

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
April 20, 2006

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed, Patrick Eleey and Elisabeth Verde.

Members Absent: Lynne Davies (excused).

Others Present: Doug Taylor (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Gary Reinhardt called the Work Session to order at 6:55 P.M.

ZONING BOARD OF APPEALS REORGANIZATION:

Steve Melamed moved to nominate Gary Reinhardt as Chairman of the Zoning Board of Appeals, Peter Bez seconded and it was so voted, 6-0.

Steve Melamed moved to nominate Peter Bez as Clerk of the Zoning Board of Appeals, Patrick Eleey seconded and it was so voted, 6-0.

MINUTES: March 30, 2006 – *Steve Melamed moved to approve the language as written, Peter Bez seconded and it was so voted, 6-0.*

PENDING CASES:

2006-003 **133 Commercial Street (Town Commercial Center), Lorraine Najjar -**

This case is postponed, as the applicant is not prepared to go forward at this point.

Gary Reinhardt adjourned the Work Session at 6:58 P.M.

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:00 P.M. There were six members of the Zoning Board of Appeals present and one absent.

- 2006-019** **29 Bradford Street Extension (Residential 1 Zone), Neal Kimball on behalf of Margaret Tinkham**
(postponed from 03/09/06) -
The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming use (12) room motel and (1) residential unit, to a less detrimental, non-conforming use as (5) residential units and to alter a pre-existing, non-conforming structure by extending up and along the non-conforming front (northwest) and two side yards (southeast and southwest) with the addition of ½ story and under Article 3, Section 3340E to increase building scale beyond the maximum allowable for the neighborhood. Gary Reinhardt, Peter Page, Steve Melamed, Patrick Eeley and Elisabeth Verde sat on the case.
Presentation: Attorney Lester J. Murphy, Neal Kimball and Warren Alexander appeared to present the application. The applicant seeks to convert and expand the use of the property to include 5 single-family residential structures.
Public Comment: None. There was a petition signed by 2 people and one letter in favor of the application in the file.
Board Discussion: The Board questioned Attorney Murphy and discussed footnote 5 in the Permitted Principal Uses Table and how this footnote affected motels in the Residential 1 Zone. After Board discussion, the applicant chose to withdraw the application without prejudice.
Steve Melamed moved to accept the withdrawal without prejudice of Case #2006-019, Patrick Eeley seconded and it was so voted, 5-0.
- 2006-028** **352 Commercial Street (Town Commercial Center Zone), Felicia Wichrowski -**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outdoor display. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.
Presentation: Felicia Wichrowski appeared to present the application.
Public Comment: None. There were no letters in the file.
Board Discussion: The Board briefly questioned Ms. Wichrowski.
Steve Melamed moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outdoor display at the property located at 352 Commercial Street (TCC), Peter Bez seconded and it was so voted, 5-0.
- 2006-029** **277A Commercial Street (Town Commercial Center Zone), Jude Maria -**
The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outdoor display. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Elisabeth Verde sat on the case.
Presentation: Jude Maria appeared to present the application.
Public Comment: Kelly Strong spoke in favor of the application. There were no letters in the file.
Board Discussion: The Board briefly questioned Ms. Maria.
Steve Melamed moved to approve a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outdoor display at the property located at 277A Commercial Street (TCC), Peter Page seconded and it was so voted, 5-0.
- 2006-030** **338 Commercial Street (Town Commercial Center Zone), Sanette Groenewald -**
The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to provide a change in seating (increase from 10 to 19). Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.
Presentation: Sanette Groenewald appeared to present the application.
Public Comment: Kelly Strong, Guillermo Yingling and Jerry Schwartz spoke in favor of the application. There was one letter in favor of the application in the file.
Board Discussion: The Board questioned Ms. Groenewald. The board requested that the applicant submit a new plan showing the seats numbered in order to facilitate the enforcement process.
Peter Bez moved to grant a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to provide a change in seating (increase from 20 to 19) at the property located at 338 Commercial Street (TCC) with the condition that the applicant submit a new seating plan to the Board, Steve Melamed seconded and it was so voted, 5-0. Patrick Eeley will write the decision.
- 2006-031** **191 Commercial Street (Town Commercial Center Zone), Guillermo Yingling -**

The applicant seeks a Special Permit under Article 2, Section 2440, B4, (e) of the Zoning By-Laws for a package store. Steve Melamed disclosed that he is an abutter to an abutter, but stated that he could render a fair decision. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Elisabeth Verde sat on the case.

Presentation: Guillermo Yingling appeared to present the application. He seeks to open a beer and wine store at the location.

Public Comment: Kelly Strong spoke in favor of the application. Nathan Butera, Chuck Silva and Penny Silva all spoke in opposition to the application. There was one letter in favor of the application in the file.

Board Discussion: The Board questioned Mr. Yingling.

FINDINGS OF FACT:

- The Board finds that this application will benefit the Town by filling an otherwise empty business location with a young entrepreneur starting a new business.

Peter Bez moved to grant a Special Permit under Article 2, Section 2440, B4, (e) of the Zoning By-Laws for a package store at the property located at 191 Commercial Street (TCC), Elisabeth Verde seconded and it was so voted, 4-1 (Peter Page opposed). Peter Bez will write the decision.

2006-032

315A – 319 Commercial Street (Town Commercial Center Zone), Robert Valois -

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws to provide a change in area of food and beverage service and area of seating.

2006-033

315A – 319 Commercial Street (Town Commercial Center Zone), Robert Valois -

The applicant seeks a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to alter a pre-existing, non-conforming dimension and deviation in building scale. Steve Melamed recused himself because of a conflict of interest. Gary Reinhardt, Peter Bez, Peter Page, Patrick Eeley and Elisabeth Verde sat on the two cases.

Presentation: Robert Valois and Leonard Enos appeared to present the application. The applicant seeks to add a second floor to the structure and include seating, some covered, upstairs. He wishes to increase the economic capability of the business with the addition of covered seating.

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

Board Discussion: The Board questioned Mr. Valois and Mr. Enos about both applications. Before they render a vote on Case # 2006-032, the Board requested that the applicant submit:

- a seating chart, for zoning enforcement purposes, showing what is existing now and including the various entertainment set-up locations; and
- a plan showing the location of all potential seats that the applicant may want.

The case is continued until the Work Session on May 4, 2006.

2006-033

FINDINGS OF FACT:

- The proposal calls for a renovation of an entire structure which will be an improvement to the aesthetic nature of the building and therefore to the neighborhood;
- The second floor deck space will increase the viability of the business and make it an attractive focal point for tourists arriving via the pier and allow for more seating in inclement weather;
- The existing scale is 173.7 scale units;
- The allowable scale, as per the assessor's data, is 193.6 s.u.;
- The proposed scale is 224.81 s.u. and
- In this commercial district, the neighborhood consists of a number of large structures, including many quite a bit larger than the proposed building, therefore the proposed building will be harmonious with the surrounding neighborhood and thus in keeping with the intent of the Local Comprehensive Plan.

Peter Bez moved to grant a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to alter a pre-existing, non-conforming dimension and deviation in building scale at the property located at 315A-319 Commercial Street (TCC), Peter Page seconded and it was so voted, 5-0. Peter Bez will write the decision.

2006-034

41 Pleasant Street (Residential 3 Zone), Neal Kimball -

The applicant seeks a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws to alter a pre-existing, non-conforming structure along a non-conforming dimension and for a deviation in building scale. Steve Melamed disclosed that he has served on a board with one of the applicants, but

stated he felt that he could render a fair decision. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Elisabeth Verde sat on the case.

Presentation: Neal Kimball, Gabby Hanna and Marcy Feller appeared to present the application. The applicants seek to extend the structure upwards and change the footprint of the porch.

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

Board Discussion: The Board questioned Mr. Kimball. The applicants requested a withdrawal without prejudice of the portion of the application that requested a Special Permit under Article 3, Section 3110 and to proceed with the request for a Special Permit under Article 3, Section 3340E.

Steve Melamed moved to approve the request for a withdrawal without prejudice of the portion of Case # 2006-034 requesting a Special Permit under Article 3, Section 3110 of the Zoning By-Laws, Peter Bez seconded and it was so voted, 5-0.

FINDINGS OF FACT:

- The scale of the existing structure is 60.07;
- The allowed scale, as per the assessor's data, is 69.52 s.u.;
- The proposed scale is 87.58 s.u.;
- The proposed renovations to the structure are primarily in the rear of the main house, and therefore not visible from the street; and
- The renovation will not have an effect on the neighborhood and therefore will be in keeping with the intent of the Local Comprehensive Plan.

Peter Bez moved to grant a Special Permit under Article 3, 3340E of the Zoning By-Laws for a deviation in building scale at the property located at 41 Pleasant Street (Res 3), Patrick Eeley seconded and it was so voted, 5-0. Patrick Eeley will write the decision.

2006-035

8 Montello Street (Residential 3 Zone), Neal Kimball -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure along a non-conforming dimension. Peter Page recused himself because of a conflict of interest. Gary Reinhardt, Peter Bez, Steve Melamed, Patrick Eeley and Elisabeth Verde sat on the case.

Presentation: Neal Kimball appeared to present the application. The applicant seeks to convert a garage to an accessory use as an artist's studio and re-position it on the lot because of its close proximity to the street.

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

Board Discussion: The Board questioned Mr. Kimball.

FINDINGS OF FACT:

- The Board finds that this renovation of a structure will be a benefit to the Town by providing workspace for a talented, local artist and hopefully for artists in the future.

Peter Bez moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure along a non-conforming dimension at the property located at 8 Montello Street (Res 3), Steve Melamed seconded.

After reconsideration, the Board requested that the applicant submit revised plans showing the garage staying in its present location.

Peter Bez amended his motion to include a contingency that the applicant would submit revised plans showing the garage remaining in its existing location, Steve Melamed revised his second and it was so voted, 5-0. Steve Melamed will write the decision.

2006-036

11A Mermaid Avenue (Residential 1 Zone), Douglas Taylor -

The applicant seeks a Special Permit under Article 2, Section 2440 A7 of the Zoning By-Laws for the addition of a dwelling unit. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.

Presentation: Doug Taylor appeared to present the application. Mr. Taylor read a letter presenting his case. He seeks to build two units that look the same on the lot. He also submitted a letter from the fire chief saying that there is adequate access to the property for emergency vehicles.

Public Comment: Mary Anne Boswell, an abutter, spoke against the application. Mark Irving also spoke against the application.

Board Discussion: The Board questioned Mr. Taylor. After the discussion, the applicant requested a withdrawal without prejudice.

Peter Bez moved to accept the withdrawal without prejudice of Case #2006-036, Patrick Eeley seconded and it was so voted, 5-0.

The Board discussed the application of Todd Dever to join the Zoning Board of Appeals. Mr. Dever was briefly questioned by the Board. *Peter Bez moved to nominate Todd Dever to an alternate seat on the Zoning Board of Appeals for a term to expire on December 31, 2008, Peter Page seconded and it was so voted, 6-0.*

NEXT MEETING:

The next meeting will be on May 4, 2006 and will consist of a Work Session at 6:30 P.M. followed by a Public Hearing.

ADJOURNMENT:

Peter Bez moved to adjourn at 11:00 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 May 4, 2006.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini