

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board  
Docket No. 05-448

University of Massachusetts, Amherst, )  
Appellant )  
v. )  
Commonwealth of Massachusetts, )  
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 §404.4 of the Massachusetts State Building Code ("Code") with respect to the construction of the main lobby space of the University of Massachusetts ("UMass"), Amherst, Recreation Center ("Project").

By e-mail dated May 7, 2007, State Building Inspector David C. Holmes, of the Department of Public Safety, Commonwealth of Massachusetts ("Appellee") informed Appellant that the main lobby space of the Project involves three stories, rather than two, thus implicating the restriction in §404.4 of the Code.

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

Rockwood J. Edwards, of Schirmer Engineering Corp., and Richard Colavecchio, of Sasaki Associates, appeared on behalf of Appellant. David C. Holmes appeared on behalf of the Commonwealth. William Klauss appeared on behalf of the Town of Amherst.

**Reasons for Variance**

The issue is whether Appellant should receive a variance from 780 CMR §404.4, which requires, "A smoke control system complying with 780 CMR 921.0 shall be installed in all atriums that connect more than two stories."

The Project will include a walkway from the upper portion of the UMass Amherst campus to the lower portion. Although the Project contains four separate floor levels, it will be constructed on a sloping site. As a result, the Project's main lobby space will include a two story opening between the Courtyard and Third Floor level. This two-story opening complies with 780 CMR §713.3, Exception 2. Further, the main lobby space will have limited quantities of combustible materials and will meet all other fire requirements.

The state building inspector believes that although the structure is close to three stories, Appellant's proposal is acceptable. In addition, the Town of Amherst Fire Department does not object to Appellant's proposal.

**Decision**

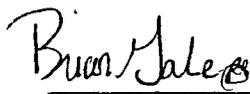
The Chair entertained a motion to grant the variance from 780 CMR §404.4 ("Motion"). Following testimony, and based upon relevant information provided, Board members voted to allow the Motion, as described on the record. The Board voted as indicated below.

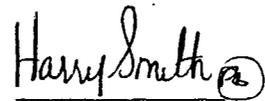
X..... **Granted**                      □..... Denied                      □..... Rendered Interpretation □

\_\_\_.....Granted with conditions                      □..... Dismissed

The vote was:

X.....**Unanimous**                      .....□ Majority

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

  
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Harry Smith – Chair

  
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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: January 16, 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  
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Boston, MA 02108