

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

### MEETING MINUTES OF March 15, 2007

#### MEETING HELD IN TOWN HALL

**Members Present:** Lynne Davies, Peter Page, Patrick Eeley, Elisabeth Verde, Robert Littlefield, Keith Amato and Amy Germain.

**Members Absent:** Todd Dever (excused).

**Others Present:** Matt Mulvey (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

### PUBLIC HEARING

Chair Lynne Davies called the Public Hearing to order at 7:00 P.M.

**2007-11**      **220 Commercial Street (Town Commercial Center), Nick Robertson -**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for an outside display of merchandise. Peter Page recused himself because of a conflict of interest. Lynne Davies, Patrick Eeley, Elisabeth Verde, Robert Littlefield and Keith Amato sat on the case.

**Presentation:** Nick Robertson appeared to present the application.

**Public Comment:** None. There were no letters in the file.

**Board Discussion:** The Board questioned Mr. Robertson.

*Elisabeth Verde moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for an outside display of merchandise at the property located at 220 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 5-0.*

**2007-12**      **210A Bradford Street, Unit #2 (Residential 3 Zone), Michael Peregon -**

The applicant seeks a Special Permit under Article 2, Section 2560 and Article 3, Section 3110 of the Zoning By-Laws to construct a second floor addition up and along a pre-existing front and side yard setback. Lynne Davies, Peter Page, Patrick Eeley, Elisabeth Verde and Robert Littlefield sat on the case.

**Presentation:** Michael Peregon appeared to present the application. The applicant seeks to enlarge a cottage on the property by adding a half story in order to accommodate a bedroom. The footprint will remain the same.

**Public Comment:** None. There were no letters in the file.

**Board Discussion:** The Board questioned Mr. Peregon.

**FINDINGS OF FACT:**

- The pre-existing, non-conforming setbacks are on the west side and south side of the property, the west side setback is 4-6' and the south side setback is 4'.
- The footprint of the structure is remaining the same, thus both the lot coverage and the scale of the proposed structure comply with all applicable sections of the Zoning By-Laws that pertain to lot coverage and height requirements; and
- The proposed alteration will not result in an intrusion further into the setbacks and will not be substantially more detrimental to the neighborhood.

*Peter Page moved to grant a Special Permit under Article 2, Section 2560 and Article 3, Section 3110 of the Zoning By-Laws to construct a second floor addition up and along a pre-existing front and side yard setback at the property located at 210A Bradford Street (Res 3), Elisabeth Verde seconded and it was so voted, 5-0. Elisabeth Verde will write the decision.*

**2007-13**      **290E Bradford Street (Residential 3 Zone), John DeSouza on behalf of Robert Zeller -**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a

deviation from the neighborhood average for building scale to construct a small addition. Peter Page recused himself because of a conflict of interest. Lynne Davies, Patrick Eleey, Elisabeth Verde, Robert Littlefield and Keith Amato sat on the case.

**Presentation:** John DeSouza and Robert Zeller appeared to present the application. The applicant seeks to add a one-story addition that measures 14' by 14' in dimension.

**Public Comment:** Jonathan Sinaiko, an abutter, spoke in favor of the application. There was 1 letter in the file from an abutter in favor of the application.

**Board Discussion:** The Board questioned Mr. DeSouza and Mr. Zeller.

**FINDINGS OF FACT:**

- The existing structure has a scale of 42.59 scale units;
- The allowed scale, as per the assessor's data, is 43.74 s.u.;
- The proposed structure will have a scale of 50.09 s.u.;
- The proposed structure, as it is not visible from the street, will be compatible and harmonious with its site and the surrounding neighborhood and thus will be in keeping with the objectives of the Local Comprehensive Plan.

*Patrick Eleey moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation from the neighborhood average for building scale to construct a small addition at the property located at 290E Bradford Street (Res 3), Robert Littlefield seconded and it was so voted, 5-0. Patrick Eleey will write the decision.*

**2007-14 6 Sandy Hill Lane (Residential 3 Zone), Cassandra Benson and Geraldine Anathan -**

The applicants seek a Special Permit under Article 3, Section 3110, 3340E and Article 4, Section 4800 of the Zoning By-Laws for a change in use from a 12-unit motel to 12 residential units, to construct a second-story addition, for a deviation in building scale and to add an accessory use dwelling unit.

**2007-15 6 Sandy Hill Lane (Residential 3 Zone), Cassandra Benson and Geraldine Anathan -**

The applicants seek a Special Permit under Article 5, Section 5222 of the Zoning By-Laws for a Variance from the density requirements to accommodate the twelfth dwelling unit on the lot. These two cases will be heard together. Lynne Davies, Peter Page, Patrick Eleey, Elisabeth Verde and Robert Littlefield sat on the cases. Chair Lynne Davies notified the applicants that even though Case #2007-14 was advertised and applied for as a change of use, the application did not specifically state that a Special Permit was requested for Article 4 Section 4170, which governs change of use from a non-residential use to a residential use. The Board members sitting on the case were polled as to whether they would hear the case despite the oversight. The Board decided to proceed with the case.

**Presentation:** Cass Benson, Gerry Anathan, Ted Malone and Attorney Kevin Redmond appeared to present the application. The applicants seek to create 12 affordable units from 12 motel units, which will include adding a second story to each unit. The footprint of the structure will remain the same. The applicants stated that their project is in keeping with the goals of the Local Comprehensive Plan, which supports innovative strategies for creating affordable housing. They also feel that the social, economic and other benefits of the proposal for the town outweigh any adverse effects such as hazard, congestion or environmental degradation.

**Public Comment:** Jeff Rogers, speaking on behalf of abutter Charlie Rogers, argued that proper notice was not given to abutters because both the date and the time of the meeting were not mentioned in the abutters' notices.

**Board Discussion:** After some discussion, the Board decided to continue these two cases. The Board will hold a hearing on March 22, 2007 and in the meantime the abutters to the project will be notified properly.

Chair Lynne Davies adjourned the Public Hearing at 8:30 P.M.

## WORK SESSION

Chair Lynne Davies called the Work Session to order at 8:30 P.M.

### CONTINUED CASES:

#### **2007-09 258 Commercial Street (Town Commercial Center), Brian Hart -**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to re-locate the bar and change the seating arrangement with no change in the number of seats. Lynne Davies, Patrick Eleey, Elisabeth Verde, Todd Dever and Keith Amato sat on the case. Only four of the Board members sitting on the case were present so Chair Lynne Davies gave the applicant the choice of being heard this evening, in which case they would need a unanimous vote in order to be granted a Special Permit, or wait until the fifth member was present to be heard. The applicant chose to proceed with four members seated.

**Presentation:** Brian Hart and Steve Schnitzer appeared to discuss the application. The applicant submitted an accurate seating chart and showing the change in location of the bar. The applicant reiterated to the Board that the purpose of moving the bar was to improve the flow in the restaurant. He also restated that there will be tables in between the bar and the edge of the restaurant.

**Public Comment:** A letter from the Acting Police Chief was read into the record.

**Board Discussion:** The Board questioned Mr. Hart and Mr. Schnitzer. The Board has concerns about moving the bar closer to the street side of the restaurant as there have been a number of noise complaints in the past several years.

#### **FINDINGS OF FACT:**

- The bar will be moved from its current location to a new location as shown on the revised seating plan as presented by the applicant on March 15, 2007;
- The premises is licensed for 105 seats;
- The Special Permit will be approved for one year and one of the renewal criteria will be a review of noise complaints made to the Provincetown Police Department;
- Access to the stairs will remain clear for public safety purposes, including exiting in the case of an emergency;
- All prior conditions stated in previous decisions granting Special Permits to the property will be adhered to;
- The front, outside perimeter of the restaurant will retain its barrier of seats and tables; and
- The renewal date of the Special Permit will coincide with the filing of the Zoning Board of Appeal's decision.

*Elisabeth Verde moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to re-locate the bar and change the seating arrangement with no change in the number of seats at the property located at 258 Commercial Street (TCC) with the condition that the Special Permit will be valid for only one year, Keith Amato seconded and it was so voted, 4-0-1 (Todd Dever absent).*

#### **2006-070 150 Bradford Street (Residential 3 Zone), Tom Boland and James Farley -**

This case is continued until the April 19, 2007 hearing.

**MINUTES: March 1, 2007 – Patrick Eleey moved to approve the language as amended, Elisabeth Verde seconded and it was so voted, 4-0-3 (Peter Page, Robert Littlefield and Amy Germain abstaining).**

The Board briefly discussed application procedures and how Special Permit applications may be revised.

### **NEXT MEETING:**

The next meeting will be on March 22, 2007 and will be held in the Judge Welsh Hearing Room and will consist of a Public Hearing at 7:00 P.M. with a Work Session to follow.

### **ADJOURNMENT:**

*Peter Page moved to adjourn at 9:15 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 March 22, 2007.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

Ellen C. Battaglini