

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
November 18, 2004

MEETING HELD IN TOWN HALL

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

Members Absent: None.

Others Present: Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:45 P.M.

2004-091 174 Bradford Street (Residential 3 Zone), Neal Kimball Residential Designs on behalf of Mitchell Baker -
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Peter Page read the decision. *Peter Bez moved to approve the language as written, Lynne Davies seconded and it was so voted, 4-0-1 (absent).*

ADMINISTRATIVE AMENDMENT:

2003-067 137 Commercial Street (Town Commercial Center), Keith R. Stone -
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.
Presentation: Ansel Davis appeared to present the request. The internal floor plan is changing, eliminating the interior staircase and installing two new exterior staircases.
Board Discussion: The Board concluded that the applicant will need to submit a new application for the changes proposed.

MINUTES:

November 4, 2004 – Steve Melamed moved to accept the language as written, Peter Bez seconded and it was so voted, 6-0-1 (abstain).

Chair Gary Reinhardt adjourned the Work Session at 7:00 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 seven members of the Zoning Board of Appeals present and none absent.

2004-092 291 Commercial Street (Town Commercial Center Zone), Richard G. Corsino on behalf of Hake Nominee Trust -
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of entertainment, provided by CKD Entertainment Group, Inc., d.b.a. The Alibi. Steve Melamed and Brian Falvey both recused themselves because of conflicts of interest. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eleey sat on the case.

Presentation: Steve Deegan appeared to present the application.

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

Board Discussion: The Board questioned Mr. Deegan. The Board decided that it would like to investigate police records and zoning enforcement violations related to the premises before rendering a decision. The case is continued until the Work Session on December 2, 2004.

2004-093 34 Pleasant Street (Residential 3 Zone), Joseph D. White -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming single-family dwelling structure up and along the non-conforming side and rear line dimensions with the construction of a dormer. Gary Reinhardt, Peter Bez, Peter Page, Lynn Davies and Steve Melamed sat on the case.

Presentation: Mike Foster and Kevin Ainsworth appeared to present the application. The applicant seeks to raise a knee wall in order to build a dormer on the rear of the building.

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

Board Discussion: The Board questioned Mr. Foster and Mr. Ainsworth.

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

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 single-family dwelling structure up and along the non-conforming side and rear line dimensions with the construction of a dormer on the premises located at 34 Pleasant Street (Res 3) as a finding under the Goldhirsh v. McNear ruling, Lynne Davies seconded and it was so voted, 5-0.

2004-094 27 Tremont Street (Residential 1 Zone), Thomas Burke and Axel Brunges on behalf of Gwendolyn Willard -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming single-family dwelling structure up and along the rear line dimension with the construction of a second story addition. Gary Reinhardt and Patrick Eley recused themselves because they are abutters to the project. Peter Bez chaired the application. Peter Bez, Peter Page, Lynn Davies, Steve Melamed and Brian Falvey sat on the case.

Presentation: Tom Burke and John Hopkins, contractor, appeared to present the application. The applicant seeks to add an extension to the rear of the building with the addition of dormers to make it architecturally consistent with the front portion of the house.

Public Comment: George Terrat, an abutter, commented on the landscaping and plans for parking at the premises. Gary Reinhardt and Patrick Eley, both abutters, spoke in favor of the application.

Board Discussion: The Board questioned Mr. Burke. The Board stated that the applicant needed to submit a plot plan to scale and a new set of plans after changes have been made in conformity with requests made by the Historic District Commission. The case is continued until the Work Session on December 2, 2004.

2004-095 2 Daggett Lane (Residential 3 Zone), David M. King -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming three-family dwelling structure (to be converted to a single-family dwelling) up and along the non-conforming front, side and rear line dimensions with the construction of a chimney and decks at grade. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: David M. King and Ted Chapin, architect, appeared to present the application.

Public Comment: Frank Shaffer, an abutter, spoke of his concerns regarding parking at the premises and all the attendant noise, car fumes and light that come with additional vehicles. He was also concerned with the schedule of the construction as he runs a seasonal business. Erna Partoll, an abutter, was concerned about the setbacks on the premises and the possibility of flooding in the area if there is fill added to the premises. Mary Martin, an abutter, is concerned about privacy issues if a deck is built and the potential noise generated by additional cars in the neighborhood. There were no letters in the file.

Board Discussion: The Board questioned Mr. Chapin. The Board informed him that since the new construction encroaches into a setback and the premises is currently a three-family dwelling, the

applicant would need a variance. They suggested that the applicant hold the application until the premises can be converted to a single-family dwelling. The Board would also like to see a plot plan showing neighborhood structures and both existing and proposed structures on the premises. The case will be pending on the Work Session agenda until the Board receives the new plans and the structure becomes a single-family dwelling.

2004-096 43 Race Point Road (Residential 3 Zone), Edward “Ted” Malone on behalf of Community Housing Resource, Inc. -

The applicant seeks Special Permits under Articles 2, 3 and 5, Sections 2400 B4a, 2450 G11, 3110, 3330D, 3340 D and E and 5300 to 1: expand Special Permit #92-057 for a “Neighborhood Retail” deli market, with the added use of a catering kitchen and laundromat; 2: to add an “accessory office”: or alter a pre-existing, non-conforming use, to include office space; 3: to deviate from the average neighborhood building scale; and 4: to replace a portion of a gable roof with a hip gable. Lynne Davies recused herself because she is an abutter. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eleey sat on the case.

Presentation: Ted Malone appeared to present the application. The applicant requested to withdraw without prejudice the portion of the application that deals with the laundromat.

Public Comment: Larry Meads, an abutter, spoke against the application and particularly of his concern for a pile of debris encroaching on his property from a previous project by the applicant. He was also concerned about the effect of the project on the neighborhood in general. Bob Henrique, an abutter, spoke against the project as did Irene Briga, an abutter, and Valerie Marr. Rachel Peters was concerned about the traffic congestion that may be created by an increase in vehicles in the neighborhood. Lynne Davies, who along with other abutters, met with Mr. Malone to discuss the project, is worried about the extent of the restructuring of the building on the premises and that it may not be in keeping with the flavor of the neighborhood. Pat Franzese spoke of her concerns about the hours of operation of the deli, the size of the project and the occupants of the residential units being created on the premises. There was one letter in the file against the application.

Board Discussion: The Board questioned Mr. Malone about the scale of the project, expressing their concerns about the potential increase in traffic and the safety issues surrounding an egress from the property onto Nelson Avenue. The Board was also troubled by many of the issues raised by the abutters who objected to the project and stated that its effect on the neighborhood would be both negative and unwelcome.

Peter Bez moved to accept the withdrawal without prejudice of the portion of the application that deals with the Laundromat, Steve Melamed seconded and it was so voted, 5-0.

The Board requested a corrected site plan in light of the withdrawal of a portion of the application and requested that the applicant address the scale by-law more specifically when he again appears before the Board. The case is continued until the Work Session on December 2, 2004.

2004-097 10 Pearl Street (Residential 3 Zone), Neal Kimball Residential Designs on behalf of Karl Slabinski -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming single-family dwelling structure up and along the non-conforming side and rear line dimensions with the construction of a half-story addition. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case.

Presentation: Neal Kimball appeared to present the application.

Public Comment: Ted Chapin read a letter signed by 10 neighbors, objecting to the application for many reasons, including scale, aesthetics, and the blocking of neighborhood views. There were no letters in the file. Mr. Slabinski stated that he did try to contact the neighbors and no one responded. David Nicolau said the applicant was sensitive to the scale issue.

Board Discussion: The Board questioned Mr. Kimball.

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

Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming single-family dwelling structure up and along the non-conforming side and rear line dimensions with the construction of a half-story addition on the premises located at 10 Pearl Street (Res 3) as a finding under the Goldhirsh v. McNear ruling, Peter

Page seconded and it was so voted, 4-1 (opposed).

2004-098 12 Franklin Street (Residential 3 Zone), Neal Kimball Residential Designs on behalf of Laura Delmolino -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming three-family dwelling structure up and along the non-conforming side and rear line non-conforming dimensions with construction of a half-story addition. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Neal Kimball and Laura Delmolino appeared to present the application.

Public Comment: None. No letters are in the file.

Board Discussion: The Board questioned Mr. Kimball.

Peter Bez moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming three-family dwelling structure up and along the non-conforming side and rear line non-conforming dimensions with construction of a half-story addition on the premises located at 12 Franklin Street (Res 3), Lynne Davies seconded and it was so voted, 5-0. Lynne Davies will write the decision.

NEXT MEETING:

The next meeting will be on December 2, 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 10:00 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 December 2, 2004.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini