

CITY OF CHARLEVOIX
ZONING BOARD OF APPEALS MINUTES
Wednesday, December 12, 2012 - 6:00 p.m.
210 State Street, City Hall, 2nd Floor Council Chambers, Charlevoix, MI

(A) CALL TO ORDER

The meeting was called to order by Chair Greg Withrow at 6:00 p.m.

(B) ROLL CALL/PLEDGE OF ALLEGIANCE

Members Present: Greg Withrow, Patricia Miller, Gary Anderson, Richard Clem, Ann Gorney,
Greg Bryan (alt.)

Members Absent: Larry Sullivan (alt.)

Staff Present: City Planner Michael Spencer

The Chair stated that there were five voting members present, constituting a quorum.

(C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST

Greg Bryan is an alternate and will not be voting. He has been involved in similar issues regarding short term rentals in R1 zoning in Hayes Township, but does not have a direct conflict in this specific issue. He may provide input.

(D) APPROVAL OF AGENDA

The agenda was approved as presented.

(E) APPROVAL OF MINUTES

The Board reviewed the October 17, 2012 minutes.

Motion by Miller, second by Gorney, that the October 17, 2012 minutes be approved as written. Motion approved by unanimous voice vote.

(F) NEW BUSINESS

1. Public Hearing for Project 2012-07 ZBA: Request for interpretation and appeal of administrative decision.

Applicants: Don and Vicki Voisin – 502 Michigan Ave.

Subject Property: Mary and Chuck Adams – 429 Michigan Ave.

- a. Staff Presentation

City Planner Mike Spencer stated that this is an item that is unclear in the current zoning ordinance and that the Planning Commission will be addressing rentals more specifically in the upcoming zoning ordinance revision. Mr. Spencer informed the Board that, at their most recent meeting concerning the proposed draft ordinance, the Planning Commission determined that short term rentals have always been, and should always be, allowed in single family areas. Mr. Spencer clarified that he does not see that as the subject of this meeting or as the issue being disputed. Mr. Spencer reported that the Planning Commission also has confirmed that accessory structures in a single family zone cannot be rented as second dwelling units for any term. Mr. Spencer stated that he does not think that is the issue being disputed in this case either.

Mr. Spencer gave an example of carriage houses/servant quarters on Dixon Avenue, some of which have fallen into disrepair or are used for storage; some are being used. Mr. Spencer's experience with the City of Charlevoix is that those units could continue to be used for friends and family, but not for rental to outside people. Mr. Spencer stated that this structure was also a little different from the present item, because the structure had existed and was used for dwelling prior to zoning.

Mr. Spencer reviewed this situation specifically. The City approved a beach house in the 1990s. Mr. Spencer does not know what the zoning stated at that point. The permit from that time is labeled "Beach House" and includes a site plan and dimensions; it does not specifically state it's going to be used as a second dwelling unit and there is no floor plan. Staff became aware the unit was being rented outside of the Adams family as a vacation rental. Staff contacted the Adams on

two separate occasions stating that it was a zoning violation. Mr. Spencer stated again that the zoning ordinance is unclear on the definitions of dwelling units and what they contain. In August, Mr. Spencer made the determination that, since the City had approved the beach house and the Adams had removed the online listing and said they weren't going to rent it, the Adams had complied with the ordinance. Mr. Spencer does not know if the structure was originally approved to have beds in it or if it was approved just for use for friends and family. Mr. Spencer does not have a lot of information and there isn't clear guidance in the zoning ordinance. Staff had applied logic and what had historically been allowed by the ordinance in making the decision.

Mr. Spencer stated that his preference is to have the new zoning ordinance more clear; however, there is an appeal to hear and make a decision on by the Board and it needs to be based on the current ordinance.

Chair Withrow reviewed the request for the Board. The ZBA is requested to interpret the following sections:

5.32. Use regulations

Land and buildings in the R-1 zone may be used for the following purposes only:

- (1) One (1) single-family dwelling on each lot.

5.171. Application of regulations.

Zoning affects every structure and use and extends vertically. Except as hereinafter provided:

- (1) No building or structure shall hereafter be erected, altered or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises are located.

b. Presentation by Applicant (Attorney Valerie Snyder, representing Don and Vicki Voisin)

Ms. Snyder discussed Mr. Spencer's decision on August 28. The issue came about because of the rental issue. Ms. Snyder thinks Mr. Spencer's decision regarding that particular issue was correct: The rental use of the beach house as a separate single family dwelling is not permitted under the zoning ordinance. The Adams responded that they would comply with that decision and not rent it as a separate dwelling unit anymore.

Ms. Snyder is here to address some additional statements in Mr. Spencer's decision. Those statements pertain not to the use of the beach house as a rental, but to his interpretation that allows the accessory beach house to be used as a single family dwelling as long as it is used by friends or family members without compensation. Ms. Snyder's opinion is that interpretation is contrary to the language of the zoning ordinance, which says that you can only have one single family dwelling on a lot in the R-1 district. The issue before the Board is whether or not it is allowable to use that beach house as a dwelling unit if it is for friends and/or family, and not for compensation. As Ms. Snyder reads the ordinance, the answer is no. Ms. Snyder thinks that Mr. Spencer's decision creates an exception to section 5.32. Compensation or the status of the relationship between the user and the property owner are not criteria under the ordinance. If the beach house is being used as a single family dwelling, that is not allowable under the ordinance. Ms. Snyder agrees with the statement in Mr. Spencer's letter of August 28, 2012 which states: "Since that time nothing has changed with the zoning and renting the beach house as a separate dwelling unit by the night, week, month, or year would constitute a zoning violation." Ms. Snyder stated that the ability to spend the night in this structure is a good focus to use if you are trying to establish whether this structure is being used as a separate dwelling unit.

Chair Withrow asked for a clarification from staff: Nothing about the zoning ordinance has changed since 1995. Mr. Spencer stated that was correct.

Ms. Snyder referred to photos in the Board's packet [exhibit 5] from when the beach house was being advertised as a rental. Ms. Snyder said that, as seen in the pictures, clearly the structure is designed to be used as a separate dwelling unit. She is not arguing for the structure to be torn down. The neighbors are not concerned about the existence of the structure, but rather are opposed to how that structure is being used. Ms. Snyder doesn't think people will object if the

Adams, their friends, guests, or family want to use the beach house as an accessory structure. The concern is when the use crosses the line from being used as an accessory structure to being used as a dwelling.

Ms. Snyder discussed what might be considered as appropriate uses for a beach house, such as: changing clothes, rinsing sand off before going to the main house, shelter from the sun, protection from sudden inclement weather, storage of beach equipment, and kayak storage; however, renting it is not allowable, so why would staying in it, if it's not for money, be acceptable? Mr. Spencer's decision doesn't comply with the plain language about the second dwelling unit on one lot.

Ms. Snyder would like the Board to consider the potential impact of that decision on other properties in the R1 districts of the City. This decision would allow those owners to use those accessory structures as a second dwelling unit as long as it's confined to friends and family and they don't pay rent for it. While this may be limited circumstances, there may be situations where that will become undesirable in an R1 district, particularly for close neighbors. Ms. Snyder provided an anecdotal example.

Ms. Snyder stated that this type of usage undermines the nature of the R1 district, which is intended for low density. In the R1 district, having only one dwelling unit per lot preserves the character and safety of the neighborhood and makes it more desirable.

Ms. Snyder believes this decision creates an enforcement nightmare. Currently, when the Zoning Administrator gets knowledge of someone living in an accessory structure through a complaint or other evidence, he can take immediate enforcement action. If Mr. Spencer's decision stands, a complaint would require the Zoning Administrator to find out if someone is living there, what their relationship is to the owner, and also if they are paying rent to be there.

Ms. Snyder has contacted the Zoning Administrator, Kathy Staton, who issued the zoning permit allowing the beach house. Ms. Staton has provided Ms. Snyder with a letter stating "At the time of the request to build the beach house, I discussed the zoning requirement that the beach house could be permitted as an accessory building, but specified that it could not be used as a dwelling unit because that use, a second dwelling on one zoning parcel in the single family residential zoning district, was prohibited by the zoning ordinance. . . .To summarize, based on my recollections, the City Planner and I approved a plan to construct a one-room accessory structure, similar in architecture to the main house, for the purpose of storing beach equipment, towels, coolers, etc. In my opinion the use of the building as a separate dwelling unit, regardless of who occupies it, would violate the original zoning approval. Neither the City Planner nor I had the authority at the time to approve a second dwelling unit on the property, because that would violate the zoning ordinance. A second dwelling unit was not approved."

Ms. Snyder provided copies of the letter for the Board, which they reviewed.

Ms. Snyder recommends that the Board consider option 2 presented by Mr. Spencer in the packet [p.13], omitting the sentence "The beach house was not lawfully approved at the time of application and approval," as Ms. Snyder is not sure if that statement is accurate. They are requesting that the beach house not be used as a dwelling unit.

Mr. Spencer clarified that former City Planner Gerry Harsch approved the application, but Ms. Staton signed it as well. Mr. Spencer had been mistaken in thinking Dianne Manore was Zoning Administrator at the time. Staff had been unaware of how to get in contact with Ms. Staton. Mr. Spencer asked Ms. Snyder where in his decision it states that the Adams can use the beach house as a second dwelling unit. Mr. Spencer read the last sentence: "If you have friends or family who use the accessory structure and you're not being paid for renting it out, this would be permissible." He did not state that they could use it as a dwelling unit on purpose because he doesn't believe that to be the case.

The Board generally agreed that they had interpreted that statement the same way that Ms. Snyder indicated. Mr. Spencer said that the Board will need to clarify what a dwelling unit is. Mr. Spencer also stated that there are many accessory structures in the City that people sleep in. Chair Withrow stated that the Board will review this when they consider the request later in the meeting.

- c. Presentation by Property Owner (Attorney Harry Golski, representing Chuck and Mary Adams) Mr. Golski stated he would reserve for Mrs. Adams the opportunity to answer questions regarding the historical development of the project.

Mr. Golski stated that the objection to staff's interpretation of the ordinance is dependent on this structure being a dwelling unit as defined by the City ordinance. Mr. Golski reviewed the definition for dwelling unit from the ordinance, "a group of rooms located within a building and forming a single habitable unit with facilities which are used or intended for complete living facilities." This structure is not intended, nor can it be used for "complete living facilities." It is a structure that can be used to rinse the sand off, it has a commode that can be used if the need arises instead of walking up 50 steps to the house, it can be used to get out of the elements, and for nine or ten months of the year the structure is used to store kayaks, beach toys, and beach furniture. There is not the exclusivity of intention that is required under the definition of dwelling in section 5.6 of the ordinance: "A dwelling is a building or portion thereof which is designed for or used exclusively for residential purposes." This structure cannot be said in any way to be used exclusively for residential purposes. The Board needs to get away from the concept of the structure being a dwelling and put it back to what it actually is: It's an approved, properly permitted and constructed accessory building that's been there for 17 years.

Mr. Golski stated that there is nothing in the ordinance that prohibits the rental of accessory buildings. Some people in town rent out vacant garages for storage and there has never been any indication that the ordinance would prohibit such a use. Mr. Golski stated that example is similar to this case: A situation where there is a beach house, properly approved, properly permitted, properly constructed, that has been there for 17 years and is in no way under the definition of the ordinance a dwelling. It's legal as an accessory building and there's nothing in the zoning ordinance that makes it illegal for people to sleep there.

Mr. Golski asked the Board to think about kids or honeymooners who might like to come and sleep down near the water. Just because someone sleeps there doesn't automatically turn this glorified shed into a dwelling. There's no way somebody could dwell in that structure. It's not a dwelling, it's an accessory structure. In spite of the fact that there is no prohibition against renting it, the Adams are willing to abide by Mr. Spencer's interpretation and have told him that they will agree not to rent out this unit. They are requesting Mr. Spencer's interpretation be upheld by the Board.

Mr. Golski asked that Mrs. Adams be allowed to speak regarding the historical development of this project.

Mary Adams said that blueprints for this building should be on file. The building remains as it was originally built, as the permit was issued, no changes or alterations have been made to the inside of the building. A kitchen has not been added to the building. The beach house was permitted with a half bath and a kitchenette. There is an outside area with a grill.

Chair Withrow asked Mrs. Adams if she had a copy of the permit or the blueprints. She does not have the permit, she may be able to find a copy of the blueprints. Mr. Spencer indicated the County building department may have copies of the plans too. The City records did not have a floor plan. He will try and get them for the Board if they need them to make a decision.

Mr. Spencer said that it appears, according to Ms. Snyder and the Voisins' position, that if you remove the ability to sleep in it, then it's not a dwelling unit. Perhaps the Adams's are willing to do that. Chair Withrow stated that Mr. Golski's position is that it's not a dwelling and therefore this

ordinance does not apply to it. Mr. Spencer stated that maybe the solution to it not being a dwelling is for people not to sleep in it.

Mr. Spencer spoke about enforcement issues. Many other accessory structures in the City have a space above an accessory structure that people use, whether it's for an office or extra sleeping space for visiting relatives—does that make it a dwelling unit? Mr. Spencer's desire is to be able to enforce the ordinance equally in the future based on the Board's decision, regardless of what that decision is.

Member Miller asked Mrs. Adams about the statement by Ms. Staton in her letter that "the owners were expressly prohibited from including in the building a kitchen, bathroom, or bedroom or any other installation." Ms. Miller asked Mrs. Adams if they had added a bathroom anyway. Mrs. Adams said nothing was added; the blueprints they presented were approved and they built them as presented. The bathroom was in there, including the toilet. Mrs. Adams proposed that the Board should actually look at those blueprints. Mrs. Adams stated that the intent was to not have to go up 54 steps to go to the bathroom. Mrs. Adams stated that, if they couldn't have had a bathroom, they wouldn't have built it; it would have been of no use to them. Ms. Miller asked if the structure had ever been used for boat storage. Mrs. Adams stated it is too small for boat storage, but they do store other items there, such as beach furniture. Ms. Miller stated she visited the site and it looks like a house to her: It has a kitchen area and a bedroom area. Mrs. Adams stated it is not a kitchen, there is no stove. Mrs. Adams said she can't, and should not have to, defend the permitting process. It was built and inspected the way their architect designed it.

Member Clem asked Mrs. Adams if, when the beach house was built, it was intended that people would sleep in it. Mrs. Adams said that they had planned that people would occasionally sleep in it and that they also occasionally pitch tents down there for sleeping.

Member Gorney said Mrs. Adams had stated it was a half-bath and asked if it had a shower. The bathroom does not have a shower. There is an outside rinsing shower. The bath is a toilet and a sink. There is hot water via a small water heater.

Member Clem asked how the sewer was handled. There is a grinder behind the beach house; everything is ground and pumped up to the public sewer. This was also included and permitted with the original plan.

Member Gorney asked about the kitchenette. There's an under-counter icemaker and a refrigerator. There is also a microwave.

d. Rebuttal from Attorney Valerie Snyder

Ms. Snyder directed the Board's attention to the internet advertisement provided in their packet. Ms. Snyder quoted the ad "Enjoy the romantic outdoor shower and a quaint summer kitchen." Ms. Snyder said the ad also says the unit sleeps three adults and one to two small children.

Ms. Snyder agreed that Mrs. Adams shouldn't have to defend the permitting process. However, blueprints were probably not approved or provided to the City; the City probably only saw the site plan. Blueprints probably went to the building department at the County and were approved over there. Ms. Snyder does not know if there was communication between the City and the County at that point in time. According to Kathy Staton, the City knew what they permitted. Ms. Snyder doesn't think anyone knows if what the building department approved and allowed to be built was the same thing the City approved. The Voisins are not asking for the building to be torn down; however, it constitutes a dwelling unit because it has "these things." The Voisins are asking that it not be used as a dwelling unit, in accordance with the ordinance—"if it's used or intended to be a complete living area."

Mr. Spencer asked what specific use they are objecting to. It is just sleeping in it? Ms. Snyder said that she doesn't think it is and Mr. Spencer is correct in saying that the Planning Commission needs to look at how they define that. Mr. Spencer said that the Board will need to decide this

now, based on the current ordinance, not on what the Planning Commission will decide in the future. What does Ms. Snyder's client want? Ms. Snyder said that she thinks sleeping is a huge factor in determining whether or not it is being used as a dwelling unit. Mr. Spencer asked if this was the only factor. Ms. Snyder said that no, the intent is, is it intended to be a complete living facility? She doesn't think the Voisins would be complaining about it if it was just grandchildren going down there and sleeping upstairs. When they have renters in the neighborhood living in that unit separately, it's clearly different. If you're going to allow friends and family members to use it the same as a renter would, if you're going to allow someone's extended family to come live in that beach house for three months over the summer, separate and apart from anything going on in the main house, Ms. Snyder thinks that violates the zoning ordinance. The Voisins are saying it can't be used as a dwelling unit. Ms. Snyder reiterated that she thinks it's going to be an enforcement issue. She thinks the ZBA needs to say it can't be used as a dwelling unit and she believes sleeping is a huge factor.

Mr. Spencer said the thing to define is in what capacity it's being used as a dwelling unit, so that zoning can be enforced. Chair Withrow said that is not in the Board's purview. The Board interprets regulations, they do not make regulations.

e. Call for Public Comment

The Chair opened the public hearing on Project 2012-07 ZBA at 6:50 p.m.

There were no comments.

The Chair closed the public hearing at 6:50 p.m.

The Chair reviewed the comments received in writing. Two were opposed to the use of the unit as a dwelling and one was happy with the way it is.

Vicki Voisin, 502 Michigan Ave., stated she lives across the street from the Adams and added that she believed the property was rented for three years during the summer from the end of May through whenever people couldn't stay there. It wasn't one summer. According to the ads, it was intended for use as a dwelling unit for more than three months. Mrs. Voisin believes the property was improved about three years ago so that it could be used as a rental, but she is not sure of this.

Member Clem stated that there is a review from Joe in Columbus, Ohio submitted October 25, 2010, about the unit: "What a find this place was. One of our best vacations ever." Mr. Clem said this would make it three years.

The Chair again closed the item to public comment at 6:52 p.m.

f. ZBA Determination of Findings of Fact

Member Miller referred to the rental listing, stating that the facility was available for five and a half months. If a building can be rented for that long, it is a dwelling. Member Miller also stated that, according to the letter from Ms. Staton, the Adams's were specifically told that they could not rent the structure. Mrs. Adams stated that they "were not specifically told anything." Member Miller visited the property which is, in her opinion, more than a boathouse; it is a dwelling. Member Miller stated that if you can sleep in it, eat in it, and wash in it, then it is a dwelling.

Member Bryan discussed factors that make a structure a dwelling unit, and noted that ~~he has~~ ^{if he had} a cot, a wash basin, and a portable toilet in his garage. Member Miller argued that the Adams's had advertised the building as a dwelling unit. Member Anderson stated that was a mistake on the Adams' part; however, advertising something does not mean it is what the advertiser claims. Member Bryan stated that this structure is not a dwelling and qualified that a dwelling is a place where you live and others visit you. Member Bryan clarified that the building should not be rented as a dwelling.

Member Miller reiterated that because it had sufficient facilities to be rented, it is a dwelling.

Member Clem stated that he had no opinion or questions at this time.

Member Gorney reviewed Planner Spencer's decision: that the structure could not be rented as a separate structure, and that the owners could receive no compensation for its use, which could only be by family and friends. Planner Spencer concurred. Planner Spencer feels it is likely that if friends or family were to visit, they would stay in the main home. Adult visitors would not want to climb a ladder to sleep in the loft at the beach house. Member Gorney reviewed that the structure could be a dwelling; she has a friend that lives in a structure with fewer amenities than this facility. Planner Spencer's decision was that the structure would not be used as a rental, and could only be used by friends and family. Ms. Gorney's only concern at this point is who and how the structure is being used; it is still being rented.

Member Anderson asked Mrs. Adams for clarification, and was told that the rental came off the market immediately after the City Planner notified them that to rent the structure is a violation.

Chair Withrow acknowledged that the building was permitted in 1995, and that the letter from former Zoning Administrator contradicts what Mrs. Adams is reporting to the Board. Additionally, Chair Withrow reported that the Board has historically turned down requests for garage units that had living quarters in/above the garage or attic area.

The Board discussed a specific case where the applicant had applied for a zoning variance on setbacks; the Board approved the variance but specified that there could be no living quarters in the attic of that structure. Member Clem reminded the Board that the original intent of this structure was for additional living quarters, not a rental unit. The Board clarified that the Anderson project was a different type of project.

Chair Withrow reminded the Board that this structure did not predate the zoning ordinance. The issue before the Board is whether or not this structure is considered a dwelling unit.

Planner Spencer reminded the Board that their choices are to: 1) Affirm the Planner's decision, 2) Reverse the Planner's decision or 3) Modify the Planner's decision. Additionally, the applicant is asking for an interpretation on allowable uses for an accessory structure, which will impact other properties within the City.

Member Gorney asked for clarification: there currently exists accessory structures which may have sleeping quarters to be used for family but which may not be rented out for compensation. Planner Spencer agreed, but Member Clem stated that "no one" knows if that is true. Planner Spencer reported that if a new application were to come to him with a plan that has a bathroom, a full kitchen, and a living space or bedroom, Mr. Spencer would deny the application: there is no question that the applicant is trying to create a dwelling unit. However, if an application were received with only some of these pieces, such as running water or bedroom space, he would allow it. While the property in question received approval in 1995, it is unclear whether the City was aware that there would be kitchen, bath, and sleeping areas in the structure.

Member Clem suggested that the Board consider whether the structure is "intended as livable quarters".

The Chair called a recess at 7:10 p.m.
The Board reconvened at 7:15 p.m.

Member Gorney asked for clarification as to what defines a dwelling, and what defines a bathroom. Chair Withrow agreed that this is the root of the appeal and decision. Recognizing that there is not an adequate definition in the ordinance, Mr. Withrow thinks it is incumbent upon the Board to decide what a dwelling is. If the Board can determine what a dwelling is, then the decision of the Board regarding this appeal will become apparent.

Member Bryan stated that his property, where he lives and others visit him, is his dwelling. This would include his main house, guest house, garage, tree house, and dog house. While an accessory building has a separate definition that does not mean that an accessory building is not part of his dwelling unit. Other members of the Board disagreed.

Chair Withrow stated that if there is a main house and a guest house, he would argue that this scenario is a violation of the Zoning Ordinance. If this situation pre-dated the zoning ordinance, it would be grandfathered in; however, to build or modify a structure as a guest house should not be allowed.

Member Anderson suggested that the Board define a dwelling as a structure that has: (1) a bathroom with cleaning facilities such as a shower or tub, (2) a kitchen with stove, refrigerator and sink, and (3) sleeping facilities.

Chair Withrow suggested starting with a basic foundation: the primary functions of a dwelling, which are sleeping, eating, cooking preparation, bathing and bathroom. The Board agreed that these are the primary functions of a dwelling unit. One member suggested a more generic definition: that the structure is intended as living quarters. Other members disagreed, stating that a more specific definition was preferable.

Chair Withrow returned the discussion to primary functions. The function of sleeping is accomplished with a bedroom. The Board discussed the functions of bathing and a bathroom and determined that that dwelling unit should have a shower or bath tub in addition to a toilet and a sink. An outdoor shower would meet this requirement. Food preparation requires refrigeration and a cooking appliance.

The Board came up with the following definition for dwelling:

A structure intended for living quarters with sleeping in the form of beds, food preparation facilities with refrigeration and a cooking appliance, and bathroom facilities with a plumbed toilet, sink and running water.

The Board discussed the impact of the definition on the Adams' property. Planner Spencer stated that the Board could uphold his decision, or require that an element of the dwelling be removed. In Mr. Spencer's opinion, the only element that could be removed are the beds.

Chair Withrow stated that, because the structure was previously rented by the day, week, or month, it is clearly meant as a dwelling unit.

Upon questioning, Ms. Snyder stated that both intention of use and actual use are key elements in deciding if a structure is a second dwelling unit.

The Board discussed various factors that could impact the findings of fact, including length of use of the property as a dwelling unit, and rent-ability of the property.

The ZBA agreed to the following Findings of Fact:

The ZBA finds that there is no unclear or ambiguous language associated with Section 5.321(1), which requires one single family dwelling unit on each lot. The ZBA finds that detached or attached accessory buildings may not be used a second dwelling unit on a lot. Accessory structures are intended for authorized accessory uses including garages, storage sheds, gazebos, and similar uses.

The ZBA finds there is no unclear or ambiguous language associated with Section 5.171 (1) which states that "No building or structure shall hereafter be erected, altered or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district

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in which said building or premises are located.” A second dwelling unit is not a use permitted in the R-1 or R-2 zoning district.

e. Motion

Motion by Member Gorney, second by Member Clem, that the ZBA finds that the Zoning Administrator decision of August 28, 2012 is upheld. Since the beach house is only to be used solely as an accessory building, it is not a second dwelling unit. If the beach house is rented out separately it is then considered a second dwelling unit, which is prohibited in the R-1 Zone.

Yeas: Miller, Gorney, Anderson, Clem, Withrow

Nays: None

Motion passed 5-0

(G) CALL FOR PUBLIC COMMENT ON NON-AGENDA ITEMS

The Chair called for public comment on non-agenda items at 7:54 p.m. There were no comments. The Chair closed public comment.

(H) ADJOURNMENT

Motion by Anderson, second by Miller, that the meeting be adjourned.

There were no objections.

The meeting was adjourned at 7:54 p.m.

Greg Withrow, Chairperson

Carol A. Ochs, City Clerk