

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 08-532

ASN Avenir LLC,)
Appellant;)
v.)
City of Boston,)
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 has requested that the Board review Appellee's decision to deny the Appellant's application for a change to the plans, Boston permit application 08-A182, to omit a sprinkler system for an electrical transformer vault for the property located at 89-119 Canal Street, Boston, MA

By letter dated November 20, 2007, Thomas O'Donnell, for the Inspectional Services Department of the City of Boston ("Boston"), informed Appellant that the proposed change to the plans to omit sprinkler coverage for the electrical transformer vault violated 780 CMR §§403.2, 904.2, 906.2.1 and MGL c. 148, §26A and denied the modification to the plans on the building permit.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR 1.02 et. seq.; and, the Board convened a public hearing on February 26, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and testifying at the hearing was Kevin Hastings of R.W. Sullivan, Inc., on behalf of Appellant. There were no appearances on behalf of the Appellee.

Exhibits in Evidence

Exhibit 1: State Building Code Appeals Board Appeal Application Form, dated January 23, 2008, including supporting materials and plans.

Findings of Fact

Based on the credited testimony of the witness and the plans submitted, the Board finds these facts:

1. The building is a new ten story Type I structure of approximately 380,000 square feet constructed for residential with ground floor retail and below grade parking.
2. The planned transformer vault has these features:
 - a. all electrical cables to be flame retardant,
 - b. the dielectric insulating fluid will be limited combustible,
 - c. the vault has a three hour fire resistance rating,
 - d. the vault is located at grade with direct access to the exterior,
 - e. smoke detectors connected to the fire alarm system installed,
 - f. access to the vault will be limited to NSTAR utility personnel,
 - g. the vault will have a pit and 4" high curbs as a spillway to contain leaks up to 1,500 gallons,
 - h. the Boston Fire Department has coordinated with NSTAR for emergency plans,
 - i. a 10,700 CFM ventilation system is dedicated to serve only the vault,
 - j. the ventilation system is connected to an emergency power supply, and
 - k. the vault is 768 sq. ft. in size.
3. The variance is of a type granted several times previously with the above-listed dimensional, location, and construction and protection features and is in accordance with the proposed provisions of the draft Seventh Edition of the Massachusetts Building Code, section 903.2.

Decision

Pursuant to M.G.L. c. 143, § 100, the Board has the authority to decide appeals by those "aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code."

The issue is whether the Appellant should be granted a variance from the provisions 780 CMR §§ 403.2, 904.2, 906.2.1 and MGL, c. 148, §26A to allow a change to the plans as permitted to omit the automatic sprinkler system from a transformer vault on the ground level. For the following reasons, the Board **ALLOWS** the appeal.

The variance is of a type granted several times in the past when the construction and protection features of the proposed transformer vault conform to the draft Seventh Edition of the Massachusetts Building Code, Section 903.2. Under the provisions of the draft Code, sprinklers may be omitted in transformer vaults when the location, dimension, and construction and protection features listed in the Findings of Fact, paragraph (2), are conformed to.

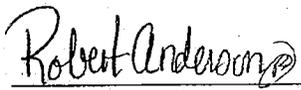
The Chair entertained a motion to grant the variance from the provisions of 780 CMR §§ 403.2, 904.2, 906.2.1 and MGL, c. 148, §26A and allow the issuance of the change to the plans for the permit for the transformer vault to allow the omission of sprinklers in the transformer vault. The Board voted as indicated below.

X..... **Granted** Denied Rendered Interpretation

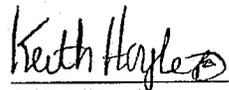
.....Granted with conditions Dismissed

The vote was:

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



Robert Anderson



Keith Hoyle

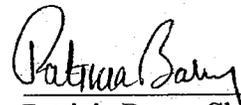


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Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

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

A true copy attest, dated: June 19, 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 \$5.00 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:

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