

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

Minutes

June 24, 1999

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Members Present: Gary Reinhardt (Chair), Peter Bez (Vice Chair), Ken Janson, Ray Boylan, Steve Melamed

Members Absent: Barbara Gard (Clerk)

WORK SESSION

Chair Gary Reinhardt called the Work Session to order @ 6:01 P.M.

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MISCELLANEOUS

Greg Lambrou has officially resigned from the Board.

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Gary Reinhardt spoke about his request to the Selectmen to be allowed to sit on Section 1260 special permit applications. Mr. Reinhardt recently finally received a response from the Selectmen and had written a letter back to the Selectmen asking for permission to sit on two special permit cases that are before the Board this evening. However, the Selectmen have not yet responded. Gary Reinhardt informed James Veara, attorney for special permit applicants, that the Board would only have four members to sit on the special permit applications and Mr Veara said he would accept a four member Board.

99-047 623 Commercial Street, Seamus G. Henchy - A letter has been received from Mr. Henchy and Gary Reinhardt has spoken with Town Counsel. Town Counsel said that Attorney Veara had a valid argument concerning the appeal not being timely filed. The Board could go forward with the

application, but there may be an appeal. Gary Reinhardt said there can also be repetitive requests for enforcement and wrote Mr Henchy a letter to that effect. Mr. Henchy has again asked the Building Commissioner for enforcement and if denied again, can appeal again. Permit Coordinator Rex Peterson said that the Building Commissioner has until tomorrow to respond and will decide whether an additional response is necessary. Rex Peterson said that he and Assistant Town Manager Winn Davis were recommending denial because the application on this evening had not been timely filed. Mr Veara concurred with the concept of going forward and denying. Mr Henchy could appeal Board=s denial. The Board discussed various options. By consensus, the Board decided to not open the case without Mr. Henchy present and to continue the case. Gary Reinhardt will meanwhile get additional an opinion from Town Counsel as to whether the case should be officially opened.

The Board discussed a proposed joint meeting with the Planning Board and also a meeting with the Licensing Board.

The Board discussed the fact that one of the apartments at McNulty=s Market is being sold as a condominium. Board members expressed how that knowledge now influenced how they felt about their recent decision on this property.

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PENDING DECISIONS - None

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PENDING CASES

99-055 8 Browne Street, Warren and Rita Silva - Gary Reinhardt, Ken Janson, Peter Bez, Barbara Gard, Ray Boylan sat on case. Gary Reinhardt has received a letter from the applicants requesting to withdraw without prejudice. *Ray Boylan moved to accept the withdrawal without prejudice, Peter Bez seconded, and it was so voted, 4-0, 1 absent (Barbara Gard).*

99-060 24 Captain Bertie=s Way, Sanjo Realty Trust - Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Ray Boylan sat on case. Board discussion: Court Street drainage; proposal from Planning Board and/or DRM to have engineering firm study drainage; application is unusual in terms of complexity and magnitude; whether requirement for engineering study is arbitrary; leave engineering study decision to Planning Board. Continued until June 29, 1999 unless Barbara Gard is not then present; otherwise July 8, 1999.

99-058 185 Commercial Street, Roslyn Garfield on behalf of 185 Commercial Realty Trust, d/b/a Bubala=s by the Bay - Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Ray Boylan sat on case. Was previously continued until July 8, 1999.

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 one was absent (Barbara Gard).

99-047 623 Commercial Street, Seamus G. Henchy - Application is to appeal the decision of the Building Commissioner on February 16, 1999 regarding the height of the building. Case not officially opened, continued until July 8, 1999.

99-057 16 MacMillan Wharf, Whydah Joint Venture Museum - Application is for a special permit to allow outside display of merchandise, retail sales from a pushcart and bicycle rentals. Applicant did not appear, continued until July 8, 1999.

99-061 303 Commercial Street, Phyllis Schlosberg, d/b/a Post Office Cafe - Application is for renewal of a special permit to allow flexible seating between the cabaret and restaurant. Due to the composition of the Board present, case could not be heard. Continued to July 8, 1999.

99-062 234 Commercial Street, Lavinia Wohlfarth, d/b/a Wohlfarth Galleries - Gary Reinhardt, Peter Bez, Ken Janson, Ray Boylan, Steve Melamed sat on case. Ms Wohlfarth appeared to present the application, which is for a special permit to allow outside display cases. No one spoke either in favor or opposition. There were no letters in file. Board discussion: display case to be 17 feet from sidewalk, could be closer. Applicant modified her application to position cases ten feet from the property line. ***Peter Bez moved to grant, Steve Melamed, seconded and it was so voted, 5-0.*** Peter Bez wrote the decision using the standard outside display form.

99-063 179 Commercial Street, Tran Family Nominee Trust, d/b/a Szechuan Chinese Restaurant - Application is for a special permit for outside dining (25 seats). Due to the composition of the Board present, case could not be heard. Continued until July 8, 1999.

99-064 32 Conwell Street, Edward Malone and Ronald Smith - Gary Reinhardt, Peter Bez, Ken Janson, Ray Boylan, Steve Melamed sat on case. Ed Malone appeared to present the application, which is for a special permit to operate a paid parking lot. Mr Malone distributed a handout addressing the special permit criteria and discussed various points. No one spoke either in favor or opposition. There was a letter in file from the Chief of Police, expressing concern with the location of the nearest pay telephone, but otherwise in favor. There were no other letters in file. Gary Reinhardt informed the applicant that a letter from the Fire Chief was required. Board discussion: distance to Rod=s Sunoco Station; congestion on Conwell Street; 10 PM closing date may be too early; whether cars parking after attendant left would be towed; Building Commissioner=s report concerning inadequate width of some parking spots on plan and need for handicapped spots; letter from Building Inspector required; possible need for pay phone on site; Gary Reinhardt referred to a decision on previous case involving the mobile laundromat on the property, with condition that there be no paid parking; parking arrangements with 30 Conwell Street to be continued; possibly extend attendant hours until 1:30 A.M. ***Ken Janson moved to grant with conditions:***

- ***that a pay phone be installed;***
- ***that the hours of operation be extended until 1:30 P.M. with attendant present;***
- ***and continuing the conditions of the decision on case # 98-039.***

Peter Bez seconded and it was so voted, 5-0. Ken Janson will write the decision.

Chair Gary Reinhardt closed the Public Hearing at 7:45 P.M.

WORK SESSION (continued)

Chair Gary Reinhardt reconvened the work session at 7:45 P.M.

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MINUTES

June 10, 1999 - Ray Boylan moved to accept with corrections, Peter Bez seconded and it was so voted unanimously .

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MISCELLANEOUS

- Gary Reinhardt discussed the issue of having Section 2100 retyped.
- Peter Bez asked for items for discussion at the DRMCC meeting: Bangs Street issues (stairway, shed); Arch Street (enclosed porch); Dormer definition; Scale calculation issues.

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ADJOURNMENT

Peter Bez made a motion to adjourn at 7:55 P.M. and it was so voted unanimously.