

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF APRIL 18, 2002

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt (Chair), Peter Bez (Vice Chair), Larry Mahan (Clerk), Estherann Czyoski, and Peter Page.

Members Absent: Steve Melamed (excused), Peter McDonough (unexcused).

Others Present: Warren Alexander (Building Inspector) (arrived at 8:45 P.M.), Ellen C. Battaglini (Recording Secretary).

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:00 P.M. and explained the Public Hearing procedures to the public. Five members of the Board were present and two were absent.

- 2002-027** **173 Commercial Street, Jay W. Luiz on behalf of Mary M. Henrique –**
Gary Reinhardt, Estherann Czyoski, Peter Bez, Larry Mahan and Peter Page sat on the case. The applicant seeks a Special Permit under Article II, Section 2420 of the Zoning By-Laws for the outdoor display of merchandise.
Presentation: Jay W. Luiz appeared to present the application. Mr. Luiz is proposing the display of fifteen objects on the sidewalk in front of 173 Commercial Street.
Public Comment: No one spoke either in favor or in opposition. There were no letters on file.
Board Discussion: The Board questioned Mr. Luiz and discussed the drawing he had submitted. The Board was particularly concerned that the placement of the objects conform to the 10-foot setback from the street.
Peter Bez moved to grant a Special Permit under Article II, Section 2420 of the Zoning By-Laws for the outdoor display of merchandise on the property located at 173 Commercial Street, Estherann Czyoski seconded and it was so voted, 5-0 .
- 2002-028** **144 Bradford Street Extension, Jeffrey Epstein on behalf of 144 Bradford Street Extension Realty Trust -**
Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, and Peter Page sat on the case. The applicant seeks a Special Permit under Article II, Section 2420 of the Zoning By-Laws for the outdoor display of merchandise.

Presentation: Attorney Lester J. Murphy and Jeffrey Epstein appeared to present the application. Bicycles are currently rented at the premises. The applicant is proposing to include the sale of inflatable items and beach umbrellas. The area of display will not be expanded; rather a portion of the bicycles will be replaced to accommodate the new items.

Public Comment: No one spoke either in favor or in opposition. There were no letters on file.

Peter Bez moved to grant a Special Permit under Article II, Section 2420 of the Zoning By-Laws for the outdoor display of merchandise on the property located at 144 Bradford Street Extension, Larry Mahan seconded and it was so voted, 5-0.

2002-029

277 Commercial Street, Chhiring Chhomo Lama on behalf of Saint Peter's Club -

Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski and Peter Page sat on the case. The applicant seeks a Special Permit under Article II, Section 2420 of the Zoning By-Laws for the outdoor display of merchandise.

Presentation: Chhiring Chhomo Lama appeared to present the application.

Public Comment: No one spoke either in favor or in opposition. No letters were on file.

Peter Bez moved to grant a Special Permit under Article II, Section 2420 of the Zoning By-Laws for the outdoor display of merchandise at the property located at 277 Commercial Street, Larry Mahan seconded and it was so voted, 5-0.

2002-030

39 Pearl Street, Peter Jonathan Portney -

Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski and Peter Page sat on the case. The applicant seeks a Special Permit under Article II, Section 2420 of the Zoning By-Laws to remove a portion of a pre-existing non-conforming two-family dwelling structure and reconstruct it partially outside of the previous building footprint located in the rear yard. If the Board decides that it cannot act on the Special Permit, the applicant has also petitioned for a Variance pursuant to the dimensional schedule of Article I, Section 1320 of the Zoning By-Laws.

Presentation: Peter Portney appeared to present the application.

Public Comment: No one spoke either in favor or in opposition. No letters were on file.

Board Discussion: The Board determined that the application would be considered under the *Goldhirsh v. McNear* ruling.

Peter Bez moved to grant a Special Permit under Article II, Section 2420 of the Zoning By-Laws to remove a portion of a pre-existing non-conforming two-family dwelling structure and reconstruct it partially outside of the previous building footprint located in the rear yard at the property located at 39 Pearl Street, Peter Page seconded and it was so voted, 5-0.

2002-031

220 Commercial Street, Patricia McGuire on behalf of D&K Realty Trust –

Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski and Peter Page sat on the case. The applicant seeks a Special Permit under Article II, Section 2420 of the Zoning By-Laws for the outdoor display and sale of pretzels, water, soda and pre-packed Italian ice.

Presentation: Patricia McGuire and Joan Cozza appeared to present the application.

Public Comment: Shelley Cullen and Ed Dibiasio spoke in favor of the application. There were four letters on file in favor of the application.

Board Discussion: The Board questioned the applicant.

Peter Bez moved to grant a Special Permit under Article II, Section 2420 of the Zoning By-Laws for the outdoor display and sale of pretzels, water, soda and pre-packed Italian ice on the property located at 220 Commercial Street, Estherann Czyoski seconded and it was so voted 5-0.

2002-026

36 Shank Painter Road, #10, Brian Alexander on behalf of R&C Realty Trust -

Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski and Peter Page sat on the case. The applicant seeks a Special Permit under Article II, Section 2110 of the Zoning By-Laws to extend a pre-existing nonconforming office and dwelling structure up and along a nonconforming dimension and a Special Permit under Article VII, Section 7102E to deviate from the average neighborhood building scale.

Presentation: Attorney Lester J. Murphy and Gloria DiAndrea, a business partner of Brian Alexander, appeared to present the application. The applicant proposes to expand his condominium unit by adding a second story for storage and office space. He also plans to include a handicap access ramp on the first floor.

Public Comment: No one spoke either in favor or in opposition. There were two letters on file from unit owners who expressed concern about potential damage to their units during the renovation and the owner's failure to obtain the Trustees' approval for the project. There was a third letter on file from the Treasurer of the Condominium Trust expressing concern about the lack of communication between the owner and the Trustees of the Condominium.

Board Discussion: The Board questioned Attorney Murphy and Ms. DiAndrea about the project. The Board discussed the scale by-law in relation to this project and expressed particular concern about how the character of the neighborhood would be affected by the change in scale of the unit.

FINDINGS OF FACT:

- The existing structure is non-conforming in its front and south side setbacks;
- The proposed addition will add a second story to Unit #10, which is a portion of the structure in which it sits;
- The proposed addition will increase the footprint of the structure, but not encroach further into the setbacks;
- The scale of the existing structure is 50 scale units, the neighborhood average is 48.06 scale units, the allowed scale is 60.07 scale units and the scale of the proposed structure is 68.25 scale units and;
- The neighborhood is comprised of a mixed use of large industrial buildings and small residential and office buildings.

Peter Be moved to grant a Special Permit under Article II, Section 2110 of the Zoning By-Laws to extend a pre-existing nonconforming office and dwelling structure up and along a nonconforming dimension and a Special Permit under Article VII, Section 7102E to deviate from the average neighborhood building scale at the property located at 36 Shank Painter Road, #10, Peter Page seconded and it was so voted, 4-1 (Gary Reinhardt opposed). Peter Page will write the decision.

Chair Gary Reinhardt closed the Public Hearing at 8:45 P.M.

WORK SESSION

Chair Gary Reinhardt convened the Work Session at 8:45 P.M.

ADMINISTRATIVE AMENDMENT

Case # 99-069 - Ted Malone appeared to request that the Board consider and approve an administrative amendment for

the Hensche Lane Condominiums located at 35 Conwell Street. He had been granted a Special Permit (Case # 99-069) for the project in 1999, at which time it was requested that he return with a set of 'as built' plans when the project was complete. Chair Gary Reinhardt was the only present member that sat on the original case.

Peter Bez moved to consider the request as an administrative amendment, Larry Mahan seconded and it was so voted, 5-0.

Peter Bez moved to accept the administrative amendment, Larry Mahan seconded and it was so voted, 5-0.

Case # 2002-019 – There was a request for a change in the language of the approved decision. The language should read “deviation from scale”, not “variation from scale”. Gary Reinhardt, Larry Mahan, Peter Bez, Estherann Czyoski and Peter McDonough sat on the case.

Larry Mahan moved to consider the request as an administrative amendment, Estherann Czyoski seconded and it was so voted, 4-0-1 (absent).

Larry Mahan moved to accept the administrative amendment, Estherann Czyoski seconded and it was so voted, 4-0-1 (absent).

OTHER BUSINESS

Case # 2002-015 – John Reis requests that the revised plans submitted, approved and stamped by the Board, for his project at 16 Harry Kemp Way, showing the movement and subsequent new location of Unit #6, be made part of the official decision that is filed.

MINUTES

April 11, 2002 – *Peter Bez moved to approve the minutes as amended, Estherann Czyoski seconded and it was so voted, 5-0.*

NEXT MEETING

The next meeting will be a Public Hearing on May 2, 2002.

ADJOURNMENT

Peter Bez moved to adjourn at 9:15 P.M. and it was so voted unanimously.

These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on May 2, 2002.

Respectfully submitted,

Zoning Board of Appeals Signature

Title

Ellen C. Battaglini
On-call secretary