

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
June 16, 2016**

**Members Present:** David M. Nicolau (left at 6:35 P.M.), Robert Littlefield, Joe Vasta, Jeffrey Haley, Rob Anderson, Bryan Armstrong (arrived at 6:56 P.M.) and Jeffrey Gould.

**Members Absent:** None.

**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.

He said that the Board would take the Work Session Agenda item #3, 'Discussion with Marianne Clements regarding her application for ZBA membership' out of order. He explained that there was a vacant term on the Board, ending 12/31/18, which needed to be filled. The Board briefly discussed Ms. Clements qualifications. *Jeffrey Haley moved to appoint Marianne Clements to the Board's vacant term ending 12/31/18, Robert Littlefield seconded and it was so voted, 5-0.*

**PENDING DECISIONS:**

- FY16-49**      **5 Tiny's Way (Residential 3 Zone), William N. Rogers on behalf of Sean Burke –**  
David M. Nicolau, Joe Vasta, Jeffrey Haley, Jeffrey Gould and Rob Anderson sat on the case. Jeffrey Gould read the decision. *Jeffrey Haley moved to accept the language as written, Joe Vasta seconded and it was so voted, 4-0.*
- FY16-32**      **176 Race Point Road (Seashore District), Provincetown Airport Commission –**  
David M. Nicolau, Jeffrey Haley, Robert Anderson and Jeffrey Gould sat on the case. Rob Anderson read the decision. *Jeffrey Haley moved to approve the language as written, Jeffrey Gould seconded and it was so voted, 3-0.*
- 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. The decision is being revised.
- FY16-52**      **130 Bradford Street (Town Commercial Center Zone), William N. Rogers, on behalf of Milan Realty, LLC –**

David M. Nicolau, Joe Vasta, Jeffrey Haley and Jeffrey Gould sat on the case. Jeffrey Gould read the decision. *Jeffrey Haley moved to approve the language as written, Joe Vasta seconded and it was so voted, 3-0.*

**FY16-42**      **509 Commercial Street (Residential 3 Zone), Lyn Plummer, on behalf of 509 Commercial Street, LLC –**  
Robert Littlefield, Joe Vasta, Bryan Armstrong and Jeffrey Gould sat on the case. Gloria McPherson read the decision. *Jeffrey Haley moved to approve the language as written, Joe Vasta seconded and it was so voted, 4-0.*

**MINUTES:** **May 4, 2016–** *Joe Vasta moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 4-0.*  
**May 5, 2016–** *Joe Vasta moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 4-0.*  
**May 19, 2016–** *Joe Vasta moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 4-0.*

Acting Chair Robert Littlefield adjourned the Work Session at 6:58 P.M.

## **PUBLIC HEARING**

Acting Chair Robert Littlefield called the Public Hearing to order at 7:01 P.M. There were six members of the Zoning Board present and one absent.

### **PUBLIC HEARINGS:**

**FY16-37**      **132 Bradford Street (Town Commercial Center Zone), Steve Riley –**  
The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow public entertainment in a newly-created theater space and the installation of a bar for the service of alcohol to patrons of the theater. There was a request from the applicant to withdraw this case without prejudice. *Joe Vasta moved to grant the request to withdraw Case #FY16-37 without prejudice, Jeffrey Gould seconded and it was so voted, 5-0.*

**FY16-53**      **119R & 129R Bradford Street Extension (Residential 1 Zone), Andrew L. Singer, on behalf of Steven Avruch and Edward MacLean –**  
The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Changes, Extensions or Alterations, of the Zoning By-Laws to remove and reconfigure existing non-conforming decks. Robert Littlefield, Joe Vasta, Rob Anderson, Bryan Armstrong and Jeffrey Gould sat on the case.  
**Presentation:** Attorney Andrew L. Singer and Paul Fiore, the project architect, appeared to present the application. Attorney Singer stated that the dwelling on the property is pre-existing, non-conforming as to the front and side setbacks. The

applicants seek to reconfigure and reduce the size of the pre-existing, non-conforming decks on the back and side of the building. The decks will be smaller and less non-conforming and the square footage will be reduced from 346 to 68.4. No new non-conformances will be created. He requested that the Board hear the matter under the *Goldhirsh v. McNear* ruling as the change will not be substantially more detrimental to the neighborhood than the existing conditions.

***Rob Anderson moved to hear the Case #FY16-53 under the Goldhirsh v. McNear ruling, Joe Vasta seconded and it was so voted, 5-0.***

**Public Comment:** Nadine LaCostie, an abutter, spoke in support of the application. There were 2 letters in support of the application.

**Board Discussion:** The Board questioned Attorney Singer.

***Rob Anderson moved to find that the decreases in the non-conformancies are not substantially more detrimental to the neighborhood than the existing situation, Bryan Armstrong seconded and it was so voted, 5-0.***

***Rob Anderson moved to grant a Special Permit pursuant to Article 3, Section 3110, Changes, Extensions or Alterations, of the Zoning By-Laws to remove and reconfigure existing non-conforming decks at the property located at 119R & 129R Bradford Street Extension, Joe Vasta seconded and it was so voted, 5-0.***

**NEXT MEETING:** The next meeting will take place on Thursday, July 7, 2016. It will consist of a Work Session at 6:30 P.M. followed by a Public Meeting at 7:00 P.M.

**ADJOURNMENT:** *Joe Vasta moved to adjourn at 7:30 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2016  
David M. Nicolau, Chair