

**BUILDING CODE BOARD OF APPEALS
SPECIAL MEETING
APRIL 19, 2021**

The Building Code Board of Appeals held a virtual meeting via Zoom on Monday, April 19, 2021. Recording Secretary, Toni Weeks, called the meeting to order at 5:06 p.m.

2. ROLL CALL

Board Members Present

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

Excused

L. D'Amato

3. 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 the hearing is continued and additional information may be submitted from appellant and City.

Mr. Curseaden shared his screen showing information in support of appeal. He discussed number of documents and plans that have been shared. Mr. Curseaden started the October 30th letter did not clearly revoke the building permit. He stated it was no clear from that email that permit was revoked. Mr. Curseaden discussed emails exchanged with Mr. Griffith. He stated it was clear by March 16th email it was clear the permit was revoked. Mr. Curseaden discussed claimed errors and revocation vs. suspension. He stated the March 16th have changed and increased although the same set of plans from October and there is now additional code non-compliance sited and elevating from level 1 to level 2 alteration. Mr. Curseaden stated the permit was revoked 120 days after issued although you can only appeal a permit 30 days after issued. He stated this is an extended period of time for applicant to be incurring expenses. Mr. Curseaden stated there are vested right, the City is municipally estopped. He again discussed revoked vs. suspend. Mr. Curseaden stated his belief there is a difference between revocation and suspension. He stated the reason it was revoked was for Mr. Voll to pull a new permit and by doing so he can be sent back to zoning. Mr. Curseaden discussed historical use of space. He does not believe Mr. Voll should have to go back to zoning. He stated the relevant plans are those the permit is based on and the plans from the March 16th plan review. He further stated that no work was done outside the work area and that Mr. Griffith is asking for work to be completed outside the work area, the bathrooms in the hallway. Mr. Curseaden stated Mr. Voll has requested a modification with the State. He stated his belief that the Building Office is having external influence placed to scrutinize and revoke the permit. Mr. Knuff asked that the dialogue stay relevant to the appeal and not speculate. Mr. Curseaden stated it is all fair and equitable treatment and this is one of the facts as to why the permit is being scrutinized to the level it has been.

Mr. Knuff stated a timeline was submitted starting in May 2020 through appeal. He stated this shows the ever changing of the space. Mr. Knuff discussed emails from Mr. Griffith requesting that everything be shown on one plan. He discussed Tony Fino's email of April 15th and that his permit had nothing to do with the building permit and its revocation. Mr. Knuff stated it is very clear that Mr. Griffith was performing his role in the best possible nature he could given the nature of the plans submitted. He stated that the zoning issue may be an issue, but it unknown because the uses are unclear. Mr. Knuff stated the sole question is whether Mr. Griffith's actions were proper under the building code and he believes the answer is yes and any speculation as to motive is irrelevant.

Mr. Jagoe stated this is very complicated, but in simple terms the charge of this committee is to make a decision to affirm, modify or reverse. He stated all the additional information does not relate to this committee. Mr. Jagoe restated his believe that the only item the committee needs to act on is the letter from Mr. Corell on October 30th. Mr. Oliver stated the committee's chare is to

interpret building code which is a very narrow charge. He asked committee members to keep that in mind while making a decision.

Mr. Attolino asked for clarification from Attorney Knuff. He asked if by amending the first item would it pertain to all the other items because you cannot have one without the other. He stated the first item to decide is number 1 and asked if should be moved to the end of the agenda.

Mr. Oliver closed the public hearing and stated the committee continue with its discussion. He asked for a motion for item #4 regarding the fire marshal letter. He stated there is no jurisdiction and requested a motion to dismiss.

Mr. Attolino and Mr. Wojnarowki made and seconded a motion to dismiss appeal item number 4. Motion carried unanimously.

Mr. Oliver requested a motion sustaining appeal items 1, 2, 3, 5, and 6. Mr. Jagoe again stated the only item that should be voted on is item number 1. Chairman Oliver stated he agrees to take item #1 first and then the remaining items.

Mr. Jagoe and Mr. Attolino made and seconded a motion to affirm the decision of Mr. Corell dated October 30, 2020 with a modification that within 30 days of this meeting the owner and his design team issue a addendum with modifications to drawings satisfying the requirement of the state building code. If appellant fails to issue the addendum this motion shall affirm the chief building inspector's decision to revoke the permit.

Mr. Jagoe stated he has been in business and it is common to modify and go back to modify a permit and then building official confirms modification to the drawing. Mr. Oliver stated Mr. Corell's letter revoking the permit left the door open for applicant to review and resolve discrepancies in plans. Mr. Attolino stated he agrees and believes think they should move forward and modify the plans. Mr. Wojnarowski stated his agreement.

Motion carried unanimously.

Mr. Oliver asked the City Attorney opinion if the other items are all part of the motion. Attorney Jon Berchem stated everyone needs to be on same page and asked Attorney Curseaden to comment on whether he wants separate ruling on each or if the motion was derivative. He stated he also wants a clear path for the appellant in terms of modifications to be made. Mr. Oliver state the appellant should revise the plans if necessary or make arguments to defend the plans. If in the meantime a modification is received from state then that would deal with those items. Mr. Oliver discussed various items requiring revision. Discussion ensued concerning the amendments by application. Mr. Curseaden stated he feels he needs motions on items 5 through 6 to make it cleaner.

Mr. Oliver stated Item 6.A. is what was voted on already. Mr. Curseaden stated it is 5 and 6.B. which are similar. Mr. Jagoe stated items 5 and 6 will be addressed in the new drawings. Discussion ensued concerning addressing the remainder of the items listed in the appeal. Mr. Oliver asked if the Board wanted to deal with all as a group. Mr. Attolino stated he felt each item on the agenda needs to be addressed. Attorney Berchem discussed how motions should be for each item and the information that should be contained in each motion.

Mr. Oliver requested a motion for items 2, 3, 5, 6. Mr. Jagoe asked if a clarification can be added. Mr. Wojanarski asked what would be clarified. Discussion ensued as to what the motion would look like.

Mr. Attolino and Mr. Wojnarowks made and seconded a motion to dismiss appeal items 2 and 3.

Mr. Jagoe stated items 2 and 3 are part of permit process. Mr. Attolino stated he does not believe those items are pertinent to the Board and they should be dismissed.

Motion carried unanimously.

Mr. Attolino made a motion to sustain items 5 and 6 based on the appellant meeting the requirements of the March 16th plan review allowing the work to commence.

Mr. Jagoe sated the committee's obligation is to affirm, modify or reverse. He is not sure how sustaining addresses these items. Mr. Oliver stated his agreement and the action of the building official was the March 16th plan review. He believes the motion should be to affirm the action of the building official.

Mr. Attolino withdrew his motion.

Mr. Jagoe and Mr. Attolino made and seconded a motion to affirm appeal items 5 and 6 including A and B, the action of the building official .

Mr. Jagoe stated that when the addendum is addressed these items must be included.

Motion carried unanimously.

4. ADJOURNMENT

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

Meeting adjourned at 6:01 p.m.

Respectfully submitted,



Toni Jo Weeks
Recording Secretary