

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
February 17, 2005

MEETING HELD IN TOWN HALL

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

Members Absent: Patrick Eeley (excused).

Others Present: Doug Taylor (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

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

PENDING DECISIONS:

2005-007 5 Maple Court (Residential 3 Zone), David Nicolau -
Gary Reinhardt, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case. Lynne Davies read the decision. *Steve Melamed moved to approve the language as amended, Lynne Davies seconded and it was so voted, 3-0-1 (Patrick Eeley absent).*

2005-004 184 Bradford Street, Unit #B (Residential 3 Zone), John DeSouza on behalf of Peter Schweizer -
Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case. Peter Bez read the decision. *Steve Melamed moved to approve the language as written, Lynne Davies seconded and it was so voted, 4-0-1 (Patrick Eeley absent).*

MINUTES:

February 3, 2004 – Lynne Davies moved to accept the language as amended, Steve Melamed seconded and it was so voted, 3-0-2 (Peter Bez and Peter Page abstaining).

Chair Gary Reinhardt adjourned the Work Session at 7:00 P.M.

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:0 P.M. There were five members of the Zoning Board of Appeals present and one absent.

2005-008 212-214 Commercial Street (Town Commercial Center Zone), Robin B. Reid, Esq. on behalf of New Art Realty Corporation (postponed from February 3, 2005) -

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the service of food and alcohol and public entertainment. Steve Melamed recused himself because of a conflict of interest. The applicant was informed that only four members of the Board would be seated on the case necessitating a unanimous vote in order to be granted a Special Permit. The applicant could thus proceed with four members or postpone until five members were seated. The applicant chose to proceed. Gary Reinhardt, Peter Bez, Peter Page and Lynne Davies sat on the case.

Presentation: Attorney Robin B. Reid and Bruce MacGregor appeared to present the application. The application is the same as was presented in Case #2004-032, except the applicant seeks to allow customers to bring drinks to their seats in the theater. The sound attenuation at the premises is still to be installed, but the lighting is in place as promised last year.

Public Comment: None. There were two letters from abutters in the file in opposition to the project. Both were concerned with the possibility of excessive noise emanating from the structure.

Board Discussion: The Board questioned Attorney Reid. The Board has received a letter from Health Inspector Jane Evans and Brian Dudley, from the Department of Environmental Protection, stating that the septic flow at the premises would not be affected by allowing drinks to be taken to seats.

Peter Bez moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the service of food and alcohol and public entertainment with an expiration date of December 31, 2005 and with hours of operation of 12 noon until 1 A.M. at the property located at 212-214 Commercial Street (TCC), Lynne Davies seconded and it was so voted, 4-0.

Attorney Reid submitted a decision to the Board. Gary Reinhardt read the decision. *Peter Bez moved to accept the language as written, Lynne Davies seconded and it was so voted, 4-0.*

2005-009 494 Commercial Street (Residential 3 Zone), Bob Seay on behalf of Lower Cape Communications Inc., WOMR (postponed from February 3, 2005) -

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for provide public entertainment. Steve Melamed recused himself because of a conflict of interest. Gary Reinhardt, Peter Bez, Peter Page and Lynne Davies sat on the case. The Board determined that the applicant didn't need to appear for zoning relief. Mr. Seay requested a withdrawal without prejudice. *Peter Bez moved to accept a withdrawal without prejudice of Case #2005-009, Lynne Davies seconded and it was so voted, 4-0.*

2005-011 138 Commercial Street (Residential 3 Zone), Neal Kimball on behalf of Kathryn Rafter -

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 a non-conforming east side yard with the addition of a half-story over an existing footprint. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Neal Kimball appeared to present the application. The applicant seeks to increase the pitch of the roofline and add two shed dormers, neither intensifying the non-conformancy nor creating a new non-conformancy.

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

Board Discussion: The Board questioned Mr. Kimball.

Steve Melamed moved to consider as a finding under the Goldhirsh v. McNear ruling, Peter Bez 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 structure up and along a non-conforming east side yard with the addition of a half-story over an existing footprint at the property located at 138 Commercial Street (Res 3) as a finding under the Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 5-0.

2005-012 9 Pleasant Street (Residential 3 Zone), Kevin E. Soyt and Richard S. Aronowitz -

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 a non-conforming northwest side yard. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: John DeSouza, Kevin E. Soyt and Tom Thompson appeared to present the application. The applicant seeks to create more space in the structure.

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

Board Discussion: The Board questioned Mr. DeSouza.

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 structure up and along a non-conforming northwest side yard at the property located at 9 Pleasant Street (Res 3) as a finding under the Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 5-0.

2005-010 11 Atlantic Avenue (Residential 3 Zone), Leslie D. Burnell on behalf of Kenneth Johnson (postponed from February 3, 2005) -

The applicant seeks a Special Permit under Article 3, Section 3100 of the Zoning By-Laws to continue pre-existing, non-conforming setbacks for the construction of a second means of egress for each of two units. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Ansel Davis appeared to present the application. The applicant seeks to put a second means of egress in two of the three units in the building.

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

Board Discussion: Doug Taylor questioned Mr. Davis about the project and the location of the two egresses. The Board then suggested that the applicant further consult with Mr. Taylor about the project. The applicant requested a withdrawal without prejudice.

Peter Bez moved to grant a withdrawal without prejudice for Case #2005-010, Steve Melamed seconded and it was so voted, 5-0.

NEXT MEETING:

The next meeting will be on March 3, 2005 and will consist of a Public Hearing at 7:00 P.M. followed by a Work Session.

ADJOURNMENT:

Peter Bez moved to adjourn at 8:00 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 March 3, 2005.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini