

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

**MEETING MINUTES OF**  
**August 26, 2010**

**MEETING HELD IN THE GRACE GOUVEIA BUILDING**

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

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

**Others Present:** Ellen C. Battaglini (Recording Secretary).

**PUBLIC HEARING**

Chair Anne Howard called the Work Session to order at 7:00 P.M.

**NEW CASES:**

**FY11-18**      **260 Commercial Street (*Town Commercial Center Zone*), Town Manager of the Board of Selectmen for the Town of Provincetown -**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to designate the Town Hall Auditorium as a venue for public entertainment. Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case.

**Presentation:** Assistant Town Manager David Gardner appeared to present the application. The BOS recently updated the regulations for the rental of Town Hall Auditorium as an entertainment venue. The changes are meant to streamline the process of renting the Auditorium for public use. All applicants who seek to use the Auditorium are required to obtain a Special Entertainment license. Some of the uses of the Town Hall Auditorium include, but are not limited to, dancing by patrons, dancing by entertainers and performers, recorded or live music use of the amplification system, theatrical exhibitions, plays, movies, floor shows of any description, light shows of any description and dynamic audio or visual shows, whether live or recorded. This application does not include a request for a liquor license under M.G.L. c. 138, s. 12. However, it may include the allowance for the use or consumption of alcohol under existing state regulations by licensed applicants for special events, such as the Portuguese Festival. Any use of alcohol in Town Hall would require the Town to amend the regulations for the public use of Town Hall at a subsequent Public Hearing.

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

**Board Discussion:** The Board questioned Mr. Gardner. The Board suggested that the Town prohibit the use of pyrotechnics at Town Hall.

*David Nicolau moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to designate the Town Hall Auditorium as a venue for public entertainment at the property located at 260 Commercial Street (TCC) with hours of operation Monday through Thursday from 6:00 P.M. to 12:00 A.M. and Friday through Sunday and on State-recognized holidays from 10:00 A.M. to 12:00 A.M., as long as the Town of Provincetown retains a four-day work week, with a waiver for closing at 1:00 A.M. on New Year's Eve by approval of the Town Manager, and with the condition that no interior pyrotechnics shall be allowed, Tom Roberts seconded and it was so voted, 5-0. Amy Germain will write the decision.*

**FY11-19**      **225 Commercial Street (Town Commercial Center Zone), Paige Mansfield on behalf of ESP Realty Trust –**

The applicant seeks a Special Permit under Article 2 Section 2460 of the Zoning By-Laws for five indoor seats for already-established flow and for three additional indoor seats and sixteen outdoor seats on the second floor deck pending Economic Development approval. David Nicolau recused himself because of a conflict of interest. Anne Howard, Robert Littlefield, Amy Germain and Tom Roberts sat on the case.

The Board discussed the fact that the case was noticed out with the wrong Article and Section of the Zoning By-Laws, however the description was correct. Anne Howard polled the Board members.

*Robert Littlefield moved that the Board hear the application despite the mistake in the notice for Case #FY11-19, Tom Roberts seconded and it was so voted, 3-1 (Amy Germain opposed).*

Anne Howard explained to the applicant that since there were only four Board members seated, a unanimous vote would be required in order to grant a Special Permit. The applicant had the choice of proceeding or postponing until a five-member Board was seated. The applicant chose to proceed.

**Presentation:** Paige Mansfield appeared to present the application. The sixteen seats on the second floor deck are not permitted, according to the Building Commissioner. Five interior seats are available now based on septic flow. Ms. Mansfield seeks nine more interior seats. She has an EDC Permit application ready to be filed if a Special Permit is granted.

**Public Comment:** Joanne Calucci spoke in favor of the application. There were 5 letters in support of the application, including 1 from the previous speaker.

**Board Discussion:** The Board questioned Ms. Mansfield. The hours of operation sought are 11:00 A.M. to 2:00 A.M. seven days a week. The plan of the interior of the premises submitted was copied from the file and was incorrect, as it showed renovations that were not being undertaken. The Board decided to correct the plan.

*Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for fourteen indoor seats, five for already-established flow and with the condition that nine seats are granted contingent upon approval of the applicant's EDC Permit application for the property located at 225 Commercial*

*Street (TCC), Robert Littlefield seconded and it was so voted, 4-0.* Robert Littlefield will write the decision.

FY11-20      284B Commercial Street (*Town Commercial Center Zone*), Fred Ambrose of Ambrose Homes, Inc. on behalf of Ralph Santora –  
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the construction of two dormers up and along pre-existing, non-conforming lot lines. There was a request to postpone this case until September 16, 2010. *Amy Germain moved to grant the request to postpone Case #FY11-20 until September 16, 2010, Robert Littlefield seconded and it was so voted, 5-0.*

FY11-21      284B Commercial Street (*Town Commercial Center Zone*), Fred Ambrose of Ambrose Homes, Inc. on behalf of Ralph Santora –  
The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation in building scale for the construction of two dormers. There was a request to postpone this case until September 16, 2010. *Amy Germain moved to grant the request to postpone Case #FY11-21 until September 16, 2010, Robert Littlefield seconded and it was so voted, 5-0.*

**PENDING DECISIONS:**

2010-51      73 Shank Painter Road (*General Commercial Zone*), Robin B. Reid, Esq. on behalf of Viola Briseno –  
Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case. Amy Germain read the decision. *David Nicolau moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

**MINUTES:** August 5, 2010 – *Robert Littlefield moved to approve the language as written, Tom Roberts seconded and it was so voted, 4-0-1 (Amy Germain abstaining).*

**NEXT MEETING:** The next meeting will take place on September 16, 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 8:30 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 September 16, 2010.

Respectfully submitted,  
Ellen C. Battaglini

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