

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
August 7, 2014**

MEETING HELD IN THE JUDGE WELSH ROOM

Members Present: David M. Nicolau, Joe Vasta, Jeffrey Haley and Peter Page.

Members Absent: Amy Germain (excused) and Robert Littlefield (excused).

Others Present: Gloria McPherson (Town Planner) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair David M. Nicolau called the Work Session to order at 6:19 P.M.

PENDING DECISIONS:

- FY14-64** **3 Creek Round Hill Road (*Residential 1 Zone*), William N. Rogers, II on behalf of Robert R. McBride et al. -**
David M. Nicolau, Amy Germain, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. *Joe Vasta moved to approve the language as amended, Peter Page seconded and it was so voted, 4-0.*
- FY14-67** **11 Mermaid Avenue (*Residential 1 Zone*), William N. Rogers, II, on behalf of Neil Hanscomb –**
David M. Nicolau, Amy Germain, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. Peter Page read the decision. *Jeffrey Haley moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0.*
- FY14-74** **1 MacMillan Wharf (*Town Commercial Center and Harbor Overlay Zones*), Provincetown Public Pier Corporation –**
Robert Littlefield, Amy Germain, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. This decision has not yet been amended.
- FY14-78** **26 Alden Street (*Residential 3 Zone*), 26 Alden, LLC –**
David M. Nicolau, Robert Littlefield, Amy Germain, Joe Vasta and Jeffrey Haley sat on the case. The decision has not been written.
- FY14-79** **26 Alden Street (*Residential 3 Zone*), 26 Alden, LLC –**
David M. Nicolau, Robert Littlefield, Amy Germain, Joe Vasta and Jeffrey Haley sat on the case. David M. Nicolau read the decision. *Jeffrey Haley moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0.*

The Board will hold a Work Session on Wednesday, August 27, 2014 at 6:00 P.M.

Clarify Special Permit decision of Nancy Ann Meads to reflect number of indoor seats increased and total number of seats at Café Edwige, 333 Commercial Street. The decision needed clarification so it matches the seating plan. The decision was changed to indicate that there was an increase in indoor seating from 53 to 65 seats and in total seating from 69 to 81 seats. ***Peter Page moved to make an administrative correction to the decision in Case #FY14-71, Joe Vasta seconded and it was so voted, 4-0.***

MINUTES: July 23, 2014 – Joe Vasta moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 3-0.

Acting Chair to sign copy of approved minutes of the July 17, 2014 Executive Session. This matter is postponed as Robert Littlefield is absent.

Board reorganization – election of Chair, Vice Chair and any other officers of the Board. This matter is postponed until more Board members are present.

Application of Melinda Ancillo for Alternate Member of the ZBA. This matter is postponed to the next Public Hearing.

Chair David M. Nicolau postpone the Work Session at 7:03 P.M.

PUBLIC HEARING

Chair David M. Nicolau called the Public Hearing to order at 7:05 P.M. There were four members of the Zoning Board of Appeals present and two absent.

- FY14-75** **3 Fishburn Court Residential 3 Zone), John DeSouza on behalf of Thomas Thompson –**
The applicant seeks a Special Permit pursuant to Article 2, Section 2640 Building Scale, of the Zoning By-Laws to deviate from neighborhood average building scale to extend two porches, one of which is to be enclosed to create a mudroom. There was a request to postpone this case to the September 4, 2014 Public Hearing. ***Jeffrey Haley moved to grant the request to postpone Case #FY14-75 to the September 4, 2014 Public Hearing, Peter Page seconded and it was so voted, 4-0.***
- FY14-76** **242 Bradford Street (Residential 3, Zone), Gary Reinhardt on behalf of Cindy Binder –**
The applicant seeks a Special Permit under Article 3, Section 3110, Change, Extension and Alteration, of the Zoning By-Laws to extend an existing cottage within the footprint of a pre-existing above ground septic structure. Chair David

M. Nicolau explained to the applicant that since there were only four members of the Board seated on the case and the granting of a Special Permit required four assenting votes, the applicant had the choice of moving forward or postponing until a five-member Board could be seated. The applicant chose to proceed. David M. Nicolau, Joe Vasta, Jeffrey Haley and Peter Page sat on the case.

Presentation: Gary Reinhardt, Cindy Binder, Ginny Binder and Dhawa Lama appeared to present the case. A number of years ago, the applicant was required by the Town to install a raised septic system on her property. The applicant is going to hook up to the Town sewer system and the structure will be dismantled. The proposal is to expand a small cottage located behind the main house into the footprint previously occupied by the septic structure. The footprint will be reduced, reducing the non-conformancy, increasing the setback and increasing its distance from the main house from 2' to 10'. No new non-conformancy is being created or an existing one is being increased. Mr. Reinhardt requested that the matter be heard under the *Goldhirsh v. McNear* ruling.

Joe Vasta moved to hear the matter under the *Goldhirsh v. McNear* ruling, Peter Page seconded and it was so voted, 4-0.

Public Comment: None. There were 25 letters in support of the application, 1 letter of concern and 1 letter in opposition to the application. The applicants agreed to waive the reading of the letters.

Board Discussion: The Board questioned Mr. Reinhardt and both Ms. Binders. The Board discussed whether the applicant needed relief under Article 3, Section 3115. The Board determined that no new non-conformancy was being created and that the existing non-conformancy was not being increased.

Joe Vasta moved to grant a Special Permit under Article 3, Section 3110, Change, Extension and Alteration, and Article 3, Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to extend an existing cottage within the footprint of a pre-existing above ground septic structure at the property located at 242 Bradford Street (Res 3) under the *Goldhirsh v. McNear* ruling, Jeffrey Haley seconded and it was so voted, 4-0. Peter Page will write the decision.

FY14-80

10 Young's Court (Residential 3 Zone), John Pompeii –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension and Alteration, of the Zoning By-Laws to add a second floor and a dormer within the side yard setback. There was a request to postpone this case to the September 4, 2014 Public Hearing. **Peter Page moved to grant the request to postpone Case #FY14-80 to the September 4, 2014 Public Hearing, Joe Vasta seconded and it was so voted, 4-0.**

Joe Vasta moved to take Case #FY15-4 out of order, Jeffrey Halley seconded and it was so voted, 4-0.

FY15-4

199 Commercial Street (Town Commercial Center Zone), Ryan Burns Campbell –

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

Display, of the Zoning By-Laws, to place a sandwich board adjacent to the street. David M. Nicolau, Joe Vasta, Jeffrey Haley and Peter Page sat on the case.

Presentation: Ryan Burns Campbell appeared to present the application. He seeks to place a sandwich board as close to Commercial Street as possible in order to increase visibility as the business is set back from the street.

Public Comment: None.

Board Discussion: The Board briefly questioned Mr. Campbell.

Jeffrey Haley moved to grant a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws, to place a sandwich board adjacent to the street at the property located at 199 Commercial Street (TCC) with the condition that the sandwich board be weighted down, Joe Vasta seconded and it was so voted, 4-0.

FY14-81 **277 Commercial Street (Town Commercial Center Zone), Julie Trembley –**
The applicant seeks a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to display art work. The applicant was not present. *Jeffrey Haley moved to postpone Case #FY14-81 until the September 4, 2014, Joe Vasta seconded and it was so voted, 4-0.*

Ms. McPherson pointed out that the hearing date was September 3, 2014, without the Board having a time extension request submitted by the applicant.

Jeffrey Haley moved to retract the previous motion, David M. Nicolau seconded and it was so voted, 4-0.

Chair David M. Nicolau announced the case and asked for a motion to continue. *Jeffrey Haley moved to continue Case #14-81 to the September 4, 2014 Public Hearing, Joe Vasta seconded and it was so voted, 4-0.*

FY15-2 **910 Commercial Street (Residential 1 Zone), Carolyn Collins and Dorothy Varon –**
The applicants seek a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extension and Alteration, of the Zoning By-Laws to deviate from neighborhood average building scale and to construct two dormers up and along a pre-existing, non-conforming setback. There was a request to postpone this case to the September 4, 2014 Public Hearing. *Peter Page moved to grant the request to postpone Case #FY15-2 to the September 4, 2014 Public Hearing, Joe Vasta seconded and it was so voted, 4-0.*

FY15-3 **353B Commercial Street (Town Commercial Center Zone), Regina Binder on behalf of Andrew Leonard –**
The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension and Alteration, of the Zoning By-Laws to construct an inset roof deck and replace existing windows with a door to access the deck. There was a request from the applicant to withdraw this application. *Peter Page moved to grant the request to withdraw Case #FY15-3 without prejudice, Joe Vasta seconded and it was so voted, 4-0.*

Chair David M. Nicolau adjourned the Public Hearing at 8:10 P.M.

WORK SESSION

Chair David M. Nicolau reconvened the Work Session at 8:10 P.M.

The Board discussed ZBA packets that are sent out before meetings. *Jeffrey Haley moved that Board members need to review their packets before coming to meetings, Joe Vasta seconded and it was so voted, 4-0.*

NEXT MEETING: The next meeting will take place on Wednesday, August 27, 2014. It will consist of a Work Session at 6:00 P.M.

ADJOURNMENT: *Joe Vasta moved to adjourn at 8:10 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on August 28, 2014
David M. Nicolau, Chair