

Pikes Peak Regional Building Department

2880 International Circle
Colorado Springs, Colorado 80910

BOARD OF REVIEW MINUTES

December 18, 2013

10:30 a.m.

MEMBERS PRESENT: Chairman Rick Johnson, Citizen-at-Large
Mr. Tom McDonald, Building A Contractor
Mr. Michael McShea, Engineer
Mr. Larry Whittaker, Architect

MEMBERS ABSENT: Mr. Johnny Garcia, Building A, B or C Contractor

OTHERS PRESENT: Mr. Todd Welch, Regional Building Counsel
Mr. Roger Lovell, Deputy Building Official/Large Development
Mr. Jay Eenhuis, Chief Plans Examiner
Ms. Mindy Stuemke, Permit Supervisor
Mrs. Pattie Benger, Contractor Licensing
Ms. Linda Gardner, Executive Administrative Assistant

PROCEEDINGS:

Chairman Rick Johnson called the meeting to order at 10:31 a.m.

1. **CONSIDERATION OF THE NOVEMBER 21, 2013 BOARD OF REVIEW MINUTES**

A motion was made by Larry Whittaker to **APPROVE** the November 21, 2013 Board of Review Minutes as written, seconded by Tom McDonald; the motion carried unanimously.

2. **CONSIDERATION OF LICENSING AND MINUTES**

a) Building Committee Minutes of December 4, 2013, with the exception of the license request of Cheyenne Mountain Construction – Antonio Palomo, Jr. for a Building Contractor D-1 (Roofing) License, which is under appeal.

A motion was made by Tom McDonald to **APPROVE** the December 4, 2013 Building Committee Minutes, with the exception of the license request of Cheyenne Mountain Construction – Antonio Palomo, Jr. for a Building Contractor D-1 (Roofing) License, which is under appeal, seconded by Michael McShea; the motion carried unanimously.

b) MEP Committee Minutes of December 11, 2013.

A motion was made by Tom McDonald to **APPROVE** the December 11, 2013 MEP Committee Minutes as written, with the exception of Item 8, variance request for 2112 North Wahsatch Avenue, which is under appeal, seconded by Michael McShea; the motion carried unanimously.

3. DECISION APPEALS

- a) 326 North Tejon Street – David Anderson requests a variance to Section 903.2.1.2, Group A-2, 2009 International Building Code, to waive a sprinkler system, where required. *This Item was postponed from the October 2, 2013 Building Committee meeting to allow RBD staff and CSFD staff an opportunity to research this issue further. It was heard by the Building Committee on November 6, 2013, and the Committee DENIED the variance because CSFD had not had adequate time to review the proposed plan to determine if it is an equivalent method of construction.*

All parties testifying were sworn in. John Davis appeared and stated he is the architect on this project. He said to bring utilities into this bar/restaurant would require an easement through the El Paso Club's property or installing water lines across Tejon Street, which would require closing the street for a period of time. He said they will have three exits at the front of the building and one exit in the rear of the building. Mr. Davis stated they determined that compartmentalizing the space was not feasible for this business. He stated they have developed a fire protection system as an alternative to the sprinkler. Ken Sutton appeared and gave a presentation regarding his fire analysis on this project. David Anderson appeared and stated his business is 14 years old and this will be an additional location for his bar/restaurant. He stated the new building is over 100 years old and with the proposed smoke detector system and the fire exit strategy, he believes he can get all of the occupants out of the building in less than a minute.

Kris Cooper, Colorado Springs Fire Department ("CSFD"), appeared and stated their biggest concern is getting all patrons out of the building safely. He stated the design team has done their due diligent with regard to the proposed smoke detector system and fire exiting strategy. He said should the Board of Review decide to approve this variance request, the building owner and the owner of Tony's Bar will need to agree to the following business operating parameters:

- The CSFD, along with RBD shall be consulted and approve any plans prior to furnishings being added or changed, remodel of the space, refinish of the space (wall, floor and ceiling treatments), addition of decorative materials, and/or the selling of the building or re-lease of the space should Tony's Bar vacate said space.
- Annual inspections will be conducted by the Colorado Springs Fire Department.
- Tony's Bar shall prepare a Fire Safety and Evacuation Plan, in accordance with Section 404, 2009 International Fire Code as amended, to be approved by the CSFD. This Fire Safety and Evacuation Plan shall be maintained and updated at least annually or as needed due to modifications in staffing and/or space. This plan shall be reviewed annually with CSFD.
- The occupant load shall be 192 as designed with no temporary occupant load increases permitted for special events.
- High Output exit signs shall be used as recommended by the Smoke Hazard Analysis.

- This Performance-Based Design is applicable to and only to Tony's Bar. Any other tenant or occupancy will void this design alternative.
- These parameters shall be recorded with the El Paso County Assessor as part of the title documents for future owner's knowledge.

Mr. Cooper stated CSFD is not going to take a position for or against this variance request.

Tom McDonald stated the Board of Review has the authority to grant minor variances, but he believes this is a major variance. Roger Lovell stated RBD staff does not oppose this variance request, but at the same time RBD staff does not support the variance request either. Jay Eenhuis stated this only became an issue when the 2011 Pikes Peak Regional Building Code was adopted in August, 2011; prior to that time it was Code compliant with up to 300 occupants.

The Board of Review moved into Executive Session at 11:29 a.m. pursuant to C.R.S. §24-6-402(3)(II) to seek legal advice from our attorney.

After moving into General Session at 11:53 a.m., Chairman Johnson noted that no decisions were made during the Executive Session.

Break from 11:53 a.m. to 12:03 p.m.

David Anderson stated he has an access easement of 4 parking spaces that is part of the El Paso Club parking lot. He said it would cost \$85,000 to bring utilities to this building so he could sprinkler the bar/restaurant. Larry Whittaker stated he would propose a one hour fire barrier with a 60 minute door separating the kitchen from the bar area.

A motion was made by Tom McDonald to **APPROVE** the variance request, contingent upon the requirements of CSFD noted above, as well as installation of a one hour fire barrier with a 60 minute door separating the kitchen from the bar, an auto hold open door on the kitchen, a 5' x 6' area in front of all exit doors, one hour ceiling assembly in the basement, the legal description for egress across four parking spaces in the rear of the building, elimination of the step at the platform exit door, and the fire protection notification system, seconded by Michael McShea; the motion carried unanimously.

Break from 12:36 p.m. to 1:05 p.m.

- b) 2511 Holiday Place, Permit I75294 – Rachele Starr, Trinity Roofing, requests a variance to Appendix D, Section RBC303.4.60.1, 2011 Pikes Peak Regional Building Code, to allow Class B roofing materials, where Class A roofing materials are required. *This variance request was DENIED during the November 6, 2013 Building Committee because the correct materials were not used for this roof.*

Rick Johnson stated this variance request has been **WITHDRAWN**.

c) **Building Contractor D-1 (Roofing)**

CHEYENNE MOUNTAIN CONSTRUCTION – ANTONIO PALOMO JR.*

This license request was DENIED during the December 4, 2013 Building Committee meeting due to inadequate roofing experience.

Antonio Palomo appeared, was sworn in, and stated although he does not have a lot of roofing experience, the people that he works with have a great deal of experience, and they will be doing the actual work on the roofs. Pattie Bengner appeared, was sworn in, and set forth Mr. Palomo's work experience from his license application, which did not include roofing experience. Terry Brunette appeared, was sworn in and stated although Mr. Palomo does not have a great deal of roofing experience, his crews are very qualified and they will be doing the actual roof installations. Tom McDonald recommended that another employee with the company get a license and Mr. Palomo train with this individual until he has the necessary experience, at which time he can request his license again. Bob Joslyn, part owner of Cheyenne Mountain Construction, appeared and stated he does have the necessary experience for this license and is willing to apply for a license. A motion was made by Larry Whittaker to **UPHOLD** the decision of the December 4, 2013 Building Committee, seconded by Tom McDonald; the motion carried unanimously.

- d) 2112 North Wahsatch Avenue, Permit I88096 – Kenton Pass, The Sawhorse Company, Inc., requests a variance to Section 403.3, Table Private Dwelling, Bathroom, Required Exhaust Note G, to allow installation of a recirculating bath fan in lieu of a ducted bath fan. *This variance request was denied by the MEP Committee on December 11, 2013 because there are viable alternate solutions that do meet Code, and the variance as stated would pass on to a future owner.*

Kenton Pass appeared and stated his clients have asked him to appeal this variance request. He stated he built a two-story addition on the back of a house and covered the window in an existing bathroom. He stated the work has been done and his clients do not want to make modifications to the current work that has been completed. Jack Arrington appeared, was sworn in, and stated the addition has been finished, but the permit has not yet been completed. He stated since work was not being done on the bathroom, this issue was not caught by RBD's mechanical inspectors during the construction phase. He said having a bathtub in this bathroom is the only reason for having the exhaust fan. Roger Lovell stated all of the sleeping facilities are upstairs, so in all probability this bathtub will not be used often. A motion was made by Larry Whittaker to **OVERTURN** the decision of the MEP Committee, with the stipulation that a dehumidifier is installed in this bathroom; the motion **FAILED** for lack of a second. A motion was made by Michael McShea to **OVERTURN** the decision of the MEP Committee and **APPROVE** this variance request, with the stipulation

that a recirculating fan from the bathroom to the kitchen is installed, or a louver in the door is installed, seconded by Larry Whittaker; the motion carried 2:1. Tom McDonald opposed.

4. **UNFINISHED BUSINESS**

There was no Unfinished Business to discuss.

5. **NEW BUSINESS**

a) Downtown Construction Issues

Tom McDonald requested that a Committee be formed to address construction issues in the downtown area. Todd Welch stated RBD will take this under advisement and address this issue.

The meeting adjourned at 1:31 a.m.

Respectfully submitted,

Henry W. Yankowski
Regional Building Official

HWY/llg