

These minutes are subject to formal approval by the Wyoming Construction Board of Appeals at their next scheduled meeting.

MINUTES OF THE WYOMING CONSTRUCTION BOARD OF APPEALS

HELD AT WYOMING CITY HALL

February 8, 2016

The meeting was called to order at 3:00 P.M. by Chairman Postema.

Members present: DeKryger Kerby Postema Simon Wood

Other official present: Jeff Keppel, Building Official
Dave Rupert, Building Inspections Supervisor

A motion was made by Wood, supported by Simon to approve the June 10, 2013 minutes of the Construction Board of Appeals meeting.

Motion carried: 5 Yeas 0 Nays

PUBLIC HEARING:

Appeal #16-0002

Field's Fire Protection

1375 28th St. S.W.

P.P. #41-17-11-376-018

City Secretary Bell read the request for an appeal of the 2012 Michigan Mechanical Code 705.2.4 Extra-heavy-duty which requires an independent exhaust systems for Type I hoods for extra-heavy-duty cooking appliances. Applicant requested the City approve the installation of a gas radiant char broiler with smoker boxes based on Section 14.3.4 of the 2014 Edition of National Fire Protection Association 96 Code, which allows an exception of the separate exhaust if 11 conditional requirements are met. Applicant was prepared to argue construction meets the 11 conditional requirements, and as such the separate exhaust was not required. P.P. No. 41-17-11-376-018

Chairman Postema opened the Public Hearing.

John Ohler, Field's Fire Protection, said the variance request was for Applebee's wood-assist char broiler. They were asking the Construction Board of Appeals to allow the installation under the 2014 Edition of the NFPA 96 code section 14.3.4, under which the independent exhaust is not a factor.

Greg Fuchs, Team Schostak, said he understood that the International Mechanical Code referenced in the Michigan Mechanical Code has not been updated since 2012, while the NFPA 96 was updated in 2014. Until the International Mechanical code is updated, the MMC will not include any reference to the 2014 NFPA. When and it, it is updated, the IMC would reflect the changes to the 2014 NFPA 96.

Chairman Postema opened the Public Hearing. There were no public comments. Wood motioned to close the Public Hearing. The motion was supported by Simon. The Motion passed 5 – 0. Chairman Postema closed the Public Hearing.

Keppel explained while staff recognized the proposed 2014 NFPA 96 Code, the code has not been adopted, and furthermore it is not a code that is adopted by the City of Wyoming. Since the City does not inspect to the NFPA Code standards or in this case proposed standards, staff could not approve the installation of the wood assist char broiler. The applicant chose to bring the matter to the Construction Board for their consideration. Staff's Findings are as follows:

1. The code and rules that pertain to this case have been interpreted correctly.
2. Literal application of the substantive requirement would not result in an exceptional, practical difficulty to the applicant.
3. The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people in this state because the proposed code variance does meet the requirements as outlined by the 2014 NFPA 96 including the eleven conditions that must be met.
4. The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonable practical or desirable. This installation is becoming increasingly popular. Future codes address the uniqueness of the equipment by allowing this type of installation under specific conditions. The 2015 International Mechanical Code references the 2014 NFPA 96, section 14.3.4 with the eleven requirements. The State of Michigan Mechanical Division has accepted this as an equivalent application in other municipalities under their jurisdiction.

Chairman Postema said that while he thought the applicant's intention to comply with the eleven conditional of the 2014 NFPA 96 Section 14.3.4 is reasonable, he felt that all of the 2014 NFPA 96 should be applied to the installation, not just this particular section. This might mean the entire hood may need to be brought up to code. He did not think it would be an issue if the hood has been installed recently.

Mr. Fuchs said they had not considered the intent of application of the 2014 NFPA 96. They had only been looking at reasons why application of the 2014 NFPA 96 14.3.4 might not be approved. They had focused on the City's requirement of a separate exhaust under the 2012 MMC.

Chairman Postema said that if a code is to be used, it should be used in its totality.

Simon wondered if Chairman Postema knew of any other changes in the 2014 edition of the NFPA.

Chairman Postema answered that he had not studied the code in depth, only the highlighted sections that had been submitted with the variance application.

Simon had visited the site. The unit was already installed but the wood smoker was not in operation. The nozzles had been updated.

Mr. Ohler said the wood smoker is not currently in operation. The wood flavoring is not being used.

Simon confirmed that they were waiting for the outcome of the Construction Board appeal and

hopefully, it's approval to use the wood assist. Using the wood assist would make the equipment heavy duty as defined by code.

Fuchs explained that the wood is soaked in water. The smoke flavors the food. They do not want heat to produce flames from the wood. The staff is instructed to squirt water on the wood if the heat produces flames.

Rupert clarified to the Board the contractor had pulled a permit to install the equipment. It was at the inspection of the installation that it was discovered there was not a separate exhaust for the char broiler. He did not want the Board to think the appliance had been installed without the benefit of a permit.

Kirby noted the State of Michigan approved plan submittal that was included in the variance packet. If the State of Michigan approved the plans, why would not the City of Wyoming do the same?

Chairman Postema clarified that the State of Michigan plan submittal approval was for a location in Sturgis, MI not Wyoming.

Rupert noted the 2014 NFPA 96 has not yet been adopted. If and when it is adopted, there may be revisions to the code language.

Chairman Postema felt the current codes did not anticipate this issue. The equipment is used not for fuel but for flavoring. A hybrid of equipment had not been considered in current or former codes. The eleven conditions of the 2014 NFPA 96 14.3.4 are predicated on that code in its entirety.

Mr. Ohler noted that they had not considered project in regards with the entire to 2014 NFPA 96.

Mr. Buchs said other municipalities had accepted smoke tests. They would be willing to do a smoke test.

Rupert was concerned that if the Board granted the variance based on the 2014 NFPA 96, they were in essence "adopting" that code.

Kirby made the motion to grant the variance request as presented by the applicant but stipulated that the installation meet the final version of the 2014 NFPA 96 code.

Wood said he understood the Chairman's position, and supported the motion.

Motion carried: 5 Yeas 0 Nays (Resolution #1024)

The Board had the understanding that staff would have to look at the 2014 NFPA 96 code in reference to this situation for the new installation as well as the existing hood system per the Board's discussion and subsequent determination.

Applebee's expressed their desire to work with the City, and to provide a safe environment.

There were no new business items.

Kirby made the motion to adjourn the meeting, supported by Wood.
Motion carried: 5 Yeas 0 Nays

The meeting was adjourned.

Joe Simon
Secretary

/cb