

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

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

Members Absent: Barbara Gard (excused)

WORK SESSION

Chair Rick Murray called the Work Session to order @ 6:00 PM

PENDING DECISIONS

99-013

5 Somerset Road, E. James Veara on behalf of Mark W. Baker - Rick Murray, Ken Janson, Gary Reinhardt, Barbara Gard, Greg Lambrou sat on case. Gary Reinhardt read the decision. *Ken Janson moved to approve the decision with a correction, Greg Lambrou seconded and it was so voted, 4-0, 1 absent (Barbara Gard).*

99-021

49 Bradford Street, William Rogers II on behalf of Allen H. Green, d/b/a The Shamrock Motel - Rick Murray, Gary Reinhardt, Steve Melamed, Ken Janson, Barbara Gard sat on case. Steve Melamed read the decision. *Gary Reinhardt moved to approve the decision, Ken Janson seconded and it was so voted, 4-0, 1 absent (Barbara Gard).*

PENDING CASES

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. To be considered at the Work Session of April 1, 1999.

99-029

5C Arch Street, Michael Falco - Rick Murray, Ken Janson, Barbara Gard, Greg Lambrou, Gary Reinhardt sat on case. Mr Falco appeared to discuss the application. He said that none of the neighbors have any objections. *Ken Janson moved to deny, Gary Reinhardt seconded and it was so voted, 3-1 (Rick Murray), 1 absent (Barbara Gard).* Ken Janson will write the decision.

99-030

14 Sandy Hill Lane, Joan Rogers and Charles Rogers - Rick Murray, Ken Janson, Barbara Gard, Gary Reinhardt, Steve Melamed sat on case. Mr Rogers appeared to discuss the application. Rick Murray asked Mr Rogers to read the report from the Building Commissioner stating the application should be addressed as a variance. Rick Murray also asked Mr Rogers to speak on the variance criteria. Mr Rogers claimed hardship based upon soil condition and the shape of the lot - also claimed financial hardship from lower rental income. Board discussion: frontage is only factor creating non-conformancy; previous use as pre-school was more intensive - no additional hazard; applicant's argument is weakest on criteria A. Taken under advisement.

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. Waiting for Barbara Gard.

MODIFICATION

98-095

239-241 Commercial Street, Whaler's Wharf - Rick Murray, Peter Bez, Gary Reinhardt, Ken Janson, Barbara Gard sat on case. Ginny Binder appeared to discuss the requested modification and to submit revised plans. *Peter Bez moved to approve the modification without another public hearing, Gary Reinhardt seconded, and it was so voted, 4-0, 1 absent (Barbara Gard).*

99-001

262A Bradford Street, Homeport Condominiums, Brendan Cavanaugh. -Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Barbara Gard sat on case. Tom Boland and Tom Thompson appeared to discuss the modification. Building Commissioner had objected because Areconstruction@ not mentioned in special permit language. Rick Murray pointed out that application was under section 2110. *Peter Bez moved to approve the modification allowing reconstruction and to allow a mirror image of the original layout without an additional hearing, Ken Janson seconded and it was so voted, 4-0, 1 absent (Barbara Gard).*

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

PUBLIC HEARING

Chair Rick Murray called the hearing to order at 7: 04 PM and informed the audience of the public hearing procedures. Seven members of the Board were present at the start of the meeting and one was absent (Barbara Gard).

99-031

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 Alan Dodge appeared to present the application, which is for a variance to allow construction of a canopy and stairs within the required property line setback and for a special permit to construct additions and a second story gable structure (facade) and by construction of a second story bridge and canopy connecting the two structures. Rick Murray said this would be a good case for discussion at the DRMCC meeting. Rick Murray referred the applicants to the special permit and variance criteria. No one spoke in favor. Hal Woodard spoke in opposition. There was one letter in opposition. Applicant attempted to address the variance and special permit criteria. Board discussion: difficult to meet variance criteria, may be easier to modify plans to eliminate need for variance; sidewalk is on private property; proposed display cases add lot coverage; question of whether planters are structures; sidewalk to be raised up to finished floor level of the building; deck is not part of this proposal; handicap access does not increase lot coverage; bridge is not part of variance; considered one structure from zoning point of view; bridge would provide additional egress for second floor apartments. Applicant agreed to modify plans and return.

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. Gary Reinhardt disclosed that he is on the abutters list. Rick Murray stepped down because he is a closer abutter. Attorney Chris Snow and architect Ron Payne appeared to present the application, which is for a special permit to exceed the allowable number of Building Scale Units. No one spoke in favor. Ms Richman spoke, asking several questions about the plans and on the scale calculations. Brian Delaurentis spoke with concerns about congestion and Title V. Rick Murray spoke in support and mentioned concerns about the historic nature of the building and scale. There were 5 letters in favor and two letters of concern/opposition. Board discussion: need to address scale criteria; pre-existing non-conforming structure; extent of dormers; keep case open for additional information from applicant - (1) clarification of 3rd story question (2) clarification on scale calculations; Mr Snow will arrange to get keys for site visit by Board members and will arrange with Rick Murray for site visit to be posted as Board meeting.

99-034

186 Commercial Street, CMJ Realty Trust and Artemis Limited, Inc. on behalf of Linda Chase d/b/a Cactus Garden - Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Ray Boylan sat on case. Linda Chase appeared to present the application, which is for a renewal of a special permit to allow outside seating and to make the special permit permanent. There were no speakers either in favor or in opposition.. There were two letters in favor and none in opposition. *Peter Bez moved to approve the renewal permanently, Ken Janson seconded, and it was so voted, 5-0. Ken Janson will*

write the decision.

99-035

371-373 Commercial Street, Berg Family Trust, E.K. Berg, Trustee, d/b/a The Dancing Lobster Cafe/Trattoria - Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Ray Boylan sat on case. Nils Berg appeared to present the application, which is for a special permit to allow modification of the areas of service. There were no speakers There were no letters in file. After discussion, *Gary Reinhardt moved to grant modifications of area of service under section 1260, Ray Boylan seconded and it was so voted, 5-0.* Peter Bez will write the decision.

99-036

99 Bayberry Avenue, Kenneth C. Weiss and Harry Kemp Corporation - Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Steve Melamed sat on case. Attorney Lester Murphy and Ken Weiss appeared to present the application, which is for a special permit for the construction of a roof deck. There were no speakers either in favor or in opposition. There was one letter of opposition and no letters in favor. Existing non-conformancies are that the building is 2 2 stories high due to average height of exposed foundation. *After discussion, Peter Bez moved to grant under Goldhirsch, Steve Melamed seconded and it was so voted, 4-1 (Rick Murray).* Peter Bez will write the decision.

Rick Murray adjourned the Public Hearing at 9:55 PM

WORK SESSION (continued)

Chair Rick Murray reconvened the work session at 9:56 PM

99-019

291 Commercial Street, Hake Nominee Trust/Another Honbets- Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Ray Boylan sat on case. At the request of the applicant, the Board will wait for further information.

99-022

258 Commercial Street, Theodore Tine on behalf of Cape Tip Inn, Inc. - Rick Murray, Ken Janson, Peter Bez, Gary Reinhardt, Ray Boylan sat on case. The Board has received additional information from Health Agent George Heufelder. After discussion, *Gary Reinhardt moved to grant the modifications under section 1260, Peter Bez seconded and it was so voted, 5-0.* Gary Reinhardt wrote and read the decision. *Peter Bez moved to approve the decision as written, Ken Janson seconded, and it was so voted, 5-0.*

99-032

293 Commercial Street, Hake Nominee Trust, Richard Kelly, Trustee, d/b/a Provincetown Shores - Rick Murray, Ken Janson, Barbara Gard, Gary Reinhardt at on case. The Board has

received a letter from Health Agent George Heufelder and will resume discussion on this application at the next Work Session.

MINUTES

March 4, 1999 - Steve Melamed moved to accept with one correction, Greg Lambrou seconded and it was so voted, 5-0, 2 abstain (Peter Bez, Ray Boylan).

March 9, 1999 - Greg Lambrou moved to accept with correction concerning excused absences, Gary Reinhardt seconded and it was so voted, 4-0, 3 abstain (Peter Bez, Steve Melamed, Ray Boylan).

MISCELLANEOUS

- o The Board discussed the letter Ken Janson had drafted to send to the Chair of the Selectmen concerning a letter sent to the Selectmen from Attorneys Zisson and Veara, dated March 5, 1999. After discussion, **Gary Reinhardt moved that the Board sign and send the letter from the full Board, Ray Boylan seconded and it was so voted, 7-0, 1 absent (Barbara Gard).**
- o The Board scheduled an additional Work Session for 9:30 AM, April 2, 1999.

Peter Bez made a motion to adjourn 10:30 PM and it was so voted unanimously.

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