

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
July 7, 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: Russ Braun (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair Anne Howard called the Work Session to order at 6:28 P.M.

David Nicolau moved that Zoning Board of Appeals applicants be required to submit revised plans to the Department of Community Development on the Monday before a Zoning Board of Appeals Public Hearing, Tom Roberts seconded.

The Board discussed the motion.

The motion was so voted, 6-0.

The Board discussed Town Counsel's response to the Board's question about building scale and Board policies.

MINUTES: June 30, 2011 – *Amy Germain moved to approve the language as amended, Tom Roberts seconded and it was so voted, 5-0.*

David Nicolau left the Public Hearing at 6:58 P.M.

Chair Anne Howard postponed the Work Session at 7:00 P.M.

PUBLIC HEARING

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

CONTINUED CASES:

FY11-87 4 Race Road (*Residential 3 Zone*), Gary Reinhardt on behalf of Baldwin Realty Trust, Vernon Brown, Trustee –

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to enlarge a dormer on the west elevation, increase roof pitch and to remove a section of the south side roof and replace it with a roof deck up and along pre-existing, non-conforming setbacks. The applicant requests being heard under the *Goldhirsh v. McNear* ruling. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case.

Presentation: Gary Reinhardt and Vernon Brown appeared to discuss the application. Two sets of revised plans have been submitted, one for information purposes only. Mr. Reinhardt explained that proposal 1 was what the applicant was seeking originally, an enlarged dormer and a full roof deck. Proposal 2 was a plan showing an enlarged dormer and a reduced roof deck, which would require relief only for the increase in the size of the dormer. The reduced roof deck could be constructed as of right. He argued that enlarging the dormer by 4' does not increase the non-conformancy, which is an encroachment into two setbacks. And that by proposing a full roof deck and removing a section of the south side roof, a non-conformancy is actually being removed.

Public Comment: Jason Reidy and Jane Cowie both spoke in opposition to the application. There were 4 letters in opposition in the file.

Board Discussion: The Board questioned Mr. Reinhardt.

Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to enlarge a dormer on the west elevation, increase roof pitch and to remove a section of the south side roof and replace it with a roof deck up and along pre-existing, non-conforming setbacks under the Goldhirsh v. McNear ruling at the property located at 4 Race Road, Robert Littlefield seconded and it was so voted, 4-1 (Amy Germain opposed).

NEW CASES:

FY12-01 42 Conwell Street (*General Commercial Zone*), Teresa Shields Bryan –

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for a Farm Stand. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case.

Presentation: Teresa Shields Bryan appeared to present the application. The applicant seeks to sell vegetables and herbs from a 5' by 8' metal frame stand with a removable roof at the premises.

Public Comment: None. There was a letter from the owner of the property giving the applicant permission for the Farm Stand.

Board Discussion: The Board questioned Ms. Bryan. The time of operation requested is from June 20th to October 31st from 9:30 A.M. to 7:00 P.M. seven days a week.

Amy Germain moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for a Farm Stand at the property located at 42 Conwell Street (GC), Robert Littlefield seconded and it was so voted, 5-0. Tom Roberts will write the decision.

- FY12-02** **83 Franklin Street (*Residential 3 Zone*), Dorothy Palanza and Tina Trudel –**
 The applicants seek a Special Permit under Article 2, Section 2450, G14, of the Zoning By-Laws to construct a utility shed that meets at least 50% of the side setback requirements. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case.
Presentation: Dorothy Palanza and Tina Trudel appeared to present the application. The applicants would like to place a shed measuring 70’ long by 57.5’ wide and 84’ high for the storage of tools.
Public Comment: Doug Dolezal, an abutter, spoke against the application. There was 1 letter of no concern and 1 letter of support for the application in the file.
Board Discussion: The Board questioned Ms. Palanza and Mr. Trudel.
Robert Littlefield moved to grant a Special Permit under Article 2, Section 2450, G14, of the Zoning By-Laws to construct a utility shed that meets at least 50% of the side setback requirements at the property located at 83 Franklin Street (Res 3), Tom Roberts seconded and it was so voted, 5-0. Anne Howard will write the decision.
- FY11-89** **19-35 Race Point Road (*Residential 3 Zone*), Edward Malone of Community Housing Resource, Inc. (*Continued to the July 21, 2011 Public Hearing*) –**
 The applicant seeks a Special Permit under Article 2, Section 2440, A1, footnote 8, of the Zoning By-Laws for more than six dwelling units on contiguous parcels to be constructed in a tow phase project (6 units to be constructed in Phase 1 on Lot #10 and 23 units to be constructed in Phase II on Lot #8 for a total of 29 units).
- FY11-90** **19-35 Race Point Road (*Residential 3 Zone*), Edward Malone of Community Housing Resource, Inc. (*Continued to the July 21, 2011 Public Hearing*) -**
 The applicant seeks a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in Building Scale for Building 6-8-10 located on Lot #8 (Building 6-8-10 is one of eleven structures on two lots in a two-phase. This case is continued until the July 21, 2011 Public Hearing).
- FY11-92** **698 Commercial Street (*Residential 1 Zone*), Attorney Christopher J. Snow on behalf of 698 Commercial Street Realty Trust, LLC (*Continued to the July 21, 2011 Public Hearing*) –**
 The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to provide the following forms of entertainment: Movies, pool tables, karaoke, dancing by patrons and live entertainment, including amplified music and theatrical shows.
- FY11-93** **131A Commercial Street (*Town Commercial Center Zone*), Attorney E. James Veara on behalf of Jay Charles Anderson (*Continued to the July 21, 2011 Public Hearing*) –**
 The applicant seeks an Appeal of the Building Commissioner’s decision under Article 5, Section 5330.

Chair Anne Howard adjourned the Public Hearing at 9:25 P.M.

WORK SESSION

Chair Anne Howard reconvened the Work Session at 9:25 P.M.

PENDING DECISIONS:

- FY11-88** **71 Commercial Street (*Residential 2 Zone*), Mark Kinnane of Cape Associates, Inc. on behalf of Eleanor Pannesi –**
Anne Howard, Robert Littlefield, Amy Germain and Elisabeth Verde sat on the case. Anne Howard read the decision. *Amy Germain moved to approve the language as written, Robert Littlefield seconded and it was so voted, 3-0.*
- FY11-91** **322 Commercial Street (*Town Commercial Center Zone*), Carol Silvestri –**
Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Elisabeth Verde 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, 3-0.*
- FY11-86** **49 Harry Kemp Way (*Residential B Zone*), Alan Hall, Director of Facilities and Purchasing, on behalf of Outer Cape Health Services –**
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 written, Anne Howard seconded and it was so voted, 4-0.*

NEXT MEETING: The next meeting will take place on July 21, 2011. It will consist of a Work Session at 6:00 P.M. followed by 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 July 21, 2011.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2011
Anne Howard, Chair