:** The next meeting will take place on July 1, 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 8:40 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 July 1, 2010.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2010  
Anne Howard, Chair