

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
March 4, 2010

MEETING HELD IN THE GRACE GOUVEIA BUILDING

Members Present: Patrick Eeley, Elisabeth Verde, Anne Howard, David Nicolau and Tom Roberts.

Members Absent: Amy Germain (excused) and Robert Littlefield (excused).

Others Present: Russell 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 6:30 P.M.

ADMINISTRATIVE AMENDMENT (*request postponement to March 18, 2010 Public Hearing*)
– Cass Benson, on behalf of 3 Old Dogs, LLC, 359 Commercial Street, for a change of Manager.

MINUTES: February 4, 2010 – *Anne Howard moved to approve the language as written, Patrick Eeley seconded and it was so voted, 3-0-2 (David Nicolau and Tom Roberts abstaining).*

PENDING DECISIONS:

2010-01 170 Commercial Street (*Town Commercial Center Zone*), No Ordinary Joe, Inc., Scott J. Lattime, President –

Anne Howard, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case. Anne Howard read the decision. *Elisabeth Verde moved to approve the language as written, Anne Howard seconded and it was so voted, 4-0-3 (Patrick Eeley, David Nicolau and Tom Roberts abstaining).*

2010-05 205-209 Commercial Street (*Town Commercial Center Zone*), Robin B. Reid, Esq. on behalf of Aquarium Wharf Realty Trust –

Patrick Eeley, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eeley read the decision. *Anne Howard moved to approve the language as written, Patrick Eeley seconded and it was so voted, 2-0-3 (Elisabeth Verde, David Nicolau and Tom Roberts abstaining).*

- 2010-08 **49 Harry Kemp Way (*Residential B Zone*), Robin B. Reid, Esq. on behalf of Outer Cape Health Services, Inc. -**
 Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Anne Howard read the decision. *Patrick Eeley moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 3-0-2 (David Nicolau and Tom Roberts abstaining).* The applicant will need to submit new plans as the existing are stamped 'Preliminary'.
- 2010-09 **34 Commercial Street (*Residential 2 Zone*), Sally Rudicel and Rosemarie Gschwendther -**
 Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eeley read the decision. *Elisabeth Verde moved to approve the language as written, Patrick Eeley seconded and it was so voted, 3-0-2 (David Nicolau and Tom Roberts abstaining).*
- 2010-06 **4 Mozart Avenue, #4 (*Residential 3 Zone*), Christopher Daley –**
 Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Elisabeth Verde read the decision. *Anne Howard moved to approve the language as written, Patrick Eeley seconded and it was so voted, 3-0-2 (David Nicolau and Tom Roberts abstaining).*

Chair Patrick Eeley adjourned the Work Session at 7:00 P.M.

PUBLIC HEARING

Chair Patrick Eeley called the Public Hearing to order at 7:04 P.M. There were five members of the Zoning Board of Appeals present and two absent.

PENDING CASE:

- 2010-02 **27 Conant Street (*Residential 3 Zone*), Neal Kimball, of Neal Kimball Designs, on behalf of Brad Howarth –**
 The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation from building scale requirements to construct a 10'8" x 15 ½' two-story addition on the south elevation. Patrick Eeley explained that since there were only four members of the Board seated, the applicant had the choice of proceeding with four members, with the knowledge that a unanimous decision would be required for the granting of a Special Permit, or he could postpone until a five-member Board was seated. The applicant chose to proceed. Patrick Eeley, Elisabeth Verde, Anne Howard and Tom Roberts, who has listened to a recording of the initial presentation of the case, sat on the case.
Presentation: Attorney Lester J. Murphy, Michael Cooper, Neal Kimball, Brad Howarth and Dave Bastien appeared to discuss the application. Attorney Murphy outlined how that the requested deviation in building scale was in keeping with

the Local Comprehensive Plan and argued that the social and economic benefits outweigh any adverse effects, such as hazard, congestion or environmental hazard. He also stated that the new addition would not disrupt the character of the neighborhood.

Public Comment: None. There were 6 letters in favor of the application.

Board Discussion: The Board questioned Attorney Murphy, Mr. Kimball, Mr. Cooper, Mr. Howarth and Mr. Bastien. Attorney Murphy requested to withdraw the application without prejudice. Mr. Kimball suggested that the Board might want to see a 3-D rendering of the renovated structure. The Board was polled as to whether this would be helpful in its decision-making process.

Patrick Ealey moved to grant the request for a withdrawal of Case #2010-02, Elisabeth Verde seconded and it was so voted, 4-0. The Board discussed whether Robert Littlefield would be able to sit on the case at the next Public Hearing, allowing a five-member Board to review the application. Attorney Murphy withdrew his request to withdraw Case #2010-02 without prejudice.

Patrick Ealey moved to accept the request to withdraw the request for a withdrawal of Case #2010-02 without prejudice, Anne Howard seconded and it was so voted, 4-0.

Patrick Ealey moved to continue Case #2010-02 to the March 18, 2010 Public Hearing, Elisabeth Verde seconded and it was so voted, 4-0.

NEW CASES:

2010-12 **4 Atwood Avenue (*Residential 2, Zone*), Lester J. Murphy, Jr., Attorney, on behalf of G. Bruce Head, III –**
The applicant seeks a Special Permit under Article 4, Section 4170 of the Zoning By-Laws for a change in use from a Lodging House to a three unit multi-family residential use. This case is postponed until the April 15, 2010 Public Hearing.

2010-13 **4 Atwood Avenue (*Residential 2, Zone*), Lester J. Murphy, Jr., Attorney, on behalf of G. Bruce Head, III –**
The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale for alterations and an addition to the principal structure. This case is postponed until the April 15, 2010 Public Hearing.

2010-14 **25 Conwell Street (*Residential RB Zone*), Robert Evans on behalf of 21 Conwell Realty Trust/Jeff Rogers, Trustee –**
The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation in building scale to construct a second floor dormer. This case is postponed until the March 18, 2010 Public Hearing.

Russ Braun briefly addressed the Board on the topic of the scale by-law and how the volume of a building is calculated. He said that Richard in the Assessor's Office would be happy to sit down with any of the Board members to explain or clarify how scale is calculated.

2010-11

3 Duncan Lane (*Residential 3 Zone*), Robert Dello Russo and Tom McCarthy –

The applicants seek a Special Permit under Article 3, Section 2450, G12, of the Zoning By-Laws to install an in-ground swimming pool.

Patrick Eeey, Elisabeth Verde, Anne Howard, David Nicolau and Tom Roberts sat on the case.

Presentation: Robert Dello Russo and Tom McCarthy appeared to present the application.

Public Comment: Randy Jansen and Peter Sanborn, both abutters, spoke against the application. Dennis Minsky, an abutter, had questions about the pool and environmental concerns. There was a letter from Mr. Sanborn against the application in the file.

Board Discussion: The Board questioned Mr. Dello Russo and Mr. McCarthy. The Board was concerned about the exact location of a wetland in the area.

Patrick Eeey moved to continue Case #2010-11 until the March 18, 2010 Public Hearing and after consultation with the Conservation Agent about the location of any resource areas in the vicinity of the property, Elisabeth Verde seconded and it was so voted, 5-0.

NEXT MEETING: The next meeting will take place on March 18, 2010. It will consist of a Work Session at 6:45 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Anne Howard moved to adjourn at 9:30 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 March 18, 2010.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2010

Patrick Eeey, Chair