

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
April 5, 2012**

MEETING HELD IN THE CAUCUS HALL

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

Members Absent: Amy Germain, David Nicolau 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 6:30 P.M.

MINUTES: March 15, 2012 – *Tom Roberts moved to approve the language as written, Harriet Gordon seconded and it was so voted, 3-0.*

PENDING DECISIONS:

FY12-56 **6 Bay Harbour Drive (*Residential 1 Zone*), William N. Rogers, II, P.E. & P.L.S. on behalf of Jason E. Stone, LLC** –
Anne Howard, David Nicolau, Tom Roberts and Harriet Gordon sat on the case. Anne Howard read the decision. *Tom Roberts moved to approve the language as written, Harriet Gordon seconded and it was so voted, 3-0.*

Chair Anne Howard adjourned the Work Session at 6:37 P.M.

PUBLIC HEARING

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

NEW CASES:

FY12-54 **The Pavilion located at the end of MacMillan Pier (*Harbor Overlay and Town Commercial Center Zone*), Town of Provincetown d/b/a Provincetown Public Pier Corporation** (*postponed from March 15, 2012*) –
The applicant seeks a Special Permit under Article 2, Sections 2315, D3 and E3f and 2460 of the Zoning By-Laws for Waterfront Special Permit use of the Pavilion for small-scale events. Tom Roberts recused himself because of a

conflict of interest. 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, Harriet Gordon and Joe Vasta sat on the case.

Presentation: Ellen C. Battaglini, on behalf of the Provincetown Public Pier Corporation, appeared to present the application. This is a renewal of a Special Permit for the Pavilion on the Pier which is a venue for special events, some sponsored by the PPPC. Both private events, such as the Pier Dance, and public events are held, including non-profit sponsored events held by Town organizations such as the PBG and the Center for Coastal Studies. The Pier sponsors the Great Provincetown Schooner Race and their crew party is held in the Pavilion. All these events help bring tourists to Town and to the Pier, thereby contributing to the summer economy and to the economic development of local small businesses. These goals are consistent with Chapter 5, Economic Development, 5.2 Goals and Policies, Policy B of the Local Comprehensive Plan. No noise complaints have been reported during the period of the previous Special Permit.

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

Board Discussion: The Board briefly questioned Ms. Battaglini.

Robert Littlefield moved to grant a Special Permit under Article 2, Sections 2315, D3 and E3f and 2460 of the Zoning By-Laws for Waterfront Special Permit use of the Pavilion for small-scale events at the Pavilion located at the end of MacMillan Pier (Harbor Overlay and Town Commercial Center Zone),, Harriet Gordon seconded and it was so voted, 4-0. Harriet Gordon will write the decision.

FY12-55 99 Commercial Street (Residential 3 Zone), Lora Papetsas of Sal's Place, Inc. (postponed from March 15, 2012) –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to install a full-service, sit-down bar with 10 bar stools converting existing seating to accommodate the 10 bar stools. There was a request by the applicant to postpone Case #FY12-55 until the April 19, 2012 Public Hearing.

Harriet Gordon moved to accept the request to postpone Case #FY12-55 until the April 19, 2012 Public Hearing, Robert Littlefield seconded and it was so voted, 5-0.

FY12-57 672 Commercial Street (Residential 1 Zone), Brad Locke on behalf of Fabian, LLP (postponed from March 15, 2012) –

The applicant seeks a Special Permit under Article 2, Section 2450, G10 and Article 3, Sections 3110 and 3115 of the Zoning By-Laws to demolish a pre-existing, non-conforming garage building and reconstructing a new artist's studio building on the existing footprint. Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case.

Presentation: Brad Locke appeared to present the application. The applicant seeks to tear down an existing garage, which is structurally unsound, and build an

artist's studio in the same footprint. The height of the existing garage is about 15', the height of the proposed studio will be 21'.

Public Comment: Dana McCannel spoke in favor of the application. There was 1 letter of support in the file.

Board Discussion: The Board questioned Mr. Locke. The Board determined that the proposed artist studio was not substantially more detrimental to the neighborhood than the existing garage.

Robert Littlefield moved to grant a Special Permit under Article 2, Section 2450, G10 and Article 3, Sections 3110 and 3115 of the Zoning By-Laws to demolish a pre-existing, non-conforming garage building and reconstructing a new artist's studio building on the existing footprint at the property located at 672 Commercial Street (Res 1), Joe Vasta seconded and it was so voted, 5-0. Robert Littlefield will write the decision.

- FY12-58** **2A Browne Street (Residential 2, Zone), John Reis, Inc. on behalf of Mark Bove and William M. Fraher (postponed from March 15, 2012) –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a second floor addition up and along a pre-existing, non-conforming front yard setback. Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case.
Presentation: John Reis appeared to present the application. The applicants seek to put an addition on the second floor of an existing building.
Public Comment: None. In the file, there was 1 letter of no objection and 2 letters of support for the project.
Board Discussion: The Board questioned Mr. Reis. The Board determined that the addition was not visible from the street and was not more detrimental to the neighborhood than the existing building.
Tom Roberts moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a second floor addition up and along a pre-existing, non-conforming front yard setback at the property located at 2A Browne Street (Res 2), Harriet Gordon seconded and it was so voted, 5-0. Tom Roberts will write the decision.

- FY12-59** **35 Alden Street (Residential 3 Zone), Peter Macara –**
The applicant seeks a Special Permit under Article 2, Section 2640 or the Zoning By-Laws for a deviation in building scale to construct a 12' x 12' second story addition with a shed roof. Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case.
Presentation: Peter Macara appeared to present the application. The existing scale of the structure is 19,600 cu. ft., the neighborhood average is 15,926 cu. ft. and the maximum allowable scale is 18,315 cu. ft. The proposed addition is 2,880 cu. ft. for a total of 22,480 cu. ft. The addition is replacing a portion of a rear deck.
Public Comment: Barbara Rushmore spoke in favor of the application. In the file, there was 1 letter in support of the project and 1 letter of no objection to the project.

Board Discussion: The Board questioned Mr. Macara. The Board determined that the project met the criteria of sub-paragraph #5 of Article 2, Section 2640E. *Tom Roberts moved to grant a Special Permit under Article 2, Section 2640 or the Zoning By-Laws for a deviation in building scale to construct a 12' x 12' second story addition with a shed roof at the property located at 35 Alden Street (Res 3), Harriet Gordon seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).* Anne Howard will write the decision.

FY12-60 59 Harry Kemp Way (Residential 3/Residential B Zone), William N. Rogers, II, P.E. & P.L.S., on behalf of J & T Realty Trust –

The applicant seeks a Special Permit under Article 2, Section 2450 (G12) of the Zoning By-Laws to install a 20' x 12' x 3' 10" deep in-ground swimming pool. There was a letter submitted requesting a withdrawal without prejudice for this case. *Robert Littlefield moved to grant the request for a withdrawal without prejudice for Case # FY12-60, Tom Roberts seconded and it was so voted, 5-0.*

FY12-61 8 Pleasant Street (Residential 3 Zone), Ted Smith, Architect, LLC, on behalf of Scott Dolny & Michael Palmer –

The applicant seeks a Special Permit under Article 2, Section 2640 of the Zoning By-laws for a deviation in building scale to reconfigure dormers, construct a new dormer and add a partial second floor. Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case.

Presentation: Scott Dolny, Michael Palmer and Ted Smith appeared to present the application. The existing scale of the structure is 24,015 cu. ft., the neighborhood average scale is 15,649 cu. ft. and the maximum allowable scale is 17,997 cu. ft. The proposed addition is 3,740 cu. ft., for a total of 27,755 cu. ft. The project includes the reconfiguration of some dormers and the addition of a new dormer and a second floor over a one-story addition in the rear of the structure. The long linear shed dormer on the right-hand side of the building on the Pleasant Street side will be reconfigured into two smaller dormers and then a twin dormer on the left-hand side will be added to balance the composition. An addition will be placed on top of some sliding glass doors on the west side of the building, facing Whorf's Court. There will be a deck on the southwest side of the building. The deck on the northwest side will be removed. Mr. Smith showed the Board a picture taken from Whorf's Court indicating the minimal impact the addition will have from that streetscape. He stated that the project meets the criteria of Article 2, Section 2640E, sub-paragraphs 5 and 6. There will be no detrimental effects as a result of this project, such as hazard, congestion or environmental degradation and additional tax revenue generated by the increase in scale will be of benefit to the Town.

Public Comment: None. There were 13 letters in favor and 3 letters opposed to the project in the file.

Board Discussion: The Board questioned Mr. Smith, Mr. Dolney and Mr. Palmer. There was a door shown on the plans that was moved to the back of the structure as a result of an Historic District Commission request. The Board requested the applicants to submit revised plans of the east elevation reflecting

that change.

Tom Roberts moved to grant a Special Permit under Article 2, Section 2640 of the Zoning By-laws for a deviation in building scale to reconfigure dormers, construct a new dormer and add a partial second floor at the property located at 8 Pleasant Street (Res 3) contingent upon the submission of revised east elevation plans, Harriet Gordon seconded and it was so voted, 5-0. Robert Littlefield will write the decision.

FY12-62 9 Whorf's Court (Residential 3 Zone), David McMahon –

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct an addition up and along a pre-existing, non-conforming setback. Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case.

Presentation: David McMahon appeared to present the application. The property line has been moved to eliminate some non-conformancies on the premises. He is proposing to extend an existing 'L' at the rear of the house.

Public Comment: Michael Palmer, for himself and on behalf of Scott Dolny, spoke in favor of the application. There were 2 letters in support of the application in the file.

Board Discussion: The Board questioned Mr. McMahon.

Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct an addition up and along a pre-existing, non-conforming setback at the property located at 9 Whorf's Court (Res 3), Anne Howard seconded and it was so voted, 5-0. Tom Roberts will write the decision.

NEXT MEETING: The next meeting will take place on April 19, 2012. It will consist of a Public Hearing at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Tom Roberts 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 April 19, 2012.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2012
Anne Howard, Chair