

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
October 1, 2009

MEETING HELD IN THE GRACE GOUVEIA BUILDING

Members Present: Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard.

Members Absent: None.

Others Present: Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair Patrick Eleey called the Work Session to order at 6:34 P.M.

PENDING DECISIONS:

- 2009-44** **36 Shank Painter Road (General Commercial Zone) (Residential 3 Dimensional Guidelines), David and Susan Hale –**
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Robert Littlefield read the decision. *Anne Howard moved to approve the language as written, Patrick Eleey seconded and it was so voted, 5-0.*
- 2009-46** **305 Commercial Street (Town Commercial Center Zone), Steve Milliken –**
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eleey read the decision. *Anne Howard moved to approve the language as written, Amy Germain seconded and it was so voted, 5-0.*
- 2009-43** **293 Commercial Street (Town Commercial Center Zone), Julesan, Inc., d/b/a Twisted Sisters -**
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Amy Germain read the decision. *Anne Howard moved to approve the language as written, Patrick Eleey seconded and it was so voted, 5-0.*
- 2009-45** **8A Commercial Street, Unit #3 (Residential 1 Zone), Deborah Paine, Inc. on behalf of David Dawe and Larry Bartanen -**
Patrick Eleey, Elisabeth Verde, Robert Littlefield and Amy Germain sat on the case. Patrick Eleey read the decision. *Amy Germain moved to approve the language as written, Robert Littlefield seconded and it was so voted, 4-0-1 (Anne Howard abstaining).*
- 2009-48** **18 Alden Street (Residential 3 Zone), Joyce A. Cumming, of Aline Architecture, Inc., on behalf of Donald Beal -**
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Elisabeth Verde read the decision. *Patrick Eleey moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*
- 2009-39** **22 Brewster Street (Residential 3 Zone), Louis Lima and Jerome Crepeau -**
Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Anne Howard read the decision. *Patrick Eleey moved to approve the language as written, Robert Littlefield seconded and it was so voted, 5-0.*

MINUTES: September 17, 2009 – Patrick Eeley moved to approve the language as written, Anne Howard seconded and it was so voted, 5-0.

Chair Patrick Eeley adjourned the Work Session at 7:02 P.M.

PUBLIC HEARING

Chair Patrick Eeley called the Public Hearing to order at 7:02 P.M. There were five members of the Zoning Board of Appeals present and none absent.

NEW CASES:

- 2009-49** **101 Bradford Street (Residential 3 Zone), Keith Gilmore on behalf of Tim Barry –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the renovation of a pre-existing, non-conforming structure up and along pre-existing, non-conforming setbacks for the installation a new foundation.
- 2009-50** **101 Bradford Street (Residential 3 Zone), Keith Gilmore on behalf of Tim Barry –**
The applicant seeks a Special Permit and/or Variance, whichever the ZBA deems appropriate, to install an egress landing and steps on the north elevation on a pre-existing, non-conforming structure with reference to Article 3, Section 3110, Article 5, Section 5222 and Article 2, Section 2560 of the Zoning By-Laws. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on both cases.
- Presentation:** Attorney Lester J. Murphy, Keith Gilmore and Tim Barry appeared to present the application. The applicant seeks a total renovation of the premises to bring it into conformity with the State Building Code and current FEMA floodplain zoning requirements. The project includes installing a new foundation, which, in order to comply with the FEMA regulations, will be 2 feet higher than the existing one. Attorney Murphy argued that this extension along a pre-existing, non-conforming extension will not be substantially more detrimental than the existing non-conformancy to the neighborhood. On the contrary, he stated that the project will greatly improve the exterior appearance of the existing structure, which is in a dilapidated condition and an eyesore to the neighborhood, and will be of substantial benefit to the neighborhood.
- The applicant also seeks a Variance to encroach further into the front yard setback. This encroachment is required in order to install an egress landing and steps, which are necessary because of the 2 foot rise in height of the structure. The existing structure is currently 2.8 feet from the front yard lot line and the proposed setback would be 0 feet. Attorney Murphy argued that a substantial hardship, financial or otherwise, to the applicant would result if the encroachment was not allowed and the Variance not granted. The hardship in this case is owing to circumstances relating to the topography of the lot as, Attorney Murphy contended, it is due to this that the raising of the structure by 2' is required and egress landing and steps needed. If the topography of the lot was 2' higher, no relief would be needed.
- Public Comment:** Stan Klein, a direct abutter, spoke of his concerns, including potential encroachment on his driveway, damage to his property, interference with his business and the ability of the applicant to complete the project in a timely manner. Mary Jo Avellar, an abutter, spoke of her concerns about the project moving forward to completion. There was one letter in opposition to the project and two letters of concern about the applicant completing the project and the proposed location of construction debris during the construction process.
- Board Discussion:** The Board questioned Attorney Murphy, Mr. Gilmore and Mr. Barry.
- 2009-49** **Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for the renovation of a pre-existing, non-conforming structure up and along pre-existing, non-conforming setbacks for the installation a new foundation at the property located at 101 Bradford Street (Res 3) with the following conditions:**
- *a construction protocol shall be submitted by the applicant to the Building Commissioner, and provided to direct abutters, prior to the issuance of a Building Permit;*

- *the applicant will maintain clear access to and from the Universalist Unitarian Church fire escape at all times; and*
- *the applicant shall protect the integrity and use of, as well as access to, the driveway at 97 Bradford Street.*

Elisabeth Verde seconded and it was so voted, 5-0.

2009-50 *Robert Littlefield moved to grant a Variance under Article 2, Section 2560 (Dimensional Schedule) of the Zoning By-Laws to install an egress landing and steps on the north elevation on a pre-existing, non-conforming structure at the property located at 101 Bradford Street (Res 3), Elisabeth Verde seconded and it was so voted, 5-0. Robert Littlefield will write both decisions.*

The Board discussed cancelling the November 5, 2009 hearing. *Patrick Eleey moved to cancel the November 5, 2009 hearing, Amy Germain seconded and it was so voted, 5-0.*

The Board will review and approve the revised zoning application at the October 15, 2009 hearing.

NEXT MEETING: The next meeting will take place on October 15, 2009. It will consist of a Work Session at 6:45 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Amy Germain moved to adjourn at 9:00 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 October 15, 2009.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2009

Patrick Eleey, Chair