

**BUILDING CODE BOARD OF APPEALS
SPECIAL MEETING
APRIL 13, 2021**

The Building Code Board of Appeals held a virtual meeting via Zoom on Tuesday, April 13, 2021. Recording Secretary, Toni Weeks, called the meeting to order at 5:03 p.m.

2. ROLL CALL

Board Members Present

J. Attolino
R. Jagoe
R. Oliver
J. Wojnarowski

Excused

L. D'Amato

3. ELECTION OF OFFICERS

Ms. Weeks stated the first item on the agenda was Election of Officers. She stated she would entertain a motion for nomination of chairman.

Mr. Jagoe and Mr. Attolino made and seconded a motion to nominate Chairman Oliver as chairman. Motion carried unanimously.

Ms. Weeks turned the meeting over to Chairman .

Chairman Oliver stated he would entertain a motion for the nomination of a vice-chairman.

Chairman Oliver and Mr. Attolino made and seconded a motion to nominate Mr. Jagoe as vice-chairman. Motion carried unanimously.

4. APPOINTMENT OF APPEALS PANEL

Chairman Jagoe stated all members present would serve as the Appeals Panel.

5. HEARING(S)

(a) Appeal of Joseph G. Voll, owner of 22 Broad Street ("Appellant"), in connection with the following:

1. October 30, 2020 decision revoking Building Permit #B-20-452 pursuant to 2015 IBC §105.6 issued by Chief Building Inspector Charles Corell;

2. February 16, 2021 e-mail by Milford Building Official Joseph D. Griffith in response to Appellant's request that Milford Deputy Fire Marshal "be allowed to inspect the work" at 22 Broad Street;
3. February 17, 2021 e-mail by Milford Building Official Joseph D. Griffith in response to Milford Deputy Fire Marshal's request for confirmation as to "whether or not there is an 'active' Building Permit in place" for construction work at 22 Broad;
4. February 17, 2021 e-mail by Milford Fire Marshal Anthony Fino in response to Appellant's request for Milford Fire Marshal's Office to perform inspection of work completed at 22 Broad;
5. March 16, 2021 plan review by Milford Building Official Joseph D. Griffith of construction documents submitted February 16, 2021 – decision Items 1, 2, 4-8;
6. March 17, 2021 e-mail by Official Building Official Joseph D. Griffith:
 - A. Citing §105.6 of 2015 IBC as basis for revocation of Building Permit for 22 Broad Street in response to Appellant's request for citation to building code section relied on for building official authority to make previously issued building permit inactive; and
 - B. Providing March 16, 2021 plan review identifying discrepancies in the plans re-submitted on February 16, 2021, and requesting revised drawings to resolve noncompliance, in response to Applicant's request that work under Building Permit #B-20-452 be allowed to be completed and inspected without building department review of construction documents re-submitted February 16, 2021.

Chairman Oliver stated he may have a potential conflict in that he is landlord for the appellant's attorney. He stated he does not believe that will impact his judgment in any way. All present stated they had no objection to Chairman Oliver participating in the appeal.

Mr. Jagoe asked if the appeal of the Building Official and Building Inspector should be treated individually.

Kevin Curseaden, 2 Lafayette Street, stated he submitted documentation showing Harbor Walk as the owner of 22 Board Street and information from Secretary of State, Concord showing Joe Voll as principal. Mr. Curseaden stated he would keep to facts of appeal as best as possible. He provided a brief history of how this appeal came about. Mr. Voll pulled permit for tenant fit up at 22 Broad Street in May of 2020. He stated that historically office space was approved in 1986. Mr. Curseaden stated that both zoning and building permits were approved, and Mr. Voll began work pursuant to the permits. He stated that around September or October a question arose from Joe Griffith, Building Official, regarding whether the permit should be amended, or a new permit was required because of overworking permit. Mr. Curseaden stated that Tucker Chase, Architect, submitted plans for additional work and asked to pull a separate permit for the work but Mr.

Griffith required amendment to original plan. He stated that an appeal was brought before the State Code and Standards and that appeal was tabled because the local Board needed to hear the appeal first. Mr. Curseaden stated that in October 2020 Charles Corell, Building Inspector, revoked the building permit for relatively minor issues that should not have required revocation. He stated that he had asked Mr. Griffith to not prolong the matter and never received a clear answer. At that time decided to not provide further revised plan. Mr. Curseaden stated that his client hired Bruce Spiewak to review and generate an appeal to the State Codes and Standards Committee. He stated a plan review on March 16th raised additional concerns by Mr. Griffith. Mr. Curseaden stated he does not see the fairness in revoking the permit after building and zoning permits have been issued, work has been completed and is ready for fire marshal inspection. He stated he is asking this Board to overturn the Building Official and Building Inspector and reinstate the permit. Mr. Curseaden believes there is a political issue because of the proposed use as a probation office. The work is completed and is waiting for inspection.

Joseph Voll stated he feels there is a conflict of interest with John Knuff representing the City as his firm represented him and his partners in regard to litigation and Harbor Walk when they were attempting to bring in TD Bank. Mr. Voll stated he has owned property for 30 years, he is a good citizen, property obtained permits, had the building inspected was issued a building and zoning permit. He stated the inspection by the building official of electrical and sheetrock was approved and stated fire marshal needs to inspect sprinkler system. Mr. Voll stated no building inspector has required changes to bathrooms when doing a tenant fit out. He stated his belief that there is political interference. Mr. Voll asked how the permit can be revoked when the bathrooms meet the code from 1987 when originally approved. He also discussed the parking lot at 30 Broad Street. Chairman Oliver asked Mr. Voll to stay on the topic of the building permits at 22 Broad Street. Mr. Voll stated the property is complete and waiting for a fire marshal inspection.

Mr. Jagoe stated he has some plan review documents, but some have non-conforming. He asked if there are plan reviews for the existing permit. Mr. Curseaden stated there is only one permit that is being discussed. He stated there was an initial plan review in 2020 and then March 16th plan review. Mr. Jagoe stated he looks at this meeting as the Board voting on Charles Corell's letter of October 30. Mr. Jagoe stated he feels Mr. Corell has the right to issue that letter and ask that Mr. Spiewak agree. Mr. Curseaden stated he believes the Building Official must revoke the permit and that Mr. Corell does not have the authority to do so. Mr. Curseaden stated the appeal also includes Mr. Griffith's opinion that other codes apply after a permit was issued and months later additional plan review comments are provided. Mr. Curseaden stated the statutes all require the building official to act. Mr. Jagoe noted that Mr. Curseaden's letters state building inspector. Mr. Curseaden stated that was correct because the appeal is Mr. Corell's lack of authority and Mr. Griffith's decisions. Chairman Oliver stated the Building Official has stated his authority. Mr. Curseaden stated he is not certain Mr. Griffith has revoked the permit as he has not received a clear answer.

Mr., Oliver stated there is confusion as to whether Charles Corell has the right to revoke the building permit. Mr. Knuff stated the State Building Code 202.1 defines the Building Official as the officer or other designated authority charged with administration and enforcement of the code. He stated he believe Mr. Correl has the authority to revoke the permit. Mr. Griffith stated he and Mr. Corell work closely together and Mr. Corell issued the letter at his request. Chairman Oliver

asked if his plan review says the same thing. Mr. Griffith stated it is the same issue that he has expressed to Mr. Voll's architect, the lack of lavatories for the remaining space. Mr. Jagoe asked if there are one or two appeals. He stated the meeting notice refers to Mr. Corell's revocation of October 30th..

Mr. Knuff stated he would like to address Mr. Voll's comments. He acknowledge prior representation of Mr. Voll approximately 10 years ago and that he learned nothing in that representation that can be used with regard to this appeal. He stated it was a simple land use matter to get TD Bank approved. He stated he takes his obligations very seriously and adhere closely to the rules of conduct and does not believe he has a conflict in representing Mr. Griffith in this matter. Mr. Knuff stated there is a pending matter before the Codes and Standards Committee relating to the fire marshal which is not before this committee. Mr. Knuff stated the October 30th decision is the tree of this appeal and the events following are the fruit of the tree. He stated the record shows that Mr. Griffith and Mr. Corell made every effort to work with Mr. Voll. Mr. Knuff reviewed various emails from Mr. Griffith to the appellant. Mr. Knuff stated his belief that Mr. Griffith's actions were appropriate.

Mr. Curseaden stated the additional plans were a result of Mr. Griffith instructing the permit holder that work outside of the original permit must be added to the plan . He stated it was an attempt to move goal post for obtaining a CO. Mr. Curseaden stated the plans reviewed on March 16th are the same as those issued in 2020 with different comments. He stated his belief it is an attempt to drag the scope of the work outside of the tenant space. Mr. Curseaden stated Mr. Voll and his representatives were trying to appease Mr. Griffith's requests. He stated the appeal includes Mr. Griffith's interpretation of the code including his March 16th review and that he believes Mr. Griffith's requirements are beyond the scope of the code.

Chairman Oliver asked Mr. Griffith to comment on the status of the permit and what issues are outstanding. Mr. Griffith stated his belief that the permit was issued in error after reviewing the plans, the work shown on the plans, and the required work in October 2020. Mr. Griffith reviewed different scenarios presented by the permit holder and how they would be impacted by the code. He stated it all came back to taking two existing tenancies that provided men's and women's lavatories and the renovation only providing a unisex lavatory. Mr. Griffith stated the issue is the building permit being issued in error. Mr. Griffith stated Lou Rezoly's field inspection report made it clear that ceilings were not to be closed in until reviewed by fire marshal. He discussed attempts to work with permit holder to work through non-complaint issues.

Chairman Oliver asked if Mr. Voll's consultant would like to comment on. Bruce Spiewak stated the issue is complicated and convoluted. He stated the code talks about level 1 and level 2 alterations and once a determination is made that an alteration is level 1 it cannot be changed to level 2. He stated the definition and requirements for Building Officials is stated in the statutes and building code and agree with one another and there may be some ability to designate responsibility. Chairman Oliver asked if the accessibility of bathrooms were correctly determined. Mr. Spiewak stated it is more convoluted and based on what level and whether it is a change of use. Mr. Spiewak stated the question needs to be deeply delved into.

Mr. Jagoe asked Mr. Spiewak if he read Charlie Corell's October 30th letter. Mr. Spiewak stated during the process he has read the file but cannot speak from memory. He stated he needs adequate time to review and research. Mr. Jagoe stated that he will be ready to vote on Mr. Corell's October 30th letter which he believes the only subject of the appeal. He stated the remainder of the agenda is background information. Mr. Spiewak stated he will leave that in the hands of the attorneys to determine what is the specific nature of the appeal. Mr. Curseaden stated the agenda has 6 items. He stated items 1, 5 and 6 are before the Board and the fire marshal items are not for this Board to determine. Mr. Curseaden stated the permit being issued in error is a big error and an expensive error. He stated he believes Mr. Voll has a vested right in the permit, invested money based on the permit and is asking the committee to bring this matter to a resolution. Mr. Curseaden stated he disagrees he believes it is Building Official as defined by state statute.

Chairman Oliver stated the Board's duty is to affirm, modify or reverse the actions taken. Mr. Knuff stated he does not dispute Mr. Jagoe's claim that this stems from the October 30th letter. He stated for clarity the Board should rule on all the matters before it, items 1, 5 and 6. Mr. Knuff stated the most important opinion is from Mr. Spiewak who admitted this is complicated and convoluted. Mr. Knuff discussed Mr. Griffith communications requesting one plan. He stated he feels the Board should deny the appeals and start with a clean slate.

Mr. Voll stated Mr. Knuff's job is to talk about legal interpretations not to discuss Mr. Griffith's motives. He discussed the reason why he applied for tenant fit out and that there is no change in use. Mr. Voll stated the permit cannot be revoked as there was no an error and Mr. Griffith misinterpreted. He stated that the were four ceiling tiles not in place because sprinkler heads were moved due to closets being added. Mr. Voll reiterated once inspected by fire marshal he should have been all set. He stated this is an existing building that meets the sprinkler requirements. Mr. Voll discussed the remaining work and that it would not require a further building inspection. Mr. Voll stated he never requested the original permits be changed. He stated the goal post is constantly changing. Mr. Voll stated he believes his permits were properly issued.

Chairman Oliver read Section 105.6 of the Building Code into the record. Chairman Oliver stated he sympathizes with Mr. Voll that it is costly to have a permit issued in error but based on the Building Code the Building Official has the right to revoke the permit. Mr. Jagoe stated he is confused because the letter was issued on October 30th and he sees plan reviews in February 2021. Based on this information it appears that the applicant has gone back with revised plans. Mr. Jagoe restated his feeling that he has to vote on October 30th revocation. Mr. Jagoe stated he believes Mr. Corell has authority to issue letter. Chairman Oliver stated the code speaks for itself. Mr. Wojarnarski stated the Building Official is the governing body. Mr. Curseaden stated he agrees and whether the letter was issued appropriately is the real issue. He stated other aspects are Mr. Griffith's following decisions. Mr. Knuff stated the original set of plans showed area of 1,000 square feet as NIC and areas to not be changed, but the amount of reconfiguration of the remaining space put lavatories out of compliance that set off efforts to bring into compliance. Chairman Oliver stated that Mr. Griffith acknowledged the permit was issued in error. Mr. Griffith stated the permit being issued in error tied back to code provisions. He stated the code issues must be looked at. Mr. Wojnarowski stated the scope of work had changed from original plans, so the building official has the right to ask for a redraw. Mr. Voll stated nothing had changed from the original plans. Chairman Oliver stated part of the issue is the bathrooms are not compliant. Mr.

Voll stated his disagreement. Chairman Oliver stated accessibility is a level one requirement. Mr. Voll stated the lavatories are accessible. Mr. Spiewak stated he would have to look at the plans together with the code. Mr. Griffith stated in February and March he went through the code and formalized response. He stated the applicant could revise the drawing or apply for a modification. Mr. Voll stated he has applied for a modification and it will be up to the State. He stated there was not enough to revoke the permit. Mr. Attolino asked what prompted the revocation of the permit. Mr. Griffith stated in September there were discussions about modifying and upgrading parking spaces and learned this was being done in conjunction with a government office. He stated the use as a governmental office requires compliance with ADA. Mr. Griffith stated the entire route and access into the building must be compliant with ADA and that is what caused him to review the permit. He stated looking at broader issues some were easily corrected such as change to lockset, but portions of the plan were not complaint which lead to revocation. Mr. Voll stated the application stated fit out for judicial branch. Mr. Attolino asked why the bathrooms are not compliant. Mr. Griffith stated the remaining unisex lavatory for the rest of the second floor is not allowed to be unisex for office space of the size. Also, the men's and women's lavatories designated as staff must be accessible. Mr. Griffith stated the review issued in March stated the code sections. Mr. Voll stated the bathrooms are the original bathrooms and are handicap accessible by code in 1986/1987. He stated if no change in use then no changes are required. Mr. Voll stated Mr. Griffith did not follow procedure and it is mischaracterized that work is not done as shown on the plan. Mr. Attolino asked if the inspection report was for a rough inspection, mechanicals, electrical and plumbing. He asked if a CO inspection is still required. Mr. Griffith stated that is correct, including the systems the fire marshal has jurisdiction over. Mr. Griffith stated he has not seen any drawings for fire alarm systems. Mr. Voll stated the fire alarm is exactly as it was and meets all requirements so shop drawings are not required in a tenant fit out. Mr. Attolino asked Mr. Voll if he moved sprinkler heads. Mr. Voll stated 4 were moved and a couple added. Mr. Attolino stated a drawing would be required showing those being moved. Mr. Voll stated Hartford Fire System applied for a permit. Mr. Voll stated he had an appointment for inspection, but it was canceled by the Fire Marshal. Mr. Attolino commented that the Fire Marshal permit is not included in the package provided by Attorney Curseaden. Mr. Griffith provided an explanation as to how a permit is issued requiring sprinkler systems. He stated the level of alteration under the building code with residential unit in building requires the entire building be compliant with the NFPA 13. Mr. Knuff stated an email from Tony Fino on February 17, 2021 to Attorney Curseaden states a fire alarm was required but never received. Mr. Voll reiterated the existing the fire alarm was complaint and did not require change.

Mr. Jagoe asked if a decision must be made this evening. John Knuff stated a decision must be issued within 5 days.

Tucker Chase, Architect, stated he never saw an initial plan review issued by Mr. Griffith until March 16th. He stated it would have been useful had a plan review been issued citing concerns and appropriate code sections. Mr. Chase discussed frustration with the informal communications and stated had a plan review been issued all concerns could have been properly addressed. Mr. Griffith stated several emails were exchanged requesting revised drawings and had they come back with the drawings they could have been reviewed. Mr. Griffith stated he then received the original drawings in February and a formal plan review was provided. Mr. Chase stated his confusion why

a plan review was not issued on October 30 when the permit was revoked and stated he was never clear on what was being requested.

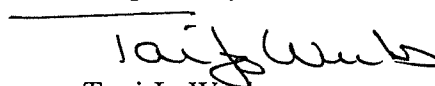
Chairman Oliver asked the Board if they were prepared to make a motion or would like to reconvene. All members present stated they would like to reconvene. Mr. Wojanarski stated he understands the frustration, but the bantering back and forth is convoluting and does not believe this is a cut and dry decision. Mr. Attolino asked why there was a 4-month period of inactivity. Mr. Griffith stated email communications were being exchanged with 3 to 4 plan submissions. He stated each time there was an email response in regard to code compliance. Mr. Knuff reiterated Mr. Griffith's email of February 17, 2021 asking for one plan showing everything. Chairman Oliver stated the hearing would be held open until Monday, April 19th at 5:00 p.m. when the Board would reconvene.

6. **ADJOURNMENT**

Mr. Attolino and Mr. Jagoe made and seconded a motion to adjourn. Motion carried unanimously.

Meeting adjourned at 6:46 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Toni Jo Weeks", written over a horizontal line.

Toni Jo Weeks
Recording Secretary