

**TOWN OF PROVINCETOWN**  
**ZONING BOARD OF APPEALS**

**MEETING MINUTES OF**  
**August 4, 2005**

**MEETING HELD IN TOWN HALL**

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

**Members Absent:** Patrick Eeley (excused).

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

**WORK SESSION**

Chair Gary Reinhardt called the Work Session to order at 6:45 P.M.

**PENDING DECISIONS:**

**2005-029 70-74 Shank Painter Road (General Commercial Zone), Charles W. Silva -**

Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case. Lynne Davies read the decision. *Steve Melamed moved to approve the language as written, Peter Bez seconded and it was so voted, 5-0.*

**2005-039 7 Winston Court (Residential 1 Zone), Robert Silva -**

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

**MINUTES: July 21, 2004 – Peter Bez moved to accept the language as amended, Steve Melamed seconded and it was so voted, 5-0.**

**PENDING CASES:**

**2005-036 305 Commercial Street (Town Commercial Center Zone), Robert Dalton -**

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, Lynne Davies and Steve Melamed sat on the case. The applicant is not in compliance with the Zoning By-Laws and the Board will keep the case under advisement.

Chair Gary Reinhardt adjourned the Work Session at 6:59 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. There were five members of the Zoning Board of Appeals present and one absent.

**2005-042 89 Shank Painter Road (General Commercial Zone), Attorney Lester J. Murphy on behalf of**

**James M. Costa -**

The applicant seeks a Special Permit under Article 2, Section 2440 B6 of the Zoning By-Laws to operate a rental storage business pursuant to footnote 9. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

**Presentation:** Attorney Lester J. Murphy and James M. Costa appeared to present the application. The applicant would like to continue his rental storage business at the property and requests a Special Permit to be granted on a yearly basis only. The property has not been brought into compliance with the Planning Board requirements, but the applicant is working on those issues.

**Public Comment:** Irene Gage and Peter LeBoissonnault, both abutters, spoke against the application. There were 3 letters in the file opposing the application.

**Board Discussion:** the Board questioned Attorney Murphy. The Board decided not to make a decision and give the applicant an opportunity to bring the property into compliance with the requirements of the Planning Board. The Board asked the applicant to appear at the November 3, 2005 hearing unless he completes the requested work earlier.

**2005-043**

**10 Commercial Street (Residential 1 Zone), Neal Kimball on behalf of James Sheehan -**

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 south and west setback with the addition of a second story over the existing footprint. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

**Presentation:** Neal Kimball appeared to present the application.

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

**Board Discussion:** the Board questioned Mr. Kimball.

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

*Steve Melamed moved to approve the 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 south and west setback with the addition of a second story over the existing footprint at the property located at 10 Commercial Street (Res 1) as a finding under the Goldhirsh v. Mcnear ruling, Lynne Davies seconded and it was so voted, 5-0.*

**2005-046**

**811 and 837 Commercial Street (Residential 1 Zone), Attorney Christopher J. Snow on behalf of Clancy Realty Trust -**

The applicant seeks a Special Permit under Article 3, Section 3340 and Article 5, Section 5330 of the Zoning By-Laws to deviate from the allowed building scale. Gary Reinhardt, Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

**Presentation:** Attorney Christopher J. Snow, Ron Friese and William Gordon appeared to present the application. The applicant is requesting that the Board grant relief for him to define permanently, for each of the 10 lots at the property, what the building scale should be. The Board briefly discussed whether this issue should be dealt with on 1 application or whether they should be entertaining 10 separate applications for the property.

**Public Comment:** Rick Murray spoke in favor of the application. Lisa Westerveldt and Mariellen Serena, both neighbors, spoke against the application. There were 2 letters opposing and 3 letters in support of the application in the file.

**Board Discussion:** The Board questioned Attorney Snow. The Board concluded that they would like to solicit the opinion of Town Counsel in regard to this matter and continued the case until the September 1, 2005 hearing.

**2005-044**

**35 Bradford Street and 9 Montello Street (Residential 3 Zone), Bradford Montello Realty Trust -**

The applicant seeks a Special Permit under Article 3, Section 3110 and 3340E of the Zoning By-Laws for deviation from the neighborhood average for building scale on a pre-existing, non-conforming structure. Chair Gary Reinhardt recused himself because of a conflict of interest. Peter Bez chaired the application while Peter Page, Lynne Davies and Steve Melamed also sat on the case. Since there were only 4 members of the Board seated, the applicant was asked if he would like to move forward with both of his applications or wait until a full Board of 5 members was seated. The applicant chose to proceed.

**Presentation:** Rick Murray and John DeSouza appeared to present the application. The applicant seeks

to reorganize the use of an existing structure on the property that contains a 3-bedroom apartment and a gym. The use of the gym will be expanded to the space now occupied by the apartment. The applicant requested to withdraw the reference to Article 3, Section 3110 from the application.

*Lynne Davies moved to accept the withdrawal, Steve Melamed seconded and it was so voted, 4-0.*

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

**Board Discussion:** The Board questioned Mr. Murray and Mr. DeSouza.

**FINDINGS OF FACT:**

- The increase in the existing scale is less than 5%;
- The increase in scale will have a negligible impact on the neighborhood;
- The structure will occupy the same footprint; and
- The structure will be harmonious with the surrounding neighborhood and thus in keeping with the intent of the Local Comprehensive Plan.

*Lynne Davies moved to approve the Special Permit under Article 3, Section 3340E of the Zoning By-Laws for deviation from the neighborhood average for building scale at the property located at 35 Bradford Street (Res 3), Steve Melamed seconded and it was so voted, 4-0.* Lynne Davies will write the decision.

**2005-045**

**35 Bradford Street and 9 Montello Street (Residential 3 Zone), Bradford Montello Realty Trust -**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for deviation from the neighborhood average for building scale for the relocation of an existing 3-bedroom unit to a new single-family dwelling. Peter Bez, Peter Page, Lynne Davies and Steve Melamed sat on the case.

**Presentation:** Rick Murray and John DeSouza appeared to present the application.

**Public Comment:** Kevin Soit, an abutter, spoke against the application. There was 1 letter in opposition to the application, from Mr. Soit, in the file.

**Board Discussion:** The Board questioned Mr. Murray and Mr. DeSouza.

**FINDINGS OF FACT:**

- The current neighborhood scale, as per the assessor's office, is 59.6 scale units;
- The maximum allowable scale for the neighborhood is 80.04 s.u.;
- The proposed scale is 108.41 s.u.;
- Within the radius considered, there are 6 buildings with scales of less than 100 s.u. and 12 buildings with scales of 100 s.u. or more.

*Lynne Davies moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for deviation from the neighborhood average for building scale for the relocation of an existing 3-bedroom unit to a new single-family dwelling at the property located at 35 Bradford Street (Res 3), Steve Melamed seconded and it was so voted, 4-0.*

**NEXT MEETING:**

The next meeting will be on September 1, 2005 and will consist of a Work Session at 6:45 P.M. and a Public Hearing at 7:00 P.M.

**ADJOURNMENT:**

*Lynne Davies moved to adjourn at 9:05 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 1, 2005.

Respectfully submitted,

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Zoning Board of Appeals Signature

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Ellen C. Battaglini