

OWN OF PROVINCETOWN ZONING BOARD OF APPEALS

MEETING MINUTES OF

June 3, 2004

MEETING HELD IN TOWN HALL

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

Members Absent: Brian Falvey (Excused). **Others Present:** Joel Glasser

(Recording Secretary).

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:37 P.M.

PENDING CASES:

2004-052 11 Prince Street, (Residential 3 Zone), Father Henry J. Dahl on behalf of the Roman Catholic Bishop of Fall River -
Gary Reinhardt stated that letters were received from the Building Commissioner and Police Department but none from the Fire Department.

2004-053 309 Commercial Street (Town Commercial Center), Christopher S. Rego on behalf of John T. Grace -
This case is still pending.

PENDING DECISIONS:

2004-033 212-214 Commercial Street (Town Commercial Center Zone), Attorney Robin B. Reid, Esquire on behalf of New Art Realty Corp. -
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Peter Bez read the decision. *Steve Melamed moved to accept the language as written, Lynne Davies seconded and it was so voted, 5-0.*

2004-049 293 Commercial Street (Town Commercial Center Zone), Linda Chase, d.b.a. Chaser's, on behalf of Hake Nominee Trust -
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Lynne Davies read the decision. *Peter Bez moved to accept the language as written, Steve Melamed seconded and it was so voted, 5-0,*

- 2004-054** **293 Commercial Street (Town Commercial Center Zone), Stephen J. Boggess, Trustee, on behalf of Hake Nominee Trust -**
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Peter Page read the decision. *Steve Melamed moved to accept the language as written, Lynne Davies seconded and it was so voted, 5-0.*
- 2004-055** **11 Oak Drive (Residential B Zone), John Reis, d.b.a. Golden Hammer, on behalf of John Medeiros -**
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Lynne Davies read the decision. *Steve Melamed moved to accept the language as written, Peter Page seconded and it was so voted, 5-0.*
- 2004-056** **290D Bradford Street (Residential 3 Zone), Robert Valois, Architectural Designer, on behalf of Brian Ganson -**
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Steve Melamed read the decision. *Lynne Davies moved to accept the language as written, Peter Bez seconded and it was so voted, 5-0.*

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:07 P.M. and explained the Public Hearing procedures to the public. There were six members of the Zoning Board of Appeals present and one absent.

- 2004-057** **259-263 Commercial Street, John A. Lisbon on behalf of Harold Coil Revocable Trust -**
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning Bylaw to extend an existing deck along the nonconforming dimension of the preexisting nonconforming building located below the deck structure, on the premises located within the TCC zoning district. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.
Presentation: John Lisbon appeared to present the application. He stated that the deck would be extended by 6' and an abutter had complained so he is appearing before the Zoning Board of Appeals. He did not have any drawings (plans) but only photographs. **Public Comment:** None. **There** were no letters in the file.
Board Discussion: Gary Reinhardt stated that plans were needed. The case will be continued until the Work Session on June 17, 2004. Mr. Lisbon would return with plans or get copies to Maxine Notaro prior to the next hearing.
- 2004-058** **16 MacMillan Wharf, Kenneth J. Kinkor on behalf of the Whydah Sea Lab and Learning Center -**
The applicant seeks the renewal of a Special Permit under Article 3, Section 3420 of the Zoning Bylaw for the outdoor display of a courtesy cart on the premises located within the TCC zoning and waterfront overlay districts. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Reinhardt and Steve Melamed and felt that the pushcart situation will become problematic. *Peter Bez moved to grant a Special Permit under Article 3, Section 3420 of the Zoning Bylaw for one year. Steve Melamed seconded and it was so voted, 4-1.*

2004-059 14 Bradford Acres, Barnett Oliver Adler on behalf of Eastwinds Realty Trust -

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning Bylaw to deviate from the neighborhood allowed building scale of an existing single-family dwelling structure conversion to a four (4) dwelling structure on the premises located in the Res3 zoning district. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Barnett Adler appeared to present this application and showed changes in the site plan. He had a letter from the Health Agent regarding the updated scale calculation. The building will have four bedrooms instead of the six. There will be two in the next phase and Mr. Adler will return for a Special Permit prior to when the two-bedroom unit will be constructed.

Public Comment: None. There was one letter in the file from an abutter objecting to the approval of the application.

Board Discussion: Steve Melamed suggested that the application should have all the plans at the same time. Mr. Adler stated that the intent was for all the Boards and Commissions to have all the information at the same time. The Board discussed the case. **FINDINGS OF FACT:**

- The existing structure has a scale of 95.23 scale units.
- The proposed addition will add 43.96 scale units for a total of 39.19 scale units.
- The allowed scale as per the assessor's data is 112.37.
- The applicant has agreed that the property shall not be subdivided in order to meet the criteria of Article 3, Section 3340E, Number 3.
- The proposed structure will be harmonious with the surrounding neighborhood. *Steve Melamed moved to*

grant a Special Permit under Article 3, Section 3340E of the Zoning Bylaw to deviate from the neighborhood allowed building scale of an existing single-family dwelling structure conversion to a four (4) dwelling structure on the premises located in the Res3 zoning district, Lynne Davies seconded and it was so voted, 5-0.

2004-060 26 Pleasant Street, William N. Rogers II; P.E.; R.L.S. on behalf of John Fowler -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning Bylaw to alter and extend, up and along the nonconforming dimension, a preexisting nonconforming single-family dwelling on the premises located within the Res3 zoning

district. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Gary Locke presented this application on behalf of John Fowler, the owner.

Public Comment: None. There was one letter in the file from an abutter in favor of approval of the application.

Board Discussion: There was a general discussion and questioning of the Mr. Locke by Board members. Gary Reinhardt stated that this case should be considered as a finding under Goldhirsh v. McNear ruling.

Peter Bez moved to consider this case as a finding under Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 5-0.

Peter Bez moved to grant a Special Permit under Article 3, Section 3110 of the Zoning Bylaw to alter and extend up and along the nonconforming dimension, a preexisting nonconforming single-family dwelling on the premises located within the Res3 zoning district under the Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 5-0.

2005-061

15 Creek Round Hill Road, William N. Rogers II; P.E.; R.L.S. on behalf of Anita Butler -

The applicant seeks a Variance under Article 2, Section 2560, Dimensional Schedule of the Zoning Bylaw from the allowed minimum front yard setback for the construction of a single-family dwelling upon the lot located within the Res1 zoning district. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: William Rogers, Gary Locke, Mark Kinnane and Mr. and Mrs. Butler presented this case. Mr. Rogers provided a copy of the deed when the Butlers purchased the property in 1989. Mr. Rogers explained about the construction of a single-family dwelling and the setback and grade of the property.

Public Comment: A set of plans signed by the president of the Highland Moors Resident Association for the plans as submitted. An abutter residing at 6 Creek Round Hill Road opposed the plan and felt that the building would create a house that would not be in harmony with the neighborhood. There were no letters on file.

Board Discussion: Gary Reinhardt questioned the applicants regarding the wetlands and grade of the property. There was a general discussion by Board members regarding the elevation of the building and the grade. Gary Reinhardt also stated that the view is valuable in the neighborhood and the public will question any Zoning Board of Appeals decision. **FINDINGS OF FACT:**

- The soil conditions of the property in question have changed drastically since the property was purchased in 1989. Mainly the wetlands have continued to encroach on Creek Road Hill Road on an annual basis.
- Because of encroaching wetlands, property has become unbuildable under required Zoning Bylaws and Title V Code.
- A granting of a variance would neither be a substitution detriment to the public good nor would it nullify or would it derogate it from the intent or purpose of the bylaw. —

Peter Bez moved to grant a variance under Article 2, Section 2560, Dimensional ~-\ Schedule of the Zoning Bylaw. Steve Melamed seconded and it was so voted, 4/-1. Pete will write the decision.*

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REQUESTS FOR ADMINISTRATIVE AMENDMENTS:

2003-053 2 Browne Street (Residential 3 Zone), William P, Hamlin and Ramon S. Alcolea -

The applicant seeks a Special Permit under Article 3, Section 3110 to alter and extend a pre-existing, non-conforming single-family structure with an addition of a garage/artist workspace. Gary Reinhardt, Peter Page, Lynne Davies
This case will not require a new hearing, *Steve Meiamed moved to consider this case as an Administrative Amendment. Peter Bez seconded and it was so voted, 5-0. Peter Bez then moved to grant an Administrative Amendment. Lynne Davies seconded and it was so voted, 5-0.*

MINUTES:

May 20,2004 - *Steve Meiamed moved to accept the language as written with a minor change, Lynne Davies seconded and it was so voted, 6-0.*

NEXT MEETING:

The next meeting will be on June 17, 2004 and will consist of a Work Session at 6:00 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Steve Meiamed moved to adjourn at 8:25 P.M. and it was so voted unanimously.

Respectfully submitted,

Joel Glasser

Zoning Board of Appeals Signature