

# TOWN OF PROVINCETOWN ZONING BOARD

## OF APPEALS

MEETING MINUTES OF December 16, 2004

MEETING HELD IN TOWN HALL

**Members Present:** Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eeley. **Members Absent:** Steve Melamed (excused) and Brian Falvey (resigned).

**Others Present:** Doug Taylor (Building Commissioner) and Ellen C. Battaglini (Recording Secretary).

### WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:35 P.M.

#### PENDING CASES:

**2004-092 291 Commercial Street (Town Commercial Center Zone), Richard G. Corsino on behalf of Hake Nominee Trust -**

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of entertainment, provided by CKD Entertainment Group, Inc., d.b.a., The Alibi. Gary Reinhardt, Peter Bez, Peter Page Lynne Davies and Patrick Eeley sat on the case,

**Presentation:** Richard G. Corsino appeared to discuss the application.

**Board Discussion:** The Board's main concern was about the door to the premises being open while there was entertainment occurring inside.

***Peter Bez moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of entertainment, provided by CKD Entertainment Group, Inc., d.h.a. The Alibi, at the premises located at 291 Commercial Street (TCC) with the same conditions in effect as the present Special Permit and set to expire on 12/31/06, Patrick Eeley seconded and it was so voted, 5-0. Peter Bez will write the decision.***

**2004-095 2 Daggett Lane (Residential 3 Zone), David M. King -**

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming three-family dwelling structure (to be converted to a single-family dwelling) up and along the non-conforming front, side and rear line dimensions with the construction of a

chimney and decks at grade. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

**Presentation:** Ted Chapin appeared to discuss the application. The premises has been designated as a single-family dwelling. The applicant has submitted revised plans.

**Board Discussion:** The Board briefly questioned Mr. Chapin. *Lynne Davies moved to consider as a finding under the Goldhirsh v. McNear ruling, Peter Bez seconded and it was so voted, 4-0-1(Steve Melamed absent). Lynne Davies moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a pre-existing, non-conforming three-family dwelling structure (to be converted to a single-family dwelling) up and along the non-conforming front, side and rear line dimensions with the construction of a chimney and decks at grade at the premises located at 2 Daggett Lane (Res 3) as a finding under the Goldhirsh v McNear ruling, Peter Bez seconded and it was so voted, 4-0-1 (Steve Melamed absent).*

## **PENDING DECISIONS:**

**2004-096 43 Race Point Road (Residential 3 Zone), Edward "Ted" Malone on behalf of Community Housing Resource, Inc. -**

Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley 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 (Steve Melamed absent).*

Chair Gary Reinhardt postponed the Work Session at 7:03 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.

**2004-100 44 Nelson Avenue (Residential 3 Zone), Francis S. Peters -**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the neighborhood allowed building scale with the placement of a previously constructed modular single-family dwelling. Lynne Davies disclosed that she is an abutter to an abutter to an abutter, but felt she could render a fair and unbiased decision. Peter Bez recused himself because of a conflict of interest. Gary Reinhardt, Peter Page, Lynne Davies and Patrick Eeley sat on the case. The applicant was informed that since there would only be four members seated on the application, necessitating a unanimous decision if a Special Permit were to be granted, he had the choice to proceed or postpone until five members were seated. The applicant chose to proceed with the hearing. **Presentation:** Attorney Christopher Snow and Francis S. Peters appeared to present the application. The pre-fabricated dwelling will be placed on a permanent foundation and is intended as a home for the applicant's daughter.

**Public Comment:** None. There was a petition signed by 37 neighbors in favor of the application submitted by the applicant.

**Board Discussion:** The Board questioned Attorney Snow and Mr. Peters. **FINDINGS OF FACT:**

- The neighborhood average scale is 68.09 scale units;
- The allowed scale is 85.11 s.u.;
- The proposed scale is 128.33 s.u.;
- The proposed structure will contribute to a sense of community in the neighborhood and is being built in an existing subdivision, both of which are in keeping with the Local Comprehensive Plan; and
- The proposed structure will be harmonious with the surrounding neighborhood and thus be in keeping with the intents and purposes of the LCP.

*Lynne Davies moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws to deviate from the neighborhood allowed building scale with the placement of a previously constructed modular single-family dwelling at the premises located at 44 Nelson Avenue (Res 3), Patrick Eleey seconded and it was so voted, 4-0. Patrick Eleey will write the decision.*

**2004-101** 335 Commercial Street (*Town Commercial Center*), Clipper Ventures, Inc., d.b.a. The Squealing Pig -

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of live entertainment. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eleely sat on the case.

**Presentation:** Dermott O'Neill appeared to present the application.

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

**Board Discussion:** The Board briefly questioned Mr. O'Neill. The Board noted that there had been no noise violations or zoning violations reported at the premises within the past year.

*Peter Be% moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of live entertainment at the premises located at 335 Commercial Street (TCC) to expire with the transfer of the license for the premises, Lynne Davies seconded and it was so voted, 5-0. Peter Bez will write the decision.*

Chair Gary Reinhardt adjourned the Public Hearing at 7:40 P.M.

## **MINUTES:**

**December 2, 2004 - Lynne Davies moved to accept the language as written, Patrick Eleey seconded and it was so voted, 5-0-1 (Steve Melamed absent).**

## **ADMINISTRATIVE AMENDMENT:**

**2003-054 460 Commercial Street (Residential 3 Zone), Provincetown Art Association and Museum -**

Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Patrick Eleey sat on the case.

**Presentation:** Reggie Donoghue, from Coastal Engineering, appeared to present the Administrative Amendment. The applicant submitted revised plans to reflect a change in the property line determination to the north of the premises. Mr. Donoghue maintains that the setbacks are still conforming despite the new designations.

**Public Comment:** Steve Silva, the abutter to the north of the premises whose property line was in dispute with the applicant, contends that the building is too close to his property.

**Board Discussion:** The Board would like to postpone the discussion until they have received a report by the Building Commissioner. The case is continued until the January 6, 2005 Work Session.

## **NEXT MEETING:**

The next meeting will be on January 6, 2005 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

## **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 January 6, 2005.  
Respectfully submitted,

Ellen C. Battaglini  
*Zoning Board of Appeals*