

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES

of

May 6, 1999

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Members Present: Gary Reinhardt (Chair), Peter Bez (Vice Chair), Ken Janson, Greg Lambrou, Ray Boylan, Steve Melamed , Barbara Gard (Clerk) (arrived at 6:10 PM)

Members Absent: None

WORK SESSION

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

MISCELLANEOUS

Gary Reinhardt said there were some new Board policies. All members should do drive-bys of properties and should inform Gary of any conflicts prior to the meeting, if possible. Gary Reinhardt also said he would like at some point to discuss the way the Board makes motions. He suggested that the person making the motion should include the Findings of Fact in the motion.

MODIFICATIONS

99-009 27 Commercial Street, Mary Joanne Rand - Rick Murray, Ken Janson, Barbara Gard, Peter Bez, Steve Melamed sat on the original case. Gary Reinhardt, Ken Janson, Peter Bez, Steve Melamed, Ray Boylan sat on the modification. Tom Thompson and Tom Defrancesco appeared to present the modification, which is to modify a special permit remove the proposed stairs that led down to the beach. *Peter Bez made a motion to approve the modification without a new public*

hearing, Ken Janson seconded and it was so voted, 5-0.

PENDING CASES

99-033 48 Commercial Street, Snow and Snow on behalf of William York - Ken Janson, Gary Reinhardt, Peter Bez, Greg Lambrou, Steve Melamed sat on case. Attorney Chris Snow, Ron Paine and William York appeared to discuss the application. Mr Snow presented revised plans and discussed other changes and conditions. Mr Paine presented revised scale calculations. Board discussion: correct interpretation of the scale by-law. Mr Snow presented documentation concerning the fact that the building is a contributing resource within the Historic District. To be reconsidered in two weeks at the next Board meeting.

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. All seven members of the Board were present

Gary Reinhardt informed the audience that the first case on the posted agenda, 99-047, 623 Commercial Street, Seamus Henchy, had been continued until June 10, 1999.

99-047 623 Commercial Street, Seamus Henchy - To appeal the decision of the Building Commissioner regarding the height of the structure. Continued until June 10, 1999.

99-048 8 Johnson Street, Peter Garza and Christopher Covelli on behalf of COVGAR II, LLC d/b/a Christopher=s By the Bay - Gary Reinhardt, Ken Janson, Barbara Gard, Greg Lambrou, Steve Melamed sat on case. Peter Garza, Mr Covelli and Mr Costa appeared to present the application, which is for a special permit to construct a second floor addition. Gary Reinhardt informed the applicants that three members of the Board owned guesthouses and that, by rule of necessity, Ken Janson, as a senior Board member, was selected to sit on the case to guarantee a five member Board. No one spoke either in favor or in opposition. There was a petition in file with eight signatures of abutters and abutters to abutters in favor of the special permit. Board discussion: scale calculations; applicant to provide elevation drawings; lot coverage; no change in usage; Board to do drive-by. Taken under advisement.

99-049 28 Alden Street, Mitchell Hollander - Gary Reinhardt, Peter Bez, Barbara Gard, Ken Janson, Ray Boylan sat on case. Mr. Cormier appeared to present the application, which is for a variance to allow construction of an eight (8) foot fence within the required property line setback. Mr Cormier read a statement from the property owners stating that new construction on a abutting property has reduced the privacy in their backyard, necessitating the fence. No one spoke either in favor or opposition. There were no letters in file. Board discussion: need for a site inspection; need for applicant to address the variance criteria; possibility of substituting plantings. Taken under advisement.

99-050 14 Sandy Hill Lane, Charles Rogers on behalf of Joan Rogers - Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Greg Lambrou sat on case. Mr Rogers appeared to present the application, which is for a special permit to expand a pre-existing non-conforming use by adding a third dwelling unit and to appeal the decision of the Building Commissioner that a special permit is required for the third dwelling unit. Mr Rogers reviewed the history of the application, which had previously been for a variance (withdrawn without prejudice). Mr Rogers referred to an opinion from Town Counsel (Kopelman and Paige) concerning a change from one conforming use to another conforming use. Mr Rogers also referred to a chart prepared by the Assistant Town Manager. No one spoke in favor of the application. Mr Farber spoke in opposition, representing an abutter. There were no letters in file. Board discussion: applicant is appealing a verbal decision of the Building Commissioner that a variance is required; can applicant provide proof of when structure became a two-family; question of whether use is conforming. Mr Rogers and Mr Farber debated the history and the legality of the property's development. Board discussion: not changing number of bedrooms. Taken under advisement.

99-051 135 Bradford Street, Pezzulo, Inc d/b/a Tropical Joe's - Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Ray Boylan sat on case. Tom Thompson, Joe Pezzulo, Peter Donnelly, and Attorney Paul Benatti appeared to present the application, which is for a special permit to allow outside seating and to alter areas of service. Board discussion: whether upstairs seats were food service seats; question of exit requirements in previous special permit. Applicant requesting 20 seats outdoors, flexed with seats upstairs. Applicant addressed the special permit criteria. No one spoke in favor. Mr Rosenbaum and Jackie Kelly spoke with concerns about noise, especially late at night from the outside seating. Mr Brickell spoke in opposition due to the noise and to flexible seating. There were no letters in file. Board discussion: access to outdoor deck; egress from second floor; hours of operation of restaurant and cabaret; applicant requests end time for outdoor seating to be 11:15 P.M.; applicant says number of performers to be maximum of five; need to review previous section 1260 special permit; applicant to provide site plan with setbacks and scaled down drawings; limit to one year. *Ken Janson moved to grant the change in areas of service and to allow outdoor dining for 20 people until 8:30 PM. Raised area on second floor to be closed off while outdoor dining is open. Special permit to expire on 12/31/99. Peter Bez seconded and the motion was approved by a vote of 5-0.* Ken Janson to write decision.

Chair Gary Reinhardt closed the Public Hearing at 9:22 P.M.

WORK SESSION (continued)

Chair Gary Reinhardt reconvened the work session at 9:28 P.M.

MODIFICATIONS

258 Commercial Street, Cape Tip Inn, Inc. - Request to modify hours of operation. Applicant did not appear. Continued to next work session.

PENDING CASES

99-046 20 Shankpainter Road, Provincetown United Methodist Church - Ken Janson, Gary Reinhardt, Peter Bez, Steve Melamed, Ray Boylan sat on case. Applicant did not appear. Gary Reinhardt read a memo from the Fire Chief stating there would be no public safety hazard. Board reviewed plans for proposed parking lot. Board discussion: location and dimension of handicapped spots; question of whether cars would be in front of doors. *Steve Melamed moved to grant with corrections to site plan: designate handicap spots and remove two spots for door egress, thereby limiting total number of spots to 32. An attendant will be on duty and hours of operation will be from 11:00 AM to 1:15 AM. Spaces to be clearly marked. Peter Bez seconded and it was so voted, 5-0.* Steve Melamed will write the decision.

PENDING DECISIONS

99-019 291 Commercial Street, Hake Nominee Trust/Another Honbets - Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Ray Boylan sat on case. Peter Bez read the decision. *Ken Janson moved to approve the decision as read, Ray Boylan seconded and it was so voted, 4-0, 1 absent (Rick Murray).*

99-031 291-293 Commercial Street, Hake Nominee Trust, Richard Kelly, Trustee - Rick Murray, Ken Janson, Gary Reinhardt, Peter Bez, Ray Boylan sat on case. Gary Reinhardt read the decision. Discussion: decision to reflect motion condition concerning designated by the line defined by the proposed canopy. *Peter Bez moved to approve the decision with modifications, Ken Janson seconded and it was so voted, 4-0, 1 absent (Rick Murray).*

99-043 27 Franklin Street, David Maxfield on behalf of Nancy Heywood - Ken Janson, Gary Reinhardt, Peter Bez, Greg Lambrou, Ray Boylan sat on case. Ray Boylan read the decision. *Ken Janson moved to approve the decision as written, Greg Lambrou seconded and it was so voted, 5-0.*

MINUTES

April 15, 1999 - *Peter Bez moved to accept with corrections, Ray Boylan seconded and it was so voted, 6-0, 1 abstain (Barbara Gard).*

PENDING CASES

99-050 14 Sandy Hill Lane, Charles Rogers on behalf of Joan Rogers - Gary Reinhardt, Peter Bez, Ken Janson, Barbara Gard, Greg Lambrou sat on case. Board discussion: whether better to allow three units, than increase in units if parcels are joined; wetlands cannot be used as frontage(per letter from Building Commissioner).

MISCELLANEOUS

- Outdoor display at A&P on Shank Painter Road apparently in violation of special permit conditions.
- Board needs to appoint member to attend DRMCC meetings. *Gary Reinhardt moved to appoint Peter Bez, Ken Janson seconded, and it was so voted, 7-0*

ADJOURNMENT

Peter Bez made a motion to adjourn at 10:20 P.M. and it was so voted unanimously.

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These minutes were approved by a vote of the Zoning Board Members present at their meeting on \_\_\_\_\_,  
199\_\_

Respectfully Submitted:

\_\_\_\_\_

Zoning  
Board  
of  
Appeal  
Signature  
Title  
Rachel  
T.  
Crosby,  
On-call  
secretary