

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-485

Huntington Homes,)
Appellant)
)
v.)
)
Commonwealth of Massachusetts)
and William Horrocks,)
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 §1006.4.1 of the Massachusetts State Building Code ("Code") with respect to constructing a building involving a residential duplex over a business located at 128 Old South Road (Lot 2), Nantucket, MA ("Project").

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 23, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present at the hearing were David Nelson on behalf of the Appellant and William Horrocks, State Building Official, was present on behalf of Appellee.

Reasons for Variance

The issue is whether Appellant should be allowed a variance from 780 CMR §1006.4.1 in order to complete the Project. Section 1006.4.1 states:

Remoteness: Where two *exits* or two *exit access* doors are required, each shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the building or area to be served. Where *exit* enclosures are provided as a portion of the required *means of egress* and are interconnected by a *corridor* conforming to the requirements for *corridor* construction, the exit separation distance shall be measured along the line of

travel within the *corridor*. In all other cases, the separation distance shall be measured in a straight line between *exits* or *exit access* doors.

Exception: In buildings equipped throughout with an *automatic sprinkler system* in accordance with 780 CMR 906.2.1 or 906.2.2, the minimum separation distance shall be ¼ of the length of the maximum overall diagonal dimension.

The Project involves the construction of a duplex above an occupancy in Use Group B or business. The two egress access doors do not meet the remoteness requirement in the Code because of the small space and limitations posed by the Nantucket Historic District Commission (“HDC”).

Appellee did not object to granting the variance. The Board acknowledged the hardship given the small size of the space and the HDC restrictions. Additionally, the Board noted that the building has a two hour fire rating between the business use and residential use, a fire proof stairwell, a smoke and carbon monoxide protection system, and though it does not currently meet the remoteness requirement, if the International Building Code were adopted, one means of egress would be required.

Decision

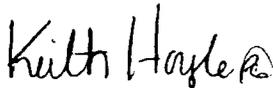
Board member Alexander MacLeod motioned to grant the variance from §1006.4.1 because the area is small in nature and consists of one room (“Motion”). The motion was seconded by Keith Hoyle. Following testimony, and based upon relevant information provided, Board members voted to allow the Motion, as described on the record. The Board voted as indicated below.

..... **Granted** Denied Rendered Interpretation

..... Granted with conditions Dismissed

The vote was:

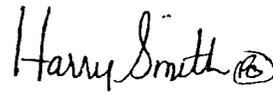
..... **Unanimous** Majority



Keith Hoyle



Alexander MacLeod



Harry Smith -Chair

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 12, 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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