

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

### MEETING MINUTES OF MARCH 15, 2001

#### Meeting Held in Town Hall

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

**Members Absent:** Steve Melamed

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

#### WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:30 PM.

#### PENDING CASES

**2001-016 250 Bradford Street, Anthony Vevers** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. **Board Discussion:** A letter, requesting a continuance, is pending from the applicant. Gary Reinhardt also reported he had received an opinion from Town Counsel stating that, because there are articles in the upcoming Town Meeting Warrant which could impact this application, the Zoning Board of Appeals cannot either approve or deny it until after Town Meeting. The Board discussed the implications of this opinion, especially as it affected several applications scheduled for the next meeting.

#### PENDING DECISIONS

**2000-015 371-373 Commercial Street, Nils Berg on behalf of Berg Family Trust** - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Esther Czyoski sat on case. Peter Bez read the decision. ***Ray Boylan moved to approve the decision as written, Esther Czyoski seconded and it was so voted, 5-0.***

**2001-018 170 Commercial Street, John Yingling** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Gary Reinhardt reported that he had received favorable letters from both the Fire and Police Departments. Ray Boylan read the decision. ***Peter Bez moved to approve the decision as written, Larry Mahan seconded and it was so voted, 5-0.***

**2001-019 25 Winslow Street, Motta Field, Peter Grosso on behalf of the Provincetown Lions Club** - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Esther Czyoski sat on case. Esther Czyoski read the decision. ***Peter Bez moved to approve the decision as written, Larry Mahan seconded and it was so voted, 5-0.***

**2001-020 135 Bradford Street, Joseph Pezzulo on behalf of Pezzulo, Inc.** - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Peter Bez read the decision. ***Ray Boylan moved to approve the decision as written, Larry Mahan seconded and it was so voted, 5-0.***

#### MINUTES

**March 1, 2001** – ***Peter Bez moved to approve as written, Esther Czyoski seconded, and it was so voted, 6-0.***

Gary Reinhardt distributed copies of the proposed zoning changes to be considered at Town Meeting.

#### 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.

Gary Reinhardt remembered the late Barbara Gard and praised her for her years of service to the Board.

**2001-021 237-241 Commercial Street, Kenneth G. Ross on behalf of Whaler's Wharf, LLC.** - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Attorney Robin Reid and Mr. Ross appeared to present the application which is to change service of food from counter service to full table service. **Presentation:** Number of year round restaurants has been decreasing; will have no impact on abutters or businesses in Whaler's Wharf; will also allow better control of alcohol consumption and congestion; will not be affected by growth management bylaw as the seats have always been considered full sit-down seats in terms of water usage (35 gallons per day per seat). **Public Comment:** Ms Pierce, Ms Leonard, Mr. Baird, Ms Gaskill(?), Mr. V\_\_\_\_\_, Ms Baldwin, Mr. Daniel(?) and Ms Gold spoke in favor. Attorney Chris Snow, representing Marine Specialties, spoke in opposition, referring to an unresolved damage claim against Whaler's Wharf. Peter Bez raised a point of order concerning the relevance of Mr. Snow's testimony, but Gary Reinhardt allowed Mr. Snow to finish. Mr. Snow said that the Marine Specialties would be in favor of the application, provided that the Board's approval be conditioned upon the settlement of the Marine Specialties' claim. There were 16 letters in favor. There was one email in favor. There were no letters in opposition. **Board Discussion:** Gary Reinhardt explained that when the application to rebuild Whaler's Wharf had come before the Board, the Growth Management Bylaw would have required a full-service restaurant to get in the same queue as new construction. The applicant therefore applied for a fast food service permit, which had been in place prior to the fire. The Growth Management Bylaw has changed, however, and the only real concern now is whether the restaurant water usage is within the septic capacity. The applicant addressed the special permit criteria. Ms Reid explained how the number of seats had gone from 20 to 35 (by moving septic capacity from other uses in the building). By consensus, the Board agreed that the dispute with Marine Specialties had no relevance to this application. **Peter Bez moved to grant, Ray Boylan seconded, and it was so voted, 5-0.** The Board discussed whether they should have granted a section 1260 special permit when a public hearing to eliminate that section was pending. Building Commissioner Warren Alexander offered the opinion that, because the proposed bylaw change would result in fewer restrictions, the question of approving the application was moot. Ray Boylan will write the decision.

Chair Gary Reinhardt closed the Public Hearing at 7:40 P.M.

**MEETING SCHEDULE**

⌘ Next meeting will be on March 29, 2001 at 6:45 P.M.

**ADJOURNMENT**

***Ray Boylan moved to adjourn at 7:42 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