

**BUILDING CODE ADVISORY COMMITTEE
MARCH 3, 2011 AT 3:00 PM
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

Members: Randy Mudge, Bruce Williamson, Jack Wilson

Staff: Ryan Borkowski, Roger Bradley, Jerry Frankenfield

Others: Eric Cote, Tim McNamara

- 1. Review of ZBA Case #34120/121/017-Z2011-12: The Trustees of Dartmouth College are Appealing an Administrative Decision – Building Code Adopting Ordinance, under Section 1005.2 and RSA 673.1 seeking relief from the requirements of Sections 705.8.6, 706.1.1, 706.2, 706.4, 706.6.1, 706.8, and 706.11 of the International Building Code, 2009 Edition, relative to proposed additions and renovations to the Hanover Inn. The properties involved include 2 South Main Street, Tax Map 34, Lot 120, and 4 South Main Street, Tax Map 34, Lot 121, in the “D-1” Downtown zoning district, and 4 East Wheelock Street, Tax Map 34, Lot 17, “I” Institution zoning district.**

Borkowski explained the lack of a written Administrative Decision in the application materials. He said it was clear, when speaking with the applicant and design team previously, that sections of the Code posed difficulties for their project. He suggested the most appropriate route for the applicant to deal with those issues would be to file an Appeal From an Administrative Decision – Building Code.

Tim McNamara, of Dartmouth Real Estate Office, and Eric Cote, of Hughes Associates, Inc., presented the application. McNamara said the project consists of:

- Constructing a 2-story addition to the Hanover Inn (Inn) in a portion of what is currently the terrace, with a function room on the upper level and meeting rooms & an entry lobby to the Hopkins Center (HOP) on the lower level,
- Increasing the number of guestrooms on the 4th and 5th floors of the Inn through a reconfiguration of spaces,
- replacing Zins with a breakfast room/restaurant,
- relocating the Inn basement mechanical space to the roof, increasing the basement parking spaces from 18 to 28,
- infilling of a portion of the Zahm Courtyard (Zahm) between the Inn & HOP,
- converting Inn basement level and 1st floor space into pre-function space (for the new function room created in the Zahm area and the function room on the terrace),
- Replacing the 2nd and 3rd floor meeting and office space in the Lang Building (Lang) with hotel guestrooms that will connect directly to the Inn,
- Connecting the HOP & Lang,

- Converting the Drake Room and spaces around the Drake Room to pre-function space to support the meeting rooms in the lower level of the addition,
- Converting the area that is currently the corner of Main St/Wheelock St (retail & office space) and the Hayward Lounge to an independent restaurant,
- Relocating the Strauss Gallery and converting its former space to an entrance into the HOP from the lobby of the Zahm addition.

Cote walked the Committee through the components of Appendix A of the application. He said the project spans over three ground parcels, the HOP, the Inn, and the Lang parcels; all owned by the College. Sheet EC-1.0 highlights the individual property lines. Cote said the relief being sought is relative to the property lines and separations between buildings or building sections, and the prescriptive requirements that are in conflict with the design.

Cote pointed out the definition of ‘lot’ as recorded in Appendix B of the application materials, that reads, *“A lot is a legally recorded parcel of land, the boundaries of which are described on a deed... However, a group of platted lots or subdivision lots could be joined together and “considered as a unit” for the purposes of the code. For example, a collection of platted lots could be used as a single building lot for the construction of a covered mall and its associated anchor buildings. Local jurisdictions may require for taxing or other purposes that the lots be legally joined, or merged, as well.”* Cote said the applicant’s appeal is to apply the later principle to allow the HOP, Inn, and Lang lots to be looked at as a singular unit in terms of fire safe design. Cote read from another portion of the application materials which states, *“in consideration of this allowance which applied a couple of times, the lot ground parcel owners will enter into appropriate legal agreements establishing corresponding access & egress easements and allowing for the coordinated maintenance and operation of the improvements thereon.”* Cote said the Committee could stipulate that the language of those legal agreements be recorded with the property deeds and that new owners appear before the Committee to acknowledge the deed stipulations. WILSON said the Committee is not the group that would approve the language relative to the cross easements. Borkowski agreed, stating the Town is not typically involved in the wording of easements. WILSON asked if there is exposure to the Town or the Committee if something develops out of this condition that causes a suit. Borkowski said there is always an aspect of exposure; however, he has a letter from a previous personnel director that states the actions of the Committee are covered under the umbrella of the Town.

Cote said the project involves two types of fire walls, *“a laterally supported (tied) fire wall configuration consisting of a single, vertical 3-hr fire resistance rated wall supported by a 3-hr fire resistance rated structural frame”* and *“a double fire wall configuration consisting of 2, vertical, fire resistance rated fire walls that are structurally independent of each other”*. He said those are related to new construction. Cote said relief is also requested in regard to classification of existing fire resistance rated walls between the Inn & Lang. Borkowski said his interpretation of that paragraph is that the applicant is requesting the wall be accepted as is without any evaluation at all. Cote said that was not his intent. They do plan to repair and upgrade/replace as necessary the existing opening protectives and penetration protection systems to provide 2-hour fire resistance rating.

Cote commented on the woodshop and emergency generator located in the Zahm basement. He said the College is not seeking any code relief unique to that, but what that means is what is now a portion of the HOP will be separated at the lot line with a wall that complies with the criteria included with the appeal. It will be a singular 3-hour wall that will segregate out that portion. It will have protected openings and the systems will align. There is going to be an egress from that portion that will come up to a new mechanical tunnel. There is an existing mechanical tunnel buried under Zahm that carries sewer and water lines. Those are clay lines that will be slip lined. There will also be a utility trench under the addition that will contain these lines. Frankenfield said if you took a 3-dimensional straight down, this bunker is roughly 20'x40', you come out of the woodshop and there is wood storage. It is 3D under Zahm. The HOP has this bunker, now it is going to be the Inn. To separate this, they need to put in either 2 wall or 3 wall and change the utilities in that area and protection back at the Inn. Cote argued there is nothing in the Code that says you cannot do a 3 dimensional property subdivision. Assuming that normally a property subdivision would be 2 dimensional, to the extent that you did a 3 dimensional subdivision, it would be in the form of a 2 dimensional subdivision with easements, or with some airtight component.

Cote said anything we are not asking relief for, the expectation is that it will be compliant.

Committee Comments:

WILSON asked why the applicant does not merge the lots. McNamara said it is largely because the College wants to retain flexibility in the future and that the current financing established for the Inn & Lang will not allow those lots to be merged with others. The Inn & Lang are financed through separate entities and the securities for those individual loans are different. McNamara said the College has looked into this extensively and found there is just no way to merge the collateral. These are leveraged properties, they are business assets. The College anticipates them remaining leveraged properties. McNamara suggested permanent cross-easements, designed to protect the integration of the three buildings, regardless of ownership, will solve the code problems. WILLIAMSON suggested that in time, the financing should take care of itself and would become a non-issue. A condition of approval of this application could be such that no new financing be obtained subsequent to this project unless this is all brought into alignment.

WILLIAMSON asked if this project involved one building on three lots, would the same problems exist. Borkowski said yes and explained the Code assumes different ownership of the multiple lots. He said there would not be an issue if this involved three buildings on one lot.

MUDGE asked if the Committee is looking at an equal condition or better form of construction. He said the applicant is not appealing on the basis that the provisions do not apply or that the true intent of the Code has been incorrectly interpreted. Cote said the request is that the Committee look at the lot commentary, which states multiple lots can be consider a singular unit for the purposes of applying the code. MUDGE said that entails allowing proposed fire walls on a property line instead of a party wall, which can have no openings. He said strict interpretation says you cannot have openings along the property line. Cote said the proposal is to construct the fire walls as if the three lots are considered one.

MUDGE asked if what is supposed to be a party wall is not a fire issue. Borkowski said NFPA does not recognize the term 'party wall'. It looks at fire barriers whether located on a property line or elsewhere. Cote said separate from ownership issues, fire walls are largely for property protection and life safety components. He suggested NFPA is less concerned than IBC with construction type and building separations. Cote said NFPA regulations are largely driven by occupancy life safety as it relates to egress and horizontal exiting.

WILSON asked if these parcels were not owned by the same owner, would this set a precedent we would regret approving. Borkowski said no, any similar request presented in the future would be considered under its own individual merits.

MUDGE asked about the HOP connection. Cote said the existing ground floor Inn/Hop interactions, at the back side of Alumni, will be reconfigured. Beginning at the 2nd floor and continuing up, there is no Inn/HOP interaction. Cote said there is no relief requested for this area. The proposed plans will not make this area any worse than existing conditions. He said the relief requested, relative to the HOP, is to allow us to look at the roof terrace fire rating as it relates to this flanking wall condition; to make that compliant to the extent that this will have some glazing in it. The remedy would be to provide a rated roof terrace with no openings in it for the Code prescribed distance as would be allowed for a fire wall. Cote said he expects to make the Inn & Lang fully code compliant from an egress standpoint. As for the HOP, the limiting factor right now is largely the main entrance exit capacity from Alumni. He intends to make the stair in the back of width and capacity equal to the main entrance exit on a split; however, this will limit the occupant load in Alumni.

MUDGE said the biggest breach appears to be at the Alumni Hall kitchen, which is an existing condition. WILSON agreed but added that the proposed change of use of Lang opens up the whole Code to new construction.

MUDGE said if a fire wall is accepted, as opposed to a party wall, the applicant is proposing a 2-hour rating. Table 706.4 requires a 3-hour rating. Cote said the construction that is there is 2-hour type of construction. The proposal is to keep the 2-hour wall.

Staff Comments:

Borkowski said the bottom, fundamental issue is whether the Inn & Lang buildings will function as one structure or not. He said his biggest concern is that this could create a situation where the Town allows a building to be constructed that could then possibly be sold, thereby creating code violations. The cross easements must include some kind of language that requires these individual structures to be brought into full code compliance prior to being sold. Cote said the easements will continue with the sale of the property. The Committee's focus should be less about the sale of these properties and more about the owners in perpetuity abiding by the cross easement agreements.

Borkowski questioned the upper floors of the Inn and whether there is a dead end travel distance that is too long. He said the current proposal does not include any changes to that area, yet the applicant is claiming everything will be brought up to code. NFPA 101 is in

effect in the State and includes existing buildings. If not currently compliant, it must be so when renovations are done or the applicant must obtain a Variance from the Fire Marshal. Borkowski suggested the elevator may need to be brought up to code too per IBC Chapter 34 relative to accessibility. He further suggested something could be done to the Inn kitchen doors, which have been removed. The existing conditions in this area are not working for the functionality of moving food carts and such.

Bradley said he is not concerned about the issue of property lines. Frankenfield agreed stating if the Inn & Lang are to be considered as one unit, the property line does not mean anything. He said the three dimensional part is confusing to him. If the Inn & Lang are to be considered as one entity, that would mean if a sprinkler is activated in the Gap, the hotel will have to be evacuated and if the power to Lang needs to be cut, it must be done from the Inn feeder. Frankenfield said he does not want a three dimensional system in Lang. It has to be one or separated. Cote reiterated that the Code currently allows multiple buildings on a single lot, separated by a fire wall with openings, and separate electrical service into each of the buildings. The Code does not say separate electrical services must be divided by solid wall with no openings.

Frankenfield expressed concern for the exiting capacity of the HOP. He said the College has another proposal before the Planning Board to add a stairwell to the back of Alumni Hall. It is unclear how this connector will be separated. McNamara said the College is considering putting the Inn & Lang on a singular source. Currently Lang is fed power through National Grid and the Inn is powered from the Dartmouth system. WILLIAMSON said that is an argument for having a party wall as defined here, a fire wall with no openings. Borkowski asked for a written commitment regarding the decision to go forward with one electrical.

Borkowski asked where Function Rm 1 exits to. Cote said it exits to the front, pre-function room then out onto E. Wheelock St., or back through the Inn lobby, or to the back to a new stair that will be constructed in the left corner. Those stairs will lead to the ground floor, into an entrance lobby, then on to Zahm.

Frankenfield expressed concern that the proposed work not void the Variance Phil Sherman sought and obtained from Fire Marshal for the HOP. Cote agreed his descriptive differed from Sherman's but argued the proposed work would improve, or not making worse, the HOP as it relates to the non-conformities that Sherman leveraged against the sprinkler.

MUDGE asked if the application could be presented in more of a tabular form for ease of understanding, specifying relief being sought, work proposed, and why it is equivalent. MUDGE questioned the height and area. He said they are going to be consolidated for one purpose but not the other. Is that because of the difficulty passing in height and area otherwise? Cote said yes, Lang is of a certain type of construction, limited in height and area but has a historic fire wall demise. Similarly for the Inn is Type 3-B construction, a mix of combustible and non-combustible. The big driver is that it does have a wood roof.

It was moved by WILSON, seconded by MUDGE, to continue review of ZBA Case Z2011-12 to March 11, 2011 at 1:00 PM. THE COMMITTEE VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

The applicant was asked to provide supplemental materials to the Planning & Zoning Office by Tuesday, March 8, 2011.

2. Other Business: None

3. Adjournment: The meeting adjourned at 5:40 PM

Respectfully Submitted,

Beth Rivard,
P&Z Administrative Assistant