

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
February 16, 2012**

MEETING HELD IN THE JUDGE WELSH ROOM

Members Present: Anne Howard, Robert Littlefield, Tom Roberts and Harriet Gordon.

Members Absent: Amy Germain, David Nicolau, Joe Vasta and Elisabeth Verde (all excused).

Others Present: 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.

MINUTES: February 2, 2011 – *Robert Littlefield moved to approve the language as amended, Tom Roberts seconded and it was so voted, 4-0.*

PENDING DECISIONS:

FY12-37 **158 Bradford Street (Residential 3 Zone), Lester J. Murphy, Jr., Attorney, on behalf of 158 Bradford, LLC –**
Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Robert Littlefield read the decision. *Tom Roberts moved to accept the language as written, Anne Howard seconded and it was so voted, 3-0.*

Chair Anne Howard postponed the Work Session at 6:55 P.M.

PUBLIC HEARING

Chair Anne Howard called the Public Hearing to order at 7:00 P.M. There were four members of the Zoning Board of Appeals present and four absent.

NEW CASES:

FY12-46 **206 Commercial Street (Town Commercial Center Zone), Vida Hamnquist –**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for a change in use in the retail space from retail to full service restaurant and to request an increase in seating capacity from 32 seats to 58 seats pending the approval of an Economic Development Permit for the additional 26 seats. Anne Howard explained that since there were only four Board members seated, necessitating a unanimous decision in order to grant a Special Permit, the

applicant had the choice of proceeding now or continuing the case until five Board members could be seated. The applicant chose to proceed. Anne Howard, Robert Littlefield, Tom Roberts and Harriet Gordon sat on the case.

Presentation: Vida Hamnquist appeared to present the application. The restaurant uses local, organic and sustainable food and local beer, whenever possible, and hires local employees. The owners seek to stay open later in the season, possibly for 10-12 months. Indoor seating would allow them to do this.

Public Comment: Rachel White and Eric Yingling spoke in favor of the application. In the file, there were 11 letters in support of the application and 1 informational letter from an abutter.

Board Discussion: The Board questioned Ms. Hamnquist.

Robert Littlefield moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for a change in use in the retail space from retail to full service restaurant and to request an increase in seating capacity from 32 seats to 58 seats pending the approval of an Economic Development Permit for the additional 26 seats at the property located at 206 Commercial Street (TCC), Tom Roberts seconded and it was so voted, 4-0. Anne Howard will write the decision.

FY12-47

404 Commercial Street (Town Commercial Center Zone), Bernabe Orpilla –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for a change in seating layout to include a sit-down bar with an existing seating capacity of 56 seats and to request an increase in seating capacity from 56 seats to 80 seats, pending the approval of an Economic Development Permit for the addition of 24 outdoor seats (12 in the front and 12 in the rear). Anne Howard explained that since there were only four Board members seated, necessitating a unanimous decision in order to grant a Special Permit, the applicant had the choice of proceeding now or continuing the case until five Board members could be seated. The applicant chose to proceed. Anne Howard, Robert Littlefield, Tom Roberts and Harriet Gordon sat on the case.

Presentation: Tom Paolillo and Brad Carlson appeared to present the application. The applicant seeks to install a sit-down bar and retail space inside the restaurant and to add exterior seating in the rear and front of the restaurant in order to increase his business.

Public Comment: Elena Hall, an abutter, Rachel White and Michael Ceraldi spoke in favor of the application. In the file, there was 1 letter in opposition to seating in the rear of the premises and 2 letters in favor of the application.

Board Discussion: The Board questioned Mr. Paolillo and Mr. Carlson.

Tom Roberts moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for a change in seating layout to include a sit-down bar with an existing seating capacity of 56 seats and to request an increase in seating capacity from 56 seats to 80 seats, pending the approval of an Economic Development Permit for the addition of 24 outdoor seats (12 in the front and 12 in the rear) at the property located at 404 Commercial Street (TCC), based on seating plan P. 1C, which shows 12 seats in the rear yard and 12 seats in the front yard, and with the condition that the last seating on the rear patio take

place at 9:00 P.M., Robert Littlefield seconded and it was so voted, 4-0. Robert Littlefield will write the decision.

FY12-48

21 Tremont Street (Residential 3 Zone), Harry Brock –

The applicant seeks a Special Permit under Article 3, Section 3115 and Section 3110 of the Zoning By-Laws to demolish cottage #1, reconstruct cottage #1 in the existing footprint up and along the pre-existing, non-conforming side yard setback and attach cottage #1 to cottage #2 with a one-story connector. Anne Howard explained that since there were only four Board members seated, necessitating a unanimous decision in order to grant a Special Permit, the applicant had the choice of proceeding now or continuing the case until five Board members could be seated. The applicant chose to proceed. Anne Howard, Robert Littlefield, Tom Roberts and Harriet Gordon sat on the case.

Presentation: Harry and Jean Brock appeared to present the application. The applicant seeks to demolish and re-build cottage #1 and connect it to cottage #2 via an enclosed one-story breezeway. Cottage #1 is in a state of disrepair and the cost of renovating would exceed the cost of the re-build. There will be no increase in the sizes or footprints of the cottages.

Public Comment: Rachel White spoke in favor of the application. There was a petition, signed by 10 people, and 1 letter in favor of the application in the file.

Board Discussion: The Board questioned Mr. and Ms. Brock.

Robert Littlefield moved to grant a Special Permit under Article 3, Section 3115 and Section 3110 of the Zoning By-Laws to demolish cottage #1, reconstruct cottage #1 in the existing footprint up and along the pre-existing, non-conforming side yard setback and attach cottage #1 to cottage #2 with a one-story connector at the property located at 21 Tremont Street (Res 3), Harriet Gordon seconded and it was so voted, 4-0. Tom Roberts will write the decision.

FY12-49

21 Bradford Street Extension (Residential 1 Zone), WK Red Clay, LLC –

The applicant seeks to modify a Special Permit, under Article 3, Section 3110 of the Zoning By-Laws, granted in Case #2007-018, with revisions under Case #2007-57, FY11-035 and FY11-43 (under Article 4, Section 4170) for minor adjustments to re-orient approved unit numbers 12, 13, 14 & 15 and to adjust parking/road alignment with minor grade changes. Anne Howard explained that since there were only four Board members seated, necessitating a unanimous decision in order to grant a Special Permit, the applicant had the choice of proceeding now or continuing the case until five Board members could be seated. The applicant chose to proceed. Anne Howard, Robert Littlefield, Tom Roberts and Harriet Gordon sat on the case.

Presentation: Jim Watkins, Mark Kinnane and Delwin Trent appeared to present the application. Mr. Watkins submitted new plans to the Board before the presentation. The applicant seeks changes to Phase II of the project at the premises. Mr. Watkins characterized the changes as minor and would result in a reduction in the scale units of what was previously the largest building in Phase II. Originally, the site plan showed Buildings #12, #13 and #14 connected, with a free-standing Building #15 to the south. Mr. Watkins now seeks a change to

disconnect Building #13 from #14, and to connect Building #12 to #13 and Building #14 to #15. This makes the property more 'consistent' in the way the Buildings are connected, i.e. in twos, and allows for a connecting shed to be constructed between them. This was done for infrastructure and plumbing purposes and to add storage for unit owners. Other changes include adding parking spots on top of underground septic tanks (for tennis patrons and to handle overflow) and to the south end of the driveway, re-locating other parking spots, reducing porch sizes, adding more landscaping in front of Buildings #16 and #17, increasing the length of the driveway to the south and adding a rain garden at the south end of that driveway. Mr. Watkins added that the Conservation Commission has not yet approved these changes.

Public Comment: None. There was 1 letter in the file not opposing the application.

Board Discussion: The Board questioned Mr. Watkins, Mr. Kinnane and Mr. Trent. It was noted by the Board that the plans submitted by the applicant had not been made available to the public prior to the Public Hearing. The Board was concerned about the fact that the Conservation Commission has not yet approved the plan. Board members would like to see a plan that has been approved by the Commission before making a decision.

Robert Littlefield moved to continue Case #FY12-49 to a March 8, 2012 Special Meeting at 6:30 P.M., Harriet Gordon seconded and it was so voted, 4-0.

NEXT MEETING: The next meeting will take place on March 1, 2012. It will consist of a Work Session at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Tom Roberts moved to adjourn at 8:45 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 March 1, 2012.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2012
Anne Howard, Chair