

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
January 20, 2005

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies, Steve Melamed and Patrick Eeley.

Members Absent: None.

Others Present: Doug Taylor (Building Commissioner) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

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

PENDING CASES:

2005-001 139A Bradford Street (Residential 2 Zone), Joseph Neumeister -

The applicant seeks relief under Article 5, Section 5223 of the Zoning By-Laws from the decision of the Building Commissioner to not issue a Certificate of Occupancy. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case.

Presentation: Attorney E. James Veara and Joseph Neumeister appeared to discuss the application. Attorney Veara reiterated the applicant's position, particularly emphasizing his client's reliance on the letter he received from Winn Davis stating that two of the dwelling units on the premises were legal and one was not.

Board Discussion: The Board discussed the application, including the opinion sent to them by Town Counsel.

FINDINGS OF FACT:

- The applicant presented evidence of several years of dialogue between himself and the Building Department, indicating that only recently was he informed that the basement dwelling was illegal; and
- In May of 1999, E. Winn Davis, Assistant Town Manager, wrote a letter to the applicant, which indicated that two of the dwelling units on the property were legally permitted, while the third was not. Mr. Davis regularly assumed the role as head of the Department of Regulatory Management and quite often spoke for that department in those years.

Steve Melamed moved to overturn the decision of the Building Commissioner to not issue a Certificate of Occupancy, Patrick Eeley seconded and it was so voted, 4-1 (Lynne Davies opposed). Patrick Eeley will write the decision.

2005-004 184 Bradford Street, Unit #B (Residential 3 Zone), John DeSouza on behalf of Peter Schweizer -

The applicant seeks a Special Permit under Article 3, Section 3110, 3330 and 3340E of the Zoning By-Laws to extend a pre-existing, non-conforming two-family dwelling structure up and along the non-conforming dimension to reconfigure existing rooflines and deviate from the allowed building scale. Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eeley sat on the case. This case is postponed until the February 3, 2005 hearing.

ADMINISTRATIVE AMENDMENT:

2003-054 460 Commercial Street (Residential 3 Zone) The Provincetown Art Association and Museum -

Presentation: Attorney Robert Cohen and Andrew Cruz, architect, appeared to discuss the request. The

applicant is anxious to continue the project and believe that an Administrative Amendment is the appropriate next step for them. The case will be discussed when the Work Session is reconvened after the Public Hearing.

Chair Gary Reinhardt postponed the Work Session at 6:59 P.M.

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:00 P.M. There were six members of the Zoning Board of Appeals present none absent.

2005-002 599 Commercial Street (*Residential 2 Zone*), Elizabeth L. Villari -

The applicant seeks a Special Permit under Article 3, Section 3340E and Article 2, Section 2540 of the Zoning By-Laws for a deviation in the allowed building scale and rear yard Harbor setback respectively. Attorney Lester J. Murphy, representing the applicant, appeared to request a continuance until the February 3, 2005 hearing.

2005-006 14 Bradford Acres Road (*Residential 3 Zone*), Barnett Adler on behalf of Eastwinds Realty Trust -

The applicant seeks a Special Permit under Article 2, Section 2440, A1 of the Zoning By-Laws for the addition of one dwelling unit, bringing the total dwelling units on the lot to seven. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

Presentation: Barnett Adler appeared to present the application.

Public Comment: None. There were two letters in the file, one from an abutter and one anonymous, objecting to the application.

Board Discussion: The Board questioned Mr. Adler.

FINDINGS OF FACT:

- The property in question straddles both the Residential 1 and the Residential 3 Zoning Districts;
- The property is accessed through the Residential 3 Zone. All the proposed buildings are within the Residential 3 Zone and the neighboring homes all are within the residential 3 Zone and Town records show this property as being in the Residential 3 Zone; and
- The land required for seven dwelling unit is 19,000 square feet and the applicant currently has 41,407 sq. ft.

Lynne Davies moved to grant a Special Permit under Article 2, Section 2440, A1 of the Zoning By-Laws for the addition of one dwelling unit, bringing the total dwelling units on the lot to seven at the property located at 14 Bradford Acres Road, Peter Bez seconded and it was so voted, 5-0. Lynne Davies will write the decision.

Chair Gary Reinhardt adjourned the Public Hearing at 7:25 P.M.

WORK SESSION

Chair Gary Reinhardt reconvened the Work Session at 7:25 P.M.

ADMINISTRATIVE AMENDMENT:

2003-054 460 Commercial Street (*Residential 3 Zone*) The Provincetown Art Association and Museum -

Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Steve Melamed disclosed that he is a member of PAAM, but feels he can render a fair decision in this matter.

Board Discussion: Chair Gary Reinhardt addressed the Board as to the criteria for an Administrative Amendment and discussed the opinion of Town Counsel about this request.

Peter Page moved to consider the request as an Administrative Amendment, Lynne Davies seconded and it was so voted, 5-0.

Presentation: Attorney Robert Cohen and Andrew Cruz, architect, appeared to discuss the request. The size of the lot has been reduced and the applicant presented plans showing a reduced size for the building

at the premises. The building is now further away from the abutter to the north of the property. The applicant reduced the size of the building so the lot coverage remained the same as on the original plans for the approved Special Permit.

Public Comment: Burt Wolfman, a member of PAAM, spoke to the risk of the organization having to declare bankruptcy if the construction does not continue forthwith.

Board Discussion: The Board questioned Attorney Cohen and Mr. Cruz.

Peter Bez moved to grant an Administrative Amendment in Case # 2003-054, Lynne Davies seconded and it was so voted, 5-0.

PENDING DECISIONS:

2005-003 23R Bradford Street Extension (Residential 1 Zone), Neal Kimball on behalf of Dana DeSimone - Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case. Lynne Davies read the decision.

Steve Melamed moved to accept the language as written, Patrick Eleey seconded and it was so voted, 5-0.

2005-005 40 Pleasant Street (Residential 3 Zone), Roxanne Pratten -

Gary Reinhardt, Peter Page, Lynne Davies, Steve Melamed and Patrick Eleey sat on the case. Patrick Eleey read the decision.

Steve Melamed moved to accept the decision as written, Lynne Davies seconded and it was so voted, 5-0.

MINUTES:

January 6, 2004 – Lynne Davies moved to accept the language as amended, Patrick Eleey seconded and it was so voted, 5-0-1 (Peter Bez abstain).

The Board discussed the illegal advertising at Crowne Pointe and the Building Commissioner stated that he had issued a cease and desist order.

The Board also discussed a request by Paul Mendes to reconsider their decision to remove a 12-foot retaining wall at his property on Cap'n Bertie's Way.

NEXT MEETING:

The next meeting will be on February 3, 2005 and will consist of a Work Session at 6:30 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Lynne Davies moved to adjourn at 8:15 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 February 3, 2005.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini