

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
March 15, 2012**

MEETING HELD IN THE CAUCUS HALL

Members Present: Anne Howard, David Nicolau, Tom Roberts and Harriet Gordon.

Members Absent: Amy Germain, Robert Littlefield, Joe Vasta and Elisabeth Verde (all 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: March 1, 2012 – Tom Roberts moved to approve the language as written, David Nicolau seconded and it was so voted, 3-0.

March 8, 2012 – Tom Roberts moved to approve the language as written, Anne Howard seconded and it was so voted, 3-0.

PENDING DECISIONS:

FY12-49 **21 Bradford Street Extension (*Residential 1 Zone*), WK Red Clay, LLC –**
Anne Howard, Robert Littlefield, Tom Roberts and Harriet Gordon sat on the case. Anne Howard read the decision. ***Harriet Gordon moved to accept the language as written, Tom Roberts seconded and it was so voted, 3-0.***

FY12-50 **542 Commercial Street (*Residential 3 Zone*), Provincetown Hospitality, LLC–**
Anne Howard, Robert Littlefield, Tom Roberts and Joe Vasta sat on the case. Anne Howard read the decision. ***Tom Roberts moved to accept the language as written, Anne Howard seconded and it was so voted, 3-0.***

FY12-51 **186 Commercial Street (*Town Commercial Center Zone*), John Yingling –**
Anne Howard, Robert Littlefield, Tom Roberts and Joe Vasta sat on the case. Tom Roberts read the decision. ***Anne Howard moved to accept the language as written, Tom Roberts seconded and it was so voted, 3-0.***

FY12-52 **186 Commercial Street (*Town Commercial Center Zone*), John Yingling –**
Anne Howard, Robert Littlefield, Tom Roberts and Joe Vasta sat on the case. Tom Roberts read the decision. ***Anne Howard moved to accept the language as written, Tom Roberts seconded and it was so voted, 3-0.***

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 four members of the Zoning Board of Appeals present and four absent.

NEW CASES:

FY12-54 The Pavilion located at the end of MacMillan Pier (*Harbor Overlay and Town Commercial Center Zone*), Town of Provincetown d/b/a Provincetown Public Pier Corporation –

The applicant seeks a Special Permit under Article 2, Sections 2315, D3 and E3f and 2460 of the Zoning By-Laws for Waterfront Special Permit use of the Pavilion for small-scale events. There was a request submitted by the applicant to postpone Case #FY12-54 until the April 5, 2012 Public Hearing.

Tom Roberts moved to accept the request to postpone Case #FY12-54 until the April 5, 2012 Public Hearing, Harriet Gordon seconded and it was so voted, 4-0.

FY12-55 99 Commercial Street (*Residential 3 Zone*), Lora Papetsas of Sal's Place, Inc. –

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to install a full-service, sit-down bar with 10 bar stools converting existing seating to accommodate the 10 bar stools. There was a request submitted by the applicant to postpone Case #FY12-55 until the April 5, 2012 Public Hearing.

David Nicolau moved to accept the request to postpone Case #FY12-55 until the April 5, 2012 Public Hearing, Harriet Gordon seconded and it was so voted, 4-0.

FY12-57 672 Commercial Street (*Residential 1 Zone*), Brad Locke on behalf of Fabian, LLP –

The applicant seeks a Special Permit under Article 2, Section 2450, G10 and Article 3, Sections 3110 and 3115 of the Zoning By-Laws to demolish a pre-existing, non-conforming garage building and reconstructing a new artist's studio building on the existing footprint. There was a request submitted by the applicant to postpone Case # FY12-57 until the April 5, 2012 Public Hearing.

Harriet Gordon moved to accept the request to postpone Case #FY12-57 until the April 5, 2012 Public Hearing, David Nicolau seconded and it was so voted, 4-0.

FY12-58 2A Browne Street (*Residential 2, Zone*), John Reis, Inc. on behalf of Mark Bove and William M. Fraher –

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a second floor addition up and along a pre-existing, non-conforming front yard setback. There was a request submitted by the applicant to postpone Case #FY12-58 until the April 5, 2012 Public Hearing.

Harriet Gordon moved to accept the request to postpone Case #FY12-58 until the April 5, 2012 Public Hearing, Tom Roberts seconded and it was so voted, 4-0.

FY12-56 6 Bay Harbour Drive (Residential 1 Zone), William N. Rogers, II, P.E. & P.L.S. on behalf of Jason E. Stone, LLC –

The applicant seeks a Special Permit under Article 2, Section 2450, G12 of the Zoning By-Laws for the installation of a 13.5' by 31' in-ground salt water swimming pool. Anne Howard explained that since there were only four Board members seated, necessitating a unanimous decision in order to grant a Special Permit, the applicant had the choice of proceeding now or continuing the case until five Board members could be seated. The applicant chose to proceed. Anne Howard, David Nicolau, Tom Roberts and Harriet Gordon sat on the case.

Presentation: Gary Locke, Attorney David Reid, Jason E. Stone and Jen Malila appeared to present the application. The applicant seeks to install a salt water pool as shown on a revised site plan dated February 18, 2012. Attorney Reid, pursuant to Article 5, Section 5330 of the Zoning By-Laws, stated that there will be no adverse effects such as hazard, congestion or environmental degradation. Gates will surround the pool for public safety purposes. The project has been approved by the Conservation Commission. The project will benefit the applicant and the benefit to the Town will be to have a satisfied homeowner and an increase in the tax base. By having private recreation, the applicant will not have to seek public recreation. He offered to submit a decision to the Board for consideration.

Public Comment: None. There were 7 letters, 3 from Mr. Stone who is also an abutter, in the file in support of the application.

Board Discussion: The Board questioned. Mr. Locke, Attorney Reid, Mr. Stone and Ms. Malila.

David Nicolau moved to grant a Special Permit under Article 2, Section 2450, G12 of the Zoning By-Laws for the installation of a 13.5' by 31' in-ground salt water swimming pool at the property located at 6 Bay Harbour Drive (Res 1), with the condition that the water be trucked into the site, that there be only low lighting surrounding the pool and that there be no amplification of music at poolside, Tom Roberts seconded and it was so voted, 4-0. David Nicolau will write the decision.

Chair Anne Howard adjourned the Public Hearing at 7:28 P.M.

WORK SESSION

Chair Anne Howard reconvened the Work Session at 7:28 P.M.

PENDING DECISIONS CONTINUED:

FY12-53 8 Heather’s Way (*Residential 3 Zone*), William N. Rogers, II, P.E. & P.L.S. on behalf of Off Cemetery Road Realty Trust –

Anne Howard, Robert Littlefield, David Nicolau, Tom Roberts and Joe Vasta sat on the case. Tom Roberts read the decision. *Anne Howard moved to approve the language as written, Tom Roberts seconded and it was so voted, 3-0.*

SPECIAL PERMIT EXTENSION REQUEST:

Chair Anne Howard discussed an issue concerning Case #2010-14, involving Ace Conwell Lumber & Hardware. When the project was completed in May of 2010, the Town informed the owner that a sprinkler system had to be installed pursuant to the State Building Code. This, coupled with a new alarm system and a new primary egress staircase to the second floor offices, added unanticipated costs to the project. The owner does not have the capital to finish the project as originally designed and approved by the ZBA, and is requesting an extension of two years for the Special Permit granted in March of 2010.

Anne Howard moved to grant an extension of the Special Permit granted in Case #2010-14 for a period of two years, to expire on April 30, 2014, Tom Roberts seconded and it was so voted, 3-0-1 (David Nicolau abstaining).

NEXT MEETING: The next meeting will take place on April 5, 2012. It will consist of a Public Hearing at 6:45 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Tom Roberts moved to adjourn at 7:45 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 April 5, 2012.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2012
Anne Howard, Chair