

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
August 5, 2004
MEETING HELD IN TOWN HALL

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

Members Absent: Peter Bez (excused)

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

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:35 P.M.

PENDING DECISIONS:

2004-072 128 Commercial Street (Town Commercial Center), Raymond L. Peloquin on behalf of Lightning Realty Trust -

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

2003-055 80-82 Bradford Street and 4 Prince Street (Residential 3 Zone), Eliot Parkhurst, Attorney on behalf of Boutique Hospitality, 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 accept the language as written, Patrick Eeley seconded and it was so voted, 5-0.*

2003-056 80-82 Bradford Street and 4 Prince Street (Residential 3 Zone), Eliot Parkhurst, Attorney on behalf of Boutique Hospitality, Inc. -

Gary Reinhardt, Peter Page, Lynne Davies, Patrick Eeley and Brian Falvey sat on the case. Lynne Davies read the decision. *Patrick Eeley moved to accept the language as written, Brian Falvey seconded and it was so voted, 5-0.*

2004-073 49A Commercial Street (Residential 2 Zone), Attorney Christopher J. Snow on behalf of Alan L. Pinkerson -

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

2004-053 309 Commercial Street (Town Commercial Center), Christopher S. Rego on behalf of John T. Grace -

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

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:06 P.M. There were six members of the Zoning Board of Appeals present and one absent.

2004-075 MacMillan Pier (Harbor Overlay District of the General Commercial Zone), Karen Lee on behalf of the Provincetown Public Pier Corp. -

The applicant seeks a Special Permit under Article 2, Section 2240E of the Zoning By-Laws to hold a Farmer and Fisherman's Festival on the proposed dates of September 25-26. The festival proposes to provide an outlet for locally grown produce, locally caught seafood, a showcase of Provincetown Art and History, as well as demonstrations on the processes involved in the catching of seafood. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Brian Falvey sat on the case.

Presentation: Karen Lee and Rex McKinsey appeared to present the application.

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

Board Discussion: The Board questioned Ms. Lee and Mr. McKinsey. The Board requested a letter from the Health Agent addressing any health concerns associated with the handling of seafood. Also the Board requested to see an agreement between Ms. Lee and the Public Pier Corporation and the interim agreement between the Town of Provincetown and the Public Pier Corporation.

FINDINGS OF FACT:

- The proposed festival will be held on MacMillan Pier on the proposed dates in September;
- The festival will be a boon to tourism on the shoulder season;
- The festival will be an outlet for local artists to display and sell their works of art;
- The festival will use the history and culture of Provincetown to frame the event; and
- The applicant provided a letter from the Health Agent certifying that all health issues have been addressed.

Lynne Davies moved to grant a Special Permit under Article 2, Section 2240E of the Zoning By-Laws to hold a Farmer and Fisherman's Festival on the proposed dates of September 25-26. The festival proposes to provide an outlet for locally grown produce, locally caught seafood, a showcase of Provincetown art and history, as well as demonstrations on the processes involved in the catching of seafood on MacMillan Pier (Harbor Overlay District of GC), Peter Page seconded and it was so voted, 4-1 (opposed). Lynne Davies will write the decision.

2004-076 25 Montello Street (Residential 2 Zone), Attorney Lester J. Murphy on behalf of Jorge Arroyo and Rafael Campo -

The applicant seeks a Variance under Article 2, Section 2550, *Dimensional Schedule (lot area)*, pursuant to Article 5, Section 5222 of the Zoning By-Laws to convert an existing accessory use building into a principal use building. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case.

Presentation: Attorney Lester J. Murphy and Jorge Arroyo appeared to present the application. The applicants had a bedroom relocated from the third floor of the main structure to a renovated former garage without the knowledge that it was not allowed. They seek zoning relief on the grounds that this situation constitutes a substantial hardship to them.

Public Comment: Janice Meads, an abutter, said that she had some of the same issues at her house as

the applicants did and she was just looking for information. There was a petition signed by 5 neighbors as well as 2 letters in favor of the application and no letters opposed.

Board Discussion: The Board questioned Attorney Murphy and Mr. Arroyo. After discussing the case, the Board felt that the applicants had not met the criteria for a variance. The applicants requested to withdraw the application without prejudice.

Lynne Davies moved to grant the withdrawal without prejudice of Case # 2004-076, Patrick Eleey seconded and it was so voted, 5-0.

2004-077 6 Fishburn Court (Residential 3 Zone), Hunter O’Hanian, Executive Director, on behalf of the Fine Arts Work Center in Provincetown, Inc. -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove, reconstruct and extend up and along the non-conforming dimension, a pre-existing, non-conforming single-family dwelling.

2004-078 24 Pearl Street (Residential 3 Zone), Hunter O’Hanizn, Executive Director, on behalf of the Fine Arts Work Center in Provincetown, Inc. -

The applicant seeks a Special Permit under Article 3, Sections 3110 and 3340E of the Zoning By-Laws to extend a pre-existing, non-conforming dimension to create Artist Workspaces and to further deviate from the allowed neighborhood average building scale. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on both cases.

Presentation: Hunter O’Hanian and Michael Prodanou, architect, appeared to present the application. The applicant seeks to create new artist studios and a print shop at the premises.

Public Comment: Alix Ritchie spoke in favor of the application as well as Hattie Fitts, co-chair and treasurer of the FAWC. There were 19 e-mails in favor of the application and no letters or e-mails opposed.

Board Discussion: The Board questioned Mr. O’Hanian and Mr. Prodanou. The Board requested that plans showing existing elevations be submitted by the applicant.

FINDINGS OF FACT (Case 2004-077):

- The proposed structure will provide housing for artists at the Fine Arts Work Center and further facilitate the work of the FAWC, thereby benefiting the Town;
- The proposed structure will have the same footprint as the existing structure; and
- The proposed structure will increase the non-conformancy of the existing structure by building up and along a non-conforming line.

Patrick Eleey moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove, reconstruct and extend up and along the non-conforming dimension, a pre-existing, non-conforming single-family dwelling on the property located at 6 Fishburn Court (Res 3), Lynne Davies seconded and it was so voted, 5-0.

FINDINGS OF FACT: (Case 2004-078):

- The proposed renovation will create artist workspaces, thereby furthering the work of the Fine Arts Work Center and benefiting the Town;
- The proposed renovation will increase the non-conformancy of the existing structure by extending up and along a non-conforming dimension;
- The existing scale of the structure is 471.85 plus 160 scale units;
- The allowed scale, as per the assessor’s data, is 94.11 s.u.;
- The proposed structure will have a scale of 887.2 s.u.;
- The proposed project meets the objectives of the Local Comprehensive Plan on multiple points, including facilitating the creation and sale of art in Provincetown;
- The proposed structure will be harmonious with the surrounding neighborhood; and
- The building, by necessity, must be large due to its use, and its location is suited for that large-scale use.

Patrick Eleey moved to grant a Special Permit under Article 3, Sections 3110 and 3340E of the Zoning By-Laws to extend a pre-existing, non-conforming dimension to create Artist Workspaces and to further deviate from the allowed neighborhood average building scale on property located at 24 Pearl Street (Res3), Lynne Davies seconded and it was so voted, 5-0. Hunter O’Hanian will write a draft decision for the Board to review at the August 12, 2004 hearing and submit a plan showing the existing elevations.

2004-079

11 Cottage Street (Residential 3 Zone), Neal Kimball Residential Designs on behalf of Kirk Carter and Anthony Price -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming two-family dwelling structure up and along a non-conforming dimension with the construction of two doghouse style dormers. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Brian Falvey.

Presentation: Neal Kimball appeared to present the application.

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

Board Discussion: The Board briefly questioned Mr. Kimball.

Lynne Davies moved to consider as a finding under the Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 5-0.

Lynne Davies moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming two-family dwelling structure up and along a non-conforming dimension with the construction of two doghouse style dormers on the property located at 11 Cottage Street (Res 3) as a finding under the Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 5-0.

MINUTES:

July 22, 2004 – *Steve Melamed moved to accept the language as written, Brian Falvey seconded and it was so voted, 6-0-1 (absent).*

NEXT MEETING:

The next meeting will be on August 12, 2004 and will consist of a Work Session at 6:30 P.M.

ADJOURNMENT:

Steve Melamed moved to adjourn at 9:20 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 August 12, 2004.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini