

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

**MEETING MINUTES OF**  
**October 16, 2003**

**MEETING HELD IN TOWN HALL**

**Members Present:** Gary Reinhardt, Peter Page, Steve Melamed, and Howard Weiner (arrived at 6:50 P.M.).

**Members Absent:** Lynne Davies (excused).

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

**WORK SESSION**

Chair Gary Reinhardt called the Work Session to order at 6:37 P.M.

**MINUTES:**

**October 2, 2003** – *Peter Page moved to accept the language as written, Steve Melamed seconded and it was so voted, 3-0.*

**September 23, 2003** – *Steve Melamed moved to accept the language as written, Gary Reinhardt seconded and it was so voted, 3-0.*

**PENDING DECISIONS:**

**2003-057**      **17 Somerset Road (Residential 1 Zone), Attorney Lester J. Murphy on behalf of Salvatore DeRose**  
-  
Gary Reinhardt, Peter Page, Steve Melamed, Lynne Davies and Howard Weiner sat on the case. The Board is still waiting for new plans to be submitted.

**PENDING CASES:**

**2003-063**      **14 Center Street, (Residential 3 Zone), Binder Boland Associates on behalf of Vincent Hurteau** -  
New plans were received showing elevations on the east and south sides of the building, both existing and proposed. The Board briefly discussed the scale of the project.

**2003-055**      **80-82 Commercial Street, 4 Prince Street, Eliot F. Parkhurst on behalf of Boutique Hospitality, Inc. (continued from October 2, 2003)** -  
The applicant seeks a Special Permit under Section 2460, pursuant to Section 5330 of the Zoning By-Laws for the service of food and alcoholic beverages to the guests only of an inn.

**2003-056**      **80-82 Commercial Street, 4 Prince Street, Eliot F. Parkhurst on behalf of Boutique Hospitality, Inc. (continued from October 2, 2003)** –  
The applicant seeks a Variance under Article 1, *Definition of an Inn*, and Section 2470, *Parking Requirements*, of the Zoning By-Laws for the operation of an inn located on more than one lot and without the required number of parking spaces.  
Gary Reinhardt, Peter Page, Lynne Davies and Howard Weiner sat on the case.  
**Presentation:** Attorney Parkhurst appeared to update the Board on the progress of the project. He reported that the Board of Health had found additional rooms and had also discussed the Growth Management By-law, including the possibility of removing bedrooms and exchanging them for restaurant seats. Attorney Parkhurst stated that the project will be approved by the Board of Health based on that discussion. He submitted a seating plan to the Board and requested a withdrawal of Case # 2003-056.

**Board Discussion:** The Board made the following requests of Attorney Parkhurst:

- How many guest rooms will there be?
- How many non-resident employees will there be?
- What is the number of restaurant seats does the applicant wish to have?
- That a more detailed seating plan be submitted to the Board showing the exact locations of the seats.

The case is continued until the Work Session on November 20, 2003.

## **PENDING DECISIONS:**

**2003-062 45 Commercial Street (Residential 2 Zone), Robert Valois, Architectural Designer, on behalf of Ray Keough -**

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

Chair Gary Reinhardt postponed the Work Session at 7:18 P.M.

## **PUBLIC MEETING**

Chair Gary Reinhardt called the Public Meeting to order at 7:18 P.M. Four members of the Board were present and one was absent.

**2003-065 16 MacMillan Wharf (Town Commercial Center Underlay and Harborfront Overlay Zones), Frederick L. Nolan III on behalf of Boston Harbor Cruises-**

The applicant seeks a Variance under Article 3, Sections 3230, 3240 and 3222 of the Zoning By-Law sign regulations to maintain 3 existing, non-permitted signs totaling 28.83 square feet. Chair Gary Reinhardt explained the implications of a four member Board; the applicant would need a unanimous vote from the Board in order to be granted a Variance. He could choose to proceed or could continue his case until a five member Board was seated. The applicant chose to proceed. Steve Melamed disclosed that he has had business dealings with Boston Harbor Cruises, but felt he could render a fair decision. Gary Reinhardt, Peter Page, Steve Melamed and Howard Weiner sat on the case.

**Presentation:** Kevin Matthews appeared to present the application. The applicant seeks relief from the sign by-law. In August, Boston Harbor Cruises installed 3 signs in order to guide and expedite the public queuing process on the wharf, not knowing that these signs were in violation of the by-law. The applicant would like to have the signs properly permitted.

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

**Board Discussion:** In the past the Board has allowed large signs for businesses located on the wharf because of a hardship based on their unique location. The signs of Boston Harbor Cruises are located on the side of a building located on Macmillan Wharf. The Board informed the applicant that he was, according to the by-law, allowed 2 signs. The applicant presently has 3 signs with an area equal to 26.83 square feet. The Board asked if the applicant would agree to reduce the number of signs to 2 while retaining the same square footage. If the applicant agreed to this and the Board granted his request for a Variance, he would be able to keep those 2 signs and, according to the sign by-law, to have any number of signs in addition to those 2, as long as the area of those additional signs did not exceed 1 square foot.

### **FINDINGS OF FACT:**

- The structure in question is located in the Town Commercial Center, specifically within the Harborfront Overlay District and is surrounded on 3 sides by water;
- The unique geographical situation of the Harborfront Overlay District means that businesses have difficulty advertising their wares due to the limited line of vision on the wharf;
- The increased size of the 2 signs in question may be allowed without derogating from the intent of the sign by-law; and
- In addition to any directional sign not to exceed 1 square foot, the applicant will have 2 signs with a total area of 28.83 square feet.

*Howard Weiner moved to grant a Variance under Article 3, Sections 3230, 3240 and 3222 of the Zoning By-Law sign regulations to maintain 3 existing, non-permitted signs totaling 28.83 square*

*feet, at the property located at t16 MacMillan Wharf (TCC Underlying and Harborfront Overlying Zone), Peter Page seconded and it was so voted, 4-0.* Howard Weiner will write the decision.

**2003-066**

**31 Duncan Lane (Residential 1 Zone), Lisa E. Enos -**

The applicant seeks a Special Permit under Article 3, Sections 3110 and 3340E to alter and extend a pre-existing, non-conforming dimension and to further deviate from the allowed neighborhood average building scale. Chair Gary Reinhardt explained the implications of a four member Board and asked the applicant if she wanted to proceed and she agreed. Steve Melamed disclosed a potential conflict of interest, but felt he could render a fair decision. Gary Reinhardt, Peter Page, Steve Melamed and Howard Weiner sat on the case.

**Presentation:** Chris and Lisa E. Enos appeared to present the application. The applicant seeks to raise the roof and bring a knee wall into conformity with the front of the house.

**Public Comment:** Glen Cezanne, the Enos' builder, spoke in favor of the application. There were no letters on file.

**Board Discussion:** The Board briefly discussed the project and felt that the increased scale would have no impact on the neighborhood.

**FINDINGS OF FACT:**

- The subject property has no close abutters, therefore any change will not have an effect on the neighborhood and is this in keeping with the intent of the Local Comprehensive Plan;
- The proposed change will bring the structure in compliance with local and state building codes, improve public safety and have no other impact, either positive or negative, on the Town; and
- The existing structure has a scale of 115.91 scale units, the neighborhood average, according to the Assessor's Office, is 47.92 s.u. and the allowable scale is 59.90 s.u.. The proposed addition will add 7.15 s.u., bringing the proposed structure to a total of 123.06 s.u.

*Steve Melamed moved to grant a Special Permit under Article 3, Sections 3110 and 3340E to alter and extend a pre-existing, non-conforming dimension and to further deviate from the allowed neighborhood average building scale at the property located at 31 Duncan Lane (Res 1 Zone), Howard Weiner seconded and it was so voted, 4-0.* Peter Page will write the decision.

**2003-067**

**134 Commercial Street, (Town Commercial Center Zone), Keith R. Stone -**

The applicant seeks a Special Permit under Article 3, Section 3110 to alter and extend a pre-existing, non-conforming dwelling and commercial structure up and along a non-conforming dimension. Chair Gary Reinhardt explained the implications of a four member Board and asked the applicant if he wanted to proceed and he agreed. Gary Reinhardt, Peter Page, Steve Melamed and Howard Weiner sat on the case.

**Presentation:** Chris Rego and Keith R. Stone appeared to present the application. The applicant seeks to add a second story, but the footprint of the structure will remain the same.

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

**Board Discussion:** The Board discussed the project and requested that the applicant submit scale calculations for the Work Session on November 6, 2003.

**FINDINGS OF FACT:**

- The addition of a second means of egress will be a boon to public safety; and
- No known adverse effects, such as hazard or environmental degradation will result.

*Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 to alter and extend a pre-existing, non-conforming dwelling and commercial structure up and along a non-conforming dimension at the property located at 134 Commercial Street (TCC Zone), Peter Page seconded and it was so voted, 4-0.* Steve Melamed will write the decision.

Chair Gary Reinhardt closed the Public Hearing at 8:12 P.M.

## WORK SESSION

Chair Gary Reinhardt reconvened the Work Session at 8:18 P.M.

**2003-063**

**14 Center Street, (Residential 3 Zone), Binder Boland Associates on behalf of Vincent Hurteau** - Gary Reinhardt, Peter Page, Steve Melamed, Lynne Davies and Howard Weiner sat on the case. Ginny Binder and Neal Kimball appeared before the Board. The Board briefly discussed the project.

**FINDINGS OF FACT:**

- The increase headroom added to this unit will improve the livability of the space and increase safety, therefore outweighing any adverse effects, such as hazard or environmental degradation;
- The increased size will have a negligible effect on the neighborhood and will, therefore, be in keeping with the Local Comprehensive Plan; and
- The existing scale of the structure is 397.63 scale units, the proposed addition will add 3.54 s.u., for a total of 401.17 s.u. The allowable scale, per the Assessor's Office, is 115.17.

*Howard Weiner moved to Special Permit under Article 3, Sections 3110 and 3340E of the Zoning By-Laws to alter and extend up and along a non-conforming dimension and to further deviate from the allowed building scale, a pre-existing, non-conforming multi-family dwelling structure located at 14 Center Street (Res 3 Zone), Steve Melamed seconded and it was so voted, 4-0.* Peter Page will write the decision.

**OTHER BUSINESS:**

Brian Falvui wants to join the Zoning Board of Appeals and was present at the hearing. The Board briefly discussed the position with Mr. Falvui.

*Steve Melamed moved to appoint Brian Falvui, as an alternate member of the Provincetown Zoning Board of Appeals, to a term to expire 12/31/05, Peter Page seconded and it was so voted, 4-0.*

**NEXT MEETING**

The next meeting will be on November 6, 2003 and consist only of a Work Session at 6:00 P.M.

**ADJOURNMENT**

*Peter Page moved to adjourn at 8:20 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 November 6, 2003.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

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Ellen C. Battaglini