

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-410

<hr/>)
Felicia's, Inc.,)
	Appellant)
)
v.)
)
Town of Stoneham,)
	Appellee)
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BOARD'S RULING ON APPEAL

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 variances from 780 CMR §§1006.2.2 and 1017.4.4 of the Massachusetts State Building Code ("Code") in order to install a horizontal sliding door at Appellant's restaurant in the Town of Stoneham.

By letter dated February 27, 2007, Cheryl Noble, Building Inspector for the Town ("Appellee"), denied Appellant's request to install the sliding door because such an installation would not comply with §§1006.2.2 and 1017.4.4 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 May 3, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Attorney Eugene F. Grant and Fred Puorro were present on behalf of Appellant. Cheryl Noble and William Solomon, Town Counsel for Appellee, were present on behalf of Appellee.

Discussion

The issue is whether Appellant should be allowed to install a power operated horizontal sliding door to replace one of the two doorways to its restaurant located on Main Street in Stoneham. Appellant's restaurant has an occupant load of approximately 120. Section 1017.4.4, however, allows horizontal sliding doors when an occupant load is fewer than 50. In pertinent part, §1017.4.4 requires, "In other than occupancies in Use Group H, horizontal sliding doors

that are considered a component of a *means of egress* shall comply with all of the following criteria: 1. The door serves an occupant load of less than 50” Further, §1006.2.2 states:

All buildings occupied for assembly purposes shall front on at least one street on which the main entrance and *exit discharge* shall be located. Where there is a single main entrance, the entrance shall be capable of serving as the main *exit* and shall provide an egress capacity for at least one-half of the total occupant load. In addition to having access to a main *exit*, each level of an occupancy in Use Group A shall be provided with additional *exits* which shall provide a *means of egress* capacity for at least one-half of the total occupant load served by that level.

Appellant argued that the above Code sections should not bar the installation of the sliding door because it would not be the only main entrance to the restaurant. Appellant believes that there are two main entrances, for purposes of the cited Code sections.

Appellee maintained, however, that there are, and would not be, two main entrances. One of the current means of egress is not used as a main entrance, but primarily as another exit. The other, where Appellant wants to install the sliding door, would be the actual main entrance/exit, because that is the way the most people enter the restaurant. Appellee believes that people will tend to leave by the same way they entered, thus the proposed way for the sliding door would be a main means of egress in the event of an emergency. Thus, more than fifty (50) occupants would use the proposed sliding door as a means for egress. (Further, the building is too close to the sidewalk to allow a door that would swing out onto a public way, according to Appellee.)

The Board also considered a submission from Appellant’s architect, which asserted that there are three viable exits, a total of potentially 138 occupants, thus 46 occupants per door. In the end, the Board did not agree with the architect’s interpretation.

Decision

The Chair entertained a motion to uphold Appellee’s interpretation that the sliding door installation does not meet the requirements of §§1006.2.2 and 1.17.4.4, thus denying the appeal (“Motion”). Following testimony, and based upon relevant information provided, Board members voted in favor of the Motion, as described on the record. The Board voted as indicated below.

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

___.....Granted with conditions Dismissed

The vote was:

___.....Unanimous **X Majority**

Jacob Nunnemacher
Jacob Nunnemacher (yes)

Harry Smith
Harry Smith – Chair (no)

Stanley Shuman
Stanley Shuman (yes)

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: December 4, 2007

Patricia Barry
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:

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