

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
September 7, 2006

MEETING HELD IN TOWN HALL

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

Members Absent: Steve Melamed (excused), Elisabeth Verde (excused) and Todd Dever (excused).

Others Present: Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Gary Reinhardt called the Work Session to order at 6:47 P.M.

PENDING DECISIONS:

2006-068 **328 Commercial Street (Town Commercial Center), Joachim Sandbichler -**
Gary Reinhardt, Peter Bez, Peter Page, Patrick Eeley and Elisabeth Verde sat on the case. Patrick Eeley read the decision. *Peter Page moved to accept the language as written, Peter Bez seconded and it was so voted 4-0-1 (Elisabeth Verde absent).*

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

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:00 P.M. and explained the Public Hearing procedures to the public. There were five members of the Zoning Board of Appeals present and three absent.

2006-070 **150 Bradford Street (Residential 3 Zone), Tom Boland and James Farley on behalf of Farland, Inc., d/b/a Far Land Provisions -**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-laws for an increase in non-service seating (tables and chairs) from 9 to 16. Peter Bez recused himself because of a conflict of interest leaving four members of the Board to hear the application. Chair Gary Reinhardt asked the applicants if they would like to proceed with four members seated, necessitating a unanimous decision in order to be granted a Special Permit, or if they would prefer to wait until five members were seated. The applicants chose to proceed. Gary Reinhardt, Peter Page, Lynne Davies and Patrick Eeley sat on the case.
Presentation: Tom Boland and James Farley appeared to present the application.
Public Comment: Steven Roderick and Peter Bez spoke in favor of the application. There were no letters in the file.
Board Discussion: The Board questioned Mr. Boland and Mr. Farley. The Board concluded that in order to grant seating to the applicants, a Variance would be needed. The case is continued to a date uncertain.

2006-071 **179 Commercial Street (Town Commercial Center Zone), Robin B. Reid, Esq. on behalf of Jabong Enterprises, Inc. -**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the re-

configuration of food service and beverage service area. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eeley sat on the case.

Presentation: Attorney Robin B. Reid, Esq., James McNulty and Raife Menold appeared to present the application. The applicants are purchasing a restaurant and seek to re-configure the interior.

Public Comments: Neva Hanson, a resident of the condominium where the premises are located, speaking for herself and on behalf of 3 other residential unit owners, spoke in favor of the application. Joan Siegfried, Greg Daniels, Tom Boland, speaking for himself and on behalf of James Farley, and Steve Roderick all spoke in favor of the application. There were 6 letters in favor of the application and one letter that expressed concern about an increase in noise due to an increase in bar seats.

Board Discussion: The Board questioned Attorney Reid, Mr. McNulty and Mr. Menold.

Peter Bez moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the re-configuration of food service and beverage service area at the property located at 179 Commercial Street (TCC), Lynne Davies seconded and it was so voted, 5-0.

Attorney Reid submitted a written decision to the Board. Gary Reinhardt read the decision. *Peter Bez moved to accept the language as written, Patrick Eeley seconded and it was so voted, 5-0.*

2006-072 3 Atkins Lane (Residential 3 Zone), Robert Valois on behalf of Patrick Watson and George Watson -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure up and along a non-conforming side, rear and front dimensional setbacks. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eeley sat on the case.

Presentation: Robert Valois and Patrick Watson appeared to present the application. The applicant seeks to add a dormer to the structure at the premises and bring a staircase into conformity with the State Building Code.

Public Comment: Robert Pierazek, an abutter, is concerned about the location of the dormer. There were no letters in the file.

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

Peter Bez moved to consider as a finding under the Goldhirsh v. McNear ruling, Lynne Davies seconded and it was so voted, 5-0.

Patrick Eeley moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure up and along a non-conforming side, rear and front dimensional setbacks at the property located at 3 Atkins Lane as a finding under the Goldhirsh v. McNear ruling, Lynne Davies seconded and it was so voted, 5-0.

2006-073 315A-319 Commercial Street (Town Commercial Center Zone), Robert Valois on behalf of Leonard Enos, Jr. -

The applicant seeks a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to alter a pre-existing structure up and along a non-conforming front and side setback and for a deviation in building scale. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eeley sat on the case.

Presentation: Robert Valois and Leonard Enos, Jr. appeared to present the application. The applicant seeks to raise the roof area, re-configure and renovate a kitchen area and create partial storage in the basement of the premises.

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

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

FINDINGS OF FACT:

- The existing structure has a scale of 224.31 scale units;
- The allowed scale, as per the assessor's data, is 193.6 s.u.;
- The proposed scale is 241.67 s.u.;
- The proposed structure is located in a commercial district and the larger building will be harmonious and compatible with its site and the surrounding structures and thus in keeping with the intent of the Local Comprehensive Plan; and
- The proposed renovation will be an attractive focal point for tourists, continue the redevelopment of Lopes Square, which is important to the Town, and maintain all-important housing in the downtown area.

Lynne Davies moved to grant a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to alter a pre-existing structure up and along a non-conforming front and side setback and for a deviation in building scale at the property located at 315A-319 Commercial Street (TCC), Peter Bez seconded and it was so voted, 5-0. Lynne Davies will write the decision.

NEXT MEETING:

The next meeting will be on September 21, 2006 and will consist of a Public Hearing at 7:00 P.M. with a Work Session to follow.

EXECUTIVE SESSION:

Chair Gary Reinhardt made a motion to go into Executive Session in order to discuss pending litigation at 8:26 P.M.

These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on September 21, 2006.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini