

MINUTES  
SPECIAL MEETING FOR A NON-CONFORMING USE ON LOT 424

WEDNESDAY, DECEMBER 15, 2008 AT 9:00 A.M.  
PLANNING AND LAND USE COMMISSION  
TOWN OF CASTLE VALLEY  
CASTLE VALLEY COMMUNITY CENTER  
2 CASTLE VALLEY DRIVE

Present: Mary Beth Fitzburgh, Dave Erley, Greg Halliday

Others Present: Mary Germain

1. Call to Order by Mary Beth at 9:06 AM
2. Open Public Comment.  
None
3. Discussion and Possible Action re: A Building Permit for a Non-Conforming Use on Lot 424.

Mary Beth read the recommendation of approval for the Building Permit. (See attached)

Greg motioned to approve the building permit as recommended. Dave seconded the motion. The Motion passed unanimously.

Greg motioned to adjourn. Dave seconded the motion. The Motion passed unanimously.

Adjournment by Mary Beth at 9:10 AM

**APPROVED:**

\_\_\_\_\_  
**MARY BETH FITZBURGH, PLUC CHAIR**

\_\_\_\_\_  
**DATE**

**ATTESTED:**

\_\_\_\_\_  
**DENISE LUCAS, TOWN CLERK**

\_\_\_\_\_  
**DATE**

## Attachment A

We are recommending the approval of building plans submitted to rebuild a Bungalow on lot 424 that was destroyed in a fire on November 11, 2008 for the following reasons.

The original building had a carport, one unit (a room or set of rooms that guests can rent) and a storage space on the ground level with another unit above the storage unit.

The plans to rebuild would modify the building slightly so that it would have two storage spaces on the ground floor and two units above.

According to 85-3 section 1.6.3 DAMAGED BUILDING MAY BE RESTORED:

"A nonconforming building or structure and a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood or other calamity or act of nature, may be restored and the building or structure or use of such building, structure or parts thereof may be continued or resumed, provided that such restoration is started within a period of six months from the year of destruction and is diligently prosecuted to completion within one year. **Such restoration shall not increase floor space devoted to the nonconforming use over that which existed at the time the building became nonconforming.**"

The new building will increase its floor space, but it will **not** increase floor space devoted to the nonconforming use - there will still be two guest units and one storage space in that building with an addition devoted to another storage space.

However, because this new building will increase the total square footage on the lot we have to look at their contract with the Town which states in section 2 that:

"As a legal but nonconforming use, the Bed & Breakfast shall not be expanded by the addition of more buildings or rooms for rent or other structural improvements or additions (**except for non-habitable accessory structures allowed under the zoning ordinance**) beyond the nine units authorized under the original conditional use permit issued by the Town....."

According to various building permits in their file, they had a total square footage of 4324 on their lot before the fire. According to our zoning ordinance they can build up to 5000 square feet on a lot with their tallest building being up to 23 feet tall. They could add another 676 square feet to the original building's square footage if it is for a non-habitable use and if the building is under 23 feet tall.

The original building was 1428 square feet. The new plans call for a building that is 2030 square feet and 22' 9" tall. They are adding 602 square feet for a non-habitable use.

The total square footage on the lot with the proposed new Bungalow would be 4926 square feet with the tallest building being 22' 9" tall.