

Approved 1/9/02

**CITY OF URBANA
PROPERTY MAINTENANCE CODE BOARD OF APPEALS
WEDNESDAY, SEPTEMBER 6, 2000**

MEMBERS PRESENT:

Don Keeler, Bill Rose, Tom Welch, Dick Halberstadt and Gary Stebbins

STAFF PRESENT:

Mike Nickols and Vivian Petrotte

OTHERS PRESENT:

Harry Washburn

CALL TO ORDER:

The meeting was called to order by Gary Stebbins at 4:01 p.m.

APPROVAL OF MINUTES:

Gary Stebbins asked for a motion to approve the minutes of the meeting held Wednesday, April 5, 2000. Bill Rose made the motion to approve the minutes and Gary Stebbins seconded the motion. All agreed and the minutes were not only approved as read, but signed by Donald Keeler.

OLD BUSINESS:

There was no old business to discuss.

NEW BUSINESS:

The case to be heard was 2207 South Philo Road, Harry Washburn as owner. Gary Stebbins asked Mr. Washburn if he would like to state his position.

Mr. Washburn asked if everyone had seen the packet of things that he submitted. The board members said they did, including the picture of the young lady in the open window. Mr. Washburn then stated "my position on this is that I don't even think I should be here. I've been sited for PM-701.8, 701.8.1, and 701.8.2. I believe that the only deficiency that I have is in one part of PM-701.8.1 which is the minimum net clear opening height dimension shall be twenty two inches. To be honest with you, I wasn't even sure why I was cited for this. If we could take PM-701.8 and have everyone read through it, I think I comply with that because number one through the pictures and through the letter that I have from Shawna Smith, the tenant, that we do have egress. We have adequate efficient egress and that my sill height is not more than forty-four inches so I think that one should be struck.

On PM-701.8.1 we have three dimensions in here: the first one I don't meet and I think we're clear on that. The minimum net clear opening width dimension I meet and surpass, the clear net opening area shall in no case be less than four square feet, I meet and pass. So one dimension of the three within that particular paragraph I'm not meeting. Of the PM-701.8.2, the escape area, I meet. For starters, I don't know why I was cited for all three of them when only one of them is the problem."

Mr. Nickols then stated that he thought PM-701.8 was also a problem because it has to have an operable window.

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Mr. Washburn then stated that he had one and it operated and functioned. It does everything it's suppose to do.

Mr. Halberstadt asked for clarification of the dimension in question and whether it was the 18 inches as stated in Mr. Washburn's literature.

Mr. Nickols stated that the dimension in question was 15 ½ inches.

Mr. Washburn said that Mr. Nickols came up with 15 ½ inches and Arrow Glass came up with 18 inches but he would not argue that because he has a lot of extra space on the width and if he's being cited as Mr. Nickols stated for a 30 percent deficiency on the clear opening height requirement and that's probably too much he was wondering if he was going to be given a little allowance for the width dimension which he believes is ninety five percent above the code and he is over one hundred percent on everything except that one. He stated "the bottom line on this whole thing is that these windows work. They function as emergency egress, they function for the lady that is in it, they function for me and I can safely say that they'll function for every person in this room. I believe I have egress. I'm being cited that I don't but maybe I'm being cited because there's a requirement that I'm not meeting but of the greater majority of the criteria down here, I'm not meeting one dimension and I'm meeting all the rest of them and I think these windows are fine, the tenant thinks they're fine, my carpenter thinks they're fine. I think they're working and I wasn't trying to make anyone mad by sticking the tenant in the picture; I was just trying to let you know that not only can she get out, she can climb out sideways, anyway she wants to do it, she can get out of there, I can get out of there, we all can get out of there."

Mr. Halberstadt asked about the dimension in question again. Mike Nickols stated that it was 15 ½ inches and that he had measured it twice. Mr. Washburn stated that Arrow Glass said 18 inches.

Mr. Washburn stated: "it was 39 inches one way and if you use the 15 ½ with the 39 inches, I'm still surpassing that clear opening that I need and I think that functions and I'm having a hard time trying to understand why I'm fighting these things off here on a window that is, in fact, accessible, it functions as emergency egress, it functions for the tenant and I think it functions for everyone else so I hardly know what to say because I don't think I should be even sitting here. Now, my other position on this is that if the only way that we can do anything with the window is to grant a variance, then I'm certainly looking for that on the one dimension. All the rest of them pass so that shouldn't be too much of a problem but there was kind of a distressing thing that happened when I met with Mayor Satterthwaite and Craig Grant because I said it doesn't seem to me that I'm really in any violation of this, can't we just make this go away and Mr. Grant said no. That kind of disturbed me. In other words, anything that gets written up is out there and no one has to stand for it, I just have to fight it off. This seems a little unfair and to be honest with you the other thing that kind of

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bothered me was the \$75.00 that I had to pay to sit down and meet with the board and to be honest with you the complainant didn't have to pay anything and I have to pay \$75.00 so I can field this and there's something just not right about that either. That is my position. I think my windows fly. Now, if there's a way where we can just get rid of this and you guys can all say we know that we have a dimension that's a problem, I'd be willing to do that, and if it has to be a variance, I'll take that too, but either way, I think I should get one of the two because I know the window works and I think that's why we're here."

Mr. Stebbins then asked Mr. Nickols if he would like to state staff's point of view.

Mr. Nickols stated that this property was inspected in November of last year because of a tenant complaint. Mr. Washburn, once he received the notice of violations, cooperated and got all the violations in compliance except the exterior items which needed to wait until spring time and the windows. This property is a duplex and one of the issues that was raised was the 15 ½ inch dimension and the clear opening.

Mr. Nickols stated: "On the last code adoption, we recommended that before we adopted this code the requirement was 24 inches clear height opening and we recommended it be reduced to more closely follow the Southern Building Code, who's standard is 22 inches. So we reduced it from 24 to 22 inches. If you notice in the pictures where the ground level is. If you had a big person that was living in this apartment and tried to get through that opening without being able to touch the ground, it would be pretty difficult. The property maintenance code applies to all buildings and those are minimum standards, not maximum. Those standards are developed by a lot of code people, builders, property managers, a consensus of people. When we do this code adoption cycle, this board needs to make their review and recommendations, it goes to the city council, it goes to the contractor's, it's reviewed. The final say on all these ordinance issues is the city council. The city council adopted these standards."

"The city's position is since the height only meet's 70 percent of the requirement on a reduced requirement already, I believe that his variance request should be denied."

On the other issue of the \$75.00. The fee for filing a variance application was raised July 1, 2000 from \$75.00 to \$100.00. He filed his variance request after July 1, 2000

but this was going on and I had to do a special memo to our Finance Department to let him pay \$75.00 instead of \$100.00."

Mr. Washburn asked if he could add a rebuttal here. Mr. Stebbins stated yes.

Mr. Washburn stated that the \$75.00 versus \$100.00 didn't matter to him, he has the money. It's the principal behind it and that's really not an issue. He knows that he doesn't stand up to the twenty two inches but when Mr. Nickols went out, he made sure that he

found out that he had a 30 percent problem, but did he happen to do a percentage on his width dimension.

Mr. Nickols stated that it was almost 200 percent. Mr. Washburn stated that it was 195 percent so he was 95 percent in the clear there and doesn't know if we're using any kind of accumulation or how the board actually came to all this but the bottom line is that he's meeting everything here and getting it all done and still doesn't understand it. He's still looking for the variance here and is a little surprised here that staff recommends that the variance be denied because he hasn't seen anything that points the windows in the negative. He thinks the windows are more in the positive and more efficient and meet up to more of these specs.

Mr. Keeler asked what the measurement was from the sill to the ground on the outside. He figured around 6 foot.

Mr. Washburn said that if there was a big person in there, their not getting through the coded window either. They might not get through the existing window, but they aren't getting through the 22 x 20 window either. He states "so that's going to be a problem if you have a real big person. How do you ordinance weight and height. I think through the pictures you can tell, and the tenant is comfortable with the measurements." He asked if everyone had seen the letter from her that he had submitted.

Mr. Halberstadt mentioned that there was no code requirement for outside sill height so that was not an issue.

Mr. Nickols stated that the 5.7 glazing is for a firefighter with airpacks to break both sashes and get in to the room.

Mr. Keeler asked what kind of sashes were in the window.

Mr. Nickols stated that they were double hung wood sashes with metal stops at the top of the window.

Mr. Rose thanked Mr. Washburn for the effort he had made to prepare his packet. The material included was very good. On the comment that was made about Craig Grant, it is his responsibility to enforce the law to the letter of the law and leave it to this group to interpret the regulations.

Mr. Washburn then stated that if there was an erroneous paragraph in there which he knows that he passes, then why can't that be struck and why does he have to go to committee.

Mr. Rose: "Also, with respect to the fee, one purpose of the fee is that if it were free, we,

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who volunteer our time might find ourselves subject to a lot of frivolous concerns. Another thing, there is a lot of work that goes in to the preparation of this material, and you're a business man, and you'd look at the amount of material that goes in here and say, yes that's \$75.00 worth."

Mr. Washburn: "I feel I'm getting a double standard because someone can go and drag me through this for nothing and I have to pay \$75.00 or \$100.00."

Mr. Stebbins explained that the PMCBA has no control over the fees.

Mr. Welch then asked if some of the other complaints were just. "It said that you've complied with the other complaints so this wasn't the only complaint."

Mr. Washburn said that there was electrical and plumbing stuff and that he had corrected that.

Mr. Welch said that was the reason that Mr. Nickols did that job.

Mr. Washburn stated that he didn't have a problem with the job Mr. Nickols did, he has a problem that when he wants to go through the appeal process that it cost him money. It doesn't cost anyone else any money, it just cost him.

Mr. Stebbins asked that we just concentrate on the windows at this time. He asked if anyone had any questions.

Mr. Halberstadt said that when this building was built, it was built on a ten year old building code and it was built to code and he thinks Urbana takes too long to adopt a new code. "I have it in the back of my mind that if we were to grant a variance it would be on the stipulation that no construction happens. If at anytime any remodeling, or any permits were taken out on it, the windows would have to be brought up to date. I feel that under the masonry type windows, I would make a recommendation that I would grant a variance under the stipulation that any building permits were taken out on this building, the windows would be corrected."

Mr. Rose would argue the other side. "My first hunch is that I've been on this commission for several years and I've never approved to the best of my recollection a window height of that small a vertical dimension. I think it's our job to draw the line and say we need egress windows in every room. There's a line between too small and okay and I think the law is good in that it says a number. In my opinion, a number like 22 inches for vertical height is very good. I have a family and I know the difference between 15 and 22 inches and I'm not comfortable approving a variance. I understand very well that we are in a job of interpreting, and in interpreting we have to look at the over all size and we can't ignore that other information but I guess that 15 ½ inches goes to thin for me. It is my understanding

that there are two bedroom windows that we're talking about so the overall effort that I'm leaning toward is to say that the cost involved in changing these two windows is standard."

Mr. Stebbins: "The idea of cutting brick out is not a lot of fun but casement could be put in, correct?"

Mr. Nickols: "Even a double hung replacement window that both sashes are removable would be acceptable."

Mr. Washburn: "That would have to be special ordered."

Mr. Halberstadt: "That just means it would take three weeks instead of two."

Mr. Halberstadt then stated that he had the number 18 inches in his head instead of 15 ½ inches. There's a big difference between 4 inches short and 6 ½ inches.

Mr. Washburn asked if the only thing the board could do was grant a variance or not grant it.

Mr. Rose: "We can provide conditions on the granting or not granting provided they are enforceable."

Mr. Washburn said that even if it's the 6 ½ inches that Mr. Nickols stated, he still has this width dimension that far surpasses what's going on there. That, in conjunction with the height, should make it pass. He meets all the rest of this except that one. He states: "It looks like this 30 percent deficiency is a big deal that we're playing with, but what about the ninety five percent efficiency I have on the width side, and the fact that it

does egress. I have a functioning window that supplies emergency egress and doesn't meet one of the requirements of this paragraph."

Mr. Halberstadt: "What if it was 72 inches long and 5 inches tall?"

Mr. Washburn: "I guess I would be unable to get through that 5 inches."

Mr. Halberstadt: "It's the same thing that you are saying. You're overall volume is the same."

Mr. Washburn: "I'm not here to try to fight an argument about 5 inches and 72 inches. I'm willing to accept this 15 ½ inches even though I had Arrow Glass get 18 off it. It doesn't make any difference to me whether it's 15 ½ or 18 inches."

Mr. Halberstadt: "It makes a difference to me."

Mr. Washburn: “The bottom line is the clear opening which I meet, even with the 15 ½ inches.”

Mr. Rose: “If I was Arrow Glass and I needed to know the dimensions of replacement sash to put in, it would make sense to me that I’d be thinking of an overall dimension of 18 or 18 ½ inches that would drop into the sill and come up to the top of the rail. But the actual space to move through would be more appropriately stated as 15 ½ inches. That’s a better number. I’m happy that the code states area, width and height, and as it states them, we can interpret what importance to attach to each. So given all that, I’m still of the mind that 15 ½ is too short.”

Mr. Washburn: “Even if it functions?”

Mr. Rose: “I can see some people getting out and I can see others not getting out. I can see firefighters with some equipment getting in and I can see firefighters with other equipment not getting in. There are limitations to its ability to function.”

Mr. Washburn: “But I don’t get anything for all these other criteria that I meet. I just lose because of the one that I don’t. And I am deficient of 30 percent on that yet I have efficiency on the others but they don’t come in to play.”

Mr. Rose: “It’s our job to interpret the intent and that is quick egress and quick ingress and I can’t imagine more information that you could have provided to make a stronger case that you are making for the ease of egress. The only other thing beyond your particular case that I need to keep in mind is the gradualism. If I were to say 15 ½ inches for an opening is okay, I would not be comfortable with that. 18 inches is something that I may have approved in the past and 20 inches I know I have approved but 15 ½ just seems too short.”

Mr. Washburn: “So if I bring you 18?”

Mr. Stebbins: “We don’t operate that way.”

Mr. Washburn: “Basically what I’m saying is that I am deficient on that point but I meet all the rest of it and I’d like to get the variance but I can’t argue with you on your personal feelings on 5 ½ inches versus 4 inches so I’m at your mercy anyway.”

Mr. Rose: “It’s 6 ½ inches.”

Mr. Nickols: “I’d like to make two points. The rationale for having an adequately sized egress window in every bedroom is that in Champaign-Urbana alone there have been three or four fires where people got out from the fire by using the bedroom windows. So there is a rationale for having egress. And size for having an average person to get out of. It

was not one person that established these dimensions but many people and studies. Egress windows are a necessity.”

Mr. Washburn: “No matter how anyone wants to flip it all around, I still have egress.”

Mr. Halberstadt: “In your mind you have egress, and only in your mind.”

Mr. Washburn: “I have egress because this lady has written a letter.”

Mr. Halberstadt: “In your mind you have egress but by the letter of the law you don’t have egress.”

Mr. Washburn: “It’s functioning.”

Mr. Halberstadt: “You can drive your car down the road at 97 miles per hour and in your mind you think you’re safe but the law says you can drive 65 and so you’ve got to drive 65.”

Mr. Stebbins: “She has egress, and she can get out, but she’s not going to live there forever. Somebody else will rent it.”

Mr. Washburn: “Can we do a variance when the tenant changes?”

Mr. Stebbins: “Do we have anymore discussion?”

Mr. Halberstadt: “The only other thing I will say is that I’m glad that Mr. Grant and Mr. Satterthwaite decided not to let the issue go away. That comment I did not understand.”

Mr. Stebbins: “That’s what we are here for.”

Mr. Washburn: “This is no reflection on Mr. Nickols, but he’s written up what I feel are two paragraphs that shouldn’t even be in here.”

Mr. Rose: “No, I think it’s important for any subheading to have the context of the main heading for which it appears and the inclusion of the escape area I think is done to help us understand that any one dimension has to be seen in context of the other dimensions. So I really appreciate the extra material that was included.”

Mr. Washburn stated that he was not in violation of two of them, only one.

Mr. Stebbins asked that at this point in time, would anyone like to make a motion

Mr. Halberstadt made a motion to go with staff’s recommendations and deny the variance. “When we were within four inches I had a different opinion. I had read what you said and

misread what Mike said. But you can get a window in there without cutting the brick.”

Mr. Washburn: “I can get a casement window in there at 36 X 36 and then fill in but it’s not going to look the same and I’ll have identical windows to the ones that you’re going to have me tear out right next door. It starts to kind of not make sense.”

Mr. Nickols: “Single family does not meet systematic inspection criteria and unless there is a tenant complaint, I won’t be in them.”

Don Keeler seconded the motion.

Gary Stebbins asked for the vote. It passed unanimously and the variance was denied.

Mr. Washburn thanked everyone for their time and left.

Mr. Stebbins asked if there was any other business to discuss.

Mr. Nickols said that we were still in the process of code review. Mr. Halberstadt mentioned that it was taking a long time.

ADJOURNMENT:

Mr. Stebbins moved that we adjourn the meeting. Mr. Rose seconded and the meeting was adjourned at 4:50 p.m.

Respectfully submitted,

Approved:

Vivian Petrotte

Don Keeler, Secretary

PMCBA:vp