

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

**MEETING MINUTES OF**  
**July 17, 2008**

**MEETING HELD IN TOWN HALL**

**Members Present:** Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard.

**Members Absent:** Keith Amato (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 6:34 P.M.

**PENDING DECISIONS:**

**2008-41**      **16 Conwell Street (Residential 3 Zone), Richard K. Mills, Jr. –**  
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eleey read the decision. *Amy Germain moved to accept the language as written, Anne Howard seconded and it was so voted, 5-0.*

**MINUTES: June 19, 2008 – Amy Germain moved to approve the language as written, Anne Howard 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 –**  
Patrick Eleey, Robert Littlefield, Amy Germain, Keith Amato and Anne Howard sat on the case. Robert Littlefield read the decision. *Patrick Eleey moved to approve the language as written, Anne Howard seconded and it was so voted, 4-0-1 (Keith Amato absent).*

**2008-28**      **27 Tremont Street (Residential 1 Zone), Neal Kimball on behalf of Tom Burke and Axel Brunger –**  
Anne Howard, Elisabeth Verde, Robert Littlefield, Amy Germain and Keith Amato sat on the case. Robert Littlefield read the decision. *Anne Howard moved to approve the language as written, Amy Germain seconded and it was so voted, 4-0-1 (Keith Amato absent).*

**2008-07**      **19 Race Point Road, a part of 23 Race Point Road (Residential 3 Zone), Edward Malone –**  
The applicant seeks a Special Permit under Article 2, Section 2440A, footnote 8 and Article 3, Section 3340E of the Zoning By-Laws to construct 20 rental units in 6 buildings on a 1.62 acre lot, and to request a deviation from the neighborhood average in building scale for 2 of the 6 buildings.

**2008-08**      **35 Race Point Road, a part of 23 Race Point Road (Residential 3 Zone), Edward Malone –**  
The applicant seeks a Special Permit under Article 2, Section 2440A, footnote 8 and Article 3, Section 3340E of the Zoning By-Laws to construct 15 units in 5 buildings on a 1.05 acre lot, and to request a deviation from the neighborhood average in building scale for 2 of the 5 buildings.  
The applicant requested to withdraw these two cases without prejudice.  
*Amy Germain moved to accept the withdrawal without prejudice, Anne Howard seconded and it was so voted, 4-0-1 (Elisabeth Verde abstaining).*

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

## PUBLIC HEARING

Chair Patrick Eeley 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.

### CONTINUED CASES:

**2008-42**      **290D Bradford Street, Unit #1 (*Residential 3 Zone*), Attorney Lester J. Murphy on behalf of Lori A. Wein –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the alteration and extension of a pre-existing, non-conforming three unit multiple single-family dwelling complex by the addition of a fourth dwelling unit. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Chair Patrick Eeley read the opinion of Town Counsel with regard to the issues of whether a Special Permit or a Variance was the subject of the application. In the opinion of Town Counsel, the applicant should, most appropriately, be requesting a Special Permit and not a Variance. Several of the Board members had made a site visit since the last hearing and the applicant had submitted new site plans showing elevations.

**Presentation:** Attorney Lester J. Murphy and Lori Wein appeared to discuss the application.

**Board Discussion:** The Board questioned Attorney Murphy and Ms. Wein. The Board discussed whether they should consider the new dwelling unit as an accessory apartment, in which case, according to the Zoning By-Laws, it would have to be deed-restricted as affordable, or if the dwelling unit constituted an extension of a pre-existing, non-conforming use, which is as a multi-family residential use on a lot that doesn't have sufficient area for it. The applicant is seeking to extend the use of the property to encompass an additional residential unit and argues that the resulting alteration and extension would not be substantially more detrimental to the neighborhood than the existing non-conformancy. The applicant agreed to remove from the plans and therefore not construct the proposed deck.

**Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the alteration and extension of a pre-existing, non-conforming three unit multiple single-family dwelling complex by the addition of a fourth dwelling unit at the property located at 290D Bradford Street, Unit #1, (Res 3), Anne Howard seconded and it was so voted, 5-0.** Robert Littlefield will write the decision.

### NEW CASES:

**2008-43**      **96 Commercial Street, Unit #3 (*Residential 3 Zone*), Harry J. Moraitis –**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to request a deviation in building scale to extend an existing second floor deck to egress stairs. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

**Presentation:** Tom Thompson and Harry J. Moraitis appeared to present the application. The applicant is requesting a 5.65 scale unit increase in the structure to allow for a connection from an existing rear deck to a side landing and staircase that leads to the ground of his second floor unit. He is proposing this as a second means of egress from the dwelling unit. The extension under discussion has already been constructed at the premises.

**Public Comment:** Roxanne Peres and Bernard Phillips, both abutters, and Arthur Santos spoke against the application. There were 3 letters in the file opposed to and 3 in support of the application.

**Board Discussion:** The Board questioned Mr. Thompson and Mr. Moraitis.

**Amy Germain moved to deny the request for a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale to extend an existing second floor deck to egress stairs at the property located at 96 Commercial Street (Res 3), Anne Howard seconded and it was so voted, 4-1 (Robert Littlefield opposed).** Amy Germain will write the decision.

Chair Patrick Eeley adjourned the Public Hearing at 8:18 P.M.

## WORK SESSION

Patrick Eley reconvened the Work Session at 8:18 P.M.

The Zoning Board discussed the practice of some applicants of applying for a Special Permit under two Articles and Sections of the Zoning By-Laws on a single application.

*Elisabeth Verde moved that applicants submit a separate Special Permit application for each Article and Section of the Zoning By-Laws that they are applying for relief under, and submit one set of plans for each application, and that the applicants shall bring, for recording purposes, one set of plans measuring, drawn to scale, 8 1/2" by 14" Patrick Eley seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).*

### **NEXT MEETING:**

The next meeting will be on August 7, 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 8:45 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 August 7, 2008.

Respectfully submitted,  
Ellen C. Battaglini

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*Zoning Board of Appeals Signature*