

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF December 2, 2004

MEETING HELD IN TOWN HALL

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Members Present: Gary Reinhardt, Peter Bez (arrived at 7:00 P.M.), Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey.

Members Absent: Brian Falvey (excused).

Others Present: Douglas Taylor, Building Commissioner, Warren Alexander and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

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

PENDING CASES:

2004-092 291 Commercial Street (Town Commercial Center Zone), Richard G. Corsino on behalf of Hake Nominee Trust

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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. The applicant was not present.

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. The applicant was not present at the hearing.

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 G1 1, 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. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eleey sat on the case.

Presentation: Ted Malone appeared to discuss the application. He requested to withdraw without prejudice that portion of the application requesting a deviation from the neighborhood building scale and that portion of the application requesting a replacement of a portion of the gable roof with a hip gable. In addition, Mr. Malone submitted new drawings of the project. He proposes to split the one long building on the premises into two. He is also proposing to locate the deli and market on the first floor of the barn and locate the office space on the second floor of the barn. The proposed catering kitchen will be located in the present space that the deli and market occupy. The bike shop will remain in its present location and only one residential unit will be located above the catering kitchen.

Mr. Malone reported that he had met with some of the neighbors, including Larry Meads and his wife, and is not proposing to put an egress out to Nelson Avenue. Finally, Mr. Malone submitted a report to the Board explaining how the social, economic or other benefits of the project outweigh any adverse effects such as hazard, congestion or environmental degradation. **FINDINGS OF FACT:**

- The existing lot has the following non-conforming uses: i. a bike shop; ii. a deli and market; iii. a horse stable; iv. a bait and tackle shop; v. storage space for the deli/market and other general storage; and vi. a garden center and greenhouse.
- The proposal has the following non-conforming uses: i. a deli and market; ii. a catering kitchen; iii. office space; iv. a bait and tackle shop; v. a horse stable; vi. storage space; and vii. a garden center and greenhouse.
- The applicant has agreed to remove any vehicular public access from the new development to Nelson Avenue;
- The use of the land for horse riding will not change; and
- The applicant has agreed that any new lighting is low impact and will not spill over into any neighboring properties.

Steve Melamed moved to accept the withdrawal without prejudice of those portions of the application that deal with the deviation from the neighborhood building scale and the replacement of a portion of the gable roof with a hip gable, Patrick Eleey seconded and it was so voted, 4-0-1 (absent). Steve Melamed moved to grant a Special Permit under Articles 2, 3 and 5, Sections 2400 B4a, 2450 Gil, 3110 and 5300 of the Zoning By-Laws and to expand Special Permit #92-057 for a "Neighborhood Retail" deli market, with

the added use of a catering kitchen and to alter a pre-existing, non-existing use to include office space, Patrick Eleey seconded and it was so voted, 4-0-1 (absent). Patrick Eleey will write the decision.

Chair Gary Reinhardt postponed the Work Session at 7:05 P.M.

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:05 P.M. There were six members of the Zoning Board of Appeals present and one absent.

2004-099 27 Commercial Street (Residential 2 Zone), John DeSouza on behalf of Robert Duffy -

The applicant seeks a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws for the reduction of pre-existing, non-conforming dimensions to a two-family dwelling by removing deck area and replacing a portion with a proposed addition/roofline changes by re-configuring an existing 12/4 hip roof to a 12/1 shed roof. Gary Reinhardt, Peter Bez, Peter Page, Lynn Davies and Steve Melamed sat on the case.

Presentation: John DeSouza appeared to present the application. The applicant seeks to remove decks and porches on the back of the house and replace them with a small overhang on the southeast corner.

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

Board Discussion: The Board questioned Mr. DeSouza.

FINDINGS OF FACT:

- The proposed renovation of the structure, while still non-conforming, will reduce a number of non-conformancies on the existing structure; and
- The change to the roofline will have neither have an impact on solar access to the neighboring structures nor will it have an impact on emergency vehicle access to the property.

Lynne Davies moved to grant a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws for the reduction of pre-existing, non-conforming dimensions to a two-family dwelling by removing deck area and replacing a portion with a proposed addition/roofline changes by reconfiguring an existing 12/4 hip roof to a 12/1 shed roof at the property located at 27 Commercial Street (Res2), Peter Bez seconded and it was so voted, 5-0.

Chair Gary Reinhardt adjourned the Public Hearing at 7:21 P.M.

WORK SESSION

Chair Gary Reinhardt reconvened the Work Session at 7:21 P.M.

PENDING CASES:

- 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. There were no reports of zoning enforcement violations on record and only one police report about after-hours service. The Board decided to wait until the applicant appears before them to make a decision.
- 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. Peter Bez, Peter Page, Lynn Davies, Steve Melamed and Brian Falvey sat on the case.
Presentation: John Hopkins appeared to discuss the application. New plans were submitted to the Board.
Board Discussion: The Board briefly questioned Mr. Hopkins. *Steve Melamed moved to consider as a finding under the Goldhirsh v. McNear ruling, Lynne Davies seconded and it was so voted, 4-0-1 (absent). 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 single-family dwelling structure up and along the rear line dimension with the construction of a second story addition at the property located at 27 Tremont Street (Res 1) as a finding under the Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 4-0-1 (absent).*
- 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. The case will be continued until the December 16, 2004 hearing.

PENDING DECISIONS:

- 2004-098** **12 Franklin Street (Residential 3 Zone), Neal Kimball Residential Designs on behalf of Laura Delmolino -**
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 Bez seconded and it was so voted, 5-0.*

MINUTES:

November 18, 2004 - Steve Melamed moved to accept the language as written, Lynne Davies seconded and it was so voted, 6-0-1 (absent).

The Board was introduced to the new Building Inspector, Doug Taylor and then briefly discussed the issue of a change of use and Article 3, Section 3110 of the Zoning By-Laws.

NEXT MEETING:

The next meeting will be on December 16, 2004 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

Steve Melamed will not be present at the December 16, 2004 hearing.

ADJOURNMENT:

Patrick Eleey moved to adjourn at 7:50 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 16, 2004.

Respectfully submitted,

Ellen C. Battaglini
Zoning Board of Appeals Signature