



11 JUL 21 8:54AM

Building Code Appeals Board  
Minutes  
June 6, 2011

ORLEANS TOWN CLERK

Present: Andrew Miao, Peter Coneen, and Dorofei Klimshuk  
Absent: Tim Brady

Chairman Andrew Miao called the meeting to order at 7:15 p.m. The meeting was duly noticed. The Chairman noted that there was a quorum of members present and read the declarations regarding "Appearance of Conflict of Interest."

The Board considered one application:

Herbert Gullquist applied for a variance to the Massachusetts Building Code 7<sup>th</sup> Edition, Section 120G 601.1-601.9 to renovate an existing water-dependent boat house. The property is located at 22 Indian Fort Hill Lane, Orleans Map #76, Parcel #44

After the preliminaries, the Applicants summarized their case.

The Building Commissioner added his comments including submitting to the Board a copy of an email dated 6 Apr 2011 "Eric Carlson to Mark McKenzie." Key are his comments "attached FEMA's criteria for variances...Note that the State Building Code Appeals Board does not necessarily use these same criteria for issuing variances." See attached email.

Chairman Andrew Miao then relayed a phone message from Eric Carlson regarding consultation with his superior and the FEMA compliance officer during which it was stated "they could not support the project for variance at this point because they had questions and concerns which is not to say that that couldn't change." A continuance was suggested to give Applicants time to confer and work out the specifics with the State. The Applicants declined a continuance.

Mr. Miao asked about the integrity of the proposed structure. Mr. McKenzie referred to the new piles, anchorage for uplift, and calculations and details to meet Code wind load requirements. The building is designed to withstand normal wave action. However, the applicant's structural engineer's letter states "The building cannot be feasibly designed to withstand the design flood elevation with the required wave forces on the side of the building above the foundation pilings, regardless of the materials used to construct the building."

Board members then had a discussion on the issue of the "water-dependent use" of the existing structure. Board Member Mr. Klimshuk referred to his long familiarity of this property and this boat house in the vicinity of his residence. Mr. McKenzie said that this

boat house has been used to store kayaks, canoes, and other small water craft for over 20 years. The new boat house is identical to the existing, in design and in use, and is not "intended for occupancy and will have no utilities." Mr. Parry, an abutter (List of Abutters shows a Mr. Robert Parry as owner of 3 abutting properties} remembers the water craft use of the boat house in his many years living next to the property.

Board Member Peter Coneen then presented to the Board pages from the 2009 International Building Code Commentary on Appendix G on Building Code Variances for "Functionally dependent facilities" in flood zones. Mr. Miao asked Mr. Coneen to summarize salient sections in the Commentary.

Referring to G105.6 Considerations, Mr. Coneen read through the 10 conditions and addressed each for the Board:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage: *The owner has agreed to bear the full responsibility and costs resulting from damage or cleanup as a result of building destruction.*

2. The danger to life and property due to flooding or erosion damage: *A substantial part of the project is directed at replacing a failing wooden bulkhead with a new seawall which has been approved by the local Conservation Commission and State agencies.*

3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners: *The proposed building floor elevation is raised by 3.1 feet substantially reducing the possibility of storm event damage.*

4. The importance of the services provided by the proposed development to the community: *The proposed project will preserve a historic use.*

5. The availability of alternate locations for the proposed development that are not subject to flooding or erosion: *It is not possible to relocate the building and still have it function as a water dependent use.*

6. The compatibility of the proposed development with existing and anticipated development: *There will be no substantial change.*

7. The relationship of the proposed development to the comprehensive plan and flood plain management program for that area: *The removal and replacement of the former failing bulkhead with the proposed stone revetment and elevation of the existing boathouse structure will benefit this locus.*

8. The safety of access to the property in times of flood for ordinary and emergency vehicles: *There will be no substantial change.*

9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site: *All of these issues will be improved by the proposed work.*

10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges: *There are no public utilities or infrastructure structures at this site.*

There was general concurrence among the Board with Mr. Coneen's comments.

Mr. Miao then asked for a motion regarding this application for Variance. Mr. Coneen made a motion to grant Herbert Gullquist a variance to the Massachusetts Building Code 7th Edition, 780 CMR Section 120G 601.1-601.9 to renovate an existing water-dependent boat house at 22 Indian Fort Hill Lane, in conformity with the "Site Plan – Proposed Revetment & Boathouse Reconstruction" prepared by Ryder & Wilcox, Inc., Job No. 10336, dated November 8, 2010 and 12/27/10, 1/5/11, and 1/11/11, and building plans prepared by Ryder & Wilcox, Job no. 10336, dated 2/9/11, pages 1-3.

The motion was seconded by Mr. Klimshuk.

A vote was taken for the Motion, which carried: Coneen and Klimshuk-yay, Miao - nay.

Mr. Klimshuk made a motion to adjourn the meeting. The motion was seconded by Mr. Coneen and the meeting adjourned at 8:35 p.m.

  
Sandy Stewart  
Recording Secretary