

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-348

_____)
Walter Sterling)
	Appellant,)
)
v.)
)
Town of Oxford)
	Appellee)
_____)

BOARD'S RULING ON APPELLANT'S MOTION FOR RECONSIDERATION

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's Motion for Reconsideration ("Motion"), pursuant to 801 CMR §1.02(12)(a), of the Board's Ruling on Appeal dated March 12, 2007 ("Ruling").

The Ruling granted Appellant's request for a variance from 780 CMR §903.1 with the condition that the Home Depot remove its water storage tanks within the twelve month period following the Town of Oxford's completion of its facilities for water storage.

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 May 3, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

The Appellant was present at the hearing. Jeffrey A. Wilson, Chief of Oxford Fire-EMS was present, representing the Town of Oxford. Attorney Robert Longden was present, representing the Appellant and Home Depot USA.

Reasons for Decision on Motion

Subsequent to the Ruling, the Town completed hydraulic water studies which demonstrated that the Town's water storage facilities will not be capable of providing an adequate water supply for fire protection for the Home Depot store.

Mr. Wilson concurred with the Town's studies and supported Appellant's Motion, agreeing that the Home Depot store must maintain its own on-site water storage tank to provide adequate water supply.

The Board heard representations from Mr. Sterling that the on-site water storage tank has a capacity of 200,000 gallons and its condition is brand new.

Decision

Following testimony, and based upon relevant information provided, the Chair entertained a motion to grant the Motion with the further condition that Home Depot be required to continue the maintenance of the on-site water storage tank. Mr. Sterling stated that it is Home Depot's policy to maintain all fire protection systems. The Board members voted to allow the Motion. Jacob Nunnemacher abstained.

..... Granted Denied Rendered Interpretation

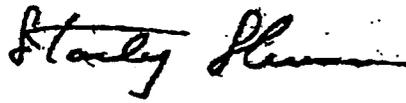
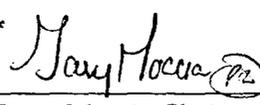
..... Granted with conditions Dismissed

The vote was:

..... Unanimous

..... Majority

The following members voted in the above manner:

		ABSTAINED
Stanley Shuman	Garry Moccia-Chair	Jacob Nunnemacher

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: October 9, 2007


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
One Ashburton Place - Room 1301
Boston, MA 02108