

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

### MEETING MINUTES OF JUNE 21, 2001

#### Meeting Held in Town Hall

**Members Present:** Gary Reinhardt (Chair), Peter Bez (Vice Chair), Steve Melamed, Esther Czyoski, Peter McDonough, Larry Mahan (Clerk)

**Members Absent:** None

**Others Present:** Rachel Crosby (Recording Secretary)

#### WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:50 PM.

#### PENDING DECISIONS

**2001-036** 345A Commercial Street, Charles Collins and Robert Nee – Gary Reinhardt, Peter Bez, Steve Melamed, Larry Mahan sat on case. Peter Bez read the decision. *Steve Melamed moved to accept the decision, Gary Reinhardt seconded and it was so voted, 4-0.*

**2001-039** 619 Commercial Street, Architects Studio on behalf of Sherry Turkle - Gary Reinhardt, Peter Bez, Steve Melamed, Larry Mahan sat on case. Steve Melamed read the decision. *Peter Bez moved to accept the decision, Larry Mahan seconded and it was so voted, 4-0.*

#### MINUTES

June 7, 2001 – *Peter Bez moved to approve with a correction, Steve Melamed seconded, and it was so voted, 4-0, 2 abstain (Esther Czyoski, Peter McDonough).*

Gary Reinhardt postponed the Work Session at 7:00 P.M.

#### PUBLIC HEARING

Chair Gary Reinhardt convened the public hearing at 7:00 P.M. and explained the public hearing procedures to the public. Six members of the Board were present and none were absent.

**2001-040** 186 Commercial Street, ESF Ltd, d.b.a. Esther's on behalf of Ellen S. Freeman, trustee for ESR Realty Trust– (continued from June 7, 2001) Gary Reinhardt, Peter Bez, Larry Mahan, Peter McDonough, Esther Czyoski sat on case. Gary Reinhardt insisted Peter Bez to sit on this case as he did not see that Mr. Bez had a conflict of interest. Ms Freeman and Ms Cash appeared to present the application which is for a Special Permit to increase the number of outdoor seats without changing the total number of allowed seats. **Presentation:** Referred to revised plans showing increase in outdoor seating; currently has 20 outdoor seats; wants to increase to 51 seats outdoors, utilizing a flexible seating arrangement; addressed special permit criteria; will be on-site 24/7 management; **Public Comment:** No one spoke either in favor or opposition. There were no letters in file. **Board Discussion:** Wants to swap seats inside on first floor for seats outside, arranging 51 total seats as circumstances dictate; applicant is responsible for insuring total seats will not exceed 92 at the property at any one time; adequate separation between outdoor tables and sidewalk. *Peter Bez moved to grant with outdoor dining hours being limited to 9:00 AM to 11:00 PM (as per previous special permit), Peter McDonough seconded and it was so voted, 5-0.* Gary Reinhardt read a decision prepared by the applicant's attorney. *Peter Bez moved to accept the decision as modified, Peter McDonough seconded and it was so voted, 5-0.*

**2001-041** 48 Shank Painter Road, Jane Taves - (continued from June 7, 2001) Gary Reinhardt, Peter Bez,

Larry Mahan, Esther Czyoski, Steve Melamed sat on case. Mr. Taves appeared to present the application which is for a Special Permit for a deviation from building scale. **Presentation:** Mr. Taves read a prepared statement and provided the Board with a copy. **Public Comment:** No one from the public spoke in favor. Warren Alexander, Building Commissioner, spoke in favor, detailing the historical problems involved in calculating scale in the past. No one spoke in opposition. There were three letters in favor. **Board Discussion:** Review of applicable Zoning By-Law section; question of whether property could be subdivided; whether deviation is in keeping with Local Comprehensive Plan; question of how scale calculations inaccuracies were initially missed; is a reconstruction project; whether current plans reflect what is actually on-site; Board needs current plans; Board must limit itself to consideration of scale deviation; Board will conduct an on-site Work Session on Monday, June 25, 2001 at 5:00 PM. Taken under consideration.

**2001-034** **545 Commercial Street, Lester Murphy on behalf of Provincetown Hospitality, LLC** - (continued from June 7, 2001) Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Gary Reinhardt insisted Peter Bez to sit on this case as he did not see that Mr. Bez had a conflict of interest. Attorney Lester Murphy and Mr. Gistis appeared to present the application which is for a Special Permit for the service of food and liquor with seating of not more than 31 in a lounge. **Presentation:** Owner has multiple hotel/motels on Cape Cod and several have lounges which serve liquor; plan to spend \$800,000 for renovations; primary business purpose is lodging rentals; expect only 5% of revenue from lounge/restaurant; is licensed as innholder; must provide food for persons renting lodging; 8 seats would be used for restaurant purposes and remainder (23) would be designated for lounge seating; Peter Bez asked if the applicant should first be approved by Health Agent and receive Growth Management Allocation Permit before Board can issue special permit; Mr. Murphy pointed out that the owner is moving restaurant with the same septic flow from the building across the street and therefore do not need Growth Management Permit; will serve continental breakfast, as well as light lunches and dinners; wants to serve alcohol until midnight; will be no outdoor seating on deck area; patrons will be able to walk out on deck until 11:00 PM; will not be any outdoor signage advertising the lounge/restaurant, nor would parking be available to persons not staying at the hotel; not requesting any entertainment; have a total of 88 rooms; noise will be limited by proximity of hotel rooms; will accept one-year conditional permit; have shut down lounges at other hotel locations due to noise and ambiance problems; wants to attract high-end customers who want a quiet place to socialize and have a drink. **Public Comment:** Steve Melamed spoke in favor. Mr. Helmut, Mr. Lundgren, Mr. Higgins, Ms Bliss, Dr. O'Malley, and Ms Marsh spoke in opposition. There were ten letters in opposition. There were four emails in opposition. There was two letters with questions and concerns. **Board Discussion:** Mr. Alexander, responding to a question of whether bar area expanded at Fanizzi's Restaurant, said that seats have been moved closer to the street; wealthy customers may not be better behaved; owners of Hospitality, LLC were identified; whether owner will live on premises; will be on-site management; cannot prevent non-lodging customers from patronizing the lounge; willing limit patron access to deck to 10 PM; applicant requested that Board visit site; no stairway from deck to beach; applicant would agree to allow limited lounge patron parking in hotel parking lot; could limit delivery truck access to designated off-street areas; number patrons will be limited to maximum of 31; people drinking in rooms could create noise on their room balconies; lounge will not be advertised; possibility of building configuration amplifying noise, especially over the water; applicant to supply a site plan, showing building(s) on lot and location of neighbors; Board will conduct individual site visits; wooden lattice fence approximately six feet high on sides of deck. Taken under consideration.

**2001-042** **265-267 Commercial Street, Resort Restaurant Management Inc. on behalf of Judy Cicero** – Gary Reinhardt, Peter Bez, Larry Mahan, Peter McDonough, Esther Czyoski sat on case. Jonathan Louie appeared to present the application which is for a Special Permit for entertainment. **Presentation:** Has successful track record as restaurateur; wants two to four piece ensembles playing everything from Brazilian jazz, R&B and blues; applicant needs to provide floor plan showing area of entertainment and tables and chairs; will be serving food and alcohol while entertainers perform. **Public Comment:** No one spoke either in favor or opposition. There was one letter with concerns and questions. There was one letter specifying conditions for approval. There was one letter in favor. **Board Discussion:** will be amplified; Board almost always conditions approval with requirement to keep doors and windows closed and air conditioning on; Mr. Louie will probably be living above the restaurant; applicant expressed willingness to keep windows and doors closed and install air conditioning; discussion of whether front door could be kept open; possibility of installing door between front section and rear;

permit would be time-limited to one year; entertainment hours to be from 9:30 PM to 12:30 AM; *Peter Bez moved to grant with conditions: applicant to provide seating plan showing entertainment area; permit to expire after one year; windows and doors to be kept closed (with exception of front door); air conditioning to be installed and kept on during entertainment; no more than four performers with amplification; hours of entertainment to be from 9:30 PM to 12:30 AM, Larry Mahan seconded, and it was so voted, 5-0.* Peter Bez will write the decision.

**2001-043** **132 Bradford Street, Fred Riley on behalf of Duarte Motors** – Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Steve Melamed sat on case. Mr. Riley (?) appeared to present the application which is for a renewal of a Special Permit for outdoor display of merchandise. **Presentation:** Same permit as previously. **Public Comment:** None. **Board Discussion:** None. *Peter Bez moved to approve, Steve Melamed seconded and it was so voted, 5-0.* Peter Bez wrote the decision using the standard outdoor display decision form.

**2001-044** **432 Commercial Street, Katherine Baltivik** - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Ms Charles appeared to present the application which is for a Special Permit for outdoor display of merchandise. **Presentation:** Renewal of permit. **Public Comment:** No one spoke either in favor or opposition. There was one email in favor. **Board Discussion:** None. *Peter Bez moved to grant, Esther Czyoski seconded and it was so voted, 5-0.* Peter Bez wrote the decision using the standard outdoor display decision form.

**2001-045** **465A Commercial Street, Wendelin Glatzel on behalf of Beachcombers, Inc** - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Steve Melamed sat on case. Mr. Glatzel appeared to present the application which is for outdoor display. **Presentation:** gallery set back 50 feet from street; will be a display case with copies of original art. **Public Comment:** None. **Board Discussion:** case will be free-standing; will be 2 feet by 2 ½ feet; will need to be at least 10 feet from street. *Peter Bez moved to grant, Steve Melamed seconded and it was so voted, 5-0.* Peter Bez wrote the decision using the standard outdoor display decision form.

**2001-046** **349 Commercial Street, Christie Murphy on behalf of William Powers** - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Christie Murphy appeared to present the application, which is for outdoor display. **Presentation:** presented letter from landlord; wants renewal of permit with same conditions **Public Comment:** None. **Board Discussion:** None. *Peter Bez moved to grant, Peter McDonough seconded and it was so voted, 5-0.* Peter Bez wrote the decision using the standard outdoor display decision form.

**2001-047** **432 Commercial Street, Hilda Neily** - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Steve Melamed sat on case. Application is for outdoor display. **Public Comment:** No one spoke either in favor or opposition. There was one email in favor. **Board Discussion:** Is renewal of special permit. *Steve Melamed moved to grant, Peter Bez seconded and it was so voted, 5-0.* Peter Bez wrote the decision using the standard outdoor display decision form.

Chair Gary Reinhardt closed the Public Hearing at 10:50 P.M.

**MISCELLANEOUS**

- ⌘ Next meeting will be on July 5, 2001 at 6:30 P.M.
- ⌘ Gary Reinhardt announced that Esther Czyoski has been made a full member of the Board.

**ADJOURNMENT**

*Peter Bez moved to adjourn at 11:00 P.M. and it was so voted unanimously.*

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These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on \_\_\_\_\_, 2001

Respectfully Submitted:

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Zoning Board of Appeals Signature

\_\_\_\_\_  
Title

*Rachel Crosby*  
On-call secretary