

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
April 17, 2008

MEETING HELD IN TOWN HALL

Members Present: Patrick Eleey, Elisabeth Verde, Amy Germain and Keith Amato.

Members Absent: Robert Littlefield (excused) and Anne Howard (excused).

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

WORK SESSION

Chair Patrick Eleey called the Work Session to order at 6:35 P.M.

MINUTES: April 4, 2008 – *Amy Germain moved to approve the language as amended, Patrick Eleey seconded and it was so voted, 3-0.*

PENDING DECISIONS:

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

Patrick Eleey, Elisabeth Verde, Amy Germain, Keith Amato and Anne Howard sat on the case. Patrick Eleey read the decision. *Amy Germain moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 4-0.*

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

Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Amy Germain read the decision. *Patrick Eleey moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 3-0-1 (Keith Amato abstaining).*

2008-22 **212-214 Commercial Street (Town Commercial Center), Robin B. Reid, Esq. on behalf of New Art Realty Corp. -**

Patrick Eleey, Robert Littlefield, Amy Germain, Keith Amato and Anne Howard sat on the case. Amy Germain read the decision. *Patrick Eleey moved to approve the language as amended, Keith Amato seconded and it was so voted, 3-0-1 (Elisabeth Verde abstaining).*

2008-23 **293 Commercial Street (Town Commercial Center), Paige Mansfield on behalf of Steven Boggess -**

Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Amy Germain read the decision. *Patrick Eleey moved to approve the language as written, Amy Germain seconded and it was so voted, 3-0-1 (Keith Amato abstaining).*

Chair Patrick Eleey adjourned the Work Session at 6:57 P.M.

PUBLIC HEARING

Chair Patrick Eleey called the Public Hearing to order at 7:00 P.M. There were 4 members of the Zoning Board of Appeals present and 2 absent. He announced that Cases #2008-24 - #2008-28 will be postponed until the May 1, 2008 hearing.

2008-24 355 Commercial Street (*Town Commercial Center Zone*), Carole A. Lanstein on behalf of James McGowan –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the approval of fast food seating (4 stools). The applicant requested a postponement until the May 1, 2008 hearing.

2008-25 6 Winston Avenue (*Residential 1 Zone*), William N. Rogers II, P.E., P.L.S on behalf of Joyce Aimee Titchnell –

The applicant seeks a Variance under Article 2, Section 2560 (Dimensional Schedule) and Article 5, Section 5222 of the Zoning By-Laws to construct a 7' wide by 5' long open-sided wood portico (covered entry) approximately 4.2' into the front building setback. The applicant requested a postponement until the May 1, 2008 hearing.

2008-26 6 Winston Avenue (*Residential 1 Zone*), William N. Rogers II, P.E., P.L.S on behalf of Joyce Aimee Titchnell –

The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation in building to construct a 7' wide by 5' long open-sided wood portico (covered entry). The applicant requested a postponement until the May 1, 2008 hearing.

2008-27 27-31 Bangs Street (*Residential 3 Zone*), William N. Rogers II, P.E., P.L.S on behalf of Gunther Realty, LLC, Judy K. Mencher, Trustee –

The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation in building scale for the construction of two duplex buildings containing four dwelling units. The applicant requested a postponement until the May 1, 2008 hearing.

2008-28 27 Tremont Street (*Residential 1 Zone*), Neal Kimball on behalf of Tom Burke and Axel Brunger –

The applicants seek a Variance under Article 2, Section 2560 (Dimensional Schedule) of the Zoning By-Laws for an 11'2" high by 15' wide by 6" deep trellis previously erected upon verbal approval of a former building inspector. The applicants requested a postponement until the May 1, 2008 hearing.

NEW CASES:

2008-29 The Pavilion located at the end of MacMillan Pier (*Town Commercial Center Zone*), Town of Provincetown, d/b/a Provincetown Public Pier Corporation –

The applicant seeks a Waterfront Special Permit under Article 2, Section 2460 and 2315 D3 and E3f of the Zoning By-Laws for small-scale events to be held at the Pavilion at the end of MacMillan Pier. The applicant was not present and the case was tabled until later in the hearing.

2008-30 206-208 Commercial Street (*Town Commercial Center Zone*), Hal Winard –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for 32 fast food outdoor seats. Chair Patrick Eleey explained to the applicant's representative, Lisa Meads, that there were only 4 members of the Board seated and a unanimous vote would be needed in order for a Special Permit to be granted. Ms. Meads had the choice of proceeding with 4 members or postponing the case until 5 members were seated. She chose to proceed. Patrick Eleey, Elisabeth Verde, Amy Germain and Keith Amato sat on the case.

Presentation: Lisa Meads, representing Hal Winard, appeared to present the application. The request is to increase the existing 11 outdoor seats to 32 outdoor seats. The additional seats were approved through an EDC grant.

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

Board Discussion: The Board questioned Ms. Meads. The Board requested a clearer seating plan. Ms. Meads agreed to submit a new seating plan before the next hearing.

Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for 32 fast food outdoor seats at the property located at 206-208 Commercial Street (TCC), Patrick Eleey seconded and it was so voted, 4-0. Amy Germain will write the decision.

- 2008-31** **404 Commercial Street (Town Commercial Center Zone), Michael Staz on behalf of Sur Lat Baie, LLC, d/b/a 404 –**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to re-locate 14 seats from the rear of the property to the front of the property (Commercial Street side). Chair Patrick Eeley explained to the applicant, Michael Staz, that there were only 4 members of the Board seated and a unanimous vote would be needed in order for a Special Permit to be granted. Mr. Staz had the choice of proceeding with 4 members or postponing the case until 5 members were seated. He chose to proceed. Patrick Eeley, Elisabeth Verde, Amy Germain and Keith Amato sat on the case.
Presentation: Michael Staz and Rose Kennedy appeared to present the application.
Public Comment: None. There were 5 letters in the file in favor of the application.
Board Discussion: The Board questioned Mr. Staz.
Patrick Eeley moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to re-locate 14 seats from the rear of the property to the front of the property (Commercial Street side) at the property located at 404 Commercial Street (TCC), Elisabeth Verde seconded and it was so voted, 4-0. Elisabeth Verde will write the decision.
- 2008-32** **9 Oppen Lane (Residential 1 Zone), Linda Dole for Polhemus, Savery, DaSilva on behalf of Jeffrey Liebert and Martha Brown –**
The applicant seeks a Special Permit under Article 2, Section 2450, G12 of the Zoning By-Laws for the installation of an in-ground swimming pool. Chair Patrick Eeley explained to the representatives for the applicants that there were only 4 members of the Board seated and a unanimous vote would be needed in order for a Special Permit to be granted. They had the choice of proceeding with 4 members or postponing the case until 5 members were seated. They chose to proceed. Patrick Eeley, Elisabeth Verde, Amy Germain and Keith Amato sat on the case.
Presentation: Ginny Binder, Reggie Donoghue and J.D. Newton appeared to present the application.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Ms. Binder, Mr. Donoghue and Mr. Newton.
Elisabeth Verde moved to grant a Special Permit under Article 2, Section 2450, G12 of the Zoning By-Laws for the installation of an in-ground swimming pool at the property located at 9 Oppen Lane (Res 1), Patrick Eeley seconded and it was so voted, 4-0.
- 2008-29** **The Pavilion located at the end of MacMillan Pier (Town Commercial Center Zone), Town of Provincetown, d/b/a Provincetown Public Pier Corporation –**
The applicant seeks a Waterfront Special Permit under Article 2, Section 2460 and 2315 D3 and E3f of the Zoning By-Laws for small-scale events to be held at the Pavilion at the end of MacMillan Pier. Chair Patrick Eeley explained to the applicant's representative, Rex McKinsey, that there were only 4 members of the Board seated and a unanimous vote would be needed in order for a Special Permit to be granted. Mr. McKinsey had the choice of proceeding with 4 members or postponing the case until 5 members were seated. He chose to proceed. Elisabeth Verde disclosed that she is an abutter to an abutter, but that she is able to render a fair decision and has no financial stake in the outcome of the decision. Patrick Eeley, Elisabeth Verde, Amy Germain and Keith Amato sat on the case.
Presentation: Rex McKinsey, Harbormaster, appeared to present the application. The Town of Provincetown is requesting that the ZBA designate the pavilion at the end of MacMillan Pier as a 'venue' in order that it can be rented out to the public for small events. The pavilion measures 50' by 60'.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. McKinsey.
Patrick Eeley moved to grant a Waterfront Special Permit under Article 2, Section 2460 and 2315 D3 and E3f of the Zoning By-Laws for small-scale events to be held at the Pavilion at the end of MacMillan Pier (TCC), Amy Germain seconded and it was so voted, 4-0. The Special Permit shall be subject to the following conditions:
- *occupancy of the pavilion shall not exceed 250 standing or 200 seated people;*

- *the hours available for the rental of the pavilion shall be 10:00 A.M. to 10:00 P.M.;*
- *a rope barrier shall be placed along the water side of the pier during events held in the pavilion; and*
- *the Special Permit shall expire on December 31, 2008.*

Patrick Eeley will write the decision.

NEXT MEETING:

The next meeting will be on May 1, 2008 and will be held in the Judge Welsh Hearing Room. It will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Amy Germain moved to adjourn at 8:30 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 May 1, 2008.

Respectfully submitted,
Ellen C. Battaglini

Zoning Board of Appeals Signature