COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board
Docket No. 05-458

BOARD'S RULING ON APPEAL

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
Boston, MA 02108

Jeremy Mason	)
Appellant,	)
	)
v.	)
	)
Town of Dedham and Ken Cinemo	)
Appellees	)
	)

Procedural History

This matter came before the State Building Code Appeals Board ("the 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 Table 503, and section 406.4 of the Massachusetts State Building Code ("MSBC") pertaining the property of 200 Elm Street, Building A, Dedham MA 02027. In accordance with MGL c. 30A, §§ 10 and 11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the Board convened a public hearing on August 21, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and representing himself was the Appellant. Also present were Dom Maiellaro, Dan Molenkamp, and Stewart Rappaport.

Decision: Following testimony, and based upon relevant information provided, Board members voted as indicated below.

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

X.....Granted with conditions (see below) ☐..... Dismissed

The vote was:

☐.....Unanimous **X ..... Majority**

Reasons for Variance:

Testimony was presented by the attendees, which is summarized in the letter submitted by RJA, Inc. dated August 7 2007. The variance request details the mixed-use arrangement intended for the structure with Mercantile on the ground floor and open parking levels above. According to Section 406.4.1 the MSBC would allow the Parking Garage to be constructed of Type 2C Construction. The building also contains Use Group M, Mercantile Occupancies and Table 503 would require Type 1B Construction. Since the current MSBC does not permit mixing construction types, the building would be required to be constructed of Type 1B Construction. However, testimony showed that Building A meets the requirements of the 2006 IBC which would permit the building first floor to be constructed of Type 1B construction and the Open Parking Garage to be of Type 2C Construction. Neither the MSBC nor the 2006 IBC requires this parking garage to be fully sprinklered. The first floor Retail spaces will be fully sprinklered.

Following testimony, and based upon relevant information provided, Jake Nunnemacher made a motion to grant the variance and allow there to be different construction types between the parking and mercantile uses per the 2006 IBC code with the following conditions:

a. The fire separation is to be increased to 3 hours from the required 2 hours and
b. The structure is to meet the more stringent code (either MSBC or IBC 2006) for seismic design requirements.

A vote on the motion was held and it was noted that Brian Gale and Alexander MacLeod voted for approval and Jake Nunnemacher voted against.

Brian Gale (RA) | Alexander MacLeod | Jacob Nunnemacher (RA)

Chairman –Brian Gale | Alexander MacLeod | Jake Nunnemacher

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

A true copy attest, dated: October 2, 2007

Patricia Barry

Patricia Barry, Clerk