

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
November 6, 2014**

MEETING HELD IN THE JUDGE WELSH ROOM

Members Present: David M. Nicolau, Robert Littlefield, Amy Germain (arrived at 6:05 P.M.), Joe Vasta, Jeffrey Haley and Peter Page.
Members Absent: None.
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 6:00 P.M.

PENDING DECISIONS:

- FY15-11** **457 Commercial Street (*Residential 3 Zone*), Ezra Block –**
David M. Nicolau, Robert Littlefield, Joe Vasta, Jeffrey Haley and Peter Page sat on the case. David M. Nicolau will be writing the decision.
- FY15-12** **1 Fortuna Road (*Residential 1 Zone*), Scott Grady Architects on behalf of Stan Sikorski –**
Robert Littlefield, Amy Germain, Joe Vasta and Jeffrey Haley sat on the case. Joe Vasta read the decision. *Robert Littlefield moved to approve the language as written, Jeffrey Haley seconded and it was so voted, 4-0.*
- FY15-20** **293 Commercial Street (*Town Commercial Center Zone*), Julie Knapp, dba Twisted Pizza –**
David M. Nicolau, Robert Littlefield, Amy Germain, Joe Vasta and Jeffrey Haley sat on the case. Amy Germain read the decision. *Robert Littlefield moved to approve the language as written, Joe Vasta seconded and it was so voted, 5-0.*

MINUTES: October 16, 2014 & October 23, 2014 – *Jeffrey Haley moved to approve the language as written, Joe Vasta seconded and it was so voted, 5-0-1 (Amy Germain abstaining).*

Meet with applicants for ZBA membership: The Board met with Bryan Armstrong and Rob Anderson, both of whom submitted applications to become alternate members of the ZBA. The Board questioned Mr. Armstrong and Mr. Anderson.
Robert Littlefield moved to approve the appointment of Bryan Armstrong as an alternate

member of the Zoning Board of Appeals, Peter Page seconded and it was so voted, 6-0.

Robert Littlefield moved to approve the appointment of Rob Anderson as an alternate member of the Zoning Board of Appeals, Peter Page seconded and it was so voted, 6-0.

The Board discussed Article 3, Section 3110 and Article 5, Section 5330 of the Zoning By-Laws. The Board requested that Ms. McPherson contact Town Counsel for an opinion and clarification regarding questions raised during the discussion.

Chair David M. Nicolau adjourned the Work Session at 6:52 P.M.

PUBLIC HEARING

Chair David M. Nicolau called the Public Hearing to order at 7:00 P.M. There were six members of the Zoning Board present and none absent.

FY15-24 10 Telegraph Hill Road (*Residential 1 Zone*), B+C Construction on behalf of Evelyn Gentemann –

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to construct a new dormer and roof deck. David M. Nicolau recused himself because of a conflict of interest. Robert Littlefield, Amy Germain, Joe Vasta and Jeffrey Haley sat on the case. Vice Chair Robert Littlefield reminded the applicant that there were still only four members of the Board seated on the case and that a unanimous decision would be needed in order for a Special Permit to be granted. The applicant chose to proceed.

Presentation: Kevin Bazarian and Evelyn Gentemann appeared to discuss the case. Revised scale calculations had been submitted. The existing scale is 31,640 cu. ft. and the addition has a scale of 3,152 cu. ft., for a total of 34,792 cu. ft. The neighborhood scale is 25,327 cu. ft. and the maximum allowable scale is 31,659 cu. ft. The proposed project involved a modest scale increase, according to Ms. Gentemann. Even with the addition, the structure will remain the smallest in the Telegraph Hill neighborhood. Pursuant to Article 2, Section 2640E, the proposed addition successfully integrates into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural light to, or views from, neighboring structures.

Board Discussion: The Board questioned Mr. Bazarian and Ms. Gentemann. *Jeffrey Haley moved to grant a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to construct a new dormer and roof deck at the property located at 10 Telegraph Hill Road (Res 1), Joe Vasta seconded and it was so voted, 4-0.* Robert Littlefield will write the decision.

FY15-16 4 West Vine Street (Residential 2 Zone), Ted Smith, Architect, LLC on behalf of Jim McGuire –

The applicant seeks a Special Permit pursuant to Article 2, Section 2560, Permitted Accessory Uses, of the Zoning By-Laws to construct an 8' by 12' shed. This matter has been continued to the December 18, 2014 Public Hearing.

FY15-23 4 West Vine Street (Residential 2 Zone), Ted Smith, Architect, LLC on behalf of Jim McGuire –

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, and Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to redesign and raise the roof by 4' 10" within This matter has been postponed until the December 18, 2014 Public Hearing.

FY15-18 474 Commercial Street (Residential 3, Zone), Deborah Sanders & James Rosenfield –

The applicants seek a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to construct a second floor addition on the rear portion of the structure and construct a dormer along the entire east side of a roof. David M. Nicolau, Amy Germain, Robert Littlefield, Joe Vasta and Jeffrey Haley sat on the case.

Presentation: Attorney Lester J. Murphy and Deborah Sanders appeared to discuss the application. Attorney Murphy explained that the initial site plan submitted did not delineate the setbacks of the part of the structure that is the subject of the application, therefore a new site plan had been submitted showing the setbacks in question. A non-conforming checklist had also been submitted..

Board Discussion: The Board questioned Attorney Murphy. The Board reviewed the non-conforming checklist. Some of the information on the checklist was incorrect and the Board requested that an accurate checklist be submitted. The non-conforming setbacks are the two side yard setbacks. The front yard setback and the lot coverage are conforming. The area involved in the addition is the smaller, shorter portion of the building. Chair David M. Nicolau stated that the Board needed to decide whether the alteration or extension of the structure substantially more detrimental than the existing non-conformancies of the neighborhood. The Board discussed the issue and whether the site plan submitted was sufficient for the Board to render a decision. The Board requested that the applicant submit a site plan showing where the proposed dormer will be located on the footprint of the building.

Robert Littlefield moved to grant a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to construct a second floor addition on the rear portion of the structure and construct a dormer along the entire east side of a roof at the property located at 474 Commercial Street (Res 3) under the Goldhirsh v. McNear ruling with the conditions that a revised site plan and a corrected non-conforming checklist be submitted, Joe Vasta seconded and it was so voted, 5-0.

Chair David M. Nicolau allowed a public comment on the project, however the remark was not relevant to the matter that had been discussed by the Board.

FY15-26 17 Montello Street (*Residential 3 Zone*), William N. Rogers on behalf of Frank Gaynor –

The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, of the Zoning By-Laws to construct an outdoor stair as a second means of egress. This case has been postponed until the November 20, 2014 Public Hearing.

FY15-27 237-241 Commercial Street (*Town Commercial Center Zone*), Robin B. Reid on behalf of Ross' Grill, LLC –

The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to increase seating from 35 to 62. This case has been postponed until the November 20, 2014 Public Hearing.

FY15-28 101 Commercial Street (*Residential 3 Zone*), Hammer Architects on behalf of David A. Deckelbaum –

The applicant seeks a Special Permit pursuant to Article 2, Section 2560, Dimensional Schedule, of the Zoning By-Laws to construct a new egress stair on the front of the existing structure and therefore create a new non-conformancy.

FY15-29 101 Commercial Street (*Residential 3 Zone*), Hammer Architects on behalf of David A. Deckelbaum –

The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extension or Alteration, of the Zoning By-Laws to construct a two-story addition with new roof dormers and elevate the entire structure to comply with FEMA code requirements.

Attorney Lester J. Murphy requested that these two cases be postponed until the November 20, 2014 Public Hearing.

Jeffrey Haley moved to postpone Cases #FY15-28 and #FY15-29 until the November 20, 2014 Public Hearing, Joe Vasta seconded and it was so voted, 5-0.

NEXT MEETING: The next meeting will take place on Thursday, November 20, 2014. It will consist of a Work Session at 6:00 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Jeffrey Haley moved to adjourn at 8:00 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on November 20, 2014
David M. Nicolau, Chair