

BOARD OF CODE STANDARDS AND APPEALS MINUTES

October 1, 2012

Members: Francisco Banuelos, Randy Coonrod, Daryl Crotts, Brad Doeden, Randy Harder, Russ Redford, Larry Webb, Gregg Wilhite, Warren Willenberg

Present: Francisco Banuelos, Randy Coonrod, Daryl Crotts, Brad Doeden, Russ Redford, Gregg Wilhite, Warren Willenberg

Staff Members Present: Rick Stubbs, Deb Legge, Paul Hays, Penny Bohannon, Elaine Hammons (Central Inspection); Fire Marshal Brad Crisp (WFD); Jeff Van Zandt (Law Department)

The regular meeting of the Board of Code Standards and Appeals was called to order by Chairman Coonrod on Monday, October 1, 2012, at 1:30 p.m. in the 1st floor Board Room, City Hall, 455 N. Main, Wichita, Kansas.

Chairman Coonrod requested that the Board and City Staff introduce themselves to the public in attendance.

Approval of the September 10, 2012, minutes.

Board Member Willenberg made a motion to approve the September 10, 2012, minutes. Board Member Redford seconded the motion. The motion carried.

Approval of the September 2012 license applications as follows:

<u>Applicant Name</u>	<u>Company Name</u>	<u>Class</u>
Brent Colvin	Ready Roofer, Inc.	Roofing
Harold Graham	Precision Siding & Construction Co.	Class C
Kennie Hatfield	Tri-C Construction Co., Inc.	Class B
Christine Hester	Ron's Roofing & Restoration	Roofing
John Hutto	John G. Hutto & Son	Class B
Holly Lee-Wesolowski	World of Windows, Inc. dba Window World of Wichita	Siding
Derek Manning	Arrow Roofing & Sheet Metal	Roofing
Richard Nugent	Nations Roof, Inc.	Roofing
Michael Roby	Michael Roby dba United Painting Contractors	Class B
Brad Rogers	Brad Rogers dba Rogers Contracting	Class A
Aaron Snodgrass	Snodgrass & Sons Construction, Inc./Roofing Division	Roofing

The applications for Harold Graham (Precision Siding & Construction Co.) and Kennie Hatfield (Tri-C Construction Co., Inc.) were withdrawn from consideration due to required documentation being omitted from their respective packets at submission.

Chairman Coonrod noted that the license application for Brent Colvin (Ready Roofer, Inc.) was actually for a Roofing & Siding license.

Mr. Brad Rogers was present on behalf of his request for a Class A Contractor's License. Finding his application in order, Board Member Harder made a motion to approve Mr. Rogers' request for a Class A Contractor's License. Board Member Willenberg seconded the motion. The motion passed.

After review of the submission documents for the remaining applicants, Board Member Harder made a motion that the contractor license applications for October 2012 be approved. Board Member Webb seconded the motion. The motion carried.

Request to Renew Contractor's License – Douglas Davis, Doug Davis dba Moonlight Construction (Class B)

Mr. Douglas Davis requested that the Board approve his request to renew his Class B Contractor's License rather than require that he obtain a new license with a new license number. There were no unresolved permits under the license, which expired December 31, 2002. Due to the length of time since the last renewal, Board Member Crotts made a motion to require that Mr. Davis obtain a new license. Board Member Harder seconded the motion. The motion passed.

Request to Renew Contractor's License – Ken Kiser, Ken Kiser dba Kiser Enterprises (Class B)

Mr. Ken Kiser asked that the Board approve his request to renew his Class B Contractor's License rather than require that he obtain a new license with a new license number. There were no unresolved permits under the license, which expired December 31, 2008. Board Member Harder made a motion to require that Mr. Kiser obtain a new license. Board Member Willenberg seconded the motion. The motion carried.

Request to Upgrade Contractor's License – Steven Lee, Lee's Builders, Inc. (Class C)

Mr. Steven Lee, owner of Lee's Builders, Inc., requested that the Board allow him to upgrade his Class C Contractor's License to a Class A license. Mr. Lee provided proof that he had passed the required test to obtain the Class A General Contractor's License, and there were no unresolved permits under his Class C License. Board Member Harder made a motion to approve Mr. Lee's request to upgrade his license to a Class A License. Board Member Willenberg seconded the motion. The motion was approved.

Request to change company name – Holly Pappas, Holly Pappas dba Kansas Asphalt Roofing (Roofing & Siding)

Ms. Holly Pappas requested that the Board permit her to change her roofing/siding company name to Holly Pappas dba The Shop. There were no unresolved permits under the license. Board Member Redford made a motion to permit Ms. Pappas to change the name on her Roofing & Siding Contractor's License. Board Member Harder seconded the motion. The motion passed.

Appeal for Variance – N & J Bakery, Inc., 5600 E. Lincoln

On behalf of the owner, Ms. Mona Srour, Hani Tobassi is requested that the Board consider waiving the requirement of either a firewall or sprinkler system as required by Section 903.2.1.2 of the IBC, and as amended by 18.50.500 of the Code of the City of Wichita, Kansas.

Mr. Stubbs briefly explained that the facility had been inspected by representatives of the Wichita Fire Department earlier in the year. The Fire Inspector noted that there were issues regarding fire safety compliance. As a result of the issues, Central Inspection was asked to look into work that had been done in the past and whether such work had been done with the required permits and inspections. Portions of the interior demising walls had been removed to allow expansion into neighboring tenant spaces. It was determined that the work was performed without either the required permits and/or the required final occupancy inspections. As a consequence, the seating area for the restaurant, the kitchen area, and the two adjoining spaces total just under 7,500 square feet, which is in excess of the IBC 2006 requirements for sprinkling an area that exceeds 5,000 square feet or creating a two-hour fire barrier to break up the area so it does not exceed 5,000 square feet. Central Inspection and WFD met with the architect that was working with the building owner to bring the structure into fire code compliance, and has had discussions with Mr. Tobassi as to options that are available to accomplish bringing the structure into code compliance. The option that Central Inspection and WFD felt would provide the most economical code compliance for the owner would be to complete the separation from the balance of the building by replacing the single man door (3'0" x 7'0") with a rated door, and then provide a rolling shutter at the pass-through window between the kitchen and the balance of the building. Sprinkling is an option to meet compliance; however, it would be a much greater expense, not only from the initial cost, but also due to the required maintenance of the system. There is nothing in the code outside of those two provisions to make an A-2 Occupancy meet the Code of the City of Wichita, even with the extensively amended codes, which are far more lenient than the existing code. The State Fire Marshal's Office has approved the City's amendment, which not only allows the unprotected 5,000 square feet, but also allows the 300-occupant load to be unsprinkled, whereas the National Fire Code requires anything greater than 100 seats to be sprinklered.

Getting approval from the State Fire Marshal's Office to allow the City's amendments has been extremely beneficial to the community. In addition, if a variance is granted to the restaurant, particularly with the State's code being far more restrictive than the City's approved amendments, the action could jeopardize the willingness of the State Fire Marshal's Office to allow the City's future requests for amendments to the National Fire Code, and in particular, the State's exception for the A-2 Occupancy.

The two doors, one a rolling shutter at the pass-through window, would be automatically activated by a heat link that would close the doors should a pre-determined temperature be reached. Mr. Stubbs clarified that the partition between the kitchen and the restaurant is a rated block wall; by installing the two rated door openings, he explained, Central Inspection and WFD would concur that the restaurant was in code compliance and would be allowed to maintain the increased area.

Mr. Hani Tobassi stated that the way the doors have to be designed for compliance prohibits quick entry between the kitchen and the dining room. He also told the Board that a previous owner had done the renovation of the building and had not obtained the required permits and inspections. The current owner purchased the building in its current condition. Even though there had been several prior inspections, the issue with the code compliance was not brought to the owner's attention until this year.

The reason the owner feels that neither the doors nor the fire sprinkler system is necessary, Mr. Tobassi explained, is because the door would be prohibitive and logistically difficult. There are three contiguous spaces to the east of the kitchen, and the combined spaces do equal about 7,500 square feet. The kitchen is the largest of the spaces at approximately 2,600 square feet. The openings in the wall are relatively small. Referring to Section 18.50.903.2.1.2, Mr. Tobassi said he interpreted it to necessitate the prescribed doors or sprinkler system in the case of certain factors such as how many patrons will be in the space, whether the space is dimly lit, whether alcohol is served, none of which would be a factor for the restaurant. He said there are four front entrances that always remain open, and a rear door. In his opinion, Mr. Tobassi said, the number of available exits is not typical of restaurants, and it would make the quick evacuation of the building an easy matter. He added that he felt the section should be interpreted to achieve the goals rather than just to look at the numbers. When first adopted, the amendment increased the threshold for the number of persons that would trigger the requirement for a sprinkler system by 200%. The increase was very dramatic, and increased the number from 100 persons to 300 persons.

Mr. Stubbs explained that the requirement was actually a decrease in the number of occupants from 300 to 100, and the square footage triggering the requirement was reduced to include spaces exceeding 5,000 square feet. The National Fire Code changes were brought about after a fatal restaurant fire in an eastern state. The City of Wichita amendment, as approved by the State Fire Marshal's Office, allows the occupant load to remain up to 300 without a sprinkler requirement. The amendment allows for smaller restaurants, including many of the larger fast food restaurants, to be built without a sprinkler requirement.

Mr. Tobassi said that the City's adoption of the IBC was with the large increase, as it was the new standard; it reflected how highly variable the IBC might be, with most municipalities adopting the IBC as a whole. He indicated that there was probably not much scrutiny involved in the code itself because it is "so independent and so long." Due to those factors, the community must rely on the experts, which is a good first step. His concern was that when codes are adopted, it is important that they meet the purpose of the code, which brings about some changes; and when the City adopts a code, it amends portions to meet the cost benefit analysis. Referring to the floor plan of the building, which he provided with his written appeal, Mr. Tobassi called attention to the exits, noting that no patron of the restaurant would be more than thirty-three feet away from any exit.

Board Member Wilhite asked Mr. Tobassi if the restaurant owner was willing to conform to the plan, specifically the 1-1/2 hour door and shutter in the firewall. Mr. Tobassi replied that the restaurant does conform to the plan, except for the 1-1/2 hour door and shutter. He said the owner would rather not install the door and shutter because of the expense involved, and because the fire door would be heavy and inconvenient. The possibility of a false alarm triggering the automatic closure of both the door and the shutter is a concern.

Board Member Webb inquired whether there is a fire suppression system currently in the hood. Mr. Tobassi replied that a suppression system is in the hood. Board Member Webb asked Mr. Stubbs if the café bomber style doors could remain on the man-door and the fire door and shutter be installed with the capability of being closed by activation of the fire suppression system. Mr. Stubbs told the Board that Central Inspection and the WFD had

suggested to the owner that the fire doors be installed on a magnet connected with the fire suppression system so there would be no impediment to traffic using the door to go back and forth into the kitchen and/or dining area.

Fire Marshal Crisp explained to the Board that the WFD had assumed the restaurant-type inspections at the beginning of 2012. During one of the inspections, the WFD inspector discovered several violations that needed attention. Fire Marshal Crisp emphasized that Mr. Tobassi had been very cooperative in addressing the violations and in striving for compliance. Although the aforementioned options were suggested to Mr. Tobassi and the owner of the restaurant to remedy the problem with the firewall, they opted to appeal the matter to the Board of Code Standards and Appeals. Fire Marshal Crisp stressed that the Fire Department always seeks to put the safety of the tenants in a business first, and secondly, the safety of the fire fighters. Two fires have already occurred at the business in question, one in 2006, and one in 2008. The 2008 fire occurred in the kitchen and resulted in a serious injury to an employee.

There is also the matter of the State Fire Marshal's Office working with the Wichita Fire Department and the State Fire Marshal's Office permitting the proposed amendments as submitted by the WFD. If a variance were granted to what is already a less restrictive amendment to the Fire Code, the State Fire Marshal's Office may be notably less inclined to consider the City's future proposed amendments. Fire Marshal Crisp urged the Board to use caution before setting a precedent for similar establishments to receive variance approvals on life safety items for similar appeals.

Board Member Crofts made a motion to deny the request for variance and to require that N & J Bakery, Inc., install fire safety options in order to comply with the Fire Code. Board Member Harder seconded the motion.

Mr. Tobassi requested the opportunity to make final comments to the Board. He expressed his appreciation for Fire Marshal Crisp's and Central Inspection staff's cooperative efforts. He said the thought that struck him as a common sense factor was the ability to get patrons and staff out the restaurant in the event of a fire due to the number of exits available in the building. The fire barrier activation in the event of a false alarm would be a great inconvenience. A fire sprinkler installation would slow the exit of patrons from the building in the case of a fire. He further stated that the code is written to simplify the process, and the Board exists to implement the intent of the code. The restaurant, Mr. Tobassi said, would be seriously restricted in operating as a restaurant with the fire door(s) installed.

Chairman Coonrod called for a vote on the motion. The motion carried without opposition.

Condemnation Hearings

Review Cases:

1. 1818 S. Shefford Cir

No one was present on behalf of this structure; however, several of the occupants of the neighboring residences were present.

A one-story frame dwelling about 20 x 24 feet in size, this structure has been vacant for at least six months. This structure has been badly damaged by fire. It has fire-damaged and missing composition siding; fire-damaged, sagging composition roof with holes; fire-damaged front porch; fire-damaged wood trim and framing members and the interior has been gutted by fire.

At the May 2012 meeting, the Board approved a motion to allow six months for the owner to make the repairs, with the provision that he maintain all areas that were not secured by putting up a fence and cleaning up the fire debris. During that time, the owner was to stay in contact with Central Inspection to keep staff apprised of the situation. There has since been more than one occasion that Central Inspection staff had to contact the owner to advise him that the grass had to be mowed. A fence was initially installed, but then removed a short time later. Central Inspection staff contacted him, and the fence was re-installed; the removal and re-installation of the fencing occurred on more than one occasion as well.

Board Member Harder made a motion that the property be submitted to the City Council with a recommendation of condemnation, with ten days to begin razing the structure and ten days to complete the demolition. Board Member Crotts seconded the motion. The motion was approved.

Ms. Legge explained to the concerned neighbors present at the meeting that the recommendation of condemnation would be presented to the City Council in approximately forty-five days from the BCSA hearing. The law requires that the dates of the condemnation hearing before the City Council be published twice. Approximately thirty days after the second publication, the City Council hearing will occur and the City Council will make a final decision. In the interim, Ms. Legge said she would try to have the fencing in the front re-installed and try to get the board fence at the side yard secured.

2. 823 N. Lorraine

The issues with this property were resolved prior to the Board Meeting.

Update on the merger of the City and County Inspection Departments.

Mr. Stubbs told the Board that the most current news that he had received involved the candidates for the position of Director. At the time of the BCSA hearing, Mr. Stubbs said the field had been narrowed to two candidates; however, there had been no formal announcement as to the identities of the candidates.

The City and County have been working toward the integration of licensing, dispatching and inspections. Jeff Van Zandt and his counterpart at Sedgwick County have continued to work on the issuance of the Unified Code and a Memorandum of Understanding with surrounding jurisdictions in Sedgwick County. Mr. Van Zandt interjected that a draft would be ready within the upcoming two or three weeks, and he wanted to present it to the Board (possibly electronically) to review and provide input. In the meantime, there will be several items pertaining to the merger that will be addressed by the Wichita City Council and the Sedgwick County Commission.

With no other business to conduct, Board Member Willenberg made a motion to adjourn the meeting. Board Member Harder seconded the motion. The motion passed.

The meeting adjourned at 2:17 p.m.