

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
January 3, 2013**

MEETING HELD IN THE JUDGE WELSH ROOM

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

Members Absent: Anne Howard (excused) and Leif Hamnquist (excused).

Others Present: Russ Braun (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

PUBLIC HEARING

Vice Chair Robert Littlefield called the Public Hearing to order at 7:00 P.M. There were six members of the Zoning Board of Appeals present and two absent.

NEW CASES:

FY13-22 303 Commercial Street (*Town Commercial Center Zone*), John Drago of Timtanman Corp. d/b/a Post Office Café -

The applicant seeks a Special Permit under Article 2, Sections 2440 and 2460 of the Zoning By-Laws for the outdoor service of food and alcoholic beverages on the patio area at 307 Commercial Street to be operated by the Post Office Café. Robert Littlefield, Amy Germain, David Nicolau, Tom Roberts and Joe Vasta sat on the case.

Presentation: John Drago, Candace Collins-Boden, Executive Director of the Provincetown Chamber of Commerce, and Susan Avellar, member of the Board of Directors of the Provincetown Chamber of Commerce, appeared to present the application. The applicant seeks to utilize the patio area and a small building, owned by the Provincetown Chamber of Commerce and located adjacent to the Post Office Café, for the service of food and alcohol. Mr. Drago stated that Timtanman Corporation will enter into a lease with the Provincetown Chamber of Commerce for the use of the property located at 307 Commercial Street. Seating for 24 patrons will be located on the patio area and the building on the premises will be used for storage. Ms. Collins-Boden stated that the Board of the Provincetown Chamber of Commerce approves of the use of the property and is willing to enter into a lease agreement with Timtanman Corp.

Documents Submitted: Application for a Hearing, a letter from the Provincetown Chamber of Commerce, a letter from Phyllis Schlosberg, an outdoor seating plan and a site plan.

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

Board Discussion: The Board consulted a memo from Town Counsel regarding the expansion of the Post Office Café to include land owned by the Provincetown Chamber of Commerce. There was discussion of conditions of the Special Permit, including the location fence on the premises, the lighting of the walkway adjacent to the property, the length of the season and the hours of operation of the restaurant, a clarification of how the outdoor service will operate and the location of signage prohibiting the removal of alcohol from the premises. The Board requested photographs of the section of the fence and planter on the property and that a copy of the lease be attached to the Special Permit decision. The applicant stated that some seating will be removed from the interior to allow for access to the outdoor seating area. The Board requested that Maxine send an e-mail to Town Counsel asking for approval to release her memo to the Provincetown Chamber of Commerce.

Amy Germain moved to request that Town Counsel approve the release of the Board's memo regarding this Special Permit to the Provincetown Chamber of Commerce, Joe Vasta seconded and it so voted, 5-0.

Vice Chair Robert Littlefield announced that the public portion of the hearing will be kept open and that the Board will continue the case. The Board reiterated the conditions discussed, including the applicant's request that the hours of service be from 9:00 A.M. to 11:00 P.M. and that the length of the season be from April 1st to November 1st, that the Special Permit is contingent upon the granting of an Economic Development Committee permit for additional seats, that signage stating that no alcohol should be taken off the premises will be posted at the entrance to the patio, that only table service will be allowed on the patio, that a barrier with a small entrance will be placed along the patio's boundary on Commercial Street, that the Special Permit shall expire if the tenant relinquishes the use of the property, that the tenant must retain total control of the adjacent property at 307 Commercial Street, that the Special Permit will expire on 1/2/14 and that the lease be attached to the Special Permit. The Board also requested, for reference purposes, a seating plan that showed the name of who prepared it and the date that it was prepared.

Amy Germain moved to continue Case #FY-13-22 to the January 17, 2013 Public Hearing, Tom Roberts seconded and it was so voted, 5-0.

FY13-23

7 Browne Street (Residential 3 Zone), Joseph Freitas –

The applicant seeks a Special Permit under Article 2, Section 2640 and Article 3, Section 3110 of the Zoning By-Laws to construct a second floor deck addition up and along pre-existing, non-conforming setbacks on a single family dwelling and for a deviation in building scale. There was a request from the applicant to postpone the hearing of this case until the February 7, 2013 Public Hearing.

David Nicolau moved to grant the request to postpone Case #FY13-23 until the February 7, 2013 Public Hearing, Amy Germain seconded and it was so voted, 6-0.

FY13-24 **471 Commercial Street (*Residential 3 Zone*), Deborah Paine, Inc., on behalf of Kenneth Fulk –**
The applicant seeks a Special Permit under Article 2, Section 2540 and Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure by building a set of stairs from a new deck to the ground slightly into the Harbor setbacks. Robert Littlefield, Amy Germain, David Nicolau, Tom Roberts and Harriet Gordon sat on the case.
Presentation: Deborah Paine appeared to present the application. The applicant seeks to repair and renovate a deck off of a sunporch. Stairs are proposed, which will encroach slightly into the Harbor setback.
Documents Submitted: An Application for a Hearing, a Scale Calculation Request, a Non-Conforming checklist, a plot plan by William N. Rogers, II, dated 12/12, existing and proposed elevations by Deborah Paine, Inc. and existing and proposed floor plans by Deborah Paine, Inc.
Public Comment: None. There were no letters in the file.
Board Discussion: Ms. Paine explained that a couple of the stair treads will encroach slightly into the Harbor setback because the deck is only 8’ wide and if the stairs were moved back, they would cut back into the deck area, making it smaller at that point. She added that the stairs would encroach less into the setback as proposed than if they were located parallel to the deck. The Board didn’t have an issue with the 2’ encroachment into the Harbor setback.
David Nicolau moved to grant a Special Permit under Article 2, Section 2540 and Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure by building a set of stairs from a new deck to the ground slightly into the Harbor setbacks at the property located at 471 Commercial Street (Res 3), Harriet Gordon seconded and it was so voted, 5-0. David Nicolau will write the decision.

FY13-25 **32 Ship’s Way Road (*Residential 1 Zone*), Pavel Fiodarau on behalf of Paul Gable and Tony Lopez –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a dormer up and along pre-existing, non-conforming lot lines and/or a Variance under Article 5, Section 5222 of the Zoning By-Laws to construct an attached farmer’s porch and an attached garage.

FY13-26 **32 Ship’s Way Road (*Residential 1 Zone*), Pavel Fiodarau on behalf of Paul Gable and Tony Lopez –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a dormer up and along pre-existing, non-conforming lot lines and for a Variance under Article 5, Section 5222 of the Zoning By-Laws to construct a farmer’s porch and a detached garage within existing setbacks. There was a request from the applicant to postpone Cases #FY13-25 and #FY13-26 until the January 17, 2013 Public Hearing.
Amy Germain moved to grant a postponement of Cases #FY13-25 and #FY13-26 until the January 17, 2013 Public Hearing, Tom Roberts seconded and it was so voted, 5-0.

Amy Germain asked if an outdoor exhibition with amplified sound at the property located at 149 Commercial Street was allowable under the Zoning By-laws. She will send the Building Commissioner an e-mail about it.

NEXT MEETING: The next meeting will take place on January 10, 2013. It will consist of a Work Session at 6:15 P.M. in the Town Hall Auditorium followed by a Public Hearing at 7:00 P.M. in the Judge Welsh Room.

ADJOURNMENT: *David Nicolau moved to adjourn at 8:00 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 January 10, 2013.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2013
_____, Chair