

CRYSTAL LAKE TOWNSHIP
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ZONING BOARD OF APPEALS
PUBLIC HEARING FOR REQUESTED VARIANCE
MAY 23, 2019

1. CALL TO ORDER/PURPOSE OF MEETING:
Hearing called to order by Vice Chair George Stemple at 6:05 pm.
2. ROLL CALL:
 - a. Present: George Stemple (Vice Chair), Alan Marble and Greg Wright (CLT Planning Commission Liaison).
 - b. Also Present: Tom Kucera, Zoning Administrator; Attorney Peter Wendling, and Sue Sullivan, Acting Recording Secretary.
3. CALL FOR CONFLICT OF INTEREST: None.
4. APPROVAL OF AGENDA:
Zoning Administrator noted that the agenda included both a request for appeal of the denial of a permit for 2817 Pilgrim Highway and, if the appeal is denied, a request for variance. **Marble moved the agenda be approved. All ayes. Agenda approved.**
5. APPROVAL OF MINUTES OF MAY 9, 2019 MEETING: **Marble moved the minutes of May 9, 2019 be approved as written. All ayes. Minutes approved.**
6. RULES OF ORDER:
Stemple directed attention to the Rules of Order and Time Limits for Speakers.
7. ADMINISTRATION OF OATH: ADMINISTERED BY MARBLE TO SPEAKERS.
8. 2817 PILGRIM HIGHWAY – REQUEST FOR APPEAL – T. CAMPBELL:
 - a) PUBLIC HEARING OPENED: Stemple explained that this appeal was to ask the ZBA to determine that the ZA's denial of a permit based on his finding that the proposed structure was too high was not appropriate, because he should have used a "mean" measurement process similar to the one used in the O'Neal project, which resulted in the issuance of a Special Land Use Permit (SLUP).
 - APPLICANT PRESENTATION: Ed Roy III, attorney for the appellant, Thomas Campbell, explained that the appellant's goal was to replicate the local Coast Guard station and that according to his architect, Mark Bischak, the ZA's measurements were based on one segment of the roof and not on the average of all the heights of the roof; and that where there was ambiguity, the standard dictionary definitions for "roofline" and "average" should apply.

- PRESENTATIONS IN SUPPORT:
 - Mark Bischak, architect for the appellant, presented four graphics showing all four sides of the proposed building, the variety of heights of what he described as one roof and the proposed tower extending beyond the roofline; he then explained how the heights were calculated in the O'Neal case, using the "mean" average of various heights, and said the same measurement process was used in other municipalities in the area.
 - Thomas Campbell, appellant, said the design was an homage to the historic Coast Guard station and, despite rumors, did not call for a beacon in the tower, just seating in a widow's walk, which would not infringe on anyone.
 - Roy distributed and summarized three handouts: sections from Article II of the Ordinance regarding definitions, a list of Questions for the ZA, and the Campbell's Proposed Findings/Conclusions (attached).
 - 2 Letters of support: Kucera read 2 letters of support he received (attached): the Verrills have no particular objection to the proposed building and Decker has no objection as long as the final location does not differ from the preliminary plans, although she is concerned about the location of the proposed septic drain field.
- STAFF PRESENTATION: Kucera referenced his Findings of Fact and pointed out that the illustrations in the Ordinance enhanced his interpretation of the meaning of the words, that the Ordinance clearly states that "a cupola, widows watch or tower that extends above the roof line shall be considered the highest point of the roof surface on roofs with such features" and that since he had been given no other roof dimensions than the 41 feet for the height of the tower, he used the distance between that height and the eaves for his calculation; that the Ordinance nowhere states he must use the average of "multiple" or "weighted" averages; and that not enough dimensions are provided in the O'Neal case to apply to the case in hand.
- PRESENTATIONS IN OPPOSITION:
 - Elizabeth Hill Rogers, 555 South Shore East, said she agreed with the ZA and believes that the spirit of the Ordinance addresses the need for limits on building heights in order to preserve the character of Crystal Lake.
 - Nancy Reid, 2303 Pilgrim Highway, said she has come to the area since she was three years old and continues to return especially to enjoy the night sky without light pollution; and that she has seen a number of other variances in Frankfort erode previous rules and they have changed the character of the area.
 - 5 Letters in opposition: Kucera read 5 letters he received (attached): the Christians objected to the tower height and light, Petty said building codes are necessary to preserve the unique

character of the area, Saunders objected to the effect the height and light would have on other residents, Heidel said the light would be an infringement and distraction, and Bingham said the tower would be visible from the lake.

- REBUTTALS:

- Campbell repeated that there would be no beacon or light in the tower; he also said the proposed footprint would be the same as the prior cabin.
- Bischak repeated that the tower should be considered as part of the whole roof and not separate.
- Roy said the Ordinance did not talk about a structure with a multiple gabled roof; he believes his interpretation of the Ordinance to be the more expansive and therefore preferable interpretation, as opposed to the ZA's more segmented one; and he thought the initial plan did provide the needed dimensions.
- Kucera said in response to the Questions that he did not have a bias against bigger buildings, that based on his education and many years of relevant experience he understands the appropriate definitions and that a reasonable interpretation of those definitions would conclude that the peak of the tower is the highest point in the roof and that the question of using "weighted" measures of other sections of the roof is not reasonable.
- Lee Ewing stated that most people understand that a 41 foot tower is too high when considered against a 28 foot limit.
- Reid objected to the fact that her neighbors were approved for an addition to their home when their current use was already unlawful.
- Bischak said the proposed plans met all the legal requirements.
- Cynthia Blanchard said she was concerned about the light coming from the tower, because she had a bad experience with previous neighbors' lights.

b) PUBLIC PORTION OF HEARING CLOSED at 7:05 p.m.

c) BOARD DISCUSSION/DELIBERATION: Wright asked if the building only had one low roof, would that allow the tower to be even higher if one used the "weighted" method of measurement; Bischak said it would. Marble asked if the ZBA is bound by the findings in the O'Neal case. Attorney Wendling said the single sentence in the Ordinance regarding the height of cupolas, etc., is the only factor to consider v/v the Ordinance restriction setting maximum heights at 28 feet. **Marble** said that based on presentations by the Applicant and the Zoning Administrator, as well as public input and deliberations by the Board, he **moved to accept items 1 to 4 of the Staff's Analysis as reason to support the Zoning Administrator's approach to determining building height for the subject property and project and deny the**

owner's appeal. Wright seconded. All ayes. Motion to deny the appeal passed.

9. 2817 PILGRIM HIGHWAY – REQUEST FOR VARIANCE – T. CAMPBELL

a. PUBLIC HEARING OPENED AT 7:15 P.M.

APPLICANT PRESENTATION: Campbell said that his request for a variance was not based on the impossibility of using the property or causing a financial hardship, but rather the hardship would be not being able to enjoy the aesthetic of his property as it is designed. Roy said he stood on his written submissions.

STAFF PRESENTATION: Kucera stated that it is important to remember that Ordinances are effectively laws and apply to all future owners of that property. Wendling agreed and said that variances “run with the land.”

REBUTTALS:

- Campbell said he was willing to enter into covenants if it was felt that those were appropriate.
- Bischak asked if it now becomes a precedent that this building is 41 feet.
- Wendling said the precedent is that the ZBA upheld the ZA’s method of measurement and the reasons for denying the permit.

b. PUBLIC PORTION OF THE HEARING CLOSED AT 7: 20 P.M.

- c. BOARD DISCUSSION / DELIB ERATION: **Marble** said that based on presentations by the Applicant and the Zoning Administrator, as well as public input and deliberations by the Board, he **moved to deny the Applicant’s variance request; the Board accepts the Zoning Administrator’s specific findings of fact that demonstrate the Applicant’s inability to establish a “practical difficulty” that would prevent their use of their property or necessitate a variance from the Ordinances. Wright seconded. All ayes. Motion to deny variance passed.**

10.ADJOURNMENT: 7:25 p.m.

Respectfully submitted,
Sue Sullivan, Temporary Recording Secretary