

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

MEETING MINUTES OF  
September 23, 2004

MEETING HELD IN TOWN HALL

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

**Members Absent:** Brian Falvey (excused) and Lynne Davies (excused).

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

### PUBLIC HEARING

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

- 2004-085**      **28 Conwell Street (*Residential 3 Zone*), Stephen A. Magliocco on behalf of Thomas P. Hartocollis -**  
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a deck attached to a pre-existing, non-conforming two-family dwelling that will extend four feet into the front yard required setback.  
Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.  
**Presentation:** Stephen A. Magiocco appeared to present the application. The purpose of the proposed deck is as a second means of egress and to enhance the façade of the building.  
**Public Comment:** None. There was one letter in the file from an abutter who supported the application.  
**Board Discussion:** The Board briefly questioned Mr. Magliocco.  
*Steve Melamed moved to consider as a finding under the Goldhirsh v. McNear ruling, Peter Bez seconded and it was so voted, 5-0.*  
*Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to construct a deck attached to a pre-existing, non-conforming two-family dwelling that will extend four feet into the front yard required setback on the property located at 28 Conwell Street (Res 3) as a finding under the Goldhirsh v. McNear ruling, Patrick Eeley seconded and it was so voted, 5-0.*

2004-086

**6 Fishburn Court (Residential 3 Zone), Donna S. Flax -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove and replace, within the existing footprint, a pre-existing, non-conforming accessory structure. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.

**Presentation:** Donna Flax, John Hopkins, contractor, and Catherine Russo appeared to present the application. The applicant seeks to replace the garage currently located on the premises with a cottage, to be moved from its current location at 6 Fishburn Court, and use it as an artist's studio.

**Public Comment:** Hunter O'Hanian, director of the Fine Arts Work Center, spoke in favor of the application. There was one letter in the file and a petition signed by two abutters in favor of the application.

**Board Discussion:** The Board briefly questioned Ms. Flax.

*Peter Page moved to consider as a finding under the 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 By-Laws to remove and replace, within the existing footprint, a pre-existing, non-conforming accessory structure on the premises located at 5 Fishburn Court (Res 3) as a finding under the Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 5-0.*

2004-087

**36 Shank Painter Road (General Commercial Zone), Construction Management Services on behalf of ComCast, Inc. -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove and reconstruct, within the existing footprint, a pre-existing commercial office building. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.

**Presentation:** Mark Paulding, of Construction Management Services appeared to present the application.

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

**Board Discussion:** The Board briefly discussed the application and informed Mr. Paulding that scale calculations would need to be submitted.

**FINDINGS OF FACT:**

- The new structure will be reconstructed on the same footprint as the existing structure, except for the addition of a handicap-accessible ramp;
- The new structure will be the same as the existing structure except it will be lower in height; and
- The new structure will be ADA compliant and therefore a benefit to the community.

*Patrick Eeley moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to remove and reconstruct, within the existing footprint, a pre-existing commercial office building on the premises located at 36 Shank Painter Road (GC), pending the receipt of scale calculations, as per the Assessor's office, Steve Melamed seconded and it was so voted, 5-0. Patrick Eeley will write the decision.*

**2004-088 7 Carver Street (Residential 3 Zone) -**

The applicant seeks a Special Permit under Article 3, Section 3110 and 3330 of the Zoning By-Laws to extend a pre-existing, non-conforming two-family structure up and along the non-conforming dimensions of the front and left side yards and to reconfigure existing roof lines. This case was improperly advertised and will be re-advertised for the October 7, 2004 hearing.

Chair Gary Reinhardt adjourned the Public hearing at 7:42 P.M.

## WORK SESSION

Chair Gary Reinhardt called the Work Session at 7:42 P.M.

### PENDING DECISIONS:

**2004-082 30 Alden Street, (Residential 3 Zone), Robert Valois on behalf of Jane Gildersleeve -**

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, Peter Bez seconded and it was so voted, 4-0-1 (absent).*

### PENDING CASES:

**2004-080 151 Commercial Street (Town Commercial Center Zone), Vaisin A. Marmillion and Juan C. Pisani**

-  
Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. The applicant was not present but a site plan was submitted to the Board.

**Board Discussion:** The Board discussed the application in light of the new information received.

#### **FINDING OF FACT:**

- The requested mannequin would not fit on the front porch beyond the required 10-foot setback without blocking the entrance and egress thus creating a public safety issue.

*Peter Bez moved to deny a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of clothing on mannequins upon the porch of the premises located at 151 Commercial Street (TCC), Peter Page seconded and it was so voted, 4-0-1 (absent).* Peter Bez will write the decision.

### MINUTES:

September 9, 2004 – *Steve Melamed moved to approve the language as written, Patrick Eleey seconded and it was so voted, 5-0-2 (absent).*

**NEXT MEETING:**

The next meeting will be on October 7, 2004 and will consist of a Public Hearing at 7:00 P.M. and a Work Session to follow.

**ADJOURNMENT:**

*Peter Bez moved to adjourn at 8:00 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 October 7, 2004.

Respectfully submitted,

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*Zoning Board of Appeals Signature*

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Ellen C. Battaglini