

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

**MEETING HELD IN THE JUDGE WELSH ROOM**

**Members Present:** Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts, Harriet Gordon, Joe Vasta and Leif Hamnquist.

**Members Absent:** David Nicolau (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 6:45 P.M.

**MINUTES: June 21, 2012** – *Amy Germain moved to approve the language as written, Tom Roberts seconded and it was so voted, 6-0.*

**PENDING DECISIONS:**

**FY12-76**      **67 Commercial Street, #B (Residential 2 Zone), William N. Rogers, II for 67 Commercial Street, LLC** –  
Anne Howard, Robert Littlefield, Amy Germain and Leif Hamnquist sat on the case. Robert Littlefield read the decision. *Tom Roberts moved to accept the language as written, Amy Germain seconded and it was so voted, 4-0.*

**FY12-77**      **147 Bradford Street Extension, #1 (Residential 1 Zone), Richard Flores for Allen R. Gallant** –  
Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. The applicant had submitted plans showing the north and east elevations as requested by the Board. Tom Roberts read the decision. *Robert Littlefield moved to accept the language as written, Harriet Gordon seconded and it was so voted, 5-0.*

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

**PUBLIC HEARING**

Chair Anne Howard called the Public Hearing to order at 7:03 P.M. There were seven members

of the Zoning Board of Appeals present and one absent.

## **NEW CASES:**

### **FY13-1      333R Commercial Street (Town Commercial Center Zone), Attorney Lester J. Murphy on behalf of Boatworks, LLC –**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-laws to establish a 44-seat lounge with bar and table seating. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case.

**Presentation:** Attorney Lester J. Murphy, Bill Bond and Eric Tolley appeared to present the application. The property is subject to a Chapter 91 license which requires that the first floor have a public, water-dependent use. A restaurant/lounge, open to the public and serving alcohol, is considered a proper and allowable use. The applicant's intent is to run a low key operation similar to the Harbor Lounge. A floor plan showing the location of the proposed 44 seats, including tables, a bar area and lounge chairs was submitted. Also submitted was an outline written by Mr. Bond, explaining his intentions for the establishment accompanied by pictures of the exterior of the beach-side entrance. The hours of operation will be from 12 noon to 12 midnight from April 1<sup>st</sup> to January 1<sup>st</sup>, depending upon the level of activity. No live entertainment will be taking place and only interior pre-recorded music will be played. There will be no preparation of food onsite. Pre-prepared food only will be offered. No exterior service of food or alcohol will be allowed. Mr. Bond has a vested interest in the lounge operation being quiet as located above the proposed lounge area are eight residential units for sale. Trash pick-up will occur daily and a full time manager will be on site along with a bartender, bus person and servers. Casement windows on the west side will be closed at all times during the hours of operation. The windows are manufactured to withstand a hurricane and are virtually soundproof. According to Attorney Murphy, the social benefits to the Town are that a waterfront amenity would be added for the enjoyment of residents and tourists, employment opportunities would be available, access to the property would be from the east side of the structure and meals tax income would be generated. The 44 seats require the granting of an Economic Development permit.

**Public Comment:** None. There was 1 letter of concern from an abutter.

**Board Discussion:** The Board questioned Attorney Murphy, Mr. Bond and Mr. Tolley. The Board was concerned about how the entryway/exit to the beach will be monitored to prevent the removal of alcohol from the premises and discussed options with the Attorney Murphy and the applicant. The Board also discussed and proposed conditions for the Special Permit.

***Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-laws to establish a 44-seat lounge with bar and table seating at the property located at 333R Commercial Street (TCC) with the conditions that windows and doors be closed at all times, that there be no live music/and or entertainment, that the Special Permit expire on 01/02/13, that the Special Permit run with the applicant, or any other entity owned and controlled by the same managers, that the applicant is granted the proposed EDC gallons, that***

*there be no exterior alcohol service, that the hours of operation are 12 noon to 12 midnight and that a gate be installed with an interior alarm and signage to reflect 'emergency exit only' and 'no alcohol beyond this point', Joe Vasta seconded and it was so voted, 5-0.* Tom Roberts will write the decision.

**FY13-2**

**10 Prince Street (Residential 3 Zone), Cotuit Design, LLC on behalf of KIP Financial –**

The applicant seeks a Special Permit under Article 2, Section 2640 and Article 3, Sections 3110 and 3115 of the Zoning By-Laws for a deviation in building scale and to demolish and reconstruct the rear portion of a pre-existing, non-conforming structure along a pre-existing, non-conforming side yard setback in order to extend an existing dormer and to construct a 1½ story rear addition. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case.

**Presentation:** Attorney Lester J. Murphy appeared to present the application. The structure is located on a 5,679 sq. ft. lot. The property includes a residential structure and an accessory building that previously operated as a barbershop. The applicant seeks to upgrade, renovate and demolish of a portion of the rear of the residential structure and add an addition. The accessory structure on the property is not part of this project. The main structure is non-conforming as to the front and west side yard setbacks. The applicant seeks to add dormers to the front and to demolish the existing rear portions of the building that were added onto the main structure without proper foundations. The project will make the west side yard setback less non-conforming. The rear of the structure will be moved farther away, by 6-7', from the lot line. According to Attorney Murphy, the change to the structure will not be substantially more detrimental than what exists and, in fact, will be an asset to the neighborhood. The proposed addition will be more in keeping with the historic architecture of the structure as a whole and will be assessed at a higher value than what exists and generate more tax revenue for the Town. The roof height of the front of the structure will remain the same, however the roof height of the rear addition will be increased from 18' to 24'7". The length of the building will be 7' shorter than what currently exists. The existing structure has a scale of 12,350 cu. ft., the maximum allowable scale is 16,311 cu. ft., the neighborhood average is 14,183 cu. ft. and the proposed addition is 6,115 cu. ft. The total proposed scale is 18,465 cu. ft., 2,154 cu. ft. greater than the maximum scale allowed without relief. The neighborhood is a mixture of large and small buildings and the increase in scale will not disrupt its character. The project meets the criteria of subparagraphs 1, 5 and 6 of Article 2, Section 2640E and the criteria of Article 5, Section 5330. As to the latter, the social, economic or other benefits to the Town or neighborhood outweigh any negative effects such as hazard, congestion or environmental degradation. The entire structure is being renovated, resulting in the addition of a dwelling unit, with no increase in the number of bedrooms, the building will conform to the requirements of the State Building Code, the building will be pulled back from the rear lot line, the assessed value will increase providing more tax revenue to the Town. The existing rear additions will be removed and replaced with a structure approved by the HDC.

The dormers will provide legal headroom on the second story of the front part of the structure. No hazard will be created and no environmental degradation will occur. The project is in keeping with the goals of the Local Comprehensive Plan, pursuant to Section 2640E, subparagraph 1; specifically in Land Use and Growth Management, 1.2 Goals and Policies, Goal 1, Policy B, under Historic Preservation and Community Character, 4.2 Goals and Policies, Goal 1, Policy D and Goal 2 and Goal 2, Policy A and B. The proposed addition minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural light to, or views from, neighboring structures, pursuant to subparagraph 5 of Section 2640 and pursuant to subparagraph 6, the property is located in the Provincetown Historic District and the addition is consistent with the Historic District Guidelines and approval of the deviation would further the purpose and intent of the bylaw. A line of shrubs will be planted to provide an aural and visual buffer along Cudworth and Prince Streets.

**Public Comment:** None. There was a petition signed by 4 people, 3 abutters and 1 non-abutter, in favor of the application.

**Board Discussion:** The Board discussed the Article 3, Section 3110 checklist and how it will be implemented by this applicant and applicants in general. The Board questioned Attorney Murphy about the applicant's justification for the increase in building, as it was concerned about the effect of that increase on the neighborhood. Also discussed was the reason why the initial scale numbers given to the applicant by the Assessor's Office were incorrect and the effect that had on the project.

**Robert Littlefield moved to grant Special Permits under Article 2, Section 2640 and Article 3, Sections 3110 and 3115 of the Zoning By-Laws for a deviation in building scale and to demolish and reconstruct the rear portion of a pre-existing, non-conforming structure along a pre-existing, non-conforming side yard setback in order to extend an existing dormer and to construct a 1½ story rear addition at the property located at 10 Prince Street (Res 3), Harriet Gordon seconded and it was so voted, 4-1 (Amy Germain opposed).** Robert Littlefield will write the decision.

Chair Anne Howard adjourned the Public Hearing at 9:15 P.M.

## WORK SESSION

Chair Anne Howard reconvened the Work Session at 9:15 P.M.

The Board discussed a draft letter written by Chair Anne Howard to the owner of 34 Court Street requesting that he apply for a Special Permit for a change in use. Corrections were made.

**NEXT MEETING:** The next meeting will take place on July 19, 2012. It will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Amy Germain moved to adjourn at 9:30 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 July 19, 2012.

Respectfully submitted,  
Ellen C. Battaglini

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