

# TOWN OF PROVINCETOWN

## ZONING BOARD OF APPEALS

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### MEETING MINUTES OF MARCH 29, 2001

#### Meeting Held in Town Hall

**Members Present:** Gary Reinhardt (Chair), Peter Bez (Vice Chair), Larry Mahan, Esther Czyoski, Peter McDonough, Steve Melamed, Ray Boylan (Clerk – arrived at 7:00 PM)

**Members Absent:** None

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

#### WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:45 PM.

#### PENDING CASES

**2001-016 250 Bradford Street, Anthony Vevers** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Steve Melamed sat on case. Gary Reinhardt announced the Board had received a letter from the applicants waiving time restraints and that the Board would wait until after Town Meeting to decide this case.

#### PENDING DECISIONS

**2001-021 237-241 Commercial Street, Kenneth G. Ross on behalf of Whaler's Wharf, LLC.** - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Gary Reinhardt read the decision. *Peter Bez moved to approve the decision as written, Larry Mahan seconded and it was so voted, 4-0, 1 absent (Ray Boylan).*

#### ADMINISTRATIVE CHANGE

**2000-054 409 Commercial Street, Robert Valois on behalf of John Anderson** –Gary Reinhardt, Peter Bez, Barbara Gard, Ray Boylan, Larry Mahan sat on case. Mr. Valois appeared to discuss the request for change, which is to totally reconstruct the building, rather than renovate it. **Board Discussion:** nothing will change in the final configuration of the building. *Peter Bez moved to accept the administrative change, Larry Mahan seconded and it was so voted, 3-0, 1 absent (Ray Boylan), 1 deceased (Barbara Gard).*

#### MINUTES

March 15, 2001 – *Peter Bez moved to approve as written, Larry Mahan seconded, and it was so voted, 5-0, 1 abstain (Steve Melamed).*

Ray Boylan arrived at 7:00 PM

#### PUBLIC HEARING

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

**2001-070 143 Commercial Street, Christopher J. Snow on behalf 141-143 Commercial Street Realty Trust** – Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Esther Czyoski sat on case. Christopher Snow appeared to present the application which is for a Special Permit to alter, extend or change a pre-existing non-conforming structure along non-conforming dimensions without intruding further into existing setbacks. **Presentation:** Mr. Snow apologized to the abutters for the fact that the application had been

repeatedly continued and re-advertised; seeking Board relief for front portion, where an addition is proposed over non-conformity without extending further into setback; Mr. Snow explained how the legal difficulties involving the property had been settled; no exacerbation of property uses, which will be a combination of retail and residential; not changing footprint. **Public Comment:** No one spoke either in favor or opposition. There was one letter in opposition and none in favor. **Board Discussion:** With the applicant's agreement, the public hearing on this application will be left open to allow neighbors time to review the new plans. Mr. Snow asked that the hearing be continued until a date when he could be present to respond to additional public comments. Gary Reinhardt said that the Board would contact Mr. Snow if they needed further information from him. Plans are now final; applicant intends to demolish and reconstruct building and needs the word "demolition" included in decision. Gary Reinhardt suggested that the plans include the word "reconstruction" rather than "renovation" and the Mr. Snow agreed to make that change.

**2000-080** **441B Commercial Street, Joel Jeffrey Ouellet** - Application 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. *Case postponed at applicant's request. Gary Reinhardt asked Mr. Snow to provide a waiver of time constraints at the next meeting.*

**2001-022** **82 Bradford Street, Thomas Walter on behalf of Crowne Pointe Realty Trust** – Gary Reinhardt, Ray Boylan, Larry Mahan, Peter McDonough, Steve Melamed sat on case. Mr. Erenberg and Mr. Walters appeared to present the application, which is for a Special Permit to alter a pre-existing non-conforming structure with no increase in non-conformancy by enclosing the porch with temporary storm panels. **Presentation:** need additional heated seating for breakfast in winter; wants to install removable storm panels around existing porch; already presented to Historic Commission. **Public Comment:** There were no speakers either in favor or opposition. There were no letters in file. **Board Discussion:** will be adding a door to the porch; will be heated via an in-floor radiant system; may use screens in the summer. *Steve Melamed moved to grant, Larry Mahan seconded and it was so voted, 5-0.* Applicant will modify plans to show what work is being done and where. Steve Melamed will write the decision.

Steve Melamed was excused and left the meeting at 7:35 P.M.

**2001-023** **460 Commercial Street, Diane Shumway on behalf of Provincetown Art Association and Museum** – Gary Reinhardt, Ray Boylan, Peter Bez, Larry Mahan, Esther Czyoski sat on case. Ms Shumway appeared to present the application, which is for a Special Permit to allow entertainment. **Presentation:** wants a continuous special permit for art openings and other events. **Public Comment:** No one spoke in favor. Ms Prado(?) spoke with concerns. There were no letters in file. **Board Discussion:** planning on having concerts, lectures, slide shows, art openings; hours to be from Noon to 10:00 PM; would still need to get entertainment license from Licensing Board; *Ray Boylan moved to grant, Esther Czyoski seconded, and it was so voted, 5-0.* Esther Czyoski will write the decision.

**2001-024** **5 Fritz's Way, Donald Dickinson on behalf of Habitat for Humanity of Cape Cod** - The application is for a Special Permit to exceed the allowed building scale. *Applicant had requested a continuance.*

**2001-026** **543 Commercial Street, Christopher Giskis on behalf of Provincetown Hospitality** - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on case. Application, which is for a Special Permit to alter a pre-existing non-conforming structure. Gary Reinhardt said that the applicant had applied in error for Zoning Board of Appeals approval. Applicant had subsequently submitted a written request to withdraw without prejudice. *Peter Bez moved to accept the withdrawal without prejudice, Larry Mahan seconded and it was so voted, 5-0*

**2001-027** **243-249 Commercial Street, E. James Veara on behalf of Lee Morgan Realty Trust** – Gary Reinhardt, Ray Boylan, Larry Mahan, Peter McDonough, Esther Czyoski sat on case. Mr. Veara appeared to present the application, which is to renew a Special Permit for entertainment. **Presentation:** previous special permit had a one-year limit; Mr. Veara distributed a draft decision, eliminating the one-year limit; saying the applicant needs an immediate decision to be able to meet closing requirements on sale of property. **Public Comment:** Mr. Walters spoke in favor. There were no speakers in opposition. There were no letters in file. **Board Discussion:** reasons for original special permit time limit; public access to water is now clear of obstructions; signage and trash barrel will be added. *Peter McDonough moved to grant, Larry Mahan seconded and it was so voted, 5-0.* Gary Reinhardt read the decision prepared by Mr. Veara. *Ray Boylan moved to accept the decision, Larry Mahan seconded and it was so voted, 5-0.*

2001-025

**243-249 Commercial Street Adam Erenberg on behalf of Crown and Anchor, LLC** – Gary Reinhardt, Ray Boylan, Larry Mahan, Peter McDonough, Esther Czyoski sat on case. Gary Reinhardt explained in detail why he has no conflict in sitting on this application. Gary Reinhardt said he had disclosed his circumstances in writing to the Board of Selectmen and that the applicant had agreed that it was appropriate for Mr. Reinhardt to sit on the application. Mr. Erenberg and Ms. Gershwin appeared to present the application, which is for a Special Permit to allow service of food with outdoor seating and change of service area. **Presentation:** location of restaurant seats to be clearly defined on plans; different plans for winter and summer; Vault Bar will be expanded into storeroom, without an increase in occupancy; Lobby Bar and Patio seating plan will have different arrangements, depending on season; applicant read a letter of approval, dated March 27, 2001, from Brian Dudley, DEP, Bureau of Resource Protection; the addition of restaurant seats will be offset by a reduction in bar capacity, the resulting reallocation does not constitute an increase in septic flow; **Public Comment:** No one spoke either in favor or opposition. There were two letters in support and none in opposition. **Board Discussion:** currently has a license for a 50 seat restaurant; are shifting bar seats from Lobby Bar to restaurant; has inn holder license, but area of food service has never been clearly defined; how individual room building code capacities were calculated relative to the 800 flexible-seating/total people limit (excluding hotel rooms) previously granted; restaurant seats will be included in 800; how pool/patio area is to be considered; Vault Bar occupancy will not be changed; when seasonal shift in seating would occur (dependent on weather); Building Commissioner commented that the Town had received numbers for the capacity for individual rooms and bars from the architect and had required that the owner post those capacities. The total building code capacity might exceed 800 with patio included. The onus is on the owners to control the total number of people in the areas covered by the special permits. Ms Gershwin requested that the Board hold a special meeting to approve a decision that she would prepare. Gary Reinhardt offered the opinion that there was nothing to stop the service of food in the Lobby Bar at the present time. The only delay in waiting until April 19<sup>th</sup> for the Board’s decision would be in using the additional seating in Cabaret #1 and in enlarging the Vault. **Ray Boylan moved to grant, Larry Mahan seconded and it was so voted, 5-0.** Gary Reinhardt will write the decision.

Chair Gary Reinhardt closed the Public Hearing at 8:42 P.M.

**MEETING SCHEDULE**

⌘ Next meeting will be on April 17, 2001 at 6:30 P.M.

**ADJOURNMENT**

***Peter Bez moved to adjourn at 8:44 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:

\_\_\_\_\_  
Zoning Board of Appeals Signature

\_\_\_\_\_  
Title

***Rachel Crosby***  
On-call secretary