

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

**MEETING MINUTES OF  
JULY 24, 2003**

**MEETING HELD IN TOWN HALL**

**Members Present:** Gary Reinhardt, Peter Page, Howard Weiner, Lynne Davies and Albert Proia.

**Members Absent:** Steve Melamed (excused).

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

**WORK SESSION**

Chair Gary Reinhardt called the Work Session to order at 6:30 P.M.

**PENDING DECISIONS:**

**2003-044 6 School Street (Residential 3 Zone), John Lisbon on behalf of Joseph Pallant -**

Gary Reinhardt, Peter Page, Lynne Davies and Howard Weiner sat on the case. Peter Page read the decision. *Lynne Davies moved to accept the language as written, Howard Weiner seconded and it was so voted, 4-0.* The Board signed and stamped new site plans submitted by the applicant.

**2003-045 MacMillan Pier (Harborfront Overlay District of the Town Commercial Center Zone), Bay State Cruise Company on behalf of the Town of Provincetown -**

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

**2003-046 9 Ryder Street Extension (Harborfront Overlay District of the Town Commercial Center), Chris Townsend on behalf of Townsend Lobster & Seafood Market and Cabral Enterprises, Inc. -**

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

**2003-047 35 Commercial Street (Town Commercial Center Zone), Sara Cole and Ciaran Dunne on behalf of Clipper Ventures Realty Trust -**

Gary Reinhardt, Peter Page, Lynne Davies and Howard Weiner sat on the case. Lynne Davies read the decision. *Howard Weiner moved to accept the language as amended, Peter Page seconded and it was so voted, 4-0-1 (absent).* The applicant had submitted revised plans as requested by the Board.

**2003-048 206-208 Commercial Street (Town Commercial Center Zone), Hal Winard -**

Gary Reinhardt, Peter Page, Lynne Davies and Howard Weiner sat on the case. The Board received a call from the engineer on the project and the new site plans are not ready yet. The case is continued until August 7, 2003.

**2003-033 540 Commercial Street (Residential 3 Zone), Attorney Lester J. Murphy on behalf of Provincetown Hospitality, LLC (continued from June 19, 2003) -**

Gary Reinhardt, Steve Melamed, Lynne Davies and Howard Weiner sat on the case. Lynne Davies read the decision. *Howard Weiner moved to accept the language as written, Gary Reinhardt seconded and it was so voted, 3-0-1 (absent).*

## **MINUTES:**

**July 10, 2003 – *Howard Weiner moved to accept the language as written, Lynne Davies seconded and it was so voted, 4-0-1 (abstain).***

Chair Gary Reinhardt adjourned the Work Session at 7:03 P.M.

## **PUBLIC HEARING**

Chair Gary Reinhardt called the Public Hearing to order at 7:03 P.M. and explained the Public Hearing procedures to the public. Five members of the Board were present and one was absent.

### **2003-050 795 Commercial Street (Residential 1 Zone), Attorney Brian J. Wall on behalf of Craig E. Lyon -**

The applicant is aggrieved pursuant to M.G.L. c. 40A, s. 8 and Article 5, Section 5223 of the Zoning By-Laws by his inability to obtain a building permit from the Building Commissioner. The Commissioner is of the opinion that the application for a building permit would convert an existing dwelling, containing one bedroom, to four bedrooms, without a required Growth Management permit. Gary Reinhardt, Peter Page, Lynne Davies, Howard Weiner, and Albert Proia sat on the case.

**Presentation:** Attorney Brian J. Wall presented the application. The applicant purchased the premises under the assumption that it was a four-bedroom dwelling. When he went to apply for a comprehensive building permit, a Board of Health hearing was triggered. After determining that the septic system had adequate capacity for a four-bedroom dwelling, the Board of Health signed off on the building permit. The applicant feels that when this occurred, the building permit should have been granted. However, the Building Inspector disagreed with the assessment of the Health Agent, who had inspected the property several times and determined that the dwelling contained four bedrooms. Attorney Wall feels that the Building Inspector went beyond his jurisdiction in making this determination and denying the building permit and that according to his inspection of past building permits pertaining to the property, the structure is a four-bedroom dwelling.

**Public Comment:** Bob Fodor, Dr. Jerome Harris, Mrs. Harris and Jason Shinder spoke in favor of the application. There were no letters on file.

**Board Discussion:** The Board heard from the Building Inspector, Warren Alexander, who stated that none of the building plans approved and on file for that property ever indicated that there was more than one bedroom. That is the evidence he based his decision on. He also added that the Health Agent is now in agreement with his decision. The Board decided that they would like to look again at the building files for the property and solicit another opinion from the Health Agent. They would also like to find and inspect the plans for Building Permit # 1573. The case is continued until the September 4, 2003 Work Session at 6:30 P.M.

## **NEXT MEETING**

The next meeting will be on August 7, 2003 and will consist of a Work Session at 6:45 P.M. and a Public Hearing at 7:00 P.M.

## **ADJOURNMENT**

*Albert Proia moved to adjourn at 8:40 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 August 7, 2003.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

Ellen C. Battaglini