COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-429

Amisha LLC,		)
	Appellant	)
		)
v.		)
		)
City of Woburn,		)
	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 variances from 780 CMR 603.2, 780 CMR Table 602, 780 CMR 113.3, 110.3, and 113.2 of the Massachusetts State Building Code ("Code"). Appellant had installed wood framed walls as part of constructing a breakfast area in a Best Western Hotel in the City of Woburn.

By letter dated June 6, 2007, Mark LaLumiere, Building Inspector for the City of Woburn ("Appellee"), informed Appellant that, based upon a review of 780 CMR Table 602, buildings of Type 1A construction are restricted in the use of wood framing. Appellee also informed Appellant that the constructions plans on file with the City did not represent what was actually constructed, in violation of 780 CMR 113.3, 110.3, and 113.2.

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 26, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

The following individuals appeared at the hearing: Ashok Patel and Dilip Patel, on behalf of Appellant; Mark LaLumiere, on behalf of Appellee.

Discussion

The issue is whether Appellant should be allowed variances from the framing and plan requirements in order to complete construction. Section 603.2 of the Code states, regarding "interior partitions":

In buildings or structures of Types 1, 2A and 2B construction, partitions of a single thickness of wood or approved composite panels, and glass or other approved materials of similar combustible characteristics, are permitted to subdivide rooms or spaces into offices, entries or other similar compartments in all occupancies **other** than Use Groups I and R . . . . (emphasis added).

The project involves creating a breakfast area for a Best Western Hotel ("Breakfast Area"). Appellant represented that the Hotel is within Use R1, Type IA of the Code. The Building Inspector for the City performed a rough inspection and found that the use of wood framing was questionable and directed Appellant to have an architect submit a construction control report. (See Woburn Building Department Inspection Report/Follow-up Complaint Form, dated 4-12-07).

The parties testified that the Hotel is entirely sprinklered. Appellant proposed, as an alternative means of compliance, painting wood studs with fire protective paint and finishing the walls with two layers of 5/8" dry wall; which the City agreed was acceptable.

Decision

The Chair entertained a motion to the variances with the conditions that the wood frame is painted with intumescent paint and finished with two layers of 5/8" sheet rock, one layer applied to each side of the walls of the Breakfast Area ("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

Keith Hoyle Harry Smith

Keith Hoyle Harry Smith – Chair Alexander MacLeod

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: July 30, 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 $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