

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
January 26, 2006

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt, Peter Bez, Peter Page, and Patrick Eleey.

Members Absent: Steve Melamed (excused) and Lynne Davies (excused).

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

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 12:00 P.M. There were four members of the Zoning Board of Appeals present and two absent.

- 2006-001** **371 Commercial Street (Town Commercial Center Zone), Stephen Carey -**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outdoor Display. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eleey sat on the case.
Presentation: Pat Bruno appeared to present the application.
Peter Bez moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for Outdoor Display at the property located at 371 Commercial Street (TCC), Patrick Eleey seconded and it was so voted, 4-0-1 (Steve Melamed absent).
- 2006-009** **11A Mermaid Avenue (Residential 1 Zone), Douglas Taylor –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to move a pre-existing, non-conforming structure along the non-conforming side yard setbacks. Gary Reinhardt, Peter Bez, Peter Page and Patrick Eleey sat on the case.
Presentation: Douglas Taylor appeared to present the application. The single-family structure started out as a cottage and the applicant seeks to move the house farther away from the beach. Neither the roof pitch nor the footprint will be altered.
Public Comment: Polly Saunders, an abutter, spoke in favor of the application. Eric DeFilippi and Richard Frost, both abutters, spoke in opposition. Shari Kadison, speaking for herself and on behalf of another abutter, also spoke in opposition. There were 3 letters, including one from the Provincetown Fire Chief, approving of and 4 letters in opposition to the project in the file.
Board Discussion: The Board questioned Mr. Taylor.
Peter Bez moved to consider as a finding under the Goldhirsh v. McNear ruling, Peter Page seconded and it was so voted, 4-0.
Peter Bez moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to move a pre-existing, non-conforming structure along the non-conforming side yard setbacks at the property located at 11A Mermaid Avenue (Res 1) as a finding under the Goldhirsh v. McNear ruling, Patrick Eleey seconded and it was so voted, 4-0.
- 2006-010** **54 Mayflower Avenue (Residential 1 Zone), Neal Kimball on behalf of Shawn Nightingale –**
The applicant seeks a Special Permit under Article 3, Section 3330 C3 (b) of the Zoning By-Laws for a deviation in roof pitch. Gary Reinhardt, Peter Bez, Peter Page and Patrick Eleey sat on the case.
Presentation: Neal Kimball and Shawn Nightingale appeared to present the application.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. Kimball and Mr. Nightingale. The Board wanted to discuss the issue of whether a third story was being added and asked the applicant to come back later in

the meeting to continue the discussion.

- 2006-011** **59 Commercial Street, (Residential 2 Zone), Neal Kimball on behalf of Thomas Roberts –**
The applicant seeks a Special Permit under Article 2, Section 2440 A1a (2) of the Zoning By-Laws to allow two separate single-family dwellings on a single lot. Gary Reinhardt, Peter Bez, Peter Page, and Patrick Eeley sat on the case.
Presentation: Neal Kimball appeared to present the application.
Public Comment: None. There was one letter in the file in favor of the application.
Board Discussion: The Board questioned Mr. Kimball.
Peter Bez moved to grant a Special Permit under Article 2, Section 2440 A1a (2) of the Zoning By-Laws to allow two separate single-family dwellings on a single lot on the property located at 59 Commercial Street (Res 2), Patrick Eeley seconded and it was so voted, 4-0. Mr. Kimball submitted a written decision to the Board.
- 2005-068** **59 Commercial Street (Main House) (Residential 2 Zone), Neal Kimball on behalf of Thomas Roberts –**
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 setback. There was a lack of a quorum of the Board to hear this case so it remains pending.
- 2005-071** **59 Commercial Street (Cottage) (Residential 2 Zone), Neal Kimball on behalf of Thomas Roberts –**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for a change of use from an existing, non-conforming commercial use (office space) back to a conforming single-family residential use.
- 2005-072** **59 Commercial Street (Main House) (Residential 2 Zone), Neal Kimball on behalf of Thomas Roberts -**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws for a change of use from an existing, non-conforming commercial use (office space) back to a conforming single-family residential use.
The applicant requested a withdrawal of these two applications without prejudice.
Peter Bez moved to accept the withdrawal without prejudice of Cases # 2005-071 and 2005-072, Peter Page seconded and it was so voted, 4-0.
- 2006-012** **134 Commercial Street (Residential 3 Zone), Neal Kimball on behalf of Robert Walker -**
The applicant seeks a Special Permit under Article 3, Section 3110-2 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along non-conforming side yard setbacks. Gary Reinhardt, Peter Bez, Peter Page and Patrick Eeley sat on the case.
Presentation: Neal Kimball appeared to present the application. The applicant seeks to add a second story to the structure. The footprint will remain the same. The change in elevation will bring the structure into conformity with surrounding structures.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. Kimball. The applicant will need to submit new plans that reflect changes required by the Historic District Commission.
Peter Bez moved to grant a Special Permit under Article 3, Section 3110-2 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along non-conforming side yard setbacks for the property located at 134 Commercial Street (Res 3), Peter Page seconded and it was so voted 4-0. Patrick Eeley will write the decision.
- 2006-014** **7 Johnson Street (Residential 3 Zone), Thomas Shirk and Thomas Bantle -**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to change a pre-existing, non-conforming use and extend a pre-existing, non-conforming structure up and along a non-conforming setback. Peter Bez had to recuse himself because of a conflict of interest, which left the Board without a quorum to hear the case. The case is postponed until the March 9, 2006 hearing.
- 2006-013** **36 Pleasant Street (Residential 3 Zone), Robert Valois on behalf of Colin Brown -**
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. Gary Reinhardt, Peter Bez, Peter Page and Patrick Eeley sat on the case.

Presentation: Robert Valois and Colin Brown appeared to present the application. The applicant seeks to erect a dormer on the second floor of the structure.

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

Board Discussion: The Board questioned Mr. Valois and Mr. Brown.

Peter Bez moved to consider as a finding under the Goldhirsh v. McNear ruling, Peter Page seconded and it was so voted, 4-0.

Peter Bez 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 for the property located at 36 Pleasant Street (Res 3) as a finding as a ruling under the Goldhirsh v. McNear ruling, Patrick Eeley seconded and it was so voted, 4-0.

2006-010 **54 Mayflower Avenue (Residential 1 Zone), Neal Kimball on behalf of Shawn Nightingale –**
The applicant seeks a Special Permit under Article 3, Section 3330 C3 (b) of the Zoning By-Laws for a deviation in roof pitch. Gary Reinhardt, Peter Bez, Peter Page and Patrick Eeley sat on the case.
Board Discussion: The Board continued to discuss the case with Neal Kimball and Shawn Nightingale.
Peter Page moved to grant a Special Permit under Article 3, Section 3330 C3 (b) of the Zoning By-Laws for a deviation in roof pitch for the property located at 54 Mayflower Avenue (Res 1), Patrick Eeley seconded and it was so voted, 4-0. Neal Kimball submitted a written decision to the Board.

2006-006 **54 Mayflower Avenue (Residential 1 Zone), Neal Kimball -**
The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for deviation in building scale. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.
Peter Bez moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for deviation in building scale at the property located at 54 Mayflower Avenue (Res 1), Patrick Eeley seconded and it was so voted, 4-0-1 (Steve Melamed absent).
Neal Kimball submitted a decision to the Board.

PENDING DECISIONS:

2006-010 **54 Mayflower Avenue (Residential 1 Zone), Neal Kimball on behalf of Shawn Nightingale –**
Gary Reinhardt, Peter Bez, Peter Page and Patrick Eeley sat on the case. Gary Reinhardt read the decision. *Patrick Eeley moved to accept the language as written, Peter Page seconded and it was so voted, 4-0.*

2006-006 **54 Mayflower Avenue (Residential 1 Zone), Neal Kimball -**
Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case. Gary Reinhardt read the decision. *Patrick Eeley moved to accept the language as written, Peter Page seconded and it was so voted, 4-0.*

2006-011 **59 Commercial Street, (Residential 2 Zone), Neal Kimball on behalf of Thomas Roberts –**
Gary Reinhardt, Peter Bez, Peter Page, and Patrick Eeley sat on the case. Gary Reinhardt read the decision. *Peter Page moved to accept the language as written, Peter Bez seconded and it was so voted, 4-0.*

MINUTES: January 19, 2006 - Peter Bez moved to approve the language as written, Peter Page seconded and it was so voted, 4-0.

NEXT MEETING:

The next meeting will be on March 9, 2006 and will consist of a Work Session at 6:30 P.M. followed by a Public Hearing.

ADJOURNMENT:

Peter Page moved to adjourn at 1:00 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 9, 2006.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini