

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

### MEETING MINUTES OF JANUARY 4, 2001

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#### Meeting Place: Second Floor Auditorium in Town Hall

**Members Present:** Gary Reinhardt (Chair), Peter Bez (Vice Chair), Ray Boylan (Clerk), Larry Mahan, Steve Melamed, Peter McDonough.

**Members Absent:** Barbara Gard (excused)

**Others Present:** Rachel Crosby (Recording Secretary)

### PUBLIC HEARING

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

**2001-001**      **404 Commercial Street, John Guerra on behalf of Romaco, LLC** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Mr. Coburn appeared to present the application, which is to renew a special permit for outdoor seating. **Presentation:** There have been no complaints; applicant presented letter from abutters in favor. Would like permit for more than one year. **Public Comment:** No one spoke either in favor or opposition. There was one letter and one petition in favor and two letters in opposition. **Board Discussion:** delivery problems resolved; started outdoor service in August 2000 and continued until mid-September; no live entertainment. **Peter Bez moved to grant without a time limitation, Larry Mahan seconded and it was so voted, 5-0.** Peter Bez will write the decision.

**2001-003**      **283 Bradford Street, Robin Reid, representing the Provincetown Repertory Theatre, Inc. on behalf of Duarte Motors, Inc.** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. Attorney Robin Reid, Brian O'Malley, and Bob Seaver appeared to present the application, which is to change a pre-existing, non-conforming use of a garage and auto sales to another non-conforming use of a theatre. **Presentation:** Wants 199 seat theatre with lobby, offices and bathrooms; social and economic benefits identified; no future risk from environmental degradation; will accommodate at least two theatre companies **Public Comment:** Anne Howard, Joy McNulty, Joe Duarte, Bill Docker, Jeff Siponsky(?), Mr. Ewaul(?), Paul Asher, Jackie Kelly, Rick Wrigley, Alix Ritchie (who also spoke for Ms Collins-Boden), Jim Piplis(?), Hunter O'Hanian, Roger Chauvette, Dennis Rhodes, Ken Hoyt, Donald Winter, and an unidentified audience member spoke in favor. Ms Bruno spoke in favor, but with concerns of accountability for unpaid PRT bills. Mrs. Patrick spoke with concerns about parking, hours of operation, and food and beverage service. There were no speakers in opposition. There was one letter in favor. There were two letters with concerns. There was one conditional letter in opposition. **Board Discussion:** when will plans be more complete; will need to come back to the Board for stage configuration, parking, lighting and amplification issues; no plans to change building footprint; difficulty in granting change-of-use without a building plan; can condition approval in various ways; approximately 10,000 square feet available for parking, enough room for more than the required 40 spaces; possibility of conditional time limit on change-of-use; issues are parking, hours of operation, and outdoor lighting; tentative hours of operation for public performances discussed as being from 9:30 AM to 11:30 PM; Board may not need to see site plan showing parking areas and lighting scheme unless there are zoning concerns. **Peter Bez moved to grant with conditions, Ray Boylan seconded. Discussion:** affirmation that site is suitable for use as a theatre; applicant will be coming back to the Board for a 1260 special permit; applicant needs signed and filed decision by the

Board to execute Purchase and Sale Agreement. *Approval conditions: minimum of 50 parking spots with adequate lighting to illuminate parking area only, not the surrounding neighborhood. The Board voted to approve the motion by a vote of 5-0.* Steve Melamed will write the decision.

**2001-002** **15 Carnes Lane, John Salvador** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. Mr. Reis appeared to present the application, which is to exceed building scale. **Presentation:** applicant wants to put on an addition; scale calculations affected by many small backyard cottages; presented many letters in favor; lot coverage is only 7.9%; has sufficient square footage to alternatively add a second building. **Public Comment:** No one spoke either in favor or opposition. There were 23 letters in favor and none in opposition. **Board Discussion:** applicant could challenge scale calculations from Department of Regulatory Management; by-law appears to be working against best interests of the Town; could adjust center of structure and scale calculation inclusion circle by accounting for proposed addition and thereby include larger structures in scale calculations. Applicant submitted a written request to withdraw without prejudice. *Peter Bez moved to accept the withdrawal without prejudice, Ray Boylan seconded, and it was so voted, 5-0.*

**2001-004** **351A Commercial Street, Binder, Boland and Associates on behalf of Nelson Hitchcock and Corey Kustes** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. Ms Binder and Mr. Thompson appeared to present the application, which is to reconfigure buildings on the lot and generally decreasing non-conformancy. **Presentation:** property in disrepair; one building has been condemned; combining buildings would reduce non-conformancy; 9 square foot increase in lot coverage; shortened beach deck will reduce environmental impact. **Public Comment:** No one spoke either in favor or opposition. There was one letter in favor with concerns. There was one email with concerns. There were no letters in opposition. **Board Discussion:** Current setbacks; letter from Building Commissioner stating that building plans should be clarified/improved; discussion of whether criteria for a non-conforming roof pitch was met; can either change plan or return with a new application under another by-law; applicant needs a proper site plan. Taken under consideration.

**2001-005** **5-15 Bradford Street, Kimberly Medeiros on behalf of Moors Realty Trust** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Attorney Lester Murphy, Mr. John Medeiros and William Rogers appeared to present the application, which is to change from a non-conforming use of restaurant/bar to 8 single-family units in 3 buildings. **Presentation:** Wants to change use of Moors Restaurant property because septic system had failed; new septic design has been approved, but would have cost between \$150,000 and \$200,000; could increase restaurant operation, but decided residential development was preferable; multi-family residential use is still non-conforming; could sub-divide into three separate building lots; septic flow would decrease significantly; would be 22% lot coverage; most of pavement to be removed and replaced with greenery; within setbacks and scale limits; sufficient parking provided; reduction in water usage, garbage, noise, traffic; abutting properties are condominiums and motel; loss of seasonal employment; increase in property taxes; are willing to consider concerns of neighbors and requested that public hearing not be closed to allow opportunity to resolve issues; also would like some indication from Board on possible approval. **Public Comment:** Joy McNulty spoke in favor. Attorney Robin Reid reserved her right to speak, pending the possibility of resolving issues amicably. Mr. Lawson, at attorney, spoke on behalf of the Hatches Harbor Condominium Association, reserving his opposition comments pending the possibility for issue resolution. Mr. Moskowitz spoke in potential opposition, voicing several concerns. Richard Mores spoke in opposition. Rick Murray spoke on several points of information. There was one faxed letter in favor. **Board Discussion:** Gary Reinhardt stated the public hearing will be kept open with specific conditions. The public will be allowed to comment on any new plans and/or submit new letters. The property is currently three legal lots and will need to show boundaries on site plan or receive approval from Planning Board for consolidation into one lot. The Board indicated that they would probably approve the change of use, provided the concerns of the abutters can be adequately addressed. Applicant may need to provide waiver of decision time limits. Taken under consideration.

Chair Gary Reinhardt closed the Public Hearing at 9:43 P.M.

## WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 9:45 P.M.

**PENDING CASES**

**2000-089**     **5 Arch Street, Donald E. LaFlamme** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Attorney Christopher Snow appeared to discuss the application. **Board Discussion:** possibility of granting under Goldhirsch; listing of existing non-conformances; whether intensifying existing non-conformancy. *Peter Bez moved to grant under Goldhirsch, Larry Mahan seconded, and it was so voted, 4-1 (Ray Boylan).* Peter Bez wrote the decision using the standard Goldhirsch decision form.

**MISCELLANEOUS**

◆ None

**MINUTES**

**December 14, 2000** – *Peter Bez moved to approve as written, Ray Boylan seconded, and it was so voted, 6-0.*

**MISCELLANEOUS**

⌘ Next meeting will be on January 18, 2001 at 7:00 P.M. Public Hearing will be preceded by an educational training session at 5:30 P.M.

**ADJOURNMENT**

*Peter Bez made a motion to adjourn at 9:56 P.M. and it was so voted unanimously.*

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These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on \_\_\_\_\_, 2001

Respectfully Submitted:

\_\_\_\_\_  
Zoning Board of Appeals Signature

\_\_\_\_\_  
Title

*Rachel Crosby*  
On-call secretary