

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board
Docket No. 05-454

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

Appellant(s): Leon Pernice representing Alice Rodriguez
v.

Appellee(s): Mark E. Hebert,
City of Springfield Senior Building Inspector

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 Section 904.7, Use Group R-2 of the Massachusetts State Building Code ("MSBC") in reference to the property address of 176 Main Street, Indian Orchards, MA. 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 8, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present at the Hearing were:

The Appellant, Leon J. Pernice, Jr. representing the owner Alice Rodriguez, Appellee, Mark E Hebert, Springfield Senior Building Inspector, and John Cassabaum, Fire Marshall, City of Springfield.

Findings:

The subject property is a 9000 sf three story masonry building with wood framing that contains a basement, ground floor used for business and two upper floors each with two residential dwelling units. The Appellant received a building permit to renovate the four dwelling units on June 23, 2005 and work started soon thereafter. Estimated renovations involved 2850 square feet and cost \$38,500. The building permit application indicated that a fire suppression system would be provided. On June 19, 2007 the Appellant requested acceptance of a fire suppression system alternative which was subsequently denied by the Appellee. The Appellant has appealed that decision to the BBRB. The work is about 75% complete.

Discussion:

Mr. Pernice suggested a hardship exists in that the owner, Alice Rodriguez, recently lost her home, is relying on the subject building to house her nail salon business and provide income, has incurred substantial construction costs to date, cannot afford the fire suppression cost which has been estimated to be \$40K to \$85K, and stands to lose the building. He noted that part of Ms.'s Rodriguez intent in buying the building was to help revitalize the neighborhood. He also noted the difficulty with installing a fire suppression system at this point with the wallboard work completed.

The Appellee noted the building permit application indicated a fire suppression system would be installed; that the request for an alternative wasn't received until after two years of construction at which point 75% of the work was completed, and that the Appellant had neglected to request the required progress building inspections prior to closing up the walls.

The Board noted the Appellant's compliance alternative was not beyond what is normally required if a fire suppression system were provided and therefore did not present a higher level of comfort commensurate with a fire suppression system.

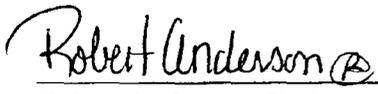
The Applicant offered to submit another alternative to the Springfield Building Department that would include more fire protection such as applying an additional layer of fire resistant sheetrock over existing completed work.

The Board understood the Appellant's intent and requested that the Appellant work with both the building inspector and fire marshal to resolve the issue.

Decision:

A motion was made, seconded and unanimously voted for in favor to deny the variance to 780 CMR 34 as stated in the appeal application, attached hereto.

The following members voted in the above manner

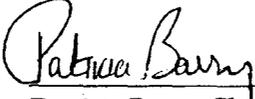

Robert Anderson, Chairman


Brian Gale


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: March 12, 2008


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.