

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 08-524

_____)
Derek Donohoe,)
	Appellant)
)
v.)
)
Town of Ipswich and)
James Sperber,)
	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 variances from 780 CMR §§110.1, 3603.12.1 and 3603.14.1.1 of the Massachusetts State Building Code ("Code") with respect to granite stairs constructed at the front entrance of the Appellant's residence located at 62 Jeffreys Neck Road, Ipswich, MA ("Property").

By letter dated October 16, 2007, James Sperber, Building Commissioner for the Town of Ipswich, informed Appellant of his failure to comply with 780 CMR §§110.1, 3603.12.1 and 3603.14.1.1. The letter states that the Appellant did not obtain a permit before constructing the stairs, the top step does not comply with the dimensions required for a landing, and the installation of a handrail may be required.

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 February 7, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present at the hearing were Derek Donohoe, Appellant and James Sperber on behalf of the Appellee.

Exhibits in Evidence

Exhibit 1: Two photographs taken of the Property.

Reasons for Variance

The issue is whether Appellant should be allowed a variance from 780 CMR §§110.1, 3603.12.1 and 3603.14.1.1. Section 110.1 specifically states:

110.1 Permit application: It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a *building* or *structure*; or to change the use or *occupancy* of a *building* or *structure*; or to install or alter any equipment for which provision is made or the installation of which is regulated by 780 CMR without first filing a written application with the building official and obtaining the required permit therefor.

The Appellant acknowledged that he did not obtain a permit before the construction of the new steps on the Property and was not aware that one was necessary.

Section 3603.12.1 and 3603.14.1.1 require:

3603.12.1 General: A minimum of three foot by three foot (914 mm by 914 mm) landing or open floor area shall be provided at the interior side of all exit doors. A minimum 48 inches wide by 42 inches deep landing shall be provided on the exterior side of all exit doors. The floor area or landing shall not be more than 1½ inches (38 mm) lower than the top of the threshold on the interior side, nor more than 8¼ inches lower than the threshold on the exterior side.

Exceptions: 1. At the top of a flight of interior stairs, on the stairway side, provided the door does not swing over the stairs. 2. For sliding type doors, or other doors where the threshold is located eight inches or less above the adjacent exterior finished grade.

3603.14.1.1 Handrails: Handrails having minimum and maximum heights of 30 inches and 38 inches (762 mm and 965 mm), respectively, measured vertically from the nosing of the treads, shall be provided on at least one side of stairways of three or more risers. Spiral stairways shall have the required handrail located on the outside radius. All required handrails shall be continuous the full length of the stairs. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1½ inches (38 mm) between the wall and the handrail.

The stairs do not include a proper landing on the exterior side of the exit door, and handrails have not been installed. The Appellant testified that he does not use the front entrance of the Property. Mr. Sperber, however, asserted that the Property may eventually be sold and the future owner may choose to use the front entrance.

Decision

Board member Brian Gale motioned to deny the request for variances from 780 CMR §§110.1, 3603.12.1 and 3603.14.1.1 and require the Appellant to construct the stairs in compliance with the Code, because the Board cannot overlook safety issues ("Motion"). A second motion was made by Stanley Shuman. Following testimony, and based upon relevant information provided,

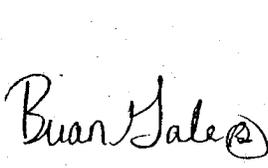
Board members voted to allow the Motion, as described on the record. The Board voted as indicated below.

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

.....Granted with conditions Dismissed

The vote was:

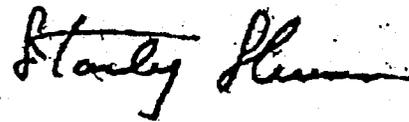
X.....Unanimous Majority



Brian Gale



Tim Rodrique



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: June 26, 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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