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The Commonwealth of Massachusetts

Department of Public Safety

Board of Building Regulations and Standards

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Commissioner

Gary Moccia, P.E.
Chairman

Alexander MacLeod, R.A.
Vice Chairman

Robert Anderson
Administrator

Date: October 6, 2008

Name of Appellant: Derrick Morse

Service Address: Sullivan Code Group
The Schrafft Center
529 Main Street, Suite 203
Boston, MA 02129

In reference to: Point Breeze Hotel
77 Easton Street
Nantucket, MA 02554

Docket Number: 05-470

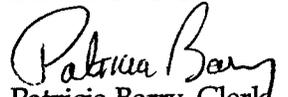
Property Address: 77 Easton Street
Nantucket, MA 02554

Date of Hearing: 09-06-07

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

Sincerely:

BUILDING CODE APPEALS BOARD


Patricia Barry, Clerk

cc: Building Code Appeals Board
Building Official

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**Building Code Appeals Board
Docket No. 05-470**

NHM Realty LLC,)
Appellant)
)
v.)
)
Town of Nantucket,)
Appellee)
)

BOARD’S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board (“Board”) on Appellant’s appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, Appellant asks the Board to review allowable building height restrictions under Massachusetts State Building Code (“Code”) 780 CMR 503 and the application of 780 CMR 502.1 with respect to renovation of the Point Breeze Hotel building in the Town of Nantucket (“Application”).

By letter dated August 1, 2007, Benard Bartlett, Building Commissioner for the Town of Nantucket (“Appellee”), concluded that the proposed basement construction must be treated as a story above grade. As a result, the type of construction indicated in Table 503 of the Code limits type 5-A construction to a maximum of four, rather than five stories.

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 September 6, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Matthew Koenig, Derrick J. Morse, Stephen Butler, Derek Gothie, Pat Ceruudolo, Leslie Woodson Snell, Ed Maxwell, and Kevin Hastings appeared at the hearing.

Materials

State Building Code Appeals Board Appeal Application, dated August 15, 2007, signed by Derrick J. Morse, including: Appeal Justication narrative by Derrick J. Morse; letter dated August 1, 2007 by Bernard Bartlett, Building Commissioner for the Town of Nantucket; copies of BOCA National Building Code/1993 Commentary concerning grade plane elevation; “Point Breeze Hotel” plans, pages 003, 004, A-100, A-100a, A-101, A-102, A-103, A-104, A-200, A-201, A-202, all dated February 14, 2007.

Seven (7) photographs, dated 3/8/07 showing rebuilding in progress of building, with steel beams being installed to support first two levels of part of building.

Discussion

The issue is whether Appellant should be granted a variance from the requirements of 780 CMR 503 to allow the building to have five, rather than four stories. At the center of the issue is the number of stories above grade. Having the basement area classified as "basement", rather than the first story, would be the goal, according to Appellant. After the renovation, the overall height of the building will not change from its original height. But the addition of a basement level would increase the density/number of occupants.

Appellant had proposed the installation of planters and retaining walls that would elevate the finished ground level, thus elevating grade plane, which would classify the lowest level as a basement. Thus the grade surrounding the building would be adjusted to accommodate another level of usable space (a vertical downward expansion). The roof elevation would remain constant, well within the height limitation for this type of building under the Code. Appellee maintained that the installation of the planters would make potential fire fighting more difficult that it already would be, given the location of the building.

Decision

Following testimony, and based upon relevant information provided, Board members considered the following motion. The Chair entertained a motion to grant a variance from 780 CMR 503 to allow the additional story with the requirement that the planters be removed to allow access to the building for firefighting. Further, the motion required the inclusion of an NFPA 13 fire system and standpipe system in the building ("Motion"). The Board voted to allow the Motion, as described on the record. The Board voted as indicated below.

X.....Granted with conditions

The vote was:

X (two in favor; one against) Majority

Dana Haagensen (R)
Dana Haagensen

Robert Anderson (R)
Robert Anderson- Chair

Brian Gale (R)
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 6, 2008


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
Boston, MA 02108