

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
April 1, 2010

MEETING HELD IN THE GRACE GOUVEIA BUILDING

Members Present: Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain, Anne Howard, David Nicolau and Tom Roberts.

Members Absent: None.

Others Present: Russell Braun (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

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

MINUTES: March 18, 2010 – *Anne Howard moved to approve the language as written, Patrick Eeley seconded and it was so voted, 5-0-1 (Elisabeth Verde abstaining).*

PENDING DECISION:

2010-10 338 Commercial Street (*Town Commercial Center Zone*), Sanette Groenewald - Patrick Eeley, 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 Eeley seconded and it was so voted, 5-0-2 (David Nicolau and Tom Roberts abstaining).*

ADMINISTRATIVE AMENDMENT:

No Ordinary Joe, Inc. is requesting an Administrative Amendment to amend the proposed seating plan submitted in Case #2010-01 to show tables instead of benches at the property located at 170 Commercial Street. Patrick Eeley recused himself because of a conflict of interest. Anne Howard chaired the matter. Anne Howard, Elisabeth Verde, Robert Littlefield and Amy Germain heard the request.

Presentation: Greg Russo appeared to request the Administrative Amendment. The applicant seeks to install five two-tops instead of benches inside the establishment.

Board Discussion: The Board questioned Mr. Russo. The Board was concerned about the applicant's ability to address the requirements of footnote 12 of Article 2, Section 2440 – Permitted Principal Uses, which states in part, "...only if the applicant provides an enforceable plan for the mitigation and control of trash and litter generated by the proposed establishment;". Mr. Russo assured the Board that the proper trash and recycling containers would be present on

the property. The Board decided to postpone their decision until the original seating plan could be reviewed.

PENDING DECISIONS:

2010-14 **25 Conwell Street (Ace Hardware Store) (Residential RB Zone), Robert Evans on behalf of 21 Conwell Realty Trust/Jeff Rogers, Trustee –**
Patrick Eleey, Robert Littlefield, Anne Howard and Tom Roberts 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, 4-0-3 (Elisabeth Verde, Amy Germain and David Nicolau abstaining).*

2010-07 **4 Mozart Avenue, #4 (Residential 3 Zone), Christopher Daley –**
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, 5-0-2 (David Nicolau and Tom Roberts abstaining).*

2010-11 **3 Duncan Lane (Residential 3 Zone), Robert Dello Russo and Tom McCarthy –**
Patrick Eleey, Anne Howard, David Nicolau and Tom Roberts sat on the case. Patrick Eleey read the decision. *Anne Howard moved to approve the language as amended, David Nicolau seconded and it was so voted, 4-0-3 (Elisabeth Verde, Amy Germain and Robert Littlefield abstaining).*

ADMINISTRATIVE AMENDMENT (continued) – The Board continued to question Mr. Russo. He agreed to several changes to the site plan, including removing the stairs to Winthrop Street to allow for a more natural egress from the property on the east side. The Board then discussed the flex-seating issue at the property with the applicant. The applicant agreed to revise the site plan to incorporate the Board's requested changes.

Robert Littlefield moved to hear the matter as an Administrative Amendment, Elisabeth Verde seconded and it was so voted, 3-1 (Amy Germain opposed).

Anne Howard reiterated the revisions to the proposed plan as requested by the Board, *to wit*, making the hedgerow continuous along Winthrop Street and removing the stairs to Winthrop Street, identifying the location of the trash and recycling receptacles and showing the location of interior and exterior seats for the proposed flex-seating plan.

Anne Howard moved to continue the Administrative Amendment to the May 6, 2010 Hearing, Elisabeth Verde seconded and it was so voted, 3-1 (Robert Littlefield opposed).

Chair Patrick Eleey adjourned the Work Session at 7:15 P.M.

PUBLIC HEARING

Chair Patrick Eleey called the Public Hearing to order at 7:15 P.M. There were seven members of the Zoning Board of Appeals present and none absent.

PENDING CASE:

2010-02 **27 Conant Street (*Residential 3 Zone*), Neal Kimball, of Neal Kimball Designs, on behalf of Brad Howarth –**

The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation from building scale requirements to construct a 10'8" x 15 ½' two-story addition on the south elevation. Patrick Eeley, Elisabeth Verde Robert Littlefield, Anne Howard and Tom Roberts sat on the case.

Presentation: Neal Kimball, Michael Cooper, Hakan Sjoo, Brad Howarth, and Dave Bastien appeared to discuss the application.

Board Discussion: The Board questioned Mr. Kimball, Mr. Cooper, Mr. Sjoo, Mr. Howarth and Mr. Bastien.

Patrick Eeley moved to approve a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation from building scale requirements to construct a 10'8" x 15 ½' two-story addition on the south elevation at the property located at 27 Conant Street (Res 3), Tom Roberts seconded and it was so voted, 5-0.

Patrick Eeley will write the decision.

POSTPONED CASE:

2010-16 **258 Commercial Street (*Town Commercial Center Zone*), Saki, LLC, Steven Schnitzer, President (*postponed from March 18, 2010*) –**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the service area to include the ground floor level below Saki with existing licenses using flex-seating. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau sat on the case.

Presentation: Steven Schnitzer appeared to present the application. The applicant seeks to expand and diversify his business by converting the ground floor beneath his restaurant, Saki, into a public dance club. This would allow him to hire more employees and to offer his restaurant customers an after-dinner entertainment option.

Public Comment: Police Chief Jeff Jaran and abutters, Howard Weiner, Vincent Duarte, Gerry Boccio spoke in support of the application. Lynette Molnar, Tom Reinhart and Jamie White also spoke in support of the application. There were 8 letters in support and none in opposition in the file.

Board Discussion: The Board questioned Mr. Schnitzer.

Amy Germain moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to extend the service area to include the ground floor level below Saki with existing licenses using flex-seating at the property located at 258 Commercial Street (TCC), David Nicolau seconded and it was so voted, 5-0.

Amy Germain will write the decision.

NEW CASES:

- 2010-18 **129 Bradford Street, Unit #1 (*Town Commercial Center Zone*), Michael MacIntyre, the Michael MacIntyre Living Trust –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing structure on a pre-existing, non-conforming lot by adding a second dwelling unit. The Board will hear these two cases together.
- 2010-19 **129 Bradford Street, Unit #1 (*Town Commercial Center Zone*), Michael MacIntyre, the Michael MacIntyre Living Trust –**
The applicant seeks a Parking Variance under Article 2, Section 2470 of the Zoning By-Laws for an addition residential dwelling unit without providing on-site parking. Elisabeth Verde and David Nicolau recused themselves because of conflicts of interest. Patrick Eleey, Robert Littlefield, Amy Germain, Anne Howard and Tom Roberts sat on both cases.
Presentation: Sue Buerkel and Michael MacIntyre appeared to present the application. The property consists of one commercial and one residential unit. The applicant has endeavored to sell the property as configured, but after extensive marketing, has had no luck. The unit has been vacant for a year. The applicant seeks to convert the commercial space to residential, as there is a potential buyer for the property as a residential dwelling. There would be no changes to the building's footprint and Ms. Buerkel states that the proposal would not be more detrimental to the neighborhood. A Parking Variance is being requested as there is no parking available on the property, although there are two public parking lots and on-street parking in the vicinity.
Public Comment: None. There were 3 letters of support in the file.
Board Discussion: The Board questioned Ms. Buerkel and Mr. MacIntyre.
- 2010-18 ***Anne Howard moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing structure on a pre-existing, non-conforming lot by adding a second dwelling unit at the property located at 129 Bradford Street, Unit #1 (TCC), Amy Germain seconded and it was so voted, 5-0.*** Tom Roberts will write the decision.
- 2010-19 ***Anne Howard moved to grant a Parking Variance under Article 2, Section 2470 of the Zoning By-Laws for an addition residential dwelling unit without providing on-site parking at the property located at 129 Bradford Street, Unit #1 (TCC), Amy Germain seconded and it was so voted, 5-0.*** Tom Roberts will write the decision.
- 2010-20 **18 Pleasant Street (*Residential 3 Zone*), Gordon J. Siegel –**
The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation in building scale to construct a dormer on the north elevation of the structure. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and David Nicolau will sit on the case.
Presentation: Gordon Siegel and David Milliken appeared to present the application. There will be a 4.4% increase, to a proposed scale of 77.36 scale units. The existing scale, at 74.11 s. u., is already above the neighborhood average of 57.72 s.u. and the maximum allowable scale of 66.38 s.u.
Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Mr. Siegel and Mr. Milliken.
David Nicolau moved to grant a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for a deviation in building scale to construct a dormer on the north elevation of the structure at the property located at 18 Pleasant Street (Res 3), Robert Littlefield seconded and it was so voted, 4-1 (Amy Germain opposed).
David Nicolau will write the decision.

- 2010-21 **2 Bradford Street (Residential 3 Zone), William N. Rogers, II, P.E. & P.L.S. on behalf of Sheila A. Oliver –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to renovate a pre-existing, non-conforming one-story single-family structure to a one-and-a-half-story structure and reduce the footprint to 24' x 26' to keep within the property lines. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Tom Roberts sat on the case.
Presentation: William N. Rogers, II and Sheila A. Oliver appeared to present the application. The building will be reduced by 1' to 1 ½' on the east and southeast sides to bring the structure more into conformance with the property line setbacks. The half story will be added to the back of the structure. This will result in a 10.13 s.u. increase in scale.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. Rogers and Ms. Oliver.
Patrick Eeley moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to renovate a pre-existing, non-conforming one-story single-family structure to a one-and-a-half-story structure and reduce the footprint to 24' x 26' to keep within the property lines at the property located at 2 Bradford Street (Res 3), Robert Littlefield seconded and it was so voted, 5-0. Elisabeth Verde will write the decision.

POSTPONED CASES:

- 2010-12 **4 Atwood Avenue (Residential 2, Zone), Lester J. Murphy, Jr., Attorney, on behalf of G. Bruce Head, III –**
The applicant seeks a Special Permit under Article 4, Section 4170 of the Zoning By-Laws for a change in use from a Lodging House to a three-unit multi-family residential use. This case is postponed until the April 15, 2010 Public Hearing.
- 2010-13 **4 Atwood Avenue (Residential 2, Zone), Lester J. Murphy, Jr., Attorney, on behalf of G. Bruce Head, III –**
The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale for alterations and an addition to the principal structure. This case is postponed until the April 15, 2010 Public Hearing.

There will be a meeting to discuss 27-31 Bangs Street Extension on April 20th at 5:00 P.M.

NEXT MEETING: The next meeting will take place on April 15, 2010. It will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT: *Anne Howard 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 April 15, 2010.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2010
Patrick Eeley, Chair