

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
May 4, 2006

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies, Steve Melamed, Patrick Eeley, Elisabeth Verde and Todd Dever.

Members Absent: None.

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 6:30 P.M.

PENDING CASES:

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. Gary Reinhardt, Peter Bez, Peter Page, Patrick Eeley and Elisabeth Verde sat on the case.

Presentation: Robert Valois and Leonard Enos appeared to present the application. The applicant submitted a plan showing existing seating and entertainment locations for the first floor.

Board Discussion: The Board questioned Mr. Valois and Mr. Enos.

FINDINGS OF FACT:

- The hours of operation for the upstairs will be from 11:00 A.M. until 1:00 A.M.;
- The hours of operation for the downstairs will be from 6 A.M. until 1:00 A.M.;
- Entertainment shall be permitted from 11:00 A.M. until 1:00 A.M.;
- The total number of seats upstairs and downstairs will be 240 until such time as additional seats are added;
- The restaurant is located in the center of Provincetown and is one of the largest venues in town for restaurant use and special functions; and
- The change in seating allows the restaurant to better serve the community and provide for greater economic development, thus its benefit outweighs any of its adverse effects such as hazard, congestion or environmental degradation.

Patrick Eeley moved to grant 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 at the property located at 315A – 319 Commercial Street (TCC), Peter Bez seconded and it was so voted, 5-0. Patrick Eeley will write the decision.

PENDING DECISIONS:

2006-030 **338 Commercial Street (Town Commercial Center Zone), Sanette Groenewald -**

Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case. The applicant had submitted new seating plans to the Board. Patrick Eeley read the decision. *Steve Melamed moved to accept the language as written, Peter Bez seconded and it was so voted, 5-0.*

2006-031 **191 Commercial Street (Town Commercial Center Zone), Guillermo Yingling -**

Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Elisabeth Verde sat on the case. Peter Bez read the decision. *Steve Melamed moved to accept the language as written, Elisabeth Verde seconded*

and it was so voted, 5-0.

2006-033 **315A – 319 Commercial Street (Town Commercial Center Zone), Robert Valois -**
Gary Reinhardt, Peter Bez, Peter Page, Patrick Eeley and Elisabeth Verde sat on the case. Patrick Eeley read the decision. ***Peter Bez moved to accept the language as written, Elisabeth Verde seconded and it was so voted, 5-0.***

2006-035 **8 Montello Street (Residential 3 Zone), Neal Kimball -**
Gary Reinhardt, Peter Bez, Steve Melamed, Patrick Eeley and Elisabeth Verde sat on the case. The applicant submitted new site plans to the Board. Steve Melamed read the decision. ***Peter Bez moved to accept the language as written, Peter Page seconded and it was so voted, 5-0.***

Gary Reinhardt postponed the Work Session at 6:59 P.M.

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:00 P.M. and explained the Public Hearing procedures to the public. There were eight members of the Zoning Board of Appeals present and none absent.

REVIEW OF SPECIAL PERMIT #2003-055 for possible violations –Special Permit for service of food and alcohol to guests only of an inn at the property located at 80-82 Bradford Street (Residential 3 Zone).

Gary Reinhardt, Peter Page, Lynne Davies and Patrick Eeley sat on the case. Gary Reinhardt made a brief explanation of why the Zoning Board of Appeals requested this hearing to review Special Permit #2003-055 for possible violations. Presentation: Attorney Elliot Parkhurst and Tom Walter appeared to discuss the Special Permit. Both gave brief explanations of their understanding of the situation that gave rise to this review.

Public Comment: Patty Lloyd, John DeMatteus, Laura Beauregard, John DiGangi, Pip Quillan, Sheryl Palmer, Ernest Quintanilla and Amy Howell spoke favorably about Crowne Pointe. Ken Martin, an abutter, spoke of his concerns regarding other zoning violations at the property. There were 14 letters in the file in support of Crowne Pointe.

Board Discussion: The Board questioned Attorney Parkhurst and Mr. Walter. The Board concluded that it would replace the old Special Permit granted on August 5, 2004 with a new Special Permit effective as of May 26, 2006.

Lynne Davies moved to reverse the Special Permit granted to Boutique Hospitality, Inc. in Case # 2003-055 on August 5, 2004 under Article 2, Section 2460, pursuant to Article 5, Section 5330 of the Zoning By-Laws for the service of food and alcoholic beverages located at the property located at 80-82 Bradford Street and 4 Prince Street (Res 3) effective as of May 26, 2006, and also to grant a new Special Permit, under Article 2, Section 2460, pursuant to Article 5, Section 5330 of the Zoning By-Laws for the service of food and alcoholic beverages at the property located at 80-82 Bradford Street and 4 Prince Street (Res 3) with specific conditions, Peter Page seconded and it was so voted, 4-0. Gary Reinhardt, who wrote the decision, read it. Lynne Davies moved to accept the language as written, Peter Page seconded and it was so voted, 4-0.

2006-037

100 Shank Painter Road (General Commercial Zone), Cumberland Farms Store 2232

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outside display. Gary

Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Sheila Esposito and Dave Travis appeared to present the application.

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

Board Discussion: The Board questioned Ms. Esposito and Mr. Travis.

Peter Bez moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outside display for the property located at 100 Shank Painter Road (GC), Peter Bez seconded and it was so voted, 5-0.

2006-038 362 Commercial Street (Town Commercial Center Zone), Jill Vaughn -

The applicant seeks a Special Permit under Article 3 Section 3420 of the Zoning By-Laws for outside display. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Jill Vaughn appeared to present the application.

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

Board Discussion: The Board questioned Ms. Vaughn.

Lynne Davies moved to grant a Special Permit under Article 3 Section 3420 of the Zoning By-Laws for outside display at the property located at 362 Commercial Street (TCC), Peter Bez seconded and it was so voted, 5-0.

2006-040 13 Wareham 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 up and along a non-conforming dimension. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Neal Kimball and Mary Ellen Spingler appeared to present the application. The applicant seeks to open up the roof and add a full shed dormer on the west side of the structure.

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

Board Discussion: The Board questioned Mr. Kimball.

Steve Melamed moved to consider as a finding under the Goldhirsh v. McNear ruling, Lynne Davies seconded and it was so voted, 5-0.

Lynne Davies moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure up and along a non-conforming dimension as a finding under the Goldhirsh v. McNear ruling at the property located at 13 Wareham Street (Res 3), Steve Melamed seconded and it was so voted, 5-0.

2006-041 4 Center Street (Town Commercial Center Zone), Hal Winard -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure up and along a non-conforming dimension. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Hal Winard appeared to present the application. The applicant seeks to put safety rails on a flat roof.

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

Board Discussion: The Board questioned Mr. Winard.

Lynne Davies moved to consider as a finding under the Goldhirsh v. McNear ruling, Steve Melamed seconded and it was so voted, 5-0.

Lynne Davies moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure up and along a non-conforming dimension as a finding under the Goldhirsh v. McNear ruling at the property located at 4 Center Street (TCC), Steve Melamed seconded and it was so voted, 5-0.

2006-042 852 Commercial Street (Residential 1 Zone), John Reis -

The applicant seeks a Special Permit under Article 4, Section 4800 and Article 5, Section 5120 of the Zoning By-Laws to add an affordable dwelling unit. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Joy Reis appeared to present the application. The applicant seeks amnesty for an illegal apartment, which is also a unit of the condominium at the premises.

Public Comment: William Cody, John Petty, Michael Lynch, an owner of the illegal apartment, and Paula King, a unit owner at the condominium, spoke in favor of the application. Kevin Ainsworth, an abutter, Jeannette Belben and Doug Marr, unit owners at the condominium, spoke in opposition to the application. Attorney Robin B. Reid, representing three unit owners of the condominium, also spoke of

her clients many concerns regarding the unit in question. There were 7 letters in opposition and 4 in support of the application. Chair Gary Reinhardt is keeping the public portion of the application open due to the fact that the applicant was indecisive about having the case heard this evening or continuing it until the next hearing.

Board Discussion: The Board questioned Ms. Reis. The applicant chose to continue the case to the Work Session on May 18, 2006. In the meantime, the Building Inspector will make a site visit to determine whether the unit in question is a habitable dwelling.

2006-043 361A Commercial Street (*Town Commercial Center and Harbor Overlay District Zones*), Celine Gandolfo -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter two pre-existing, non-conforming structures up and along a non-conforming dimension. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Attorney E. James Veara and Reggie Donoghue, of Coastal Engineering, Inc., appeared to present the application. The applicant seeks to renovate two structures on the property that are in a state of serious disrepair and have been condemned by the Town. There will be no increase in the number of bedrooms, but a shift in bedrooms from one structure to the other.

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

Board Discussion: The Board questioned Attorney Veara and Mr. Donoghue. Fred Ambrose, representing the applicant, spoke to the Board's questions concerning second means of egress on the second floor in one of the structures. The Board requested that the applicant submit new plans in which the scale for the existing and the proposed structures are the same. They also suggested that the applicant consult with the Building Commissioner about the issue of egress and then revise their plans accordingly. The applicant requested a continuance until the Work Session on May 18, 2006.

2006-044 12 Ship's Way (*Residential 1 Zone*), John F. Crowley, III -

The applicant seeks an appeal of the Building Commissioner's decision under Article 5, Section 5223 of the Zoning By-Laws. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: John F. Crowley, III appeared to present his appeal. He is aggrieved by the Building Commissioner's support of a decision rendered by the Planning Board concerning a site plan review for the above-mentioned property.

Public Comment: Attorney E. James Veara, representing the owners of the property in question, argued against the appeal.

Board Discussion: The Board questioned Mr. Crowley. The Building Commissioner stated to the Board that he stood behind his decision.

Peter Bez moved to deny the request of the applicant to appeal a decision of the Building Commissioner, Steve Melamed seconded and it was so voted, 5-0. Gary Reinhardt will write the decision.

Chair Gary Reinhardt adjourned the Public Hearing at 10:18 P.M.

WORK SESSION

Chair Gary Reinhardt reconvened the Work Session at 10:18 P.M.

**2006-034 41 Pleasant Street (*Residential 3 Zone*), Neal Kimball -
*Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Elisabeth Verde sat on the case. Patrick Eleey read the decision. Steve Melamed moved to accept the language as written, Elisabeth Verde seconded and it was so voted, 5-0.***

MINUTES: April 20, 2006 – Steve Melamed moved to approve the language as written, Elisabeth Verde seconded and it was so voted, 7-0-1 (Todd Dever abstaining).

The Board briefly discussed an application to join the Board by Richard Corsino and decided to invite him to the hearing on June 1, 2006.

NEXT MEETING:

The next meeting will be on May 18, 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 10:40 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 18, 2006.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini