

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

Meeting Minutes May 18, 2000

The following minutes are available on-line as a service and are not the official record due to changes in formatting for the Internet. The minutes may have attachments that are not included here in this format. The official, complete paper copy can be viewed during regular office hours, Monday - Friday: 8 a.m. to 5 p.m. in the Office of the Town Clerk, 260 Commercial St. Provincetown, MA 02657.

Members Present: Peter Bez, Ray Boylan, Donna Campana, Larry Mahan, Steve Melamed, and Gary Reinhardt, Chairman.

Member Absent: Barbara Gard

WORK SESSION – 6:00 P.M.

The meeting was called to order at 6:05 P.M.

- 2000-019 599 Commercial Street, Matthew Smith and Michael Jeffries** - Gary Reinhardt, Ray Boylan, Steve Melamed, Larry Mahan, and Donna Campana sat on the case. Larry Mahan wrote and read the decision. It had to do with elevating the roof of the structure five feet. **Motion: Steve Melamed made a motion to accept the decision as amended. Ray Boylan seconded and it was unanimously approved. 5-0**
- 2000-031 16 MacMillan Wharf Trust, Kevin Matthews** – Gary Reinhardt, Peter Bez, Steve Melamed, Ray Boylan, and Larry Mahan heard the case on May 4th. Peter Bez wrote the decision. **Motion: Steve Melamed made a motion to accept the language of the decision as written, Ray Boylan seconded the motion and it passed unanimously.**
- 2000-032 16 MacMillan Wharf Trust, Kevin Matthews** – Gary Reinhardt, Peter Bez, Steve Melamed, Ray Boylan, and Larry Mahan sat on the case. Ray Boylan wrote and read the decision. **Motion: Peter Bez made a motion to accept the decision as written, Larry Mahan seconded it and it, too, passed unanimously.**
- 2000-033 139 Commercial Street, Jay Anderson** – Gary Reinhardt, Peter Bez, Ray Boylan, and Steve Melamed sat on the case. After a lengthy presentation by Jamie Veara the Board felt a lot of material had been put forth and, at least one member, felt uncomfortable agreeing to anything until he had additional time to digest the entire case. At that time it was agreed to postpone the vote and further discussion until after the scheduled public hearing portion of the meeting.
- 98-110 Park Davis** – Larry Mahan, Steve Melamed, Gary Reinhardt, and Donna Campana sat on the case. **Motion: Steve Melamed made a motion to accept the modification as presented, Larry Mahan seconded and it passed 4-0.**
- 99-069 35 Conwell Street, Edward Malone** – Steve Melamed, Barbara Gard, Ken Janson, Ray Boylan, and Gary Reinhardt sat on the case. Ted came before the Board to inform them of three proposed changes to his affordable housing proposal. He would like a reduction in size of units #10 and #22 since most of the successful applicants chosen wanted one-bedroom units, not the two-bedrooms proposed for the aforementioned units. Secondly he would like to be able to reconfigure the parking spaces to make their placement more aesthetic. Lastly, he would like to make minor adjustments to the site plan to accommodate several large trees currently existing on the property. **Motion: Steve Melamed made a motion to accept the proposed changes as presented, Ray Boylan seconded it and it passed 3-in favor, 0-opposed, and 2 absent.**

PUBLIC HEARING – 7:07 P.M.

- 2000-029 404 Commercial Street, Chester's Restaurant** – John Guerra and Jay Coburn presented on behalf of their restaurant. They seek approval for outdoor seating at their property (an outdoor dining area located at the rear of the building seating no more than 14 diners). After their presentation which included pictures on boards, members of the public were invited to address the proposal. The proponents were Barbara Sullivan, Alice Foley, Stephan Ruche, Park Davis, and Bea Smith. The opponents were Joseph Patrick, Ronnie Lopes, Tom Thomas, and Michelle Wald. The proponents all said much the same things, "great business, asset to the neighborhood, etc.." The opponents also said much the same things, i.e., "fear of noise, no available parking which might add to congestion of the neighborhood, etc." Letter were then read: Many of the people opposed were occasional occupants of condos located at 5 Washington Avenue (Michelle Wald, Julia McGrady, Rebecca Blount who wrote a mega letter, Kathleen Dematayne, and Maria LaConte). Proponent letters were received from Alice Foley, John Anderson & friend, Park Davis, and George

Zuki. Next there were 9 people who signed a petition supporting the proposal. The overall hearing seemed to run on interminably with the following motion resolving the matter.

Motion: Peter Bez made a motion to grant the request for outdoor seating at Chester's Restaurant and Ray Boylan seconded it with the following stipulations:

1. last seating to be no later than 8:00 p.m.
2. the outdoor dining section must be cleared out by 10:00 p.m.
3. there will be no outdoor wait station.

The Board voted 5 in favor and none opposed.

2000-027 368 Commercial Street, P.J. Layng for Roots, Inc. – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, and Steve Melamed sat on the case. Ms. Layng requested permission for an outdoor display. She said the only reason she has been successful with her shop (which is shaped like a narrow alley) was because of the outdoor display of sales merchandise. The Board was reluctant to grant her request based on past problems of having displays within the mandated setback.

Motion: Peter Bez made a motion to grant the request, Larry Mahan seconded it and it was approved with the following cautions: a) displays Q and H must be removed from her drawing of proposed items, and 2) a visible boundary to delineate the setback from Arch Street must be in place. It was passed 5-0.

2000-025 49 Bradford Street, Allen H. Green – Gary Reinhardt, Larry Mahan, Steve Melamed, and Donna Campana sat on the case. Gary Locke, on behalf of Allen Green requested enlargement of existing units. He told the Board he had already received permission from the Board of Health and what he proposed was adding a second floor (to serve as a living room) to two cottages. One measured 16' X 20' and the other 12' X 18'. An e-mail was received by the Board in opposition by the owners of the condos at 10C and 10D Atlantic Avenue. They were concerned about the expansion as it related to added noise coming from the swimming pool. Gary Locke argued that it would not increase occupancy at all, just add a bit more space.

Motion: Steve Melamed made a motion to grant the permit with Larry Mahan seconding it. It passed 4-0.

2000-036 129 Commercial Street, 129 Commercial Street Corporation – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, and Steve Melamed sat on the case. Alfred Pickard, the owner, and Gary Locke presented the proposal. Gary said he had asked for advice early on about renovating an existing building and had, in redesigning it, taken all the advice into consideration. The building will be made smaller to address the concerns of the Board. After a bit more questioning, the public was asked for their input. The input from neighbors was all negative and mainly reiterated the same complaints. Mr. Pickard who has owned the property for nine years was cited as an absentee landlord who expended no control over the actions of his tenants. These tenants, in the past, had given wild parties and, in general, disturbed the entire neighborhood well into the wee hours of the morning during the summer. The neighbors who complained were Neil Toelle (110 Commercial Street), George (104 Commercial Street), Ray Pelican, Robert Clibbon (120 Commercial Street), Brian Vinaldi, John Henry (131 Commercial Street, Peggy Arthur, Peter Demers (letter), and a copied note from Vernon Porter.

Mr. Pickard said he had no idea that the neighborhood felt this way and he said all they had to do was to call him since he lives in Wellfleet. Gary Reinhardt suggested to Alfred Pickard that there were many ways to meet neighbors and the Zoning Board of Appeals meeting was one of the ways. After much inquiry by the Board, the following motion was agreed upon.

Motion: Peter Bez moved to grant the application but to ensure that the intensification of the non-conforming structure will not adversely affect the neighborhood. Larry Mahan seconded the motion and it passed 4-1 (Ray Boylan opposed).

2000-022

2000-037 48 Commercial Street, William York – It was decided to hear both cases together since they referred to the same piece of property, Renaissance. Steve Melamed, Ray Boylan, Gary Reinhardt, Peter Bez, and Larry Mahan sat on the case. Chris Snow presented the case to the Board. The building needs repair and in completing the repairs, the new plans call for the apartments to be reduced to four from six apartments. There were no people speaking either in favor or in opposition. There were two letters read in opposition to the proposal. One letter was from Brian Delorenti and David Martin who live across the street and the other from Brian Lescovitz. After a bit more discussion and advice from the Board it was agreed that Chris Snow would withdraw application 2000-022 and a motion was then made on 2000-037.

Motion: Peter Bez made a motion to grant the special permit to demolish a portion of the structure at 48 Commercial Street and raise a portion from 1½ to 2 story height. Steve Melamed seconded it and it passed unanimously 5-0.

Motion: Gary Reinhardt made a motion to allow 2000-022 to be withdrawn without prejudice. Peter Bez seconded it and it passed unanimously.

2000-038 329 Commercial Street, Edward Fallas – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, and Donna Campana sat on the case. Ed asked permission to place ponchos on the outside of the building when it rains and to have a machine which dispenses squashed pennies on the other side of the building.

Motion: Peter Bez made a motion to grant, Larry Mahan seconded and it passed unanimously. 5-0

2000-038 5 Masonic Place (Grand Central Café), April Cabral Pitzner – Gary Reinhardt, Peter Bez, Larry Mahan, Ray Boylan, and Donna Campana sat on the case. Chris Snow, representing April Pitzner, said the applicant was applying for an entertainment license for the restaurant. She envisioned a roving violinist on the first floor and unamplified entertainment on the second floor. Chris said she needed this embellishment in order to compete with others. Jamie Veara, representing the Vorelli's said if the ZBA granted he would like to stipulate the skylight and doors be closed at all times of entertainment. Warren Anka was a proponent of the request and Frances Shafir was an opponent. After discussion, a motion was agreed to as follows:

Motion: Peter Bez made a motion to grant with the following appendages:

- 1. Entertainment allowed from 5:00 p.m. until 1:00 a.m.**
- 2. All doors and windows MUST be closed during entertainment.**
- 3. First floor is allowed a roving musician.**
- 4. Second floor allowed a non-amplified group of no more than six entertainers.**

Ray Boylan seconded the motion and it passed unanimously. 5-0

2000-039 54 Bradford Street, John Doucette on behalf of Shank Painter Sails Condominium Trust – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, and Steve Melamed sat on the case. After quite a bit of discussion it was decided that John Doucette should get further clarification from the Department of Regulatory Management (DRM), even though the street address is 54 Bradford Street, their frontage is considered on Shankpainter Road. This alone led to some of the questions to be resolved by DRM. Gary advised John not to withdraw the request right away until he receives clarification of the situation.

2000-033 139 Commercial Street, Jay Anderson – Gary Reinhardt, Peter Bez, Ray Boylan, and Steve Melamed sat on the case. This case was being revisited. Lester Murphy, the attorney for Jay Anderson promised the scale would be resolved by Warren Alexander at another time. The members, by this time, had had ample opportunity to study some of the plans.

Motion: Steve Melamed made a motion to grant the special permit for the two dormers requested at 139 Commercial Street. Peter Bez seconded it and it passed unanimously. 4-0

THE NEXT MEETING OF THE ZONING BOARD OF APPEALS WILL TAKE PLACE ON TUESDAY, MAY 30TH AT 5:15 P.M.

Motion: Peter Bez made a motion to accept the minutes of the May 9th meeting. It was seconded by Larry Mahan and approved unanimously.

Motion: Larry Mahan made a motion to adjourn the meeting at 11:ish p.m. It was exhaustedly seconded and passed unanimously.

These minutes were approved by a vote of the Zoning Board Members present at their meeting on _____, 2000.

Respectfully submitted:

Zoning Board of Appeals Signature

Title

Evelyn Rogers Gaudiano,
On-call secretary