

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
December 1, 2011**

MEETING HELD IN THE JUDGE WELSH ROOM

Members Present: Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta.

Members Absent: Elisabeth Verde (excused), David Nicolau (excused) and Harriet Gordon (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 6:35 P.M.

MINUTES: November 17, 2011 – Robert Littlefield moved to approve the language as written, Tom Roberts seconded and it was so voted, 5-0.

PENDING DECISIONS:

FY12-21 887 Commercial Street (*Residential 1 Zone*), Lester J. Murphy, Attorney, on behalf of Stephen I. Ross and Virginia C. Ross –
Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. Tom Roberts read the decision. ***Robert Littlefield moved to approve the language as written, Joe Vasta seconded and it was so voted, 5-0.***

FY12-22 887 Commercial Street (*Residential 1 Zone*), Lester J. Murphy, Attorney, on behalf of Stephen I. Ross and Virginia C. Ross –
Anne Howard, Robert Littlefield, Tom Roberts, Harriet Gordon and Joe Vasta sat on the case. Tom Roberts read the decision. ***Robert Littlefield moved to approve the language as written, Joe Vasta seconded and it was so voted, 5-0.***

FY12-23 366 Commercial Street (*Town Commercial Center Zone*), Kaye McFadden on behalf of Francine D'Olimpio –
Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. Robert Littlefield read the decision. ***Amy Germain moved to approve the language as written, Tom Roberts seconded and it was so voted, 5-0.***

FY12-20 **247 Commercial Street (Town Commercial Center Zone), Richard F. Murray, DMD, on behalf of Crown and Anchor, Inc. –**
Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. Amy Germain read the decision. *Robert Littlefield moved to approve the language as written, Tom Roberts seconded and it was so voted, 5-0.*

Chair Anne Howard postponed the Work Session at 6:59 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 three absent.

POSTPONED CASES:

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. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Harriet Gordon sat on the case. There was a request from Attorney Benjamin Zehnder, representing the applicant, for a withdrawal without prejudice. *Amy Germain moved to grant the request for withdrawal without prejudice of Case #FY12-19, Robert Littlefield seconded and it was so voted, 5-0.*

NEW CASES:

FY12-26 **135 Commercial Street (Town Commercial Center Zone), Ted Smith, Architect, LLC on behalf of Eduardo Zaidner –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct an addition up and along pre-existing, non-conforming side and rear yard setbacks. Amy Germain recused herself because of a conflict of interest. Chair Anne Howard explained that since there were only four Board members seated on the case, necessitating a unanimous decision in order to be granted a Special Permit, the applicant had the choice of proceeding or postponing until five Board members could be seated. The applicant chose to proceed. Anne Howard, Robert Littlefield, Tom Roberts and Joe Vasta sat on both cases.

FY12-27 **135 Commercial Street (Town Commercial Center Zone), Ted Smith, Architect, LLC on behalf of Eduardo Zaidner –**
The applicant seeks a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale to construct a dormer.
Presentation: Ted Smith, Eduardo Zaidner and Chris Beasley appeared to present

the application. The applicant seeks to add a bedroom and a deck on the second floor of the structure. The addition will be located on top of a one story rear section of the structure. The deck will align with the roof ridge of the eastern wing and will follow the roofline of the existing structure. It will be extensively screened with non-deciduous plantings and will not be visible from the street. The footprint of the structure will not be increased. Mr. Smith argued that the proposal preserves the character of the existing structure and will integrate with neighboring structures in terms of massing, roof pitch and materials. The project is not substantially more detrimental to the neighborhood and does not create any hazard or congestion. The benefits to the Town are that construction jobs will be created and there will be an increase in tax revenues. The existing scale of the structure is 27,800 cu. ft., the proposed addition will add 4,815 cu. ft., for a total of 32,615 cu. ft. The neighborhood average is 18,904 cu. ft. and the maximum allowable scale is 21,240 cu. ft. The increase in scale satisfies subparagraph 5 and 6 of Article 2, Section 2640. The neighborhood is composed of diverse buildings with a wide variation of heights.

Public Comment: None. In the file, there was 1 letter from a Trustee, written on behalf of the Satori Condominium Association, and 3 letters from other condominium unit owners in support of the project. There were 2 letters from other abutters in support, and 1 letter from an abutter in opposition to the project.

Commission Discussion: The Commission questioned Mr. Smith, Dr. Zaidner and Mr. Beasley.

FY12-26 *Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct an addition up and along pre-existing, non-conforming side and rear yard setbacks at the property located at 135 Commercial Street (TCC), Joe Vasta seconded and it was so voted, 4-0.*

FY12-27 *Robert Littlefield moved to grant a Special Permit under Article 2, Section 2640 of the Zoning By-Laws for a deviation in building scale to construct a dormer at the property located at 135 Commercial Street (TCC), Tom Roberts seconded and it was so voted, 4-0.* Robert Littlefield will write both decisions.

FY12-28 **656 Commercial Street (Residential 2 Zone), Joshua D. Rego –**
Under Article 5, Section 5223 of the Zoning By-Laws, the applicant seeks to appeal the Building Commissioner's decision in regard to the expansion of an auto repair business for the light manufacturing and repair of firearms. Anne Howard, Robert Littlefield, Amy Germain, Tom Roberts and Joe Vasta sat on the case.

Presentation: Josh Rego appeared to present the application. The applicant seeks to expand the use of the building to include the repair and manufacture of firearms and is appealing the decision of the Building Commissioner which would not

Public Comment: Cynthia Packard, Shay Santos, Dan Towler, Helene Watt and Jean Knee, abutters, spoke in favor of the application. Dennis Minsky, Bob Anthony, Ian Miller, Dana McCannel, Dr. Paula Sperry, Rachel Peters, Vincent Duarte, Mike Janoplis, Rupert Bankert, Peter Cook and Paul Tasha, non-abutters, spoke in favor of the application. Frazier Lemley, an abutter, spoke in opposition to the application. The file contained 18 letters, including 8 from abutters, 10 from

non-abutters, and 4 petition signatures from abutters in favor of the application. There was a petition in support of the application with 44 signatures, including 30 from non-abutters, 2 from non-abutters who signed the petition and wrote letters, 4 from abutters who did not write letters and 8 from abutters who did submit letters. In addition, there was a letter from Jeff Jaran, Chief of Police. There were 12 letters in opposition to the application.

Commission Discussion: The Commission questioned Mr. Rego.

Amy Germain moved to overturn the Building Commissioner's decision of November 3, 2011, to deny the applicant's request to expand an auto repair business for the light manufacturing and repair of firearms at the property located at 656 Commercial Street (Res 2), Robert Littlefield seconded and it was so voted, 5-0. Amy Germain will write the decision.

Chair Anne Howard adjourned the Public Hearing at 9:00 P.M.

WORK SESSION

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

The Board finished signing documents.

NEXT MEETING: The next meeting will take place on December 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 9:10 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 December 15, 2011.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2011
Anne Howard, Chair