

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
January 8, 2004

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed, Brian Falvey and Patrick Eeley.

Members Absent: Peter Bez (excused) and Howard Weiner (excused).

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

WORK SESSION

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

MINUTES:

December 18, 2003 – *Lynne Davies moved to accept the language as written, Patrick Eeley seconded and it was so voted, 4-0-2 (abstain).*

PENDING CASES:

2003-076 **253A Commercial Street (Town Commercial Center Zone), Binder Boland Associates, Inc. and Kimball Residential Designs on behalf of Lester Heller -**

Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eeley sat on the case.

Presentation: Ginny Binder and Neal Kimball appeared for the applicant. Revised plans were submitted to the Board showing a slight reduction in scale of the proposed structure, the result of which puts the structure into compliance with the setback requirements of this zoning district.

Board Discussion: The Board discussed the new plans and questioned Mr. Kimball.

Lynne Davies moved to grant a Special Permit under Article 2, Section 2314, B4b, allowing the use of an Art Gallery in the Harborfront Area of the Town Commercial Zone, and Article 3, Section 3110 of the Zoning By-Laws to remove, reconstruct and extend a pre-existing, non-conforming structure located at 253A Commercial Street (TCC Zone), Patrick Eeley seconded and it was so voted, 4-0-1 (absent).

Gary Reinhardt read the decision written by Peter Bez. *Lynne Davies moved to accept the language as written, Patrick Eeley seconded and it was so voted, 4-0-1 (absent).*

Chair Gary Reinhardt adjourned the Work Session at 6:55 P.M.

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:00 P.M.

2004-001 **150 Bradford Street, (Residential 3 Zone), Fabulous Foods, Inc. d.b.a. Bradford Market -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming use, *Neighborhood Retail Sales*, by providing the on-premises sale of food in a manner defined in the By-Laws as a “fast food establishment”. Gary Reinhardt, Lynne Davies, Peter

Page, Steve Melamed and Brian Falvey sat on the case.

Presentation: Chuck Pagliuca appeared to present the application. The applicant seeks to expand the use of his structure from a market to a fast food establishment by adding indoor seating.

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

Board Discussion: The Board questioned Mr. Pagliuca and discussed the seating plan that was submitted. The Board then informed the applicant that the number of seats on the plan submitted had to be reduced to less than 10 in order to comply with the appropriate By-Law.

FINDINGS OF FACT:

- The applicant operates a market as a pre-existing, non-conforming use, “neighborhood retail sales”;
- The market currently prepares and sells prepared food;
- The expansion of the non-conforming use to include the consumption of such prepared food on the premises is a minor alteration; and
- The allowance of tables on the premises would provide a more comfortable atmosphere for the consumption of prepared food.

Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming use, Neighborhood Retail Sales, by providing the on-premises sale of food in a manner defined in the By-Laws as a “fast food establishment” at the property located at 150 Bradford Street (Res 3 Zone), Lynne Davies seconded and it was so voted, 5-0. Lynne Davies will write the decision.

2004-002 291 Commercial Street (Town Commercial Center Zone), Richard G. Corsino, CKP Entertainment Group, d.b.a. The Alibi -

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of entertainment on the premises known as “The Alibi”.

Gary Reinhardt, Peter Page, Lynne Davies, Patrick Eleey and Brian Falvey sat on the case.

Presentation: Richard G. Corsino appeared to present the application. The applicant seeks to continue presenting 4 shows per day at the establishment.

Public Comment: None. There was 1 letter on file from an abutter who supports the application.

Board Discussion: The Board questioned Mr. Corsino.

Lynne Davies moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of entertainment on the premises known as “The Alibi” located at 291 Commercial Street (TCC Zone) with the additional conditions that the Special Permit expires in one year and only remains in effect as long as the present owner, CKP Entertainment Group, owns the property, Brian Falvey seconded and it was so voted, 5-0. Peter Bez will write the decision.

2004-003 19 West Vine Street (Residential 3 Zone), David L. Silva -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to change a pre-existing, non-conforming storage use to a single-family dwelling use upon a sub-standard lot. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case.

Presentation: David Silva and Paul Silva appeared to present the application. The applicant feels that the change from storage to a single-family dwelling will benefit the neighborhood.

Public Comment: Dave Lennon, a trustee for an abutting condominium association, inquired as to what the single-family structure will look like. There were no letters on file.

Board Discussion: The Board questioned Mr. Silva.

FINDINGS OF FACT:

- Since the 1960’s, the primary use of the existing structure has been as a storage facility;
- Since the establishment of the Zoning By-Laws, this use has been allowed as pre-existing, non-conforming use;
- The lot on which the structure stands is also non-conforming as per its front, rear and south side yard setbacks, as well as its lot coverage; and
- A residential use on the property would be more in keeping with the surrounding residential neighborhood.

Patrick Eleey moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to change a pre-existing, non-conforming storage use to a single-family dwelling use upon a sub-standard lot for the property located at 19 West Vine Street (Res 3 Zone), Lynne Davies seconded and

it was so voted, 5-0.

Patrick Eeley will write the decision.

NEXT MEETING

The next meeting will be on January 22, 2004 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 8:05 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 January 22, 2004.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini