

**TOWN OF PROVINCETOWN**  
**ZONING BOARD OF APPEALS**

**MEETING MINUTES OF**  
**January 6, 2005**

**MEETING HELD IN TOWN HALL**

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

**Members Absent:** Peter Bez (excused).

**Others Present:** Doug 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.

**ADMINISTRATIVE AMENDMENT:**

**2003-054     460 Commercial Street (*Residential 3 Zone*) The Provincetown Art Association and Museum -**

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

**Presentation:** Reggie Donoghue appeared to present the Administrative Amendment. New plans were submitted to the Board.

**Board Discussion:** The Board determined that, according to the new plans, a new non-conformancy was being created because the lot coverage was being increased. The applicant would thus need a Variance for zoning relief and a new application would need to be submitted.

Attorney Christopher J. Snow, representing abutters, Steven and Candace Silva, spoke to what he considered as problems with the underlying Special Permit, including an allegation that the plans submitted at the time were incorrect. He then submitted a letter outlining these problems.

## PENDING DECISIONS:

- 2004-092**      **291 Commercial Street (Town Commercial Center Zone), Richard G. Corsino on behalf of Hake Nominee Trust -**  
Gary Reinhardt, Peter Bez, Peter Page Lynne Davies and Patrick Eeley sat on the case. Gary Reinhardt read the decision. *Lynne Davies moved to accept the language as written, Patrick Eeley seconded and it was so voted, 4-0-1 (Peter Bez absent).*
- 2004-100**      **44 Nelson Avenue (Residential 3 Zone), Francis S. Peters -**  
Gary Reinhardt, Peter Page, Lynne Davies and Patrick Eeley sat on the case. Patrick Eeley read the decision. *Peter Page moved to accept the language as written, Lynne Davies seconded and it was so voted, 4-0.*
- 2004-101**      **335 Commercial Street (Town Commercial Center), Clipper Ventures, Inc., d.b.a. The Squealing Pig -**  
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eeley sat on the case. Gary Reinhardt read the decision. *Lynne Davies moved to accept the language as written, Peter Page seconded and it was so voted, 4-0-1 (Peter Bez absent).*

## MINUTES:

**December 16, 2004** – *Patrick Eeley moved to accept the language as amended, Lynne Davies seconded and it was so voted, 4-0-1 (Steve Melamed abstain).*

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

## PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:03 P.M. and explained the Public Hearing procedures to the public. There were five members of the Zoning Board of Appeals present and one absent.

- 2005-001**      **139A Bradford Street (Residential 2 Zone), Joseph Neumeister -**  
The applicant seeks relief under Article 5, Section 5223 of the Zoning By-Laws from the decision of the Building Commissioner to not issue a Certificate of Occupancy. Steve Melamed disclosed that Attorney E. James Veara, who represents the applicant, has also represented him in legal matters, but Mr. Melamed felt he could render a fair and unbiased opinion in the case. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case.  
**Presentation:** Attorney E. James Veara and Joseph Neumeister appeared to present the application. The premises in question was purchased by Mr. Neumeister in 1997 as a three-dwelling unit with a commercial hair salon operation. Mr. Neumeister has endeavored to obtain a Certificate of Occupancy for the basement dwelling unit, including consulting with the Health Department about the septic system, settling a boundary dispute with an abutter and paying the taxes for a multi-dwelling unit. However, Former Building Commissioner, Warren Alexander contends that according to the records on file in the Department of Community Development, the premises has always been a single-family dwelling and there is no proof in those files that proves otherwise. Attorney Veara argued and presented evidence to show that Mr. Neumeister should have been issued a Certificate of Occupancy for the basement apartment at the premises.  
**Public Comment:** None. There were no letters in the file.  
**Board Discussion:** The Board asked Warren Alexander if he wanted to comment on the case. Mr. Alexander stated the reasons behind his decision, including the fact that there are no records of any Special Permits that approved any second or third dwelling unit at the premises. He felt that the structure should be, and always has been, a single-family structure. The Board, after questioning Attorney Veara, Mr. Neumeister and Mr. Alexander concluded that they would like to solicit an opinion from Town Counsel in order to guide their decision. The case is continued until the Work Session on January 20, 2005.

- 2005-002**      **599 Commercial Street (Residential 2 Zone), Elizabeth L. Villari -**

The applicant seeks a Special Permit under Article 3, Section 3340E and Article 2, Section 2540 of the Zoning By-Laws for a deviation in the allowed building scale and rear yard Harbor setback respectively. This case is postponed until the January 20, 2005 Work Session.

**2005-003**

**23R Bradford Street Extension (*Residential 1 Zone*), Neal Kimball on behalf of Dana DeSimone -**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the allowed building scale to accommodate the additions of porches, decks and a box bay window. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case.

**Presentation:** Neal Kimball appeared to present the application. The proposed additions will improve the look and the functionality of the house.

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

**Board Discussion:** The Board questioned Mr. Kimball.

**FINDINGS OF FACT:**

- The existing structure has a scale of 102.78 scale units;
- The applicant proposes an addition of 19.08 s.u. for a total of 121.86;
- The allowed scale, per the assessor's data, is 82.60 s.u.; and
- The proposed changes to the property will only be slightly visible, if at all, from a public way and thus have little impact on the surrounding area and thus will be in keeping with the intent of the Local Comprehensive Plan.

*Lynne Davies moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the allowed building scale to accommodate the additions of porches, decks and a box bay window at the property located at 23R Bradford Street Extension (Res 1), Patrick Eleey seconded and it was so voted, 5-0. Lynne Davies will write the decision.*

**2005-004 184 Bradford Street, Unit #B (*Residential 3 Zone*), John DeSouza on behalf of Peter Schweizer -**

The applicant seeks a Special Permit under Article 3, Section 3110, 3330 and 3340E of the Zoning By-Laws to extend a pre-existing, non-conforming two-family dwelling structure up and along the non-conforming dimension to reconfigure existing rooflines and deviate from the allowed building scale. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case.

**Presentation:** John DeSouza, Tom Thompson and Peter Schweizer appeared to present the application. The applicant seeks to expand the living space in the unit.

**Public Comment:** Deborah Pryor, who also lives at the premises, spoke against the application, citing her concerns regarding a loss of light and privacy for her unit. There were 3 letters in support and 2 opposed to the application.

**Board Discussion:** The Board briefly questioned Mr. DeSouza. The Board requested that the Building Commissioner give them an opinion concerning the scale issue, including updated scale calculations for the neighborhood, in order to determine whether the applicant needs to be applying for a Special Permit under Article 3, Section 3340E. The Board also suggested that the applicant talk to his neighbor about their concerns about the project. The case is continued until the January 20, 2005 Work Session.

**2005-005 40 Pleasant Street (*Residential 3 Zone*), Roxane Pratten -**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the allowed building scale. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case.

**Presentation:** Roxane Pratten appeared to present the application. Ms. Pratten seeks to install a second means of egress at the premises.

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

**Board Discussion:** The Board briefly questioned Ms. Pratten.

**FINDINGS OF FACT:**

- The existing structure has a scale of 102.87 scale units;
- The applicant proposes an addition of 20.74 s.u. for a total proposed scale of 123.61 s.u.;
- The allowed scale, as per the assessor's data, is 72.49 s.u.;
- The neighborhood is composed of both moderate-sized and also very small structures mixed together;
- The proposed renovation will add a second means of egress from the second story, thereby improving public safety and bringing the property into compliance with the Massachusetts

Building Code, thus providing a benefit to the Town and the neighborhood; and

- The proposed renovation will have little impact on the surrounding neighborhood. That and the increase in public safety will bring the project into compliance with the Local Comprehensive Plan.

*Steve Melamed moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the allowed building scale at the property located at 40 Pleasant Street (Res 3), Lynne Davies seconded and it was so voted, 5-0. Patrick Eleey will write the decision.*

The Board briefly discussed the issue of the interference of one structure on the light and air of another and some of the issues that were raised in Case 2005-001.

**NEXT MEETING:**

The next meeting will be on January 20, 2005 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

**ADJOURNMENT:**

*Patrick Eleey moved to adjourn at 9:30 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 20, 2005.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

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Ellen C. Battaglini