

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

Minutes

**May 20, 1999**

**Members Present:** Gary Reinhardt (Chair), Peter Bez (Vice Chair), Barbara Gard (Clerk) (arrived at 6:05), Ken Janson, Greg Lambrou, Ray Boylan, Steve Melamed

**Members Absent:** None

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### WORK SESSION

Chair Gary Reinhardt called the Work Session to order @ 6:00 P.M.

#### PENDING CASES

**99-033**

**48 Commercial Street, Snow and Snow on behalf of William York** - Ken Janson, Gary Reinhardt, Peter Bez, Greg Lambrou, Steve Melamed sat on case. Attorney Chris Snow, William York and Mr Paine appeared to discuss the application. Mr Snow asked that the application be withdrawn without prejudice, claiming that the scale figures gleaned from other zoning applications were incorrect and that the applicant has the right to build as planned without the need to come before the Board. Mr Paine explained the revised scale calculations he had prepared, stating he had exactly measured the building at 48 Commercial and other nearby buildings. *Greg Lambrou moved to accept the withdrawal without prejudice, Steve Melamed seconded and it was so voted, 5-0.* Ken Janson stated that he wanted to go on record as disagreeing with the applicant's definition of dormer.

**99-048**

**8 Johnson Street, Peter Garza and Christopher Covelli on behalf of COVGAR II, LLC d/b/a Christopher's By the Bay** - Gary Reinhardt, Ken Janson, Barbara Gard, Greg Lambrou, Steve Melamed sat on case. Gary Reinhardt said that new drawings had been received. Board discussion: expanding a building that normally would require a much bigger lot; lot coverage; number of living units; special permit criteria; need for Board to discuss scale and density issues; non-conformancy

would increase. Gary Reinhardt advised the applicant of the option to withdraw without prejudice, rather than have the Board deny the application. Gary Reinhardt discussed lot coverage and density with the applicant, as well as scaling down the project. Ken Janson read from the Building Commissioner's report concerning living units and lot size. Gary Reinhardt advised the applicant that they could appeal a denial in court. Taken under advisement.

**99-049**

**28 Alden Street, Mitchell Hollander** - Gary Reinhardt, Peter Bez, Barbara Gard, Ken Janson, Ray Boylan sat on case. Board discussion: variance criteria. *Ken Janson moved to deny, Peter Bez seconded, and it was so voted, 5-0.* Peter Bez will write the decision.

**99-050**

**14 Sandy Hill Lane, Charles Rogers on behalf of Joan Rogers** - Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Greg Lambrou sat on case. Board discussion: whether applicant needs to go before the Board of Health for septic approval; non-conformancy is lack of frontage; whether lot would normally allow a third dwelling unit; Board had urged applicant to reapply for a special permit; whether site or structure is non-conforming; possibility of overruling Building Commissioner decision on need for a variance and therefore, by right, applicant can build third dwelling unit. *Peter Bez moved to overturn decision of Building Comm that application 99-050 requires a variance. Also, that a special permit is not required and therefore the applicant can build a third dwelling unit by right, Greg Lambrou seconded, and it was so voted, 4-1 (Gary Reinhardt).* Peter Bez will write the decision.

Greg Lambrou left the meeting at 6:55 P.M.

Chair Gary Reinhardt postponed the Work Session until after the Public Hearing.

## **PUBLIC HEARING**

Chair Gary Reinhardt convened the public hearing at 7:00 P.M. and explained the hearing procedures to the audience. Six members of the Board were present and one was absent (Greg Lambrou).

Gary Reinhardt informed the audience that application 99-053, 494 Commercial Street, Binder Boland and Associates on behalf of David, LLC d/b/a School House Center, was postponed due to clerical error. Also, that application 99-054, 240 2 Bradford Street, Diana James on behalf of Eric Campeau and Steven Hurley, has been withdrawn

**99-052**

**83 Shankpainter Road, Binder Boland and Associates on behalf of Clem and Deb Silva** - Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Ray Boylan sat on case. Mr Boland and Mr Silva appeared to present the application, which is for a special permit to operate a paid parking lot. Presentation: parking use for 1999 season only; only improvements will be those required for parking. Shari Kadison and Custodia Silva spoke in favor. No one spoke in opposition. There were

no letters in file. Board discussion: spots to leased for the entire season; need for letters from Building Commissioner, Police Chief and Fire Chief; can use Building Commissioner's report as letter of approval; need for handicap space; lighting. ***Peter Bez moved to approve pending receipt of letters from Police and Fire Chief and designation of handicapped spot, Ken Janson seconded, and it was so voted, 5-0.*** Ray Boylan will write the decision.

**99-053**

**494 Commercial Street, Binder Boland and Associates on behalf of David, LLC d/b/a School House Center** - Application, which is for a special permit to permit outside display cases, was postponed due to clerical error.

**99-054**

**240 2 Bradford Street, Diana James on behalf of Eric Campeau and Steven Hurley** - Application, which is for a special permit to allow construction of a deck, was withdrawn. Peter Bez moved to accept withdrawal, Ken Janson seconded and it was so voted unanimously.

**99-055**

**8 Browne Street, Warren and Rita Silva** - Gary Reinhardt, Ken Janson, Peter Bez, Barbara Gard, Ray Boylan sat on case. Mr Costa, Warren Silva and Rita Silva appeared to present the application, which is for a variance from land area requirements, a special permit to construct a second floor addition to the garage and to modify a previous special permit to reconstruct the dwelling. Presentation: two buildings on lot - duplex and garage; want to change to studio (now garage) and single-family house (now duplex); previously before the Board to tear down duplex and reconstruct. Berta Romano and Custodio Silva spoke in favor. No one spoke in opposition. There were no letters in file. Board discussion: variance criteria; issue of title on adjoining parcel on which applicant has been paying property taxes; two floors would make second building a one-bedroom apartment; lot size is 9,925 square feet or seventy-five square feet short of what is required; applicant to provide proof that ownership of adjoining lot is in dispute; condition of building; cement block garage extends into setback as pre-existing non-conformancy. Taken under advisement.

**99-056**

**70 Shankpainter Road, Shari Kadison d/b/a Harry's Farm stand on behalf of Charles Silva** - Gary Reinhardt, Peter Bez, Barbara Gard, Ken Janson, Ray Boylan sat on case. Ms Kadison appeared to present the application, which is for a special permit to allow outside display of merchandise. Presentation: display farm stand items, including flowers, in seven possible display areas. Custodio Silva spoke in favor. No one spoke in opposition. There were no letters in file. Board discussion: garden in front is pre-existing; question of enforcement; items to include sculptural pieces. ***Peter Bez moved to approve with provision that there be no more than 10 different groups of items from the following list: fruits, vegetables, cut flowers and sculptural items. Ken Janson seconded and it was so voted , 5-0.*** Peter Bez wrote the decision using the standard form.

Chair Gary Reinhardt closed the Public Hearing at 8:00 P.M.

**WORK SESSION (continued)**

Chair Gary Reinhardt reconvened the work session at 8:00 P.M.

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## PENDING DECISIONS

**99-046**

**20 Shankpainter Road, Provincetown United Methodist Church** - Ken Janson, Gary Reinhardt, Peter Bez, Steve Melamed, Ray Boylan sat on case. *Steve Melamed read the decision. Ken Janson moved to approve the decision with a minor correction, Peter Bez seconded and it was so voted, 5-0.*

**99-051**

**135 Bradford Street, Pezzulo, Inc d/b/a Tropical Joe=s** - Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Ray Boylan sat on case. Mr Thompson and Mr Pezzulo appeared to discuss the application and presented a plan of the property. Gary Reinhardt stated that a letter of approval had been received from the trustee of both realty trusts. Gary Reinhardt referred to previous zoning cases concerning the location of the property line and the deck. *Ken Janson read the decision. Barbara Gard moved to approve the decision as written, Ray Boylan seconded and it was so voted, 5-0.*

## MISCELLANEOUS

The Board briefly discussed the ongoing issues at the property on the southwest corner of Bradford and Bangs Street.

## PENDING CASES

**99-048**

**8 Johnson Street, Peter Garza and Christopher Covelli on behalf of COVGAR II, LLC d/b/a Christopher=s By the Bay** - Gary Reinhardt, Ken Janson, Barbara Gard, Greg Lambrou, Steve Melamed sat on case. Board discussion: different floor plan might be acceptable.

## MINUTES

**May 6, 1999** - *Peter Bez moved to accept, Ken Janson seconded and it was so voted, 6-0, 1 absent (Greg Lambrou).*

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## MISCELLANEOUS

- Ken Janson discussed several situations and properties that needed resolution, including the property at the

corner of Bangs Street and Bradford Street, the enclosed porch on Arch Street, and the Town=s new electric parking signs.

- Barbara Gard asked for the status of 421 Commercial Street. The Board will still have to grant a variance.
- Barbara Gard suggested not making comments to the media on an application until a voted decision has been made. On the scale issue, it was clarified that quotes in the newspaper were from the Board=s last meeting. Barbara Gard then also raised the issue of how scale calculations were calculated and the Board discussed the by-law and its application in some detail. The accuracy of the data presented by the applicants appears to be the biggest issue.

## **ADJOURNMENT**

*Peter Bez made a motion to adjourn at 8:45 P.M. and it was so voted unanimously.*