



APPEALS BOARD FOR THE INTERNATIONAL PROPERTY MAINTENANCE CODE

July 1, 2014

The first meeting of the City of Petoskey Appeals Board for the International Property Maintenance Code was conducted in the City Hall Community Room on Tuesday, July 1, 2014. Roll was called at 8:00 P.M.

Present: Michael Karr
Jim Knibbs
Gary Lemieur
Noah Marshall-Rashid
Norm Nasson
Lori Pall

Absent: Clark Smith

Staff: Amy Tweeten
Jim Murray
Dan Smith

Also Present: James Heston, 9796 S. West Bayshore Drive
Judy Hills, P.O. Box 2390, Petoskey

Case #2014-01

Jim Murray, City Attorney, summarized the role of the Appeals Board for the IPMC as this was the first case that had been appealed. He read the commentary from the IPMC regarding the ability to appeal the decision by a code enforcement officer to issue a notice of violation, but cannot appeal a code requirement.

Mr. Murray then explained the process that brought the appeal to the board: a notice of violation had gone out after follow up from Dan Smith on a neighbor complaint that someone was living periodically in a trailer on blocks. The notice cited several sections of the City Code and Mr. Heston was appealing those sections that were in the property maintenance code Sections (13-31(3) and Section 13-66), which is the purview for the board this evening. Specifically, the board was being asked to rule on two questions that were the concerns of the City through the notice of violation process and whether the code official acted appropriately in issuing the notice of violation:

1. Is the structure unfit for human occupancy (Section 13-31(3)?
2. Does the structure have the required plumbing (Section 13-66)?

How the board answers those questions would determine whether the board chose to affirm or reverse the determination of the code official.

At this time Mr. Heston was asked to present his appeal.

Mr. Heston stated that he had met with Dan Ralley, City Manager and submitted to him utility bills for this trailer that showed no utility usage. He also had a letter from the neighbor stating that the property had not been lived in for the past 6 months. He said that the outbuilding is not an outhouse, but a structure he intends to turn into a sauna and provided photos to the board of the structure showing venting pipe and a heating device. The photos indicated that there was no sewer connection. He stated that when he overnights in the structure, he goes to restaurants to use the bathroom and that the structure is concealed among the trees so that it is not an infringement on the neighbors.

Mr. Heston then asked several questions of the board, which Mr. Murray explained were not the responsibility of the board to answer. Their role was to determine whether the structure was unfit for human occupancy as it relates to the IPMC. The questions Mr. Heston had would need to be answered by staff, pending the outcome of the board's ruling. Discussion continued, with Mr. Murray repeating that the status of the structure was the question for the board to address.

Mr. Murray noted that the appellant admitted that he stayed in the structure, and asked Mr. Heston whether he disputed that the structure was unfit for human occupancy. Mr. Heston asked what was meant by occupancy – an overnight stay? Resting in the afternoon? What was occupancy of the outbuilding? Mr. Murray answered with the definition in the IPMC, but the question of whether the structure was being occupied was not before the board at this time. Occupancy: The purpose for which a building or portion thereof is utilized or occupied.

Ms. Tweeten clarified what the board was here to determine and whether to affirm or reverse the determination of the code official.

1. Is the structure unfit for human occupancy (Section 13-31(3)?
2. Does the structure have the required plumbing (Section 13-66)?

Discussion followed on whether the board was considering both the trailer and outbuilding as structures. Mr. Murray answered that both structures should be considered.

Chairman Marshall-Rashid stated the finding of fact that the appellant admitted that neither structure had sewer service should be entered into the record.

At this time, board member Pall moved to affirm the determination of the code official that the structures in question at 424 Morgan Street are unfit for human occupancy based on the finding of fact that the property owner admits that the structures lack plumbing facilities required pursuant to Sections 13-31(3) and 13-66 of the City of Petoskey Nuisance Ordinance. Support for the motion was by board member Nasson. Upon roll call vote, the motion passed 6-0.

Seeing no further business for the board to address, the meeting was adjourned at 8:28 p.m.