

4COMMONWEALTH OF MASSACHUSETTS
State Building Code (780 CMR) Appeals Board
Board's Ruling on Appeal¹

Docket No. 09-719

Appellant(s): Kevin Michelson
representing Budget Equipment Rental, Inc.

vz. Appellee(s): City of Hadley
Timothy Neyhart

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested that the Board grant him a variance from 6th Edition 780 CMR 118.1 and 118.2 for 191 Russell Street, Hadley, MA. In accordance with GL c. 30A, §§10 & 11; GL c. 143, §100; 801 CMR 1.02 *et. seq.*; and 780 CMR 122.3.4, the Board convened a public hearing on March 5, 2009 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

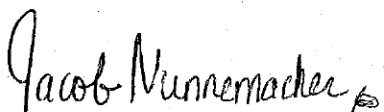
Kevin Michelson testified on behalf of the appellant. Timothy Neyhart, and others appeared for the hearing, as shown on the sign in sheet on file with the Department of Public Safety.

Discussion

A motion was made to dismiss the Appellant's request for a variance from 6th Edition 780 CMR 118.1 and 118.2, because the appellant's use of the space concerns local zoning requirements which are not within the authority of the Board. The testimony and discussion revealed that there may be building code violations concerning this issue but they were not cited by the building official. Since the violation notice, which was the subject of this appeal, was based on local by-law the Board had no authority to act at this hearing. There was a second on the motion and a board vote was taken which was unanimous.

Conclusion

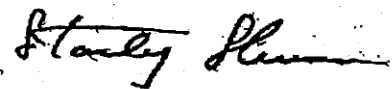
The Appellant's request for a variance from 6th Edition 780 CMR 118.1 and 118.2, is hereby dismissed and so ordered² on this date: March 5, 2009.



Jacob Nunnemacher



Douglas Semple



Stanley Shuman

¹ This is a concise version of the Board's decision. You may request a full written decision within 30 days of the date of this decision. Requests must be in writing and addressed to: Department of Public Safety, State Building Code Appeals Board, Program Coordinator, One Ashburton Place, Room 1301, Boston, MA 02108

² 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.