

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board
Docket No. 05-457

BOARD'S RULING ON APPEAL

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
BBRS/Department of Public Safety
One Ashburton Place - Room 1301
Boston, MA 02108

David Perry)
Appellant,)
)
v.)
)
City of Boston and John Walsh)
Appellees)
)

Procedural History

This matter came before the State Building Code Appeals Board ("the 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 a variance from 113.3 and 115.2 of the Massachusetts State Building Code ("MSBC") pertaining to compliance with the permit and required inspections for the property of 2-6 Guild St, Roxbury, MA 02119 and cause a Stop Work Order issued by the City of Boston Inspectional Services Department to be vacated. In accordance with MGL c. 30A, §§ 10 and 11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the Board convened a public hearing on August 21, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and representing himself was the Appellant. Also present were David Fromm, John Walsh, and Gary Moccia.

Decision: Following testimony, and based upon relevant information provided, Board members voted as indicated below.

..... Granted Denied Rendered Interpretation

.....Granted with conditions (see below) Dismissed

The vote was:

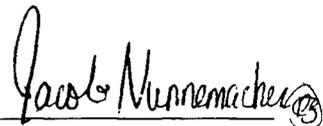
.....Unanimous Majority

Reasons for Variance:

Testimony was presented by David Perry, David Fromm, John Walsh and Gary Moccia. Two exhibits were submitted. In Exhibit #1 City of Boston ISD summarized the code violations and the stop work history that occurred this year. Exhibit #2 contains the foundation plans that were submitted and that the City of Boston ISD contends are not the plans that the construction complies with. It was noted by Gary Moccia that in the note on page 3 of Exhibit #2 which reads "This foundation plan is for dimensions only. Foundation walls, footings, columns, piers, and slab to be designed by others to meet state and/or local codes using existing soil analysis. Manufacturer assumes no responsibility for errors in the construction of the foundation..." clearly suggests that approved foundation planes were required beyond those that were submitted. The footing and foundation have been constructed and back fill has been placed, all of which the City of Boston contends is in violation of the Stop Work Orders.

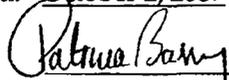
Decision: Following testimony, and based upon relevant information provided, Sandy MacLeod made a motion and the Board voted that the appellant is to submit a set of foundation drawings that are stamped by a professional licensed Engineer along with an affidavit from a professional licensed structural engineer that attests that what was constructed at the site complies with the drawings. The City of Boston ISD will review these documents and, if approved, the Stop Work Order will be vacated which will allow the Appellant to continue construction towards completion of the project.

The following members voted in the above manner

		
Chairman - Brian Gale	Alexander MacLeod	Jake Nunnemacher

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

A true copy attest, dated: October 2, 2007


Patricia Barry, Clerk

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.