

TOWN OF PROVINCETOWN

ZONING BOARD OF APPEALS

MEETING MINUTES OF DECEMBER 20,2001

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt (Chair), Estherann Czyoski, Peter Page, Steve Melamed,
Peter McDonough

Members Absent: Peter Bez (excused), Larry Mahan (unexcused)

Others Present: Ellen C. Battaglini (Recording Secretary)

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6:30 P.M.

PENDING CASES

1999-068

32 Conwell Street, Ted Malone -

Gary Reinhardt, Estherann Czyoski, Peter Page, Steve Melamed, Peter McDonough sat on request. Applicant requests approval of minor modification to previously approved Special Permit for 32 Conwell Street and a determination that said changes are not significant and thus do not warrant a new public hearing. Ted Malone appeared to present the request. Mr. Malone stated that he realized that significant changes or modifications to a site plan require a review by the Planning Board and the Zoning Board of Appeals, but he believes that the changes, which he went on to enumerate, are minor and thus do not warrant a new public hearing. He further stated that in July of 1999, he appeared before the Board to request a Special Permit to increase the number of dwelling units on the property. That number remains the same. There were no questions or comments from the Board. *Steve Melamed moved to accept minor modifications to a previously approved Special Permit (Case # 99-068) for 32 Conwell Street and to determine that said changes are not significant enough to warrant a new public hearing. Peter McDonough seconded and it was so voted, 5-0.*

TOWN CLERK

2001-039

619 Commercial Street, Hal Winard on behalf of Sherry Turkle -

Gary Reinhardt, Estherann Czyoski, Peter McDonough, Steve Melamed, Peter Page sat on request. Applicant requests approval of minor modifications to a previously approved Special Permit for 619 Commercial Street and a determination that said changes are not significant and thus do not warrant a new public hearing. Hal Winard presented the request of the applicant who wants to change a roofline and eliminate a section on the east side of the building to make the structure less non-conforming. The applicant wants to change a shed roof to a gable roof. The applicant had previously appeared in June of 2001 requesting a Special Permit to raise the roofline. Gary Reinhardt questioned Mr. Winard as to whether he should be appearing before the Board and indicated that he would like to confer with the Building Inspector to clarify that issue. The case was thus postponed until the end of the agenda.

2001-071

207A Bradford Street, Edward E. Veara on behalf of Julie Schecter -

(continued from December 6, 2001)

Gary Reinhardt, Larry Mahan, Peter McDonough, Peter Bez, Estherann Czyoski sat on case on December 6, 2001, when the case was continued, but with the absence of two of these members, a quorum was not present. Gary Reinhardt stated that Larry Mahan would need to be present in order for a quorum. Attorney Ben Zehnder appeared for the applicant who requests a Variance from the minimum lot frontage requirements under Article 1, Section 1320 of the Zoning By-laws. Attorney Zehnder took questions from the Board. Since a quorum was not present, Gary Reinhardt stated that the Board could discuss the case after the Public Hearing in anticipation of Larry Mahan showing up to provide a quorum. He further indicated that the Board had enough votes to deny, but not enough to grant a Variance. Attorney Zehnder stated that he would rather not wait until the end of the Public Hearing, but requested a consensus from the Board as to how they would vote. Attorney Zehnder then left the room to consult with his client.

2001-039

619 Commercial Street, Hal Winard on behalf of Sherry Turkle -

Gary Reinhardt asked the Building Inspector, Warren Alexander, who was seated in the meeting room, to clarify the issue of **Case 2001-039**, including why he, Mr. Alexander, directed Mr. Winard to appear before the Board. Mr. Alexander responded and Mr. Reinhardt reiterated that the case would be discussed after the Public Hearing.

2001-071

207A Bradford Street, Edward E. Veara on behalf of Julie Schecter -

Attorney Zehnder appeared before the Board again and requested that his client be allowed to withdraw her application without prejudice. *Peter McDonough moved to accept the withdrawal of the application without prejudice, Estherann Czyoski seconded, and it was so voted, 3-0, 2 absent*

Chair Gary Reinhardt postponed the Work Session at 7:14 P.M.

PUBLIC HEARING

Chair Gary Reinhardt convened the public hearing at 7:16 P.M. and explained the public hearing procedures to the public. Five members of the Board were present and two were absent. The Chair then announced that **Case # 2001-082** would be taken out of order and that Cases # **2001-078 and 4 2001-082** would be discussed together.

2001-078 104 Bradford Street (Residential Class W Zone), Gabriel Brooke on behalf of Provincetown Purchase Trust -

Gary Reinhardt, Estherann Czyoski, Peter Page, Steve Melamed, Peter McDonough sat on case. Thom Thompson, Gabriel Brooke and Neal Kimball appeared to present the application that seeks to extend a pre-existing non-conformancy by putting in a raised roofdormer combination at the property located at 104 Bradford Street. **Presentation:** Mr. Thompson indicated that the structure will not only be made safer, and would thus be brought more in compliance with the State Building Code, but that the appearance of the building would be improved.

Public Comment: Two members of the public spoke in opposition to the application. There was one letter that questioned the project's encroachment on town property. The Board then directed questions to Mr. Thompson.

FINDINGS OF FACT:

- Existing roofline over Adrienne Rich suite is at a height of 23%
- Proposed roof height will be 27%
 - Existing sleeping loft in Adrienne Rich suite does not conform to Massachusetts State Building Code;
 - Proposed sleeping loft will conform to the Massachusetts State Building Code;
 - Footprint is not changed; and
 - Proposed height of the roof and dormer is less than the height of the main house roof, which is 32'.

Steve Melamed moved to extend a pre-existing non-conformancy under Article H Section 2110 of the Zoning By-Laws at the property located at 104 Bradford Street (Residential Class WZone), Esterann Czyoski seconded and it was so voted, 5-0. Steve Melamed will write the decision.

2001-082 102 Bradford Street (Residential Class W Zone), Neal Kimball on behalf of Gabriel Brooke -

Gary Reinhardt, Peter Page, Esterann Czyoski, Steve Melamed, Peter McDonough sat on case. Thom Thompson, Gabriel Brooke and Neal Kimball appeared to present the application. Applicant seeks a Special Permit under Article I Section 13 00 and Article 11 Section 2110 of the Zoning By-Laws to remove and reconstruct a one-story addition and add a second story along a non-conforming dimension at the property located at 102 Bradford Street.

Presentation: Neal Kimball stated that the intention of this project is to remove and renovate the structure located at 102 Bradford Street and blend the rooflines of this building and the rest of the house by raising and adding a second story to that structure. **Public Comment:** Three abutters to the property spoke in opposition. There were no letters in the file. **Board Discussion:** The Board questioned Mr. Kimball and Ms. Brooke as to whether the single-family house will be renovated as such or will become a guesthouse and Ms. Brooke explained that she is exploring the legal options regarding its use subsequent to its renovation. Ms. Brooke went on to state that the Historical Commission has approved the plan for renovation and that certain structural concessions, such as choice of windows, were made in order that the structure reflect more of an historical character. *Steve Melamed moved that the application be considered under Goldhirsh, Estherann Czyoski seconded and it was so voted, 4-1 (Peter McDonough). Steve Melamed then moved to grant a Special Permit to Case # 2001-082 under Article I Section 1300 and Article H Section 2110 of the Zoning By-Laws to remove and reconstruct a one-story addition and add a second story along a non-conforming dimension at the property located at 102 Bradford Street (Residential Class W Zone), Peter Page seconded and it was so voted, 5-0.*

2001-079

56 Shankpainter Road (Commercial Class P Zone), A & P on behalf of

Seagull Realty Trust -

Gary Reinhardt, Peter Page, Estherann Czyoski, Steve Melamed, Peter McDonough sat on case. Applicant seeks to renew a Special Permit under Article 11 Section 2420 of the Zoning Bylaws for outdoor display at the property located at 56 Shankpainter Road. **Presentation:** Mark Holbrook appeared to present the application. Mr. Holbrook stated that circumstances have not changed since the previous year when the Special Permit was renewed for the outside display and sale of plastic furniture and nursery items. He requested that the Special Permit be renewed for another year. **Public Comment:** There were no speakers either in favor or in opposition. There were no letters in the file.

Board Discussion: The Board questioned Mr. Holbrook and discussed the issue. Many Board members expressed concern about the encroachment of the outdoor display items in the fire lane of the A&P. Several recalled seeing flowers displays during the summer months being placed directly in the fire lane, blocking its access in case of an emergency. The consensus of the Board is that their concerns regarding this hazard have been ignored for three years. Several suggestions were put forth by the Board to remedy the situation so that in the future, if the application were re-submitted, they would possibly rule more favorably upon it. Mr. Holbrook then agreed to withdraw the application without prejudice.

2001-080

73 Commercial Street (Residential Class G Zone), Robert Valois on behalf of

Raymond Struble -

Gary Reinhardt, Peter Page, Estherann Czyoski, Steve Melamed, Peter McDonough sat on case. Applicant seeks a Special Permit under Article VII Section 7 1 Q2 of the Zoning Bylaws for a deviation from building scale to construct an addition at the property located at 73 Commercial Street.

Presentation: Robert Valois presented the application and stated that the applicant wants to enclose a staircase connecting the three stories of the structure to allow an interior connection between them. The building originally housed three condominium units, but now all are owned currently by the applicant and his partner, Brian McNaught. Moving from one room to another sometimes necessitates using the outdoor staircase and thus creates an inconvenience for the owners. Mr. Valois stated that in designing the addition, they endeavored to work within the constraints of the property lines. The addition only raises the scale unit of the neighborhood by . 10 of a scale unit. **Public Comment:** There were no speakers either in favor or in opposition. There were no letters in the file.

Board Discussion: The Board questioned Mr. Valois about the project, indicating that their decision would be based upon the new scale by-law. Thus the Board would need to consider whether the addition is compatible and in harmony with the site and the existing, surrounding buildings.

FINDINGS OF FACT:

- Average scale of the neighborhood is 83.85
- Existing structure is 106.39 scale units;
The proposed addition adds 3.9 scale units for a total of 110.29 scale units;
The two buildings on either side of the property located at 73 Commercial Street are 183.15 and 174.31 scale units respectively.

Estherann Czyoski moved to grant a Special Permit under Article VII Section 7102 of the Zoning By-Laws for a deviation from building scale to construct an addition at the property located at 73 Commercial Street (Residential Class G Zone), Peter McDonough second and it was so voted, 5-0. Estherann Czyoski will write the decision.

2001-081

229 Commercial Street (Commercial Class R Zone), Binder Boland

Associates on behalf of Scott Ravelson -

Gary Reinhardt, Peter Page, Estherann Czyoski, Peter McDonough sat on case. Steve Melamed recused himself Ginny Binder appeared to present the application wherein the applicant seeks a Special Permit under Article I Section 1260 of the Zoning Bylaws to relocate the area of food and liquor service with seating to remain the same at the property located at 229 Commercial Street. Ms. Binder approved of only a four member Board. **Presentation:** Scott Ravelson, who owns the Pennsylvania Company clothing store, wants to expand his retail space farther back into the building. This would necessitate moving the restaurant that is currently located in the middle section of the building, to the rear of the structure. The move would also necessitate the enclosure of a carport located behind the restaurant on the east side of the building.

According to Ms. Binder, this will contribute to the improvement of the appearance of that side of the building as well. **Public Comment:** Attorney Chris Snow representing an abutter, Marine Specialties, spoke in opposition to the application, claiming the application under Article I Section 1260 is inadequate. Three more members of the public spoke in opposition, one of whom expressed concern regarding the adequacy of the septic system. The Building Inspector, Warren Alexander had asked Town Counsel for an opinion concerning this issue and a copy was distributed to each Board member and to Attorney Snow. **Board Discussion:** There were no subsequent questions from the Board and Chair Gary Reinhardt, after polling the members of the Board, stated that there would be no further discussion until each member had had the chance to read the opinion of Town Counsel. The Chair stated that the Board would like to continue the case until its next Work Session on January 3, 2002. It was requested of Ms. Binder that she obtain a Site Plan for the property and a seating plan for the restaurant to present to the Board at that time.

Chair Gary Reinhardt closed the Public Hearing at 9:07 P.M.

WORK SESSION

Chair Gary Reinhardt reconvened the Work Session to order at 9:07 P.M.

PENDING CASES

2001-039 **619 Commercial Street, Hal Winard on behalf of Sherry Turkle** - (continued
from earlier in the evening)

Hal Winard reiterated the intention of the applicant in requesting an approval of minor modifications to a previously approved Special Permit and a determination from the Board that said changes are not significant and do not warrant a new public hearing. The height of the roof is not being raised and the redesign of the structure would make the building less non-conforming. Warren Alexander suggested that the Board issue an administrative approval for a deviation from the plan that was approved by the Board in June of 2001. **Board Discussion:** There was some discussion by the Board wherein it was decided that Mr. Winard should re-apply for a Special Permit under Goldhirsh. The Board next advised Mr. Winard to go to the Building Department to see if they would allow for a 2' reduction of the roof

PENDING DECISIONS

2001-076 **335 Commercial Street, Dermot O'Neill on behalf of Sara Cole** -
Gary Reinhardt, Peter McDonough, Estherann Czyoski, Peter Bez, Larry Mahan sat on case. Gary Reinhardt read the decision. *Peter McDonough moved to accept the decision, Estherann Czyoski seconded and it was so voted, 3-0, 2 absent (Peter Bez and Lany Mahan).*

Trust -

Gary Reinhardt, Peter Bez Larry Mahan, Peter McDonough, Estherann Czyoski sat on case. Gary Reinhardt read the decision. *Peter McDonough moved to accept the decision, Estherann Czyoski seconded and it was so voted, 3-0, 2 absent (Peter Bez and Larry Mahan).*

MINUTES

December 6, 2001 - *Peter McDonough moved to approve the minutes of December 6, 2001, Peter Page seconded and it was so voted, 5-0.*

NEXT MEETING

Next meeting (Work Session and Public Hearing) will be on January 3, 2002 at 6:30 P.M.

ADJOURNMENT

Steve Melamed moved to adjourn at 9:45 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 11~ UC4 113 2002.

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Respectfully submitted,

Zoning Bo~O of Appeals Signature

Title

Ellen C. Battaglini
On-call Secretary