

**SOUTH WHITEHALL TOWNSHIP
LEHIGH COUNTY, PENNSYLVANIA
BUILDING CODE APPEALS BOARD**

August 10, 2022

A G E N D A

AGENDA ITEM #1 – CALL TO ORDER

AGENDA ITEM #2 – NOTIFICATION OF ELECTRONIC RECORDING/INTRODUCTION OF MEMBERS

AGENDA ITEM #3 – APPROVAL OF MINUTES2

The minutes of the June 14, 2017, and May 12, 2021 Building Code Appeals Board Meetings

AGENDA ITEM #4 – APPEALS

A. BCAB Appeal 2022-301 11
David Dugan
2119 W Pennsylvania Street

AGENDA ITEM #5 – ELECTION OF OFFICERS

AGENDA ITEM #6 - 2023 MEETING SCHEDULE..... 14

AGENDA ITEM #7 – COURTESY OF THE FLOOR

AGENDA ITEM #8 – ADJOURNMENT

NOTE: The next regularly-scheduled meeting of the Board is June 28, 2017 at 3:30 p.m. You will be contacted only if there are appeals to be heard by the Board.

TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA
BUILDING CODE APPEALS BOARD

PUBLIC MEETING

MINUTES

JUNE 14, 2017

The Regular Meeting of the South Whitehall Township Building Code Appeals Board was held on the above date in the Township Municipal Building located at 4444 Walbert Avenue, Allentown, Lehigh County, Pennsylvania.

Members in attendance:

Scott Bigley , Chairman
Mark Cernese
Andrew Garger
Al Rock
Bryan Wheeland

Staff members in attendance:

Lawrence B. Fox, Board Solicitor
Jeff Young, CodeMaster
Mike Metzger, KeyCodes
John Frantz, SWT Fire Inspector
Gregg Adams, SWT Planner

AGENDA ITEM # 1 – CALL TO ORDER

The meeting was called to order by Chairman Scott Bigley at 3:30 p.m.

AGENDA ITEM # 2 – INTRODUCTION OF MEMBERS

The Board members introduced themselves.

Mr. Bigley notified all present that all public sessions of the South Whitehall Township Building Code Appeals Board are digitally recorded and the recordings are maintained as part of the record of the meeting.

AGENDA ITEM #3 – APPROVAL OF THE MINUTES

Mr. Rock made a motion to approve the minutes of the April 27, 2016 meeting as submitted.

Mr. Garger seconded and the motion passed unanimously, 5-0.

AGENDA ITEM #4 – APPEALS

A. BCAB Appeal 2017-301 Nestle Purina PetCare Company 2050 Pope Road

Engineer Amit Mukherjee of Base Engineering presented the appeal for Nestle Purina, accompanied by Michael McCauley of Nestle Purina, and Barry Cohen and Tim Campion from Base Engineering.

Engineer Mukherjee stated that the appeal was relayed to IBC Section 109.412 Riser Height and Tread Depth.

Barry Cohen pointed out the location of the platforms being appealed within the kitchen area, noting that the platforms only serve the maintenance of the conveyor belts.

Mr. Bigley inquired as to whether there are no operators on the platform. He inquired as to riser height and tread depth.

Engineer Cohen stated that the platform was only for maintenance. The height was 7.5 inches and the tread depth was 11 inches.

Mr. Cernese inquired as to whether the code pertains to maintenance-only situations.

Mr. Jeff Young stated that, while OSHA differentiates between stair specifications, the building code does not. He noted that Nestle was designing to meet the OSHA standard.

Attorney Fox inquired as to the specific variance to be sought.

Mr. Young stated that the variance was to be ½-inch riser height and 1-inch tread depth width.

Mr. Bigley inquired as to whether the variance includes the interpretation as to whether it is an IBC-compliant egress stair or an OSHA-complaint access stair. He noted that if it is an OSHA-compliant access stair, the IBC issue is moot.

Attorney Fox agreed, noting that such determination should be made first.

Mr. Rock made a motion to approve the stair as OSHA-compliant stair rather than an IBC-compliant stair, and therefore there is no need to determine if variances are necessary.

Mr. Wheeland seconded and the motion passed unanimously.

Mr. Bigley inquired as to whether there were IBC-compliant guards and railings present.

Mr. Young confirmed that there were.

B. BCAB Appeal 2017-302
Nestle Purina PetCare Company
2050 Pope Road

Barry Cohen presented the appeal to Section 2902.1.1 of the IPC at the warehouse facility at the same site. He noted that there is no permanent staff within the warehouse and workers would only be present during loading and unloading operations.

Attorney Fox inquired as to the exact relief sought.

Engineer Mukherjee stated that the applicant is seeking relief from the requirement to have a restroom within 500 feet. He stated that the nearest restroom location would be no greater than 900 feet and no less than 600 feet, depending upon location within the warehouse.

Mr. McCauley pointed out that employees would normally drive a forklift and would be able to drive to location closer to a restroom.

Mr. Cernese noted that Section 2902.3.2 allows an exception to exceed a maximum travel distance to a restroom within a factory or industrial occupancy is approved. He opined that the BCAB is not an "approval" Board. He inquired as to the process for an approval of an exception.

Mr. Metzger stated that there is a discrepancy between the Building Code and the UCC. He stated that the Building Code states that, within the "Definition" Section, the Building Official is the approval authority and the BCAB is the appeal authority. He noted that the State did not adopt the "Definition" section of the Building Code, so he was unsure as to whether the definitions apply in this case.

Mr. Frantz inquired as to whether the building is open to the public.

Mr. McCauley stated that it was not.

Mr. Frantz stated that it appears that the building would be a factory or industrial occupancy.

Mr. Frantz inquired as to when the existing restrooms were built and do they meet ANSI A117 requirements.

Mr. Cohen stated that he did not know the age of the restrooms but they are ANSI A117 compliant.

Mr. Bigley inquired as to the hardship.

Mr. McCauley stated that the costs for the water and sewer lines, electric, ventilation, lighting, and sprinkling.

Mr. Garger inquired as to whether there would only be forklift traffic or would there be foot traffic as well.

Mr. McCauley stated more forklift, but both.

Mr. Bigley pointed out that there may also be a disable person in a wheelchair present. He inquired as to exterior pedestrian paths.

Mr. McCauley pointed out the asphalt walkways between the office and storage additions.

Mr. Cernese made a motion to deny the appeal.

Mr. Wheeland seconded and the motion passed unanimous.

Attorney Fox confirmed that Mr. McCauley was the design engineer for Nestle Purina and that he had the owner's permission to testify on the owner's behalf.

AGENDA ITEM #5 – ELECTION OF OFFICERS

Attorney Fox opened the floor for nominations for Chairman.

Mr. Cernese nominated Scott Bigley.

No other nominations were heard.

Attorney Fox called for a vote.

The vote was unanimous, 5-0.

AGENDA ITEM #6 - 2018 MEETING SCHEDULE

Attorney Fox inquired as to whether the Board's schedule is posted on the Township website.

Mr. Adams stated that he would confirm the Board's calendar is listed on the website. Mr. Adams also inquired as to whether it would be acceptable for the 2018 calendar to reflect the 2017 calendar, i.e. second and fourth Wednesdays every month except for the second Wednesday only in November and December.

The consensus of the Board was that the afore-mentioned schedule is acceptable.

AGENDA ITEM #7 – COURTESY OF THE FLOOR

Attorney Fox inquired as to whether an Owner's Certification can be added to the application, as well as the language describing the relief requested.

Mr. Adams and Mr. Frantz stated that they would look at the form to see how it could be improved.

AGENDA ITEM # 8 – ADJOURNMENT

The meeting was adjourned at 4:30 p.m.

ADOPTED THIS DATE:

ATTEST

Scott Bigley
Chairman

Gregg Adams
Secretary

DRAFT

TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA
BUILDING CODE APPEALS BOARD

PUBLIC MEETING

MINUTES

MAY 12, 2021

The Regular Meeting of the South Whitehall Township Building Code Appeals Board was held on the above date in the Township Municipal Building located at 4444 Walbert Avenue, Allentown, Lehigh County, Pennsylvania.

Members in attendance:

Scott Bigley, Chairman
David Burke
Mark Cernese
Andrew Garger
Gregory Kelly
Albert Rock III
Bryan Wheeland

Staff members in attendance:

Lawrence B. Fox, Board Solicitor
Tom Harper, Code Enforcement Program Manager
Gregg Adams, SWT Planner

AGENDA ITEM # 1 – CALL TO ORDER

The meeting was called to order by Acting Chairman Scott Bigley at 3:40 p.m.

AGENDA ITEM # 2 – INTRODUCTION OF MEMBERS

The Board members introduced themselves.

Mr. Bigley notified all present that all public sessions of the South Whitehall Township Building Code Appeals Board are digitally recorded and the recordings are maintained as part of the record of the meeting.

AGENDA ITEM #3 – APPROVAL OF THE MINUTES

Approval of the June 14, 2017 hearing minutes was deferred to a future meeting.

AGENDA ITEM #4 – APPEALS**A. BCAB Appeal 2021-501
Charles Myers
1225 Deerfield Road**

The stenographer swore in all witnesses.

Attorney Kevin Fogerty accompanied Charles Myers to present the appeal. He confirmed that he understood that the Board could issue a binding decision.

Richard Roberts of Zator Law accompanied Tom Harper to represent the Township.

Attorney Fogerty requested a continuance to afford the Code Enforcement Officer the opportunity to review the property with Mr. Myers and resolve the issue.

Solicitor Roberts concurred with Attorney Fogerty's request to continue the meeting to the next available meeting date to give the Code Enforcement Officer the opportunity to reach a conclusion that the property is in compliance with the Code or to contest the appellant's assertions.

Mr. Bigley inquired as to whether an informal review of the appellant's defense would be appropriate.

Attorney Fogerty stated that he has not presented any of the appellant's photos showing the arbor vitae, which, the appellant asserts, constitutes a solid barrier.

Solicitor Roberts stated that there is no dispute that the fence was installed at 48" in height above grade. He noted that the requirement is different between the Building Code and Zoning. He stated that the Building Code requires that the 48" height above grade must be maintained. He noted that the term "barrier" is not defined within the Building Code, so he would argue the definition of "barrier" and then argue whether the arbor vitae constitute a barrier.

Mr. Bigley noted that the Code describes a "fence" and believes that arbor vitae typically don't meet the standards of a barrier. He stated that this is a life-safety issue.

Mr. Wheeland stated his agreement with the life-safety and barrier interpretations of Mr. Bigley.

Mr. Rock stated that he is not convinced that living things can constitute a barrier.

Mr. Kelly noted that this is a maintenance issue and that the barrier must be maintained.

Mr. Garger concurred with the earlier assessments.

Mr. Cernese stated that he assumes that arbor vitae cannot equal a fence as a barrier but the appeal must allow the appellant to state his case.

Mr. Burke agreed that this is a life-safety issue but the appellant should be allowed to be heard.

Mr. Bigley stated that the 48" standard has been in place for years and he did not expect that to change.

Attorney Fogerty agreed that he had believed that arbor vitae could not constitute a barrier, but then visited the site and changed his opinion.

Mr. Garger made a motion to continue the hearing until 3:30 p.m. on Wednesday June 9, 2021.

Mr. Wheeland seconded and the motion was approved unanimously, 7-0.

Attorney Fox confirmed that all members of the Board wished to serve and had the authority to try the case.

All Board members concurred.

Attorney Fox confirmed that the Board had jurisdiction over the case.

Attorney Fogerty concurred.

Attorney Fox inquired as to whether the continued meeting date would have to be advertised or whether the notice given at the meeting was sufficient.

Both Attorney Fogerty and Solicitor Roberts agreed that the notification at the meeting was sufficient.

Attorney Fox inquired as to whether the property owner faces any additional costs for the continuance.

Solicitor Roberts stated that he did not.

Attorney Fox inquired as to whether the appellant faced any difficulties pursuing this case further.

Attorney Fogerty stated that he did not.

Attorney Shanna Mason accompanied Frank and Angela Anselmo, the neighboring property owners. Attorney Mason stated that the arbor vitae do not enclose the property, including the boundary between the two neighboring properties.

Attorney Fox inquired as to whether the witnesses should be sworn in.

Mr. Bigley pointed out that the Board voted to continue the meeting and that the conversation is now informal. He stated that the neighbors could be heard.

Angela Anselmo stated that she has grandchildren who visit her property and she believes that they would have easy access to the neighboring pool.

Attorney Fox inquired as to whether the Board would want access to the transcript of the day's hearing.

Mr. Bigley stated that a transcript was unnecessary.

ITEM # 5 – ADJOURNMENT

The meeting was adjourned at 4:03 p.m.

ADOPTED THIS DATE:

ATTEST

Scott Bigley
Chairman

Gregg Adams
Secretary

DRAFT

DATE RECEIVED: 7/27/2022

FILE APPLICATION NO.: 2022-301



BUILDING CODE APPEAL APPLICATION

Deadline to file for an appeal is 12:00 noon 14 calendar days prior to the appeal meeting

PROPERTY ADDRESS: 219 W. Pennsylvania St. APPLICATION DATE: _____

APPLICANT: David Dugan

APPLICANT ADDRESS: 219 W. Pennsylvania St.

APPLICANT TELEPHONE: 610-509-1925 APPLICANT EMAIL: dduganjr@gmail.com

PROPERTY OWNER'S NAME: David Dugan

PROPERTY OWNER'S ADDRESS: 219 W. Pennsylvania St. Allentown, PA

OWNER'S TELEPHONE: 610-509-1925 OWNER'S EMAIL: dduganjr@gmail.com

APPLICANT'S RELATIONSHIP TO OWNER: self

PROPERTY OWNER'S CERTIFICATION AND AUTHORIZATION:

I hereby certify that I am the owner of the subject property and authorize the applicant named herein to make application and testify before the South Whitehall Township Building Code Appeals Board.

OWNER'S PRINTED NAME: David Dugan OWNER'S SIGNATURE: [Signature]

The appeals below pertain to the following use: RESIDENTIAL COMMERCIAL
Has this property been the subject of a previous appeal? YES NO

APPLICATION FEE: \$250.00 PAYABLE TO "SOUTH WHITEHALL TOWNSHIP"

Check No. _____

SIGNATURE:

I hereby certify that all supporting documentation provided herewith is true and accurate.

[Signature]
Applicant's Signature

ITEM(S) OF APPEAL: (Complete Items 1 through 3 as applicable)

USE ADDITIONAL REQUISITION FORMS IF YOU HAVE MORE THAN THREE (3) APPEAL ITEMS.
PLEASE ATTACH COPIES OF YOUR SUPPORTING EVIDENCE OR DOCUMENTATION.

APPEAL ITEM 1.

(a) Permit Number to which the appeal is applicable: # 202200742

(b) Brief description of appeal item:

"habitable portion of basement shall not be less than 7', with exception of beams, girders, ducts, or other obstructions, which may project within 6'4" of finished floor"

(c) Applicable code sections (List applicable code and section numbers):

Code R 305.1

(d) Describe the specific work you wish to perform, or have performed, that has been disallowed or questioned by the code official:

renovate to finish basement: frame new walls for bathroom and bedroom space w/ new insulation

(e) Your reason for appeal is based upon:

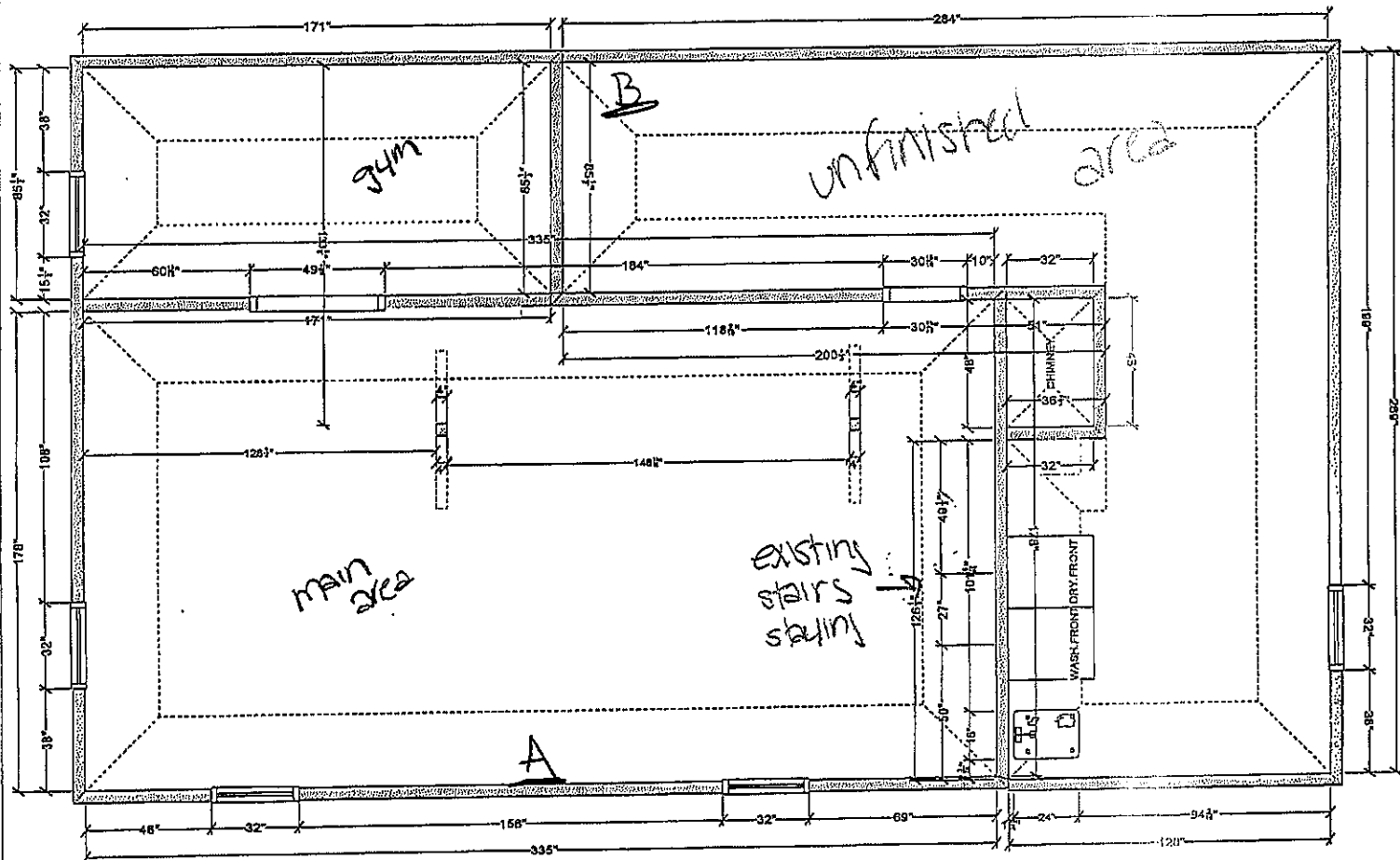
- A claim that the true intent of this code or the rules legally adopted have been incorrectly interpreted.
 The provisions of this code do not fully apply.
 An equally good or better form of construction is proposed. (per John Franz)

(f) The reason(s) you believe your appeal should be granted (Explain your reasoning as opposed to that of the denying inspector):

Pre-existing ceiling height is at 82" from finished floor
The renovation involves ceiling repair only - no changes.

(g) Describe in exact terms, including dimensional variances (if applicable), the relief being sought:

We are requesting approval of the 2" variance (from the 7' Code 305.1 requirement) so that we may proceed with the project, as per design.



All dimensions size designations given are subject to verification on job site and adjustment to fit job conditions.

2020

This is an original design and must not be released or copied unless applicable fee has been paid or job order placed.

Designed: 2/24/2022
Printed: 2/24/2022

January

S	M	T	W	T	F	S
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November

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24	25	26	27	28	29	30

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BCAB Meetings are typically 2nd and 4th Wednesdays of the month, except for November and December, where they are the third Wednesday of the month.