

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
July 7, 2016**

Members Present: David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley, Bryan Armstrong, Jeffrey Gould and Marianne Clements.

Members Absent: Rob Anderson (unexcused).

Others Present: Gloria McPherson (Town Planner) and Ellen C. Battaglini (Permit Coordinator).

WORK SESSION

Chair David M. Nicolau called the Work Session to order at 6:30 P.M. The Board signed decisions and plans.

Jeremy Callahan applied for an alternate position on the Board with a term to expire on 12/31/16. He appeared before the Board to and reviewed his education and experiences with Town Boards in Ayer, MA. The Board questioned Mr. Callahan. *Jeffrey Haley moved to appoint Jeremy Callahan to the alternate position on the Zoning Board of Appeals with a term to expire on 12/31/16, Robert Littlefield seconded and it was so voted, 7-0.*

MINUTES: June 2, 2016– *Robert Littlefield moved to approve the language as written, Joe Vasta seconded and it was so voted, 5-0.*

June 16, 2016– Robert Littlefield moved to approve the language as written, Joe Vasta seconded and it was so voted, 5-0.

Chair David M. Nicolau adjourned the Work Session at 6:57 P.M.

PUBLIC HEARING

Chair David M. Nicolau called the Public Hearing to order at 7:01 P.M. There were seven members of the Zoning Board present and one absent.

PUBLIC HEARINGS:

FY16-54 **281 Commercial Street (Town Center Commercial Zone), David Endich**
(postponed to the Public Hearing of July 21st, to be re-advertised and abutters re-notified) –

The applicant seeks a Special Permit pursuant to Article 3, Section 3420, Outside

Display, of the Zoning By-Laws to display a giant Hershey kiss replica on the sidewalk. *Jeffrey Haley moved to postpone Case #FY16-54, Jeffrey Gould seconded and it was so voted, 5-0.*

FY16-55 **31 Conwell Street (Residential 3 Zone), William N. Rogers, II, P.E., P.L.S., on behalf of Jason Truluck-Williams et ux** (*postponed to the Public Hearing of July 21st, to be re-advertised and abutters re-notified*) –

The applicant seeks a Special Permit pursuant to Article 3, Sections 3110, Change, Extensions or Alterations, and 3115, Demolition and Reconstruction, of the Zoning By-Laws to demolish and reconstruct a pre-existing, non-conforming structure with increases to building height and scale. *Robert Littlefield moved to postpone Case #FY16-55, Joe Vasta seconded and it was so voted, 5-0.*

FY16-56 **6 Dyer Street (Residential 3 Zone), John DeSouza, on behalf of Daniel Judas and Daniel Luethi** –

The applicant seeks a Special Permit pursuant to Article 2, Section 2630C, Roofs, of the Zoning By-Laws to deviate from the roof configuration standards by exceeding 50% of the floor area coverage below a dormer. David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Jeffrey Gould sat on the case. **Presentation:** John DeSouza, Daniel Luethi and Daniel Judas appeared to present the application. Mr. DeSouza stated that the structure is a mixed-use residential dwelling and a guesthouse of pre-existing, non-conforming status. The applicants seek relief to deviate from the roof configuration standard by exceeding 50% of the floor coverage below a dormer. The requested increase is 5% over the threshold. A four-windowed, shed-style dormer exists on the south side of the structure and a single-windowed shed-style dormer exists on the north side of the structure. The applicants received building scale relief from the Board in December of 2015 to extend the north shed dormer by 7.5' to provide headroom for a guest bathroom. The change would alleviate a public safety hazard in an area of public accommodation. Based upon subsequent discussions with the Building Commissioner, the applicants are returning to seek relief from the roof configuration standard as well. Mr. DeSouza said that the measured floor area covered by the contiguous roof is 724 sq. ft., 50% of which would be 362 sq. ft., and the proposed coverage for the existing dormers and the newly increased dormer would be 400 sq. ft., a 5% increase. Thus, the relief sought is for 38 sq. ft. above the 50% threshold, or 5% above what is allowed.

The primary reason for the dormer addition is to relieve the cramped headroom in a guest bathroom, an area of public accommodation, and will make the area more compliant with the State Building Code. He said that the project was in keeping with the goals of the Local Comprehensive Plan; Chapter 1, Goal 1, Policy B, Goal 2, Policy A and Chapter 4, Goal 2, Policy A and the structure will create no disruption to the character of the neighborhood, will be harmonious with the surrounding neighborhood and of limited visibility. The plan also meets the requirements of Article 2, Section 2630E which will allow a deviation if the plan

is in keeping with the standard criteria for granting a Special Permit, is consistent with the objectives of the LCP and if the deviation of the roof configuration is not disruptive to the character of the neighborhood. The plans meet the requirements of Article 5, Section 5330 in that the benefits of the project outweigh any adverse effects such as hazard, congestion or environmental degradation. In fact, Mr. DeSouza argued, there will be an elimination of a hazard in a space of public accommodation and the benefits to the Town include an increase in the tax base, better public accommodations and continued economic contributions by the applicants to the Town.

Public Comment: None. There were 5 letters from abutters in support of the application.

Board Discussion: The Board questioned Mr. DeSouza. Mr. Nicolau reviewed the condition that the Board placed on the previous Special Permit granted to the applicants in that the Building Commissioner, which was to weigh in on whether the area of the dormer exceeded 50% of the floor area beneath it. He said that the Building Commissioner had determined that the project would exceed the 50% threshold. The Board discussed with Mr. DeSouza whether the requested change would result in a three-story building, as the dormer on the south side of the structure was, by definition, a third story. It discussed the previous Variance and whether any change in the building requiring zoning relief subsequent to that granting of a Variance would then require a Variance and whether the dormer could be redesigned in a way that would not require relief from the standards of the roof configuration. The Board decided to continue the matter in order to consult with Town Counsel and review an email about the issue from the Building Commissioner to the applicant.

Robert Littlefield moved to continue Case #FY16-56 to the Public Hearing on July 21, 2016 at 7:00 P.M., Jeffrey Gould seconded and it was so voted, 4-0.

Chair David M. Nicolau adjourned the Public Hearing at 7:46 P.M.

WORK SESSION

Chair David M. Nicolau reconvened the Work Session at 7:46 P.M.

PENDING DECISIONS:

FY16-51 9 Ryder Street Extension (Town Commercial Center Zone), Kurt Raber, of Brown Lindquist Fenuccio & Raber Architects, Inc. on behalf of Provincetown Marina, LLC –

David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Jeffrey Gould sat on the case. Gloria McPherson read the decision.

NEXT MEETING: The next meeting will take place on Thursday, July 21, 2016. It will

consist of a Public Meeting at 7:00 P.M. followed by a Work Session.

ADJOURNMENT: *Joe Vasta moved to adjourn at 8:00 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2016
David M. Nicolau, Chair