

CRYSTAL LAKE TOWNSHIP
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ZONING BOARD OF APPEALS
PUBLIC HEARING FOR REQUESTED VARIANCE
MAY 30, 2019

1. CALL TO ORDER/PURPOSE OF MEETING:

Hearing called to order by Chair George Stemple at 6:00 pm. He explained that the purpose of the meeting was to continue deliberations on Ann Kullenberg's Request for Review of the Zoning Administrator's Determination to approve zoning and building permits for the property at 3533 Casey Road. He reminded audience members about the Rules of Order and Time Limits for Speakers.

2. ROLL CALL:

- a. Present: George Stemple (Chair), Greg Wright (CLT Planning Commission Liaison), and Alan Marble.
- b. Also Present: Tom Kucera, Zoning Administrator; Peter Wendling, Attorney; and Sue Sullivan, Acting Recording Secretary.

3. CALL FOR CONFLICT OF INTEREST: None.

4. APPROVAL OF AGENDA:

Marble moved the agenda be amended to add approval of the minutes of 05-23-2019 as Item 5 and approved as amended. All ayes. Amended Agenda approved.

5. APPROVAL OF THE MINUTES OF 05-09-2019:

Marble moved the minutes of 05-23-2019 be approved. All ayes. Minutes approved.

6. 3533 CASEY ROAD – DELIBERATIONS RESUMED:

a) COMMENTS:

- Jerry Lewallen, 3483 Casey Road, written statement attached.
- Ann Kullenberg, 3483 Casey Road, written statement attached.
- Bill Herd, 3035 Glory Road, written statement attached.
- Attorney Peter Wendling: Ms. Kullenberg is correct in how the term "Act of God" is defined in Article 2 of the Zoning Ordinance, however, the analysis has changed since acknowledging the change in zoning authority in 2010, which made the complex a lawful nonconforming use which has continued since then. The focus now is on section 28.8: repairs on the blue building have generally stayed within the original footprint, but there is circumstantial evidence that the reconstruction costs may have exceeded 50% of the assessed value of the building since walls were taken down.
- Zoning Administrator, Tom Kucera: Another consideration is that there is evidence that the buildings have existed and been in use in some form as of 1995 and in rental use until 2000 and then not kept up for a time; the current owner had a right to expect that the buildings could be used if brought to habitable condition; it is often not possible to know final costs when starting a renovation; another question is if the enforcement of an arbitrary 50% limit that prevents an owner from bring a building up to code is fair or in the interest of the community.

b) PUBLIC COMMENT REOPENED:

- Stemple asked if the Board wanted to reopen public comment. **Wright moved that public comment be reopened. Stemple seconded. All ayes. Motion to reopen public comment approved.**
 - Administration of Oath administered to Speakers by Marble.
 - Chris Howard, 939 Beulah Hwy, Beulah, MI, owner of Cottage Pros and manager of the property: He did not intend to tear down the walls when he filed a building permit in 1997 to put the four apartments back after a fire, but there was too much damage to the walls. The Ordinance does not define “habitable”, which could be a matter of opinion, since in this case, the power was still on.
 - Kurt Vigneau, 3263 Casey Road: The cost of the roof trusses alone was more than 50% of the building’s worth and 50% is in the Ordinance.
 - Kullenberg: The permit stated “3555 Casey”, which is the yellow building, not the blue building. She said that as the next door neighbor to the blue building, she is the best person to attest to whether it is or was occupied.
 - Herd: If four apartments are added, doesn’t that increase more than there were before 2010? Wending: The new construction is only replacing the original four units.
 - Herd: Is there proof the apartments were in use in 2010? Kucera: Use of the building does not mean that it is inhabited. The use remains even if no one is there for a given period of time.
 - Herd: The level of use is what is important
 - Wending: The nature of the use, not the quantity, is what is important.
 - Amy Kullenberg: Her sister Ann has been very stressed by this situation; she has a legal right to the “quiet enjoyment of her property” and other owners have complied with that. The impact on the Watershed and other environmental needs have not been addressed, such as rare species of wild flowers, birds, etc. For the owner of the property complex, this is specifically a business enterprise and he has not suffered a hardship.
 - Marble: He noted Ms. Kullenberg’s passion, but reminded her that the purpose of the hearing was not to determine what is “equitable” and her comments were not relevant.
 - Lewallen: Aren’t there usually rules about sewage, etc., that regulate the number of people allowed for high density dwellings?
 - Howard: The Health Department has approved their septic and other related provisions.
- c) PUBLIC COMMENT CLOSED:
- **Stemple moved that public comment be closed. Wright seconded. All ayes. Motion to close public comment approved.**
 - **Marble moved to uphold the Zoning Administrator’s decision to issue the zoning permit for the reasons provided in the general and specific findings of fact, as well as the exhibits on record. Stemple seconded. All ayes. Motion to uphold the Zoning Administrator’s decision to issue the permit approved.**
7. MEETING SCHEDULED: The Board will meet on Monday, May 10 at 6:00 p.m. to approve the minutes of this meeting.
8. ADJOURNMENT: Stemple declared the meeting adjourned at 6:45 p.m.

Respectfully submitted,

Sue Sullivan, Temporary Recording Secretary