

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

MEETING MINUTES OF August 1, 2002

MEETING HELD IN TOWN HALL

**Members Present:** Gary Reinhardt (Chair), Peter Bez (Vice Chair), Larry Mahan (Clerk), Estherann Czyoski, Peter Page (arrived at 6:35 P.M.) and Steve Melamed.

**Members Absent:** None

**Others Present:** Ellen C. Battaglini (Recording Secretary), Warren Alexander (Zoning Enforcement Officer).

### WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:19 P.M.

#### PENDING CASES:

**2002-059 5 Somerset Road, Mark Baker -**

Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, Steve Melamed sat on the case.

**Board Discussion:** The Board discussed the revised site plan submitted by the applicant and the site visit on July 29, 2002.

**FINDINGS OF FACT:**

- The required front yard setback in the Res 1 Zoning District is 30 feet, the required side yard setback is 5 feet and the required rear yard setback is 20 feet;
- The two structures on the property must be separated by no less than 9 feet;
- After a site visit, the Board determined that the shed cannot meet the current front yard and /or rear yard setback and building separation requirements;
- The proposed shed is 11 feet by 7 feet with a height of 9 feet from finished floor to roof ridge; and
- The doors and windows of the proposed shed will not face or open into an area of the standard side or rear yard setbacks.

*Peter Bez moved to grant a Special Permit under Article 2, Section 2450, G14, footnote 2 of the Zoning By-Laws, to locate a garden shed at 5 Somerset Road, Estherann Czyoski seconded and it was so voted, 5-0. Peter Bez will write the decision.*

#### PENDING DECISIONS:

**2002-053 6 Telegraph Hill, Lester J. Murphy, Attorney, on behalf of Ozland Realty, LLC -**

Peter Bez, Larry Mahan, Estherann Czyoski, Steve Melamed sat on the case. Estherann Czyoski read the decision. *Steve Melamed moved to approve the language as amended, Peter Bez seconded and it was so voted, 4-0.*

**2002-054 421 Commercial Street, Unit 1, Frank A. McLean –**

Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, Steve Melamed sat on the case. Peter Bez read the decision. *Larry Mahan moved to approve the language as written, seconded and it was so voted, 5-0.*

**2002-055 421 Commercial Street, Unit 2, John and Kathleen DeMatteis –**

Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, Steve Melamed sat on the case. Peter Bez read the decision. *Steve Melamed moved to approve the language as written, Estherann Czyoski*

*seconded and it was so voted, 5-0.*

**2002-056**      **421 Commercial Street, Unit 3, John and Kathleen DeMatteis –**  
Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, Steve Melamed sat on the case. Peter Bez read the decision. *Steve Melamed moved to approve the language as written, Estherann Czyoski seconded and it was so voted, 5-0.*

**2002-060**      **238 Bradford Street, Robin B. Reid, Attorney, and Kurt Raber, of Brown, Lindquist, Fenuccio & Richmond, Architects, Inc., on behalf of The Provincetown Theater Foundation, Inc. -**  
Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, Steve Melamed sat on the case. Estherann Czyoski read the decision. *Larry Mahan moved to approve the language as written, Peter Bez seconded and it was so voted, 5-0.*

**2002-062**      **238 Bradford Street, Robin B. Reid, Attorney, and Kurt Raber, of Brown, Lindquist, Fenuccio & Richmond, Architects, Inc., on behalf of The Provincetown Theater Foundation, Inc. -**  
Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, Steve Melamed sat on the case. Steve Melamed read the decision. *Peter Bez moved to approve the language as written, Estherann Czyoski seconded and it was so voted, 5-0.*

### **REQUEST FOR ADMINISTRATIVE AMENDMENT:**

**2002-015 16 Harry Kemp Way, John Reis, Inc., on behalf of J&J Realty Trust –**

The applicant proposes to increase the width of a deck as shown on the plan approved by the Board, from four feet to six feet. The proposal does not violate any dimensional or yard setback requirements. Gary Reinhardt, Larry Mahan, Peter Page and Steve Melamed sat on the case.

**Presentation:** John Reis appeared to present the application. He wants to increase the original deck from 4 feet by 30 feet to 6 feet by 30 feet. The proposed deck will meet the minimum setbacks.

*Steve Melamed moved to consider the request as an administrative amendment, Larry Mahan seconded and it was so voted, 4-0.*

*Steve Melamed moved to accept the request as an administrative amendment, Larry Mahan seconded and it was so voted, 4-0.*

### **MINUTES:**

**July 18, 2002 –** *Peter Bez moved to approve the minutes as written, Larry Mahan seconded and it was so voted, 5-0-1 (absent).*

**July 29, 2002 – Site Visit –** Chair Gary Reinhardt read the minutes into the record. *Peter Bez moved to accept the language as written, Steve Melamed seconded and it was so voted, 3-0-3 (absent).*

Chair Gary Reinhardt closed the Work Session at 7:02 P.M.

## **PUBLIC HEARING**

Chair Gary Reinhardt called the Public Hearing to order at 7:02 P.M. and explained the public hearing procedures to the public. Six members of the Board were present and none were absent.

**2002-063 575 Commercial Street, Tom Thompson on behalf of John and Donna Farrelly -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a structure up and along the nonconforming eastside yard dimension. Gary Reinhardt, Peter Bez, Larry Mahan, Peter Page, and Estherann Czyoski sat on the case.

**Presentation:** Tom Thompson appeared to present the application.

**Public Comment:** Attorney Lester J. Murphy, representing the owners of the Provincetown Condominiums (Susan Brand & Gail Horowitz, Emanuel Berger & Nicholas Klesaris, Joanne Brode, Thomas Keydel, Alfred Siohom, Eileen & Robert Tieger, Elizabeth Weatherford, Nanci Youronis & Sheila Sheehan) located at 577 Commercial Street, spoke of their concern about the project's

detrimental effect on the neighborhood. He also expressed his clients' concerns about the loss of light from the additions to the structure at 575 Commercial Street. His clients are asking the owners to adjust the design of the addition in order to mitigate its effects on their condominium. There was a letter on file from a neighbor across the street from the premises who expressed his opposition to the project.

**Board Discussion:** The Board questioned Mr. Thompson about the project.

*Peter Bez moved to consider the decision under the Goldhirsh v. McNear ruling, Larry Mahan seconded and it was so voted, 5-0.*

*Peter Page moved to approve the Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a structure up and along the nonconforming eastside yard dimension for the property located at 575 Commercial Street under the Goldhirsh v. McNear ruling, Estherann Czyoski seconded and it was so voted, 5-0.*

**2002-064**

**63 Commercial Street, 63 Commercial Street Trust -**

The applicant seeks a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to extend a structure up and along the nonconforming eastside dimension and to deviate further from the average neighborhood building scale. Chair Gary Reinhardt recused himself because of a conflict of interest. Peter Bez chaired the case and seated with him were Larry Mahan, Peter Page, Estherann Czyoski and Steve Melamed.

**Presentation:** Tom Thompson, Bill Dougal and Rick Murray appeared to present the application.

Roslyn Garfield, as a point of order, questioned Mr. Murray's standing in the case as his name is not on the deed for the property.

**Public Comment:** Matthew Clark, an abutter who resides at 61 Commercial Street, spoke of his concerns about the scale issue, as the structure is already the second tallest structure in the neighborhood. Don Murphy, an abutter residing at 56 Commercial Street, spoke against the application. John Fahamian, who resides at 65 Commercial Street, spoke of his concern about the project's effect on the light reaching his property. Roslyn Garfield, an abutter, spoke of her concerns about the scale of the plans. Ruth Hiebert and Roslyn Garfield, members of the Board of Directors of the Center for Coastal Studies, an abutter to the project, spoke against the application. Stormy Mayo, Director of the Center for Coastal Studies, stated that the Center would like to expand their cramped quarters, but up to this point in time, have respected their neighborhood's concern about an increase in scale. Mr. Mayo added that the Center might seek to expand their space if this application is approved. Judy Mencher, an abutter at 65A Commercial Street, speaking on behalf of herself and her partner, Martha Epps, voiced her opposition to the application. Phyllis Temple, an abutter residing at 64 Commercial Street, spoke against the project. Elise Cozzi, a resident of 61B Commercial Street, was opposed to the application. Louanne Alemany, an abutter at 61A Commercial Street, spoke against the application. Alice Brock, an abutter at 69 Commercial Street, opposed the project. There were five letters in opposition and three letters in favor of the application on file.

Mr. Murray responded to many of the concerns of the neighbors and stated that he and his partner, Bill Dougal, tried to design the house with the neighborhood in mind, but they were willing to make compromises on the site plans in order to accommodate the concerns that were raised by speakers against the project.

**Board Discussion:** The Board discussed the need for a site visit. Warren Alexander expressed his opinion that the plans for the project were not complete, thus he was not able to come to any conclusions concerning whether a third story is being created. The Board decided that it needed that questioned answered before it could rule on the application. A site visit is scheduled for Tuesday, August 6, 2002 at 5:15 P.M.

**NEXT MEETING**

The next meeting will be on August 15, 2002 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

**ADJOURNMENT**

*Steve Melamed moved to adjourn at 8:40 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 August 15, 2002.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

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Ellen C. Battaglini