

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF February 20, 2003

MEETING HELD IN TOWN HALL

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

Members Absent: None.

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

PUBLIC HEARING

Chair Gary Reinhardt called the public Meeting to order at 7:07 P.M. and explained the Public Hearing procedures to the public. Five members of the Board were present and none were absent.

PENDING CASES:

2003-007 **23 Bradford Street, (Residential 3 Zone), James J. McDermott -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove and reconstruct the rear portion of a pre-existing, non-conforming multi-family dwelling structure. Gary Reinhardt, Peter Page, Steve Melamed, Lynne Davies and Howard Weiner sat on the case.

Presentation: James J. McDermott appeared to present the application. According to the applicant, the structure will be brought up to code, but the footprint will remain the same.

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

Board Discussion: Warren Alexander explained the history of the case and clarified the initial confusion surrounding the two Special Permit applications submitted by the applicant to the Department of Community Development.

FINDINGS OF FACT:

Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove and reconstruct a pre-existing, non-conforming multi-family dwelling structure at the property located 23 Bradford Street (Res 3 Zone), Howard Weiner seconded and it was so voted, 5-0. Peter Page had written the decision.

Peter Page read the decision. *Steve Melamed moved to approve the language as amended, Lynne Davies seconded and it was so voted, 5-0.*

2003-008

13 Pilgrim Heights Road (Residential 1 Zone), David D. MacRae -

The applicant seeks a Special Permit under Article 2, Section 2450, Permitted Accessory Uses, of the Zoning By-Laws to construct a 40' by 22 ½' outdoor swimming pool. Gary Reinhardt, Peter Page, Steve Melamed, Lynne Davies and Howard Weiner sat on the case.

Presentation: David D. MacRae and Jeremy Browning, architect, appeared to present the application.

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

Board Discussion: The Board questioned the applicant about where the water to fill the pool would come from. Mr. Browning stated that the pool will hold 5500 gallons of water and that the water would be trucked in from another location.

FINDINGS OF FACT:

- The swimming pool meets all necessary setback requirements; and
- The applicant proposes to truck in water from outside of Provincetown.

Lynne Davies moved to grant a Special Permit under Article 2, Section 2450, Permitted Accessory Uses, of the Zoning By-Laws to construct a 40' by 22 ½' outdoor swimming pool, Howard Weiner seconded and it was so voted, 5-0.

2003-009 531 Commercial Street (Residential 3 Zone), Thomas Thompson on behalf of Kathy Bishop and Denise Karas -

The applicants seek a Special Permit under Article 3, Section 3110 of the Zoning By-laws to alter and extend a pre-existing, non-conforming structure up and along a non-conforming dimension with the construction of dormers and a Special Permit under Article 3, Section 3340E of the Zoning By-laws to increase the pre-existing non-conforming building scale of a two-family dwelling.

2003-010 531 Commercial Street (Residential 3 Zone), Thomas Thompson on behalf of Kathy Bishop and Denise Karas -

The applicants seek a Variance under Article 5, Section 5222 of the Zoning By-Laws from the required front and side yard setback found in Article 2, Section 2560, Dimensional Schedule, to construct a second means of egress stairway from the second floor on the east side of a two-family structure.

Gary Reinhardt, Peter Page, Steve Melamed, Lynne Davies and Howard Weiner sat on both cases.

Presentation: Tom Thompson and John DeSousa presented the applications.

Mr. Thompson read a letter from the applicants about the project. They want to reinstate the second means of egress that was removed when the structure was made into condominiums in the 80s. In addition, they want to install dormers for more headroom, light and ventilation on the upper floors.

These additions will result in only be a 1% increase in the footprint of the building and the building scale will increase by 7.63 Scale Units.

Public Comment: Joan and Al Marsh, abutters to the property, spoke in opposition to the project. They are concerned about the location of the egress stairway, particularly its proximity to their property. There were two letters in support and three letters in opposition to the project on file.

Board Discussion: The Board had questions about how many stories the building is. Mr. Reinhardt requested Mr. Alexander's opinion on that issue. The Board discussed their option to consider the cases under the *Goldhirsh v. McNear* ruling. In regard to Case #2003-010, the Board felt that the applicants had not adequately convinced them that they would suffer a substantial hardship, financial or otherwise, unless a Variance was granted, so the Board chose instead to consider Case #2003-010 as a request for a Special Permit under the *Goldhirsh v. McNear* ruling.

Howard Weiner moved to accept the withdrawal without prejudice of Case #2003-009, the request for a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming structure up and along a non-conforming dimension with the construction of dormers and a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to increase the pre-existing, non-conforming building scale of a two-family dwelling located at 531 Commercial Street (Res 3 Zone), Lynne Davies seconded and it was so voted, 5-0.

Steve Melamed moved to consider Case # 2003-010 as a request for a Special Permit under Article 5, Section 5222 of the Zoning By-Laws to deviate from the required front and side yard setbacks found in Article 2, Section 2560, Dimensional Schedule, to construct a second means of egress stairway from the second floor on the east side of a two-family structure for the property located at 531 Commercial Street (Res 3 Zone), the request at the property located at 531 Commercial Street (Res3 Zone) under the Goldhirsh v. McNear ruling, Lynne Davies seconded and it was so voted, 5-0.

Lynne Davies moved to grant a Special Permit under Article 5, Section 5222 of the Zoning By-Laws to

deviate from the required front and side yard setbacks found in Article 2, Section 2560, Dimensional Schedule, to construct a second means of egress stairway from the second floor on the east side of a two-family structure for the property located at 531 Commercial Street (Res 3 Zone) under the Goldhirsh v. McNear ruling, Howard Weiner seconded and it was so voted, 4-1(Peter Page opposed). The Board requested that the applicants submit revised plans with existing elevations and proposed elevations, especially showing the location of the stairway from the front and east sides of the property and a certified plot plan for the Board's consideration within a week if possible

MINUTES:

February 6, 2003 – Public Hearing and Work Session - Peter Page moved to accept the minutes as amended, Howard Weiner seconded and it was so voted, 4-0-1 (abstain).

February 6, 2003 – Executive Session – Howard Weiner moved to accept the language as written, Lynne Davies seconded and it was so voted, 4-0-1 (abstain).

Chair Gary Reinhardt closed the Public Hearing.

WORK SESSION

PENDING DECISIONS:

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

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

2003-005 777 Commercial Street (Residential 1 Zone), Michael G. Foster on behalf of Nathan B. Winstanley –
Gary Reinhardt, Peter Page, Larry Mahan, Steve Melamed and Lynne Davies sat on the case. Peter Page read the decision. There were no plans submitted by the applicant as per request by the Board at its previous meeting. The decision is therefore still pending.

2003-006 111 Commercial Street (Residential 3 Zone), Arthur J. Santos on behalf of Sheila LaMontagne -
Gary Reinhardt, Peter Page, Larry Mahan, Steve Melamed and Howard Weiner sat on the case. Howard Weiner read the decision. *Peter Page moved to approve the language as written, Steve Melamed seconded and it was so voted, 4-0.*

REQUEST FOR ADMINISTRATIVE AMENDMENT

2002-064 63 Commercial Street, 63 Commercial Street Realty Trust -

Gary Reinhardt, Peter Bez, Estherann Czyoski, and Steve Melamed sat on the original case. Peter Page, Steve Melamed, Lynne Davies and Howard Weiner will sit on this case.

Presentation: Rick Murray appeared to present the application. The applicant wishes to change the roof from flat to shed.

Steve Melamed moved to accept the change as an Administrative Amendment, Lynne Davies seconded and it was so voted, 4-0.

The Board then briefly discussed the situation of former Board member Larry Mahan and the issue of ethics.

NEXT MEETING

The next meeting will be on March 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 9:50 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 March 6, 2003.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini