

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
November 6, 2008

MEETING HELD IN THE GRACE GOUVEIA BUILDING

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

Members Absent: None.

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

WORK SESSION

Chair Patrick Eeley called the Work Session to order at 6:26 P.M.

PENDING DECISIONS:

2008-51 **32 Bradford Street (*Residential 3 Zone*), Robert Valois on behalf of Enco Realty Trust, Leonard Enos, Jr., Trustee -**

Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Anne Howard read the decision. *Amy Germain moved to approve the language as written, Patrick Eeley seconded and it was so voted, 5-0.*

2008-50 **16 Jerome Smith Road (*Residential 3 Zone*), Town of Provincetown –**

Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Amy Germain read the decision. *Anne Howard moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

2008-52 **20 Winslow Street (*Residential 3 Zone*), Edward T. Patten, Attorney, on behalf of David A. Mills –**

Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eeley read the decision. *Amy Germain moved to approve the language as written, Anne Howard seconded and it was so voted, 5-0.*

2008-53 **6 Duncan Street (*Residential 1 Zone*), Kevin Bazarian on behalf of Helen Ryde and Kathy Schiappa –**

Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Elisabeth Verde read the decision. *Amy Germain moved to approve the language as written, Patrick Eeley seconded and it was so voted, 5-0.*

2008-54 **8 Carver Street (*Residential 3 Zone*), Eliot Parkhurst, Attorney, on behalf of 8 Carver Street, LLC –**

Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Robert Littlefield read the decision. *Amy Germain moved to approve the language as written, Anne Howard seconded and it was so voted, 5-0.*

MINUTES: October 16, 2008 – Amy Germain moved to approve the language as written, Anne Howard seconded and it was so voted, 5-0.

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

PUBLIC MEETING

Chair Patrick Eleey called the Public Meeting to order at 7:00 P.M. There were five members of the Zoning Board of Appeals present and none absent.

NEW CASES:

2008-55 **7 Commercial Street, Units 7 & 8 (Residential 1 Zone), Lester J. Murphy, Attorney, on behalf of Peter Page –**

The applicant seeks a Special Permit under Article 3110 of the Zoning By-Laws to alter, extend and combine two lawful, pre-existing, non-conforming structures up and along a pre-existing, non-conforming side yard setback. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Attorney Lester J. Murphy, Don Dirocco and Peter Page appeared to present the application. The applicant seeks to combine two existing, single-family residential units into one structure by constructing an addition between the two units. An addition will also be constructed on the rear of one of the units. There will not be a further intrusion into the side yard setbacks as a result of this project. Attorney Murphy contended that the alteration and extension resulting from the combination of the two units will not be substantially more detrimental than the existing non-conformancy.

Public Comment: None. There were 12 letters in the file in support of the application and none opposed.

Board Discussion: The Board questioned Attorney Murphy, Mr. Dirocco and Mr. Page.

Anne Howard moved to approve a Special Permit under Article 3110 of the Zoning By-Laws to alter, extend and combine two lawful, pre-existing, non-conforming structures up and along a pre-existing, non-conforming side yard setback at the property located at 7 Commercial Street, Units 7 & 8 (Res 1), Robert Littlefield seconded and it was so voted, 5-0. Anne Howard will write the decision.

2008-56 **8 Montello Street (Residential 3 Zone), Peter Page on behalf of Hilda Neily -**

The applicant seeks a Special Permit under Article 3110 of the Zoning By-Laws to construct a rooftop deck up and along a pre-existing, non-conforming west and rear yard setback. Amy Germain disclosed that she is an abutter to an abutter, but feels she can render a fair decision and has no financial stake in the outcome of the application. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Peter Page and Hilda Neily appeared to present the application. The applicant seeks to construct a roof deck on top of an existing addition that extends into the rear yard setback at the premises.

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

Board Discussion: The Board questioned Mr. Page.

Anne Howard moved to approve a Special Permit under Article 3110 of the Zoning By-Laws to construct a rooftop deck up and along a pre-existing, non-conforming west and rear yard setback at the property located at 8 Montello Street (Res 3), Patrick Eleey seconded and it was so voted, 5-0. Elisabeth Verde will write the decision.

2008-57 **963 Commercial Street, Unit #9 (Residential 1 Zone), Brian Alexander on behalf of Sandra Pata –**

The applicant seeks a Special Permit under Article 3340 E of the Zoning By-Laws for a deviation. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Brian Alexander appeared to present the application. The applicant seeks to add a small addition to the first floor of the dwelling unit.

Public Comment: None. There was 1 letter in the file in support of the application.

Board Discussion: The Board questioned Mr. Alexander and was particularly concerned about the applicant's justification for the deviation in building scale. The Board advised Mr. Alexander that the applicant's rationalization for the request would need to be explained or the application would most likely be denied. The Board will continue the case until the next hearing in order to allow Mr. Alexander

to provide them with that information. *Robert Littlefield moved to continue the case until the November 20, 2008 hearing, Patrick Eeley seconded and it was so voted, 5-0.*

2008-58 **963 Commercial Street, Unit #9 (Residential 1 Zone), Brian Alexander on behalf of Sandra Smales**

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The applicant seeks a Special Permit under Article 3340 E of the Zoning By-Laws for a deviation. This case is postponed until the November 20, 2008 hearing.

2008-59 **67 Harry Kemp Way (Residential B Zone), William N. Rogers, II, P.E., P.L.S. on behalf of Demetrios Daphnis –**

The applicant seeks a Special Permit under Article 3340 E of the Zoning By-Laws to construct three new single-family dwellings (Buildings #1, #2 and #5) which exceed the maximum allowable scale units. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

Presentation: Attorney Lester J. Murphy and Gary Locke appeared to present the application. The applicant seeks to build 5 single-family dwelling units on the property. Attorney Murphy explained that the neighborhood was sparsely developed compared to other neighborhoods in Town, and that there were only two principal structures that fell within the 250' radius for the determination of the neighborhood average building scale. One of the structures is on Maple Court and the other is on Harry Kemp Way. As a result, most of the buildings on Harry Kemp Way are not within this radius and thus the calculated neighborhood average scale, as per the Assessor's office, is not an accurate representation of that neighborhood. Attorney Murphy contended that if one extended the radius by 100', the structures included would more accurately reflect the neighborhood scale and consequently, the character of the neighborhood. The average neighborhood scale in this instance would be about 150 scale units and would allow a scale of 187 s.u. He further pointed out that the visual impact of the buildings would be lessened as a result of their location 10' below street level. He also argued that this deviation in scale is in keeping with the objectives of the Local Comprehensive Plan and explained how the social and economic benefits of this project outweigh any adverse effects such as hazard, congestion or environmental degradation. Attorney Murphy conceded that Building #5 was the largest of the five and that the applicant would be willing to work with the Board on the scale of that structure if the Board felt that it was too large.

Public Comment: Robert Studley had a question about what buildings would be included in calculating the neighborhood building scale if the 250' radius was extended by 100', which, according to Attorney Murphy's argument, would make the neighborhood average scale more accurate. There were no letters in the file.

Board Discussion: The Board questioned Attorney Murphy and Mr. Locke. The Board was concerned about the size of Buildings #2 and #5 and suggested that the applicant might want to consider reducing the scale of those two buildings. The applicant requested a continuance until the December 4, 2008 hearing.

Anne Howard moved to grant the request for a continuance, Patrick Eeley seconded and it was so voted, 5-0.

The Board briefly discussed filing fees.

NEXT MEETING: The next meeting will take place on November 20, 2008. It will consist of Work Session at 6:30 P.M. followed by 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 November 20, 2008.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2008
Patrick Eeley, Chair