

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 08-537

_____)
Anita Rogers,)
	Appellant)
)
v.)
)
City of Cambridge,)
	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 §705.3, Appellant asks the Board to review Appellee's decision not to grant a variance with respect to the addition of a bathroom window to the residence located at 1 Gordon Place, Cambridge, MA ("Project").

By letter dated November 27, 2007, Michael Grover, Building Inspector for the City of Cambridge ("Appellee"), denied Appellant's request for a variance to 780 CMR § 705.3.

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 February 7, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Appellant Anita Rogers was present at the hearing.

Decision

The issue is whether the Board should allow a variance to 780 CMR §705.3. Section 705.3 provides:

705.3 Openings: The maximum area of unprotected or protected openings permitted in an exterior wall in any story shall not exceed the values set forth in Table 705.3. Where both unprotected and protected openings are located in the exterior wall in any story, the total area of the openings shall comply with the following formula: where: *A* = Actual area of protected openings, or the equivalent area of protected openings *A_e* (see 780 CMR 705.2.4). = Allowable

area of protected openings. A_u = Actual area of unprotected openings. = Allowable area of unprotected openings.

Table 705.3

MAXIMUM AREA OF EXTERIOR WALL

OPENINGS^a

Classification of opening	Fire separation distance (feet) ^e							
	0 to 3	> 3 to 5	> 5 to 10 ^d	> 10 to 15 ^d	> 15 to 20 ^c	> 20 to 25 ^c	> 25 to 30 ^c	> 30
Un-protected	NP	NP _b	10%	15%	25%	45%	70%	No limit
Protected	NP	15%	25%	45%	75%	No Limit	No Limit	No Limit

Note a. Values given are percentages of the area of the exterior wall. This table assumes that the openings are reasonably uniformly distributed. Where openings are not reasonably uniformly distributed, the portion of the wall utilized to calculate compliance with table 705.3 shall be approved.

Note b. For occupancies in Use Group R-3, the maximum percentage of unprotected exterior wall openings shall be 5%.

Note c. The area of openings in an open parking structure with a fire separation distance of greater than ten feet shall not be limited.

Note d. For occupancies in Use Group H-2 or H-3, unprotected openings shall not be permitted for openings with a fire separation distance of 15 feet or less.

Note e. One foot = 304.8 mm.

The Project involves the addition of a 6 square foot window for the purpose of allowing light and ventilation into a windowless bathroom. The area of unprotected openings of the existing wall is approximately 5%, and the additional window would create a 5.5% area of unprotected openings. Additionally, the east side wall is less than 3 feet from the property line which abuts the rear property line of the adjacent building. Cambridge zoning requires a 20 foot rear yard setback. There is over a 20 foot separation between the exterior wall and the adjacent structure.

Conclusion

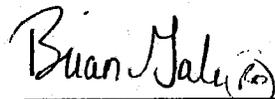
Board Member Brian Gale motioned that the Board grant a variance to 780 CMR § 705.3 to allow a bathroom window of 6 square feet to be added to the house because there is a 20 foot setback from the adjacent property ("Motion"). The motion was seconded by Stanley Shuman noting that there are five other windows and the proposed window is relatively small, furthermore it would constitute a hardship to deny the variance. 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

.....Granted with conditions Dismissed

The vote was:

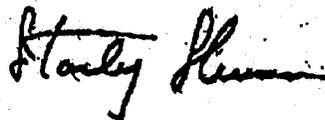
.....**Unanimous** Majority



Brian Gale



Tim Rodrique



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: June 26, 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:

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State Building Code Appeals Board
BBSR/Department of Public Safety
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