



Deval L. Patrick  
Governor

Timothy P. Murray  
Lieutenant Governor

Kevin M. Burke  
Secretary

# The Commonwealth of Massachusetts

## Department of Public Safety

Board of Building Regulations and Standards

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Thomas G. Gatzunis, P.E.  
Commissioner

Gary Moccia, P.E.  
Chairman

Alexander MacLeod, R.A.  
Vice Chairman

Robert Anderson  
Administrator

Date: March 3, 2008

Name of Appellant: Paul A Bergman

Service Address: c/o Bergman & Associates, Inc.  
20 Washington Street  
Haverhill, MA 01832

In reference to: 135 Maple Street  
Danvers, MA

Docket Number: 05-482

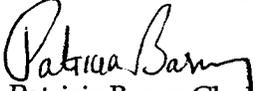
Property Address: 135 Maple Street  
Danvers, MA

Date of Hearing: 10-23-07

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. 05-482

Verizon Wireless,	)
Appellant	)
	)
v.	)
	)
Town of Danvers,	)
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 grant a variance from 780 CMR §503 of the Massachusetts State Building Code ("Code") in order to install a cupola on an existing building (known as the Lyons Ambulance Building), to house wireless telecommunications equipment ("Project").

By letter dated September 12, 2007, David J. Harris, Assistant Building Inspector for the Town of Danvers ("Appellee") denied the permit application for the Project because the Project would exceed the height and area requirements set forth in 780 CMR § 503.

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 October 23, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Paul A. Bergman and Kristine E. Kraushaar appeared on behalf of Appellant. Richard Maloney appeared on behalf of Appellee.

Reasons for Variance

The issue is whether Appellant should be allowed a variance from the limitations set forth in 780 CMR § 503. The Board considered evidence that the existing structure on which the Project will be installed already has a hose tower of almost 72 feet in height. The top of the cupola for the Project would be almost 65 feet from ground level. In addition, Appellee did not object to the Project.

**Decision**

The Chair entertained a motion to grant a variance from 780 CMR §503, based upon the testimony and the facts that: the Board granted a similar variance for the same structure in 2001 (see docket 01-077); the equipment in the cupola will be protected by heat and smoke detection that will trigger the main fire alarm in the structure ("Motion"). Following testimony, and based upon relevant information provided, Board members voted to approve the Motion as described on the record. The Board voted as indicated below.

X..... **Granted**                      ..... Denied                      ..... Rendered Interpretation   
\_\_\_.....Granted with conditions                      ..... Dismissed

The vote was:

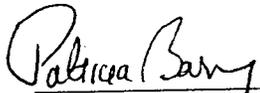
X.....**Unanimous**                      .....  Majority

  
\_\_\_\_\_  
Alexander MacLeod                       Harry Smith – Chair                        
\_\_\_\_\_  
Keith Hoyle

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: March 3, 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

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