

TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES

BUILDING BOARD OF ADJUSTMENTS AND APPEALS

2:00 P.M., APRIL 5, 1994

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 2:03 p.m.
by Mr. Ames Bennett, Chairman.

II. Roll Call:

PRESENT: Ames Bennett, Chairman
John Nora Jr., Vice Chairman
Scott Sloane, Member
Vance Carpenter, Member
Hugh C. Davis, Member
James B. Williams, Alternate Member
Peter S. Broberg, Alternate Member

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

OTHERS PRESENT: Mr. Edward Hartel, 455 Worth Ave. Corp.
Trudy D. Moriarty
Mr. Ben Wright

ABSENT: Jeffrey W. Smith, Member
John C. Cassidy, Member

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

III. Approval of the Minutes of the December 7, 1993 Meeting:

MOTION BY MR. SLOANE TO APPROVE THE MINUTES AS MAILED.
MOTION SECONDED BY MR. DAVIS.
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 SEPTEMBER 9, 1993 MEETING A MOTION CARRIED
BY A 6-1-0 VOTE THAT THE BUILDING BE FULLY SPRINKLED WITHIN A 2
YEAR PERIOD TO FULLY MEET ITEM #4 OF THE EXCEPTION PORTION OF THE
CODE.

Mr. Bennett stated that he came before the Board at the last meeting requesting not to be required to put in fire sprinklers and was denied. He stated there was no architectural or engineering way to make the stair egress system work for that particular building. Pursuant to the BBAA's September 9, 1993 ruling, he reconciled that sprinklers would have to be installed and made a layout and various contacts as to the cost involved. In doing so, it was discovered that there would be construction problems to deal with. He requested installing sprinklers in the stairwells, public corridors. and in front of and behind each entrance door to every apartment, and not throughout the apartment as recommended. At a recent condominium meeting, there was a discussion regarding the punitive damages and the unsightly appearance of the pipes in each apartment if sprinklers needed to be installed throughout each apartment. The 29 apartments located on four floors are mostly all owned individually. Mr. Bennett stated he investigated the NFPA rulings and there is a system called 13R regarding residential occupancy up to and including four stories of height. It states the pressure need not be high in the pipes and plastic can be used in lieu of cast iron which is what Mr. Bennett would like to have approved.

Mr. Bennett submitted photographs of several apartments, and discussed the problems and cost of interior decorating to be incurred if sprinklers needed to be installed throughout each apartment. A structural engineering firm, Botkin & Rheault, was hired to evaluate the building as structural plans were not available at the town for review. In a letter submitted they warned of drilling through the slab which may cause damage to the structural system.

Mr. Bennett stated the 455 Worth Avenue Corporation has maintenance and security people on staff full time. He stated the appellant agreed to all the required wall coverings and fire rated doors to individual apartments and plenty of fire extinguishers are available with smoke alarms being installed in all apartments. His request remains to only put the fire sprinklers at the front entranceway and not throughout each apartment.

Mr. Hartel stated he wanted to cooperate with the town and is not taking a position not to install fire sprinklers, but the aesthetic damage to the apartments, many of which have mirrored walls and cornices, is his concern for the residents. It was originally estimated at \$1,000 per apartment, but in reality it would be close to \$5,000 each.

Scott Sloane asked Mr. Wandell how the proposed plastic piping fit into his requirements and limitations of not entirely sprinkling the individual apartments. Mr. Wandell replied the type of piping is not objectionable, however, the building must be regarded as "Option 4", meaning that it must be totally sprinkled, with the exception of small bathrooms and closets.

Mr. Broberg asked Mr. Randolph if a board member can represent a client and is the claimant asking for the same request he was denied in the past. Mr. Randolph stated if a member is representing a client he would have to declare a conflict of interest and not be able to vote. He was not able to answer if the claimant was present for the same request as he made in the past. Mr. Ackerman stated this was a different request, that they not be required to sprinkle the entire building. This would be considered a variance and is not disputing the decision of the Board. The variance could be granted if the five conditions, as listed in the ordinance, are met.

Mr. Bennett felt his client was not asking for a variance but is questioning the board's decision. The interpretation of the code, in Mr. Bennett's view, was not clear. Mr. Randolph clarified the interpretation. Then it was decided by Mr. Bennett that, in fact, he was looking for a variance for his client.

Mr. Ackerman stated that in order to grant a variance the five conditions had to be met which are as follows:

- 1) Special conditions and circumstances exist which are peculiar to the building structure or service system involved and which are not applicable to others.

Mr. Sloane suggested discussing each on an individual basis.

Mr. Randolph questioned Mr. Bennett as to what is unique about this particular situation which would allow it to receive a variance.

Mr. Bennett replied the consulting engineer stated the structural system is at jeopardy if the ceiling slab is penetrated by drilling fasteners for the piping. Mr. Nora asked Mr. Bennett if putting the sprinklers on the inside of the entrance door would cover the living room, and Mr. Bennett thought they would.

Mr. Davis stated he had been in the building, but had not been in any of the apartments. He did not think special conditions exist in this condo that do not exist in other condominiums which have had to comply with the code. He respects the engineers view regarding the fastening to the ceiling, but the solution of fastening the pipe to the walls seems to have resolved that problem. Mr. Sloane thought to resolve condition #1, it was a good idea to have some of the board members, as a committee, view the apartments to see if there were special conditions to preclude the sprinkling from being done.

Harry Ackerman stated condition #2 would be that special conditions or circumstances do not result from the action or inaction of the applicant and feels this can be complied with.

The third condition was by granting the variance as requested it would not confer on the applicant any special privileges that are denied by the technical codes to other buildings, structures or service systems. Mr. Randolph stated this condition relates back to the first condition and the uniqueness of the situation.

Mr. Broberg asked Mr. Wandell what prompted his inspection of the condominium to start with. Mr. Wandell replied it was a complaint that initiated the inspection, but there is an inspection team that goes out on a yearly basis which prompts the installation of smoke detectors and fire rated doors. Mr. Randolph asked Mr. Wandell if there was an amortization program for sprinkler installation in older buildings and Mr. Wandell stated it was a period of two years to bring them up to code. There were similar condos, if not older than 455 Worth Avenue, that did make the changes and complied with the code.

The fourth condition was that the variance granted be the minimum that would make possible the reasonable use of the building, structure or service system.

The fifth would be the granting of the variance would be in harmony with the general intent and purpose of the technical codes and would not be detrimental to the public health, safety and general welfare.

Discussion followed regarding the fifth condition and Mr. Wandell did not feel the health, safety and general welfare would be maintained with the proposal.

Mr. Hartel stated that every apartment has a balcony and quoted from the Life Safety Code, Section 1-2.2

The Code endeavors to avoid requirements that might involve unreasonable hardships or unnecessary inconvenience or interference with the normal use and occupancy of a building but insists upon compliance with a minimum standard for fire safety consistent with the public interest.

MR. SLOANE MOTIONED TO DEFER THIS MATTER UNTIL THE PREMISES WERE REVIEWED BY 2-3 MEMBERS OF THE BOARD, TO DECIDE WHICH AREAS WOULD TRULY SUFFER A HARDSHIP IF SPRINKLERS ARE INSTALLED.

MOTION SECONDED BY MR. BROBERG

Mr. Randolph stated it would have to be considered a meeting if two or more members were to review the premises and it would have to be advertised with a secretary present. Mr. Bennett asked if it would be better to adjourn the meeting and meet at the site rather than defer and take a longer amount of time to come up with a solution.

Discussion followed and Mr. Sloane rescinded his motion because he didn't feel the board could make a decision as a governing board as to what is "accessible" and what is not.

Mr. Broberg asked Mr. Wandell if there ever was a fire in the building. Mr. Wandell responded that to his knowledge there has never been a fire there. Mr. Broberg also brought up a grandfathering of older buildings and Mr. Wandell stated that the Life Safety Code addresses that issue. Mr. Broberg referred to Section A-1-5.4 of the Life Safety Code. "Physical limitations may require disproportionate effort or expense with little increase in life safety. In such cases, the authority having jurisdiction must be satisfied that reasonable life safety is assured."

Mr. Randolph stated that Mr. Wandell had the right to modify the provisions of the code if he felt the public health safety and welfare were not at jeopardy. Mr. Wandell stated that the minimum sprinkling required would be the corridor walls and the occupancy walls regardless of any hardship it may incur. If it were impossible to sprinkle the entire apartment, and this could be proven to the Board, the BBAA could grant a variance from the code.

Mr. Davis asked how the walls were constructed and Mr. Bennett replied they were solid gypsum block. Mr. Broberg asked what the estimated cost of installing the sprinkling system was, and Mr. Bennett replied approximately \$60,000 to fully sprinkle, and to do the corridors only would cost \$30,000.

Mr. Sloane stated he has to look at the recommendations of the architect and engineer and their testimony states they cannot accomplish a fully sprinkled building without a great deal of damage to the structure.

MR. SLOANE MOTIONED TO INSIST SPRINKLING THE HALLWAYS AND COMMON AREAS AS PREVIOUSLY AGREED, BUT IN ADDITION TO SPRINKLE THE INTERIOR SIDE OF THE SAME CORRIDOR WALLS, OMITTING BATHROOMS AND CLOSETS IF OF A SIZE EXEMPTED BY CODE.

SECONDED BY MR. BROBERG.

Mr. Broberg stated he does not believe it was shown that the whole building could not be sprinkled without causing excessive damage by going through the walls, it only stated the ceilings. Mr. Ackerman also feels that, in reading the report from the engineers, it does not say that it can not be done. It says the engineer does not know if it can be done.

ROLL CALL VOTE

AYE (MR. NORA, MR. SLOANE, MR. BROBERG)

NAY (MR. CARPENTER, MR. DAVIS, MR. WILLIAMS)

MOTION DID NOT PASS.

MR. DAVIS MOTIONED TO DENY THE APPLICATION FOR VARIANCE REQUESTED.

MOTION SECONDED BY MR. CARPENTER.

ROLL CALL VOTE

AYE (MR. SLOANE, MR. CARPENTER, MR. DAVIS, MR. WILLIAMS, MR. BROBERG)

NAY (MR. NORA)

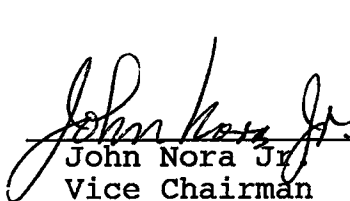
MOTION PASSED 5-1 WITH MR. NORA CASTING THE NEGATIVE VOTE.

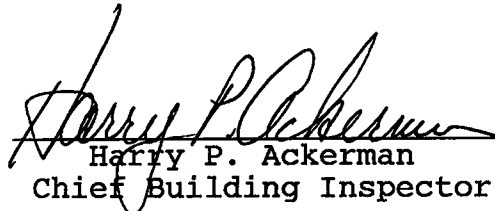
V. Adjournment:

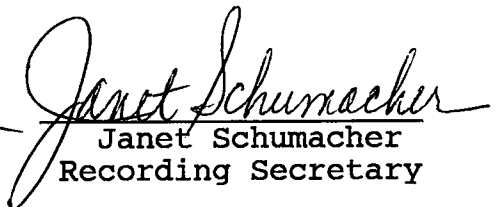
MOTION BY MR. SLOANE TO ADJOURN THE MEETING AT 3:20 P.M.

MOTION SECONDED BY MR. CARPENTER.

MOTION CARRIED UNANIMOUSLY.


John Nora Jr.
Vice Chairman


Harry P. Ackerman
Chief Building Inspector


Janet Schumacher
Recording Secretary

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