



TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES

BUILDING BOARD OF ADJUSTMENTS AND APPEALS

2:00 P.M., SEPTEMBER 9, 1993

AT THE TOWN HALL, PLANNING, ZONING & BUILDING DEPARTMENT
CONFERENCE ROOM, 360 SOUTH COUNTY ROAD, PALM BEACH

- I. Call to order: The meeting was called to order at 2:00 p.m.
by Vice Chairman John Nora Jr.

Mr. Ames Bennett re-stated his conflict with respect to today's
hearing, as he represents the appellant. (Voting Conflict
form on file.)

II. Roll Call:

PRESENT: JOHN NORA JR., VICE CHAIRMAN AND ACTING CHAIRMAN
JOHN C. CASSIDY, MEMBER
JEFFERY W. SMITH, MEMBER (arrived at 2:10 p.m.)
SCOTT SLOANE, MEMBER
VANCE CARPENTER, MEMBER
HUGH C. DAVIS, MEMBER
JAMES B. WILLIAMS, ALTERNATE MEMBER

STAFF PRESENT: John C. Randolph, Town Attorney
Robert L. Moore, Director of Planning, Zoning
& Building
Harry P. Ackerman, Chief Building Inspector
John T. Wandell, Fire Marshal
Cynthia M. Delp, Recording Secretary

OTHERS PRESENT: Mr. Ames Bennett, Appellant's Representative
Mr. Edward Hartel, 455 Worth Ave. Corp.

III. Approval of the Minutes of the April 29, 1993 Meeting:

MOTION BY MR. SLOANE TO APPROVE THE MINUTES AS MAILED.
MOTION SECONDED BY MR. CASSIDY.
MOTION CARRIED UNANIMOUSLY.

IV. Items for Discussion: Reconsideration of the request sought by 455 Worth Avenue Corp.

Item 1: Requested by: 455 Worth Avenue Corp.
Regarding: 455 Worth Avenue
Subject: Variance to Life Safety Code, Section 19-3.1 (Requiring the protection of vertical openings) and, Section 19-3.3 (Requiring that interior finish on walls shall be Class A or B).

PLEASE NOTE: AT THE APRIL 29, 1993 MEETING, THIS MATTER WAS DEFERRED UNTIL FURTHER STUDY COULD BE ACCOMPLISHED REGARDING SPRINKLING THE BUILDING.

Mr. Bennett stated that subject to the last meeting, he made inquiries as to price and feasibility of sprinkling this building. He understood that this building would be regarded as an "Option 3" building under the Life Safety Code, meaning that it would be partially sprinkled. Farmer and Irwin Corp. had submitted a bid for this work in the amount of \$ 51,949.00, under the assumption that this building could be considered "Option 3".

Mr. Wandell, however, explained that this building must be regarded as "Option 4", meaning that it must be totally sprinkled, with the exception of bathrooms and closets.

Mr. Bennett referred to Appendix A of the NFP 101, 1988 version, and read the following: Article A-1-4.4 states,

"In existing buildings, it is not always practical to strictly apply the provisions of the code. Physical limitations may require disproportionate efforts or expense, with little increase in life safety. In such cases, the authority having jurisdiction shall be satisfied that reasonable life safety is assured. In existing buildings, it is intended that any condition that represents a serious threat to life be mitigated by application of appropriate safeguards. It is not intended to require modification for conditions that do not represent a significant threat to life even though the circumstances are not literally in compliance with the code."

Based on the above, Mr. Bennett requested relief from having to sprinkle the building as required by code, or alternately, asked the Board to consider just a token amount of sprinklers sufficient to safeguard life. He stated that this building, with its twenty-nine (29) units, was built twenty-five years ago, and at that time, was built to code and the satisfaction of the Town. Since, that time, of course, codes have changed, but to now require this building to abide by today's code, and become totally sprinkled, would set a precedent that would effect so many buildings in the Town.

Mr. Bennett stated that the cost to each owner would be greater

than the \$ 1,000/unit owner cost, which Mr. Smith, at the last meeting, regarded as "not prohibitive". Mr. Bennett claimed that sprinkling the building would not lower insurance costs to the condominium, in contrast to Mr. Smith's statement at the last meeting. Also, there is no architectural means of enclosing the stair, without sacrificing two units per floor. Additionally, the condo has pledged to take additional measures to safeguard the building, like flameproofing all floor coverings, wall coverings, and ceiling finishes in the corridors, providing adequate fire extinguishers, providing adequate smoke alarms outside each door or inside each apartment, and providing an exhaust system at the top of the stair for smoke removal so that the stair could be used as a means of egress during a fire.

The stair tower at the west end of the building is enclosed and meets the code as a means of egress. This exit, however, is not sufficient to those living at the east end of the building, because in order to access it, they would have to go past the vertical opening (stair) in question. Although there is an existing fire alarm system in place at the building, it is not sufficient protection as it is a "passive" system. What is needed is an "active" system, one that will go to work immediately for the occupants of the building.

It was pointed out that the Farmer & Irwin Corp. bid was for an "Option 3" building, and only represented a portion of the total cost. Considerable cosmetic work would have to be undertaken after the Farmer & Irwin work is completed. "Option 3", however, cannot be used when considering protection of a vertical opening. The vertical opening in question, which is continuous from the top floor to the lobby, must be, per the Life Safety Code, either enclosed or within a totally sprinkled building. Mr. Wandell stated that the Town, in this instance, cannot deviate from the code.

Mr. Bennett summarized ... in light of the exorbitant costs involved to sprinkle the building and the corresponding degree of disruption to the residents, and in light of the fact of all of the aforementioned measures the condo will take toward increased fire protection, relief from the provisions of the code is requested.

Mr. Smith felt that the cost, even though it will be greater than the Farmer and Irwin quoted \$ 51,949, is not prohibitive when saving lives is the issue. He felt that the Town would open itself to liability if the Town did not require this unsafe situation, discovered by the Fire Marshal, to be corrected to satisfy code requirements.

Mr. Bennett again stated that such an action would set a precedent which would affect many buildings of this approximate

age. Mr. Smith, however, stated that old buildings are brought up to code routinely, and the particular problem with this building is its open stair.

Mr. Smith questioned Mr. Randolph as to the appellant's obligation to either meet the code or surpass it with other means which are equal or better. Mr. Randolph stated that the appellant must show an alternate means of addressing the problem.

Fire Marshal Wandell again read from the Life Safety Code, as stated in "Application", Section 1-5.4, as follows:

"The requirements for existing buildings may be modified if their application clearly would be impractical in the judgement of the authority having jurisdiction, but only where it is clearly evident that a reasonable degree of safety is provided."

He placed emphasis on the underlined portion above. In this case, he felt, a reasonable degree of safety could not be provided without either sprinkling the building or enclosing the stair.

Mr. Ackerman read portions of the Ordinance governing the Building Board of Adjustments and Appeals, specifically the criteria relative to hearing appeals of decisions and interpretations of the building official and consideration of variances to the technical codes.

Mr. Moore attempted to clarify Mr. Bennett's position. He stated that the condo is appealing the decision of the Fire Marshal, claiming that the following conditions exist:

"b. The provisions of this (code) or the technical codes do not apply to this specific case."

"c. That an equally good or more desirable form of installation can be employed in any specific case."

And failing the above, Mr. Moore continued, Mr. Bennett is asking for a variance from the BBAA. A variance can only be granted if the five conditions listed in the ordinance are met.

Mr. Wandell stated that two buildings in Town had previously been cited for lack of proper egress, and the Town allowed them to complete the required work over a period of time, to delay costs and inconvenience to the Residents.

MOTION BY MR. SLOANE THAT THE BUILDING BE REQUIRED TO PROCEED WITH THE OPTION FOUR SPRINKLING AS REQUIRED SINCE IT CANNOT POSSIBLY PUT INTO EFFECT THE CONDITIONS NECESSARY TO MAKE THE STAIRWAY PROTECTED.

MOTION SECONDED BY MR. SMITH.

MOTION AMENDED BY MR. SLOANE TO INCLUDE ALLOWING THE WORK TO BE COMPLETED OVER A PERIOD OF TWO YEARS.

AMENDED MOTION SECONDED BY MR. SMITH.

There was sufficient additional discussion, prior to the vote on the aforementioned motion, which caused Mr. Sloane to re-state his motion as follows:

MOTION BY MR. SLOANE THAT DUE TO THE FACT THAT IT IS IMPOSSIBLE TO ENCLOSE THE STAIRWAY SHAFT AS REQUIRED, THAT WE MOVE FORWARD WITH REQUESTING THAT THIS BUILDING BE SPRINKLED AS PER ITEM #4, WHICH IS AN EXCEPTION TO THE RULE OF ENCLOSING THE SHAFT, AND I ALSO MOVE THAT WE GIVE THEM A PERIOD OF TWO YEARS IN WHICH TO DO THIS, TO FULLY MEET THAT PORTION OF THE CODE.

MOTION SECONDED BY MR. SMITH.

MOTION CARRIED 6-1-0, WITH MR. CASSIDY CASTING THE NEGATIVE VOTE.

*Please note that since the Board ruled that the building be sprinkled, relief from the Life Safety Code, Section 19-3.3 (Requiring that interior finish on walls shall be Class A or B) is no longer required.

V. Adjournment:

MOTION BY MR. CASSIDY TO ADJOURN THE MEETING AT 3:02 P.M.

MOTION SECONDED BY MR. SLOANE.

MOTION CARRIED UNANIMOUSLY.


John Nora Jr.
Acting Chairman


Harry P. Ackerman
Chief Building Inspector


Cynthia M. Delp
Recording Secretary

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