COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-423

Community Rowing, Inc.,	)
Appellant	)
	)
v.	)
	)
Commonwealth of Massachusetts,	)
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§1014.11 and to render an interpretation about §805.1 of the Sixth Edition of the Massachusetts State Building Code ("Code").

By letter dated April 20, 2007, Paul R. Di Chiara, State Building Inspector, on behalf of the Commonwealth of Massachusetts ("Appellee"), concluded that Appellant's proposals for open egress stairways and a finish flooring of asphalt/bituminous concrete, for a new sculling boathouse and adjacent sculling pavilion to be constructed along the Charles River ("Project"), conflicted with the following Code sections: 780 CMR Chapter 6, §603 (Types 1 and 2 Construction); Chapter 7 (Fireresistent Materials and Construction), §709 (Fire Separation Assemblies), §711 (Fire Partitions), §711.4 (Continuity), and §713 (Floor/Ceilings and Roof/Ceilings Assemblies).

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 June 14, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Kevin Hastings, of R. W. Sullivan, Inc. was present at the hearing on behalf of Appellant. In addition, Todd Thiel and Alex Anmahian, of Anmahian-Winton Architects, were present on behalf of Appellant.

Reasons for Variance

Egress Stairs

The issue is whether Appellant should be allowed a variance from the requirement of enclosed one-hour rated fire separation assemblies for interior exit stairs when open egress stairways are allowed under the 2003 International Building Code. In pertinent part, 780 CMR §1014.11 requires:

> Interior *exit stairways* shall be enclosed with *fire separation assemblies* having a fire resistance rating of not less than two hours except that such *stairways* in occupancies in Use Group A, B, E, F, H-4, I, M, R or S which connect less than four stories shall be enclosed with *fire separation assemblies* having a fire resistance rating of not less than one hour. An *exit stairway* enclosure shall not be used for any purpose other than *means of egress*. Openings in exit enclosures, other than unexposed exterior openings, shall be limited to those necessary for *exit access* to the enclosure from normally occupied spaces and for egress from the enclosure. (emphasis in original).

Appellant argued that the proposed design for the Project includes two open egress stairways from the second floor because these types of stairways function better for this type of building. Further, Appellant asserted that the Project is designed in accordance with Section 1019.1, exception 9, of the 2003 International Building Code ("IBC"). In addition, Appellant stated that the IBC allows the open egress stairs because the Project will be equipped with sprinkler protection. Finally, the Project will have quick response sprinkler heads throughout, and smoke detection throughout the open stairways and surrounding areas.

The Board concluded that the provisions of IBC §1019.1 will be part of the upcoming Seventh Edition of the Massachusetts State Building Code ("Seventh Edition"). The Board found that Appellant's particular configuration would be allowed under the IBC and the Seventh Edition. The Board also considered that Appellant's design will include fire protection in accordance with the current, Sixth Edition, of the Code.

Based on the aforementioned circumstances, the Chair entertained a motion to allow a variance from 780 CMR §1014.11 ("Motion One"). Motion One carried by a vote of two in favor, one opposed.

Floor Finish for Boat Storage Area

The next issue is whether the Code allows the use of bituminous concrete (asphalt) as the finished floor for the boat storage area on the first floor of the building and on the first floor of an adjacent building, the sculling pavilion. Section 805.1 provides:

> **805.1 General**: Finished floors or floor covering materials of a traditional type, such as wood, vinyl, linoleum, terrazzo and other resilient floor covering materials, are exempt from the requirements of 780 CMR 805.0. Floor coverings judged by the code official to represent an unusual hazard shall meet the requirements of 780 CMR 805.0.

Appellant argued that asphalt is allowed as of right under the Code because it is a type or resilient floor covering. Further, Appellant noted that the storage area in the main building of the Project and the adjacent sculling pavilion will be used only for rowing skulls, rather than for any type of power boats. Appellant clarified that it was not seeking a variance, but, rather, an interpretation from the Board that asphalt in its type of application is allowed as of right under §805.1.

Considering the above reasons, the Chair entertained a motion that the Board interpret §805.1 to allow asphalt as a finish floor as Appellant has described for the first floor of the main building and the first floor of the sculling pavilion ("Motion Two"). Motion Two carried by a unanimous vote.

Decisions

(1) Following testimony, and based upon relevant information provided, Board members voted (two in favor, one opposed) to allow a variance from §1014.11 of the Code, as described on the record. The Board voted as indicated below.

[NO]_____	[YES]_____	[YES]_____
Dana Haagensen	Robert Anderson-Chair	Stanley Shuman

(2) Following testimony, and based upon relevant information provided, Board members voted that a variance from §805.1 was not required, and rendered an interpretation that the finish asphalt flooring in these circumstances was allowed under §805.1. The Board vote was unanimous as indicted below.

Dana Haagensen	Robert Anderson	Stanley Shuman
Dana Haagensen	Robert Anderson-Chair	Stanley Shuman

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 18, 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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