

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
June 7, 2012**

**MEETING HELD IN THE JUDGE WELSH ROOM**

**Members Present:** Anne Howard, Robert Littlefield, Amy Germain, David Nicolau (left at 6:57 P.M.), Tom Roberts, Joe Vasta and Leif Hamnquist.

**Members Absent:** Harriet Gordon (excused).

**Others Present:** Russ Braun (Building Commissioner) and Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

Chair Anne Howard called the Work Session to order at 6:32 P.M.

**MINUTES:** May 17, 2012 – *Tom Roberts moved to approve the language as written, Anne Howard seconded and it was so voted, 5-0.*

May 3, 2012 – Executive Session – *Amy Germain moved to approve the language as written, Anne Howard seconded and it was so voted, 5-0.*

**ELECTION OF OFFICERS:**

*Amy Germain moved to nominate Anne Howard for Chair, Robert Littlefield seconded and it was so voted, 7-0.*

*Amy Germain moved to nominate Robert Littlefield for Vice Chair, Anne Howard seconded and it was so voted, 7-0.*

*Anne Howard moved to nominate Amy Germain for Clerk, Robert Littlefield seconded and it was so voted, 7-0.*

**PENDING DECISIONS:**

**FY12-69**      **151 Commercial Street (Town Commercial Center Zone), Juan C. Pisani and Valsin A. Marmillion –**

Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. Anne Howard read the decision. *Tom Roberts moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0.*

**FY 12-70**      **135 Bradford Street (Town Commercial Center Zone), Edward T. Patten, Esq., of Zisson & Veara, on behalf of Richard L. Campbell –**

Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Robert Littlefield read the decision. *Amy Germain moved to approve the language as written, Tom Roberts seconded and it was so voted, 5-*

0.

**FY12-71**     **135 Bradford Street (Town Commercial Center Zone), Edward T. Patten, Esq., of Zisson & Veara, on behalf of Richard L. Campbell –**  
Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Robert Littlefield read the decision. *Amy Germain moved to approve the language as written, David Nicolau seconded.*  
The Board discussed and amended the decision.  
*Amy Germain moved to approve the language as amended, David Nicolau seconded and it was so voted, 5-0.*

**FY12-72**     **8 Pleasant Street (Residential 3 Zone), Ethan Poulin on behalf of Michael Palmer –**  
Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case. Tom Roberts read the decision. *Amy Germain moved to approve the language as written, Joe Vasta seconded and it was so voted, 5-0.*

Chair Anne Howard postponed the Work Session at 6:57 P.M.

## **PUBLIC HEARING**

Chair Anne Howard called the Public Hearing to order at 7:09 P.M. There were six members of the Zoning Board of Appeals present and two absent.

### **CONTINUED CASE:**

**FY 12-67**     **28 Nickerson Street (Residential 3 Zone), Mark P. Kinnane of Cape Associates, Inc. on behalf of Patty Rogers (continued from May 17, 2012) –**  
The applicant seeks a Special Permit under Article 3, Section 3110 and Section 3115 of the Zoning By-Laws to demolish and reconstruct the larger unit of a two-unit, one-story structure (approximately two-thirds of the existing structure is to be demolished) and under Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. The Board received a letter from Mr. Kinnane requesting that the section of the application for a Special Permit regarding Article 2, Section 2640 of the Zoning By-Laws be withdrawn without prejudice. *Amy Germain moved to grant the request to withdraw the section of the application for a Special Permit regarding Article 2, Section 2640 of the Zoning By-Laws without prejudice, Robert Littlefield seconded and it was so voted, 4-0.*

### **NEW CASES:**

**FY12-73**     **350 Bradford Street (Residential 3 Zone), Shay Santos (Michael Shay's Restaurant) –**  
The applicant seeks a Special Permit under Article 2, Section 2640 of the Zoning

By-Laws to relocate an existing 14-seat bar and increase the bar to 19 seats using existing interior restaurant seating and to reduce the total number of seats. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta.

**Presentation:** Dana Heilman appeared to present the application. The applicant seeks to move the bar towards the center of the building and establish a bakery at the existing bar location. The bakery will be open in the morning and in the afternoon. The total number of seats will be reduced from 192 to 168. There will be 114 seats in the dining room, 20 seats outside and 34 seats at the bar and counter.

**Public Comment:** Sandra Hasenjager, an abutter, spoke in favor of the application. Julie Perry, an abutter, asked for clarification in regard the outdoor seating. There were no letters in the file.

**Board Discussion:** The Board questioned Mr. Heilman. The hours of operation are from 8:00 A.M. to 1:00 A.M.

*Anne Howard moved to grant a Special Permit under Article 2, Section 2640 of the Zoning By-Laws to relocate an existing 14-seat bar and increase the bar to 19 seats using existing interior restaurant seating and to reduce the total number of seats at the property located at 350 Bradford Street (Res 3), Robert Littlefield seconded and it was so voted, 5-0. Amy Germain will write the decision.*

**FY12-74      47 Pleasant Street (Residential 3 Zone), Gary Reinhardt on behalf of Cary Raymond and Jonathan Goode –**

The applicants seek a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in allowable building scale by enclosing the existing rear deck. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta.

**Presentation:** Gary Reinhardt, Cary Raymond and Jonathan Goode appeared to present the application. The applicants seek to put a small addition in the rear, or east elevation, of the structure. An upstairs deck will be enclosed to create office space. The existing scale is 22,180 cu. ft., the neighborhood average is 14,038 cu. ft., the allowable scale is 17,551 cu. ft., the proposed addition is 1,900 cu. ft. The total proposed scale is 24,080 cu. ft. The increase in scale is 7.89%. The benefits of the project to the Town and the neighborhood outweigh any adverse effects such as hazard, congestion or environmental degradation. It will allow the applicants to reside in the structure on a year round basis and increase the Town's tax base. The deviation in scale is appropriate and in compliance with subparagraph 1 of Article 2, Section 2640, as it is in keeping with the Local Comprehensive Plan, specifically Section 1.2, Goal 1, Policy B and E and Goal 7. It also conforms with subparagraph 5 of Article 2, Section 2640 as it successfully integrates with other structures in the neighborhood and minimizes the mass of the structure from the streetscape.

**Public Comment:** None. There were 11 letters in the file in favor of the application.

**Board Discussion:** The Board questioned Mr. Reinhardt, Mr. Goode and Mr. Raymond.

*Tom Roberts moved to grant a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in allowable building scale by enclosing the existing rear deck at the property located 47 Pleasant Street (Res 3), Joe Vasta seconded and it was so voted, 5-0. Tom Roberts will write the decision.*

- FY12-75**      **162 Commercial Street (Town Commercial Center Zone), Gary Marotta of Gary Marotta Fine Art –**  
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the display of artwork, postcards and announcements for the sale of art. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta.  
**Presentation:** Gary Marotta appeared to present the application.  
**Public Comment:** None. There were no letters in the file.  
**Board Discussion:** The Board questioned Mr. Marotta.  
*Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the display of artwork, postcards and announcements for the sale of art at the property located at 162 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 5-0. Amy Germain will write the decision.*

Chair Anne Howard adjourned the Public Hearing at 7:55 P.M.

## **WORK SESSION**

Chair Anne Howard reconvened the Work Session at 7:55 P.M.

### **PENDING DECISIONS:**

- FY12-65**      **269 Commercial Street (Town Commercial Center Zone), Benjamin E. Zehnder, LLC on behalf of El Mundo, LLC –**  
Anne Howard, Robert Littlefield, Amy Germain, Harriet Gordon and Joe Vasta sat on the case. The applicant submitted a revised seating plan. Amy Germain read the decision. *Robert Littlefield moved to approve the language as written, Tom Roberts seconded and it was so voted, 4-0.*
- FY 12-67**      **28 Nickerson Street (Residential 3 Zone), Mark P. Kinnane of Cape Associates, Inc. on behalf of Patty Rogers –**  
Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. Tom Roberts read the decision. *Amy Germain moved to approve the language as written, Robert Littlefield seconded and it was so voted, 4-0.*

The Board discussed the property at 34 Court Street.

**NEXT MEETING:** The next meeting will take place on June 21, 2012. 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 its meeting on June 21, 2012.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2012  
Anne Howard, Chair