

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
February 3, 2011**

**MEETING HELD IN THE JUDGE WELSH ROOM**

**Members Present:** Anne Howard, Robert Littlefield, Amy Germain, David Nicolau, Tom Roberts and Harriet Gordon.

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

**Others Present:** Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

Chair Anne Howard called the Work Session to order at 6:45 P.M.

**MINUTES: January 20, 2010** – *Amy Germain moved to approve the language as amended, Robert Littlefield seconded and it was so voted, 6-0.*

**PENDING DECISIONS:**

**FY11-53**      **15 Standish Way (Residential 3 Zone), Craig W. Combs & Charles G. Roberts** –  
Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Robert Littlefield read the decision. *Amy Germain moved to approve the language as amended, David Nicolau seconded and it was so voted, 5-0.*

Chair Anne Howard postponed the Work Session at 6:52 P.M.

**PUBLIC HEARING**

Chair Anne Howard called the Public Hearing to order at 7:00 P.M. There were six members of the Zoning Board of Appeals present and one absent.

## **POSTPONED CASE:**

### **FY11-52      5 Harbour Drive (*Residential 1 Zone*), William N. Rogers, II, P.E., P.L.S., on behalf of Bay Harbour LLC II –**

The applicant seeks a Special Permit under Article 2, Section 2450 of the Zoning By-Laws for the installation of a 15' wide by 29' long in-ground salt water swimming pool. Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case.

**Presentation:** Gary Locke, Rich Waldo and Attorney David Reid appeared to present the application. The applicant seeks a 15' by 29' salt water pool that meets all setback requirements. The pool is set in a stone patio ringed by privet hedges. A drip-edge rings the pool to collect any spillage, which would then be recycled to drywells.

**Public Comment:** Attorney Lester J. Murphy, representing Nancy Volanis, an abutter to the property, cited several issues that would adversely affect his client's property. There were 2 letters in favor and 1 letter in opposition in the file. There was also a letter from Brian Carlson, Conservation Agent, stating that the pool is outside the 100' buffer zone and thus outside the jurisdiction of the Conservation Commission.

**Board Discussion:** The Board questioned Attorney Reid, Mr. Locke and Mr. Waldo. The applicant agreed that no construction would occur between June 1<sup>st</sup> and September 15<sup>th</sup>.

*David Nicolau moved to grant a Special Permit under Article 2, Section 2450 of the Zoning By-Laws for the installation of a 15' wide by 29' long in-ground salt water swimming pool at the property located at 5 Harbour Drive (Res 1) with the condition that there will be no outside music or speakers near or surrounding the pool, low lighting will be used around the pool so as to prevent light spill-over to the neighbors and no construction activity will take place between June 1<sup>st</sup> and September 15<sup>th</sup>, Robert Littlefield seconded and it was so voted, 4-1 (Amy Germain opposed).* Tom Roberts will write the decision.

## **NEW CASES:**

### **FY11-54      5 Johnson Street (*Residential 3 Zone*), Mark Kinnane of Cape Associates, Inc. on behalf of Thomas Shirk –**

The applicant seeks a Variance under Article 4, Section 4120, Lot Area, and Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws for the conversion of a single family dwelling to a guesthouse. Robert Littlefield disclosed that he is an abutter to an abutter of this property, but stated that he is able to render an impartial decision in the case. Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case.

**Presentation:** Mark Kinnane, Attorney Kevin J. Redmond and Thomas Shirk appeared to present the application. The applicant seeks to add four accommodations on a 2,673 sq. ft. lot, 1,327 sq. ft. less than is required by the Zoning By-Laws, to his existing guesthouse business abutting the property. Mr. Shirk stated that the addition of four guest rooms would increase his business, bring in more tourist dollars and would be contrary to the recent trend of guesthouse conversions to single family residences in Town. Mr. Kinnane

submitted a list of ten guesthouses in Town sited on lots that were too small for the number of guestrooms they contained. Attorney Redmond pointed out that the guesthouse would be open yearround, employing at least one yearround employee, and would bring in additional revenue in the form of room fees to the Town. The project would reuse an existing structure instead of creating a new commercial structure, which is in keeping with the Local Comprehensive Plan and promotes businesses that are compatible with the economic development of the Town.

**Public Comment:** Bill Dougal, Cass Benson and Rick Murray all spoke in favor of the application. There were 8 letters, including 1 from Ms. Benson, in the file in support of the application.

**Board Discussion:** The Board questioned Mr. Kinnane, Mr. Shirk and Attorney Redmond.

***Robert Littlefield moved to continue Case #FY11-54, David Nicolau seconded.***

The Board discussed the motion to continue.

***It was so voted, 1-4 (Anne Howard, Amy Germain, David Nicolau and Tom Roberts opposed).***

Chair Anne Howard asked the applicant if he would like to withdraw his application. The applicant requested to withdraw Case #FY11-54 without prejudice.

***Amy Germain moved to grant the request for a withdrawal without prejudice of Case #FY11-54, Tom Roberts seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).***

**FY11-55      5 Johnson Street, (Residential 3 Zone), Mark Kinnane of Cape Associates, Inc. on behalf of Thomas Shirk –**

The applicant seeks a Parking Variance under Article 2, Section 2470 of the Zoning By-Laws for one parking space. The applicant requested a withdrawal without prejudice.

***Amy Germain moved to grant the request for a withdrawal without prejudice of Case #FY11-55, Tom Roberts seconded and it was so voted, 4-0-1 (Robert Littlefield abstaining).***

Chair Anne Howard adjourned the Public Hearing at 8:48 P.M.

## **WORK SESSION**

Chair Anne Howard reconvened the Work Session at 9:00 P.M.

The Board briefly reviewed revisions to the Zoning application.

### **PENDING DECISIONS:**

**FY11-51      15 Carver Street (Residential 3 Zone), Richard Flores, of Riptide Building**

**Company, on behalf of Scott Stevens and Timothy Deahl –**  
Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. The applicant submitted a plan showing the new ridge line height as requested by the Board. Anne Howard read the decision. *Amy Germain moved to approve the language as amended, Tom Roberts seconded and it was so voted, 5-0.*

**FY11-47 269A Bradford Street (Residential 2 Zone), Hal Winard, of Winard Construction and Development, on behalf of Hazel Warner –**  
Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Anne Howard read the decision. *David Nicolau moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

**NEXT MEETING:** The next meeting will take place on February 17, 2011. It will consist of a Work Session at 6:00 P.M. and a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Amy Germain moved to adjourn at 10:00 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 February 17, 2011.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2011  
Anne Howard, Chair