

MINUTES
CITY OF KNOXVILLE, TN
BUILDING BOARD OF ADJUSTMENTS AND APPEALS
MEETING: SEPTEMBER 18, 2009 -- 9:00 A.M.
SMALL ASSEMBLY ROOM – CITY/COUNTY BUILDING, 400 MAIN STREET

MEETING CALLED TO ORDER AT 9:00 A.M.

ROLL CALL

Members present: Mary Ellis Richardson, Acting Board Chairman; John Gaddis; Vic Lawson; and Paul Shirley.

Others in attendance: Tom Reynolds, Building/Zoning/Plans Review Chief; Sonny Partin, Fire Inspections; Gary Norman, Building Inspections Director; and Angela Rauber, City of Knoxville Law Department.

APPROVAL OF MINUTES

Board member Vic Lawson made the motion to approve and Board member John Gaddis seconded. The Board voted 4-0 to **APPROVE** the August 21, 2009 meeting minutes.

CONSENT ITEMS

Items recommended for approval on consent are marked with (*) and will be considered under one motion to approve. If it is determined that a consent item needs to be discussed, the item will be removed from the consent list after the entire consent list has been read, and the item will be heard as part of the regular agenda. **NONE**

OLD BUSINESS

130 EAST GLENWOOD AVENUE
OWNER: KINSBY PROBASCO HAYES
Requested: Brian Pierce

BD07B09BU 2006 IBC, Section 1013.01
(To be reheard)

Request:

To leave the existing stair handrail/guardrail (which varies from 30 inches to 42 inches high) to preserve the historical integrity of the structure. We propose to provide a separate gripping surface inside the existing guard.

Previously, this item was approved by a vote of 7-0 on 7/17/2009 with the conditions of leaving the guardrail as it was and installing an independent inside handrail to go all of the way down.

Applicants, Brian Pierce and Jason Debord, were not present at the time this item came before the Board. Tom Reynolds, Chief Building Inspector, suggested the Board move the item to the end of the agenda to give the applicant time to show up. Board member Vic Lawson made the motion to move this item to the end of agenda and it was seconded by Board member John Gaddis. The Board voted 4-0 to approve to move this item to the end of the agenda.

Jason Debord, 747 Sunsphere, apologized for being late to the meeting. Mr. Debord said this request had come before the Board previously and it dealt with the existing stairways at the

Brownlow Elementary School which has been converted into Brownlow Lofts. Mr. Debord said their request was for the handrail and guard. Mr. Debord said they had met with the city department several times and they had requested the applicant to do an exterior handrail. Mr. Debord said they had added the exterior handrail and now they were to the historic element side. Mr. Debord said there was some confusion and not wanting to do certain things. Mr. Debord said they were at the meeting to talk about those areas and it starts pinching down access and egress if they do these things. Mr. Debord said their request was to go ahead and install the exterior handrail like the city department has requested and leave the historic guard and guard/handrail in certain instances the way they are at this time. Mr. Debord said Ms. Ann Bennett, Historic Zoning Commission, was present at the meeting.

Tom Reynolds, Chief Building Inspector, said before the previous meeting Ms. Bennett had expressed to him that if the handrail was put in that it needed to be independently installed. Mr. Reynolds said it was not to be attached to the existing handrail/guardrail. Mr. Reynolds said he must have misrepresented something in the meeting. Mr. Reynolds said Board member John Gaddis asked him for clarification on if they would have all clearances of egress at all of the stairs. Mr. Reynolds said this was incorrect and he had one stair that would not get all of the clearances. Mr. Reynolds said the stair clearance lacked about 1 inch. Mr. Reynolds explained the last photo in the packet and said you would measure the clearances of stairs above the handrail. Mr. Reynolds said there could or could not be a problem depending on the installation of the handrail. Mr. Reynolds said the architect had submitted a design to put an independently-supported handrail at these locations. Mr. Reynolds said the design that he had submitted and the way he had done it to keep from attaching it to the existing would get into the required egress of the stair at this location. Mr. Reynolds said they could not install as what the Board had permitted last month and still keep the required egress that they needed. Mr. Reynolds said he told Mr. Debord the only thing he knew was to bring it back before the Board for consideration and discussion. Board member John Gaddis asked what was the anticipated occupancy load on the stair. Mr. Reynolds said the occupancy load was over 50 so it would need to be more than 36 inches.

Mr. Jason Debord said one thing that had caused a lot of the problems in the process of going through the historic and implications of trying to revitalize the building was it was their intention to leave the handrails like they were and leave the historic portion. Mr. Debord said on the plans that were submitted, it was his error and he did not go back and do it, there was a note that said to bring them to code. Mr. Debord said they turned in the plans, got it permitted that way, and they went to work. Mr. Debord said the city inspector came out and asked what they were going to do about this because the plans said bring them to code. Mr. Debord said he was stuck because he had not budgeted anything because they were not going to do it and when they came and asked them to do the handrail on the outside, that seemed to be good. Mr. Debord said when they got on the interior ones that were actually historic elements and to do what egress side to do it was two issues: 1. look like a dog, and 2. real expensive to build something that he did not have the money to do. Mr. Debord said the plans were permitted with it showing to go to code and it was an oversight error on his part. Mr. Reynolds said there have been some codes put in for historic buildings and this issue was discussed when the development of the building was first brought to the city. Mr. Reynolds said under the Alternative Building Code, this would not be an issue and the stair would be allowed to stay as it is where it is. Mr. Reynolds said they did not choose that because of some other developmental issues (like sprinkling, etc.). Mr. Debord said if they did not sprinkle the building, they had to add five fire plugs around the building. Mr. Debord said the water was not enough to do that. Mr. Debord said it ended up being easier to apply without that. Mr. Debord said if they had done that, the handrails issue would have come up. Mr. Debord said they did not do the Alternative Building Code because of the sprinkling issue. Mr. Reynolds said there was some precedence for allowing the request.

Ann Bennett, MPC Senior Planner and staff of the Historic Zoning Commission, said this building was listed under the local register. Ms. Bennett said the Tennessee Historic Commission and National Park Service has also declared it eligible for national register status. Ms. Bennett said one of the most distinctive architectural features in a building of this type was the stairwell. Ms. Bennett said it was the public hall or public open space that when you went through an historic building you began to catalog what was there and describe what was there. Ms. Bennett said the stairwell was always a very significant feature. Ms. Bennett said, from an historic standpoint and not dealing with safety codes or fire codes, the less you can do to it, the best. Ms. Bennett said when Mr. Reynolds brought the issue of the banisters, she asked, without knowing that there would not be clearance, if it was wide enough to do it. Ms. Bennett said they did not want to attach anything to the existing historic rail. Ms. Bennett said the standard National Park Service remedy for this was to leave the rail where it was and do something else to meet codes if that became necessary. Ms. Bennett said where they put a rail on an interior wall was fine but to alter the existing rail from a historic standpoint would not be a good idea at all. Ms. Bennett said better than doing an independent rail though if the Board allowed them would be to do nothing at all and leave it so you have an unobstructed view of it. Ms. Bennett said it was not alter structurally and it would not be altered visually everyday when people were in the building either. Ms. Bennett said from the standpoint of preservation, it would be better to leave the rail as it is without inserting another rail on it or by it.

Sonny Partin, Fire Inspections, said unfortunately he was not real familiar with the building. Mr. Partin said he had not been there and not been able to see what would work and what would not work. Mr. Partin said to their office that safety was more important than historical significance. Mr. Partin said they would want it to meet code as well as it can. Mr. Partin said he had confidence in Mr. Reynolds when he said it could not work and it reduced the exit capacity and that was a concern of theirs. Mr. Partin said looking at all kinds of different stairs made it confusing for him. Mr. Partin said where they stood on it would have to be with the Building Department and felt the handrail on one side could be used and the second handrail would impede egress that they would have to agree. Mr. Partin said he was confused on the guardrail issue. Mr. Partin said they had 30-inch guardrails in some places and 38-inch guardrails in some places. Mr. Partin said Board member Todd Duncan was adamant at the previous meeting about the guardrail and protecting it and he agreed with him. Mr. Partin said they did need a guard in certain places. Mr. Partin said since he had not been there that he did not know if he felt comfortable with the waiver on the guard. Mr. Partin said the Fire Inspections agreed with the Building Department and any recommendations.

Tom Reynolds, Chief Building Inspector, said the building had guardrails from 43 inches to 30 inches and in some places the handrails and guardrails were the same thing (built together). Mr. Reynolds said the building was built as an elementary school and some the existing handrails there were placed there for children. Mr. Reynolds said it was the desire to leave those there and try to preserve the historic character of the stairs. Mr. Reynolds said Mr. Debord had said the Alternative Building Code was not chosen for other reasons. Mr. Reynolds said it was almost like saying that we allowed it in this building because of one code but did not allow it in another building because of a different code where it would be perfectly legal. Mr. Debord asked if going forward, could someone split the code. Mr. Reynolds said no.

Board member Vic Lawson asked for an explanation on the separate gripping surfaces in the request. Mr. Debord said initially they were going to leave them as they stood and not do anything. Mr. Debord said the main stairwell was a wall of some height going down the stairs to another wall of some height and had in some instances a metal handrail that was attached to the wall. Mr. Debord said the other side which was the guard was an existing wall. Mr. Debord said their initial thought was that was what they were leaving exactly the way it was and not going to touch it or add anything to it. Mr. Debord said after talking to Mr. Reynolds and Mr. Roger Byrd,

they had requested an additional handrail at least be placed on that outside wall that was not along the existing guardrail/handrail. Mr. Debord said as a pretty good compromise they would go ahead and do it and have already done it. Mr. Debord said what they were talking about now was the guard/handrail scenario that ran along most of the inside areas of the existing stairwells. Mr. Debord said the last photo showed the additional grip that has already been done.

Board Chairman Mary Ellis Richardson asked how many stairs were there. Mr. Debord said probably eight to ten. Mr. Reynolds said his photos showed three sets of stairwells. Mr. Debord said some of the stairwells (with no historic guard or rail) were two or three steps and they were able to put handrails on both sides already. Mr. Debord said they did not have a historic element. Mr. Debord said the ones that had a historic element were the ones they were asking for a variance on. Mr. Reynolds explained the photos of the three sets of stairwells and also the independent stair with one flight. Mr. Reynolds said the independent stair was the only one with a problem of egress width. Mr. Reynolds said there were several intermediate stairs with only one flight in this building and they did meet code with handrails installed on both sides. Mr. Reynolds said there was a hodgepodge of different stair types because they were built at different times to reflect the type of building they were building at that time. Ms. Bennett said the building was built with a number of additions. Mr. Debord said some of the stairs in the building were capped by walls with no historic element so they were able to attach handrails to both sides and they met egress. Board member Paul Shirley asked if they had handrails on all solid walls. Mr. Debord said they had added the handrails to all of them.

Board member John Gaddis asked Ms. Ann Bennett to address how the historic aspects interrelate with the handicap accessibility requirement under the Code. Ms. Bennett said it depended on the situation for the particular building. Ms. Bennett said there was a requirement that if space was used for a public use. Ms. Bennett said, for example, Blount Mansion could not retain historic fabric and make the second story of the house accessible. Ms. Bennett said that was one reason that they have built the visitor's center and they have an exhibit that substitutes for the second floor access. Ms. Bennett said if it was an office building where you expected public traffic of all of the time then there were ways to make the upper floors of the building accessible throughout. Ms. Bennett said the requirements were a little bit different in residential buildings. Ms. Bennett said generally the accessibility code does not require that unless it was a commercial office use that could not be duplicated on an accessible floor. Mr. Gaddis asked if the units were going to be sold as apartments or condominiums. Ms. Bennett said yes. Mr. Gaddis said he thought HUD had certain requirements that certain units had to be maintained accessible as Type A or Type B. Mr. Debord said they have an adaptable-accessible unit but was not currently built as accessible (lower cabinets, etc.) but was adaptable and put through codes to have the necessary turnarounds and access. Mr. Gaddis said it was his understanding those had to be mixed throughout the structure. Mr. Debord said they have to have one unit for the number of units that they have. Ms. Angela Rauber, Law Department, said the Building Department does not advise on Fair Housing and Mr. Debord may have to review the Fair Housing guidelines. Ms. Rauber said there were different accessibility rules in the Building Code and Fair Housing had their own guidelines that might be different.

Board member Vic Lawson asked Mr. Reynolds if that was an unsafe stairwell. Mr. Reynolds said it was an existing stairway that has been allowed to stay there. Mr. Reynolds said there were elements that have been added to it to make it safer. Mr. Reynolds said the only way to make it completely safe would be to tear it completely out. Mr. Lawson said he realized that. Mr. Lawson asked Mr. Partin if the building was completely sprinkled. Mr. Partin said yes.

Board member Vic Lawson made the motion to approve the request and it was seconded by Board member John Gaddis. The Board voted 4-0 to APPROVE the BD07B09BU request. Mr. Lawson said he had watched this building pretty close and had the last fire in it in 2003. Mr.

Lawson said he wanted the dangerous building fixed and he was please with the work Mr. Debord was doing over there.

NEW BUSINESS

710 E. HILL AVENUE

OWNER: KNOXVILLE COMMUNITY DEVELOPMENT CORPORATION

Requested by: Aaron White

BD09A09BU 2006 IBC, Appendix D, Section D102.1

Request:

To allow Type V construction within the Fire District to build R-2 residential occupancies (apartment buildings).

Cory Short, 2206 21st Street South, Nashville, said they were appealing two items in the Fire Services District requirements that conflict with their current program. Mr. Short said Item 1 was to allow Type V construction within the Fire District to build R-2 residential occupancies. Mr. Short said Item 2 was to allow combustible material to be used as architectural trim on the building only. Mr. Short presented some color boards and introduced Aaron White of 2206 21st Avenue South, Nashville. Mr. White said their company (Core Development) was based out of Nashville, Tennessee. Mr. White said since 2003 they have completed 16 residential, in-fill, multi-family projects in Nashville. Mr. White said most were in the downtown area but some were in the greater downtown area. Mr. White said the 710 E. Hill Avenue site was the last phase of the Volunteer Landing development and they have been brought in to see the last phase completed. Mr. White said they were working closely with the City of Knoxville and the land was currently owned by the City of Knoxville with sales being administered through the KCDC offices. Mr. White said they have applied for and been granted tax-increment financing. Mr. White said their plan was to build 230 luxury apartments with the use of the river and is including public parking for access to the greenway with improvements to the greenway and lighting. Mr. White said the site sits on a very steep grade down at the river. Mr. White said the site has had a fair amount of dump and fill placed on it through the years. Mr. White said they have development challenges to work through but were finding solutions to most of the challenges. Mr. White said the buildings would be three stories up with a below-grade level. Mr. White said these were luxury apartments with 10-foot ceilings and hardware floors. Mr. White said in order to build this type product on this site which is what the City wants that is consistent with what they were planning for the area and what they have encouraged them to do, they needed to build to typical apartment standards. Mr. White said given the fire service district requirements of building types, those were associated to the zoning. Mr. White said the site was currently zoned C-2. Mr. White said they discovered their type of construction (Type 5B) was not allowed in the fire service district. Mr. White said they were given two options: 1. Rezone to R-3, or 2. Appeal the construction type that they wanted to do within the fire service district. Mr. White said it was allowed by C-2 zoning but not the fire service district. Mr. White said if they rezone, they would have other variances (side setbacks, rear setbacks, etc.). Mr. White said part of their program was to create a space that long-term could be used for a smoothie shop or a coffee shop as an amenity for the residents and people using the greenway. Mr. White said there were disadvantages to rezoning even though that would allow exactly what they were planning to do. Mr. White said the City of Knoxville has expressed its preference through the mayor's office and KCDC to stay with the current zoning. Mr. White said that was why they were in need of appealing the construction type.

Tom Reynolds, Chief Building Inspector, said he thought Mr. White stated the situation very well. Mr. Reynolds said he knew the developers had talked to the City of Knoxville and the city's preference was to stay zoned C-2 because of the multi-use that was allowed in C-2. Mr. Reynolds said they could do commercial development in C-2 that could not be done in R-3. Mr. Reynolds said the City of Knoxville wanted the possibility of keeping that possibility open along the riverwalk. Mr. Reynolds said from his standpoint the fire district was about concentration of buildings on the land and how dense it is. Mr. Reynolds said this development would be allowed to be built as they were requesting to be built. Mr. Reynolds said all you would have to do is change the zone. Mr. Reynolds said they could rezone it to R-3 and the building would be allowed. Mr. Reynolds said but the development seen by the City of Knoxville could not happen. Mr. Reynolds said the meaning of the fire service district as far as density of buildings on a certain area of land was not appropriate for this parcel of land. Mr. Reynolds said it came to the matter of the density of the buildings here endangering the fire service district and he did not think they did.

Tom Reynolds, Chief Building Inspector, said there were two requests before the Board. Mr. Reynolds said one requests was for the type of construction allowed. Mr. Reynolds said they wanted Type 5B which could mean wood-frame construction unprotected (no ratings in the exterior walls). Mr. Reynolds said they would have some ratings because it was residential which would require ratings at the floors and in between the buildings. Mr. Reynolds said the buildings would be sprinkled. Mr. Reynolds said they might get out of some ratings on the exterior walls.

Mr. Reynolds said the other request was about architectural trim. Mr. Reynolds explained the agenda packet Item 9B information regarding the MiraTEC trim that they would be putting on the building including the trim thicknesses, UL listing, and a typical elevation to where the building would be built and where the trim was located on the building. Mr. Reynolds said if the zoning only was changed, this would be allowed and would not be before the Board. Mr. Aaron White said their external material was masonry and fiber-cement siding. Mr. White said they had found in usage that companies that make fiber-cement-like hardy board, their trim was more brittle and prone to cracking. Mr. White said they found a substitute product (MiraTEC) which had the same longevity as the fiber cement but did not have the same rating. Mr. White said for the smaller architectural areas the product was more pliable and it worked better and installed better. Mr. White said it created less waste and that was why they have typically used it in the past and wanted to use it here.

Mr. Reynolds said he had talked these items over with the Fire Department before the meeting and wondered if it would be appropriate to hear both items at the same time. Mr. Reynolds said he thought it would be appropriate to act on both items at the same time. Board member Vic Lawson said he did not have a problem of acting on both items at the same time and Board Chairman Mary Ellis Richardson said the Board would do that.

Sonny Partin, Fire Inspections, said Mr. Reynolds had covered everything very well. Mr. Partin said he and Tom had talked numerous times on this topic. Mr. Partin said initially their department was apprehensive. Mr. Partin said after looking at everything, they felt like because of density that they had good access, good water, sprinklered buildings, and alarmed buildings. Mr. Partin said this was all acceptable to Fire Inspections. Board member Paul Shirley asked in case of a fire, could the Fire Department get around the buildings. Mr. Partin said yes they could and Fire Code met what they needed. Board member John Gaddis asked if the Board granted this request, would that also be for the commercial entities to be added at a later date. Mr. White said the second phase of the project would have to be permitted separately and he would have to go back before the Board if they were going to do that. Mr. White said that was on an adjacent parcel but there was some overlapping of that. Mr. Gaddis asked what the price increment was to go to load-bearing metal studs construction instead of wood-frame construction. Mr. White said

he did not have that information on him but basically they were working with a program that they had developed multiple times in Nashville. Mr. White said they had not used the metal studs for this type of new construction and would have to research that.

Board member Vic Lawson made the motion to approve the request and it was seconded by Board member Paul Shirley. The Board voted 4-0 to APPROVE the BD09A09BU request.

710 E. HILL AVENUE
OWNER: KNOXVILLE COMMUNITY DEVELOPMENT CORPORATION
Requested by: Aaron White

BD09B09BU 2006 IBC, Appendix D, Section D102.2.2.7

Request:

To allow combustible material to be used as architectural trim.

(Discussion for this item is under BD09A09BU.)

Board member Vic Lawson made the motion to approve the request and it was seconded by Board member Paul Shirley. The Board voted 4-0 to APPROVE the BD09B09BU request.

OTHER BUSINESS

Discussion regarding the headroom clearance at bathroom fixtures per the International Residential Code and a possible blanket waiver will be brought before the Board at a future meeting.

Tom Reynolds, Chief Building Inspector, said he wanted to delay the discussion regarding the headroom clearance at bathrooms fixtures to have a chance to research it in his department and what they would exactly request. Mr. Reynolds said he would bring this to the Board hopefully at next month's meeting.

ADJOURNMENT

With no further business before the Board, the meeting was adjourned at 9:45 a.m. Minutes were taken and typed by Deborah Brooks, Board Secretary.