

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

**MEETING MINUTES OF April 3, 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 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.

**PENDING CASES:**

- 2003-015**     **9 Conwell Street, (*Residential 3 Zone*), Thomas Capizzi, Jr. on behalf of Mike Vitualano -**  
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming second story egress landing of a two family dwelling unit. Gary Reinhardt, Peter Page, Steve Melamed, Lynne Davies and Howard Weiner sat on the case.  
**Presentation:** Aaron Roderick, representing Thomas Capizzi, Jr. appeared to present the application.  
**Public Comment:** None. There were no letters on file.  
**Board Discussion:** The Board informed the applicant that the plans submitted were not sufficient for them to render an informed decision. The applicant needed to submit a full set of plans and a plot plan for the property. The case was postponed until the April 24, 2003 Work Session.
- 2003-016**     **14 Court Street (*Residential 3 Zone*), Gary Palochko -**  
The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to increase a pre-existing, non-conforming building scale of 145.46 to 154.96 scale units, with the construction of dormers and a second means of egress. Steve Melamed disclosed that he has had business dealings with Attorney Edward Patten, who was representing Mr. Paluchko. Howard Weiner recused himself because of a conflict of interest. Chair Gary Reinhardt informed the applicant that there would be a four member Board seated on the case, meaning that a unanimous decision would need to be reached in order for a Special Permit to be granted, and asked if he would like to proceed with his application. The applicant assented. Gary Reinhardt, Peter Page, Steve Melamed, and Lynne Davies sat on the case.  
**Presentation:** Attorney Edward Patten, Gary Paluchko and Tom Thompson appeared to present the application. A significant renovation of the interior of the building is planned, including a new secondary means of egress and the addition of dormers. There will be an increase in building scale of 9.5 scale units.  
**Public Comment:** Peter Karl, an abutter who resides at 16 Court Street, speaking for himself and David Clark, was opposed to the project. He stated that one of the top floor dormers was very close to and directly faced his house. The location of the windows on the dormer would thus affect his privacy. There was one letter on file from Mr. Karl.  
**Board Discussion:** The Board questioned the applicant about his willingness to change the window design on one of the dormers in order to address the concerns of Mr. Karl, including the possibility of eliminating windows and adding a skylight. The applicant agreed to alter the design.  
**FINDINGS OF FACT:**
  - The existing scale of this structure is 145.46 scale units and the proposed scale is 154.96 scale units, resulting in an increase of 9.5 scale units;

- The allowable scale of the neighborhood is 95.8 scale units;
- The increase in scale would be harmonious with the surrounding neighborhood and therefore in compliance with the Local Comprehensive Plan; and
- The applicant has agreed to remove windows from the new dormer directly facing 16 Court Street.

The Board requested that the applicant submit a new page EL:2 of the plans.

***Lynne Davies moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to increase a pre-existing, non-conforming building scale of 145.46 to 154.96 scale units, with the construction of dormers and a second means of egress at the property located at 14 Court Street (Res 3 Zone), Steve Melamed seconded and it was so voted, 4-0.*** Lynne Davies will write the decision.

**2003-017 42 Bradford Street (Residential 3 Zone), William Meadows on behalf of Meadows Realty Trust-**

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to renew an existing outdoor display permit for the display of 50 rental bicycles.

Peter Page recused himself because of a conflict of interest. Gary Reinhardt, Steve Melamed, Lynne Davies and Howard Weiner sat on the case.

**Presentation:** William Meadows appeared to present the application.

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

**Board Discussion:** The Board briefly discussed the case.

***Steve Melamed moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws to renew an existing outdoor display permit for the display of 50 rental bicycles at the property located at 42 Bradford Street (Res 3 Zone), Lynne Davies seconded and it was so voted, 4-0.***

**2003-018 122 Bradford Street (Residential 3 Zone), CHR Meadow Road, LLC and Edward “Ted” Malone -**

The applicant seeks a Comprehensive Permit pursuant to M.G.L. c. 40B, Section 21 to construct on a previously developed, 5.17 acre parcel of land: 15 buildings, consisting of 13 dwellings for affordable home ownership; 5 dwellings for affordable rental housing; 18 dwellings for market rate home ownership; and 5 non-residential, principal use artist studios.

Gary Reinhardt, Peter Page, Steve Melamed, Lynne Davies and Howard Weiner sat on the case.

Jonathan Silverstein, from Kopelman and Paige, Town Counsel, was present to advise the Board on this application.

***Steve Melamed moved to adopt the Comprehensive Permit Rules for the purpose of this application, Howard Weiner seconded and it was so voted, 5-0.***

**Presentation:** Ted Malone and Michael Bunn appeared to present the application. Also present to advise the applicant was his engineer, Mark MacKenzie, and counsel, Attorney Peter Freeman. After a thorough and lengthy presentation of the project, Mr. Malone added that he had appeared before several other Town Boards to present his application and had sought feedback and input from them.

**Comments:** Chair Gary Reinhardt read reports from various Town officials, State Agencies and Town Boards regarding Mr. Malone’s application. The reports included: The Building Commissioner, the Director of Community Development, the Deputy Director of Community Development, the Conservation Commission, the Department of Public Works, the Water and Sewer Superintendent, the Health Agent, the Board of Health, the Board of Fire Engineers, the Fire Chief and the Police Chief. Mr. Reinhardt then continued with the reports of the Cape Cod Commission and the Barnstable County Home Consortium.

Mr. Reinhardt then asked representatives who were present from Town Boards to comment on the application. Anne Howard, chair of the Planning Board, presented the report of the Planning Board who supported the application.

Representatives of other organizations were invited to speak. Len Stewart, from the Cape Cod Commission, spoke in favor of the application. Hunter O’Hanian, from the Fine Arts Work Center, spoke in support of the application. Jon Gilmore, Director of Community Development, supports the application. Peter Souza, representing the Outer Cape Environmental Action Network, voiced a concern about the nitrogen loading in the resource area that abuts Mr. Malone’s project. He also spoke of his concern for any endangered species that may live in the area and what effect the development would have on their habitat. Patrick Manning, representing the Provincetown Housing Authority, spoke in support of the application.

Lastly, Mr. Reinhardt allowed members of the public to speak. There were no speakers in opposition to the application. The speakers who spoke in favor of the application were: Martha Williams, Alex

Ritchie, Kristine Hopkins, Candy MacDonald, Jeffrey Epstein, Denny Camino, Emilio Rogel, Rex MacKenzie, Bruce Van Allen, Steven Roderick and Dot Van Zandt.

**Board Discussion:** The Board questioned Mr. Malone and Mr. Bunn about their concerns with respect to the various aspects of the project, including wetland and environmental issues, traffic patterns, storm water drainage, landscape plans and the septic system.

Chair Gary Reinhardt then asked for advice from Attorney Silverstein on how to proceed, specifically with regard to possibly hiring outside consultants to advise the Board on important issues concerning the project. The Board then discussed the possibility of hiring a wetland specialist to advise them. The Board decided to ask Mr. Malone's environmental consultant, Mario DiGregorio, to appear at the next Board hearing to answer questions.

Chair Gary Reinhardt continued the Public Hearing until April 24, 2003 at 5:30 P.M.

*The Board then amended the previous motion of Steve Melamed to adopt the Comprehensive Permit Rules to include not just this application, but all 40B applications, Howard Weiner seconded and it was so voted, 5-0.*

### **NEXT MEETING**

The next meeting will be on April 24, 2003 and will consist of a Work Session at 5:30 P.M. and a Public Hearing at 7:00 P.M.

### **ADJOURNMENT**

*Howard Weiner moved to adjourn at 11:10 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 April 24, 2003.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

Ellen C. Battaglini