

Planning Board Public Meeting

Wednesday, March 2, 2005

Judge Welsh Hearing Room, Town Hall, Provincetown, MA 02657

Members Present: Anne Howard, Chair, Howard Burchman and Ellen Battaglini.

Staff Present: Doug Taylor, Building Commissioner/Staff Liaison

Maxine Notaro, Permit Coordinator

Meeting was called to order at 7:00 p.m.

386 & 390 Route 6

William N. Rogers II, P.E., P.L.S., on behalf of Outer Edge Nominee Trust, Miriam A. Collinson, Trustee for a Preliminary Subdivision Plan.

Respectfully requested postponement until March 16, 2005 meeting so that applicant could have her attorney present.

Ellen Battaglini made a motion to approve postponement. Howard Burchman seconded and it passed 3:0:0.

10 Telegraph Hill

William N. Rogers on behalf of Roberta Cornette and Evelyn Gentemann, to discuss proposed deck construction in High Elevation Protection District.

It was decided that Mr. Rogers would present preliminary sketch and Board members would conduct a site visit.

Doug Taylor presented proposals for possible zoning amendments to be presented at Town Meeting.

Definitions

Corner lot- A building erected on a corner lot shall be required to have the two or more yards adjoining the streets equal in depth to the required front yards on such streets. As defined, the lot line opposite the shorter of the front lot lines (if equal in width, that lot line parallel to the predominant street) shall be deemed a rear lot line and the remaining lot line shall be a side lot line.

Ellen Battaglini made a motion to forward to Board of Selectmen. Howard Burchman seconded and it passed 3:0:0.

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Lots in More Than One Zone-Where one or more zone boundary line divides a lot in one ownership of record, regulations for the less restricted portion or portions of such lot shall not extend into the more restricted portion or portions.

Ellen Battaglini made a motion to take no action. Anne Howard seconded and it passed 3:0:0.

3420 Outside Display (requested by ZBA) In all districts of town there shall be no mechanical display or exhibit, or display of any type of merchandise or wares, for the purpose of advertisement, **sale, barter, or exchange, or as an inducement thereof**, outside of, upon, or against any building or screened or open porch, or booth, **or vehicle**, or cart, or contiguous land, or premises unless a Special Permit for said display is first granted by the Board of Zoning Appeals, or specifically excepted as hereinafter provided. Effective April 1, 1990, all exterior displays or exhibits must have a Special Permit from the Zoning Board of Appeals.

A Special Permit for Outside Display may be issued for a period of three calendar years after filing an application with the Board of Zoning Appeals and a copy thereof with the Town Clerk. The Special Permit shall specify the number and generic type (e.g. clothing, children's toys, newspapers and magazines, lawn care machinery, etc.) of items to be displayed and the location thereof indicated on a drawing or plan; any change in content (i.e. different generic items) shall require a new Special Permit.

The Special Permit may be granted by the Board of Zoning Appeals:

(a) only upon its written determination that the proposed display does not create any adverse effect due to hazard or congestion.

(b) only if the display is set back a distance of ten (10) feet from the front property line and/or any street line;

(c) only if a majority of abutters within a 300 foot radius have not submitted a petition objecting to the proposed display; and

(d) only if the proposed display has not been opposed by a petition signed by 150 voters.

(e) only as an adjunct display to, and for representative merchandise or wares of, a retail sales, service or restaurant establishment.

The Special Permit may be renewed for succeeding three-year periods, however violations may be considered as a basis for non-renewal.

Exceptions:

A. Bazaars or functions for charitable purposes by organizations existing in Town for a minimum of one year may be excepted for periods not exceeding one week in any one year by any one applicant provided that application is made to the Board of Selectmen and a license for said activity is granted.

B. The sale of food and/or beverages served at table with seating provided for patrons, provided that application is made to the Board of Selectmen and a license for said activity is

granted.

C. The sale of art produced by working artists at the time and point of sale, including caricatures and portraits, provided that application is made to the Board of Selectmen and a license for said activity is granted.

D. This By-Law shall not apply to artists working in public while not engaged in commercial activity. Further, this shall not be construed as to prohibit an artist from selling work in progress. And be it resolved that the Licensing Board will develop and institute a licensing policy for sidewalk artists consistent with the licensing of other vendors in Provincetown.

E. The displaying and selling of commodities (excluding food and beverage) by businesses and residents during the weekend (Saturday and Sunday) in May, except Memorial Day Weekend, of the "Monumental Yard Sale", which shall be under the sponsorship of a local businesspersons' organization; and an inventory sale during Columbus Day Weekend (Saturday, Sunday, and Monday) in October. No displays or sales shall take place within or upon public land, sidewalks or roadways. Displays and sales shall only appear upon property of the participants, whether jointly or independently. Displays and sales shall not impede pedestrian traffic or cause concerns for the public's safety.

Howard Burchman made a motion to forward to BOS. Ellen Battaglini seconded and it passed 3:0:0.

2440 Permitted Principal Uses

		Residential			Commercial		Seashore	Public Use
		Res1	Res2	Res3 ResB	TCC	GC	S	M
A.	Residential							
A1a	Single Family Dwelling							
	1. one per lot	YES	YES	YES	YES	YES	NO	NO
	2. two per lot (each separate structure)	NO	BA	YES	YES	YES	NO	NO
	3. three or more (each separate structure)	NO	NO	YES ⁸	YES ⁸	YES ⁸	NO	NO
A1b	Two Family Dwelling							
	1. one per lot	NO	YES	YES	YES	YES	NO	NO
	2. two per lot	NO	NO	YES	YES	YES	NO	NO
	3. three or more per lot	NO	NO	YES ⁸	YES ⁸	YES ⁸	NO	NO
A2	Multi Family Dwelling	NO	NO	YES ⁸	YES ⁸	YES ⁸	NO	NO
A3	Boarding, lodging or tourist homes	NO	YES	YES	YES	YES	NO	NO
A4	Nursing Home	NO	BA	BA	BA	BA	NO	NO
A5	Manufactured home park or subdivision	NO	NO	NO	BA	BA	NO	NO
A6	Cluster Development	NO	NO	YES	YES	YES	NO	NO
A7	Dwelling, Accessory Apartment	BA	BA	BA	BA	BA		
B.	Business							
B1	Business or professional offices, banks	NO	NO	NO ¹	YES	YES	NO	NO
B2	Funeral Home	NO	NO	NO	YES	YES	NO	NO
B3	Hotel, motel or inn	NO ⁵	NO ⁵	YES ³	YES ²	YES ²	NO	NO
B4	Retail sales or service							

	a. neighborhood	BA	BA	BA	YES	YES	NO	NO
	b. art gallery	NO	NO	YES	YES	YES	NO	NO
	c. motor vehicles sales, rental or services ⁴	NO	NO	NO	BA	YES	NO	NO
	d. marine service, boat sales	NO	NO	NO	YES	YES	NO	NO
	e. package store	NO	NO	NO	BA	BA	NO	NO
	f. all other retail	NO	NO	NO	YES ¹⁷	YES ¹⁷	NO	NO
B5	Restaurant, bar	NO	NO	NO	BA ⁶	BA ⁶	NO	NO
B6	Rental storage	NO	NO	BA ⁹	BA ⁹	BA ⁹	NO	NO
B7	Parking lots	NO	BA ¹¹	BA ¹¹	BA ¹¹	BA ¹¹	NO	NO
B8	Fast Order Food Establishments (excluding those with seating for less than ten and which occupy no more than a total of 500 square feet.)	NO	NO	NO	BA ¹²	YES ¹³	NO	NO
B9	Adult Entertainment ¹⁷							
	a. Establishment which displays live nudity for its patrons	NO	NO	NO	YES	YES	NO	NO
	b. Other adult entertainment	NO	NO	NO	YES	YES	NO	NO
B10	Theater	BA	BA	BA	YES	YES	BA	BA
B11	Outside Vending ¹⁸	NO	NO	NO	BA ¹⁸	BA ¹⁸	NO	NO
C.	Industrial							
C1	Seafood processing	NO	NO	NO	BA	BA	NO	NO
C2	Boat building, repair, overhaul							
	a. owner and one worker	BA	BA	YES	YES	YES	NO	NO
	b. more workers	NO	NO	BA	YES	YES	NO	NO
C3	On-shore boat storage							
	a. one or two boats	YES	YES	YES	YES	YES	YES	YES
	b. three or more boats	NO	NO	BA	YES	YES	NO	NO
C4	Oil, gas refining, processing pipelines	NO	NO	NO	NO	NO	NO	NO
C5	Earth removal	NO	NO	NO	NO	NO	NO	NO
C6	Solid waste processing, disposal	NO	NO	BA	BA	BA	BA	YES
C7	Other manufacturing, processing	NO	NO	NO	NO	YES	NO	NO
C8	Public utility	NO	NO	BA	BA	BA	NO	NO
C9	Transportation terminal	NO	NO	NO	YES	YES	NO	NO
C10	Warehouse	NO	NO	NO	NO	YES	NO	NO
C11	Contractor's yard	NO	NO	NO	NO	YES	NO	NO
C12	Aircraft landing area	NO	NO	NO	NO	NO	BA	NO
D.	Institutional							
D1	Religious or educational use							
	a. exempt from zoning prohibitions ⁷	YES	YES	YES	YES	YES	YES	YES
	b. all others	NO	NO	YES	YES	YES	NO	NO
D2	Cemetery	BA	BA	BA	BA	BA	BA	BA
D3	Municipal use	BA	BA	BA	BA	BA	BA	YES
D4	Non-profit club without entertainment	NO	NO	YES	YES	YES	NO	NO
D5	Museum	NO	NO	YES	YES	YES	NO	NO
D6	Hospital, other institutional or philanthropic use	NO	NO	YES	YES	YES	NO	YES
E.	Recreational							
E1	Boys' or girls' camp	NO	NO	YES	YES	YES	NO	NO
E2	Indoor recreation							
	a. commercial	NO	NO	NO	YES	YES	NO	NO
	b. municipal	NO	YES	YES	YES	YES	NO	YES
E3	Commercial outdoor recreation							

	a. tennis, golf, miniature golf, stables	NO	NO	NO	BA	YES	NO	NO
	b. picnic area, commercial beach, bathhouse	NO	NO	NO	YES	YES	NO	NO
	c. campground	NO	NO	NO	NO	BA	NO	NO
	d. amusement park, drive-in theater, cart track	NO						
	e. Temporary Carnivals, Festivals & Fairs ¹⁴	NO	NO	BA	BA	BA	NO	NO
	f. All other	NO	NO	NO	BA	BA	NO	NO
F.	Other Principal Uses							
F1	Farms under 5 acres with livestock, aquaculture	BA						
F2	Other farms, nurseries, green houses	YES						
F3	Animal kennel	NO	NO	NO	NO	YES	NO	NO
F3a	Animal hospital	NO	NO	BA	NO	YES	NO	NO
F4	Use having externally observable attributes similar to uses permitted above.	BA						
F5	Artist's Studio	BA	BA	YES	YES	YES	YES	NO
F6	Temporary Single-family Dwelling ¹⁵	YES	YES	YES	YES	YES	NO	NO
F7	Temporary Commercial Structure ¹⁶	NO	NO	BA	BA	BA	NO	NO
F8	All other principal uses	NO						

1. Except "YES" in W-B for banks and for professional offices including real estate, insurance, and accounting, without stock in trade, with no more than one firm or 2,000 square feet per building and no more than one building per lot.
2. Except "NO" if serving alcoholic beverages and containing fewer than twenty guest units.
3. Except "BA" if serving alcoholic beverages and containing fewer than twenty guest units.
4. No moped rental in all zones. 1980 ATM Art. 87 amended.
5. Except "YES" if existing as of January 1, 1981. 1981 ATM amended.
6. No sale of food, drink, or other products to persons standing in the street, sidewalk, or parking areas at or about such establishment. Other outdoor service allowed only on Special Permit from the Board of Appeals. 1982 ATM amended.
7. See sec. 3, Ch. 40A, M.G.L.
8. Except "BA" if the total number of dwelling units on the lot exceeds six (6). Obtaining a Special Permit does not relieve the applicant from the obligation of complying with the Plan Review under Section 4160 nor any other applicable By-law provision.
9. Special Permit to be granted on a yearly basis only, and only after, a Public Hearing and approval of the Building Inspector and Fire Department each year; storage of toxic or hazardous materials (as determined by the Building Inspector, Fire Department and Massachusetts Division of Hazardous Waste under the provision of Chapter 21 M.G.L.) shall be cause for permanent revocation of Special Permit.
10. *Left blank.*
11. Special Permit to be granted only after a Public hearing and approval of the Building Inspector, the Fire Department and the Police Department.
12. After March 1, 1983, for any new construction, any substantial increase in intensity or use or any renovation of an existing structure to include the defined use, a Special Permit as specified in Sec. 5300 may be granted by the Board of Appeals: (a) only upon its written determination that the proposed fast food establishment does not create any adverse effect due to hazard or congestion especially including traffic impacts as determined by a traffic impact assessment prepared by the applicant according to Institute of Transportation Engineers guidelines regarding carrying capacity/level of service of the affected streets and any proposed mitigation sufficient to offset those impacts; (b) only if the applicant can demonstrate that the proposed use will not overburden public water, septage or solid waste facilities; (c) only if the applicant provides and

enforceable plan for the mitigation and control of trash and litter generated by the proposed establishment; (d) any if the architecture and signage conforms to traditional Cape Cod style; and (e) only if, in order to assure that the concerns of the abutters and residents will be considered as a significant factor in the determination of the benefits or adverse effects of the proposed fast food establishment on the neighborhood and the Town, the Board of Appeals shall make a specific Finding of Significance regarding the response to the proposed use.

13. Architecture and signage must conform to traditional Cape Cod style and must be submitted to the Planning Board for review.
14. Temporary Carnivals, Festivals and Fairs shall not exceed one week in duration.
15. If a dwelling is destroyed by fire or other natural cause, a temporary dwelling such as a manufactured home built on a permanent chassis, designed for use with or without temporary foundation when connected to required utilities may be moved upon the lot for habitation by the resident(s) affected by the loss, provided that:
 - (a) the applicant has obtained all permits necessary for the temporary use from the building, electrical and health officials prior to occupancy;
 - (b) the occupancy of the temporary dwelling shall not exceed one year; and
 - (c) the applicant obtains a building permit to reconstruct the destroyed dwelling structure within three (3) months of the destruction of the original dwelling structure.
16. If a commercial use structure is destroyed by fire or other natural cause, a temporary structure may be erected upon the lot on which the original commercial structure was located, or within 300 feet of said lot for the operation of the business(s) for which that lot was used at the time the structure was destroyed. The temporary structure(s) shall meet the requirements of 780 CMR, the Massachusetts State Building Code, Sixth Edition, and Chapter 31 controlling temporary structure(s) shall require a special permit from the Zoning Board of Appeals as provided in Section 5300 of this By-law. The time that the temporary structures may remain shall not exceed 180 days.
17. All adult entertainment uses must be located at least 300 feet from any library, school or playground. Said setbacks are to be measured from the nearest points on the property lines of the lots hosting the proposed adult entertainment use and the use triggering the setback requirement. Furthermore, all adult entertainment uses with establishments which display live nudity for its patrons must take place entirely indoors and in such a manner as not to be observable from any abutting property, sidewalk or public way.

18. A Special Permit for Outside Vending may be issued for a period of one calendar year after filing an application with the Board of Zoning Appeals and a copy thereof with the Town Clerk.

Outside Vendors must comply with all of the following regulations:

1. Vendors cannot obstruct free passage of pedestrians or vehicles; cannot obstruct an entrance or exit and cannot jeopardize public safety.
2. Vendors must be a least 65 feet from any other vendor or business that sells similar items.
3. Outside Vending is only allowed in the TCC and GC Zoning Districts.
4. Zoning By-laws prohibit and restrict the locations where outside vending is allowed – it is the vendor's responsibility to verify that the anticipated site selection is not in violation of any of those zoning by-laws. Zoning can be reached at 487-7020.
5. A certificate of insurance to cover public liability in an amount of at least \$400,000 must be provided.
6. All applications and renewals are subject to inspection and review by the Code Enforcement Officer before they can be approved and issued.
7. Each application shall include a specific description of the business, the location, the goods to be sold, and the equipment, if any, to be used, including a reasonable estimate of the value thereof.

All public health and safety regulations imposed by State law and Provincetown code must be adhered to. It is the applicant's responsibility to familiarize him/herself with all ordinances relative to the operation of an outside vending business i.e. Health Department and Licensing Department.

Failure to adhere to the regulations for outdoor vending is cause for revocation or suspension of the Special Permit by the Zoning Board of Appeals and license by the Department of Community Development

Ellen Battaglini made a motion to take no action. Howard Burchman seconded and it passed 3:0:0.

Report from Broadcast Signals concerning radio frequency energy safety compliance at 236R Bradford Street was handed out. All signal levels are well below the compliance threshold

Ellen Battaglini made a motion to adjourn. Howard Burchman seconded and it passed 3:0:0.

Meeting adjourned at 8:15 p.m.

Respectfully submitted,
Phyllis Lutsky
Recording Secretary