

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

**MEETING MINUTES OF**  
**March 18, 2010**

**MEETING HELD IN THE GRACE GOUVEIA BUILDING**

**Members Present:** Patrick Eleey, Robert Littlefield, Anne Howard, David Nicolau and Tom Roberts.

**Members Absent:** Amy Germain (excused) and Elizabeth Verde (excused).

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

**WORK SESSION**

Chair Patrick Eleey called the Work Session to order at 6:40 P.M.

**PENDING DECISION:**

**2010-07**      **4 Mozart Avenue, #4 (Residential 3 Zone), Christopher Daley –**  
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. The reading of the decision is postponed.

**2010-10**      **338 Commercial Street (Town Commercial Center Zone), Sanette Groenewald -**  
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Robert Littlefield read the decision. *Anne Howard moved to approve the language as written, Patrick Eleey seconded and it was so voted, 3-0-2 (David Nicolau and Tom Roberts abstaining).*

**MINUTES: March 4, 2010 – Anne Howard moved to approve the language as written, Patrick Eleey seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).**

**ADMINISTRATIVE AMENDMENT –** Cass Benson, on behalf of 3 Old Dogs, LLC, 359 Commercial Street, requests a change of the LLC Manager. David Nicolau excused himself because of a conflict of interest. Patrick Eleey, Robert Littlefield, Anne Howard and Tom Roberts heard the request.

**Presentation:** Attorney Kevin J. Redmond and Cass Benson appeared to discuss the request. The applicant is taking over the position of the Manager of 3 Old Dogs, LLC.

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

**Board Discussion:** The Board briefly questioned Attorney Redmond and Ms. Benson.

*Anne Howard moved to approve the request for a change in Manager of 3 Old Dogs, LLC as an Administrative Amendment, Robert Littlefield seconded and it was so voted, 3-0-1 (Tom Roberts abstaining).* Patrick Eleey will write the decision.

Chair Patrick Eleey adjourned the Work Session at 7:05 P.M.

**PUBLIC HEARING**

Chair Patrick Eleey called the Public Hearing to order at 7:05 P.M. There were five members of the Zoning Board of Appeals present and two absent.

## PENDING CASES:

### 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, Robert Littlefield, who listened to a recording of the previous meeting when the case was discussed, Elisabeth Verde, Anne Howard and Tom Roberts sat on the case. The applicants chose to continue the case, as there were only four members of the Board that could be seated on this case.

### 2010-11 3 Duncan Lane (*Residential 3 Zone*), Robert Dello Russo and Tom McCarthy –

The applicants seek a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Laws to install an in-ground swimming pool. Patrick Eeley, Elisabeth Verde, Anne Howard, David Nicolau and Tom Roberts sat on the case. Patrick Eeley explained to the applicants that since there were only four members of the Board available out of the five that sat on the case when it was first presented, they have the choice of either proceeding with those four or continuing the case until the fifth member is present. The applicants chose to proceed. Patrick Eeley, Anne Howard, David Nicolau and Tom Roberts sat on the case.

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

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

**Board Discussion:** The Board had received a report from the Conservation Agent, Brian Carlson, determining that the area in question is not located in a wetland, but had other environmental issues that Mr. Carlson was concerned about. He will request that the applicants file for an Administrative Review with the Conservation Commission. The Board questioned Mr. McCarthy and Mr. Dello Russo.

**Tom Roberts moved to grant a Special Permit under Article 2, Section 2450, G12, of the Zoning By-Laws to install an in-ground swimming pool contingent upon approval of the project by the Conservation Agent as an Administrative Review, Patrick Eeley seconded and it was so voted, 4-0.** Patrick Eeley will write the decision.

## POSTPONED CASE:

### 2010-14 25 Conwell Street (*Ace Hardware Store*) (*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. David Nicolau recused himself because of a conflict of interest. Patrick Eeley explained to the applicant that since only four members of the Board were seated, he could choose to proceed with the presentation of the application or postpone until a five-member Board could be seated. Patrick Eeley, Robert Littlefield, Anne Howard and Tom Roberts sat on the case.

**Presentation:** Jeff Rogers and Robert Evans, an architect, appeared to present the application. There will be a 7% increase due to the addition of the dormer. The addition will house critically needed office space on the second floor and increase retail space on the first floor. The business is yearround and employs 18-20 people. The applicant proposes to place window boxes on the Conwell Street side of the building.

**Public Comment:** Roland St. Jean spoke in favor of the project, but was concerned about the lack of green space on the property. There were 2 letters in opposition and 11 letters in support of the application.

**Board Discussion:** The Board questioned Mr. Rogers and Mr. Evans.

**Patrick Eeley moved to grant 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 at the property located at 25 Conwell Street (*Ace Hardware Store*) (*Res RB*), Robert Littlefield seconded and it was so voted, 4-0.** Anne Howard will write the decision.

## NEW CASES:

### 2010-15 205-209 Commercial Street (*Town Commercial Center Zone*), Hera Navassardian –

The applicant seeks a Special Permit under Article 3, Section 2420 of the Zoning By-Laws for an outside display rack with handbags and decorative facemasks and for live models displaying the bags and masks. Patrick Eeley, Robert Littlefield, Anne Howard, David Nicolau and Tom Roberts sat on the case.

**Presentation:** Hera Navassardian appeared to present the application.

**Public Comment:** None. There was a letter from the landlord of Aquarium Mall giving the applicant permission to apply for a Special Permit for outside display.

**Board Discussion:** The Board questioned Ms. Navassardian.

**Robert Littlefield moved to grant a Special Permit under Article 3, Section 2420 of the Zoning By-Laws for an outside display rack with handbags and decorative facemasks and for live models displaying the bags and masks at the property located at 205-209 Commercial Street (TCC), David Nicolau seconded and it was so voted, 5-0.**

**2010-16**      **258 Commercial Street (Town Commercial Center Zone), Saki, LLC, Steven Schnitzer, President –**  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the service area to include the ground floor level below Saki with existing licenses using flex-seating. There was a request to postpone this case until the Public Hearing on April 1, 2010. **Anne Howard moved to approve the request to postpone Case #2010-16 until the Public Hearing on April 1, 2010, Patrick Eeley seconded and it was so voted, 5-0.**

**2010-17**      **42 Bradford Street (Residential 3 Zone), Meadows Realty Trust, William Meadows, Trustee –**  
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of no more than 50 bicycles for rent (no changes to previously-approved permitting). Patrick Eeley, Robert Littlefield, Anne Howard, David Nicolau and Tom Roberts sat on the case.  
**Presentation:** Bill Meadows appeared to present the application.  
**Public Comment:** None. There were no letters in the file.  
**Board Discussion:** The Board questioned Mr. Meadows.  
**Anne Howard moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of no more than 50 bicycles for rent (no changes to previously-approved permitting) at the property located at 42 Bradford Street (Res 3), Patrick Eeley seconded and it was so voted, 5-0.**

#### **POSTPONED 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.

The Board discussed the new ZBA application and Russ discussed updates and fielded questions regarding the application and other zoning issues.

**NEXT MEETING:** The next meeting will take place on April 1, 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 8:15 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 April 1, 2010.

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2010

Patrick Eeley, Chair