

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS MEETING MINUTES

Of

**November 18, 1999**

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**Members Present:** Gary Reinhardt (Chair), Peter Bez (Vice Chair), Ray Boylan, Steve Melamed, Larry Mahan

**Members Absent:** Ken Janson, Barbara Gard (Clerk) (both excused)

### WORK SESSION

Chair Gary Reinhardt called the Work Session to order @ 6:00 P.M.

#### PENDING DECISIONS –

**98-06024 Captain Bertie's Way, Sanjo Realty Trust** – Gary Reinhardt, Ken Janson, Barbara Gard, Peter Bez, Ray Boylan sat on case. Gary Reinhardt read the decision. Mr. Veara appeared to discuss the decision. *Peter Bez moved to accept the decision as read, Ray Boylan seconded and it was so voted, 3-0, 2 absent (Barbara Gard, Ken Janson).*

**99-081421 Commercial Street, 421 Commercial Street Realty Trust** -Gary Reinhardt, Ken Janson, Barbara Gard, Peter Bez, Steve Melamed sat on case. A decision on this application was not filed after the last Zoning Board of Appeals meeting to allow time for an opinion from Town Counsel and advice from the Building Commissioner. *Steve Melamed withdrew his motion to approve the decision as read at the last Zoning Board of Appeals meeting on November 4, 1999 and Peter Bez withdrew his second of that motion.* Gary Reinhardt read a revised decision. *Steve Melamed moved to accept the decision as read, Peter Bez seconded and it was so voted, 3-0, 2 absent (Barbara Gard, Ken Janson).*

**99-08628 Bradford Street, Terence M. Welch-** Gary Reinhardt, Peter Bez, Barbara Gard, Ken Janson, Ray Boylan sat on case. Mr. Welch appeared and presented revised plans. *Peter Bez moved to approve the pending Goldhirsch decision, Ray Boylan seconded.* The Board made minor changes to the revised plan. *After discussion, the Board voted to approve the motion, 3-0, 2 absent (Barbara Gard, Ken Janson).*

**99-091291 Commercial Street, Honbets, Inc.** – Gary Reinhardt, Ken Janson, Peter Bez, Ray Boylan, Larry Mahan sat on case. Steve Melamed recused himself. Peter Bez read the decision. *Ray Boylan moved to accept the decision with a minor change, Larry Mahan seconded, and it was so voted, 4-0, 1 absent (Ken Janson).*

#### PENDING CASES

**99-077277 Commercial Street, Honbets, Inc** - Gary Reinhardt, Ken Janson, Peter Bez, Ray Boylan, Larry Mahan sat on case. Mr. Jamie Veara and Ms Melamed appeared to discuss the application. Steve Melamed recused himself. Gary Reinhardt clarified that Town Counsel had said in a written opinion that the Board could grant a special permit to a tenant. **Board Discussion:** modify permit to allow amplification for the life of the lease. *Ray Boylan moved to grant the application for modification with the condition that amplification be*

*allowed for the life of the lease, Larry Mahan seconded and it was so voted, 4-0, 1 absent (Ken Janson).* Peter Bez will write the decision.

**99-08412 Conwell Street, Pamela J. Baron** – Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Ray Boylansat on case. Gary Reinhardt reported that Town Counsel had not yet reached a opinion. Postponed.

## **MINUTES**

**November 4, 1999, Regular Meeting-** *Peter Bez moved to accept the minutes with a minor correction, Ray Boylan seconded and it was so voted, 4-0.*

Chair Gary Reinhardt postponed the Work Session until after the Public Hearing.

## **PUBLIC HEARING**

Chair Gary Reinhardt convened the public hearing at 7:00 P.M. and explained the hearing procedures to the audience. Five members of the Board were present and two were absent (Ken Janson, Barbara Gard).

**99-08048 Commercial Street, Christopher Snow on behalf of William York** -Gary Reinhardt, Peter Bez, Larry Mahan, Steve Melamed, Ray Boylan sat on case. This case was continued from September 23, 1999. Mr. Snow and Tom Thompson appeared to present the application, which is for a special permit to construct a dormer. **Presentation:** Applicant is in a “design flux,” pending a decision from the Board of Health. The proposed east side dormer is the only issue before the Board. **Public Input:** Gary Reinhardt stated that any public comments offered at the hearing in September would become part of the record for this application. Rick Murray spoke in favor. No one spoke in opposition. There were no new letters in file. **Board Discussion:** Possible error in scale calculation, dividing by number of lots, rather than buildings. *Ray Boylan moved to grant under section 2110 subject to submission of corrected scale calculations compliant with zoning by-laws, Steve Melamed seconded. Motion Discussion:* Current scale requirements may not allow the building to grow any larger in any dimension. After discussion, *Ray Boylan withdrew his motion and Steve Melamed withdrew his second.* Mr. Snow submitted a written waiver of decision time limitations. Taken under advisement.

**99-088237-241 Commercial Street, Binder Boland and Associates on behalf of Whaler’s Wharf**– Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan sat on case. Ms Binder and Paul Duryder appeared to present the application, which is for a special permit to allow live entertainment and the service of food and alcohol. Gary Reinhardt explained that, because Steve Melamed had a conflict, the applicant could choose to either proceed with a four member Board or wait until five members could be seated. Ms Binder said the applicant would proceed with a four member Board. **Presentation:** special permit criteria; water conservation efforts; vision of community within community; types of planned entertainment; areas with sound amplification; number of entertainers. **Public Input:** Mr. Murray spoke in favor. Mrs. Patrick spoke in opposition, citing issues with amplified entertainment, and presented a letter for the file. Ms White spoke with concerns about the source of the additional 16 seats requested. There was one letter in opposition and none in favor. **Board Discussion:** Food Service Area: Entertainment with only voice amplified; hours of operation; areas of service and seating configuration; whether growth-management would govern the number of seats allowed; occupancy of service area; consideration as a fast-food establishment; no table service; paper plates proposed; 35 gallons of water usage allocated per seat. Rotunda: possible limit on hours of amplification. Taken under advisement.

**99-092321 Commercial Street, Mary Joy McNulty on behalf of Clambake, Inc. d/b/a The Lobster Pot** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan sat on case. Ms McNulty appeared to present the application, which is for a renewal of a special to permit live entertainment. Gary Reinhardt explained that, because Steve Melamed had a conflict, the applicant could choose to either proceed with a four-member Board or wait until five members could be seated. Ms McNulty agreed to the four member Board. **Presentation:** Applicant wants to eliminate Sunday entertainment and asks that permit be made permanent.**Public Input:** No one spoke either in favor or opposition. There were no letters in file. *Larry Mahan made a motion to grant with the condition of removing the Sunday entertainment, Peter Bez seconded. Larry Mahan amended his motion to make the permit permanent, Peter Bez seconded the amended motion and it was so voted, 4-0.* Peter Bez will write the decision.

**99-093269 Commercial Street, Richard Williams on behalf of Giovanni Cicero d/b/a Twomey's** - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan sat on case. Mr. Williams and Mr. Twomey appeared to present the application, which is for renewal of a special permit for live entertainment. Gary Reinhardt explained that, because Steve Melamed had a conflict, the applicant could choose to either proceed with a four member Board or wait until five members could be seated. The applicants accepted a four member Board. No one spoke either in favor or in opposition. There were no letters in file. *Peter Bez moved to grant with the condition that the permit be made permanent, Larry Mahan seconded, and it was so voted, 4-0.* Ken Janson will write the decision.

**99-09454-58 Harry Kemp Way, Kenneth Weiss on behalf of Harry Kemp Corporation** - The application is for a special permit to allow construction of seventeen dwelling units on a single lot. Mr. Weiss requested a continuance until December 2, 1999 and Chair Gary Reinhardt granted the continuance.

Chair Gary Reinhardt closed the Public Hearing at 8:41 P.M.

### **WORK SESSION (continued)**

Chair Gary Reinhardt reconvened the Work Session at 8:41 P.M.

### **PENDING CASES**

**99-088237-241 Commercial Street, Binder Boland and Associates on behalf of Whaler's Wharf**– Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan sat on case. **Board Discussion:** whether food service is restaurant or fast-food; whether growth-management considerations should be mentioned in the decision; stipulate that permit is initially for only one year; limit hours that alcohol can be served. *Ray Boylan moved to grant under section 1260 with the conditions that there can be live theater and movies in the cinema, live entertainment in the Rotunda with amplification, food and alcohol service in the restaurant with one instrument and one amplified voice, building hours-of-operation to be from 8:00 AM until midnight with no alcohol service before 11:00 AM, 36 seats granted in the restaurant with the Board's finding that any restaurant seat above 20 should be subject to the growth-management by-law, Larry Mahan seconded, and it was so voted, 4-0.* \_\_\_\_\_ will write the decision.

### **ADJOURNMENT**

*Steve Melamed made a motion to adjourn at 8:58 P.M. and it was so voted unanimously.*