

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF JULY 5, 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 6:30 PM.

PENDING DECISIONS

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. The Board reviewed revised seating plans. Peter Bez read the decision. *Esther Czyoski moved to approve the decision, Peter McDonough seconded and it was so voted, 5-0.*

PENDING CASES

2001-034 545 Commercial Street, Lester Murphy on behalf of Provincetown Hospitality, LLC - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Lester Murphy and Mr. Gistis appeared to answer questions. **Board Discussion:** various possible conditions for approval; expensive guest rooms above deck will compel management to limit noise; initially condition permit to one year; require owner to work with neighbors to control parking and noise; possibility of use of lounge by conventions; are eliminating owner's quarters to create lounge space; Peter Bez expressed his discomfort about sitting on this case; is in a Class W Residential zone; is a pre-existing non-conforming use which can be extended; owner purchased a hotel in the middle of a residential neighborhood; could simply build a lobby to provide space for guests to relax; remote location will limit attraction for rowdy party-goers; question of benefits or adverse effects to Town or neighborhood; question of "better class" of lodging; whether more expensive is necessarily better; which amenities are attractive to what type of tourist; question of whether lounge could be created without alcohol (no); nearby restaurant was grandfathered when residential zone was created; *Esther Czyoski moved to approve with the following conditions: hours of food service operation to be 7:00 AM to 11:00 PM; alcohol service from noon to 11:00 PM; doors to deck closed and locked at 10:00 PM; no stand-alone public signage or advertising specifically for the lounge; special permit to expire December 31, 2002 (lounge will not open until 2002 season); no onsite parking for lounge patrons; Health Agent must certify change will not increase Title V septic system design flow., Peter Bez seconded and it was so voted, 4-1 (Peter McDonough).* Esther Czyoski will write the decision.

Gary Reinhardt postponed the Work Session at 7:08 P.M.

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 none were absent.

2001-048 368 Commercial Street, Chhring Chomo Lama on behalf of Lenore Luttinger – Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Chhring Chomo Lama

appeared to present the application which is for renewal of a Special Permit for outdoor display. **Presentation:** no changes from previous permit **Public Comment:** No one spoke either in favor or opposition. There were no letters in file. **Board Discussion:** displays are flat against building. *Peter McDonough moved to grant, Peter Bez seconded, and it was so voted, 5-0.* Peter Bez wrote the decision using the standard outside display decision form.

2001-049 **15 Carnes Lane, Jon Salvador** – Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Mr. Reis appeared to present the application which is for a Special Permit to exceed the building scale. **Presentation:** details are the same as an earlier application. **Public Comment:** No one spoke either in favor or opposition. There was one email in favor. **Board Discussion:** using same scale calculations as in previous application; applicant must get and present Assessors' scale calculations; concerns about size of proposed dormer and possibility of exceeding number of allowed stories; Building Commissioner's written opinion is that fully exposed basement constitutes a full story; existing dormer is livable space; completed building, at its maximum, will be 163 scale units and neighborhood average is 90 scale units; owner willing to reduce size of dormer; new addition will be on a slab foundation; current building is 106 scale units; possibility of site visit; very private neighborhood; possible way to grant approval is to determine proposed structure is harmonious with surrounding neighborhood; could place deed restriction on property limiting sub-division rights; current lot coverage is only 8%. Board will conduct individual site visits and reconsider.

2001-050 **16 MacMillan Wharf, Expedition Whydah Sea Lab & Learning Center on behalf of Provincetown MacMillan RealtyTrust, Inc** – Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Mr. Kencour(?) appeared to present the application which is for a Special Permit for outdoor display. **Presentation:** wants to have a pushcart for information dissemination and for ticket sales; will alleviate congestion on public walkway; wants to have two possible locations. **Public Comment:** No one spoke either in favor or opposition. There were no letters in file. **Board Discussion:** cart must be 10 feet away from public way; applicant specified items to be displayed. *Peter Bez moved to grant, Larry Mahan seconded and it was so voted, 4-0, 1 abstain (Peter McDonough).* Peter Bez wrote the decision using the standard outside display decision form.

2001-051 **406 Commercial Street, Pat Shultz Real Estate on behalf of Susan J. Davis** - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Application is for renewal of a Special Permit for outdoor display. Gary Reinhardt explained why he does not have a conflict of interest and may therefore sit on this application. **Public Comment:** No one spoke either in favor or opposition. There were no letters in file. **Board Discussion:** outdoor display permits must be renewed every three years. *Larry Mahan moved to grant, Peter McDonough seconded and it was so voted, 5-0.* Peter Bez wrote the decision using the standard outside display decision form.

2001-052 **374 Commercial Street, Swan Associates Real Estate on behalf of BJWG Corporation** - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Mr. Klaus Betten appeared to present the application which is to renew a special permit for outdoor display. **Presentation:** No changes from previous permit. **Public Comment:** No one spoke either in favor or opposition. There were no letters in file. **Board Discussion:** outdoor display permits must be renewed every three years. *Peter Bez moved to grant, Esther Czyoski seconded and it was so voted, 5-0.* Peter Bez wrote the decision using the standard outside display decision form.

Chair Gary Reinhardt closed the Public Hearing at 8:05 P.M.

WORK SESSION

Chair Gary Reinhardt reconvened the Work Session at 8:05 P.M.

PENDING CASES

2001-041 **48 Shank Painter Road, Jane Taves** - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Steve Melamed sat on case. The applicant has submitted a letter asking to withdraw without prejudice. *Larry Mahan moved to accept the withdrawal without prejudice, Steve Melamed seconded.* **Board Discussion:** applicant plans to appeal decision of Building Commissioner on grounds that the Department of Regulatory Management granted permit in error. Steve Melamed stated that he felt the applicant's strategy was designed to circumvent the zoning by-laws. *The Board voted to deny the motion, 1-4 (Peter Bez, Larry Mahan, Esther Czyoski, Steve Melamed).* **Board Discussion:** whether

denial of this application (2001-041) would prevent the applicant from returning with the second application. *Steve Melamed moved to deny this application (2001-041) as submitted, Peter Bez seconded and it was so voted,5-0.* Peter Bez will write the decision. **Board Discussion:** possible need to seek legal opinion on second application; whether citizen complaint was filed within time limits; whether Building Commissioner was within rights to issue stop work order; are existing buildings grandfathered under new scale bylaw; whether 250 foot circle previously used for scale calculations was still in effect (yes).

MINUTES

June 21, 2001 – *Peter Bez moved to approve Larry Mahan seconded, and it was so voted, 6-0 .*

June 25, 2001 (Work Session) – *Esther Czyoski moved to approve, Peter Bez seconded, and it was so voted, 5-0, 1 abstain (Larry Mahan).*

MISCELLANEOUS

- ⌘ Next meeting will be on July 19, 2001 at 6:30 P.M.
- ⌘ Gary Reinhardt announced that Peter McDonough is now a regular Board member.
- ⌘ The Board discussed whether, once an application was presented, other issues related to or violations of the zoning by-laws at the property in question can be considered.

ADJOURNMENT

Peter Bez moved to adjourn at 8:35 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 \_\_\_\_\_, 2001

Respectfully Submitted:

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

\_\_\_\_\_  
Title

*Rachel Crosby*  
On-call secretary