

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
February 2, 2012**

MEETING HELD IN THE JUDGE WELSH ROOM

Members Present: Anne Howard, Robert Littlefield, Amy Germain, David Nicolau, Tom Roberts, Harriet Gordon and Joe Vasta.

Members Absent: Elisabeth Verde (excused).

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 6:30 P.M.

MINUTES: January 26, 2011 – Robert Littlefield moved to approve the language as written, Tom Roberts seconded and it was so voted, 6-0.

PENDING DECISIONS:

- FY12-38** **21 Montello Street (Residential 3 Zone), Kevin Baldwin –**
Anne Howard, Robert Littlefield David Nicolau, Tom Roberts and Harriet Gordon sat on the case. Harriet Gordon read the decision. ***Tom Roberts moved to approve the language as written, David Nicolau seconded and it was so voted, 5-0.***
- FY12-41** **34 Hancock Street (Residential 3 Zone), Lester J. Murphy, Attorney, on behalf of Elaine J. Anderson and Lorraine Kujawa –**
Robert Littlefield, David Nicolau, Harriet Gordon and Joe Vasta sat on the case. David Nicolau read the decision. ***Harriet Gordon moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0.***
- FY12-42** **37 Mayflower Heights (Residential 1 Zone), Theodore Cormay –**
Anne Howard, Robert Littlefield, David Nicoalu, Tom Roberts and Harriet Gordon sat on the case. Tom Roberts read the decision. ***Harriet Gordon moved to approve the language as written, David Nicolau seconded and it was so voted, 5-0.***
- FY12-45** **579 Commercial Street (Residential 3, Zone), Joseph Realmuto –**
Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. Anne Howard read the decision. ***Joe Vasta moved to approve the language as written, Tom Roberts seconded and it was so voted, 5-0.***

The Board discussed the practice of putting two Special Permit requests on one application, an issue that was talked about at the Work Session with Town Counsel; The Board decided to leave the decision up to the discretion of Russ and Maxine.

Chair Anne Howard postponed the Work Session at 6:58 P.M.

PUBLIC HEARING

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

CONTINUED CASES:

FY12-37 158 Bradford Street (Residential 3 Zone), Lester J. Murphy, Jr., Attorney, on behalf of 158 Bradford, LLC –

The applicant seeks a Special Permit under Article 3, Section 3110 and Article 4, Section 4120 of the Zoning By-Laws for the extension of a pre-existing, non-conforming guesthouse/lodging house use by the addition of one guest unit.

Presentation: Attorney Lester J. Murphy and Robyn Bazlen-Weglarz appeared to discuss the application. Attorney Murphy reiterated the applicant's argument for the addition of one guest unit. He said that he was aware of the Work Session that the Board had conducted with Town Counsel earlier that afternoon.

Board Discussion: The Board informed Attorney Murphy of its argument, based upon its discussion with Town Counsel earlier in the evening, that the request for relief sought by the applicant was more appropriately a Variance and not a Special Permit. The Board decided that the addition of another guest unit would make an already non-conforming lot even more non-conforming. Attorney Murphy requested that the Board render a written decision on the matter so that his client would have the option of appealing the decision. The Board discussed the request. Specifically, Attorney Murphy requested that the Board indicate the reason for the denial was the non-appropriateness of the application for a Special Permit.

Amy Germain moved to issue a written decision denying application #FY12-37 due the fact that the relief required is under a Variance, Robert Littlefield seconded and it was so voted, 5-0. Robert Littlefield will write the decision.

FY12-36 158 Bradford Street (Residential 3 Zone), Lester J. Murphy, Jr., Attorney, on behalf of 158 Bradford, LLC –

The applicant seeks a Special Permit under Article 3, Section 3115 of the Zoning By-Laws for the demolition and reconstruction of a lawful pre-existing, non-conforming structure including changes to the footprint and an increase in scale requiring relief under Article 3, Section 3110 and Article 2, Section 2550, regarding side yard and building setbacks, of the Zoning By-Laws. Attorney Murphy requested that this case be withdrawn without prejudice.

Amy Germain moved to grant the request to withdraw Case #FY12-36 without

prejudice, Robert Littlefield seconded and it was so voted, 5-0.

NEW CASES:

FY12-43 89 Commercial Street (*Residential 2 Zone*), Scott W. Grady on behalf of R.L. Chapman Properties – Geneva LLC –

The applicant seeks a Special Permit under Article 2, Section 2540 and Article 3, Section 3110 of the Zoning By-Laws to extend the pre-existing, non-conformancy of the structure with a pre-existing, non-conforming rear setback and Harbor setback.

FY12-44 89 Commercial Street (*Residential 2 Zone*), Scott W. Grady on behalf of R.L. Chapman Properties – Geneva LLC –

The applicant seeks a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale by extending a pre-existing, non-conforming roof deck over an existing pergola structure. The Board will hear the two cases together. Harriet Gordon and David Nicolau recused themselves because of conflicts of interest. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on both cases.

Presentation: Scott Grady appeared to present the applications. The applicant seeks to expand a rear second floor deck by 7' in order to make it more usable. The footprint of the structure will remain the same as will the lot coverage. Mr. Grady argued that the non-conformancy that intrudes into the rear and the Harbor setbacks will not be increased. The deck will not be visible from the street and will be screened from the beach by evergreens growing on the premises.

Public Comment: None. In the file, there were 3 letters in support of the application, 2 letters in opposition and 1 letter of no objection to the project.

Board Discussion: The Board questioned Mr. Grady. The sense of the Board was that the size of the increase in the deck area was too large. Mr. Grady requested to withdraw both applications without prejudice.

Amy Germain moved not to grant withdrawal of Cases #FY12-43 and #FY12-44 without prejudice. The motion was not seconded.

Robert Littlefield moved to grant the request to withdraw Cases #FY12-43 and #FY12-44 without prejudice Joe Vasta seconded and it was so voted, 4-1 (Amy Germain opposed).

Chair Anne Howard adjourned the Public Hearing at 8:00 P.M.

WORK SESSION

Chair Anne Howard reconvened the Work Session at 8:00 P.M.

The Board signed plans.

NEXT MEETING: The next meeting will take place on February 16, 2012. It will consist of a Work Session at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *David Nicolau 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 February 16, 2012.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2012
Anne Howard, Chair