

**MICHIGAN CONSTRUCTION CODE COMMISSION
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES**

P. O. Box 30254
Lansing, MI 48909

John Stewart Associates, Inc.

Petitioner

**Appeal Docket No.
CCC-PRD 11-002**

vs

Village of Milford,

Respondent

ORDER OF THE MICHIGAN CONSTRUCTION CODE COMMISSION

Background:

The building that is the subject of the appeal is known as the Stone Church at 219 East Commerce in Milford, Michigan. The building was originally constructed in 1907 as a church and remained in use as a church until 1996 when its use changed to an office occupancy. It is a one-story building with a basement. The present owner of the subject building, Mr. Sabhash Kapur, has proposed a change of use for the first floor from "B" business (office) to "A-2" assembly (banquet hall) with an occupant load in excess of 100 persons. The basement would remain as a group "B" business occupancy. The proposed change of use was not approved by the building official as it did not include an automatic sprinkler system required by 2009 Michigan Building Code (MBC) Section 903.2.1.2 nor did it include a two-hour fire resistive rated fire barrier or horizontal assembly as required by MBC Table 508.4 for buildings without an automatic sprinkler system (one-hour rated with an automatic sprinkler system). On June 13, 2011 John Stewart (architect) submitted a Village of Milford, Construction Board of Appeals (CBA) application on behalf of Subhash Kapur (building owner). The appeal sought relief from MBC Section 903.2.1.2 requiring an automatic sprinkler system for an A-2 occupancy and MBC Table 508.4 requiring a fire barrier or horizontal assembly (with a two hour fire –resistive rating) between occupancies of groups A and B.

The CBA assembled on June 29, 2011 to hear the appeal on behalf of Mr. Kapur. The CBA denied relief from the requirements of MBC Section 903.2.1.2 and MBC Table 508.4. It was determined by the CBA that the petitioner did not propose construction elements that were equal to or better than the subject MBC requirements and that the building official correctly applied the MBC.

Procedural Findings:

On consideration of the request dated August 7, 2011 from John Stewart Associates, a hearing before a panel of the Construction Code Commission was held on August 29, 2011, at the Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan in accordance with the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, Section 125.1516.

Present were:

John Stewart	representing	John Stewart Associates (petitioner)
Randy Sapelak	representing	Village of Milford (respondent)
William Benoit	representing	Construction Code Commission (Panel of Appeal)
Roger Donaldson	representing	Construction Code Commission (Panel of Appeal)
Fred Butters	representing	Construction Code Commission (Panel of Appeal)

Issue:

Relief is sought from the decision of the Village of Milford, CBA to uphold the requirement for an automatic sprinkler system in MBC Section 903.2.1.2 for a Use Group A-2 (assembly) occupancy with an occupant load of 100 or more persons. Relief is also sought from the decision of the CBA to uphold the requirement for a two hour fire-resistive –rated separation between Use groups A and B as listed in MBC Table 508.4 (in a building without full coverage by an automatic sprinkler system).

Findings:

The building in question was originally constructed as a church and was subsequently used as an office (Use Group B). It is approximately 4,000 square feet on the first floor with a basement of the same footprint. The building is constructed of stone foundations and exterior walls with a heavy timber roof structure (type 3B construction). The first floor framing (above the basement) is heavy timber and sawn lumber. The petitioner submitted a furniture layout that shows the first floor use as a banquet facility that has a capacity of 99 seated occupants (at tables and chairs) plus banquet staff—exceeding 100 total occupants for the Group A-2 occupancy. (approximately 170 total occupants per MBC Table 1004.1.1). The petitioner contends that it is technically infeasible to install an automatic sprinkler system throughout the proposed Group A-2 assembly occupancy on the first floor with solid stone masonry exterior walls and heavy timber roof construction. The petitioner also stated that an additional municipal water supply connection would be required for an automatic sprinkler system that complies with MBC Section 903.2.1.2.

A plan for limited area automatic sprinklers was developed by the petitioner for ancillary spaces on both the first floor and the basement. However, this plan did not provide automatic sprinklers in the primary occupied spaces of the building. The respondent stated that the option of using the 2009 Michigan Rehabilitation Code for Existing Buildings for this change of use was reviewed using performance compliance methods, but was more restrictive than applying the MBC to the proposed work.

Conclusions:

An existing building undergoing a change of use or occupancy shall comply with the MBC requirements for the proposed occupancy. MBC Section 3408.1 states:

No change shall be made in the use or occupancy of any building that would place the building in a different division in the same group of occupancies or in a different group of occupancies, unless such building is made to comply with the requirements of this Code for such division or group of occupancies.

The panel of the Commission found that the petitioner did not provide information demonstrating that it is technically infeasible to install an automatic sprinkler system throughout the A-2 assembly occupancy, as required by MBC, Section 903.2.1.2 for an A-2 occupancy fire area with an occupant load of 100 or more. The petitioner also did not demonstrate that the municipal water supply was inadequate for an automatic sprinkler system.

The Village of Milford, Construction Board of Appeals with its decision to deny the petitioner's appeal for relief from MBC Section 903.2.1.2 and Table 508.4 complied with the requirements of MBC Section 3408.1 and the Stille-DeRossett-Hale Single State Construction Code Act, MCL 125.1515 that states:

a board of appeals may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

- a) 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 of this state.
- b) 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 reasonably practical or desirable.

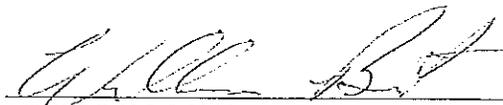
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Decision:

The Village of Milford, Construction Board of Appeals in its decision to deny the petitioner's appeal for relief, from MBC Section 903.2.1.2 and Table 508.4 complied with the MBC and the Stille-DeRossett-Hale Single State Construction Code Act, MCL 125.1515.

THEREFORE, it is ordered that the request for relief is denied and the decision of the Village of Milford, Construction Board of Appeals is upheld. The Stone Church at 219 East Commerce in Milford, Michigan shall not be used as a Use Group A-2 occupancy until it complies with MBC Section 903.2.1.2 and Table 508.4. This order is binding on all parties unless appealed in accordance with the Stille-DeRossett-Hale Single State Construction Act, MCL 125.1515.



MICHIGAN CONSTRUCTION CODE COMMISSION
William Benoit, Chairperson
Panel of Appeals

9-15-2011
Date