

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
October 20, 2011**

**MEETING HELD IN THE JUDGE WELSH ROOM**

**Members Present:** Anne Howard, Robert Littlefield (departed at 7:23 P.M.), Amy Germain, David Nicolau, Tom Roberts and Joe Vasta.

**Members Absent:** Elisabeth Verde (excused) and Harriet Gordon (excused).

**Others Present:** Russ Braun (Building Commissioner) (departed at 7:23 P.M.), 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: October 6, 2011** – *Amy Germain moved to approve the language as written, Tom Roberts seconded and it was so voted, 6-0.*

**PENDING DECISIONS:**

**FY12-13**      **170 Bradford Street, Residential 3 Zone, Robin B. Reid, Esq. on behalf of Marcus Builders, LLC** –  
Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Tom Roberts read the decision. *Amy Germain moved to approve the language as written, David Nicolau seconded and it was so voted, 5-0.*

**FY-12-14**      **170 Bradford Street, Residential 3 Zone, Robin B. Reid, Esq. on behalf of Marcus Builders, LLC** –  
Anne Howard, Robert Littlefield, Amy Germain, David Nicolau and Tom Roberts sat on the case. Tom Roberts read the decision. *David Nicolau moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

Chair Anne Howard adjourned the Work Session at 6:55 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 two absent.

Chair Anne Howard requested a motion to hear Cases #FY 12-16 and FY12-18 out of their order as printed on the agenda. *Amy Germain moved to hear Cases #FY12-16 and FY12-18 first, Tom Roberts seconded and it was so voted, 6-0.*

#### **POSTPONED CASES:**

- FY12-09**      **32 Bradford Street (Residential 3 Zone), Robert Valois on behalf of Enco Realty Trust** (*postponed from September 15 and October 6, 2011*) –  
The applicant seeks a Special Permit under Article 2, Section 2550 and Article 3, Section 3115 and 3110 of the Zoning By-Laws for the demolition and reconstruction of a pre-existing, non-conforming structure within the existing footprint up and along pre-existing, non-conforming side and rear yard setbacks and the dimensional requirements of distance between existing structures.
- FY12-10**      **32 Bradford Street (Residential 3 Zone), Robert Valois on behalf of Enco Realty Trust** (*postponed from September 15 and October 6, 2011*) –  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for a deviation in building scale for the demolition and reconstruction in the existing footprint raising the ridge 9' 0" and adding a front porch. The applicant has requested a postponement for Cases #FY12-09 and #FY12-10 until the November 3, 2011 Public Hearing. *Tom Roberts moved to grant the request to postpone Cases #FY12-09 and FY12-10 to the November 3, 2011 Public Hearing, Amy Germain seconded and it was so voted, 5-0.*
- FY12-17**      **12 Center Street (Town Commercial Center Zone), Gary Reinhardt on behalf of Howard Burchman** –  
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning BY-Laws to construct a second story addition to an existing single-family cottage up and along pre-existing, non-conforming rear and sideline setbacks. There was a request by the applicant to postpone Case #FY12-17 to the November 3, 2011 Public Hearing. *Tom Roberts moved to grant the request to postpone Case #FY12-17 to the November 3, 2011 Public Hearing, Amy Germain seconded and it was so voted, 5-0.*
- FY12-19**      **269 Commercial Street (Town Commercial Center Zone), Lester J. Murphy, Jr., Attorney, on behalf of El Mundo, LLC** -  
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the outdoor service of food and alcoholic beverages and outdoor seating for 20 patrons in the rear (waterfront) portion of the property on a flex-seating basis. The applicant requested a postponement of Case #FY12-19 to the November 17, 2011 Public Hearing. *Tom Roberts moved to grant the request to postpone Case #FY12-19 to the November 17, 2011 Public Hearing, Amy Germain seconded and it was so voted, 5-0.*

#### **NEW CASES:**

- FY12-16**      **336 Commercial Street (Town Commercial Center Zone), Diane Dicarlo and Jeanne Leszcynski** –  
The applicants seek a Special Permit under Article 2, Section 2460 of the Zoning

By-Laws for the proposed renovations of a first floor seating arrangement. David Nicolau recused himself because of a conflict of interest. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case.

**Presentation:** Diane Dicarolo appeared to present the application. The applicants seek to renovate the front room of the Pilgrim House by enlarging the kitchen and installing lounge seating and tables in order to serve light fare. The back room, which is currently a disco, will be converted into a function hall.

**Public Comment:** Bill Dougal spoke in favor of the application. There were no letters in the file.

**Board Discussion:** Anne Howard reminded the Board that there was a Special Permit for a seating arrangement granted in 2008 to the previous owner, however that Special Permit was never implemented and has since lapsed. The Board questioned Ms. Dicarolo.

***Robert Littlefield moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the proposed renovations of a first floor seating arrangement at the property located at 336 Commercial Street (TCC), Tom Roberts seconded and it was so voted, 5-0. Anne Howard will write the decision.***

**FY12-18      28 Commercial Street (Residential 2 Zone), John Hopkins on behalf of Eric Price and Carl Bazil –**

The applicant seeks a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale to enlarge an existing sunroom. Amy Germain and David Nicolau recused themselves because of conflicts of interest. Anne Howard, Robert Littlefield, Tom Roberts and Joe Vasta sat on the case. Chair Anne Howard explained to the applicants that since only 4 members of the Board were seated on the case and a unanimous vote would be required in order to approve the Special Permit, the applicants had the choice of proceeding with 4 members or postponing until 5 members could be seated. The applicants chose to proceed.

**Presentation:** John Hopkins, Don Dirocco and Eric Price appeared to present the application. The applicants seek to enlarge a small sunroom addition by incorporating an area of the deck. The addition will only be slightly visible from the street. Mr. Hopkins cited sub-paragraphs 5 and 6 of Article 2, Section 2640E of the By-Laws to support the request. He pointed out that the neighborhood has many large structures. The existing scale of the structure is 24,350 cu. ft. The enlargement of the sunroom will add 1450 cu. ft. for a total of 25,800 cu. ft. The neighborhood allowable scale is 23,654 cu. ft.

**Public Comment:** Tom Coen, Tim Grobleski and Jane Harper spoke in favor of the application. There were 4 letters in support of the application.

**Board Discussion:** The Board questioned Mr. Hopkins, Mr. Dirocco and Mr. Price.

***Tom Roberts moved to grant a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale to enlarge an existing sunroom at the property located at 28 Commercial Street (Res 2), Robert Littlefield seconded and it was so voted, 4-0. Tom Roberts will write the decision.***

**FY12-15**

**4 Kiley Court (Residential 3 Zone), Zachary Luster –**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the outdoor service of food and alcoholic beverages. Anne Howard, Amy Germain, David Nicolau, Tom Roberts and Joe Vasta sat on the case.

**Presentation:** Zachary Luster appeared to present the application. The applicant seeks to move seating from inside the restaurant to an exterior gazebo and patio area. He is proposing to install 5 small tables in that exterior area and seeks to surround the gazebo and tables with a Shakespearean garden. He proposes to stop seating patrons at 8:30 P.M. He has spoken to neighbors and has sought to address their concerns about potential noise coming from this area.

**Public Comment:** Bill Dougal and Cynthia Packard spoke in support of the application. Neva Hanson read a letter from Joan Siegfried in opposition to the application. There were 7 letters in the file supporting the application and 5 letters in opposition.

**Board Discussion:** The Board questioned Mr. Luster. The Board made some suggestions to the applicant to mitigate noise, such as using vegetation or shades to buffer and absorb noise coming from diners, reducing the number of seats in the gazebo to ten, making sure diners in the gazebo have vacated the area by 10:00 P.M., moving those who have not finished dining to the interior of the restaurant and carefully considering the location of any busing station to service that area. Another suggestion from the Board was to install signage stating the hours for outdoor seating at the entrance to the property on Kiley Court. The Board also asked the applicant to specify what months he would like the outdoor seating to be available for patrons.

***Amy Germain moved to continue Case #FY12-15 to the November 3, 2011 Public Hearing, Tom Roberts seconded and it was so voted, 5-0.***

**NEXT MEETING:** The next meeting will take place on November 3, 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 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 November 3, 2011.

Respectfully submitted,  
Ellen C. Battaglini

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