

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

**MEETING MINUTES OF**  
**July 15, 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:** Russ 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 6:45 P.M.

**ADMINISTRATIVE AMENDMENT:**

2010-11      3 Duncan Lane (*Residential 3 Zone*), Robert Dello Russo and Tom McCarthy –

The applicants were granted a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Laws to install an in-ground swimming pool. The applicants seek to revise the dimensions of a proposed pool. Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case.

**Board Discussion:** The Board briefly discussed the application.

*Robert Littlefield moved to hear the case as an Administrative Amendment, Amy Germain seconded and it was so voted, 5-0.*

*David Nicolau moved to approve the Administrative Amendment in Case # 2010-11, Robert Littlefield seconded and it was so voted, 5-0.*

**PENDING DECISIONS:**

2010-39      1 MacMillan Wharf (*Town Commercial Center Zone*), Provincetown Public Pier Corporation –

Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and Tom Roberts sat on the case. Amy Germain read the decision. *Robert Littlefield moved to approve the language as read, Elisabeth Verde seconded and it was so voted, 5-0.*

- 2010-40      306 Commercial Street (*Town Commercial Center Zone*), Douglas Edwin Walker on behalf of Blu Day Spa –  
Anne Howard, Robert Littlefield, Amy Germain and Tom Roberts sat on the case. Anne Howard read the decision. ***Robert Littlefield moved to approve the language as written, Amy Germain seconded and it was so voted, 4-0.***
- 2010-41      67 Bradford Street (*Residential 3 Zone*), Eliot Parkhurst, Esq. –  
Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and Tom Roberts sat on the case. Tom Roberts read the decision. ***Robert Littlefield moved to approve the language as written, Amy Germain seconded and it was so voted, 5-0.***

Chair Anne Howard adjourned the Work Session at 7:02 P.M.

## PUBLIC HEARING

Chair Anne Howard called the Public Hearing to order at 7:04P.M. There were six members of the Zoning Board of Appeals present and none absent.

### NEW CASES:

- 2010-42      29 Alden Street, Unit #7 (*Residential 3 Zone*), George Van Dereck Haunstrup and Sandra L. Haunstrup on behalf of Douglas Taylor –  
The applicant seeks a Special Permit under Article 3, Section 3110 and Article 5, Section 5223 of the Zoning By-Laws to change a pre-existing, non-conforming structure on a pre-existing, non-conforming lot for use from Article 2, Section 2450, Permitted Accessory Uses, G11, Other customary accessory uses, to Article 2, Section 2440, Permitted Principal Uses, F5, Principal Artist’s Studio. Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case.
- Presentation:** Attorney Ed Patten and Moe Van Dereck appeared to present the application. The applicant would like to change the use back to an artist’s studio from its existing use as a storage garage. It is an allowed use in the neighborhood and the space existed as an artist’s studio prior to its conversion to a garage. Attorney Patten cited several sections of the Local Comprehensive Plan to support the change in use and alleged that the change will not be a detriment to the neighborhood or the Town.
- Public Comment:** Anna Michaud, Trustee, speaking on behalf of the Condominium Association, supported the application. There were 7 letters in favor of the application in the file. There was also a letter from Doug Taylor giving permission to submit the application on his behalf.
- Board Discussion:** The Board questioned Attorney Patten and Mr. Van Dereck. ***Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 and Article 5, Section 5223 of the Zoning By-Laws to change a pre-existing, non-conforming structure on a pre-existing, non-conforming lot for use from Article 2,***

*Section 2450, Permitted Accessory Uses, G11, Other customary accessory uses, to Article 2, Section 2440, Permitted Principal Uses, F5, Principal Artist's Studio at the property located at 29 Alden Street, Unit #7 (Res 3), Amy Germain seconded and it was so voted, 4-1 (David Nicolau opposed).* Robert Littlefield will write the decision.

2010-43      198 Commercial Street (*Town Commercial Center Zone*), Robert J.

Laplume –

The applicant seeks to appeal a decision by the Building Commissioner to locate and operate a hot dog cart under Article 5, Section 5223 of the Zoning By-Laws. Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case.

**Presentation:** Robert J. Laplume appeared to present the appeal.

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

**Board Discussion:** The Building Commissioner stated the reasoning behind his decision. The Board questioned Mr. Laplume.

*Amy Germain moved to uphold the Building Commissioner's decision and to deny the applicant's appeal under Article 5, Section 5223 of the Zoning By-Laws to locate and operate a hot dog cart at the property located at 198 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 5-0.* Anne Howard will write the decision.

2010-44      243-249 Commercial Street (*Town Commercial Center Zone*), Richard J.

Murray/Crown and Anchor, LLC –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the permitted hours of service of food and alcoholic beverages to those allowed by Section 3.01(c) of the Provincetown Licensing Board Rules and Regulations. Elisabeth Verde recused herself because of a conflict of interest and left the room. Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case.

**Presentation:** Rick Murray appeared to present the application. Mr. Murray seeks to increase the permitted hours of his establishment for the service of food to 8:00 A.M. until 2:00 A.M., and for the service of alcohol to 8:00 A.M. until 1:45 A.M. Monday through Saturday and for the service of food to 8:00 A.M. until 2:00 A.M. and for the service of alcohol to 12:00 P.M. until 1:45 A.M. on Sunday. Mr. Murray argued that the social, economic or other benefits of his proposal for the neighborhood or Town outweigh any adverse effects such as hazard, congestion or environmental degradation. He alleged that the change will help him support and increase his existing business, while allowing him to keep his prices low. It will also promote existing businesses in Town and help bring more business into Town.

**Public Comment:** Jim Keegan and Katherine Rafter spoke against the application. There were 7 letters submitted in favor of the application and 7 letters in opposition to the application. There was a petition in favor of the application signed by 20 yearround residents.

**Board Discussion:** The Board questioned Mr. Murray.

*David Nicolau moved to discuss granting the Special Permit request for extended hours for a trial period, Tom Roberts seconded and it was so voted, 5-0.*

The Board discussed granting a Special Permit for a trial period.

*Robert Littlefield moved to deny the request for a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the permitted hours of service of food and alcoholic beverages to those allowed by Section 3.01(c) of the Provincetown Licensing Board Rules and Regulations at the property located at 243-249 Commercial Street (TCC), Amy Germain seconded and it was so voted, 4-1 (Tom Roberts opposed). Robert Littlefield will write the decision.*

2010-45      4-6 Masonic Place (*Residential 3 Zone*), Allstrum, Inc., d/b/a Atlantic House –  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the permitted hours of service of food and alcoholic beverages to those allowed by Section 3.01(c) of the Provincetown Licensing Board Rules and Regulations. There was a request from the applicant to withdraw the application without prejudice.

*Amy Germain moved to grant the request to withdraw Case #2010-45 without prejudice, David Nicolau seconded and it was so voted, 5-0.*

2010-46      5 Masonic Place (*Town Commercial Center Zone*), Atlantic Ocean, Inc., d/b/a Grand Central –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the permitted hours of service of food and alcoholic beverages to those allowed by Section 3.01(c) of the Provincetown Licensing Board Rules and Regulations. There was a request from the applicant to withdraw the application without prejudice.

*Amy Germain moved to grant the request to withdraw Case #2010-46 without prejudice, David Nicolau seconded and it was so voted, 5-0.*

2010-47      9-11 Carver Street (*Residential 3 Zone*), Backstreet Hotel, Inc., d/b/a Gifford House Inn and Dance Club –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the permitted hours of service of food and alcoholic beverages to those allowed by Section 3.01(c) of the Provincetown Licensing Board Rules and Regulations. There was a request from the applicant to withdraw the application without prejudice.

*Amy Germain moved to grant the request to withdraw Case #2010-47 without prejudice, Tom Roberts seconded and it was so voted, 4-0.*

2010-48      149 Commercial Street (*Town Commercial Center Zone*), Johnny Pak on behalf of Johnny Thai Bistro and the Monkey Bar –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the permitted hours of service of food and alcoholic beverages to those allowed by Section 3.01(c) of the Provincetown Licensing Board Rules and Regulations. There was a request from the applicant to withdraw the application without prejudice.

*David Nicolau moved to grant the request to withdraw Case #2010-48 without prejudice, Amy Germain seconded and it was so voted, 5-0.*

2010-49      315A Commerical Street (*Town Commerical Center Zone*), Leonard E. Enos, Jr., of Surf Restaurant, Inc., on behalf of Luco Realty, Inc. –  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the permitted hours of service of food and alcoholic beverages to those allowed by Section 3.01(c) of the Provincetown Licensing Board Rules and Regulations. There was a request from the applicant to withdraw the application without prejudice.

*David Nicolau moved to grant the request to withdraw Case #2010-49 without prejudice, Tom Roberts seconded and it was so voted, 5-0.*

2010-50      323 Commercial Street (*Town Commercial Center Zone*), Leonard E. Enos, Jr., of Old Colony Tap, Inc., on behalf of Luco Realty, Inc. –  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the permitted hours of service of food and alcoholic beverages to those allowed by Section 3.01(c) of the Provincetown Licensing Board Rules and Regulations. There was a request from the applicant to withdraw the application without prejudice.

*David Nicolau moved to grant the request to withdraw Case #2010-50 without prejudice, Tom Roberts seconded and it was so voted, 5-0.*

**MINUTES:** June 17, 2010 – *Tom Roberts moved to approve the language as written, David Nicolau seconded and it was so voted, 5-0.*

July 1, 2010 – *Amy Germain moved to approve the language as amended, David Nicolau seconded and it was so voted, 5-0.*

**NEXT MEETING:** The next meeting will take place on August 5, 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 9:15 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 August 5, 2010.

Respectfully submitted,  
Ellen C. Battaglini

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