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Lieutenant Governor

Kevin M. Burke
Secretary

The Commonwealth of Massachusetts

Department of Public Safety

Board of Building Regulations and Standards

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Commissioner

Gary Moccia, P.E.
Chairman

Alexander MacLeod, R.A.
Vice Chairman

Robert Anderson
Administrator

Date: August 20, 2008

Name of Appellant: Kevin S. Hastings

Service Address: R.W. Sullivan, Inc.
The Schrafft Center
529 Main Street, Suite 203
Boston, MA 02129-1107

In reference to: 20-50 Battery Warf
Boston, MA

Docket Number: 05-477

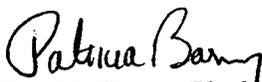
Property Address: 20-50 Battery Warf
Boston, MA

Date of Hearing: October 4, 2007

Enclosed please find a copy of the decision on the aforementioned matter.

Sincerely:

BUILDING CODE APPEALS BOARD


Patricia Barry, Clerk

cc: Building Code Appeals Board
Building Official

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-477

Kevin S. Hastings,)
Appellant)
)
v.)
)
City of Boston,)
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 §§ 904.1 & 906.2.1 of the Massachusetts State Building Code (“Code”) to allow the omission of sprinkler protection in an electrical transformer vault within a new residential, parking, and retail building (“Project”).

By letter dated, August 17, 2007, Building Inspector Thomas O’Donnell for the Boston Inspectional Services Department (“Appellee”) rejected Appellant’s application for a permit for failing to comply with the provisions of 780 CMR 906.2.1.

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 October 4, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Kevin Hastings appeared on behalf of Appellant. No one appeared on behalf of Appellee.

Exhibits

Exhibit 1: Application

Exhibit 2: BBRs Sign-in Sheet

Reasons for Variance

The issue is whether Appellant should be allowed a variance from the limitations set forth in 780 CMR §§ 906.2.1 & 904.1. The Project involves the construction of a new six story residential building including retail on the lower level and two underground parking levels. Sections 904.1 and 906.2.1 require the entire building to include sprinkler protection and the Appellant seeks to exclude sprinkler protection in the electrical transporter vault as required by NSTAR.

The Appellant testified that all electrical cables in the vault are fire retardant, there is a three hour vault rating, the vault is 32' by 45', direct access to the vault is provided from grade through an exterior areaway, there is an independent exhaust system on emergency power, smoke detection within vault is connected to the building fire alarm system, less-flammable insulating fluid will be used in the transformers, no storage will be allowed in the vault, the Boston Fire Department is familiar with the vault installations in the City, access to the vault is limited to NSTAR personnel, and the vault will have a sloped floor and pit to control any potential leaks. Furthermore, the access directly from the exterior requires individuals to go down a latter and through double doors into the vault. Additionally, there is a raised curb around the areaways.

Board Member Dana Haagensen discussed two issues from the event that occurred in Cambridge that are relevant to this Project, including the air intake to the vault and the NSTAR workers' difficulty exiting the vault. There was a contamination of the building air because the vault was venting into the intakes. The other concern is the fact that the NSTAR workers inside the vault had difficulty getting out of the vault. Furthermore, Mr. Haagensen expressed a need for panic hardware on the doors and concern for the possibility of the grate being blocked. The Appellant testified that there are two interior doors and "per the Electrical Code they don't have a true panic bar but are required to have a push plate... the Electrical does not allow a lever... These doors will have [a push plate] as a requirement of the Electrical Code." The Appellant further testified that there are two means of egress and there is a third door to the main switch gear room. Finally, the Appellant explained that the requirement of the exterior access was more for the fire department to have emergency access into the vault. Chair Rob Anderson clarified that there are four points of entry and/or exit.

The Appellant stated if the exhaust is taken directly from the areaway, the Appellants could have some mitigating measures. In regard to the "stubbed out wall between the garage... and the transformer vault" the Appellants "could... continue that wall over and essentially separate the two areaways and also provide... smoke detection on the garage... that happens to be sucking in any smoke from the areaway... that part... would automatically shut down to avoid pumping smoke into the garage."

Decision

Board Member Dana Haagensen motioned to grant the variance from sections 904.1 and 906.2.1 with the condition that the Appellant follow what is spelled out in the draft Building Code (Item 4, Page 17) rather than what was submitted in the appeal application, with the additional conditions that exit doors must have true panic hardware, and some means to prevent smoke from

the transformer vault from coming back into the building ("Motion"). The Motion was seconded by Stanley Shuman. Following testimony and based upon relevant information provided, Board members voted to approve 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



Brian Gale



Stanley Shuman



Dana Haagensen

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: August 20, 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:

Patricia Barry, Coordinator
State Building Code Appeals Board
BBRS/Department of Public Safety
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