

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS**

**MEETING MINUTES OF  
August 25, 2011**

**MEETING HELD IN THE JUDGE WELSH ROOM**

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

**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 6:30 P.M.

**MINUTES: August 4, 2011** – *Amy Germain moved to approve the language as amended, David Nicolau seconded and it was so voted, 7-0.*

**PENDING DECISIONS:**

**FY11-93**      **131A Commercial Street (Town Commercial Center Zone), Attorney E. James Veara on behalf of Jay Charles Anderson –**

Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Joe Vasta sat on the case. Robert Littlefield read the decision. *Amy Germain moved to approve the language as written, David Nicolau seconded and it was so voted, 5-0.*

**FY12-04**      **205-209 Commercial Street (Town Commercial Center Zone), Hera Navassardian –**

Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. Tom Roberts read the decision. *Robert Littlefield moved to approve the language as written, Harriet Gordon seconded and it was so voted, 5-0.*

**FY12-05**      **36 Pleasant Street (Residential 3 Zone), Colin Brown –**

Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. Anne Howard read the decision. *Robert Littlefield moved to approve the language as amended, Amy Germain seconded and it was so voted, 5-0.*

**FY11-89 19-35 Race Point Road (Residential 3 Zone), Edward Malone of Community Housing Resource, Inc. -**

Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Anne Howard read the decision. *Amy Germain moved to approve the language as written pending confirmation from the Building Commissioner that the plans for the project are complete, David Nicolau seconded and it was so voted, 5-0.*

Chair Anne Howard postponed the Work Session at 7:05 P.M.

## **PUBLIC HEARING**

Chair Anne Howard called the Public Hearing to order at 7:05 P.M. There were seven members of the Zoning Board of Appeals present and one absent.

### **CONTINUED CASE:**

**FY11-90 19-35 Race Point Road (Residential 3 Zone), Edward Malone of Community Housing Resource, Inc. (continued from August 4, 2011) -**

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 development). Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case.

**Presentation:** Ted Malone appeared to present the application. He was able to divide the largest building, Building 6-8-10, into three discrete sections, however Building 10 still needs relief from the Building Scale By-Law. The building still has two wheelchair-accessible units. Mr. Malone reiterated how the project was compatible with the goals of the Local Comprehensive Plan, including Chapter 4, 'Historic Preservation and Community Character', Goal 2, Policy B because the construction of the buildings respects the character of Provincetown's historic architecture, is consistent with traditional Provincetown and Cape Cod architectural styles and uses building traditional materials and the goals of Chapter 6, 'Affordable Housing'. The project is also compatible with subparagraph 1 and 5 of Article 2, Section 2640E of the Zoning By-Laws.

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

**Board Discussion:** The Board questioned Mr. Malone.

*David Nicolau moved to grant a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in Building Scale for Building 10 located on Lot #8 (Building 6-8-10 is one of eleven structures on two lots in a two-phase development) at the property located at 19-35 Race Point Road (Res 3), Anne Howard seconded and it was so voted, 5-0. David Nicolau will write the decision.*

## NEW CASES:

### FY12-06     **356 Commercial Street (Town Commercial Center Zone), Town of Provincetown/Provincetown Public Library –**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the Public Library to be designated as an entertainment venue. Tom Roberts recused himself because of a conflict of interest. Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Harriet Gordon sat on the case.

**Presentation:** Lyn Kratz, Mick Rudd, Patsy Greene and Cheryl Napsha appeared to present the application. The Board of Library Trustees, who had a quorum present, seeks to rent space in the Library to non-profit groups to support their fund-raising efforts and to support those organizations that provide cultural events that are consistent with the Library's mission statement. In terms of special events, this would include furthering the Library's role in the community as a center for educational, informational, cultural, civic and charitable purposes. The Library does not want to become a commercial entertainment venue with a food service or liquor license, but endeavors only to be a full-service library. The Library seeks to expand its programming ability for events including concerts, poetry forums, author readings, film series and club meetings. Each event would have to comply with the Board of Library Trustees 2011 Community Special Event Policy, similar to Town Hall's policy, which states that all events must conclude no later than 10:00 P.M., includes the service of refreshments, specifically white wine and clear soda, by a licensed caterer with liability insurance and a TIPS-trained staff. Areas for events will include the Marc Jacobs Reading Room, the second floor and a small mezzanine reading room. Eventually, when the exterior of the building is landscaped, the Trustees would like to hold outdoor events as well. Any outside events would take place during Library hours. **Public Comment:** Susan Avellar, Robin Reid and Jim Schreyer spoke in favor of the application. Joe Zaloom was in favor of the application, but had concerns about noise from amplified musical events by street musicians performing in front of the Library. Donald LaFlamme, speaking for himself and for Birdie's Silkscreen Studio, and Murray Wax spoke about concerns regarding amplified music from street performers in front of the Library, and are in opposition to any concerts to be held outdoors. There was 1 letter of support for indoor events, 1 letter of concern, 1 letter of concern and in opposition to outdoor concerts and 1 letter opposed to any events.

**Board Discussion:** The Board questioned Ms. Kratz, Ms. Greene, Mr. Rudd and Ms. Napsha. David Gardner, Assistant Town Manager, was recognized by the Board. He pointed out that street performers were regulated through the General By-Laws and are required to get permits from the Police Department. They are subject to the local noise by-law, which is enforced by the Police Department. They can perform on public property or a public right of way, so the Board of Library Trustees has no control over those street performers in front of the Library and shouldn't be penalized for activities over which it has no control.

***Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the Public Library to be designated as an entertainment venue at the property located at 356 Commercial Street (TCC)***

*with the following conditions: that outdoor events shall be limited to Library hours of operation; that there shall be no amplification of outdoor entertainment; that all indoor events shall conclude by 10:00 P.M.; that all doors and windows shall be closed during hours of entertainment; and that the Special Permit shall be in effect for only one year and will expire on 12/31/12, Robert Littlefield seconded and it was so voted, 5-0.* Harriet Gordon will write the decision.

**FY12-07      214 Commercial Street, Town Commercial Center Zone), Mark Cortale on behalf of Extraordinary Talent Productions, LLC –**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outside display of caricatures, and the like, to promote and advertise entertainment options. David Nicolau recused himself because of a conflict of interest. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case.

**Presentation:** Mark Cortale and Ben deRuyter appeared to present the application. The applicant seeks to place 5 A-frame sandwich boards with posters and a postcard holder stand on the brick patio in front of the premises to advertise entertainment at the venue. These will allow the venue to compete with other entertainment venues in Town, therefore helping the business to prosper.

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

**Board Discussion:** The Board questioned Mr. Cortale and Mr. deRuyter. Mr. deRuyter stated that the ticket cart will be eliminated entirely and that he and Mr. Cortale intend upon moving the ticket office to the premises adjacent to the present location. However, the A-frame sandwich boards would remain at their present location. The Board would like to see a revised plan showing where the outside display would be located given the elimination of the ticket cart and the opening of a ticket office in an adjacent building and would like an opinion by the Building Commissioner on some of the issues raised in the case.

*Amy Germain moved to continue Case # FY12-07 until the September 15, 2011 Public Hearing, Tom Roberts seconded and it was so voted, 5-0.*

Chair Anne Howard adjourned the Public Hearing at 8:38 P.M.

## **WORK SESSION**

Chair Anne Howard reconvened the Work Session at 8:38 P.M.

**Discussion of Master Plan for Beachpoint Club Condominiums:**

Billy Rogers and Sandy Pata appeared to discuss a preliminary master expansion plan for the future renovation of condominium units at the property. The plans were broken down into five different sections to reflect the various architectural styles of the units. The Board took the plans under advisement.

**NEXT MEETING:** The next meeting will take place on September 15, 2011. It will consist of a Work Session at 6:45 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 September 15, 2011.

Respectfully submitted,  
Ellen C. Battaglini

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