

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

MEETING MINUTES OF December 5, 2002

MEETING HELD IN TOWN HALL

**Members Present:** Gary Reinhardt (Chair), Larry Mahan (Clerk), Peter Page, Steve Melamed, Howard Weiner, and Lynne Davies.

**Members Absent:** Robert Harrison (excused).

**Others Present:** 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. Six members of the Board were present and one was absent.

**2002-089      10 Commercial Street, Unit 14 (*Residential 1 Zone*), Andrew Simon on behalf of James Sheehan and Rodney Johnson -**

The applicant seeks a Special Permit under Article 3, Section 310 of the Zoning By-Laws to alter, extend or change a preexisting, nonconforming single-family dwelling. Gary Reinhardt, Larry Mahan, Peter Page, Steve Melamed and Howard Weiner sat on the case.

**Presentation:** Andrew Simon appeared to present the application.

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

**Board Discussion:** The Board questioned Mr. Simon. The Board determined that they would consider the application under the *Goldhirsh v. McNear* ruling.

*Steve Melamed moved to consider the application under the Goldhirsh v. McNear ruling, Peter Page seconded and it was so voted, 5-0.*

*Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a preexisting, nonconforming single-family dwelling at the property located at 10 Commercial Street, Unit 14 (Residential 1 Zone) under the Goldhirsh v. McNear ruling, Larry Mahan seconded and it was so voted, 5-0.*

**2002-088      16 Thistlemore Road (*Residential 1 Zone*), Christopher J. Snow, Esq. on behalf of William H. King -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to retain an as-built extension, change or alteration to a portion of a roof parapet upon a preexisting, nonconforming single-family dwelling. Gary Reinhardt, Larry Mahan, Peter Page, Steve Melamed and Lynne Davies sat on the case.

**Presentation:** Attorney Christopher J. Snow appeared to present the application. The applicant proposes an increase in height of one portion and a reduction in height of another portion of the preexisting roofline. The net result is a reduction in the height of the preexisting roofline. The resulting roofline will be at a height of 32 feet.

**Public Comment:** Attorney Robin B. Reid, representing eleven neighbors, opposed the application. Her clients feel that the change is more detrimental to the neighborhood. Attorney Reid urged the Board to schedule a site visit before they rendered a decision. Paula Sperry, an abutter, spoke in opposition to the application. There were seven letters on file in opposition to the application and none in favor.

**Board Discussion:** The Board questioned Attorney Snow. The Board determined that they would consider the application under the *Goldhirsh v. McNear* ruling.

*Steve Melamed moved to consider the application under the Goldhirsh v. McNear ruling, Larry*

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

*Steve Melamed moved to Special Permit under Article 3, Section 3110 of the Zoning By-Laws to retain an as-built extension, change or alteration to a portion of a roof parapet upon a preexisting, nonconforming single-family dwelling located at 16 Thistlemore Road (Res 1 Zone) under the Goldhirsh v. McNear ruling, Larry Mahan seconded and it was so voted, 4-0-1 (Lynne Davies abstaining).*

**2002-090**      **426 Commercial Street (Residential 3 Zone), Elias J. Martinez, Jr. on behalf of Bernardo Fruciano -**

The applicant seeks a Variance under Article 2, Section 2560 of the Zoning By-Laws pertaining to the required side-yard setback in order to install a basement stairway, which will intrude into the setback of an existing multi-family dwelling.

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

**Presentation:** Elias J. Martinez, Jr. appeared to present the application.

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

**Board Discussion:** Chair Gary Reinhardt reminded Mr. Martinez that the criteria for obtaining a Variance are strict and the applicant must prove substantial hardship. Mr. Martinez chose to withdraw the application without prejudice to explore other options at the site.

*Steve Melamed moved to accept the withdrawal, Lynne Davies seconded and it was so voted, 5-0.*

**2002-091**      **23 Bradford Street (Residential 3 Zone), James J. McDermott -**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the allowed neighborhood building scale on a multi-family dwelling. Gary Reinhardt, Larry Mahan, Peter Page, Steve Melamed and Howard Weiner sat on the case.

**Presentation:** James J. McDermott, Ann McDermott and Sarah Hines, architect, appeared to present the application.

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

**Board Discussion:** The Board questioned Ms. Hines and Mr. McDermott about the application.

**FINDINGS OF FACT:**

- The existing structure is 69.49 Scale Units;
- The proposed structure is 75.98 S.U.;
- The allowed scale according to the Assessor's Office is 69.82 S.U.;
- The neighborhood consists of numerous buildings which are larger than the proposed structure; and
- The structure is in the Residential 3 Zoning District.

*Peter Page moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the allowed neighborhood building scale on a multi-family dwelling located at 23 Bradford Street (Res 3 Zone), Howard Weiner seconded and it was so voted, 5-0. Peter Page will write the decision.*

Chair Gary Reinhardt closed the Public Hearing at 9:05 P.M.

## WORK SESSION

Chair Gary Reinhardt opened the Work Session at 9:05 P.M.

### MINUTES:

**November 21, 2002 – Howard Weiner moved to approve the minutes as written, Lynne Davies seconded and it was so voted, 5-0-1 (abstain).**

### PENDING DECISIONS:

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

**Richard DiFrummolo -**

Gary Reinhardt, Larry Mahan, Peter Page, Robert Harrison and Lynne Davies sat on the case. Gary Reinhardt read the decision. *Peter Page moved to accept the language as written, Larry Mahan seconded and it was so voted, 4-0-1 (Robert Harrison absent).*

**2002-086 1 Winthrop Street (Town Center Commercial Zone), Mark Kinnane of Cape Associates, Inc. on behalf of Peter Karl -**

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

**NEXT MEETING**

The next meeting will be on December 18, 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 9:20 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 December 18, 2002.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

Ellen C. Battaglini