

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
March 19, 2015**

**MEETING HELD IN CAUCUS HALL**

**Members Present:** David M. Nicolau, Amy Germain (arrived at 7:07 P.M.), Jeffrey Haley and Peter Page.

**Members Absent:** Robert Littlefield (excused), Rob Anderson (excused), Joe Vasta (excused) and Bryan Armstrong (excused).

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

**WORK SESSION**

Chair David Nicolau called the Work Session to order at 6:45 P.M.

**PENDING DECISIONS:**

**FY15-59**      **269 Commercial Street (*Town Commercial Center Zone*), Paul Melanson, dba Tin Pan Alley –**  
David M. Nicolau, Robert Littlefield, Amy Germain, Peter Page and Rob Anderson sat on the case. The decision was not available.

**FY15-61**      **85-87 Shank Painter Road (*GC Zone*), Sebastian Faffara on behalf of Bay Ocean Properties, LLC, dba Mac's Provincetown –**  
David M Nicolau, Robert Littlefield, Amy Germain, Peter Page and Rob Anderson sat on the case. The decision was not available.

**MINUTES: March 5, 2015 – *Peter Page moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 3-0.***

Chair David M. Nicolau adjourned the Work Session at 6:53 P.M.

**PUBLIC HEARING**

Chair David M. Nicolau called the Public Hearing to order at 7:07 P.M. There were four members of the Zoning Board present and four absent.

## **PUBLIC HEARINGS:**

- FY15-63**     **48½ Bradford Street (Residential 3 Zone), Kaye McFadden of Cape Tip Construction on behalf of Leon Roy –**  
The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to allow the construction of a dormer within the front yard setback upon the pre-existing, non-conforming residential structure. Chair David M. Nicolau explained 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. David M. Nicolau, Amy Germain, Jeffrey Haley and Peter Page sat on the case.  
**Presentation:** Kaye McFadden appeared to present the application. The applicant seeks to construct a dormer within the front yard setback and which will face Bradford Street. Ms. McFadden requested that the matter be heard under the *Goldhirsh v. McNear* ruling. She stated that the project would not be substantially more detrimental to the neighborhood or the Town than what existed and did not increase the volume of the streetscape, as it was flanked by the Provincetown House of Pizza on one side and the Community Center on the other.  
**Peter Page moved to hear Case #FY15-63 under the Goldhirsh v. McNear ruling, Jeffrey Haley seconded and it was so voted, 3-1 (Amy Germain opposed).**  
**Board Discussion:** The Board questioned Ms. McFadden. The Board noted that there was no non-conforming checklist available for the project. After some discussion, the Board determined that the property had two front yard setbacks and two side yard setbacks. The Board requested that the applicant submit a revised site plan, and include the proposed dormer drawn in, and submit a non-conforming checklist. Ms. McFadden requested a continuance to the April 2, 2015 Public Hearing.  
**Amy Germain moved to grant a continuance of Case #FY15-63 to April 2, 2015 at 7:00 P.M., Jeffrey Haley seconded and it was so voted, 4-0.**
- FY15-55**     **55R Capt. Bertie’s Way (Residential 3 Zone), Paul C. Mendes –**  
The applicant seeks a Special Permit pursuant to Article 2, Section 2440, C3(b), Permitted Principle Uses, of the Zoning By-Laws, to allow the parcel to be used for the storage of more than three boats. The applicant requested to withdraw the case without prejudice. **Amy Germain moved to grant the request to withdraw Case #FY15-55 without prejudice, Jeffrey Haley seconded and it was so voted, 4-0.**
- FY15-56**     **5 Telegraph Hill Road (Residential 1 Zone), William N. Rogers on behalf of James D. Epstein –**  
The applicant seeks a Special Permit pursuant to Article 2, Section 2450, G12, Permitted Accessory Uses, of the Zoning By-Laws to install a swimming pool. The applicant requested to continue to the April 2, 2015 Public Hearing at 7:00 P.M. and submitted a waiver of time constraints. **Amy Germain moved to grant**

*the request to continue Case #FY15-56 to the April 2, 2015 Public Hearing, Jeffrey Haley seconded and it was so voted, 4-0.*

**FY15-60**      **19 Franklin Street (Residential 3 Zone), Lisa Pacheco Robb –**  
The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, and Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to allow the demolition and reconstruction of two portions of a pre-existing, non-conforming residential structure with a change in the footprint while maintaining the existing nonconforming setbacks from the side and rear yard lot lines. The applicant requested to postpone until the April 2, 2015 Public Hearing. *Jeffrey Haley moved to grant the request to postpone Case #FY15-60 until the April 2, 2015 Public Hearing, Peter Page seconded and it was so voted, 4-0.*

**FY15-62**      **532 Commercial Street (Residential 3 Zone), Mark Kinnane of Cape Associates on behalf of Romaine Macomb –**  
The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, and Section 3115, Demolition and Reconstruction, of the Zoning By-Laws to allow the demolition and reconstruction of the rear portion of a pre-existing, non-conforming residential structure with an increase in the footprint while maintaining or reducing current non-conforming setbacks. The applicant requested to postpone until the April 2, 2015 Public Hearing. *Peter Page moved to grant the request to postpone Case #FY15-62 until the April 2, 2015 Public Hearing, Jeffrey Haley seconded and it was so voted, 4-0.*

**NEXT MEETING:** The next meeting will take place on Thursday, April 2, 2015. It will consist of a Work Session at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Amy Germain moved to adjourn at 7:29 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on April 2, 2015  
David M. Nicolau, Chair