

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
December 1, 2005

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt, Peter Bez, Peter Page, Lynn 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).

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:00 P.M. There were six members of the Zoning Board of Appeals present and none absent.

PENDING CASES:

2005-042 89 Shank Painter Road (*General Commercial Zone*), Lester J. Murphy, Esq. on behalf of James M. Costa-

The applicant seeks a Special Permit under Article 2, Section 2440 B6 of the Zoning By-Laws to operate a rental storage business pursuant to footnote 9. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Lester J. Murphy, Esq. and James M. Costa appeared to present the application.

Board Discussion: The Board has learned that this project has acquired final approval from the Planning Board. Doug Taylor, Building Commissioner, made a site visit and noted many improvements at the property. The file contained a letter of approval from the Fire Chief as well as Mr. Taylor.

Lynne Davies moved to grant a Special Permit under Article 2, Section 2240 B6 of the Zoning By-Laws to operate a rental storage business pursuant to footnote 9 at the property located at 89 Shank Painter Road (GC), Steve Melamed seconded and it was so voted, 5-0.

2005-056 **5 Conant Street (Residential 3 Zone), Neal Kimball on behalf of John Yandrisovitz -**
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. The applicant was not present.

PENDING DECISIONS:

2005-070 **125 Bradford Street Extension (Residential 1 Zone), Regina Binder on behalf of Victor de Poalo -**
Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case. Patrick Eleey read the decision. *Steve Melamed moved to accept the language as written, Lynne Davies seconded and it was so voted, 5-0.*

ADMINISTRATIVE AMENDMENT:

2005-061 **3 and 3A Browne Street (Residential 3 Zone), John and Terese Nelson -**
The applicant seeks to make a minor change to the dormer footprint. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.
Presentation: John Nelson appeared to present the amendment.
Board Discussion: The Board questioned Reverend Nelson.
Peter Bez moved to consider the request as an Administrative Amendment, Steve Melamed seconded and it was so voted, 5-0.
Steve Melamed moved to grant the Administrative Amendment for Case # 2005-061, Peter Bez seconded and it was so voted, 5-0.

PENDING CASES:

2005-056 **5 Conant Street (Residential 3 Zone), Neal Kimball on behalf of John Yandrisovitz -**
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. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.
Presentation: Neal Kimball and John Yandrisovitz appeared to present the application. The applicant seeks to improve the cottages on the property; making them usable and updating them to conform to the State Building Code.
Public Comment: Phillip Gaudiano, an abutter, spoke in opposition to the application. There were two letters in opposition to the project, from Phillip and Evelyn Gaudiano, in the file.
Board Discussion: The Board questioned Mr. Kimball and Mr. Yandrisovitz. After much discussion, the Board decided that a new non-conformancy would be created by the project, which would require a Variance to get zoning relief. In addition, the Board felt that this project would potentially create more congestion in the neighborhood, thereby being more a detriment than a benefit. The applicant decided to withdraw the application without prejudice.
Lynne Davies moved to accept the withdrawal without prejudice, Steve Melamed seconded and it was so voted, 5-0.

2005-071 **59 Cottage 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 Board heard these two cases together. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the cases.
Presentation: Neal Kimball appeared to present the application. The applicant wants to convert these two structures back to two single-family dwellings with minimal changes, mainly involving up-dating the interiors.
Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Mr. Kimball. The Board discussed many issues related to this property, including the fact that if the applicant were planning on putting multiple bedrooms in the main building, it would require a Growth Management Permit. In addition, the Board discussed the change of use issue. The applicant seeks to change the use back from a non-conforming use (office space) to a conforming use (residential). However, according to the Zoning By-Laws, two dwellings cannot exist on a single lot in the Res 2 Zone on a lot of less than 5,000 square feet. Since the property in question is less than 5,000 sq. ft., the applicant would be required to apply for a Variance for zoning relief. Mr. Kimball requested a continuance in the case in order to consult with his client.

2005-068 59 Commercial Street (Main House) (Residential 2 Zone), Neal Kimball on behalf of Thomas Roberts -

Neal Kimball, on behalf of the applicant, requested a continuance. The Board requested a waiver of time constraints from the applicant.

2005-073 10 Washington Avenue (Residential 3 Zone), Neal Kimball on behalf of Vernon Brown -

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 the non-conforming east and north dimensions with the addition of shed and doghouse dormers and to increase building scale to a pre-existing, non-conforming structure (scale) with the addition of dormers. Peter Page recused himself because of a conflict of interest. Gary Reinhardt, Peter Bez, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case.

Presentation: Neal Kimball and Vernon Brown appeared to present the application. The applicant seeks to bring the main house on the premises into conformity with the State Building Code.

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

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

FINDINGS OF FACT:

- The allowed scale in the neighborhood is 95.76 scale units;
- The existing structure has a scale of 120.83 s.u.;
- The proposed structure will have a scale of 124.81 s.u.;
- This small addition will have little impact on the site and surrounding neighborhood and therefore will be in keeping with the Local Comprehensive Plan; and
- The proposal will allow the structure to be brought into conformity with the State Building Code, increasing public safety, and that benefit will outweigh any adverse effects.

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 the non-conforming east and north dimensions with the addition of shed and doghouse dormers and to increase building scale to a pre-existing, non-conforming structure (scale) with the addition of dormers at the property located at 10 Washington Avenue (Res 3), Lynne Davies seconded and it was so voted, 5-0. Lynne Davies will write the decision.

ADMINISTRATIVE AMENDMENT:

2005-045 9 Montello Street (Residential 3 Zone), Bradford Montello Realty Trust -

Chair Gary Reinhardt recused himself because of a conflict of interest and Co-Chair Peter Bez, Peter Page, Lynne Davies, Steve Melmed and Patrick Eeley sat on the case.

Presentation: Rick Murray appeared to request the Amendment. He is seeking to relocate the three-bedroom unit at the premises. The building has been totally redesigned per the request of the Historic District Commission, although the footprint remains the same.

Lynne Davies moved to consider as an Administrative Amendment, Peter Page seconded and it was so voted, 5-0.

Steve Melamed moved to grant the Administrative Amendment for Case # 2005-045, Peter Page seconded and it was so voted, 5-0.

The Board briefly discussed the property at 59 Commercial Street and the issues raised by that case. They also discussed the issue of the restaurant at Crowne Pointe and the owners continuing violation of their Special Permit.

MINUTES: November 3, 2005 – Steve Melamed moved to approve the language as written, Lynne Davies

seconded and it was so voted, 6-0.

November 10, 2005 - Steve Melamed moved to approve the language as written, Lynne Davies seconded and it was so voted, 6-0.

NEXT MEETING:

The next meeting will be on December 15, 2005 and will consist of a Work Session at 6:45 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Peter Page moved to adjourn at 9:45 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 December 15, 2005.

Respectfully submitted,

Zoning Board of Appeals Signature Ellen C. Battaglini