

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
March 9, 2006

MEETING HELD IN TOWN HALL

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

Members Absent: Peter Bez (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 6:30 P.M.

2006-003 **133 Commercial Street (*Town Commercial Center Zone*), Lorraine Najjar -**
The applicant seeks a Special Permit under Article 2, Section 24650, Section 2450, G11 of the Zoning By-Laws for Accessory Use. The case is continued until the April 20, 2006 hearing.

PENDING CASES:

2005-068 **59 Commercial Street (*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.
Presentation: Attorney E. James Veara appeared to discuss the case.
Steve Melamed 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 setback at the property located at 59 Commercial Street (Res 2), Lynne Davies seconded and it was so voted, 4-0-1 (Peter Bez absent). Attorney Veara submitted a written decision to the Board. Gary Reinhardt read the decision. ***Steve Melamed moved to accept the decision as written, Lynne Davies seconded and it was so voted 4-0-1 (Peter Bez absent).***

PENDING DECISIONS:

2006-012 **134 Commercial Street (Residential 3 Zone), Neal Kimball on behalf of Robert Walker -**
Gary Reinhardt, Peter Bez, Peter Page and Patrick Eeley sat on the case.
Patrick Eeley read the decision. *Peter Page moved to accept the language as written, Gary Reinhardt seconded and it was so voted, 3-0-1 (Peter Bez absent).*

MINUTES: January 26, 2006 – Patrick Eeley moved to approve the language as amended, Peter Page seconded and it was so voted, 3-0-2 (Lynne Davies and Steve Melamed abstain).

Chair Gary Reinhardt adjourned the Work Session at 6: 57 P.M.

PUBLIC HEARING

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

CONTINUED CASES:

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. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case.
Presentation: John DeSouza and Tom Thompson appeared to present the application. The rooms of the guesthouse will be brought into conformity with the State Building Code. There will be a change of use of the garage on site. It will be raised by 5' and become part of the guesthouse. There will be a porch added to the main house, but the footprint will remain the same.
Public Comment: None. There was 1 letter in the file, signed by 5 abutters, opposing the project.
Board Discussion: The Board questioned Mr. DeSouza and Mr. Thompson.
Patrick Eeley moved to grant 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 at the property located at 7 Johnson Street (Res 3), Lynne Davies seconded and it was so voted, 5-0. John DeSouza submitted a written decision to the Board.
Gary Reinhardt read the decision. *Peter Page moved to accept the language as written, Steve Melamed seconded and it was so voted, 5-0.*

2006-015 **42 Bradford Street (Residential 3 Zone), Meadows Realty Trust, William Meadows, Trustee -**
The applicant seeks a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for outdoor display. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case.
Presentation: Bill Meadows and Andrew Hudson appeared to present the application. There will be no change to the previous outdoor display at the site.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board questioned Mr. Meadows.
Lynne Davies moved to grant a Special Permit under Article 3, Section 3340 of the Zoning By-Laws for outdoor display at the property located at 42 Bradford Street (Res 3), Steve Melamed seconded and it was so voted, 5-0.

2006-016 **6 Heather's Way (Residential 3 Zone), William N. Rogers, II on behalf of Off Cemetery Road Realty Trust -**
The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case.
Presentation: Gary Locke and Ken Weiss appeared to present the application. The applicant seeks to build a three bedroom single-family house whose scale, as proposed, would be greater than the allowed

building scale for the neighborhood.

Public Comment: Marilyn Downey spoke in favor of the application if there would be a turnaround on Heather's Way adequate enough to accommodate construction vehicles. Andrea Monetti and Karen Peterman, abutters, expressed concern about the size of the house. There were no letters in the file.

Board Discussion: The Board questioned Mr. Locke and Mr. Weiss.

FINDINGS OF FACT:

- The proposed scale of the structure, as per the assessor's data, is 81.85 scale units;
- The allowed scale, as per the assessor's data, is 66.67 s.u.;
- The immediate neighborhood in which the structure is being built is composed of structures with scale values in the 80s and 90s s.u.; and
- The Board finds that the deviation is in keeping with the intent of the Local Comprehensive Plan in that it is providing consistency in a new development.

Lynne Davies moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale for the property located at 6 Heather's Way (Res 3), Steve Melamed seconded and it was so voted, 5-0. Patrick Eleey will write the decision.

2006-017 **5 Conant Street (Cottage 1) (Residential 3 Zone), Neal Kimball on behalf of Jack Yandrisovitz -**
The applicant seeks a Special Permit under Article 3, Section 3110 of Zoning By-Laws to alter a pre-existing, non-conforming cottage by extending the structure up and along the non-conforming north and east dimensions with the addition of a second floor and distance between two buildings on a lot.

2006-018 **5 Conant Street (Cottage 2) (Residential 3 Zone), Neal Kimball on behalf of Jack Yandrisovitz -**
The applicant seeks a Special Permit under Article 3, Section 3110 of Zoning By-Laws to alter a pre-existing, non-conforming cottage by extending the structure up and along the non-conforming north and east dimensions with the addition of a second floor and distance between two buildings on a lot. The Board will hear these cases together. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the cases.

Presentation: Neal Kimball appeared to present the applications. The applicant seeks to extend the cottages on the property 1 ½ ' vertically by increasing the roof pitches. The footprints of the buildings will remain the same.

Public Comment: Phillip Gaudiano, an abutter, spoke against the application citing an increase in traffic and congestion. Evelyn Gaudiano, an abutter, also spoke against the application. There were no letters in the file.

Board Discussion: The Board discussed with Mr. Kimball how the benefits of the project would outweigh the adverse affects on the neighborhood that may be caused as a result of the expansion of the cottages.

Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 of Zoning By-Laws to alter a pre-existing, non-conforming cottage by extending the structure up and along the non-conforming north and east dimensions with the addition of a second floor and distance between two buildings on a lot at the property located at 5 Conant Street (Cottage 1) (Res 3), Lynne Davies seconded and it was so voted, 4-0 (Gary Reinhardt opposed).

Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 of Zoning By-Laws to alter a pre-existing, non-conforming cottage by extending the structure up and along the non-conforming north and east dimensions with the addition of a second floor and distance between two buildings on a lot at the property located at 5 Conant Street (Cottage 2) (Res 3), Lynne Davies seconded and it was so voted, 4-0 (Gary Reinhardt opposed). Lynne Davies will write the decisions.

2006-019 **29 Bradford Street Extension (Residential 1 Zone), Neal Kimball on behalf of Margaret Tinkham -**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming use (12) room motel and (1) residential unit to a less detrimental non-conforming use as (5) residential units and to alter a pre-existing, non-conforming structure by extending up and along front (North-West) and two side yards (South-East and South-West) with the addition of a ½ story. And under Article 3, Section 3340E of the Zoning By-Laws to increase building scale to a pre-existing, non-conforming structure beyond the maximum allowable for the neighborhood. This case will be continued until the April 20, 2006 hearing.

2006-020 **100 Alden Street (Residential 3 Zone), Town of Provincetown -**

The applicant seeks a Special Permit under Article 2, Section 2353 of the Zoning By-Laws for a new nursing home/independent living care campus with the health care overlay district. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case.

Presentation: Keith Bergman, Dennis Anderson, David Maloney, Reverend Herbert Taylor, and Maria Gonzales appeared to present the application. The Cape Cod Commission has already approved the project and the applicant is looking for approval from The Zoning Board of Appeals and the Historic District Commission.

Public Comment: Marilyn Downey and Katherine Perry spoke in favor of the application. There were no letters in the file.

Board Discussion: The Board questioned Mr. Bergman, Mr. Anderson, Mr. Maloney, Rev. Taylor and Ms. Gonzales. The Board discussed the need for an application for a Special Permit for a deviation from building scale in the neighborhood. The Board requested that the applicant submit such an application.

FINDINGS OF FACT:

- The Board finds that the proposed use of the property, namely as a nursing /convalescent home, assisted living/outpatient rehabilitation facility and independent living facility for seniors is consistent with the purpose of the health care overlay district and conforms to all the appropriate provisions of the Zoning By-Laws;
- The proposal meets all of the dimensional requirements of the health care overlay district; and
- The proposal is in keeping with the intent of the Local Comprehensive Plan.

Patrick Eleey moved to grant a Special Permit under Article 2, Section 2353 of the Zoning By-Laws for a new nursing home/independent living care campus with the health care overlay district at the property located at 100 Alden Street (Res 3), Steve Melamed seconded and it was so voted, 5-0.

Doug Taylor requested that the Board schedule a Public Hearing on March 30, 2006 at 6:00 P.M. to hear the Town of Provincetown's application for a Special Permit to deviate from the neighborhood building scale. The Board agreed to do so.

The Board briefly discussed the Special Permit granted to Crowne Pointe and the Affordable Housing By-Law, Article 4, Section 4800.

NEXT MEETING:

The next meeting will be on March 23, 2006 and will consist of a Work Session at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Peter Page moved to adjourn at 9:15 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 23, 2006.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini