

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
February 19, 2004

MEETING HELD IN TOWN HALL

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

Members Absent: Patrick Eeley.

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. The Board briefly discussed whether to hold an April 1, 2004 hearing.

PENDING DECISIONS:

2004-009 45 Commercial Street, Unit 3 (Residential 1 Zone), Beau and Company on behalf of William Courey -
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Lynne Davies read the decision. *Peter Bez moved to approve the language as written, Steve Melamed seconded and it was so voted, 5-0.*

2004-011 13-15 Commercial Street (Residential 1 Zone), Neal Kimball on behalf of the Red Inn of Provincetown, Inc. -
Gary Reinhardt, Peter Page, Lynne Davies, Patrick Eeley and Brian Falvey sat on the case. Lynne Davies read the decision. *Brian Falvey moved to approve the language as written, Peter Page seconded and it was so voted, 4-1 (absent).*

2004-010 26 Pleasant Street (Residential 3 Zone), Neal Kimball on behalf of Paul Bingaman -
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Steve Melamed read the decision. *Peter Bez moved to approve the language as written, Lynne Davies seconded and it was so voted, 5-0.*

PENDING CASES:

2004-007 276R Commercial Street (Town Commercial Center Zone), Michele L. Cannava on behalf of John Cicero -
This case is still pending.

2004-008 100 Shankpainter Road, (General Commercial Zone), Attorney E. James Veara on behalf of V.S.H. Realty, Inc. -
This case is still pending.

MINUTES:

February 5, 2004 – Lynne Davies moved to accept the language as amended, Steve Melamed seconded and it was so voted, 6-0.

Gary Reinhardt adjourned the Work Session at 6:49 P.M.

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. There were six members of the Zoning Board of Appeals present and one was absent.

2004-012 293 Commercial Street (Town Commercial Center Zone), Patricia McGuire, d/b/a Twisted Sister on behalf of Steven Boggess -

The applicant seeks a Special Permit under Article 2, Sections 2460 and 2440, B8, Footnote 12 of the Zoning By-Laws for the operation of a fast food establishment with a total of 8 seats for patrons. Gary Reinhardt, Peter Page, Peter Bez, Lynne Davies and Brian Falvey sat on the case.

Presentation: Patricia McGuire and Joan Cozza appeared to present the application.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Ms. McGuire about the application and discussed whether she had complied with all of the requirements of the by-law.

Peter Bez moved to grant a Special Permit under Article 2, Sections 2460 and 2440, B8, Footnote 12 of the Zoning By-Laws for the operation of a fast food establishment with a total of 8 seats for patrons at the premises located at 293 Commercial Street (TCC Zone), Lynne Davies seconded and it was so voted, 5-0. Peter Bez will write the decision.

2004-013 128 Commercial Street (Town Commercial Center Zone), Raymond Pelequin and Robert Paster on behalf of Lightning Realty Trust -

The applicant seeks a Special Permit under Article 3 Section 3340E of the Zoning By-Laws to deviate from the allowed neighborhood building scale with the construction of a private garage attached to the principal dwelling structure. Gary Reinhardt, Peter Page, Peter Bez, Lynne Davies and Steve Melamed sat on the case.

Presentation: Neal Kimball, of Neal Kimball Residential Designs, and Raymond Pelequin appeared to present the application. The proposed structure will consist of a one-car garage with living space behind and upstairs and will be connected to the existing structure by a deck.

Public Comment: Debby Blandon, on behalf of Brian Carreiro, an abutter, spoke of Mr. Carreiro's concerns about the close proximity of the proposed structure to his house and the size of the structure. Mr. Carreiro felt that his windows would be obstructed. There was one letter in the file from Mr. Carreiro expressing similar concerns.

Board Discussion: The Board questioned Mr. Kimball and Mr. Pelequin about the project and the issues raised by Mr. Carreiro. Warren Alexander joined the discussion, which included the definition of a "building" versus a "structure" according to the Zoning By-Laws. The Board concluded that the structure the applicant was proposing to build was, in fact, a "building", as well as a "structure", as defined in the By-Laws. Therefore, connecting the proposed building to the existing building could not be permitted because the separation of the two buildings would not conform to Article 2, Section 2550. The Board granted the request of the applicant to reconfigure the plans and return on March 4, 2004 to discuss the application again at their Work Session.

2004-014 213 Commercial Street (Town Commercial Center Zone), Paul DeRuyter on behalf of Wooden Shoe Nominee Trust -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along the front and side yard non-conforming dimensions with the construction of 6 shed-style doghouse window dormers. Gary Reinhardt, Peter Page, Peter Bez, Lynne Davies and Steve Melamed sat on the case.

Presentation: John DeSouza and Tom Thompson, of Top Floor Design, and Paul DeRuyter appeared to present the application.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Mr. DeSouza, Mr. Thompson and Mr. DeRuyter.

FINDINGS OF FACT:

- The existing structure is non-conforming in its front, west side and east side setbacks;
- The proposed addition will not change the pre-existing non-conforming footprint, while it will change the rear footprint in a conforming manner; and
- The overall appearance of the structure will enhance the character of the neighborhood.

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 structure up and along the front and side yard non-conforming dimensions with the construction of 6 shed-style doghouse window dormers at the premises located at 213 Commercial Street (TCC Zone), Lynne Davies seconded and it was so voted, 5-0. Lynne Davies will write the decision.

2004-015 **587 Commercial Street (Residential 2 Zone), Thomas Biggert and Chris Pula -**
This case is postponed until the March 4, 2004 Public Hearing.

2004-016 **13 Wareham Street (Residential 3 Zone), Mary Ellen Spingler -**
The applicant seeks a Special Permit under Article 2, Section 2450, G14, Footnote 2 to install a Utility/Garden Shed of 96 square feet maximum. Gary Reinhardt, Peter Page, Peter Bez, Lynne Davies and Steve Melamed sat on the case.

Presentation: Mary Ellen Spingler appeared to present the application.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board briefly questioned Ms. Spingler.

FINDINGS OF FACT:

- There is nowhere on the lot for a shed that will meet the front, side and rear yard setbacks and the building separation requirements;
- The doors and windows of the proposed shed shall not open into an area of the standard side and rear yard setbacks of the Residential 3 Zoning District; and
- The proposed shed shall be 48 square feet and have a height of 9 feet from the finished floor to the roof ridge.

Peter Bez moved to grant a Special Permit under Article 2, Section 2450, G14, Footnote 2 to install a Utility/Garden Shed of 96 square feet maximum at the premises located at 13 Wareham Road (Res 3), Steve Melamed seconded and it was so voted, 5-0. Steve Melamed will write the decision.

NEXT MEETING:

The next meeting will be on March 4, 2004 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Peter Bez moved to adjourn at 8:26 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 March 4, 2004.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini