

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-387

Brendon Homes, LLC,)
Appellant)
v.)
Town of Shrewsbury,)
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§3603.8.1- 3 of the Massachusetts State Building Code (“Code”) with respect to a certain basement area of a condominium being developed at 17 Independence Lane, Shrewsbury, MA (“Project”).

By letter dated February 13, 2007, Patricia Sheehan, Local Building Inspector for the Town of Shrewsbury (“Appellee”), informed Appellant that the finished basements in the Project do not meet the minimum requirement for ceiling height under 780 CMR §3603.8.1- 3 (seven feet).

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 March 20, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Charles MacGregor was present at the hearing on behalf of Appellant.

Reasons for Variance

The issue is whether Appellant should be granted a variance with respect to the finished ceiling height of a certain basement area in the Project. Under 780 CMR §3603.8.1 – 3:

Habitable basements shall have a minimum clear ceiling height of seven feet zero inches, except that beams, girders and other obstructions spaced not less than four feet on center may project not more than six inches below the required ceiling height.

Appellant explained that the basement area under consideration in the Project has an area of approximately 1233 square feet, approximately 332 square feet of which is lower than minimum ceiling height.

The Board considered the hardship in making changes to this particular area, that the spaces in issue would be wired for smoke and carbon monoxide detectors and that all subsequent designs for basement areas in this condominium would be changed to comply with the height requirements. There was no opposition from Appellee.

Decision

The Chair entertained a motion to grant a variance from 780 CMR §3603.8.1 – 3 (“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

.....Granted with conditions Dismissed

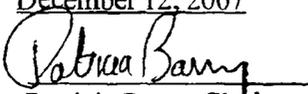
The vote was:

.....**Unanimous** Majority

 _____ Keith Hoyle	 _____ Harry Smith – Chair	 _____ Alexander MacLeod
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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: December 12, 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
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One Ashburton Place – Room 1301
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