

**TOWN OF PROVINCETOWN**  
**ZONING BOARD OF APPEALS**

**MEETING MINUTES OF October 3, 2002**

**MEETING HELD IN TOWN HALL**

**Members Present:** Peter Bez (Vice Chair), Larry Mahan (Clerk), Peter Page (arrived at 6:45 P.M., Steve Melamed.

**Members Absent:** Gary Reinhardt (Chair) (excused).

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

**WORK SESSION**

Vice Chair Peter Bez called the Work Session to order at 6:35 P.M.

**2002-070      3 King's Way, Thomas A. Edwards –**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the neighborhood average building scale with the construction of a six-foot by fourteen-foot one story kitchen addition on the dwelling structure. Gary Reinhardt, Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case. Peter Bez read the decision. *Larry Mahan moved to accept the language as written, Steve Melamed seconded and it was so voted, 3-0-2 (absent).*

**2002-071      232-232R Bradford Street, Nextel Communications of Mid-Atlantic, Inc., d/b/a Nextel Communications (“Nextel”) -**

The applicant seeks a Variance under Article 7, Section 7070, Subsections L & M.3 (Location Class/Type 4), 500-foot horizontal setback requirement; Section 7110, Monitoring and Elevation Compliance; Section 7130, Indemnification, insurance and Fees; and Section 7140, Terms of Special Permit of the Zoning By-Laws to install a Wireless Telecommunication Facility with 6 antennas to be camouflaged inside a cupola, together with an underground 10-foot by 20-foot equipment room on land owned by Richard P. Wrigley. Gary Reinhardt, Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case. Peter Bez read the decision. *Steve Melamed moved to accept the language as written, Larry Mahan seconded and it was so voted, 4-0-1 (absent).*

**2002-073      149A Commercial Street, Robert Valois on behalf of Laura Rood -**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the neighborhood average building scale. The subject building is a two-family structure. Gary Reinhardt, Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case. Peter Page read the decision. *Larry Mahan moved to accept the language as written, Steve Melamed seconded and it was so voted, 4-0-1 (absent).*

**REQUEST FOR AN ADMINISTRATIVE AMENDMENT**

**2002-064      63 Commercial Street, Tom Thompson on behalf of 63 Commercial Street Trust -**

Peter Bez, Larry Mahan, Estherann Czyoski, Peter Page and Steve Melamed sat on the case. The applicant requests a change in the roof pitch from 12:12 to 12:9.5, allowing more headroom in the attic space. *Steve Melamed moved to hear the case as an administrative amendment, pending the receipt of three more copies of the site plans, Larry Mahan seconded and it was so voted, 4-0.*

Acting Chair Peter Bez postponed the Work Session at 7:05 P.M.

## PUBLIC HEARING

Vice Chair Peter Bez called the Public Hearing to order at 7:05 P.M. and explained the Public Hearing procedures to the public. Four members of the Board were present and one was absent. Vice Chair Peter Bez explained the implications of a four member Board to each applicant. Since only four members were seated, each case must obtain a unanimous vote in order for their application to be approved. Each applicant could choose to proceed or postpone their application until a five member Board was seated.

### **2002-069 8 Commercial Street (*Residential 1 Zone*), Alix Ritchie – (continued from September 19, 2002)**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the allowed neighborhood average building scale and/or to amend a previously approved Special Permit building plan by removing one proposed addition, and replacing it with an alternated addition to the structure. Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case. The applicant chose to proceed with a four member Board.

**Presentation:** Alix Ritchie and Architect Scott Brady appeared to present the application. Ms. Ritchie corrected the published description of her application, clarifying that she was not removing one proposed addition and replacing it with an alternate addition, but just building an addition to the dwelling structure. The addition will consist of a screened-in porch.

**Public Comment:** No one spoke in favor or in opposition to the application. There were no letters on file.

**Board Discussion:** The Board questioned Ms. Ritchie and Mr. Brady and there was a brief discussion. *Steve Melamed moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the allowed neighborhood average building scale and/or to amend a previously approved Special Permit building plan by adding an addition to the structure at the property located at 8 Commercial Street (Residential 1 Zone), Larry Mahan seconded and it was so voted, 4-0.* Peter Bez will write the decision.

### **2002-077 586 Commercial Street (*Residential 2 Zone*) Eric Dray -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to continue a preexisting, nonconforming structure up and along a nonconforming dimension with the addition of dormers and to change a preexisting, nonconforming use with a reduction in a number of commercial accommodation bedrooms and the addition of one dwelling unit. Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case

**Presentation:** Ginny Binder appeared to present the application. Ms. Binder requested a continuance until October 17, 2002 because of the absence of Mr. Dray and it was so granted.

### **2002-079 412 Commercial Street (*Residential 3 Zone*), Timothy Harrington on behalf of Leona Egan -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a preexisting, nonconforming three family dwelling structure further into a nonconforming dimension. Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case. The applicant chose to postpone the application until a five member Board was seated.

### **2002-078 586 Commercial Street (*Residential 2 Zone*), Tom Thompson, Top Floor Design House on behalf of Eric Dray -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a nonconforming structure up and along a west side nonconforming dimension with the construction of a shed dormer and roof deck, and to extend the nonconforming structure up and along a nonconforming east side dimension for the installation of a second means of egress. Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case. The applicant chose to proceed with a four member Board.

**Presentation:** Ginny Binder and Tom Thompson appeared to present the application. The applicant wants to increase the building scale by more than 1.5 Scale Units, which is allowed as a matter of right, but any increase beyond that requires a Special Permit. The applicant agreed to withdraw without prejudice the building scale change in the application because it hadn't been advertised as part of the application. Warren Alexander stated his opinion that the Board could proceed to consider the request for a Special Permit under Article 3, Section 3110 of the Zoning By-Laws and not consider the building scale request.

**Public Comment:** Frank Fisher, a resident of 586 Commercial Street, spoke against the application. Anna Avellar asked if the condominium units would be rented by the week. Peter Manso, a property owner in the neighborhood, spoke against the application, citing the possibility of an increase in noise and congestion in the neighborhood. Frank Fisher raised the question of the necessity of a second means of egress. Warren Alexander answered that it was a State Building Code requirement for all newly renovated structures. Robert Burns, an abutter, spoke against the application stating that in his opinion the project will result in an increase in noise in the quiet East End neighborhood. Anna Avellar questioned whether the project needed to be reviewed by the Historical Commission. Kathleen Burns, an abutter, spoke against the application. Attorney Christopher Snow, a resident of the neighborhood, spoke against the project. Peter Manso spoke about his opposition to the proposed roof deck that will be built on top of the building. He requested that the Board members make a site visit to his house and see for themselves what effect the project will have on the neighborhood. There were three letters on file opposing the project.

**Board Discussion:** The Board questioned Ms. Binder and Mr. Thompson and decided that they would make a site visit to the property in question before rendering a decision. The Board scheduled a site visit on October 8, 2002 at 5:00 P.M. at 586 Commercial Street and then will discuss the case again at the Work Session on October 17, 2002.

**2002-080 15 Commercial Street (Residential 1 Zone), E. James Veara, Esq. on behalf of Donald Winter and Richard DiFrummolo -**

The applicant seeks an appeal of the decision, under Article 5, Section 5223c of the Zoning By-Laws, of the Building Commissioner dated August 29, 2002. This case is continued until October 17, 2002 because of a lack of quorum due to the fact that Board member Steve Melamed would have to recuse himself because of a conflict of interest.

**2002-081 34 Hancock Street (Residential 3 Zone), Neal Kimball on behalf of Elaine Anderson –**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a preexisting, nonconforming single family dwelling up and along nonconforming dimensions. Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case. The applicant chose to proceed with a four member Board.

**Presentation:** Neal Kimball appeared to present the application.

**Public Comment:** None. There were no letters on file.

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

*Steve Melamed moved to approve the application under the Goldhirsh v. McNear ruling, Larry Mahan seconded and it was so voted, 4-0.*

**2002-082 19 Ryder Street Extension (Town Commercial Center Zone), Metcalf & Eddy, Inc. on behalf of the Town of Provincetown -**

The applicant seeks a Special Permit under Article 2, Section 2400, D3 of the Zoning By-Laws to construct a Central Vacuum Station. Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case. The applicant chose to proceed with a four member Board. Steve Melamed disclosed that he was a leaseholder of an abutting property, but believes he can be objective in his deliberations. The applicant agreed to allow the case to proceed despite the disclosure.

**Presentation:** Brian Harrington and Gary Williams appeared to present the application.

**Public Comment:** No one spoke in favor or in opposition to the application. There were no letters on file.

**Board Discussion:** The applicant submitted a written draft decision which the Board agreed to accept. *Steve Melamed moved to grant a Special Permit under Article 2, Section 2400, D3 of the Zoning By-Laws to construct a Central Vacuum Station at the property located at 19 Ryder Street Extension (Town Commercial Center Zone), Larry Mahan seconded and it was so voted, 4-0.* Peter Bez read the decision. *Steve Melamed moved to approve the language as written, Larry Mahan seconded and it was so voted, 4-0.*

Vice Chair Peter Bez closed the Public Hearing at 9:05 P.M. and reconvened the Work Session.

**2002-076 16 Howland Street, Michael Peregon –**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviated from the average neighborhood building scale with the construction of a two-family dwelling structure. Gary Reinhardt, Peter Bez. Larry Mahan, Peter Page and Steve Melamed sat on the case. Peter Page read the decision. *Steve Melamed moved to accept the language as written, Larry Mahan seconded and it was so voted, 4-0.*

**MINUTES:**

**September 19, 2002 –** *Steve Melamed moved to approve the minutes as amended, Larry Mahan seconded and it was so voted, 4-0.*

**NEXT MEETING**

The next meeting will be on October 17, 2002 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

**ADJOURNMENT**

*Larry Mahan 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 October 17, 2002.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

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Ellen C. Battaglini