



Public Meeting
September 19, 2011
Judge Welsh Hearing Room
6:30 p.m.

Members Present: Marianne Clements, Eric Gelinas, John Golden, Peter Page, Dorothy Palanza, and Mark Weinress.

Member Absent: none

Staff: David Gardner and Maxine Notaro

The meeting was called to order at 6:30 p.m.

Meeting Agenda

Public Comments

There were none.

Public Hearing

Case #FY11-24 Site Plan Review (Request continuance on or before October 03, 2011) Application by William N. Rogers, II, P.E. & P.L.S. under the Zoning Bylaws Article 4, Section 4100 for Dwelling Units and Commercial Accommodations. The applicant seeks approval for the construction of five buildings to consist of 6 dwelling units with a total of 15 bedrooms at the property located at **67 Harry Kemp Way, Provincetown, MA (Res3 Zone).**

After receiving a request from the applicant, the following motion was made:

Motion: Move to continue FY11-24 until the October 3, 2011 meeting.

Motion: Dorothy Palanza Seconded: Marianne Clements Vote: 5-0-0.

Case #FY12-04 Site Plan Review

Application by Louis Lima and Jerome Crepeau under the Zoning Bylaws Article 2, Section 2320, High Elevation Protection District. The applicant seeks approval to construct a screened porch attached to the house, construct an accessory storage building with a carport and a 10' x 10' Gazebo at the property located at **11 Oppen Lane, Provincetown, MA (Res1 Zone).**

Louis Lima presented the plan to the Planning Board and supplied photos of the property. He said that there's not much you can see because it's not visible from most any other properties. He has tried to address all aspects of Section 2320 and there was a letter sent in by the architects, Paul Kelly and Edward Doucette, detailing all the aspects of 2320. Jim Golden read the letter which further detailed the project and also said that retaining walls will not be required. There was a letter of support sent in by Paul DeReuter who lives at 34 Commercial Street.

In answer to some questions, the accessory building will go where the present driveway is located.

William Rogers, II has a plan from the original ANR and he has updated all the topography – he also gave the percentages regarding lot coverage, green space, etc. and said it's a minimal change.

Board Members comments:

Dorothy Palanza asked if the footings needed for the gazebo will be hand dug? – Yes.

Marianne Clements asked – will the rest be hand dug? – Yes.

Dorothy wants down lighting. – That was another “yes.”

Motion: Move to approve the plan as presented with the condition that a separate lighting plan be supplied to the Board in the near future.

Motion: Mark Weinress Seconded: Dorothy Palanza Vote: 5-0-0.

Case #FY12-05 Site Plan Review

Application by Deborah Paine, Inc. under the Zoning Bylaws Article 2, Section 2320 High Elevation Protection District B. The applicant seeks approval to add a two story addition to the Northwest façade 21' x 23'4" and to add a two car garage under the expanded existing bedrooms at the property located at **54 Mayflower Avenue, Provincetown, MA (Res1 Zone).**

Peter Page stepped down from hearing the case.

Sitting on the case were the remaining members in attendance - MC, EG, JG, DP, & MW.

Deborah Paine presented the plan to the Board. She said that the application has just gone through the ZBA and is in the high elevation protection district. The property was built in 1980 and Deb walked the group through where she would place the addition, as well as, the areas which would be disturbed during construction. This means that most everything will be staged out of the very large driveway - so they're not into any of the virgin territory. John Golden was most concerned about a huge patch of lady slippers that grow beside the driveway. Deb said that she'll be happy to stake the area off.

Motion: Move to arrange for a site plan review of 54 Mayflower Avenue.

Motion: Dorothy Palanza Seconded: Mark Weinress Vote: 5-0-0.

Motion: Move to schedule a site plan review of 54 Mayflower Avenue – FY12-05 on Saturday, October 1st, at 1:00 p.m. and convene at the regular meeting on October 3rd.

Motion: Dorothy Palanza Seconded: Mark Weinress Vote: 5-0-0.

Case #FY12-06 Site Plan Review

Application by Deborah Paine, Inc. under the Zoning Bylaws Article 2, Section 2320 High Elevation Protection District A. The applicant seeks approval to rebuild/support an existing back deck and add an enlarged second floor deck with a porch roof at the property located at **55 Bayberry Road, Provincetown, MA (Res1 Zone).**

The regular members in attendance were sitting on the case. Deborah Paine presented the plan to the Board. She said that because there are so many levels, we are extending out into vegetation that is mostly brambles and fern. She also talked about how she would go about protecting all of this. The current footings are only 2 feet deep and have to be replaced with something more substantial. She also promised that she wouldn't let anything go down the slope when she's building. The present decks are somewhat cramped and that's why this proposal. She'll also put in dry wells and she'll put everything that is demolished into the dumpster. The client has not asked for any exterior lighting thus no lighting plan.

Robert Levin, a neighbor, sent in a letter of support for the project. He has been a neighbor for a number of years and greatly respects Deb's quality construction. Deb will provide a sheet on lighting – they will all be down lights. Mark asked how many footings will be needed – Answer 12.

Motion: Move to approve the plan with the condition that the lighting specifications be included with the plan.

Motion: Mark Weinress Seconded: Marianne Clements Vote: 5-0-0.

Public Hearing on Proposed Zoning Bylaw Amendments

The Provincetown Planning Board will hold a public hearing to hear comments from the public on the following proposed changes to the Zoning By-laws of the Town of Provincetown .**A copy of this proposed zoning by-law is available for public inspection at the Office of the Town Clerk, Provincetown, Town Hall, 260 Commercial Street, Provincetown, MA 02657.**

David Gardner introduced the subject and added that there were three members of the Ad Hoc Committee for the proposed Zoning bylaw amendments. They were: Ginny Binder, Ann Howard, and Ted Malone.

Suddenly a woman in the audience stood up and said that she had driven to town all the way from Boston in order to weigh in on the telecommunications by-law.

Motion: In deference to the Boston person – and to accommodate her request – it was moved that the Board would take Article 7 Telecommunications out of order and discuss it first.

Motion: Dorothy Palanza Seconded: Marianne Clements Vote: 5-0-0.

Dr. Kathleen Finneran from Mass General Hospital said that she's been a resident of Provincetown and home owner since the early 1970s and she went on to say how much evidence there was about antennae emitting radiation and posing a danger to all. Even though she had said that she was in a hurry to drive back to Boston, she spoke for approximately an hour expounding on the same theme. She urged the Board to postpone a vote on this until the April 2012 town meeting so that everyone could gain more valuable data on the subject.

Mark Weinress told her that we were informed that repeaters are unnecessary and also that we can't consider the health affects associated with location on this by-law.

Jim McCollum of 28 Berry Lane also spoke mirroring Dr. Finneran's sentiments.

Dorie Seavey of 755 Commercial Street said she had a deep concern about the telecommunications and urges a review process. She also read a lengthy letter from Celine Gandolfo which requested a delay until the April 2012 Annual Meeting.

The public comments on Article 7 – Telecommunication -which had begun at 7:35 p.m. closed at 9:08 p.m.

David Gardner then informed the Board that they weren't recommending or not recommending – just approving the language for the warrant. David then gave an historic walk down memory lane. He stated that we've had a tremendous increase in users and yet not an increase in service levels. During hurricane IRENE we had concerns about code red messages which were cut off due to a lack of service. David said that his services were negatively impacted.

Dorothy asked - when is the tower supposed to come on line? – Answer - last month was when it was supposed to be built.

Mark asked – if we do put this off for April - what if a company came in and decided to put it in a home? David said we could deny that waiver and deny that permit, but as long as we denied on the basis of the 500 foot buffer, the Town would continue to be

subject to potential further litigation. What prompted us to move forward is the following:

1. The bylaw has been deemed to be in violation of federal law and subjects the Town to further legal challenge.
2. The bylaw has the un-intended consequence of allowing facilities in inappropriate locations and threat of lawsuits limits the Planning Board's ability to act.
3. The new language is borrowed from the Cape Cod Commission's Model Bylaw and encourages the appropriate location and screening of facilities on existing structures rather than the provision of new towers in order to meet the stated mission to *preserve and protect historic and scenic vistas*.
4. Demand for wireless service will continue to grow and new applications for facilities could be forthcoming.
5. There is an issue of Public Safety and the demand for uninterrupted service.
6. Town's ability to accommodate and locate the upcoming Open Cape proposal.

After a bit more discussion, the following motion was made:

Motion: Move to include Article 7-Telecommunications in the Special Town Meeting warrant using the language that the town counsel recommended.

Motion: Peter Page Seconded: Mark Weinress
Vote: 3 in favor (P. Page, M. Weinress, & J. Golden)
2 against (D. Palanza & M. Clements)

(Eric Gelinis, an Alternate, said that if he had been able to vote, his vote would also have been in favor of Article 7 being put in the STM warrant.)

(Dr. Finneran asked for the names of the Board members who voted in favor, etc.)

Section 2470 Parking Requirements

Motion: Move to place the by-law on the STM warrant with no changes.

Motion: Marianne Clements Seconded: John Golden Vote: 5-0-0.

Section 3200 Sign Regulation

Motion: Move to approve the by-law for sign regulations as written for inclusion in the STM fall warrant.

Motion: Dorothy Palanza Seconded: Marianne Clements Vote: 5-0-0.

Article 6 Growth Management

This bylaw was discussed for a bit with members of the ZBA, etc. with the following outcome:

Motion: Move to reduce the allocation from Section 6600 (c) from 5,000 down to 3,750 for the by-law.

Motion: Mark Weinress Seconded: Dorothy Palanza Vote: 5-0-0.

Article 8 Solar Photovoltaic Facilities

Motion: Move to accept Article 8 as written for insertion in the STM warrant.

Motion: Peter Page Seconded: Marianne Clements Vote: 5-0-0.

Any other business that shall properly come before the Board

Ted Malone has had the site review completed for Stable Path and an ANR is required for the lot layout after the site review process. Ted went over where the lots had been reconfigured. Ted is in attendance to request an endorsement from the Planning Department. The questions about the easement were satisfied.

Motion: Move to endorse the Stable Path plan dated September 9, 2011 – job number 03-023.

Motion: Marianne Clements Seconded: Mark Weinress Vote: 5-0-0.

Minutes

Motion: Move to approve the minutes of the August 1, 2011 meeting as amended.

Motion: Marianne Clements Seconded: Mark Weinress Vote: 5-0-0.

Motion: Move to approve the minutes of the August 15, 2011 meeting as amended.

Motion: John Golden Seconded: Mark Weinress Vote: 5-0-1 ab (MC)

Adjournment happened at 9:45 p.m.

Respectfully submitted,

Evelyn Gaudiano

Evelyn Rogers Gaudiano

Approved by _____ **on** _____, 2011.
John Golden, Chairman