

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

**MEETING MINUTES OF**  
**May 1, 2008**

**MEETING HELD IN TOWN HALL**

**Members Present:** Patrick Eeley, Robert Littlefield, Amy Germain, Keith Amato and Anne Howard.

**Members Absent:** Elisabeth Verde (excused).

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

**WORK SESSION**

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

**PENDING DECISIONS:**

- 2008-30**      **206-208 Commercial Street (Town Commercial Center Zone), Hal Winard –**  
The applicant submitted a new seating plan. Patrick Eeley, Elisabeth Verde, Amy Germain and Keith Amato sat on the case. Amy Germain read the decision. *Patrick Eeley moved to approve the language as written, Keith Amato seconded and it was so voted, 3-0-2 (Robert Littlefield and Anne Howard abstaining).*
- 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 –**  
Patrick Eeley, Elisabeth Verde, Amy Germain and Keith Amato sat on the case. Patrick Eeley read the decision. *Amy Germain moved to approve the language as written, Keith Amato seconded and it was so voted, 3-0-2 (Robert Littlefield and Anne Howard abstaining).*
- 2008-31**      **404 Commercial Street (Town Commercial Center Zone), Michael Staz on behalf of Sur La Baie, LLC, d/b/a 404 –**  
Patrick Eeley, Elisabeth Verde, Amy Germain and Keith Amato sat on the case. Patrick Eeley read the decision. *Amy Germain moved to approve the language as written, Keith Amato seconded and it was so voted, 3-0-2 (Robert Littlefield and Anne Howard abstaining).*
- 2008-32**      **9 Oppen Lane (Residential 1 Zone), Linda Dole for Polhemus, Savery, DaSilva on behalf of Jeffrey Liebert and Martha Brown –**  
Patrick Eeley, Elisabeth Verde, Amy Germain and Keith Amato sat on the case. Patrick Eeley read the decision. *Keith Amato moved to approve the language as written, Amy Germain seconded and it was so voted, 3-0-2 (Robert Littlefield and Anne Howard abstaining).*

**MINUTES: April 17, 2008 – Amy Germain moved to approve the language as written, Keith Amato seconded and it was so voted, 3-0-2 (Robert Littlefield and Anne Howard abstaining).**

Chair Patrick Eeley adjourned the Work Session at 6:50 P.M.

**PUBLIC HEARING**

Chair Patrick Eeley called the Public Hearing to order at 7:00 P.M. There were 5 members of the Zoning Board of Appeals present and 1 absent.

## **POSTPONED CASES:**

**2008-24**      **355 Commercial Street (*Town Commercial Center Zone*), Carole A. Lanstein on behalf of James McGowan** (*postponed from April 17, 2008*) –

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). This case is postponed until the May 15, 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** (*postponed from April 17, 2008*) –

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. Patrick Eeley,

**2008-26**      **6 Winston Avenue (*Residential 1 Zone*), William N. Rogers II, P.E., P.L.S on behalf of Joyce Aimee Titchnell** (*postponed from April 17, 2008*) –

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).

Chair Patrick Eeley announced that the two cases will be heard together. Robert Littlefield, Amy Germain, Keith Amato and Anne Howard sat on both cases.

**Presentation:** Gary Locke, representing William N. Rogers II, appeared to present the application. The applicant seeks to erect a portico over the entrance to her house. The portico would have a gabled roof and four columns

**Public Comment:** None. There was 1 letter in support and 3 letters opposed to the application in the file.

**Board Discussion:** The Board questioned Mr. Locke. After questioning, Mr. Locke requested to withdraw both cases without prejudice.

*Amy Germain moved to accept the withdrawal without prejudice of Case #2008-25 and Case #2008-26, Robert Littlefield seconded and it was so voted, 5-0.*

**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, Manager** (*postponed from April 17, 2008*) –

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. Patrick Eeley, Robert Littlefield, Amy Germain, Keith Amato and Anne Howard sat on the case.

**Presentation:** Attorney Lester J. Murphy, Gary Locke and Judy Mencher appeared to present the application. The applicant seeks to construct 4 single-family residential dwelling units in 2 buildings. The lot presents significant topographical and soil condition issues that had an impact on the siting of the buildings and how they had to be configured. As a result of these issues and the Zoning By-Law setback requirements, the buildings are sited towards the front of the lot. Attorney Murphy indicated that the applicant, in consultation with her designer and engineer, is willing to work with the Board in regard to some of the design features, including the proposed covered porches and the walk-through areas connecting the units, in order to reduce the scale, if the Board feels that the proposed scale is not harmonious with the site and surrounding buildings in the neighborhood. However, Attorney Murphy argued that these buildings would not be disruptive to the character or the scale of the neighborhood and that the social and economic benefits of this project greatly outweigh any adverse effects such as hazard, congestion or environmental degradation.

**Public Comment:** None. There were 2 letters in the file opposed to the application.

**Board Discussion:** The Board questioned Attorney Murphy, Mr. Locke and Ms. Mencher. The applicant requested a continuance until the May 15, 2008 hearing in order to endeavor to reduce the height, and thus the impact, of the northernmost building. The applicant will return with revised plans. *Patrick Eeley moved to grant a continuance for Case #2008-27 until the May 15, 2008 hearing,*

*Robert Littlefield seconded and it was so voted, 5-0.*

**2008-28**      **27 Tremont Street (Residential 1 Zone), Neal Kimball on behalf of Tom Burke and Axel Brunger**  
*(postponed from April 17, 2008) –*  
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. This case is postponed until the May 15, 2008 hearing.

**NEW CASES:**

**2008-33**      **30 Alden Street (Residential 3 Zone), Hal Winard on behalf of Robert Doherty –**  
The applicant seeks a Special Permit under Article 2, Section 2550 of the Zoning By-Laws to construct a three-season sun porch on the footprint of an existing deck. Patrick Eleey, Robert Littlefield, Amy Germain, Keith Amato and Anne Howard sat on the case.  
**Presentation:** Hal Winard appeared to present the application. A similar application was heard by the Board in January of 2008 and was withdrawn without prejudice. The Board had issues with the scale of the project and its proximity to another building on the site. According to Mr. Winard, the scale issues have been resolved and he would like to again discuss the proximity issue with the Board.  
**Public Comment:** None. There was 1 letter in the file in opposition to the application.  
**Board Discussion:** The Board questioned Mr. Winard.  
**Robert Littlefield moved to grant a Special Permit under Article 2, Section 250 of the Zoning By-Laws to construct a three-season sun porch on the footprint of an existing deck at the property located at 30 Alden Street, Unit #2 (Res 3), Patrick Eleey seconded and it was so voted, 5-0.** Robert Littlefield will write the decision.

**2008-34**      **85-87 Shank Painter Road (General Commercial Zone), Clement Silva on behalf of Clem & Ursie’s Restaurant –**  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to add 74 restaurant seats (28 outside and 46 inside) to an existing restaurant. Patrick Eleey, Robert Littlefield, Amy Germain, Keith Amato and Anne Howard sat on the case.  
**Presentation:** Attorney Lester J. Murphy and Clement Silva appeared to present the application. The applicant seeks to expand his restaurant operation, which will generate more employment opportunities and facilitate more of a year-round operation. Attorney Murphy argued that the social and economic benefits of the additional seats outweigh any adverse effects such as hazard, congestion or environmental degradation.  
**Public Comment:** None. There was 1 letter in the file from Jane Evans, Health Agent, stating that the restaurant has been granted EDC gallons for the additional seats.  
**Patrick Eleey moved to approve a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to add 74 restaurant seats (28 outside and 46 inside) to an existing restaurant at the property located at 85-87 Shank Painter Road (GC), Robert Littlefield seconded and it was so voted, 5-0.** Patrick Eleey will write the decision.

**2008-35**      **336 Commercial Street (Town Commercial Center Zone), Shawn Nightingale on behalf of Pharaoh Holdings, LLC –**  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the alteration and reconfiguration of seating and expansion of food service at the existing inn business known as “Vixen” and “Pilgrim House”. Patrick Eleey, Robert Littlefield, Amy Germain, Keith Amato and Anne Howard sat on the case.  
**Presentation:** Attorney Lester J. Murphy, Shawn Nightingale and David Nicolau appeared to present the application. The applicant seeks to establish a 55-seat restaurant in the current lobby of the Vixen. Additional gallons will be needed in order to convert the existing fast-food seats into restaurant seats. Attorney Murphy argued that the social and economic benefits of the establishing a restaurant at this site outweigh any adverse effects such as hazard, congestion or environmental degradation.  
**Public Comment:** None. There was a form letter signed by 14 people in favor of the application. There was a letter from Jane Evans stating that she has no issues with the project, however the building will be required to hook-up to the sewer and the applicant will still need to apply for Growth Management gallons.

**Board Discussion:** The Board questioned Attorney Murphy, Mr. Nightingale and Mr. Nicolau. The applicant intends on serving breakfast from 8:00 A.M. until 1:00 P.M. and dinner from 6:00 P.M. until 11:00 P.M.

*Anne Howard moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the alteration and reconfiguration of seating and expansion of food service at the existing inn business known as “Vixen” and “Pilgrim House” at the property located at 336 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 5-0. Anne Howard will write the decision.*

**NEXT MEETING:**

The next meeting will be on May 15, 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 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 May 15, 2008.

Respectfully submitted,  
Ellen C. Battaglini

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*Zoning Board of Appeals Signature*