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Board of Building Regulations and Standards
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Vice Chairman

Robert Anderson
Administrator

Date: October 24, 2007

Name of Appellant: Michael Crowley

Service Address: HRCA of Dedham Inc.
45 West Street
Dedham, MA 02026

In reference to: 45 West Street
Dedham, MA 02026

Docket Number: 05-434

Property Address: 45 West Street
Dedham, MA 02026

Date of Hearing: 07-05-07

We are pleased to enclose a copy of the decision on the request for a variance from the Building Code.

Sincerely:

BUILDING CODE APPEALS BOARD

Patricia Barry

Patricia Barry, Clerk

cc: Building Code Appeals Board
Building Official

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-434

HRCA of Dedham Inc.,	)
Appellant	)
	)
v.	)
	)
Town of Dedham,	)
Appellee	)
	)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR§313.3.2 of the Massachusetts State Building Code ("Code").

Appellant had requested a building permit for the construction of buildings known as buildings B, C, D, E, L, 1000, 2000, 3000, and 4000 Newbridge Circle, Dedham, MA, which will be part of a proposed Senior Supportive Housing Campus, including apartments, assisted living apartments, a community center, and a chronic care hospital ("Application"). The Application proposed incorporating a horizontal fire separation between a parking garage and the buildings to be constructed above the parking garage.

By letter dated May 23, 2007, Kenneth R. Cimeno, Building Commissioner for Appellee, denied the Application, concluding that the horizontal fire separation would not qualify as a fire wall under Table 602 and §707.0 of the Code. Mr. Cimeno notified the Appellant to seek a variance from the Board.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on July 5, 2007 where all interested parties were provided an opportunity to testify and present evidence to the Board.

Michael Crowley, Vice President for Project Management Services for Appellant was present on its behalf. Kenneth J. Kuligowski was present, representing Appellant as its architect. David C. Macartney was present as a consultant to Mr. Kuligowski. Kenneth R. Cimeno, Building Commissioner for the Town of Dedham, was present on behalf of the Town. James S. Driscoll, Fire Chief for the Town of Dedham, was present on behalf of the Town.

Reasons for Variance

By way of general background, the issues relate to new construction for apartments, assisted living apartments, a community care center, and a chronic care hospital, all part of Appellant's proposed Senior Supportive Housing Campus ("Project"). Specifically, the Project involves the construction of a parking garage interconnecting with apartment buildings to be constructed above the garage.

The Code issue arises from the Appellant's proposed horizontal fire wall, with a three-hour fire rating, that will provide a separation between the parking garage area and the apartment buildings located above the garage. Section 313.1.2, "Separated use groups," provides:

> Each portion of the building shall be individually classified in a use group and shall be completely separated from adjacent *fire areas* by fire separation assemblies (see 780 CMR 709.0) and floor/ceiling assemblies (see 780 CMR 713.0) having a fire resistance rating determined in accordance with Table 313.1.2, for the use groups being separated. Each *fire area* shall comply with the code based on the use group of that space. Each *fire area* shall comply with the *height* limitations of 780 CMR 503.0 based on the use of that space and the type of construction classification. In each story, the *building area* shall be such that the sum of the ratios of the floor *area* of each use group divided by the allowable *area* from 780 CMR 503.0 for each use group shall not exceed one.

The Project involves two use groups, S-2 for the parking garage and R-2 for the multi-family residential apartment buildings to be constructed above the garage. As Appellant explained the design problems in its submission to the Board,

> Aside from conforming to the height, area, and building separation requirements as defined by the Code (the Code considers these buildings to be a single building), the requirement of the Code for continuity (since there is a rated separation but not presumed horizontal fire wall separation between the two use groups) would cause the garage below to be divided into areas defined by the building above relative to the locations of vertical structure for support of interior and perimeter bearing walls, shafts, and fire separation walls. Those locations, since they are based on apartment buildings above, conflict with the structural bay layout desired to provide a large floor area garage interconnecting the various buildings, and defined by an efficient structure and parking layout, clear vehicular circulation, egress, and effective mechanical ventilation for the below-grade garage.

Appellant also suggested that the proposed variance would comply with Section 508.2 of the 2003 International Building Code ("IBC"), which may be incorporated in the future 7th Edition of the Massachusetts State Building Code. The Building Commissioner testified that it was also his

understanding that the proposal would comply with the IBC and that the relevant parts of the IBC might include the 7th Edition of the Code.

The Board also heard testimony from the Town's Fire Chief, who did not object to the proposed horizontal fire wall separation but favored requiring the installation of a full NFPA 13 fire suppression system in the R-2 use group (the buildings above the garage), rather than the NFPA 13R system Appellant had proposed for that part of the Project. The Fire Chief did *not* believe that the Appellant had a substantial hardship to justify using the NFPA 13R system.

Decision

The Chair entertained a motion to grant a variance from §313.1.2 of the Code subject to the condition that a full NFPA 13 fire suppression system be installed in the building above the garage ("Motion"). Following testimony, and based upon relevant information provided, Board members voted in favor of the Motion, as described on the record. The Board voted as indicated below.

☐..... Granted ☐..... Denied ☐..... Rendered Interpretation☐

X.....Granted with conditions ☐..... Dismissed

The vote was:

X.....Unanimous .....☐ Majority

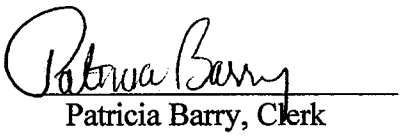
Robert Anderson Tim Rodrique-Chair Brian Gale

Rob Anderson Tim Rodrique-Chair Brian Gale

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: October 24, 2007



Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of $10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator
State Building Code Appeals Board
BBRS/Department of Public Safety
One Ashburton Place – Room 1301
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