

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF AUGUST 2, 2001

Meeting Held in Town Hall

Members Present: Gary Reinhardt (Chair), Peter Bez (Vice Chair), Larry Mahan (Clerk), Esther Czyoski, Peter McDonough, Steve Melamed

Members Absent: None

Others Present: Rachel Crosby (Recording Secretary)

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:35 PM.

PENDING CASES

2001-053 4 Commodore Avenue, Peter A. T. Page on behalf of James Anderson – Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case.

Board Findings of Fact:

- Property is in B Zoning District
- Neighborhood Average scale units = 35.88.
- Allowable scale units = 44.85.
- Proposed scale units = 53.78.
- Character of neighborhood is a mixture of large and small structures.
- Abutting cottage colony contains a building of 53.19 scale units.

Peter Bez made a motion to grant a special permit for scale under Article 7, Section 77102E of the Zoning By-Laws to the property located at 4 Commodore Avenue, Esther Czyoski seconded and it was so voted, 4-1 (Gary Reinhardt). Peter Bez will write the decision.

PENDING DECISIONS

2001-054 48 Shank Painter Road, Jane Taves – Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Peter Bez read the decision. *Larry Mahan moved to accept the decision as written, Esther Czyoski seconded.* The members discussed whether any further action by the Board should or could be taken on this case and expressed frustration over the fact that the Building Commissioner had withdrawn the Stop Work Order. *The motion was approved by a voted of 5-0.*

2001-055 211A Bradford Street, Town of Provincetown Recreation Commission represented by Dennis Clark - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Esther Czyoski read the decision. *Peter Bez moved to accept as written, Peter McDonough seconded and it was so voted, 5-0.*

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

PUBLIC HEARING

Chair Gary Reinhardt convened the public hearing at 7:05 P.M. and explained the public hearing procedures to the public. Six members of the Board were present and none were absent.

2001-057 386 Commercial Street, James Kenneth Barge on behalf of 386 Commercial Street Realty Trust - Gary Reinhardt, Peter Bez, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. Mr. Barge appeared to present the application which is for a Special Permit for outside display under Article II Section 2420 of the Zoning By-Laws. **Presentation:** Neighbors support application; display will be 10 feet from

street; **Public Comment:** No one spoke either in favor or opposition. Building Commissioner Warren Alexander commented that the items displayed (currently without a permit) do not appear to be set back far enough from the street. There were four letters in favor. There were no letters in opposition.

Peter Bez made a motion to grant a special permit for outside display under Article II Section 2420 of the Zoning By-Laws to the property at 386 Commercial Street, Peter McDonough seconded and it was so voted, 5-0. Peter Bez wrote the decision using the standard outside display decision form.

2001-056 247 Commercial Street, Crown and Anchor, LLC represented by Adam Erenberg – (continued from July 19, 2001). Gary Reinhardt, Larry Mahan, Esther Czyoski, Peter McDonough sat on case. The applicant agreed to accept a four member Board. Gary Reinhardt explained why Peter Bez and Steve Melamed had stepped down and also clarified why he did not have a conflict of interest. Ms Gershwin and Mr. Walker appeared to present the application which was filed because the applicant is aggrieved by a decision of the Building Commissioner regarding sign violations. Building Commissioner Warren Alexander raised an objection, stating that the hearing should not be held because proper appeal filing processes had not been followed. He suggested that the applicant withdraw and re-apply for a special permit. Mr. Alexander read from the pertinent State statutes and reviewed the history of the sign violations. Ms Gershwin and Mr. Walker explained their understanding of the issues involved. The applicant submitted a written request to withdraw without prejudice. *Larry Mahan moved to accept the withdrawal without prejudice, Esther Czyoski seconded and it was so voted, 4-0.*

Chair Gary Reinhardt closed the Public Hearing at 7:45 P.M.

WORK SESSION

Chair Gary Reinhardt reconvened the Work Session at 7:45 P.M.

MODIFICATIONS

2001-011 232 Bradford Street, Richard Wrigley - Gary Reinhardt, Peter Bez, Ray Boylan, Larry Mahan, Peter McDonough sat on the original case. Mr. Wrigley appeared to discuss the request for modification. **Presentation:** has reduced scale of proposed house and changed footprint. *Peter Bez moved to accept the modification as a simple administrative change not requiring a new public hearing, Larry Mahan seconded and it was so voted, 4-0, 1 absent (Ray Boylan is no longer on the Board).*
Peter Bez moved to grant the modification, Peter McDonough seconded and it was so voted, 4-0.

MISCELLANEOUS

- ❖ The Board discussed the problems with the signs at the Crown and Anchor with Building Commissioner Warren Alexander.
- ❖ **2001-054, 48 Shank Painter Road, Jane Taves** - The Board discussed this case with Building Commissioner Warren Alexander. Mr. Alexander explained why he had withdrawn the Stop Work Order and the Board members explained why they felt that withdrawal had undermined the authority of the Zoning By-Laws and the Zoning Board of Appeals. The Board discussed whether they could direct the Building Commissioner to reinstate the Stop Work Order. Mr. Alexander confirmed that in six years the structure would be past the statute of limitations and would be considered a legal building. *Peter McDonough moved to petition the Board of Selectmen via a letter to vigorously enforce the decision made by the Zoning Board of Appeals on this property, Steve Melamed seconded, but the motion was denied by a vote of 2-4 (Gary Reinhardt, Peter Bez, Esther Czyoski, Steve Melamed).*
Peter Bez moved to write a letter to the Board's appointing authority (the Board of Selectmen) expressing the Board's disappointment that the two Zoning Board of Appeals' decisions on this property were not going to be defended by the Town, Peter McDonough seconded, but the motion was denied by a vote of 3-3 (Gary Reinhardt, Larry Mahan, Esther Czyoski)

MINUTES

July 19, 2001 – *Larry Mahan moved to approve as written, Peter Bez seconded, and it was so voted, 5-0, 1 abstain (Steve Melamed).*

NEXT MEETING

⌘ Next meeting will be on August 23, 2001 at 6:45 P.M.

ADJOURNMENT

Larry Mahan moved to adjourn at 8:56 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:

\_\_\_\_\_ *Rachel Crosby*  
Zoning Board of Appeals Signature      Title On-call secretary

Received; Town Clerk, SJN/gwd/, August 6, 2001, 8:05 am