

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF FEBRUARY 1, 2001

Meeting Place: Judge Welsh Hearing Room in Town Hall

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Members Present: Gary Reinhardt (Chair), Peter Bez (Vice Chair), Ray Boylan (Clerk), Larry Mahan, Peter McDonough, Esther Czyoski.

Members Absent: Barbara Gard (excused), Steve Melamed (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 two were absent.

2000-070 143 Commercial Street, Christopher Snow on behalf of 141-143 Commercial Street Realty Trust - Application is for a special permit to alter, extend or change a pre-existing, non-conforming structure along non-conforming dimensions without intruding further into existing setbacks. Postponed until a later date.

2001-010 232 Bradford Street, Richard Wrigley - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Attorney Lester Murphy and Mr. Wrigley appeared to present the application, which is due to the applicant being aggrieved by a decision of the Building Commissioner which disqualifies the applicant's property from utilization of an exemption from Growth Management. **Presentation:** Referred to paragraph 3c of Growth Management By-law concerning exempting single family dwellings with private wells; property is 5 to 6 acres in size with two residences now; wants to change to one main dwelling with four cottages; Board of Health has confirmed that the well has potable water; wants to supply main house with well water and cottages with town water; wants single-family house to be exempted per By-law; concerned about putting too great a draw on well. **Public Comment:** Mr. Hoyt and Mr. Patrick spoke in favor and no one spoke in opposition. Mrs. Patrick asked several questions. There were four letters in favor and none in opposition. **Board Discussion:** Building Commissioner's role is to enforce by-law, not to interpret it. **Building Commissioner Comments:** feels it is his job to both interpret and enforce by-law; is clear about this by-law – is meant for one single-family dwelling on one lot; referred to Growth Management Priorities Categories. **Board Discussion:** easy sub-division prohibited by lack of frontage; lot is hilly, limiting developable area; would be year-round rental cottages; Bradford Street side of lot is in Zone W; woodworking shop is a business, but is in basement, so noise is reduced; adding two cottages and a main, single-family house; only single-family house is before the Board; question is whether Building Commissioner acted correctly. Applicant submitted a request to withdraw the application without prejudice. *Peter Bez moved to approve the request to withdraw the application without prejudice, Ray Boylan seconded, and it was so voted, 5-0.*

2001-011 232 Bradford Street, Richard Wrigley - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Attorney Lester Murphy and Mr. Wrigley appeared to present the application, which is for a variance from the Growth Management By-law. **Presentation:** Mr. Murphy distributed a drawing of the rear portion of the parcel. Sub-division to provide additional frontage for single-family house would require building a road, which would cost \$250,000 to \$300,000. Would have to more intensively develop lot to cover additional expenses. Potential for environmental damage. Hardship is owing to shape and topography of lot and also to financial factors. Abutters support lower level of

development. Potable well would eliminate drain on public water. **Public Comment:** Mr. Alexander, Mr. Hoyt and Mr. Patrick spoke in favor and no one spoke in opposition. The four letters in favor from previous application applied to this application as well. **Board Discussion:** How well water was analyzed; whether lack of frontage can be considered a hardship; whether it is a hardship to have to wait in growth management queue; property was intended for development prior to growth management; driveway would be the same as currently; the two new cottages are in the queue; applicant may seek to apply for cluster development for new cottages. *Ray Boylan moved to grant the variance, Peter Bez seconded.* **Discussion:** More intensive development would be hardship to Town; whether favorable vote would negate intent of by-law; concern with future of property; plans will be stamped, further development will require approval by Board. After discussion, *the motion passed by a vote of 4-1 (Peter Bez).* Ray Boylan will write the decision.

2001-012 258 Commercial Street, Theodore Tine on behalf of T-UNA-S, Inc. - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Mr. Tine appeared to present the application, which is to renew a special permit for live theater and dancing by patrons. **Presentation:** Would like permit to be made permanent; has had permit for last four years. **Public Comment:** No one spoke in opposition. An abutter spoke requesting it remain an annual permit. There was a letter with concerns from the Board of Selectmen. There was one letter opposing a permanent permit or any other changes. There were no letters in favor. **Board Discussion:** No real complaints this year. *Peter Bez moved to approve the permit as previously defined (for one year), Larry Mahan seconded and it was so voted, 5-0.* Peter Bez will write the decision.

2001-013 351A Commercial Street, Binder Boland & Associates, Inc. and Top Floor Design on behalf of Nelson Hitchcock and Corey Kuestes – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Esther Czyoski. Application was for a special permit to change a pitched roof to a flat roof. Applicant submitted a request to withdraw the application without prejudice. *Esther Czyoski moved to approve the request to withdraw the application without prejudice, Peter Bez seconded, and it was so voted, 5-0.*

Chair Gary Reinhardt closed the Public Hearing at 8:13 P.M.

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 8:14 P.M.

PENDING CASES

2001-009 441B Commercial Street, Joel Jeffrey Ouellet - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. 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. Medeiros and Mr. William Rogers appeared to discuss the application. Mr. Murphy presented a letter of support from Attorney Robin Reid, who represented several abutters. **Board Discussion:** Layout and building look has been changed; abutters have not had an opportunity to review new elevation drawings; Gary Reinhardt read the letter from Attorney Robin Reid. **Public Comment:** Dr. Murray asked about scale calculations and Mr. Rogers said he thought they were on the original plans, but had not been revised. **Board Discussion:** Whether project can be submitted as an approval-not-required given that parcels have not been combined; applicant wants Board approval conditioned on eventual consolidation into one lot; discussion of applicant options and potential for time delays and/or appeals; will have to go through site-plan review process and then also building permit process, both of which will require parcel consolidation; main issue before Board is change-of-use; need to provide more time for neighbor review of elevation drawings; Board could grant approval in Attorney Murphy's absence. **Public Comment:** Dr. Murray asked if this was the final design and Mr. Murphy said that the site plan was final (i.e., buildings' and septic locations), but changes in building design and aesthetics were still possible. In response to a question from Dr. Murray, Gary Reinhardt explained the effect of the Board's granting approval. Lester Murphy responded to several other questions from Dr. Murray about locating utilities underground and concerning the project's timeline. Attorney Robin Reid confirmed that her clients' approval was based upon the site plan and not upon the elevations. Applicant needs to provide revised scale calculations. Public portion of hearing will remain open and Board consideration will resume in

two weeks.

PENDING DECISIONS

2001-006 175 Bradford Street Extension, David Silva - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Peter Bez read the decision. *Larry Mahan moved to approve the decision as written, Ray Boylan seconded and it was so voted, 5-0.*

2001-008 378 Commercial Street, David Morgan and Steven Abramson - Gary Reinhardt, Ray Boylan, Larry Mahan, Steve Melamed, Peter McDonough sat on case. Ray Boylan read the decision. *Larry Mahan moved to approve the decision as written, Peter McDonough seconded and it was so voted, 4-0, 1 absent (Steve Melamed).*

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. Larry Mahan read the decision. *Peter Bez moved to accept the decision as amended, Ray Boylan seconded and it was so voted, 4-0, 1 absent (Steve Melamed).*

MINUTES

January 18, 2001 – *Peter Bez moved to approve as written, Ray Boylan seconded, and it was so voted, 5-0, 1 abstain (Esther Czyoski).*

MODIFICATION

2000-061 48 Shank Painter Road, Joan Taves - Gary Reinhardt, Peter Bez, Barbara Gard, Ray Boylan, Steve Melamed sat on case. Joe Taves appeared to discuss the proposed modifications. Wants to replace the block foundation with a poured concrete foundation. Also want to move the building a few feet to bring it into conformancy and wants to change pitched roof to a flat roof. Applicant must return with plans showing modifications so that Board can determine whether a new hearing is required.

MISCELLANEOUS

⌘ Next meeting will be on February 15, 2001 at 6:30 P.M.

ADJOURNMENT

Peter Bez made a motion to adjourn at 9:08 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:

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Zoning Board of Appeals Signature

\_\_\_\_\_ **Rachel Crosby**  
Title On-call secretary