

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board
Docket No. 05-402

BOARD'S RULING ON APPEAL

Shawn McCormack, Owens Corning/NES)
Appellant,)
)
v.)
)
Town of Northbridge/James Sheehan, Jr. ,)
Inspector of Buildings)
Appellee)
)

Procedural History:

This matter came before the State Building Code Appeals Board (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 § 3603.8.1 of the Massachusetts State Building Code (Building Code) pertaining to finished ceiling and soffit heights in reference to a building permit application to finish part of an existing basement (Application).

By letter dated January 8, 2007, James Sheehan, Jr. (Appellee), denied the Application because the proposed ceiling and soffit heights were less than the minimum ceiling height of seven feet, as required in 780 CMR § 3603.8.1.

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 April 24, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and was the Appellant. Present and representing the Town of Northbridge Building Department was James Sheehan, Jr.

Reasons for Variance:

Appellant asserted that "the last time" he was before the Board, he was told that due to a misprint in the Code, the minimum ceiling height allowed was indicated as 6' 8". The Board informed the Appellee that the minimum height should be 6' 10" although the Board acknowledged that there was some confusion about what should be the minimum height in finished basements. The Board discussed how the Board of Building Regulations and Standards may have voted to lower the minimum ceiling height but, due to possible clerical errors, that change is not reflected in the Code. The Board also acknowledged that there are many Owens Corning basement installations and, in the Board's opinion, Owens Corning appeared to be making reasonable efforts to comply. In any event, the Board concluded that a minimum ceiling height of 6' would be too low.

The Application's proposed soffit height of six feet applies to a carrying beam that is located approximately in the middle of a finished recreation room in the basement. Although Appellant indicated that the soffit could end up at six feet, one inch, the plans call for a final height of six feet to allow for flooring and finish boards around the beam. Mr. Sheehan expressed concerns about the finished six foot height of the beam but stated that he would not object to the Board's decision.

In addition, the Board discussed the need to install a smoke detector on the ceiling near the base of the stairway in the basement.

To address the Board's concerns, the Board imposed the following additional conditions. First, the Appellant must install some type of fluorescent tape to call attention to the six-foot beam. Second, the Appellant must install an additional smoke detector in the basement. To clarify these conditions, the Board included a copy of the proposed floor plan, and marked on the plan the locations of the fluorescent tape and the smoke detector. The plan was marked and included as Exhibit 1 to the Board's decision.

Decision:

Following testimony, and based upon relevant information provided, Board members voted to allow the variance from the minimum ceiling height as required in 780 CMR § 3603.8.1. The variance allows a ceiling height of six feet, eight inches; soffit height of six feet, as shown on Exhibit 1. The Board members voted as indicated below.

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

XXX.....Granted with conditions (see below) **Dismissed**

The vote was:

XXX.....Unanimous **Majority**

The following members voted in the above manner

Harry Smith (PS)

Chairman - Harry Smith

Gary R. Moccia

Gary Moccia

Keith Hoyle (PS)

Keith Hoyle

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

A true copy attest, dated: September 20, 2007

Patricia Barry

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.

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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