

**TOWN OF PROVINCETOWN  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
July 23, 2014**

**MEETING HELD IN THE JUDGE WELSH ROOM**

**Members Present:** David M. Nicolau, Robert Littlefield, Amy Germain (arrived at 6:52 P.M.), Joe Vasta (arrived at 6:40 P.M.) and Jeffrey Haley.

**Members Absent:** Peter Page (unexcused).

**Others Present:** Gloria McPherson (Town Planner) and Ellen C. Battaglini (Recording Secretary).

**WORK SESSION**

Chair David M. Nicolau called the Work Session to order at 6:34 P.M.

**MINUTES: June 19, 2014** – *Robert Littlefield moved to approve the language as amended, Jeffrey Haley seconded and it was so voted, 3-0.*

**EXECUTIVE SESSION MINUTES: July 17, 2014** – *Joe Vasta moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 3-0-1 (David M. Nicolau abstained).*

**PENDING DECISIONS:**

- FY14-64**     **3 Creek Round Hill Road (*Residential 1 Zone*), William N. Rogers, II on behalf of Robert R. McBride et al. -**  
David M. Nicolau, Amy Germain, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. This decision is not yet ready to file.
- FY14-67**     **11 Mermaid Avenue (*Residential 1, Zone*), William N. Rogers, II, on behalf of Neil Hanscomb –**  
David M. Nicolau, Amy Germain, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. The reading of the decision is postponed to the August 7, 2014 Public Hearing.
- FY14-71**     **333 Commercial Street (*Town Commercial Center Zone*), Nancy Ann Meads –**  
Robert Littlefield, Amy Germain, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. The decision was amended and signed by Amy Germain.

**FY14-72**      **56 Commercial Street (*Residential 3 Zone*), Donald Murphy –**  
Robert Littlefield, Amy Germain, Jeffrey Haley and Peter Page sat on the case. This decision has been amended and was signed.

**FY14-74**      **1 MacMillan Wharf (*Town Commercial Center and Harbor Overlay Zones*), Provincetown Public Pier Corporation –**  
Robert Littlefield, Amy Germain, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. This decision has not yet been amended.

Chair David M. Nicolau said that he wanted to discuss the issue of scale at a future Work Session. He adjourned the Work Session at 7:00 P.M.

## **PUBLIC HEARING**

Chair David M. Nicolau called the Public Hearing to order at 7:00 P.M. There five members of the Zoning Board of Appeals present and one absent.

**FY14-69**      **63 Shank Painter Road, (*General Commercial Zone*), Elizabeth Athineos**  
*(continued from July 17, 2014) –*  
The applicant seeks a Special Permit under Article 3, Section 3420, Outside Display, of the Zoning By-Laws to display bikes on the outdoor deck. Robert Littlefield recused himself because he did not sit on the original hearing of the case. David M. Nicolau, Amy Germain, Joe Vasta and Jeffrey Haley sat on the case. Chair David M. Nicolau said that it is the responsibility of the Building Department to enforce the violations and that the Board is just considering whether to approve the Special Permit for the outdoor display of bikes. The Board briefly discussed the issue.  
*Amy Germain moved to grant a Special Permit under Article 3, Section 3420, Outside Display, of the Zoning By-Laws to have an outdoor display at the property located at 63 Shank Painter Road (GC), Joe Vasta seconded and it was so voted, 4-0.*

**FY14-75**      **3 Fishburn Court (*Residential 3 Zone*), John DeSouza on behalf of Thomas Thompson –**  
The applicant seeks a Special Permit pursuant to Article 2, Section 2640 Building Scale, of the Zoning By-Laws to deviate from neighborhood average building scale to extend two porches, one of which is to be enclosed to create a mudroom. This case is postponed to the August 7, 2014 Public Hearing.

**FY14-78**      **26 Alden Street (*Residential 3 Zone*), 26 Alden, LLC –**  
The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension and Alteration, of the Zoning By-Laws, to demolish and reconstruct two pre-existing, non-conforming stairways within the front yard setback.

**FY14-79      26 Alden Street (Residential 3 Zone), 26 Alden, LLC –**

The applicant seeks a Special Permit pursuant to Article 4, Section 4170, Change of Use/Non-Residential to Residential Use Conversions, of the Zoning By-Laws, to convert the existing municipal use to a nine-unit multi-family use, including three affordable units. David M. Nicolau, Robert Littlefield, Amy Germain, Joe Vasta and Jeffrey Haley sat on both cases. The Board will hear both cases together.

**Presentation:** Attorney Mark LaCasse, Bob O'Malley, David Goldman, Scott Grady, Jay Coburn and Jason Ellis appeared to present the application. Mr. Grady explained the change in the staircases. The staircase that provides access to the main part of the building has a small 4' landing and an existing stair that extends into the front yard setback. There is a door that opens out onto the landing for access to the building. The proposal is to reconstruct this staircase to historic standards enhancing the aesthetics of the building and to increase the size of the landing to make it safe. The proposed landing will extend 5' out from the building, which will push the steps farther into the front yard setback, increasing the non-conformancy. The existing landing is 6' by 4', the proposed will be 10' by 5'. The existing and proposed steps will have the same dimensions. The existing staircase encroaches 2.7' into the front yard setback, the proposed will encroach 3.7' into the setback.

The other staircase has two landings. One of the landings will be removed and the non-conformancy will be reduced. The staircase will be re-configured to run along the side of the building. The existing landing is 6' by 5'6", the proposed landing will be 6' by 6'. The proposed steps are 5' by 6', the same as the existing steps. The existing non-conformancy is 9.3', the proposed non-conformancy will be reduced to 2.4'. The proposed development will be a multi-family residential use and consist of 3 affordable and 6 market rate units. This is a change in use from a municipal building. There will be more than the required number of parking spaces located on the property.

**Public Comment:** Jay Coburn spoke in favor of the application. Khristine Hopkins, an abutter, had concerns about mitigation for the loss of resident parking at the 26 Alden Street property and the loss of a pathway leading to Motta Field. There were 2 letters from abutters in support of the application and there was a letter from Ms. Hopkins and Donald Beal expressing the concerns she had spoken to.

**Board Discussion:** The Board questioned the panel. The Board discussed with Mr. Goldman the resident parking issue and the possibility of retaining some kind of access to Motta Field. He said that there had been an initial outreach to the neighbors about their concerns. He said that he would like to relocate the pathway but there were liability issues involved. He added that since there are more parking spaces than required, he thought that they would be able to sit down with the neighbors and work something out.

**Section 3110:** *Amy Germain moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extension and Alteration, of the Zoning By-Laws, to demolish and reconstruct two pre-existing, non-conforming stairways within the front*

*yard setback at the property located at 26 Alden Street (Res 3) with the conditions that revised plans showing 21 proposed parking spaces on the property be submitted and that the application is complete, Joe Vasta seconded and it was so voted, 5-0. Amy Germain will write the decision.*

**Section 4170:** *Robert Littlefield moved to grant a Special Permit pursuant to Article 4, Section 4170, Change of Use/Non-Residential to Residential Use Conversions, of the Zoning By-Laws, to convert the existing municipal use to a nine-unit multi-family use, including three affordable units at the property located at 26 Alden Street (Res 3), Amy Germain seconded and it was so voted, 5-0. David M. Nicolau will write the decision.*

**FY14-80**      **10 Young's Court (Residential 3 Zone), John Pompeii –**

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension and Alteration, of the Zoning By-Laws to add a second floor and a dormer within the side yard setback. This case has been postponed to the August 7, 2014 Public Hearing.

The Board talked about case files.

**NEXT MEETING:** The next meeting will take place on August 7, 2014. It will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Amy Germain moved to adjourn at 8:30 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on August 7, 2014  
David M. Nicolau, Chair