

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board  
Docket No. 05-377

BOARD'S RULING ON APPEAL

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  
BBSR/Department of Public Safety  
One Ashburton Place - Room 1301  
Boston, MA 02108

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Michael DiMascio for )  
Chelsea Nursing Home )  
Appellant, )  
 )  
v. )  
 )  
City of Chelsea and Joseph Cooney , )  
Appellees )  
 )

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**Procedural History**

This matter came before the State Building Code Appeals Board ("the Board") on the 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 409.21 through 409.2.4 of the Massachusetts State Building Code ("MSBC") for the Chelsea Nursing Home located at 175 Captain's Way, Chelsea, Massachusetts, 02150. In accordance with MGL c. 30A, §§ 10 and 11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the Board convened a public hearing on March 8, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and representing the Chelsea Nursing Home was the Appellant, Michael DiMascio. Present and representing the Appellee City of Chelsea was Joseph Cooney, Director of the Department of Inspectional Services. Also present were Diane Daley of DiMella Shaffer Architects, the designers of the building, and Barry Berman.

**Exhibits:**

Exhibit #	Item	Pages	Submitted by
1	Revised Set of Drawings	4	Appellant
2	Chelsea Skilled Care Nursing Facility, Required v. Proposed Conditions	1	Appellant
3	Letter from Chelsea Fire Department	1	Appellee

**Decision:** Following testimony, and based upon relevant information provided, Board members voted as indicated below.

- ..... **Granted**
                 
 ..... **Denied**
                 
 ..... **Rendered Interpretation**
- .....**Granted with conditions (see below)**
                 
 ..... **Dismissed**

The vote was:

- .....**Unanimous**
                 
 ..... **Majority**

**Reasons for Variance:**

1. There are no objections from the Chelsea Department of **Inspectional Services** or from the Chelsea Fire Department, as evidenced by the submission of a letter from Deputy Chief Robert Better, Jr. to the Board and entered as Exhibit 3.
2. The revised **building plans** (Exhibit 1) make adequate substitutions in provisions to protect public safety. Substitutions include: 1 hour rated walls between kitchen and open area; 1 hour rated walls between open area and bedrooms; double horizontal exits protected by 2 hour rated construction between **individual groupings**; **ultra-sensitive** smoke detection; and a closed nurses' station.

**The following members voted in the above manner**

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Chairman -Harry Smith

\_\_\_\_\_  
Brian Gale

\_\_\_\_\_  
Jake Nunnemacher

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: October 1, 2007

\_\_\_\_\_  
Patricia Barry, Clerk

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.