

**TOWN OF PROVINCETOWN**  
**ZONING BOARD OF APPEALS**

**MEETING MINUTES OF**  
**March 20, 2008**

**MEETING HELD IN TOWN HALL**

**Members Present:** Patrick Eeey, Elisabeth Verde, Amy Germain, Keith Amato and Anne Howard.

**Members Absent:** Robert Littlefield (excused).

**Others Present:** Russ Braun (Acting Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

Chair Patrick Eeey called the Work Session to order at 6:38 P.M.

**PENDING DECISIONS:**

**2008-16**      **100 Alden Street (*Residential 3 Zone*), Care End Campus/Deaconess Abundant Life Communities**

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Patrick Eeey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Amy Germain read the decision. *Patrick Eeey moved to approve the language as written, Anne Howard seconded and it was so voted, 4-0-1 (Robert Littlefield absent).*

**2008-17**      **67 Bradford Street, 8 Carver Street and 9 Court Street (*Residential 3 Zone*), Eliot Parkhurst, Attorney, on behalf of Brass Key Hospitality Group, LLC -**

Patrick Eeey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eeey read the decision. *Anne Howard moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 4-0-1 (Robert Littlefield absent).*

**2008-18**      **67 Bradford Street, 8 Carver Street and 9 Court Street (*Residential 3 Zone*), Eliot Parkhurst, Attorney, on behalf of Brass Key Hospitality Group, LLC -**

Patrick Eeey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eeey read the decision. *Anne Howard moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 4-0-1 (Robert Littlefield absent).*

**2008-10**      **37 Alden Street (*Residential 3 Zone*), Norman M. Barry -**

Patrick Eeey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eeey read the decision. *Anne Howard moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 4-0-1 (Robert Littlefield absent).*

Chair Patrick Eeey postponed the Work Session at 7:01 P.M.

**PUBLIC HEARING**

Chair Patrick Eeey called the Public Hearing to order at 7:01 P.M. There were 5 members of the Zoning Board of Appeals present and 1 absent.

## NEW CASES:

### **2008-19 379 Commercial Street (Town Commercial Center), Robin B. Reid, Esq. on behalf of Vaillancourt Properties -**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the addition of seats. This case is postponed until the April 3, 2008 hearing.

### **2008-20 22 Commercial Street (Residential 1 Zone), Michael McIntyre on behalf of Land's End at Gull Hill, Inc. –**

The applicant seeks a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Laws for the installation of a swimming pool. Amy Germain recused herself because of a conflict of interest. Patrick Eeley explained to the applicant that there would only be 4 members of the Board seated and, as such, he would need a unanimous vote of the Board for a Special Permit to be granted. Therefore, he had the option of postponing his application until 5 members could be seated or proceeding with 4. The applicant chose to proceed. Patrick Eeley, Elisabeth Verde, Keith Amato and Anne Howard sat on the case.

**Presentation:** Reggie Donoghue, of Coastal Engineering, and Michael McIntyre appeared to discuss the application.

**Public Comment:** David Nicolau spoke in favor of the application. There were 5 letters in favor the application, 1 against and 1 letter of expressing concern about the construction of the pool's impact on an abutting property.

**Board Discussion:** The Board questioned Mr. Donoghue and Mr. McIntyre.

*Elisabeth Verde moved to grant a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Laws for the installation of a swimming pool at the property located at 22 Commercial Street (Res 1), Anne Howard seconded and it was so voted, 4-0.* Patrick Eeley will write the decision.

### **2008-21 254-258 Commercial Street (Town Commercial Center) Steven Schnitzer -**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to increase seating, re-position existing seating and re-locate a bar. Keith Amato recused himself because of a conflict of interest. Patrick Eeley explained to the applicant that there would only be 4 members of the Board seated and, as such, he would need a unanimous vote of the Board for a Special Permit to be granted. Therefore, he had the option of postponing his application until 5 members could be seated or proceeding with 4. The applicant chose to proceed. Patrick Eeley, Elisabeth Verde, Amy Germain and Anne Howard sat on the case.

**Presentation:** Steven Schnitzer appeared to present the application. Mr. Schnitzer seeks to convert the existing theater space on the second floor into a restaurant, with 88 full service and 20 tavern seats, and change the retail space downstairs into a coffee shop with 12 seats, 4 of which would be located outside. Ben & Jerry's would remain as is, in regard to seating. In the process of renovating the second-floor interior space, Mr. Schnitzer would like to re-position the existing bar. There are currently 4,422 gallons assigned to the property. In order to realize the proposed plan, he would need to obtain 3,300 more gallons through the Economic Development Council, for a proposed total of 7,722 gallons for the entire property.

**Public Comment:** None. There were no letters in the file.

**Board Discussion:** The Board questioned Mr. Schnitzer.

*Patrick Eeley moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to increase seating, re-position existing seating and re-locate a bar at the property located at 254-258 Commercial Street (TCC) with the following conditions:*

- *the hours of operation for the second-floor exterior restaurant will be from 11:30 A.M. until 1:00 A.M., for the proposed second-floor interior restaurant from 4:00 P.M. until 1:00 A.M. and for the proposed coffee shop on the street level from 5:00 A.M. until 2:00 A.M.;*
- *12 seats will be assigned to the coffee shop, with 4 being flex seats outside/inside seats, 105 seats to the second-floor exterior restaurant and 88 full service and 22 tavern seats to the proposed second-floor interior restaurant, contingent upon approval of the EDC for the extra gallonage;*
- *the Special Permit will be good for 1 year and subject to review at that time; and*
- *the submission of a seating plan as discussed.*

*Amy Germain seconded and it was so voted, 4-0.* Amy Germain will write the decision.

**2006-42      852 Commercial Street (Residential 1 Zone), John Reid on behalf of Michael Lynch and Gordon D. Ernst (Order of Remand) -**

The applicant seeks a Special Permit under Article 4, Section 4800 and Article 5, Section 5120 of the Zoning By-Laws to add an affordable dwelling unit. This case is a remand from an appeal by the applicant in the Barnstable Superior Court. The applicant was not present. Chair Patrick Eeley opened the public portion of the hearing and delayed the presentation of the application until the hearing on April 3, 2008. Patrick Eeley, Elisabeth Verde, Amy Germain, Keith Amato and Anne Howard sat on the case.

**Public Comment:** Jeannette Belben and Kristen Russell, unit owners in the condominium, spoke against the application. Christopher Kennedy and Kevin Ainsworth, both abutters, spoke against the application.

The public portion of this hearing will be kept open.

*Amy Germain moved to continue Case #2006-42 until the April 3, 2008 hearing, Anne Howard seconded and it was so voted, 5-0.*

Chair Patrick Eeley adjourned the Public Hearing at 9:02 P.M.

## **WORK SESSION**

Chair Patrick Eeley reconvened the Work Session at 9:02 P.M.

**MINUTES: March 6, 2007 – Amy Germain moved to approve the language as amended, Anne Howard seconded and it was so voted, 5-0.**

### **NEXT MEETING:**

The next meeting will be on April 3, 2008 and will be held in the Judge Welsh Hearing Room. It will consist of a Work Session at 6:45 P.M. and a Public Hearing at 7:00 P.M.

### **ADJOURNMENT:**

*Amy Germain moved to adjourn at 9:15 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on April 3, 2008.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

Ellen C. Battaglini