

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
November 15, 2007

MEETING HELD IN TOWN HALL

Members Present: Patrick Eeley, Robert Littlefield, Amy Germain and Keith Amato.

Members Absent: Peter Page (excused) and Elisabeth Verde (excused).

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

WORK SESSION

Chair Patrick Eeley called the Work Session to order at 6:33 P.M.

PENDING DECISIONS:

- 2007-46** **1 Tremont Street (*Town Commercial Center Zone*), Robin B. Reid, Esq. on behalf of Tremont Nominee Trust -**
Patrick Eeley, Elisabeth Verde, Amy Germain and Keith Amato sat on the case. Patrick Eeley read the decision. *Amy Germain moved to accept the language as written, Robert Littlefield seconded and it was so voted, 4-0.*
- 2007-61** **3 Bayberry Avenue (*Residential 1 Zone*), William N. Rogers, II, P.E., P.L.S. on behalf of Michael Fernon -**
Peter Page, Elisabeth Verde, Robert Littlefield, Amy Germain and Keith Amato sat on the case. Patrick Eeley read the decision. *Robert Littlefield moved to accept the language as written, Amy Germain seconded and it was so voted, 4-0.*
- 2007-52** **175 Bradford Street Extension (*Residential 3 Zone*), E. James Veara, Esq. on behalf of Galeforce Village Condominium Trust -**
Attorney Veara requested a withdrawal without prejudice on behalf of Galeforce Village Condominium Trust. *Robert Littlefield moved to accept the withdrawal without prejudice of Case # 2007-52, Keith Amato seconded and it was so voted, 4-0.*

MINUTES: November 1, 2007 – Amy Germain moved to approve the language as written, Keith Amato seconded and it was so voted, 3-0-1 (Robert Littlefield abstaining).

Chair Patrick Eeley adjourned the Work Session at 6:40 P.M.

PUBLIC HEARING

Chair Patrick Eeley called the Public Hearing to order at 7:00 P.M. There were 4 members of the Zoning Board of Appeals present and 2 absent.

NEW CASES:

- 2007-53** **15 Conant Street, Unit #3 (*Residential 3 Zone*), Jerome Carlson –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend up and along a pre-existing, non-conforming east (rear) and south (side) setbacks. (Remove an existing one-story structure and replace with a two-story structure in the same footprint). This case is postponed until the December 6, 2007 hearing.

2007-62 27 Pleasant Street (Residential 3 Zone), Richard Salvador on behalf of Mark Waldrop and Jeffrey Libby –

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming structure by adding a 20” section of block foundation to a one-story cottage within the side yard setback. This case is postponed until the December 6, 2007 hearing.

2007-66 10 Garfield Street (Residential 1 Zone), Frank Deschaine, Deschaine Construction on behalf of Gerry Spiniello and Dianne Sommer –

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming structure for the construction of a 10’ by 10’ shed dormer up and along the front and side yard setbacks. This case has been withdrawn.

2007-68 89 Franklin Street (Residential 3 Zone), Doug Dolezal and Greg Welch -

The applicant seeks a Special Permit under Article 3, Section 3110 and Section 3340E of the Zoning By-Laws to change a pre-existing, non-conforming structure and increase scale units above the neighborhood average (proposed two-family dwelling and accessory buildings). This case is postponed until the December 6, 2007 hearing.

2007-63 543-545 Commercial Street (Residential 3 Zone), Attorney Lester J. Murphy on behalf of Provincetown Hospitality, LLC -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming structure and use by an alteration of a first floor layout to include three suite-type motel units. The number of units will increase from 42-45, the number of bedrooms will decrease from 46-45 and the number of kitchens will remain at three. Chair Patrick Eeley explained to the applicant that there were only four members of the Board seated, necessitating a unanimous vote in order for a Special Permit to be granted. The applicant was given a choice of proceeding with four members seated or postponing the case until five members were seated. The applicant chose to proceed. Chair Patrick Eeley disclosed that he has had a business relationship with the applicant in the past, but no longer maintains that relationship. Patrick Eeley, Robert Littlefield, Amy Germain and Keith Amato sat on the case.

Presentation: Attorney Lester J. Murphy, Bob Anderson and Elaine Quigley appeared to present the application. The applicant seeks to enhance the property by upgrading the rooms in the building located on the water-side of the property. This would include renovating the manager’s residence into three suite-type motel units. There will be no change in the use of the premises.

Public Comment: None. There was one letter in support of the application in the file.

Board Discussion: The Board questioned Attorney Murphy, Mr. Anderson and Ms. Quigley. *Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming structure and use by an alteration of a first floor layout to include three suite-type motel units. The number of units will increase from 42-45, the number of bedrooms will decrease from 46-45 and the number of kitchens will remain at three at the property located at 543-545 Commercial Street (Res 3), Keith Amato seconded and it was so voted, 4-0. Patrick Eeley will write the decision.*

2007-65 212-214 Commercial Street (Town Commercial Center Zone), Attorney Robin B. Reid on behalf of New Art Realty Corp. -

The applicant seeks a renewal of Special Permits 2006-082 and 2007-037 for areas of alcohol and food service and of live entertainment. Chair Patrick Eeley explained to the applicant that there were only four members of the Board seated, necessitating a unanimous vote in order for a Special Permit to be granted. The applicant was given a choice of proceeding with four members seated or postponing the

case until five members were seated. The applicant chose to proceed. Keith Amato disclosed that he had a previous business relationship with Attorney Reid, but that it has ended. Patrick Eeley, Peter Page, Robert Littlefield, Amy Germain and Keith Amato sat on the case.

Presentation: Attorney Robin B. Reid, Benjamin deRuyter and Curt Richardson appeared to present the application. The applicant has worked hard to address issues that abutters initially raised in regard to the lighting and sound attenuation.

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

Board Discussion: The Board questioned Attorney Reid, Mr. deRuyter and Mr. Richardson. The Board requested that the applicant submit a copy of the flex-seating plan for the premises to the Department of Community Development.

Robert Littlefield moved to grant a renewal of Special Permits 2006-082 and 2007-037 for areas of alcohol and food service and of live entertainment with no expiration date, unless there are significant changes to the premises, at the property located at 212-214 Commercial Street (TCC), Patrick Eeley seconded and it was so voted, 4-0.

Attorney Reid submitted a written decision for the Board's consideration.

Amy Germain read the decision. **Patrick Eeley moved to accept the language as written, Keith Amato seconded and it was so voted, 4-0.**

The applicant will submit the flex-seating plan as soon as possible.

2007-67 315 Commercial Street (Town Commercial Center Zone), Linda and Nelson Vital on behalf of Donald Coil -

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to expand the area of business to include self-service seating. Chair Patrick Eeley explained to the applicant that there were only four members of the Board seated, necessitating a unanimous vote in order for a Special Permit to be granted. The applicant was given a choice of proceeding with four members seated or postponing the case until five members were seated. The applicant chose to proceed. Patrick Eeley, Robert Littlefield, Amy Germain and Keith Amato sat on the case.

Presentation: Linda and Nelson Vital appeared to present the application. The applicants seek to expand the area of business to include self-service seating at their coffee shop.

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

Board Discussion: The Board questioned Ms. and Mr. Vital.

FINDINGS OF FACT:

- Having a self-service area in the coffee shop will reduce pedestrian congestion on the side walk in front of the premises;
- Helping to sustain a year-round business is of economic benefit to the Town and in keeping with the intent of the Local Comprehensive Plan; and
- An increase in flow, allowing for the increase in seating, is available through the Economic Development Council.

Robert Littlefield moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to expand the area of business to include self-service seating at the property located at 315 Commercial Street (TCC), Keith Amato seconded and it was so voted, 4-0. Amy Germain will write the decision.

NEXT MEETING:

The next meeting will be on December 6, 2007 and will be held in the Judge Welsh Hearing Room. 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 7:55 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 December 6, 2007.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini