

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF October 17, 2002

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt (Chair), Peter Bez (Vice Chair), Larry Mahan, Peter Page and Steve Melamed.

Members Absent: None.

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

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:33 P.M.

PENDING CASES:

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.

Board Discussion: The site visit held on October 8, 2002 was discussed.

FINDINGS OF FACT:

- The property is located in the Res 2 Zone;
- The proposal will extend the building up and along a nonconforming west side setback with no change in the footprint;
- The proposed deck overlooks an access building/shed.

Steve Melamed moved to grant 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 at the property located at 586 Commercial Street (Residential 2 Zone), Larry Mahan seconded and it was so voted, 4-0. Larry Mahan will write the decision.

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

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 (abstain).

MINUTES:

October 3, 2002 – Peter Bez moved to approve the minutes as written, Larry Mahan seconded and it was so voted, 4-0-1 (abstain).

Chair Gary Reinhardt adjourned the Work Session at 6:50 P.M.

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 none were absent.

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 and will open the Public Hearing, but the Board may not be able to hear it because of a lack of quorum.

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. Gary Reinhardt, Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case.

Presentation: Tom Thompson, Ginny Binder and Timothy Harrington appeared to present the application.

Board Discussion: The Board informed the applicant that if the structure is a two-family house they would be able to consider it under the *Goldhirsh v. McNear* ruling. The structure is a three-family house and thus what the applicant is requesting falls under the category of a Variance and not a Special Permit. Warren Alexander stated his opinion that the structure should be made into a two-family house and complete that work and receive a Certificate of Occupancy before the Board hears the application for a Special Permit. The applicant can accomplish this without reapplying for the Special Permit. The applicant chose to continue the application while he applies for a building permit to convert the structure from a three-family to a two-family.

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. Gary Reinhardt, Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case.

Presentation: Eric Dray appeared to present the application. The applicant feels that the noise and congestion will be reduced because the structure will not be used as transient housing. There will be a reduction in parking spaces on site and an increase in green space in addition to the elimination of commercial units.

Public Comment: None. There was a letter from Barbara Avellar expressing her opposition to the project, letters from Joel Meyerowitz and Maggie Barrett, Kevin Shea from the Watermark Inn, Jane Donoghue and William Dillon, an abutter residing at 589 Commercial Street, in addition to a petition signed by four people supporting the project.

Board Discussion: The Board questioned Mr. Dray and briefly discussed the project.

FINDINGS OF FACT:

- The existing property contains a motel with eight rooms and twelve residential units in two buildings;
- The proposed use will be thirteen dwelling units;
- The scale of the proposed structure is being reduced 159.26 Scale Units to 157.70 S.U.;
- The existing building is nonconforming to the east side setback and that nonconformity will not change;
- The proposal calls for a change from commercial accommodation to potential year-round housing;
- The proposal also increases the amount of green space from 25-32%; and
- The proposal will result in a large reduction in land density requirement.

Peter Bez moved to grant 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 at the property located at 586 Commercial Street (*Residential 2 Zone*), Larry Mahan seconded and it

was so voted, 5-0. Peter Page will write the decision.

2002-083

11 Creek Round Hill Road (Residential 1 Zone), Cape Associates, Inc., on behalf of Richard and Judith Wurtman -

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation from building scale to add a 54 square foot addition.

Peter Bez, Larry Mahan, Peter Page and Steve Melamed sat on the case.

Presentation: Bob Creonte and Tom Huth appeared to present the application.

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

Board Discussion: The Board questioned Mr. Creonte and Mr. Huth and briefly discussed the project.

FINDINGS OF FACT:

- The proposal adds a portion of the building under an existing deck;
- The proposed addition consists of a total of 2 Scale Units; and
- The structure sits next to the largest building on the street.

Peter Bez moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation from building scale to add a 54 square foot addition at the property located at 11 Creek Round Hill Road (Residential 1 Zone), Steve Melamed seconded and it was so voted, 5-0. Peter Page will write the decision.

NEXT MEETING

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

ADJOURNMENT

Peter Bez moved to adjourn at 7:48 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 November 7, 2002.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini