

**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, ss.**

**Building Code Appeals Board  
Docket No. 04-426**

Owens Corning/NES,	)	
Appellant	)	
	)	
v.	)	
	)	
City of Leominster,	)	
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 a variance from 780 CMR §1204.1 of the Sixth Edition of the Massachusetts State Building Code ("Code"). Appellant had requested a building permit from the City of Leominster to install an Owens Corning Basement Finishing System, which would require a finished basement ceiling height lower than seven (7) feet ("Application").

By letter dated May 14, 2007, William Charpentier, Building Inspector for the City of Leominster ("Appellee"), denied the Application, stating that 780 CMR §1204.1 requires a ceiling height of not less than seven feet in any habitable basement space used for recreational purposes.

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 June 14, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Shawn McCormack was present on behalf of Appellant. No one from the City of Leominster was present on behalf of Appellee.

**Reasons for Variance**

The issue is whether Appellant should be granted a variance from the minimum ceiling height requirement in the Code when constructing a finished recreation room in a homeowner's basement. Section 1204.1 requires:

*Habitable (spaces)* rooms other than kitchens shall have a ceiling height of not less than seven feet six inches (2286 mm). Hallways, corridors, bathrooms, toilet rooms, kitchens, laundry rooms and *habitable basements* that are only used as recreation rooms shall have a ceiling height of not less than seven feet (2134 mm) measured to the lowest projection from the ceiling. (emphasis in original).

The Application called for a finished basement ceiling height of six feet, six inches (6' 6"), and a finished soffit height, which would enclose the main sewer drain pipe running along the basement ceiling, of six feet (6'). After reviewing the basement floor plan that Appellant created for the Application, the Board considered the hardships imposed by the location of the main sewer drain and the existing height of the floor joists above the basement floor. In addition, the Board considered the overall size of the home and space available for use by the homeowner.

### Decision

The Chair entertained a motion to grant a variance from the minimum ceiling height required by § 1204.1, with the conditions that basement space is finished as a recreation room, the ceiling height is six foot, six inches (6', 6") or higher if possible, the soffit height is six feet (6') or higher if possible, and Appellant submit a copy of the basement floor plan, initialed by the customer, to the City's Department of Inspections prior to the issuance of the building permit ("Motion"). 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

☐..... Denied

☐..... Rendered Interpretation ☐

**X.....Granted with conditions**

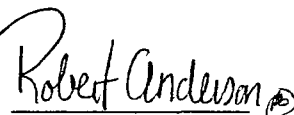
☐..... Dismissed

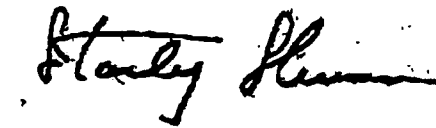
The vote was:

**X.....Unanimous**

.....☐ Majority

  
Dana Haagensen

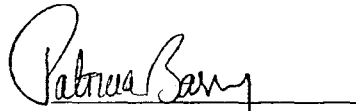
  
Robert Anderson-Chair

  
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: October 26, 2007

  
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 \$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  
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Boston, MA 02108