

**CONSTRUCTION BOARD OF APPEALS
AND PUBLIC HEARING MINUTES**

December 17, 2014
City Council Chambers

1. Call to Order

Meeting called to order at 5:00 p.m.

2. Roll Call:

Present: Commissioner George O'Dell
Commissioner Dave Swartout
Chairman Matt Notario
Thomas Ready, City Attorney

3. Pledge of Allegiance:

Guests: Patricia Lyden, Nicholas Mariano, Don & Wanda Wong, Davinder Toor.

Staff: Following members of Building/Zoning Department were present:

Keith A. Woodcock, Building Official / Zoning Administrator
Denise Palmer, Administrative Assistant
Dan Swallow, Director of Economic & Community Development

4. Consent Agenda

Minutes & Agenda:

A motion was made by Commissioner O'Dell to approve tonight's agenda and the minutes of the September 08, 2014 CBA meeting. Support by Commissioner Swartout.

Motion carried unanimously.

5. New Business

- A. Chairman Notario informed the applicant the Plumbing / Mechanical Contractor representative on the board is vacant due to a death. The alternate, Dave Swartout, is a licensed Residential Builder.**

The applicant has the option to accept the alternate member or delay the hearing until the City of Monroe finds a permanent replacement to the board position.

The applicant wished to proceed.

**B. Appeal # CBA 14 -003 – 1170-1190 West Front Street , Monroe, Michigan
Parcel # 19-00730-003.**

Owner: DW 28 Properties II Michigan, LLC

“DW 28 Properties II Michigan, LLC (DW28) is appealing the City of Monroe Building Department’s Code interpretation of the Michigan Building Code, regarding the requirement for the installation of an additional wall rather than authorizing the requested use of Model WS sprinklers as an alternative to a fire-resistance rated wall assembly. The appeal is pursuant to § 22-35 providing for an equivalent form of construction and § 22-47 authorizing a specific variance to a substantive requirement of the Code if the literal application of the requirement would result in an exceptional, practical difficulty.”

(As provided in appeal application)

Staff Report:

The staff report was read into the record by Ms. Palmer.

Applicant Comments:

Patricia Lyden, Attorney for the applicant gave her interpretation of the issues that are presented.

Discussion was held.

Mr. Mariano discussed his experience with fire protection.

Discussion was held.

Ms. Lyden wanted to emphasize the safety aspect of the fire resistance being proposed as the alternative to a wall.

With no one else wishing to speak Chairman Notario opened the public hearing.

Public Hearing

Mr. Woodcock, Building Official clarified the timeline from the property split in May of 2013, to the Architect Mike Hammond identifying the problem with the wall in plan review in October of 2013, Several months ago, in the applicant’s other building, the property owner was contacted by the Fire Department because the sprinkler and fire systems were found deactivated with no notifications being made to the appropriate parties. This was in response to assuages made by Mr. Mariano that the property owner was correctly maintaining the sprinkler system per the NFPA Standard.

Discussion was held.

With no one else wishing to speak Chairman Notario closed the public hearing.

Board Discussion

Commissioner O’Dell stated this was reviewed by State Certified Plan Reviews that came up with their conclusions stating what the Code violations were, this Board is not State

Certified Plan Reviewers, he feels the Board does not have the authority to override a State Certified Plan Reviewer. A sprinkler system protects the wall, but there still needs to be a wall.

Discussion was held.

Chairman Notario stated it is not a wall; the consultants were clear on a wall needed. The board cannot change the Code.

Ms. Lyden feels the Board can grant a variance of the Code.

Chairman Notario stated the Board is here to rule if there was a misinterpretation of the Code. Chairman Notario read their limitations as a Board from Section 113.2 of the 2009 Michigan Building Code.

Discussion was held.

Mr. Woodcock read the definition of an exterior wall from the Code.

Discussion was held.

Thomas Ready, Attorney for the City of Monroe stated the Board is correct in their interpretation of the Code. The Board has no authority to waive requirements of this Code.

Commission Action

Commissioner O'Dell moved that the Board deny the application as presented, as not being equal or better than the form of construction that would have been required strictly complying with the 2009 Michigan Building Code as published. Support by Commissioner Swartout.

Motion carried unanimously.

6. Old Business

None

7. Communications

None

8. Public Comments

None

9. Adjournment

A motion to adjourn was made by Commissioner Swartout, Support by Commissioner O'Dell.

Motion carried unanimously

The meeting was adjourned at 5:55 PM