

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-404

_____)
Bristol-Myers Squibb,)
Appellant)
)
v.)
)
Devens Enterprise Commission,)
Appellee)
_____)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("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 variances from 780 CMR §§1017.4, 1019.1, and 1019.2.1, of the Massachusetts State Building Code ("Code") with respect to the development of a bio-pharmaceutical facility in Building 110, 38 Jackson Road, Devens, MA ("Project").

By letter dated March 15, 2007, Gabriel Joseph Vellante, Jr, Building Commissioner for the Devens Enterprise Commission ("Appellee"), informed Appellant that its suggested compliance alternatives for the Project were being denied. The letter stated that the denial "should not be construed as a negative opinion to the design alternative, rather as an indication that said design alternative request is beyond the scope and capability" of the Building Commissioner.

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 April 24, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

George T. MacKnight and Geoff Middleton were present on behalf of Appellant.

Discussion

The issue whether Appellant should be allowed a variance from the requirement that doors in all clean room areas of the Project must swing in the direction of egress travel, as set forth in §§1017.4, 1019.1, and 1019.2.1. Appellant is not requesting relief for door swing direction to Horizontal Exits, Hazardous Occupancies, and spaces that will actually hold more than 50 people.

Appellant represented that the National Institute of Health ("NIH"), Centers for Disease Control ("CDC"), and the Food and Drug Agency ("FDA") establish requirements for biological containment via HVAC pressurization. As stated in Appellant's submission to the Board:

These pressurization differences average around .05 inches of water (12.45 pascals). At the airlocks this means the doors must swing in the direction of negative pressure or they will not close and seal properly (i.e. they must be pushed close by the air pressure). If a door swings in the direction of positive pressure, they will be held open by the air pressure and will not seal (i.e. they will be pushed open by air pressure). If they do not seal properly, clean containment as required by the regulating agencies cannot be guaranteed. Additionally, this can cause latching problems for doors in fire-related wall assemblies. Therefore, the doors in a facility of this type cannot always swing in the direction of travel along egress paths.

Thus, the direction in which a door swings is critical to maintaining required clean standards in this type of facility. In addition, the occupancy load in the facility will be well below 50 at any time, except with respect to only the Shift Change Conference Room.

Decision

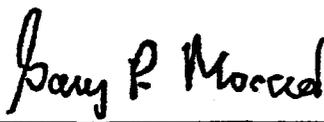
The Chair entertained a motion to grant variances from §§1017.4, 1019.1, and 1019.2. of the Code, with the condition that the facility in which relief from swing door direction will have occupancy of fewer than 50 people ("Motion"). Following testimony, and based upon relevant information provided, Board members voted to approve the Motion, as described on the record. The Board voted as indicated below.

..... Granted Denied Rendered Interpretation

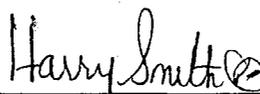
X.....Granted with conditions Dismissed

The vote was:

X.....Unanimous Majority



Garry Moccia



Harry Smith - Chair

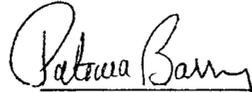


Keith Hoyle

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: December 11, 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:

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State Building Code Appeals Board
BBRS/Department of Public Safety
One Ashburton Place – Room 1301
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