

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board
Docket No. 05-295

Robert Carasitti,)
Appellant,)
)
v.)
)
Town of Burlington and John)
Clancy,)
Appellees)

BOARD'S RULING ON APPEAL

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 780 CMR 402.12 of the Massachusetts State Building Code ("MSBC") for 75 Middlesex Turnpike, Burlington. 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 September 7, 2006 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and representing the owner, Bellwether Properties of MA – CPI Burlington Corporation, was Rick Tonzi, Joe Stillman and Robert Carasitti ("Appellant"). Present and representing Town of Burling Inspector of Buildings was John Clancy. There was no representative present from the Town of Burlington Fire Department.

Findings of fact

1. The subject property is the Burlington Mall located at 75 Middlesex Turnpike, Burlington.
2. The proposed work to be performed at the subject property is an addition to the existing mall building.
3. The smoke control system of the existing building was designed in accordance with the fourth edition of the MSBC.

4. The smoke control system of the proposed addition must be designed in accordance with the sixth edition of the MSBC.
5. The smoke control systems required under the fourth and sixth MSBC are not compatible.
6. In order to make the smoke control systems compatible the Appellant would need to redesign, reengineer and reinstall the smoke control system throughout the existing mall building.
7. The Town of Burlington Building Department submitted a letter in support of the Appellant's request for a variance.
8. The Town of Burlington Fire Department submitted a letter in support of the Appellant's request for a variance.

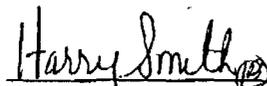
Discussion

A motion was made to GRANT the Appellant's request for a variance from 780 CMR 402.12 based upon the Appellant's hardship and the Town of Burlington's Fire and Building Departments support of the Appellant's request for a variance. Motion carried 3-0.

Conclusion

The Appellant's request for variance from 780 CMR 402.12 of the MSBC is GRANTED.

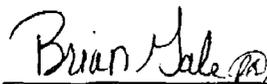
SO ORDERED.



HARRY SMITH



JACOB NUNNEMACHER



BRIAN GALE

DATED: November 22, 2006

** In accordance with M.G.L. c. 30A § 14, any person aggrieved by this decision may appeal to the Superior Court within 30 days after the date of this decision.*