

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

Meeting Minutes
for
April 15, 1999

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Members Present: Rick Murray, Ken Janson, Gary Reinhardt, Greg Lambrou, Peter Bez, Ray Boylan, Steve Melamed

Members Absent: Barbara Gard

WORK SESSION

Chair Rick Murray called the Work Session to order @ 6:00 P.M.

PENDING DECISIONS

99-012

40A Nelson Avenue, Provincetown Heights, Inc. on behalf of Charlotte Nelson Rogel and Robin Garran - Rick Murray, Ken Janson, Barbara Gard, Greg Lambrou, Gary Reinhardt sat on case. Rick Murray read and reviewed the decision. Rick Murray said the draft decision has been reviewed by Town Counsel. *Gary Reinhardt moved to approve the decision with an amendment containing a condition concerning renting 70% of the units to local residents, Ken Janson seconded and it was so voted, 4-0, 1 absent (Barbara Gard).*

99-028

42 Conwell Street, Rod's Realty Trust d/b/a Rod's Texaco - Rick Murray, Ken Janson, Barbara Gard, Gary Reinhardt, Steve Melamed sat on case. Steve Melamed read the decision. *Ken Janson moved to approve the decision, Gary Reinhardt seconded and it was so voted, 4-0, 1 absent (Barbara Gard).*

99-037

240 Commercial Street, Patrick Family Trust - Peter Bez, Ken Janson, Rick Murray, Gary Reinhardt, Barbara Gard sat on case. Peter Bez read the decision. *Gary Reinhardt moved to approve the decision with one correction, Ken Janson seconded, and it was so voted, 4-0, 1 absent (Barbara Gard).*

99-038

321 Commercial Street, Clambake, Inc. - Peter Bez, Ray Boylan, Ken Janson, Gary Reinhardt, Barbara Gard sat on case. Peter Bez read the decision. *Ken Janson moved to approve the decision with a condition that entertainment will take place on only one floor at a time, Ray Boylan seconded and it was so voted, 3-0, 1 abstain (Gary Reinhardt), 1 absent (Barbara Gard).*

PENDING CASES

99-031

291 Commercial Street, Hake Nominee Trust/Another Honbets - Rick Murray, Ken Janson, Gary Reinhardt,

Peter Bez, Ray Boylan sat on case. Joy Cuming and Attorney Ed Patten appeared to discuss the application. Rick Murray reviewed the history of the application. By consensus, the Board agreed to consider the application as being for a special permit, rather than a variance. The applicant will need to revise site plans to reflect changes requested by the Board. *Gary Reinhardt moved to grant with the stipulation that new site plans be provided and that the footprint of the building be designated by a line defined by the proposed canopy. There shall be no further in-fill of structure beneath the canopy or between the canopy and the ground. Also, the proposed bridge between 291 and 293 will be removed from the plans, Ken Janson seconded, and it was so voted, 5-0.* Gary Reinhardt will write the decision.

99-019

291-293 Commercial Street, Hake Nominee Trust, Richard Kelly, Trustee - Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Ray Boylan sat on case. Joy Cuming and Attorney Ed Patten appeared to discuss the application. Board discussion: issues of change-of-use; whether growth management bylaw is triggered by new seats in what is now an apartment; concerns of abutters. Mr. Murphy said the applicant would agree to a condition that there be no food service on the 2nd floor.

Chair Rick Murray postponed the Work Session until after the Public Hearing.

PUBLIC HEARING

Ken Janson convened the public hearing at 7:06 P.M. and explained the hearing procedures to the audience. Seven members of the Board were present and one was absent (Barbara Gard).

99-043

27 Franklin Street, David Maxfield on behalf of Nancy Heywood - Ken Janson, Gary Reinhardt, Peter Bez, Greg Lambrou, Ray Boylan sat on case. Rick Murray stepped down and Ken Janson assumed the chair. Robert Valois and David Maxfield appeared to present the application, which is for a special permit to construct decks and a dormer. Current non-conformancy is three stories due to dwelling unit in the basement. Application to go before Historic Commission next week. No one spoke either in favor or in opposition. There were no letters in file. Board discussion: roof slope of dormers. *Peter Bez moved to grant with the condition that the dormer roof pitch be four in twelve, Gary Reinhardt seconded, and it was so voted, 5-0.* Ray Boylan will write the decision.

99-044

138 Commercial Street, Binder, Boland & Associates on behalf of Kathryn Rafter - Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Steve Melamed sat on case. Mr Boland appeared to present the application, which is for a special permit to construct a deck. Mr Boland presented revised drawings. Proposal approved by Historic Commission. Non-conformancy is in side setbacks. No one spoke either in favor or opposition. There were no letters in file. Board discussion: possible redesign to keep deck out of setbacks; yard fenced on both sides, so low deck only visible from front. *Ken Janson moved to grant under Goldhirsch with condition that deck be redesigned to not encroach on setbacks, Peter Bez seconded and it was so voted, 5-0.* Gary Reinhardt will write the decision using the standard Goldhirsch form.

99-045

371 Commercial Street, Down Island, Inc., d/b/a City Zoo -Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Ray Boylan sat on case. Steven Aube appeared to present the application, which is for renewal of a special permit for outside display of merchandise and to make the special permit permanent. No one spoke either in favor or opposition. There were no letters in file. Board discussion; outside display permits cannot be made permanent; display cannot be within 10 feet of street. *Gary Reinhardt moved to grant for three years, Peter Bez seconded and it was so voted, 5-0.* Gary Reinhardt wrote the decision on the standard form.

99-046

20 Shankpainter Road, Provincetown United Methodist Church - Ken Janson, Gary Reinhardt, Peter Bez, Steve

Melamed, Ray Boylan sat on case. Rick Murray stepped down and Ken Janson assumed the chair. May Lou Monks and Pastor Debby Holt appeared to present the application, which is for a special permit to operate a paid parking lot. Parking will be for 30 to 35 cars during the summer season. No one spoke in favor. John Doucette spoke with concerns about asphalt paving and other questions. Parking will not be overnight. There was one letter from Chief of Police Anthony, stating there were no obvious police concerns. Board discussion: lot closing time; maximum number of parking spots; limit initial approval to one year; lighting; there will be an attendant; access to pay phones; letters required from Fire Chief and Building Commissioner; location, configuration and dimensions of handicapped spots; need for more detailed parking plan with precise dimensions; ground material; parking spots should be marked; location of trash receptacles; chains will close off parking lot.

Rick Murray adjourned the Public Hearing at 8:10 PM

WORK SESSION (continued)

Chair Rick Murray reconvened the work session at 8:25 PM

99-019

291-293 Commercial Street, Hake Nominee Trust, Richard Kelly, Trustee - Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Ray Boylan sat on case. Attorney Ed Patten appeared to discuss the application. Mr Patten addressed the benefits to the Town. Board discussion: total number of seats; possibility of reducing total seats from 71 to 60 eliminating need to invoke growth management; movement of seats from basement lounge will not create more congestion for property as a whole; increase in number of shows may increase congestion. *Ken Janson moved to grant for 60 seats, no outdoor service, Peter Bez seconded.* Mr Patten reviewed various concerns and proposed solutions. Board discussion: whether Building Commissioner's opinion that 291-293 Commercial Street is to be considered one building is valid; previous decisions have accepted that premise. *After discussion, the application was denied 3-2 (Peter Bez, Gary Reinhardt).* Gary Reinhardt will write the decision. Mr Boggess approached the Board and asked an "informal" question of the Board concerning the granting of an application for entertainment for a nearby property and the objections of the Board to the current application. The Board declined to respond at this time. Rick Murray advised Mr Boggess to review the wording of the decision after it was approved to determine if an appeal was warranted.

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. Ken Janson initiated a discussion of the definition of dormer. Continued at applicant's request.

MINUTES

March 18, 1999 - *Peter Bez moved to accept, Ken Janson seconded and it was so voted, 7-0.*

April 1, 1999 - *Ray Boylan moved to accept with one correction, Gary Reinhardt seconded and it was so voted, 7-0*

April 2, 1999 - *Gary Reinhardt moved to accept, Peter Bez seconded and it was so voted, 7-0.*

MISCELLANEOUS

Board Reorganization - Rick Murray reviewed the nomination and voting procedures. Greg Lambrou was selected as voting member by random drawing.

- *Ken Janson nominated Barbara Gard for clerk, Gary Reinhardt seconded and it was so voted, 4-0, 1 abstain (Greg Lambrou).*
- *Peter Bez nominated Gary Reinhardt for Chair, Ken Janson seconded and it was so voted, 4-0, 1 abstain (Greg Lambrou).*
- *Ken Janson nominated Peter Bez for Vice-Chair, Gary Reinhardt seconded and it was so voted, 3-1 (Rick Murray), 1 abstain (Greg Lambrou).*

Peter Bez made a motion to officially recognize the dedication and countless hours of unpaid, volunteer time Chair Rick Murray has contributed to the Board, Ken Janson seconded and it was so voted unanimously.

At Gary Reinhardt's request, the Board rescheduled two summer meetings.

Ray Boylan made a motion to adjourn at 9:28 PM and it was so voted unanimously.