

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
July 21, 2005

MEETING HELD IN TOWN HALL

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

Members Absent: None.

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:

2005-028 10 Washington Avenue (Residential 3 Zone), Neal Kimball on behalf of Vernon Brown -

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

PENDING CASES:

2005-029 70-74 Shank Painter Road (General Commercial Zone), Charles W. Silva -

The applicant seeks a Special Permit under Article 2, Section 2440-B7 of the Zoning By-Laws for a Parking Lot. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. The file contained letters from the Building Commissioner, the Police Chief and the Fire Chief.

Peter Bez moved to approve a Special Permit under Article 2, Section 2440-B7 of the Zoning By-Laws for a Parking Lot at the property located at 70-74 Shank Painter Road (GCC), Lynne Davies seconded and it was so voted, 4-0-1 (Steve Melamed absent). Lynne Davies will write the decision.

MINUTES: June 30, 2004 – Peter Bez moved to accept the language as written, Patrick Eeley seconded and it was so voted, 5-0.

Chair Gary Reinhardt adjourned the Work Session at 6:54 P.M.

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:02 P.M. and explained the Public Hearing procedures to the public. There were six members of the Zoning Board of Appeals present and none absent.

2005-033 140 Commercial Street (Town Commercial Center Zone), Manuel Souza -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outside Display. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed.

Presentation: Manuel Souza appeared to present the application.

Public Comment: Attorney Christopher J. Snow, as an abutter, spoke in favor of the application. There was 1 letter in the file in support of the application.

Board Discussion: The Board questioned Mr. Souza and discussed the provision of the by-law stating

that the display be “set back a distance of 10 feet from the front property line and/or any street line”. Attorney Snow spoke about the by-law. Mr. Souza told the Board that he would work within the parameters of the by-law. The Board stated that it will try to get a clarification of that provision of the by-law from Town Counsel and if a more liberal interpretation is given, Mr. Souza can return to the Board.

Peter Bez moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outside Display at the property located at 140 Commercial Street (TCC), Lynne Davies seconded and it was so voted, 5-0.

2005-034

306 Commercial Street (Town Commercial Center Zone), Venture Athletics -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outside Display. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Elisabeth Verde appeared to present the application.

Public Comment: None. There were 3 letters in support of the application in the file.

Board Discussion: The Board questioned Ms. Verde. The Board requested that when Ms. Verde returns to the Board in 3 years to seek another Special Permit for Outside Display, that she submit a certified plot plan with the application. Attorney Lester J. Murphy spoke to his personal knowledge that a certified plot plan did exist for the premises and had been filed with the Barnstable County Registry of Deeds.

Peter Bez moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outside Display at the property located at 306 Commercial Street (TCC), Lynne Davies seconded and it was so voted, 5-0.

2005-035

293 Commercial Street (Town Commercial Center Zone), Michael Donovan -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outside Display. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Michael Donovan appeared to present the application.

Public Comment: None. There was 1 letter in support of the application in the file.

Board Discussion: The Board questioned Mr. Donovan.

Lynne Davies moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outside Display at the property located at 293 Commercial Street (TCC), Peter Bez seconded and it was so voted, 5-0.

2005-036

305 Commercial Street (Town Commercial Center Zone), Robert Dalton -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outside Display. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Robert Dalton appeared to present the application.

Public Comment: None. There were 2 letters in support of the application in the file.

Board Discussion: The Board questioned Mr. Dalton and were particularly concerned that the application did not include a certified plot plan for the property. The case is continued until August 4, 2005, at which time the Board would like to be in possession of a certified plot plan of the premises.

2005-037

175 Bradford Street Extension (Residential 3 Zone), Lori Romano -

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to provide a change in seating (outdoor flexible seating). Steve Melamed recused himself because of a conflict of interest. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eeley sat on the case.

Presentation: Lori Romano appeared to present the application. She seeks to move 8 seats from the patio to the outside of the establishment.

Public Comment: None. There were 2 letters in opposition to and 1 letter in support of the application.

Board Discussion: The Board questioned Ms. Romano, voicing concern about her ability to police the patrons who chose to sit outside, particularly in terms of the removal of alcoholic beverages. The Board reminded Ms. Romano that she would need to get the permission of the owner of the premises in order to apply for a Special Permit. Ms. Romano decided to withdraw the application without prejudice.

Lynne Davies moved to accept the withdrawal without prejudice of Case # 2005-037, Patrick Eeley

seconded and it was so voted, 5-0.

2005-038

47 Commercial Street (Residential 2 Zone), Robert Valois on behalf of David Martin -

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 side yard setback with the extension of a second floor deck across the full width of the building. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Attorney E. James Veara and Robert Valois appeared to present the application. The applicant seeks to increase a boathouse structure from one story to two stories and extend a second-floor deck.

Public Comment: None. There was a 7-page memorandum in opposition to the application from an abutter's attorney and a 21-page memo from Attorney Veara in the file.

Board Discussion: The Board questioned Attorney Veara and Mr. Valois.

Lynne Davies 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 side yard setback with the extension of a second floor deck across the full width of the building for the property located at 47 Commercial Street (Res2) as a finding under the Goldhirsh v. McNear ruling, Peter Bez seconded and it was so voted, 5-0.

2005-039

7 Winston Court (Residential 1 Zone), Robert Silva -

The applicant seeks a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along a non-conforming side yard setback over an existing footprint and deviation in building scale. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Attorney Lester J. Murphy and Robert Silva appeared to present the application. Attorney Murphy submitted letters from immediate abutters in support of the application and pictures of the structure. The applicant seeks to replace a two-story structure with a two-story, two-residence structure on the same footprint.

Public Comment: Sean Silva spoke in support of the application. There was a petition signed by 7 people in the neighborhood in support of the application in the file.

Board Discussion: The Board questioned Attorney Murphy and Mr. Silva

FINDINGS OF FACT:

- The proposed reconstruction will maintain the existing footprint;
- The existing structure has a scale of 64.86 scale units;
- The allowed scale, as per the assessor's data, is 116.5 s.u.;
- The proposed structure will have a scale of 129.72 s.u.; and
- The surrounding neighborhood has a mixture of very large and very small structures and the proposed reconstruction will be compatible with the surrounding neighborhood and therefore in keeping with the Local Comprehensive Plan.

Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along a non-conforming side yard setback over an existing footprint and deviation in building scale for the property located at 7 Winston Court (Res1), Lynne Davies seconded and it was so voted, 5-0. Peter Page will write the decision.

2005-040

125 Bradford Street Extension (Residential 1 Zone), Regina Binder on behalf of Victor DePoalo -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for change of use to 10 apartments (15 bedrooms), 13 motel rooms and 1 owner's dwelling. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. The applicant has requested a withdrawal of the application.

Lynne Davies moved to accept the withdrawal of Case # 2005-040, Steve Melamed seconded and it was so voted, 5-0.

2005-041

16 Harry Kemp Way (Residential B Zone), John Reis -

The applicant seeks a Special Permit under Article 4, Section 4800 of the Zoning By-Laws for amnesty for 2 affordable apartments presently exceeding lot area requirements. The case is postponed until the

September 1, 2005 hearing.

NEXT MEETING:

The next meeting will be on August 4, 2005 and will consist of a Work Session at 6:45 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 August 4, 2005.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini