

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF May 15, 2003

MEETING HELD IN TOWN HALL

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

Members Absent: Gary Reinhardt (excused).

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

WORK SESSION

Acting Chair Peter Page called the Work Session to order at 6:30 P.M.

MINUTES:

May 1, 2003 – *Howard Weiner moved to accept the language as written, Lynne Davies seconded and it was so voted, 3-0.*

PENDING DECISIONS:

2003-025 17 Carnes Lane (Residential 3 Zone), Arthur J. Santos on behalf of Peter Kassel and Tom Tostenguard

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Gary Reinhardt, Peter Page, Steve Melamed, Howard Weiner and Lynne Davies sat on the case. Lynne Davies read the decision. *Steve Melamed moved to approve the language as written, Howard Weiner seconded and it was so voted, 4-0-1 (absent).*

2003-023 6 Telegraph Hill Road (Residential 1 Zone), Attorney Lester J. Murphy on behalf of Thomas J. Bombardier -

Gary Reinhardt, Peter Page, Steve Melamed, Howard Weiner and Lynne Davies sat on the case. Peter Page read the decision. *Steve Melamed moved to approve the language as written, Lynne Davies seconded and it was so voted, 4-0-1 (absent).*

2003-027 558 Commercial Street (Residential 2 Zone), Thomas Edwards on behalf of Marcy Dagostine –

Gary Reinhardt, Steve Melamed, Peter Page, Howard Weiner and Lynne Davies sat on the case. Lynne Davies read the decision. *Steve Melamed moved to approve the language as written, Howard Weiner seconded and it was so voted, 4-0-1 (absent).*

PENDING CASES:

2003-015 9 Conwell Street (Residential3 Zone), Thomas Capizzi, Jr. on behalf of Mike Vitualano -

The applicant has waived the time constraints for this case and has made the request to be heard before a five member Board. If a five member Board cannot be seated, the applicant requests a continuance. *Steve Melamed moved to grant a continuance, Lynne Davies seconded and it was so voted, 4-0-1 (absent).*

2003-026 258 Commercial Street (Town Center Commercial Zone), Theodore Tine on behalf of Cape Tip, Inc. -

As there are only be 3 members seated on the Board to hear this case and 4 are required to hear a request for a Special Permit, it will be continued until the Work Session on June 5, 2003.

Acting Chair Peter Page adjourned the Work Session at 6:53 P.M.

PUBLIC HEARING

Acting Chair Peter Page called the Public Hearing to order at 7:00 P.M. Four members of the Board were present and one was absent.

2003-019 16 Thistlemore Road, (Residential 3 Zone), Attorney Robin B. Reid on behalf of Greg Anton and others (continued from March 6, 2003 and April 24, 2003) -

Attorney Robin B. Reid appeared on behalf of the applicant. Chair Peter Page stated that there would only be 3 members seated on the Board that evening to hear the case. This situation, he continued, meant that the Board could only deny the relief that the applicant sought, because a super majority of four would be required in order to grant that relief. Attorney Reid stated that her clients do not want move forward with a three member Board. She would like to request that the case be heard before a five member Board. The Board agreed to continue the case until five members were seated.

2003-028 Bruce J. Van Allen -

The applicant seeks a Variance from Article 3, Section 3221, “*off-premises*” sign advertisements, pursuant to Article 5, Section 5222 of the Zoning By-Laws to place advertising signs upon PediCab(s) operating upon designated routes and parking places throughout the Town of Provincetown. Acting Chair Peter Page explained to the applicants that there were only four members seated on the Board and therefore a unanimous decision must be reached in order to grant a Variance. He asked if the applicants would like to proceed with the case or continue it until a five member Board was seated. The applicants chose to proceed with four members.

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

Presentation: Bruce J. Van Allen and Randy MacDonald appeared to present the application. The applicants presented a proposal that Acting Chair Peter Page read aloud.

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

Board Discussion: The Board questioned Mr. Van Allen and Mr. MacDonald. Warren Alexander was asked his opinion of the case. The Board decided that the applicants had not satisfied the criteria for a Variance and asked if they would like to withdraw the application without prejudice or move forward with a vote of the Board. They chose the former.

Steve Melamed moved to accept the withdrawal without prejudice, Lynne Davies seconded and it was so voted, 4-0.

2003-029 1 High Pole Hill, (Residential 3 Zone), Cape Cod Pilgrim Memorial Association -

The applicant seeks a Variance from Article 3, Section 3240A, “*multiple signs*”, pursuant to Article 5, Section 5222 of the Zoning By-Laws to increase the number of signs on the property.

Acting Chair Peter Page explained the implications of a four member Board and asked the applicant if he would like to proceed with the case and the applicant chose to proceed.

Howard Weiner disclosed that he was an abutter to an abutter, but felt he could hear the case without prejudice as he has no financial stake in the outcome of the case. Steve Melamed disclosed that he was a member of the Cape Cod Memorial Association, but felt he could hear the case without prejudice as he had no financial stake in the outcome of the case.

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

Presentation: Chuck Turley, and Mark Silva appeared to present the application. The applicant would like to place 5 banners in front of the museum building. It is hoped that this would help make the entrance to the museum more inviting and make the building less foreboding. The banners would be put out in the morning and taken in at night.

Acting Chair Peter Page pointed out that the application stated that a Special Permit was being applied for yet a Variance had been advertised for the case. The applicant requested time to consult with Attorney Christopher J. Snow, general counsel to the Cape Cod Memorial Association.

2003-030 183-185 Commercial Street (Town Center Commercial Zone), Shari Kadison on behalf of John Yingling -

The applicant seeks a Special Permit under Article 3, Section 3420, “*outdoor display*”, of the Zoning By-Laws for the display and retail sale of locally grown and organic produce, bedding plants and other associated items.

Steve Melamed recused himself because of a conflict of interest. This left only three members seated

and the Board was unable to continue to hear this case. The case will be continued until the June 5, 2003 Work Session.

2003-029

1 High Pole Hill, (Residential 3 Zone), Cape Cod Pilgrim Memorial Association -

Attorney Christopher J. Snow explained to the Board that the mistake on the application was a technical issue and that all the abutter's had received notice of a Variance. He stated that this would be a more serious issue only if a member of the public had been materially misled and as a consequence did not appear at the hearing. The applicant had the choice of re-advertising the case to a date certain or to amend and initial the application. The applicant forthwith amended and initialed the application. Katherine Fair, an abutter, was given a copy of the amended application before it was submitted to the Board.

Public Comment: Ms. Fair spoke of her concerns about the applicant's having to meet the criteria of a "substantial hardship" in order to be approved for a Variance, about the potential distraction of colored banners and the fact that they will be visible to the abutters on High Pole Hill. There were no letters on file.

Board Discussion: The Board questioned Mr. Turley and Attorney Snow.

FINDINGS OF FACT:

- The structure is located in the Residential 3 Zoning District; and
- The proposed banners will enhance the visual appearance of the building and also help to identify the structure as a museum.

Lynne Davies moved to grant a Variance The applicant seeks a Variance from Article 3, Section 3240A, "multiple signs", pursuant to Article 5, Section 5222 of the Zoning By-Laws to increase the number of signs on the property located at 1 High Pole Hill (Res 3 Zone), with the following condition: that there be no substitution of the Pilgrim Monument logo on the banners, Howard Weiner seconded and it was so voted, 4-0. Lynne Davies will write the decision.

2003-031

17 Pearl Street (Residential 3 Zone), Roxanne Pratten -

The applicant seeks a Variance from Article 2, Section 2560, "dimensional schedule", pursuant to Article 5, Section 5222 of the Zoning By-Laws to construct friendship egress stairs within the required front yard setback on a 3 unit dwelling.

Acting Chair Peter Page explained the implications of a four member Board and asked the applicant if she would like to proceed. The applicant would like to continue the case until a five member Board is seated.

2003-032

17 Pearl Street (Residential 3 Zone), Roxanne Pratten -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove and reconstruct a pre-existing, non-conforming utility building and to reconstruct a pre-existing, non-conforming deck to include the addition of friendship stairs within the required front yard setback. The applicant chose to proceed with the case with only four members seated.

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

Presentation: Attorney Robin B. Reid, Roxanne Pratten and Malcolm Smith, contractor, appeared to present the application. The applicant wants to rebuild a shed to include a foundation per the Building Code. The Shed will be 8 inches higher, but have the same footprint. The non-conformancy will not be increased.

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

Board Discussion: The Board questioned Attorney Reid and Ms. Pratten. Mr. Smith admitted that he was responsible for taking the front porch down by mistake. The applicant explained that Historic would not allow the friendship stairs and there would instead be a deck with stairs off to the right. The Board requested that the applicant submit new plans with dimensions. Attorney Reid asked the Board if the plans could be submitted along with a written decision at the next Board hearing. The Board granted the request.

Acting Chair Peter Page adjourned the Public Hearing at 9:00 P.M.

OTHER BUSINESS:

Acting Chair Peter Page read a memo to all Town Boards asking for input on Town-wide policy goals for the future. The Zoning Board of Appeals has had a long-standing rule that it does not make policy.

Acting Chair Peter Page read a memo from Mark Latour about the upcoming expansion of the Provincetown Art Association, explaining how it complies with the Local Comprehensive Plan.

NEXT MEETING

The next meeting will be on June 5, 2003 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT

Howard Weiner moved to adjourn at 9:22 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 June 5, 2003.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini