

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF August 15, 2002

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt (Chair), Peter Bez (Vice Chair), Larry Mahan (Clerk), Estherann Czyoski, Peter Page (arrived at 6:50 P.M.) and Steve Melamed.

Members Absent: None.

Others Present: Ellen C. Battaglini (Recording Secretary), Warren Alexander (Zoning Enforcement Officer).

WORK SESSION

Chair Gary Reinhardt called the Work Session to order at 6: 32 P.M.

PENDING DECISIONS:

2002-059 **5 Somerset Road, Mark Baker -**

Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, Steve Melamed sat on the case. Peter Bez read the decision. *Estherann Czyoski moved to accept the language as written, Larry Mahan seconded and it was so voted, 5-0.*

PENDING CASES:

2002-064 **63 Commercial Street, 63 Commercial Street Trust -**

Peter Bez, Larry Mahan, Peter Page, Estherann Czyoski and Steve Melamed sat on the case. Tom Thompson, Rick Murray and Bill Dougal appeared to present the application.

Board Discussion: The Board discussed the new calculations of the dormer with the applicants. Mr. Murray stated that concessions had been made and plans for the project had been altered after he had met with neighbors, answered their questions and tried to address their concerns.

FINDINGS OF FACT:

- The property is located in the Res 2 Zoning District;
- The existing structure is 151.85 Scale Units;
- The proposed structure is 162.42 S.U.;
- The proposal is a 6.6% increase over the existing volume;
- The allowable scale without a Special Permit is 88.79 S.U.;
- The current structure is the second largest in the 250 foot radius circle;
- The property directly abutting the to the east is a long, narrow lot with three structures with minimal building separation whose total is 245.92 S.U.;
- The property directly abutting to the west is a long, narrow lot containing two structures with minimal building separation whose total is 158.08 S.U.;
- Facing the structure from the sea, the proposed roof profile is in keeping with the predominant profile of the gable roof with a shed dormer with the roof ridge running perpendicular to the sea;
- The proposal will be a two and one-half story structure.

Larry Mahan moved to approve a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a structure up and along the nonconforming eastside yard dimension at the property located at 63 Commercial Street, Steve Melamed seconded and it was so voted, 4-0-1 (absent).

MINUTES:

August 1, 2002 – *Peter Bez moved to approve the minutes as written, Steve Melamed seconded and it was so voted,*

6-0.

August 6, 2002 – Site Visit – Chair Gary Reinhardt read the minutes into the record. *Steve Melamed moved to accept the language as written, Estherann Czyoski seconded and it was so voted, 5-0-1 (abstain).*

Chair Gary Reinhardt closed the Work Session at 6:55 P.M.

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:00 P.M. and explained the public hearing procedures to the public. Six members of the Board were present and none were absent.

2002-066 293 Commercial Street, Patricia McGuire on behalf of Steven Bogges -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for the outdoor display of a food cart and the sale of hot dogs, potato chips, nachos, canned soda and bottled water. Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski and Peter Page sat on the case.

Presentation: Patricia McGuire and Joan Cozza appeared to present the application.

Public Comment: Mark Lewis, David Mitchell, and Mark Janopolis, all owners of businesses in the center of town, spoke against the application. There was one letter on file in opposition and two letters, one from the owner of the property, Steven Bogges, in support of the application.

Board Discussion: The Board questioned Ms. McGuire about the findings of the Board of Health concerning her application vis-à-vis the potential health hazards of selling food from a cart. The Board asked that the applicant provide them with the Board of Health findings and a site plan with a drawing of the exact location of the food cart before their decision can be rendered. The Board will discuss the application at its next Work Session on September 5, 2002.

2002-065

315A-319 Commercial Street, Leonard Enos on behal of Luco Realty, Inc. -

The applicant seeks a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of outdoor entertainment upon the deck of the Surf Club Restaurant Gary Reinhardt, Peter Bez, Larry Mahan, Peter Page, and Estherann Czyoski sat on the case.

Presentation: Leonard Enos appeared to present the application.

Public Comment: None and no letters were on file.

Board Discussion: The Board questioned Mr. Enos the application.

FINDINGS OF FACT:

- The applicant has agreed to exercise due diligence in directing the music towards patrons rather than towards the beach; and
- The General By-Laws of the Town of Provincetown restrict the level of noise.

Peter Bez moved to approve the Special Permit under Article 2, Section 2460 of the Zoning By-Laws for the provision of outdoor entertainment upon the deck of the Surf Club Restaurant located at 315A-319 Commercial Street, with the following conditions:

- *That entertainment be allowed between the hours of 1:00 P.M. and 9:00 P.M. daily; and*
- *That the Special Permit expires on December 31, 2003.*

Larry Mahan seconded and it was so voted, 5-0. Peter Page will write the decision.

2002-067

87 Bradford Street. Attorney E. James Veara on behalf of Maurice Grunberg -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a preexisting, nonconforming structure up and along a nonconforming dimension for the provision of a second means of egress to third floor of a two and one-half story structure. Gary Reinhardt, Peter Bez, Larry Mahan, Estherann Czyoski, and Peter Page sat on the case.

Presentation: Attorney E. James Veara and Joy A. Cuming, architect, appeared to present the application. A doghouse dormer is being added on the west side of the structure in order to provide a second means of egress for the top floor unit.

Public Comment: None and there were no letters on file.

Board Discussion: The Board questioned Ms. Cuming and Attorney Veara about the application.

FINDINGS OF FACT:

- The property is located in the Res 3 Zoning District;
- The side yard setback is 6 feet;
- The existing structure encroaches into the side yard setback by 5 ½ feet on the westside of the property;
- The proposed structure will maintain the existing footprint and will extend upward within the west side yard setback;
- The purpose of the structural alteration is to add a second means of egress for the top floor apartment unit.

Peter Bez moved to approved a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a preexisting, nonconforming structure up and along a nonconforming dimension for the provision of a second means of egress to the third floor of a two and one-half story structure located at 87 Bradford Street, Larry Mahan seconded and it was so voted, 5-0. Larry Mahan will write the decision.

2002-068

165 Commercial Street, Architects Studios Ltd., Trevor Pontbriand on behalf of Taylor-Zemo Realty Trust -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a preexisting, nonconforming structure along nonconforming dimensions and Article 3, Section 3340 of the Zoning By-Laws to deviate from the average neighborhood building scale. Gary Reinhardt, Larry Mahan, Peter Page, Estherann Czyoski and Steve Melamed sat on the case.

Presentation: Attorney E. James Veara, Joy A. Cuming, Stephen Zemo and Mike Taylor appeared to present the application. The applicants seek to provide a second means of egress from the second floor of the structure, to build a ramp for handicap access to the premises and to provide adequate staff housing for year-round operation.

Public Comment: Greg Russo, an abutter to the property spoke in favor of the application. There were four letters on file from abutters who supported the project.

Board Discussion: The Board questioned Ms. Cuming and Attorney Veara.

FINDINGS OF FACT:

- The property is located in the TCC Zoning District;
- The lot contains 10,600 square feet of land area;
- The structure use as a boarding, lodging, tourist home is an allowed use in that Zoning District;
- The structure is preexisting, nonconforming to the front yard setbacks and to the building height;
- The building is located in a business zone with a large hotel immediately next door;
- The proposal will add a second means of egress, handicap access and improve staff housing;
- Usage of the property will not be increased.

Steve Melamed moved to approve a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter and extend a preexisting, nonconforming structure along nonconforming dimensions and Article 3, Section 3340 of the Zoning By-Laws to deviate from the average neighborhood building scale at the property located at 165 Commercial Street, Larry Mahan seconded and it was so voted, 5-0. Gary Reinhardt will write the decision.

OTHER BUSINESS

Estherann Czyoski will be resigning from the Board.

NEXT MEETING

The next meeting will be on September 5, 2002 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT

Peter Bez moved to adjourn at 9:03 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

September 5, 2002.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini