

TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS

MEETING MINUTES OF
March 17, 2005

MEETING HELD IN TOWN HALL

Members Present: Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eleey

Members Absent: Lynne Davies (excused).

Others Present: Doug Taylor (Building Commissioner), Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

EXECUTIVE SESSION

Peter Bez moved to enter into Executive Session at 6:45 P.M., Steve Melamed seconded and it was so voted 5-0.

The Board discussed the issue of Crowne Pointe and their advertising.

The Board discussed the new location of the canopy at Cumberland Farms.

Peter Bez moved to adjourn the Executive Session, Steve Melamed seconded and it was so voted, 5-0.

WORK SESSION

Gary Reinhardt called the Work Session to order at 7:07 P.M.

MINUTES:

February 3, 2004 – *Peter Bez moved to accept the language as written, Peter Page seconded and it was so voted, 3-0-2 (Gary Reinhardt and Steve Melamed abstain).*

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

PUBLIC HEARING

Chair Gary Reinhardt called the Public Hearing to order at 7:09 P.M. There were five members of the Zoning Board of Appeals present and one absent.

2005-014 4 Franklin Street (Residential 3 Zone), Golden Hammer Construction on behalf of Patty DeLuca -

The applicant seeks a Special Permit under Article 3, Section up and along a non-conforming setback with the addition of a dormer over an existing footprint. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.

Presentation: John Reis appeared to present the application.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Mr. Reis.

FINDINGS OF FACT:

- The existing structure is non-conforming in that it is separated from another building on the property by 7'2" when the required setback is 9';
- The proposed renovation, while not changing the footprint, will increase the height of the non-conforming portion of the structure, thereby increasing the non-conformity; and
- While there is an increase in the non-conformity, there are no further issues of public safety due to the lack of separation of the two buildings.

Peter Bez moved to grant a Special Permit to extend a pre-existing, non-conforming structure and up along a non-conforming setback with the addition of a dormer over an existing footprint at the property located at 4 Franklin Street (Res 3), Steve Melamed seconded and it was so voted, 5-0. Patrick Eeley will write the decision.

2005-015 7 Tiny's Way (Residential 3 Zone), Golden Hammer on behalf of Carlos Silva -

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.

Presentation: John Reis appeared to present the application.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Mr. Reis.

FINDINGS OF FACT:

- The existing structure has a scale of 77.5 scale units;
- The allowed scale, per the Assessor's data, is 97.42 s.u.;
- The proposed structure will have a scale of 133.42 s.u.;
- The building is located on the corner of two private ways, both of which are dead-end streets and therefore have no through traffic. The proposed project will have minimal impact on the streetscape and thus have very little impact on the neighborhood; and
- The Board determined that the project will be harmonious with the surrounding neighborhood.

Peter Bez moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale at the property located at 7 Tiny's Way (Res 3), Patrick Eeley seconded and it was so voted, 5-0. Peter Bez will write the decision.

2005-016 220A Commercial Street (Town Commercial Center Zone), Nick Robertson on behalf of Trader's Village on the Cape, Inc. -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outside display. The applicant was not present.

2005-017 1 High Pole Hill Road (Residential 3 Zone), Cape Cod Pilgrim Memorial Association -

The applicant seeks a Special Permit under Article 2, Section 2440 of the Zoning By-Laws to provide paid parking.

Gary Reinhardt and Steve Melamed recused themselves because of conflicts of interest and Patrick Eeley disclosed that he had a business relationship with the applicant. This left the Board without a quorum to hear the case. All three will notify the Board of Selectman and ask for a ruling concerning

these conflicts and whether they will be allowed to hear the case at the next hearing. Gary Reinhardt reminded the Executive Director of the Cape Cod Pilgrim Memorial Association, Ellen Burbank, that the by-law
The case is postponed until April 21, 2005. Lynne Davies will rewrite the decision and present it at that time.

2005-018 284B Commercial Street, Unit #5 (Town Commercial Center Zone), Paul Van Apeldoorn on behalf of Cassandra Benson -

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in the building scale. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.

Presentation: Paul Van Apeldoorn appeared to present the application. The applicant seeks to put a small dormer on the third floor of the building in order to get more space.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Mr. Van Apeldoorn.

FINDINGS OF FACT:

- The existing structure has a scale of 186.37 scale units;
- The allowed scale, per the Assessor's data, is 156.95 s.u.;
- The proposed scale will be 189.38 s.u.; and
- The existing structure in question is landlocked and barely visible from a public way, if at all. The proposed addition will have little impact on the character of the neighborhood, remaining harmonious with the surrounding neighborhood, and thus will be in keeping with the intent of the Local Comprehensive Plan.

Peter Bez moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in the building scale for the property located at 284B Commercial Street, Unit #5 (TCC), Patrick Eeley seconded and it was so voted, 5-0. Peter Bez will write the decision.

2005-019 151A Commercial Street (Town Commercial Center Zone), Joe Smith -

The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along a non-conforming line on the east, west and north elevations by raising the roofline and the addition of dormers over an existing footprint. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.

Presentation: John DeSouza, Tom Thompson and Joe Smith appeared to present the application. The applicant requested to withdraw the north elevation extension from the application. The applicant seeks to raise the roofline and add dormers to create space.

Public Comment: Donald Vaughn, speaking on behalf of the condominium association that abuts the applicant's property, spoke against the project, citing concern about access to the site by construction vehicles and interference with the condominium's view of the beach. John Laughton, an abutter, spoke against the project, citing a restriction of his view of the beach as well. There were 3 letters against and 1 letter in support of the project in the file.

Board Discussion: The Board questioned Mr. DeSouza and Mr. Thompson.

Steve Melamed moved to consider as a finding under the Goldhirsh v. McNear ruling, Peter Bez seconded and it was so voted, 5-0.

Steve Melamed moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along a non-conforming line on the east, west and north elevations by raising the roofline and the addition of dormers over an existing footprint at the property located at 151A Commercial Street (TCC) as a finding under the Goldhirsh v. McNear ruling, Patrick Eeley seconded and it was so voted, 5-0.

2005-016 220A Commercial Street (Town Commercial Center Zone), Nick Robertson on behalf of Trader's Village on the Cape, Inc. -

The applicant seeks a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outside display. Gary Reinhardt, Peter Bez, Peter Page, Steve Melamed and Patrick Eeley sat on the case.

Presentation: Nick Robertson appeared to present the application.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board briefly questioned Mr. Robertson.

Patrick Eeley moved to grant a Special Permit under Article 3, Section 3420 of the Zoning By-Laws for outside display for the property located at 220A Commercial Street (TCC), Peter Bez seconded and it was so voted, 5-0.

NEXT MEETING:

The next meeting will be on April 21, 2005 and will consist of a Work Session at 6:45 P.M. and a Public Hearing at 7:00 P.M.

ADJOURNMENT:

Patrick Eeley moved to adjourn at 9:00 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 April 21, 2005.

Respectfully submitted,

Zoning Board of Appeals Signature

Ellen C. Battaglini