

Provincetown Planning Board

Thursday, March 22, 2001

7:00 p.m.

The following minutes are available on-line as a service and are not the official record due to changes in formatting for the Internet. The minutes may have attachments that are not included here in this format. The official, complete paper copy can be viewed during regular office hours, Monday - Friday: 8 a.m. to 5 p.m. in the Office of the Town Clerk, 260 Commercial St. Provincetown, MA 02657.

Members Present: Ellen Battaglini, Anne Howard, David Nicolau, and Richard Olson.

Member Absent: John Paul Grunz (excused absence)

Public Hearing Agenda

Proposed Zoning Amendments

The Provincetown Planning Board will hold a public hearing on Thursday, March 22, 2001 at 7 p.m. in the Judge Welsh Room, 260 Commercial Street, Provincetown MA 02657 pursuant to MGL Chapter 40A on the following proposed amendments to the Provincetown Zoning By-law, copies of which are on file in the office of the Town Clerk. The public is encouraged to submit any comments to the Planning Board in writing c/o Director of Regulatory Management, Provincetown Town Hall, 260 Commercial Street, Provincetown, MA 02657, or in person at the hearing.

Anne Howard, Chairman, Planning Board

Article J. Zoning By-law Amendment: Building Scale. To see if the Town will vote to amend the Provincetown Zoning By-law by deleting Article VII Section 7102 building Scale; or take any other action relative thereto. [Requested by Elspeth Vevers and others]

Article K. Zoning By-law Amendment: Building Scale (IV). To see if the Town will vote to amend the Provincetown Zoning By-laws, Article VII, Section 7102, Building Scale by revising subsections E. as follows, adding the text in italics and deleting the text with strikeovers:

E. Board of Appeals Approval No approval for a deviation in building scale shall be granted unless the Board of Appeals finds that the deviation ~~from the standards is in keeping with~~ meets the standards for a Special Permit under Article IV, Section 4300 and that the deviation is either in keeping with the objectives of the ~~Master~~ Local Comprehensive Plan ~~and~~ or is appropriate for at least one of the following reasons:

1. The building is an important structure to the community as a whole. Public buildings are logical candidates for this type of conditional approval. For example, the Pilgrim Monument is out of scale with everything in town, yet its value as a monument to the town's history and in giving identity to the town, makes it acceptable.
2. The building by necessity, must be large and that the location is suited for that larger scale use. For example, churches may be permitted uses in a residential district and their larger scale is often dictated by traditional architectural forms. Their location, however, should be limited to streets that can handle potential traffic volumes.

or take any other action relative thereto. [Requested by the Board of Selectmen]

Article L. Zoning By-law Amendment Building Scale (V). To see if the Town will vote to amend the Provincetown Zoning By-law, Article VII, Section 7102, E, by adding a new paragraph 3 as follows:

3. The building scale deviation is warranted due to the size of the parcel of land involved so as to discourage subdivision into smaller parcels and the proposed building or addition will not result in a structure that will severely disrupt the character of the neighborhood in which it is located;

or take any other action relative thereto. [Requested by Jon Salvador and others]

2000-015 (Continued from Nov 1, Nov 15, December 6, 2000, Jan 17, Feb 7, and March 7, 2001)

Application by William N. Rogers, II on behalf of Ozland Realty, LLC under Article III, Section 3900 of the Zoning By-law, High Elevation Protection District B. The applicant seeks Site Plan Review approval to construct a single family dwelling at the property located at 6 Telegraph Hill (Residential Class B Zone).

2000-016 (Continued from Nov 1, Nov 15, December 6, 2000, Jan 17, Febr7, and March 7, 2001)

Application by William N. Rogers, II on behalf of Ozland Realty, LLC under Article III, Section 3900 of the Zoning By-law, High Elevation Protection District B. The applicant seeks Site Plan Review approval to construct a single family dwelling at the property located at 4 Telegraph Hill (Residential Class B Zone).

2001-005 (continued from Feb 21 and March 7, 2001) - Establish escrow amount

Application Bradford Street Condominiums represented by Coastal Engineering Company, Inc., owner Linda Jain under Article III, Section 3900 of the Zoning By-law, High Elevation Protection District A. The applicant seeks Site Plan Review approval to construct an addition to the existing building at the property located at 208 Bradford Street (Residential Class W Zone).

Approval Not Required - pre-application meeting (Case #2001-008)

Slade Associates, Inc., for 684 Commercial Street , map/parcel numbers 17-1-035 and 17-1-037.

Agenda Item - Town Meeting reports

Approval of Minutes

Any other business that shall properly come before the board.

The meeting was called to order promptly at 7:00 p.m.

Article J. (referred to as #12 in the warrant)

The article is request by Elspeth Vevers and others in response to a denial of Mr. & Mrs. Vevers request to raise the level of the roof line of their home.

Ms. Vevers spoke first to explain her problem and request support for relief from her dilemma. Next Mary Jo Avellar, a selectman, spoke at length and summed up by saying the current zoning by-law is harming the very people it is supposed to help. David Atkinson, another selectman, reiterated much of what Mary Jo had said. Next, four letters were read in support of the Vevers request. The writers of these letters were Betty Steele-Jeffers, Sue Harrison, James Baker, and Charles "Chuck" Silva.

People who were opposed to the Article J. spoke next. They were Dana Faris, Town Assessor, Anne Lord, Judith Oset, DRM head, and John Dowd. They were in agreement that passage wouldn't be wise but perhaps tweaking the current by-law would be advised.

The Board members spoke next. David Nicolau, cited past large building projects and mentioned Lilac Court, Galeforce, and Cape Tip which would not have been allowed under the current guidelines. Ellen Battaglini and Richard Olson thought "tweaking" the current by-law would be in order. Anne Howard said the Local Comprehensive Planning Implementation Committee was opposed to Article J. Anne's personal feeling was that totally deleting the

existing by-law would be unwise but agreed it did need some work.

Motion: Ellen Battaglini made a motion for the Board to oppose supporting Article J. as written. Richard Olson seconded the motion and it was passed 3-1 (David Nicolau opposed the motion).

Article K. (referred to as Article 14 in the warrant)

This article was championed by Mary Jo Avellar who stated the Board of Selectmen (BoS) were upset about both the Vevers and Salvadors. She further stated the current by-law isn't working and is only costing the DRM countless man hours in attempting to satisfy the by-law. She cited Telegraph Hill and Whaler's Wharf as evidence that people with enough money to spend can do most anything while those who try to follow the letter of the law are disappointed and disenchanted.

David Atkinson spoke in much the same tone as Mary Jo but added that he felt the Zoning Board of Appeals (ZBA) should be able to have judgement in cases like the Vevers and the Salvadors.

Dana Faris spoke in favor of Article K. He said the change in language will help and also said that the word OR is the key word in the rewording of the proposed article.

John Dowd, member of the Historical Commission, also rose to support Article K.

Judith Oset rose to support Article K., too. She felt it allowed the ZBA some flexibility.

Ms. Vevers said she was definitely in favor of Article K.

No-one spoke in opposition to Article K.

The public portion of the hearing on the above article was then closed and the Board stated their feeling. Most of the Board felt that the articles would be better served if presented as a package but then it was thought that this avenue might be procedurally incorrect, thus:

Motion: Ellen Battaglini made a motion to have the Board recommend Article K (aka 14). Richard Olson seconded it and it passed unanimously 4-0.

Article L. (referred to as Article 15 in the warrant)

Jay Murphy, an attorney, spoke on behalf of Jon Salvador, the originator of the article, who was unable to attend the meeting. Mr. Murphy said Mr. Salvador's lot size was quite large by town standards yet he was unable to put an addition on his house. The ZBA would allow another house on the lot – but not an addition!

Mary Jo spoke in favor of Article L. Judith Oset also spoke in support of the Article although she was a bit nervous about it.

Dana Faris was opposed to it on the grounds that the language in it was too vague, as in too loosely worded.

Anne Howard said the LCP will support it if it contains deed restrictions.

Motion: Ellen Battaglini made a motion to have the Board support Article L. (aka 15). Richard Olson seconded the motion and it passed 2-in favor 1-opposed 1 abstention (AH).

2000-15 6 Telegraph Hill

David Nicolau stepped down from the two Telegraph Hill cases. Jay Murphy asked for an extension until the next meeting of the Planning Board.

Motion: Ellen Battaglini made a motion to have the Board continue the case until the next meeting on April 11th. Richard Olson seconded it and it was approved 3-1abstention (DN)

2000-16 4 Telegraph Hill

Jay Murphy asked for an extension until the April 11th meeting of the Board.

Motion: Ellen Battaglini made a motion to have the Board continue the case until the next meeting on April 11th. Richard Olson seconded it and it was approved 3-1abstention (DN)

2001-05 208 Bradford Street

Ellen Battaglini stepped down from this case because she is an abutter.

John Lisbon presented the case for the owner, Linda Jain. An escrow account was suggested for plantings and hill retention. John will file the necessary paper work and funds.

Motion: Anne Howard made a motion to have \$2,500 put into an escrow account for plantings and hill retention. Richard Olson seconded it and it passed 3-0.

Approval Not Required (ANR) – 684 Commercial Street (aka as the Locke Property)

David Nicolau stepped down from hearing the case.

Jay Murphy presented the proposed ANR. It was thoughtfully explained and plans were presented by Atty Murphy.

Motion: Ellen Battaglini made a motion to approve the ANR. Richard Olson seconded it and it passed 3-0.

Town Meeting Reports:

It was decided who would present for the Planning Board at the Town Meeting. David Nicolau will present for Article 12. Richard Olson will present the remainder of the Articles 13, 14, and 15. Anne said the members of the Board will convene each night of town meeting just prior to the meeting to discuss strategies if any are needed. It was agreed.

Motion: Ellen Battaglini made a motion to approve the minutes of the March 7, 2001 meeting. Richard Olson seconded the motion and it was so moved. 4-0.

After reading a couple of relevant letters, the following motions were made:

Motion: Ellen Battaglini made a motion to return the \$50,000 performance bond which had been placed in escrow by Brian Swallow for 20A Commercial Street. (The project is not being pursued.) Richard Olson seconded the motion and it passed 4-0.

Motion: David Nicolau made a motion to return \$2,500 in escrow to Will King of 16 Thistlemore Road. (A wall on the property had been proposed but is no longer going to be built. That was the reason for the escrow amount.) Richard Olson seconded the motion and it was passed 4-0.

The meeting was adjourned at 9:05 p.m.

The next meeting of the Board will be held on: **Wednesday, April 11th at 7:00 p.m.**

Respectfully submitted

Evelyn Gaudiano
Evelyn Rogers Gaudiano

Approved by _____ on _____
Anne Howard, Chairman date