

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
June 7, 2007

MEETING HELD IN TOWN HALL

Members Present: Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Scott Caldwell.

Members Absent: Robert Littlefield (excused) and Amy Germain (excused).

Others Present: Matt Mulvey (Building Commissioner), Maxine Notaro (Permit Coordinator).

WORK SESSION

Chair Patrick Eeley called the Work Session to order at 6:30 P.M.

PENDING DECISION:

2007-28 **293 Commercial Street (Town Commercial Center Zone), Patricia McGuire -**
Patrick Eeley, Peter Page, Robert Littlefield, Amy Germain and Scott Caldwell sat on the case. Patrick Eeley read the decision. *Scott Caldwell moved to approve the language as written, Peter Page seconded and it was so voted, 3-0-2 (Robert Littlefield and Amy Germain absent).*

PENDING CASES:

2007-17 **89 Bradford Street (Residential 3 Zone), Attorney E. James Veara on behalf of John R. Burrows -**
The applicant is appealing a decision of the Building Commissioner under Article 5, Section 5223 of the Zoning By-Laws. This case is continued until the June 21, 2007 hearing.

2007-27 **179 Commercial Street (Town Commercial Center Zone), James McNulty –**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the ability to allow patrons to bring their drinks onto an exclusive use patio while smoking and waiting. This case is continued until the June 21, 2007 hearing.

Chair Patrick Eeley adjourned the Work Session at 7:00 P.M.

PUBLIC HEARING

Chair Patrick Eeley called the Public Hearing to order at 7:00 P.M.

2007-29 **1 Tremont Street (Town Commercial Center Zone), Robin B. Reid, Esq. on behalf of Tremont Nominee Trust –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the extension of a pre-existing, non-conforming structure along non-conforming dimensions. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Scott Caldwell sat on the case.
Presentation: Attorney Robin B. Reid, Tom Fielding and Scott O'Connor appeared to present the application. The applicants seek to construct a one bedroom dwelling unit above a liquor store.
Public Comment: Steve Mascillo, Pauline Fisher, Frank DeSello, David Nicolau, Bill Dougal, Sheila Montagne and Steve Berkowski all spoke in favor of the application. Russ Sanderson had concerns about the project, including the increase in the footprint of the proposed structure, the proximity of the structure to his property line and the uncertainty of what might happen if the applicants were to sell. Cila Lyn spoke in opposition to the application. There was 1 letter in favor and 1 letter in opposition to the application in the file.
Board Discussion: The Board questioned Attorney Reid, Mr. Fielding and Mr. O'Connor. The applicants requested a continuance until the June 21, 2007 hearing.

- 2007-35** **212-214 Commercial Street (Town Commercial Center Zone), New Art Realty Corporation, Provincetown Cinema Company, d/b/a Provincetown Art House Theater -**
 The applicant seeks a Special Permit under Article 2, Section 2440 B9 of the Zoning By-Laws for the addition of nudity to an existing entertainment license. Elisabeth Verde recused herself because of a conflict of interest. Patrick Eeley, Peter Page, Keith Amato and Scott Caldwell sat on the case. The applicant requested a withdrawal without prejudice, based on the fact that what is being requested is an allowed use in the TCC Zone.
Keith Amato moved to accept the withdrawal without prejudice of Case # 2007-35, Scott Caldwell seconded and it was so voted, 4-0.
- 2007-30** **396 Commercial Street (Town Commercial Center Zone), John Derian –**
 The applicant seeks a Special Permit under Article 2, Section 2440, B4f of the Zoning By-Laws to change the use of a 350 square foot portion of an existing residential structure to retail use. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Scott Caldwell sat on the case. The applicant requested a withdrawal without prejudice, as the use that he is requesting is an allowed use in the TCC Zone.
Peter Page moved to accept the withdrawal without prejudice of Case # 2007-30, Patrick Eeley seconded and it was so voted, 5-0.
- 2007-31** **162 Commercial Street (Town Commercial Center Zone), Kinlin Grover GMAC Real Estate -**
 The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for a glass-front display box to show 6 items. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Scott Caldwell sat on the case.
Presentation: _____ appeared to present the application.
Public Comment: None. There was 1 letter in the file in favor of the application.
Board Discussion: The Board questioned _____.
Elisabeth Verde moved to approve a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for a glass-front display box to show 6 items at the property located at 162 Commercial Street (TCC), Scott Caldwell seconded and it was so voted, 5-0.
- 2007-32** **432 Commercial Street (Residential 3 Zone), James Lyman and Katherine Baltivik –**
 The applicants seek a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to replace an outside display case. Peter Page disclosed that he works for the owner of a condominium unit in the building and is acquainted with another unit owner, but feels he can render a fair and just decision and has no financial stake in the outcome of the case. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Scott Caldwell sat on the case.
Presentation: James Lyman and Katherine Baltivik appeared to present the application. They have permission from the condominium association to install a display case.
Public Comment: Hilda Neilly has a concern about the display case as she seeks to have one at the property as well. There were no letters in the file.
Board Discussion: The Board questioned Mr. Lyman and Ms. Baltivik. Matt Mulvey will need to approve the dimensions of both display cases requested by the two gallery owners on the premises. The case is continued until the June 21, 2007 hearing.
- 2007-33** **9 Oppen Lane (Residential 1 Zone), David M. Nicolau on behalf of Jeffrey and Mardee Liebert -**
 The applicants seek a Special Permit under Article 2, Section 2450, G12 of the Zoning By-Laws for the installation of an approximately 25' by 45' in-ground swimming pool. Patrick Eeley, Peter Page, Elisabeth Verde, Keith Amato and Scott Caldwell sat on the case.
Presentation: David M. Nicolau appeared to present the application.
Public Comment: None.
Board Discussion: The Board questioned Mr. Nicolau.
Keith Amato moved to grant a Special Permit under Article 2, Section 2450, G12 of the Zoning By-Laws for the installation of an approximately 25' by 45' in-ground swimming pool at the property located at 9 Oppen Lane (Res 1), Elisabeth Verde seconded and it was so voted, 5-0.

