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## ZONING BOARD OF APPEALS

**MARCH 10, 1999**

Members Present: Rick Murray, Ken Janson, Barbara Gard, Gary Reinhardt, Greg Lambrou

Members Absent: Peter Bez, Steve Malamed, Ray Boylan (Excused all 3)

Rick Murray called the meeting to order at 7.00.

### **Application 99-027: Crowne Pointe Realty Trust (80 Bradford Street)**

Sitting on the case: Rick Murray, Barbara Gard, Gary Reinhardt, Greg Lambrou, Steve Malamed. Gary Reinhardt read the written decision. Greg Lambrou made a motion to accept the language, seconded by Rick Murray. The vote was 4-0-1 absent (Steve Maledmed) to accept the language. Dr. Murray will file the decision on March 11.

### **Application 99-13: Mark Baker (Garden Shed Remand)**

Sitting on the case: Rick Murray, Ken Janson, Barbara Gard, Gary Reinhardt, Greg Lambrou Gary Reinhardt read the written decision. The Board discussed changes to the wording of the decision. Mr. Reinhardt will revise the decision for the next meeting.

### **Application 99-032: Hake Nominee Trust (293 Commercial Street)**

Sitting on the case is Rick Murray, Ken Janson, Barbara Gard, Gary Reinhardt. This is the continuation of the case opened on March 4. Dr. Murray opened the Public Hearing by stating that because of conflicts, and due to absences, only four Board members could sit on the case. This was accepted by the Applicant. Attorney Edward Patten and tenant Linda Chase spoke to the application. Ms. Chase represented Of the Sun, Inc., d/b/a Chasers, the tenant for the space at 293 Commercial Street. This application is a renewal of a 1260 Special Permit granted to the property (different applicant) last year: Application 98-26. Mr. Patten explained that there would be no change to the operation of the lounge/disco. He then went on to ask for permission to use the disco room before 6:00 PM without entertainment: the previous decision had not allowed this. He also stated that there was a desire to give up 60 people of their 221 capacity for the expansion of Steve's Alibi upstairs, bringing down the total capacity of Chasers to 161. He wants to combine the room capacity to this figure, rather than keep the room capacity separate as in last years decision (lounge 65, disco 156). There is also the desire for food service.

There were no speakers or letters in favor or in opposition to the application.

Questions from the Board mostly centered around the change in occupancy (what happens if the Steve Alibi Application, #99-019, is denied), and the service of food (should it be allowed). The applicant is going to return to the Board at a future date to discuss these issues. The ZBA will get information from the Board of Health regarding flow capacities for restaurant patrons, packaged food/fast food patrons, lounge patrons/ bar patrons and disco patrons.

**Application 99-012: 40A Nelson Avenue, Provincetown Heights, Inc. (Affordable Housing)**

This is the continuation of the Public Hearing of February 25. Attorney Jamie Veara summarized the opposition, stating the legal standards that the applicants do not meet; including health (septic) and safety (frontage), and must meet, in order to be granted the permit. Attorney Freeman then summarized for the applicants. He provided 47 more letters in support (some from Nelson Ave. neighbors) and refuted Attorney Veara's statements. He also stated the legal standard that the "need of affordable housing outweighs local concerns." He said that the applicants will provide a fire hydrant at the street; they have provided more parking than required by the bylaw; all town boards have approved the project; the Selectmen want the project; the police chief has said there is no problem with safety vehicle access; and the fire chief has said there is potential of a problem with access. The waivers desired are "innocuous" compared to the need for affordable housing.

Dr. Murray opened up for questions and statements by the Board. Compromises on the number of units or the number of bedrooms seem very difficult because of the economic restraints that will be put on the project due to the lack of grants and loans, and rental income, that is based on the number of units in the proposal. Conditions to satisfy local housing needs can be added to the decision: by law, up to 70% of the units can be held for local needs. Dr. Murray closed the public hearing.

After a break, the Board reconvened to discuss the application. As it seems that because of the legal standards, it is virtually impossible to deny the application, so the Board discussed possible conditions that would satisfy the concerns of the abutters and the ZBA. Conditions could include: 1. 70% of the rentals would be held for local needs; 2. Tenants must park in their garage (to keep the site free of congestion); 3. The applicants must provide a fire hydrant; and 4. Site preparation and construction phasing must be approved by the Building Department. The Board will consider the Application again during their work session of April 1.

Ken Janson made a motion to adjourn, seconded by Gary Reinhardt. Dr. Murray *adjourned the* meeting at 10:00 PM.