

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF JANUARY 18, 2001

Meeting Place: Second Floor Auditorium in Town Hall

The following minutes are available on-line as a service and are not the official record due to changes in formatting for the Internet. The minutes may have attachments that are not included here in this format. The official, complete paper copy can be viewed during regular office hours, Monday - Friday: 8 a.m. to 5 p.m. in the Office of the Town Clerk, 260 Commercial St. Provincetown, MA 02657.

Members Present: Gary Reinhardt (Chair), Peter Bez (Vice Chair), Ray Boylan (Clerk), Larry Mahan, Steve Melamed, Peter McDonough.

Members Absent: Barbara Gard (excused)

Others Present: Rachel Crosby (Recording Secretary)

WORK/TRAINING SESSION

From 5:30 P.M. and 7:00 P.M., the Board members met with facilitator Jon Witten and concerned members of the public and other town boards to discuss and receive training in the application of Massachusetts General Law section 40A and 40B.

PUBLIC HEARING

Chair Gary Reinhardt convened the public hearing at 7:10 P.M. and explained the public hearing procedures to the public. Six members of the Board were present and one was absent.

The members interviewed Esther Czynski for potential membership on the Board. *Peter Bez moved to appoint Esther Czynski to the Zoning Board of Appeals as an alternate member, Steve Melamed seconded and it was so voted, 6-0.*

MINUTES

January 4, 2001 – Steve Melamed moved to approve as written, Peter Bez seconded, and it was so voted, 6-0.

2001-006 175 Bradford Street Extension, David Silva - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Gary Reinhardt disclosed that he is on the abutters' list, but is neither an abutter nor an abutter to an abutter. Paul Silva appeared to present the application, which is for a special permit to allow beer and wine service. **Presentation:** Licensing agent overlooked requirement to appear before Zoning Board of Appeals in previous year. **Public Comment:** No one spoke in favor. Steve Zima spoke in opposition. Carol Carlson spoke with concerns. There was one letter in opposition and none in favor. **Board Discussion:** started serving beer and wine in July 2000; no complaints; hours of operation are from 11:30 AM to 10:00 PM.; alcohol served at inside counter, but cannot be taken off premises; do not have a separate bar; alcohol license runs with the land and could be transferred to new owner; permit could be time conditioned. *Peter Bez moved to grant for one year (expires on December 31, 2001) with hours of operation to be from 11:30 AM to 10:00 PM, Larry Mahan seconded and it was so voted, 5-0.* Peter Bez will write the decision.

2001-007 65B Commercial Street, William Rogers II on behalf of Judy Mencher and Martha Epp - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. Gary Reinhardt disclosed that he is on the abutters' list, but is neither an abutter nor an abutter to an abutter. Gary Locke appeared to present the application, which is for a special permit to raise the existing screen/sun porch roof along existing lines by one foot. **Presentation:** discussion of architectural plans. **Public Comment:** No one spoke either in favor or opposition. There were no letters in file. **Board Discussion:** listing of existing non-conformancies; extending upward and westerly along rear line setback. *Peter Bez moved to*

approve under Goldhirsch, Steve Melamed seconded and it was so voted, 5-0. Peter Bez wrote the decision using the standard Goldhirsch decision form.

2001-008 378 Commercial Street, David Morgan and Steven Abramson - Gary Reinhardt, Ray Boylan, Larry Mahan, Steve Melamed, Peter McDonough sat on case. Thom Thompson, David Morgan and Steven Abramson appeared to present the application, which is for a special permit to rebuild and expand a dormer along pre-existing, non-conforming line. **Presentation:** not increasing non-conformancy; will be a shed roof. **Public Comment:** No one spoke either in favor or opposition. There were no letters in file. **Board Discussion:** scale calculation discussion; will increase volume by 240 cubic feet; top level is considered an attic; is a contributing historic structure; Historic Commission approves. *Steve Melamed moved to grant, Ray Boylan seconded and it was so voted, 5-0.* Ray Boylan will write the decision.

2000-080 441B Commercial Street, Joel Jeffrey Ouellet - Attorney Chris Snow appeared to present the application, which is due to the applicant being aggrieved by the cancellation of a variance and building permit and by an issued Stop Work Order by the Building Commissioner. Mr. Snow requested a indefinite continuance with a waiver of time constraints and the Board granted the continuance pending receipt of a written request.

2001-009 441B Commercial Street, Joel Jeffrey Ouellet - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Attorney Chris Snow and Mr. Ouellet appeared to present the application, which is to reinstate a previously granted variance allowing change of the non-conforming use (retail space) to a conforming use (dwelling unit) on a lot of insufficient size as well as relief from the parking requirements. **Presentation:** This is the third request for a variance; last variance granted in 1995; Title V septic system has since been installed and certified; was previously used as an artist supply store (until 1993 or 1994); retail use has been abandoned and could not be continued without a variance; requesting a resumption of the conversion of unit to residential purposes; uses in this zoning district are only residential; has been utilized as a residence; Building Commissioner has complained about its use as a residence without a certificate of occupancy; owner has received two prior variances to convert to a residence; applicant has not communicated well with Building Department and has had financial and health problems; has not been able to complete conversion; has contractor committed to completing project with 120 days and has signed contract; applicant has invested \$98,000 in property; could convert to a gallery use; would be a one-bedroom residence; will connect to sewer system. **Public Comment:** No one spoke either in favor or opposition. There were no letters in file. **Board Discussion:** review of variance criteria; reference 1995 variance decision; applicant says hardship is that seaward boundary is 1939 mean high water mark, thereby unusually limiting size of lot; lot does not have sufficient square footage for four dwelling units; previous Zoning Boards may have acted in error; Building Commissioner Warren Alexander stated that the applicant needs to get relief from the Board, but other issues (such as with Building Code) could be resolved; question of what other uses the property could be put without zoning relief; lot is technically not big enough for one dwelling unit; possible need to get opinion from Town Counsel; property has been taxed by Town as a retail space; possibility of Board allowing a constructive grant; question of whether reinstating a variance allows less strict interpretation of the variance by-law. Taken under consideration.

Chair Gary Reinhardt closed the Public Hearing at 9:05 P.M.

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 9:45 P.M.

MODIFICATION

2000-78 111 Race Point Road, Lisa Casselano on behalf of Joseph Borgesi - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. Lisa Casselano appeared and presented new plans showing two horse sheds instead of one. **Board Discussion:** whether modification requires a new public hearing; applicant is entitled to a second building. *Peter Bez moved to hear this request as a modification not requiring a second hearing, Larry Mahan seconded and it was so voted, 5-0.* Each shed is only 10' by 10'. Will now be box stalls. *Peter Bez moved to approve the modification, Larry Mahan seconded and it was so voted, 5-0.*

PENDING CASES

2001-004 351A Commercial Street, Binder, Boland and Associates on behalf of Nelson Hitchcock and Corey Kustes – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. Regina Binder and Thom Thompson appeared to discuss the application. **Board Discussion:** flat roof may be permissible; certified site plan was presented; applicant does not now want a flat roof and presented plans for gabled roof; question of whether change would require a new public hearing; discussion of removing a non-conforming building and then rebuilding a conforming structure; applicant will withdraw the application for the flat roof. *Steve Melamed moved to grant, Larry Mahan seconded and it was so voted, 5-0.* Larry Mahan will write the decision.

2001-005 5-15 Bradford Street, Kimberly Medeiros on behalf of Moors Realty Trust – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Pending resolution of issues with abutters.

PENDING DECISIONS

2001-001 404 Commercial Street, John Guerra on behalf of Romaco, LLC – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Peter Bez read the decision. *Larry Mahan moved to approve the decision as written, Peter Bez seconded, and it was so voted, 5-0.*

2001-003 283 Bradford Street, Robin Reid, representing the Provincetown Repertory Theatre, Inc. on behalf of Duarte Motors, Inc. – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. Steve Melamed read the decision. *Larry Mahan moved to approve the decision as amended, Ray Boylan seconded, and it was so voted, 5-0.*

MISCELLANEOUS

- ⌘ Next meeting will be on February 1, 2001 at 7:00 P.M.
- ⌘ Judith Oset, Director of Department of Regulatory Management, has produced new instructions for applicants allowing the Board to more easily review applications for completeness.

ADJOURNMENT

Peter Bez made a motion to adjourn at 9:58 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

\_\_\_\_\_ *Rachel Crosby*  
Title On-call secretary