

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF January 16th, 2003

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt (Chair), Larry Mahan (arrived at 7:12 P.M.), Peter Page, Steve Melamed, and Lynne Davies.

Members Absent: Howard Weiner (unexcused) and Robert Harrison (resigned).

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. Four members of the Board were present and two were absent.

PENDING CASES:

2003-001 11 Cottage Street (Residential 3 Zone), Neal Kimball on behalf of Kirk Carter and Anthony Carter -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove, reconstruct and extend a pre-existing, non-conforming single-family dwelling. Gary Reinhardt, Peter Page, Steve Melamed and Lynn Davies sat on the case. Chair Gary Reinhardt explained the implications of a four-member Board and asked the applicant if he would like to continue. After consulting his clients, Mr. Kimball chose to proceed with the hearing. Mr. Mahan joined the discussion at 7:12 P.M.

Presentation: Neal Kimball appeared to present the application. The cottage that sits on the site is in poor condition and has no foundation. The applicant seeks to remove the cottage and reconstruct it with the same footprint.

Public Comment: Sean Mallory, an abutter, spoke of his concern about the disturbance to his property that may occur during the renovation process because the structure being reconstructed is very close to his property line. Ruth Littlefield, an abutter, is concerned about the parking on Cottage Street and feels that the project may aggravate this already difficult situation. She is also concerned about whether the architecture of the new structure will blend in with that of the rest of the neighborhood. Tom Funk, an abutter, is opposed to the project because of the lack of appropriate setbacks from two of the property lines at the site and is also concerned about the aggravation of the traffic situation on Cottage Street. Rex Peterson is opposed to the project because he believes that new non-conformancies are being created with respect to the height of the new structure. Nathan Littlefield, an abutter, is concerned about his mother's health during the construction phase of the project. Bill Docker, an abutter, is opposed to the project because of the privacy issues that will result from the new construction because of the grade differential between Cottage and Mechanic Streets. He believes that the deck will add to the non-conformancy and will be a source of unwanted noise in the neighborhood. He also stated a concern about a potential devaluation of housing values in the neighborhood as a result of the new structure. Robin B. Reid, Esq., attorney for Bill Docker and Sean Mallory, stated that if the structure is razed, it loses its non-conforming status. She believes that the non-conformancies at the site are being increased and these increases are detrimental to the neighborhood. There were 3 letters on file opposing the project and none in favor.

Board Discussion: The Board discussed the second floor deck, including the logistics of its removal given the lack of space between the houses in the neighborhood. The Board then discussed whether to consider the case under the *Goldhirsh v. McNear* ruling since it is a single-family dwelling. After a brief discussion, the Board chose not to consider the case under this ruling. The Board then requested that Mr.

Kimball summarize the applicant's argument for a Special Permit versus the concerns of the abutters that the project will be detrimental to the neighborhood. The Board also recommended that the applicant consult with the neighbors and perhaps alter the building plans to address their concerns, possibly by foregoing a second floor deck and/or by moving the structure further away from the two property lines that it lies closest to. The Board members who hadn't visited the site expressed a need to and those who already had wanted to revisit the site. The Board told the applicant to return on February 6, 2003 and the case will be discussed at the Board's Work Session.

2003-002 22 Cottage Street (Residential 3 Zoning District), Neal Kimball on behalf of Adam Hunt -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming single-family dwelling up and along non-conforming dimensions. Gary Reinhardt, Larry Mahan, Peter Page, Steve Melamed and Lynne Davies sat on the case.

Presentation: Neal Kimball appeared to present the application. The applicant seeks to add dormers to the southerly and northerly, front sides of the house.

Public Comment: Manny Santos, an abutter, spoke of his concerns about the proposed dormers close proximity to his house. There were no letters on file.

Board Discussion: The Board requested that the applicant present a certified plot plan showing the location of the setbacks on the property. The Board questioned Mr. Kimball about how the project would deal with the lack of space on Cottage Street and Mr. Kimball responded that they would ask the cooperation of the neighbors during the construction process. The Board recommended that the applicant consult with Mr. Santos about his concerns before beginning the project. The Board determined that the case would be considered under the *Goldhirsh v. McNear* ruling.

Steve Melamed moved to consider the case under Goldhirsh v. McNear, Lynne Davies 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 alter and extend a pre-existing, non-conforming single-family dwelling up and along non-conforming dimensions at the property located at 22 Cottage Street (Res 3 Zone), Larry Mahan seconded and it was so voted, 5-0.

2003-003 26 Montello Street (Residential 3 Zoning District), Neal Kimball on behalf of Brad Fowler and Anthony Lofrumento -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming single-family dwelling up and along non-conforming dimensions. Gary Reinhardt, Peter Page, Larry Mahan, Steve Melamed and Lynne Davies sat on the case.

Presentation: Neal Kimball appeared to present the application. The applicant seeks to install 3 shed dormers, 2 on the south side of the house and 1 on the north side. The north side of the house has the non-conformancy.

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

Board Discussion: The Board questioned Mr. Kimball about the project. The Board determined that the case would be considered under the *Goldhirsh v. McNear* ruling.

Steve Melamed moved to consider the case under Goldhirsh v. McNear, Lynne Davies seconded and it was so voted, 5-0.

Lynne Davies moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming single-family dwelling up and along non-conforming dimensions at the property located at 26 Montello Street (Res 3 Zone), Steve Melamed seconded and it was so voted, 5-0.

2003-004 356 Commercial Street (Town Commercial Center Zoning District), Town of Provincetown -

The applicant seeks a Special Permit under Article 3, Section 3110 to extend a non-conforming dimension, a Special Permit pursuant to Article 5, Section 5330 for lot coverage, a Special Permit under Article 3, Section 3330 for roof configuration and a Special Permit under Article 3, Section 3340E for deviation from building scale for the proposed Provincetown Public Library. Gary Reinhardt, Larry Mahan, Peter Page, Steve Melamed and Lynne Davies sat on the case.

Presentation: Deb DeJonker, Library Director, representing the Library Trustees and Warren VanWees, architect, appeared to present the application.

Public Comment: Carol Noyes, an abutter, spoke of her concern about noise from the HVAC system

and the unauthorized use of her driveway by vehicles connected with the project. Robin B. Reid spoke in favor of the project. Lynn Mogell, an abutter to an abutter, spoke of her concern in regard to the noise that may be generated by the HVAC system of the structure. Mary Jo Avellar spoke in support of the project. There was one letter on file from Carol Noyes reiterating her concerns about the noise level of the HVAC system.

Board Discussion: The Board questioned Mr. VanWees about the project, including the noise levels expected from the HVAC system. Mr. VanWees assured the Board that the system did not emit noise above 50 decibels.

Steve Melamed moved to grant Special Permit under Article 3, Section 3110 to extend a non-conforming dimension, a Special Permit pursuant to Article 5 Section 5330 for lot coverage, a Special Permit under Article 3, Section 3330 for roof configuration and a Special Permit under Article 3, Section 3340E for deviation from building scale for the proposed Provincetown Public Library located at 356 Commercial Street (TCC Zone), Peter Page seconded and it was so voted, 5-0.

Chair Gary Reinhardt read the decision written by Building Inspector Warren Alexander. He added a condition regarding the allowable decibels emanating from the HVAC system.

Lynne Davies moved to accept the language as amended, Larry Mahan seconded and it was so voted, 5-0.

Chair Gary Reinhardt closed the Public Hearing at 9:27 P.M.

WORK SESSION

Chair Gary Reinhardt convened the Work Session at 9:27 P.M.

Case #99-010

401 ½ Commercial Street – Request to withdraw without prejudice

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

There was a request from Attorney William Thomas on behalf of Zoltan Gluck to withdraw the application.

Steve Melamed moved to accept the withdrawal without prejudice, Lynne Davies seconded and it was so voted, 5-0.

Cases #2002-079 and #2002-013

The Board resigned plans for these two cases.

Administrative Amendment – Case #2001-004, 351A Commercial Street –

The applicant requests an administrative amendment to the building plans. Gary Reinhardt, Larry Mahan. Peter Page, Steve Melamed and Lynne Davies sat on the case.

The applicant submitted a new set of plans. The structure still remains within the previous footprint.

Larry Mahan moved to accept the Administrative Amendment, Steve Melamed seconded and it was so voted, 5-0.

139 Commercial Street

On November 26, 2002, the Superior Court case concerning this property was dismissed, but Attorney Christopher J. Snow intends to appeal to a higher court.

NEXT MEETING

The next meeting will be on February 6, 2003 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT

Lynne Davies moved to adjourn at 10:00 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 February 6, 2003.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini