

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
May 20, 2010

MEETING HELD IN THE GRACE GOUVEIA BUILDING

Members Present: Patrick Eeley, Robert Littlefield, Anne Howard and David Nicolau.

Members Absent: Elisabeth Verde, Amy Germain and Tom Roberts (all excused).

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.

Election of Officers – Postponed.

PENDING DECISIONS:

- 2010-24** **25 Conwell Street (*Residential RB Zone*), Robert Evans of A & E Architects, Inc., on behalf of 21 Conwell Realty Trust –**
Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Anne Howard read the decision. *Patrick Eeley moved to approve the language as written, Robert Littlefield seconded and it was so voted, 3-0.*
- 2010-27** **773 Commercial Street (*Residential I Zone*), Mark P. Kinnane of Cape Associates, Inc., on behalf of Lisa Corrin –**
Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case. Patrick Eeley read the decision. *Anne Howard moved to approve the language as written, Robert Littlefield seconded and it was so voted, 3-0.*
- 2010-28** **333R Commercial Street (*Town Commercial Center Zone*), William N. Rogers, II, P.E. & P.L.S. –**
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, 3-0.*

MINUTES: May 6, 2010 – Executive Session – Anne Howard moved to approve the language as written, Patrick Eeley seconded and it was so voted, 4-0.

May 6, 2010 – Regular Session – Anne Howard moved to approve the language as amended, Patrick Eeley seconded and it was so voted, 4-0.

Chair Patrick Eeley adjourned the Work Session at 6:53 P.M.

PUBLIC HEARING

Chair Patrick Eeley called the Public Hearing to order at 7:01 P.M. There were four members of the Zoning Board of Appeals present and three absent.

NEW CASES:

2010-29 157 Commercial Street (Town Commercial Center Zone), Neal Kimball Designs, LLC on behalf of Martin Family Realty Trust, Virginia Martin, Trustee –

The applicant seeks a Special Permit under Article 4, Section 4170 of the Zoning By-Laws to establish the use of the property as a single-family residence. Chair Patrick Eeley explained that since four votes are necessary to grant a Special Permit, necessitating a unanimous vote from the four Board members seated, the applicant had the choice of moving forward with a four-member Board or postponing the case until a five-member Board was seated. The applicant chose to proceed. Patrick Eeley, Robert Littlefield, Anne Howard and David Nicolau sat on the case.

Presentation: Attorney Lester J. Murphy and Neal Kimball appeared to present the application. The conversion of the use is from a non-residential to a residential use. The property has not been operating as a restaurant for two years. The changes being proposed all occur in the interior of the building and include five bedrooms; two on the first and three on the second floor. Attorney Murphy argued that the social, economic or other benefits to the neighborhood or Town outweigh any adverse effects pursuant to Article 5, Section 5330. The gallonage for the property would be reduced to only 550 gallons per day, 25% of the previous certified flow. The residential use would have a much smaller impact on the neighborhood than would a restaurant use, including less foot traffic to the property, less interference with the abutting properties that are very close to the property lines on the west and south sides, a reduction in congestion from delivery and trash pick-up trucks and less interference with the Town Landing on the east side of the property. Various hazards to the neighborhood that could result from restaurant use, including the potential for fire, noise or drunken, noisy patrons, would no longer occur. The project will only result in one new dwelling unit, therefore the affordable unit requirement of Article 4, Section 4170 would not

triggered. Except for the parking requirement, the property complies with all applicable Zoning By-Laws.

2010-30 **157 Commercial Street (Town Commercial Center Zone), Neal Kimball Designs, LLC on behalf of Martin Family Realty Trust, Virginia Martin, Trustee –**

The applicant seeks a Variance under Article 2, Section 2471 of the Zoning By-Laws to provide off-street parking for a single-family residence. Patrick Eeley, Robert Littlefield, Anne Howard and David Nicolau sat on the case.

Presentation: Attorney Lester J. Murphy and Neal Kimball appeared to present the application. There is no existing space on the property for parking. The patio in the rear of the property is on top of an unused septic system and the grade would have to be altered to conform to the level of the abutting Town Landing in order to provide an egress. If the patio was excavated and the septic system removed, stability issues with the building may arise. In addition, there is on-street parking available on Commercial Street, at a public lot on School Street and at several private lots in the neighborhood.

Public Comment: Len Bowen spoke in favor of the application. There were 21 form letters and three additional letters from an abutting condominium association in support of the applications.

2010-29 **Board Discussion:** The Board questioned Attorney Murphy and Mr. Kimball. *Patrick Eeley moved to grant a Special Permit under Article 4, Section 4170 of the Zoning By-Laws to establish the use of the property as a single-family residence at the property located at 157 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 4-0.* Robert Littlefield will write the decision.

2010-30 *Patrick Eeley moved to grant a Variance under Article 2, Section 2471 of the Zoning By-Laws to provide off-street parking for a single-family residence at the property located at 157 Commercial Street (TCC), Robert Littlefield seconded and it was so voted, 4-0.* Robert Littlefield will write the decision.

NEXT MEETING: The next meeting will take place on June 3, 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 7:45 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 June 3, 2010.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2010
_____, Chair