City of Columbia, Missouri

Meeting Minutes

Building Construction Codes Commission

Monday, January 22, 2018
4:30 PM

Conference Room 1A
City Hall
701 E Broadway

I. CALL TO ORDER

CHAIRMAN PAGE: Okay. We'll go ahead and call the January 22nd, 2018, meeting of the Building Construction Codes meeting to order.

CHAIRMAN PAGE: Normally, we have 11 members. We have seven tonight. One of them's going to leave at 5:10. The applicants would have the option of having their case heard before the full commission next month or hear it now, but you have to have six positive votes.

MR. CREASY: I saw Matt out in the parking.

CHAIRMAN PAGE: Matt's parking?

MR. CREASY: Yeah. If he's coming here.

(JP Watson joins the meeting.)

CHAIRMAN PAGE: So maybe we'll get enough to wander in here. That's seven and that's eight. You said Matt was parking, and that's nine. But again --

MR. CONNELL: Mr. Chairman, I want to also add, and I'm reading from the notes that you have in front of you. Determining vote: Failure to secure six concurring votes shall be deemed a confirmation of the decision of the building official except that the appellant shall be entitled to further hearing before a full commission if there were not 11 qualified members present.

CHAIRMAN PAGE: Right.

MR. CONNELL: So the way I understand that is that -- do we now have eight?

(Matt Young joins the meeting.)

CHAIRMAN PAGE: We now have nine. Matt just walked in.

MR. CONNELL: So we could proceed with the -- with the hearing, and if the appellant is not satisfied with the outcome, unless two more people come in, they have the opportunity to have the case reheard.

CHAIRMAN PAGE: That would be correct, Brian.

MR. CONNELL: Just a point of order.

CHAIRMAN PAGE: And also, everybody that hasn't had the opportunity, if you want to take this opportunity to silence your phones, do so. We don't need any phones

going off. So then we'll -- I think it's pretty obvious that everybody that's around this table is going to vote. We're very clear on that; is that correct?

MR. SIMON: Yes.

CHAIRMAN PAGE: Does anybody have any questions with that? Okay.

Present: 11 - Kas Carlson, Brian Connell, Jay Creasy, Robert Jackson, Douglas Muzzy, Richard Shanker, David Weber, Matthew Young, John Page, James Watson and Jonathan Trunk

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

Present: 9 - Kas Carlson, Jay Creasy, Robert Jackson, Douglas Muzzy, Richard Shanker, David Weber, Matthew Young, James Watson and Jonathan Trunk

Non-Voting: 2 - Brian Connell and John Page

Attachments: December 18, 2017

CHAIRMAN PAGE: And we'll go ahead and we'll get into our appeals. And what I would like to do before -- oh, I'm sorry, thank you, Dave. We've got approval of minutes. Everybody seen the minutes?

MR. JACKSON: I briefly did.

CHAIRMAN PAGE: If everybody's seen them, do we want to entertain a motion?

(Rob Jackson raises his hand.)

CHAIRMAN PAGE: We've got a motion by Rob Jackson to approve the minutes. Do we have a second?

MR. WATSON: Second.

CHAIRMAN PAGE: Second by JP Watson. Any comments on those? Okay. Now we've got to do a roll call vote on the minutes. Okay? And I don't have anything in -- we do not? I thought everything was roll call.

MR. SIMON: Just the appeal.

CHAIRMAN PAGE: Okay. Just the appeal. All those in favor of approving the minutes raise, your right hand.

(Vote taken by show of hands in approval.)

CHAIRMAN PAGE: Any opposed?

(No hands raised.)

Motion to approve the minutes

IV. NEW BUSINESS

Attachments: Case #18-001

CHAIRMAN PAGE: Okay. We'll go ahead to new business, and this is 29 South Tenth Street, Harpo's Bar & Grill, and the disapproval of the construction of the proposed metal trellis structure designed to be temporarily clad with a fabric enclosure for a maximum of six months per calendar year on the rooftop bar area of existing building, and this approved -- let's see. Both the building and site development, fire department believe the addition of this membrane structure or the temporary or permanent creates a fire area by definition in the 2015 International Building Code and the 2015 International Fire Code.

So whoever's going to present. Brian?

MR. CONNELL: Yes.

CHAIRMAN PAGE: And whoever you want help from, and we'll go ahead and turn the floor over to you and let you take it.

MR. CONNELL: Thank you, Mr. Chairman.

CHAIRMAN PAGE: Uh-huh.

MR. CONNELL: First of all, I'd like to say thank you all for attending these proceedings, and it's my privilege to present the very first case for the year, 18-001. I hope that our combined testimony is -- compels you to vote in favor of our request.

If you -- if you read the application, the building code official and the fire marshal are both declaring that the -- first of all, I have an exhibit up on the screen.

CHAIRMAN PAGE: Brian, one thing, if I could interrupt you.

MR. CONNELL: Yes.

CHAIRMAN PAGE: On this thing, which area are you checking off? There's nothing marked in the box.

MR. CONNELL: The -- we checked the first box, the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted.

I've got an exhibit up on the screen. This is -- this is a plan of the rooftop at Harpo's Bar & Grill at 29 South Tenth Street. The areas in yellow/green, those are all existing -- actually, the whole thing is existing. The area in the blue is the area that would be within the proposed metal trellis structure. Let me start by saying that the intent here, the owner desires to construct a metal trellis that would stand on the roof deck year-round.

Six months out of the year, they are proposing to clad this structure in a fabric enclosure. That would be walls and a roof. Those of you that may frequent Harpo's, or if

you've driven by and seen it in the past few years, there was a temporary roof structure mounted on the roof deck up there that they discarded, basically. But it was a situation where the entire frame was assembled, was clad in fabric for those six months, and then basically they would disassemble the whole thing and store it. Which has proved to be awkward.

So basically, the -- are there any questions about what you're seeing there? I'm going to get into more detail, but the areas that are colored, that are shaded, those -- there's about 2,490 square feet of usable, occupyable space on the existing roof deck. And I want to make certain things that might seem obvious very clear. We're not adding any square footage to this roof deck. We are simply proposing to erect a metal trellis and part of the year, we will clad it in fabric. And you can see there that the proposed metal trellis will occupy an area of about 788 square feet. And that's an important number as we move on in the presentation.

The -- in November of 2017, per the owner's request, we made a submittal to building & site development, the fire marshal, the fire department, and the planning -- planning & development department with a request for approval to erect this structure. In December of 2017, we received a reply of which this is essentially paraphrased in this -- in our application.

It's not really relevant to the reason we're here, but I want to touch on the fact that planning department basically scrutinized this and determined that as long as we met three criteria, which I'll recite, they really have no problem with the erection of this structure.

The first criteria is that it not occupy more than 50 percent of the occupyable roof area. Again, I've got almost 2,500 square feet. The proposed metal trellis only occupies 788, which is about 30 percent. We're well short of the 50 percent. That's criteria one.

Criteria two is that it not be considered an accessory use, and this is part of the primary use for the roof deck at Harpo's.

Item three or criteria three is that it not be clad more than 180 days of the year, and the owner has already testified that they're willing to adhere to that limitation, just like they did with the previous structure. So planning department is okay.

Code official and the fire marshal declared that they have a concern about this proposal because, in their opinion, it creates a fire area. Okay? And the basis for our appeal is that based -- well, essentially, it's an existing area, and I'm prepared to take you through a not-so-tedious, play-by-play summary of the last eight years of alterations and improvements to the Harpo's facility, since 2010.

Starting in 2010, Harpo's undertook a pretty significant remodeling project where they pretty much went through all levels -- the basement, the main floor, and the upper floor, the roof, if you will -- and they did a whole bunch of cosmetic remodeling. They also did some alterations, some of which were structural, many of which were non-structural.

Up to that point in history, Harpo's was first developed -- Chuck, do you know first year?

MR. NAYLOR: 1971.

MR. CONNELL: 1971. Up until the point in history of 2010, the City had never requested nor had the owners ever offered any kind of a comprehensive code evaluation of the building. At that time, because of the extent of the improvements, the City decided to require a comprehensive code evaluation of the entire structure.

Connell Architecture conducted that evaluation, and it was quite extensive, quite elaborate, and we basically submitted that to the City, being protective inspections at the time, and to the fire marshal's office, also to the health department because it's a restaurant, and through an extensive period of review and processing, that request was approved for permit. Those alterations and improvements were constructed and off it went. Okay?

It's important to note that since 2010, the roof area has always been included in all the calculations for the height of the building, the allowable area of the building, the occupancy load calculations, and the means of egress configuration.

So I'm going to fast forward here and say that 2012, we installed an -- I'll call it a solar canopy, some of which is still in existence today up on that roof deck. Basically, tinsel fabric structures that are stretched from poles, that basically give you shade from the sun.

In 2014, the -- what we're now calling the existing tiki bar was constructed to basically replace what before that was a temporary bar. Again, in 2014, complete total comprehensive evaluation, resubmittal to the City. It was reviewed and approved for a permit.

2015, that's when the ownership requested the opportunity to install this temporary fabric covered structure. Again, once again, total resubmittal of all the code information that I've just described, along with a very comprehensive Chapter 34 compliance alternative evaluation to demonstrate that this building, all three levels, with the -- with the occupancies represented and with the egress existing, passes the Chapter 34, again was reviewed, scrutinized, approved, and constructed.

Here we are today in 2017 with a proposal to essentially replace the previous

temporary structure with a more permanent metal structure that will be temporarily clad in fabric six months of the year.

So to summarize, we don't believe we're creating any fire area. We believe that we've demonstrated on four separate occasions in eight years that the building complies with all the applicable provisions of the building code, and so we're here with an appeal allowing us -- we're asking you to grant us the request to construct this -- this proposed structure.

The -- I will say that where we are today is based on preliminary drawings. If we -- if you're compelled to grant us approval for our request, we will then prepare permanent drawings that will address all the issues of building, you know, building site development, the fire marshal, everybody else that's involved, and proceed from there. Questions?

CHAIRMAN PAGE: I would like to hear the staff report and the fire department, what they have to say. Whoever wants to go first?

MR. SIMON: So when the temporary structure was submitted for previous intent, I believe that we misinterpreted the code and did not consider that a fire area. By definition, building a tent on top of a building requires compliance with the International Building Code, but it didn't get specific into fire code issues. And we had interpreted it to mean for structural integrity and ability to withstand wind and so forth. And so I believe we misinterpreted and didn't consider a new fire area.

Let me read you the definition of fire area, just so we can be clear. An open rooftop is not considered a fire area. When it becomes a fire area is the aggregate floor area enclosed and bounded by fire walls, fire barriers, exterior walls, or horizontal assemblies of a building. So it's when it becomes enclosed. At that time, it becomes a fire area.

So then when you go to 903.2.1.2 as stated in the variance, the fire area is located on a floor other than the level of exit discharge serving such occupancy, then requires an automatic sprinkler system to be provided at that level and all intervening floors. So I will -- I will grant you that we -- I believe we misinterpreted the last go-around when we allowed the temporary structure on the roof in the first place.

MR. CARLSON: The last go-around was in '15?

MR. SIMON: In '15. And we had allowed the temporary installation of a tent structure on the roof after we got the adequate structural design.

MR. CARLSON: But that tent structure did not completely enclose. It was just for shade; right?

MR. SIMON: It was enclosed. No, it was enclosed. It was an enclosed

structure.

CHAIRMAN PAGE: Before we go on, the fire department want --

MR. BACH: I think John covered all the fire code. When you have a membrane structure on the roof of a building, refers us right back to the building code, and I think John covered -- unless there's any specific questions, I think John covered.

CHAIRMAN PAGE: How tall is this structure?

MR. CONNELL: It is -- again, this is part of a submittal that was granted -- or sent to the City for their response, and if I can zoom in here, I'm not very good at this, so bear with me.

The tallest portion of the structure which would face north is 14 feet. That would be the high eve. The lowest portion is ten feet up against the railing.

MR. SHANKER: Fourteen above twelve is --

CHAIRMAN PAGE: What we need to do for the court reporter is raise our hands and be recognized so she knows who's talking.

Go ahead, Rick.

MR. SHANKER: Isn't it 14 feet above that 12? You asked how tall it was; didn't you?

CHAIRMAN PAGE: Right. He's got fourteen foot from the deck of the roof to the top on one side and ten foot from the deck of the roof to the top of the other.

MR. CONNELL: That's correct.

CHAIRMAN PAGE: That's what we're seeing there. And this thing completely enclosed, roof and sides?

MR. CONNELL: With fabric.

CHAIRMAN PAGE: With fabric.

MR. CONNELL: Yes. Except for, again, if we're getting into details, on this end that you're seeing right there where it says opening, that is simply a wide-open flap or opening so that the occupants of that structure can clearly see their way to the existing stair enclosure to the right there.

CHAIRMAN PAGE: Do the six months that they use vary from year to year, is it the same six months every year, or how do they determine what six months they're using it?

MR. CONNELL: They've been sworn in. We might ask the manager or the owner that question.

MR. NAYLOR: So the previous structure was with the previous business partner who's no longer my business partner, so I'm now the sole owner as of August of this

year. And the previous structure was up, there was 180-day allowance. It was up for about four months of the six-month allowance. Our intent would be roughly the same.

CHAIRMAN PAGE: So is it in the wintertime when you're using it, or the summertime, or how are you using it?

MR. SCHUSTER: The temporary permit allows you to pick and choose when it is. You just can't exceed the six months out of the year. And our preliminary thoughts are we would do January through March, and then three months in the summer, the hottest parts of the summer.

Then if I could expand on how enclosed the system is. You can see there's one opening there that would be open all the time. And then the north end is just -- it's up against the tiki bar, so the tiki bar forms one wall and it's there all the time. And then the west side of the structure would be up against the wall of the fire-rated exit there where you see existing stair enclosure. It would be up against the tight on that side. So it's not going to be so tight that last week you probably wouldn't have a coat on in there anyway, so it is enclosed in one sense, but not so totally enclosed in the other sense. For any of you that have been around barns and things like that, it would be like being in a machine shed or something like that.

CHAIRMAN PAGE: So going back to six months, you can split it up however you want, two weeks here, two weeks there, a month here, a week there, just however you want?

MR. SCHUSTER: What this is, really, is a glorified tent. That is the type of structure that was used in the past. So you can just rent a tent, put two 20x20s together, basically, pull it down. What this would do is allow us to build a sturdier structure, it would look good when it was down. Then we would stretch a canvas skin over it. And that canvas skin, I've got some examples of fabric. It meets about twelve different fire codes in Europe and United States.

CHAIRMAN PAGE: So again, back to six months, you have to document, I guess when you use it, to demonstrate that you didn't use it any more than six months out of the year? Is that how that's done?

MR. SCHUSTER: I think we're probably on the honor system, John.

CHAIRMAN PAGE: Is that how it works? So it's an honor system?

MR. SIMON: For the most part.

MR. SCHUSTER: For complaint basis. If we're not honorable, then it's on a complaint basis.

MR. SIMON: I used to be able to see it from my office, but I can't now.

CHAIRMAN PAGE: So I think I saw Jay's hand first.

MR. CREASY: Is there -- do you guys have a heat source in there in the winter?

MR. CONNELL: Yes, there is a proposed -- it would be electric heaters that would be mounted on the posts that are inside -- that would be inside that enclosure.

CHAIRMAN PAGE: Rick?

MR. SHANKER: Tim, do you see this as a violation of the fire code?

MR. BACH: Well, the fire code refers right back to the building code, and according to the building code --

MR. SHANKER: So John and Tim, do you see this as a violation of the fire slash building code?

MR. SIMON: Yes, that's why we're here.

MR. SHANKER: And then the remedy is?

MR. SIMON: Automatic sprinkler system.

MR. SHANKER: For the whole building, or just that area?

MR. SIMON: For that area of the first floor.

CHAIRMAN PAGE: Brian?

MR. CONNELL: I want to repeat that there is no disputing John is reading the definition of a fire area right out of the code. No dispute about that. I want to emphasize and repeat that in all of our previous evaluations of this building, we have included the roof area as though it were an additional floor enclosed with a roof, even though it isn't. All the evaluations have been conducted with that -- on that basis.

CHAIRMAN PAGE: John?

MR. SIMON: So my understanding would be, then, you can submit a Chapter 34 analysis that would show compliance with the codes.

MR. CONNELL: Yes.

MR. SIMON: Okay.

MR. CONNELL: We did so in 2015. There is the summary sheet. It was done under the 2012 International Building Code. It's just for everybody's reference, it's listed as two stories because technically, according to definition, it's two stories over a basement.

MR. SIMON: This did not include the tent or --

MR. CONNELL: Actually, this was done for the previous membrane structure that was considered temporary. This was part of that original submittal or the temporary -- temporary tent structure that's now gone. This was -- this was conducted, prepared, published, and included in the -- in the submittal for the 2015 permit as requested by

building and site development.

Now, again, along with this, this is a lot of gibberish, if you don't know the basis for these numbers. I also have a very elaborate description of how I arrived at all these scores, and that was also submitted. I didn't bring it to include in these exhibits. But I can submit this tonight, along with our presentation for the proposed structure.

MR. SIMON: Well, I can say without a doubt that if it meets the prescriptive analysis of the code, then it is compliant. This was not included with this particular submission, so I didn't review it.

MR. CONNELL: Understood.

CHAIRMAN PAGE: I saw Rick's hand first.

MR. SHANKER: Was this work that was done without a permit for a while in '15?

MR. CONNELL: No.

MR. SHANKER: That was before that?

MR. CONNELL: No, the -- what you're referring to was the original motivation for the submittal in 2010.

MR. SHANKER: The original submission of what? These -- your documents.

MR. CONNELL: In 2010, at the beginning of my presentation, I was describing that my first involvement in any alterations and improvements at Harpo's started in 2010 when we were contacted by the ownership to prepare a thorough evaluation to submit to the City for review and approval.

MR. SHANKER: As a result of not -- of doing building without permit? Is that what it was? I can't remember.

MR. CONNELL: As I recall, the ownership had a permit to --

MR. SHANKER: Maybe demo.

MR. CONNELL: -- to do some minor alterations, mostly cosmetic. They also had a permit, I believe, to construct an extension of the then roof deck, the steel and concrete roof deck. They went beyond that. They were -- they were notified to cease and desist and engage in design professional and proceed with the evaluation, which is what we did, and starting in September of 2010, and I think the approval was granted at the very beginning of 2011.

CHAIRMAN PAGE: Dave Weber?

MR. WEBER: Brian, my question was from way, way back. So if the number -- so is the issue is that those -- the numbers that you did before were from Chapter 34 of the 2012 --

MR. CONNELL: Yes.

MR. WEBER: And now we're in 2015, and now we have the existing --

MR. CONNELL: Now it's Chapter 14 --

COURT REPORTER: I only got part of that. Sorry.

MR. WEBER: So I guess my point is, is there a difference between when you did the code analysis before and now? And if there isn't, why couldn't you just submit an updated version and then it's accepted by the City? I don't understand why this is --

MR. CONNELL: I think in fairness, if I can answer, I made what I consider a preliminary submittal. This is for the benefit of the owners who would choose not to invest in an entire design procedure, to submit documentation to the City to see if we could get -- obtain approval to proceed with permit documents for the proposed structure. So in fairness to city officials, as John stated, I did not include all of this background information to support our request.

MR. WEBER: So what I'm hearing, though, is that this is preliminary, but they need to know the existing building analysis to know if it's acceptable, but you have that proof from the last cycle, and you think that --

MR. CONNELL: And I'm sitting here under oath testifying that it will -- that nothing has changed in that regard.

MR. WEBER: Right. And so where you're at is you haven't seen the analysis for the new code and he's saying it hasn't changed. I'm just trying to understand.

MR. SIMON: I think so. His memory is better than mine. I don't recall the analysis for the tent, so if it was, it was. But we don't need a variance if it meets the analysis. That's the bottom line.

MR. WEBER: That's why I'm confused. Because if it meets the analysis of the modern-day code, why are we even here? So I don't understand.

MR. SIMON: Well, I'm a little confused as well, but again, we review so much stuff, I can't recall every Chapter 34 analysis I've looked at, so it may be.

CHAIRMAN PAGE: So we need to table this so that he can come to you with this analysis? Matt?

MR. YOUNG: I say we put it to a vote. If it gets voted down, then he can demonstrate something else, but.

CHAIRMAN PAGE: Is that a motion?

MR. YOUNG: I'll make a motion that we grant the appeal.

CHAIRMAN PAGE: Matt has made a motion to grant the appeal. Do we have a second? It's going to die if we have no second. Motion dies if no second cast.

MR. CARLSON: Brian, do you want the opportunity to table?

MR. CONNELL: No, I'm sitting here -- I'm pretty confident in my presentation and.

MR. CARLSON: Well, I agree. You're pretty confident, and I think you're talking about a Chapter 34 evaluation, so we're voting on something that is going to meet -- be code compliant anyway, so I don't know why we would be voting on it.

CHAIRMAN PAGE: Dave?

MR. WEBER: I do think it's moot, Brian. If you're convinced it complies, then why do we need a vote? If it complies, and you're going to show that, it seems weird that we would have to do anything.

CHAIRMAN PAGE: Rick?

MR. SHANKER: Make a motion to table this.

CHAIRMAN PAGE: We've got a motion to table. Do we have a second?

MR. WATSON: Second.

CHAIRMAN PAGE: We've got a second by JP Watson. All those raise your right -- no, no, roll call. I almost had you raise your hand.

MR. CONNELL: Actually, John, you have the list.

CHAIRMAN PAGE: Yeah, but I don't know -- I don't have any boxes to mark in who voted what. He's got a form that I can mark in who voted what. So we've got -- Dave Weber?

MR. WEBER: I vote affirmatively for the motion.

CHAIRMAN PAGE: Matt Young?

MR. YOUNG: Yep.

CHAIRMAN PAGE: Rob Jackson?

MR. JACKSON: Yes.

CHAIRMAN PAGE: JP Watson?

MR. WATSON: Yes.

CHAIRMAN PAGE: Jonathan Trunk?

MR. TRUNK: Yes.

CHAIRMAN PAGE: Jay Creasy?

MR. CREASY: Yes.

CHAIRMAN PAGE: Kas Carlson?

MR. CARLSON: Yes.

CHAIRMAN PAGE: Doug Muzzy?

MR. MUZZY: Yes.

CHAIRMAN PAGE: Me, yes, John Page.

Did I miss anybody?

MR. SHANKER: Me, yes.

CHAIRMAN PAGE: You didn't sign in. Rick Shanker, Yes, and I need you to sign in. Okay. The motion is tabled. Can you get that over to him to sign it?

MR. CONNELL: Thank you.

Motion to table

Yes: 10 - Carlson, Creasy, Jackson, Muzzy, Shanker, Weber, Young, Page, Watson and Trunk

Recused: 1 - Connell

Attachments: Case #18-002

CHAIRMAN PAGE: Okay. We have the second case of the year, 18-002, and it is 119 South 7th Street and 120 South 6th Street. And we have a disapproval of the proposal to allow openings between buildings at or near the property line between the above addresses. Reason for the action, 2015 International Building Code Table 705.8 prohibits openings when the fire separation distance is zero to less than three feet for IBC Section 202 fire separation distance. The distance measured from the building face to one of the following, the closest interior lot line. Okay.

Now, whoever's presenting this case can come forward and you were sworn in; correct? I thought I saw you with your hand up. And you'll have to state your name and you can present your case.

MR. BORGMEYER: My name is Nick Borgmeyer from Simon Oswald Architecture, and my client has asked that we table this to the next meeting.

CHAIRMAN PAGE: Yes. Okay. That's simple enough.

MR. BORGMEYER: If that's acceptable to you guys.

Motion to table

Attachments: Chapter 6; Article 6; Section 6.66; P2603.5

CHAIRMAN PAGE: We have also one more item on the agenda, and that was discussion for -- ever since I can ever remember, plumbing waste pipes have been in exterior walls. And Matt, ever since we can ever remember, we've put plumbing waste pipes in the outside walls. And then John was telling me all of a sudden that there's something in the ordinance that says you can't do that. I was not aware that anything had changed in the ordinance that says you can't do it.

MR. SIMON: Let me pull it up here a minute.

CHAIRMAN PAGE: So John's going to have to let us in on that.

MR. SHANKER: John.

CHAIRMAN PAGE: Rick.

MR. SHANKER: While he's looking up, may I ask you a question? Is there anything else on the agenda? There should be something about the form that people fill out.

MR. SIMON: We left that with general comments.

MR. SHANKER: Okay. Thank you.

CHAIRMAN PAGE: That would have to be in the general comments by a member of the staff, which would be next.

MR. SHANKER: Thank you.

CHAIRMAN PAGE: Dave Weber.

MR. WEBER: Matt, what's going on?

MR. YOUNG: All right. As long as I've been plumbing as well as as long as everybody else has been plumbing as well, we've put drain lines in exterior walls. And if you read in the code, it states the provisions is as long as it's protected from freezing and such, drains in exterior wall are sloped, so there's never any water sitting in the drain in an exterior wall to freeze.

And if that was the case, then we can never even have a vent system up in the attic of a house. 100 percent, you can't even put a vent in the attic of the house anymore, if that's the way they're going to interpret the code, that's completely not the way I've interpreted the code.

CHAIRMAN PAGE: John?

MR. SIMON: So here's the amendment that was written by the Building Construction Codes Commission in that P2603.5. We're not talking about vents, we're talking about water, soil, or waste pipes. So the big issue has become what's adequately protected because sometimes they'll be on the inside of a wall, and then all of a sudden it grows to where they're within a half inch of the outside wall. I know for a while, we allowed vertical pipes, but by the letter of the ordinance -- we need to revise the ordinance to fit what you guys want is what needs to happen.

CHAIRMAN PAGE: John, are you saying that this commission made this -- I mean, what are you saying?

MR. SIMON: Yeah, the Building Construction Code, that's an amendment from the Building Construction Codes Commission.

CHAIRMAN PAGE: I didn't know that -- I don't know that any of us knew that. Rick?

MR. SHANKER: Has there been any complaints or problems by doing this practice?

MR. SIMON: Until the last year, we haven't -- I haven't run into a lot of this. It's been within the last year. I don't know if it was because of enforcement or not. I know what that says.

MR. SHANKER: No, I'm asking, you just noticed this. There hasn't been people saying, oh, you know, I've got frozen pipes, these guys did it wrong or something like that? Has this been generated by complaint? Not by building officials, but by consumers?

MR. SIMON: It's been generated because it's a violation of the code as it's written.

MR. SHANKER: Okay.

CHAIRMAN PAGE: And that's his job.

MR. SHANKER: I understand that.

CHAIRMAN PAGE: Dave Weber was next.

MR. WEBER: So what is the code provision from this section as written versus what our amendment is?

MR. SIMON: Yeah, let me --

MR. WEBER: How did we amend the as written code?

MR. SIMON: I will bring it right up here.

MR. WEBER: I'm just wondering what nuance we added that's different from that as written where people do it all the time.

CHAIRMAN PAGE: Go ahead, Matt.

MR. YOUNG: We had a lot of discussion on exterior walls and stuff. City considers an exterior wall where water falls on the outside of the building, where rainwater would fall on the outside of the building. You probably remember us having extensive discussions about the wall in between a garage and the adjoining structure, the house, the interior of the house, that being considered an exterior wall, they're not.

As far as the way the City staff interprets the code, that is not an exterior wall. As far as how a lot of plumbers interpret that wall, that is an exterior wall. Some plumbers do not put anything in that wall, they'd have to fur out the interior side of it to put plumbing in that wall. As far as the City interprets that adjoining wall, you can put plumbing in. I would say it's probably not a very good practice to do so, but.

CHAIRMAN PAGE: But you're talking about supply pipe in that wall, too.

MR. YOUNG: Water lines, P-traps, whatever.

MR. MARSHALL: Typically, that's --

COURT REPORTER: What is your name?

MR. MARSHALL: George Marshall.

CHAIRMAN PAGE: Rick?

MR. SHANKER: I would suggest that since this is not a problem so far, except for in the code, John indicated that all we would have to do is change this code, and so can't we recommend to counsel -- John, is this the way to do it, to recommend to counsel this change, or put a shall or instead of a should or something like that in there?

MR. SIMON: However you guys wish to amend the ordinance, I am open to and then counsel has to approve it, correct.

CHAIRMAN PAGE: So what does the exact code say? Is that what you got?

MR. SIMON: 2603.5. That's how it's written in the code.

MR. WEBER: John, this is 2018.

MR. SIMON: My bad, my bad. There you go.

MR. WEBER: Okay. So -- man.

MR. SIMON: It's very similar.

MR. WEBER: Our stuff is different. It must be a carryover from previous amendments because this reads totally different than our amendment paragraph.

CHAIRMAN PAGE: There it also says -- talked about in here by protecting such pipe from freezing by insulation. So if you're holding that pipe, typically when you pipe these, you hold them towards the inside wall and you get insulation behind it is the way we've always done it.

MR. SIMON: If you've got a two-inch pipe and a three-inch wall, you've got about an inch.

CHAIRMAN PAGE: Well, yeah, if you have a 2x6 or 2x4 wall. But yeah.

MR. SIMON: I don't care. You guys do whatever you want to do.

CHAIRMAN PAGE: But I think that we all know from practice standpoint when water's going down the drain, it's run, it's not going to freeze. I mean, we know that. Matt?

MR. YOUNG: That in and of itself should be enough to say that even as it's stated, it's protected because it's not holding water. If it's holding water, there's a problem. If it's sloped, it's not. You know, sewer may put off a whole lot of hot air all winter long. I mean, that pipe is not going to freeze ever. If you've ever roughed in a house in the wintertime, you would have seen that. There's not even frost in the interior of the pipe. It's just the frost closure part on the very top of the pipe where the exhaust and

the sewer main's trying to exit the building as you're roughing a house in. I've been three stories up on a house before and you just see a little ring of frost around the inside of the pipe.

CHAIRMAN PAGE: Rick?

MR. SHANKER: We have a couple master plumbers here, maybe more than two, and I would like to hear again from them to see if this is a problem. If not, I would make a motion to amend this, please.

CHAIRMAN PAGE: And you want to swear them in? Or you just want their name.

COURT REPORTER: If you want me to swear them in, I'll swear them in. But I will definitely need their names.

CHAIRMAN PAGE: Just get their names. We're not having testimony anymore. So you guys go ahead and throw your two cents in.

MR. MURRAY: I've been plumbing for 36 years and never had one service call saying a drain line froze up. Not ever, So.

CHAIRMAN PAGE: You know, the only problem I can ever remember us having big discussions on is how it was used -- particularly kitchen sink, you vent, you go through the cripple and the king stud, and you then you take that pipe and go right up, so we were doing too much notching, so that's when the auto vent came in. So you could use the auto vent under the kitchen sink, and then you didn't have to run that vent anymore because we were notching out too much, and we all did it for years, and we had to quit doing that for a while because of the auto vent. But Rick?

MR. SHANKER: Since we heard their testimony, I'd like to make a motion that we amend the code to allow this practice, subject to what Mr. Young has to say.

CHAIRMAN PAGE: Well, you already made a motion. We've got to have a second and then we can have a discussion.

MR. SHANKER: Okay.

CHAIRMAN PAGE: Muzzy seconds it. Matt, what's your discussion?

MR. YOUNG: Even as it's written, it's up to interpretation, how you interpret this. You're protecting it from freezing. Nothing is freezing if it's sloped. That in and of itself should be enough that the inspector should be able to understand what's going on with it.

CHAIRMAN PAGE: John?

MR. SIMON: So to be clear, why is it even in the code, then, in the first place?

MR. MURRAY: Exactly.

MR. SIMON: All plumbing pipes are sloped or vertical. So why is it there?

CHAIRMAN PAGE: Jay? I saw Jay next.

MR. CREASY: Well, I have seen them -- I'm guessing that they froze -- on probably two or three occasions in twenty years. Whenever I do see it, though, you can see the drain, the pipe distance going into a slab, typically, and it's exposed on the outside. I mean, to the elements. It's not -- it's on the very edge of that outside wall, so.

CHAIRMAN PAGE: But the water's moving.

MR. CREASY: It's leaking. That's all I can tell you.

CHAIRMAN PAGE: Matt?

MR. CREASY: Not that it's not a big problem, but I have seen it.

MR. YOUNG: Jay's exposed to the elements, we can't do that anyways. So this still needs to be in place for certain situations. P-traps, holding water, does not meet that criteria. And it has to be inspected and it has to be enforced. If you have a sloped drain, meets that criteria, it's protected against freezing and everything else. If there's a water line in that wall, does not meet code. Can freeze, it's not protected.

MR. SIMON: Okay.

MR. YOUNG: So I don't think you even need to change it, personally.

MR. WEBER: Can I make a suggestion? It sounds to me like that we need an interpretation statement. Because I don't think we have the authority to change the code. Counsel has to do that. We can suggest to you how you interpret that. Can we do that?

MR. SIMON: I think so. I understand what you're saying, and I've been around for a little while, too, and I've seen it. But we still have to meet all of the drilling and notching requirements for studs. And so they morphed from 2x6 walls to 2x4 walls, which made it worse. When I read this, it looks like they're wanting to keep it from freezing. If you guys are telling me it can't freeze, we can interpret it that way.

CHAIRMAN PAGE: Going back to what Matt said, are you saying, for example, there's a lot of houses out there that have a cantilever with a jetted tub sitting in it. And if that P-trap was in that cantilever below that jetted tub, is that kind of what you're talking about?

MR. YOUNG: Let's not get off point here.

CHAIRMAN PAGE: I'm just saying, so that's totally different than what we're talking about; isn't it?

MR. YOUNG: If you're talking about that, that's a whole different can of worms, let's not address right now. Let's focus on what's at hand.

CHAIRMAN PAGE: But you said P-traps.

MR. YOUNG: P-traps is a prime example, and it's up to the code official to

determine what's going to hold water, what's not going to hold water. As that is stated, I don't see why you even need to change it. It's up to the city inspectors to, you know, acknowledge what is good, and if there's a drain not sloping, guess what, it's going to hold water and freeze, and they should tag it every time.

If you can easily see it, you should be running a four-inch slope on an inch-and-a-half, two-inch pipe bare minimum, easily, you can easily see that. The notching and boring, it's a whole different ball of worms, but studs usually take care of everything. You know, a 2x4 notched with a 2x9 hole will usually take care of it, you know. That's a whole different aspect of it.

MR. SHANKER: If John Simon wins the lottery and he's gone next week, do you think the next person would be able to see this, and say you know what, what everyone's doing is fine? And if so, I will withdraw my motion.

MR. SIMON: I can make a formal interpretation statement. Is that the belief of this board, if it's sloped adequately, it will not freeze?

CHAIRMAN PAGE: Brian?

MR. CONNELL: Just real basic question based on what I'm hearing from the professionals in the room. Do we simply make a motion to recommend to Mr. Simon that we delete our amendment and go back to the language of the code?

MR. SHANKER: I don't think we can --

MR. SIMON: I think it's just an interpretation.

CHAIRMAN PAGE: Rick?

MR. SHANKER: I don't think this board can direct any part of the city. It has to go through counsel. We can suggest things to counsel to the terms that John's saying that he knows what the score is, we don't need to change anything. Matt's saying we don't need to change anything. So in the words of Dave Weber, why are we here?

MR. WEBER: I would say, though, if the city's having a hard time with interpreting that language and we see it that way, then put it in plain language for us to see so we can accept what we really mean and run with it.

MR. SIMON: I'll bring it back to you guys. I have to be honest with you, when I read that, I thought there must be concern about water pipes freezing in exterior walls, especially the horizontal members, especially since I thought it came from the Building Construction Codes Commission.

CHAIRMAN PAGE: Go ahead, Matt.

MR. YOUNG: It has to be there for certain aspects of things, definitely. I mean, you can't just paint it with a broad brush. It doesn't work that way. But if you try and

submit something, if we try and submit something to counsel and it goes to counsel, you're looking at a 60- to 90-day time frame here, and there's a lot of houses that are within 60 to 90 days. I think it's an interpretation thing and the verbiage doesn't need to be changed. It's just how it's interpreted. That's it.

CHAIRMAN PAGE: Rick?

MR. SHANKER: Withdraw my motion.

CHAIRMAN PAGE: Motion withdrawn. Withdraw the second? Who seconded it, Doug? Do you withdraw your second?

MR. MUZZY: Sure.

CHAIRMAN PAGE: Okay. Are we clear?

MR. SIMON: We're clear. I'll bring it back next month. In the meantime, I will interpret it the way we've discussed this evening.

V. GENERAL COMMENTS BY PUBLIC, MEMBERS AND STAFF

CHAIRMAN PAGE: Okay. We have any general comments? General comments by the public or members or the staff? Rick?

MR. SHANKER: The third criteria for granting a variance reads how, John? Do you have it in front of you? It's the undue hardship one. And I talked to I think Brian and John about this last time. Undue hardship, is it a dollar amount, is it emotional hardship?

MR. SIMON: It doesn't read it that way in the ordinance.

MR. SHANKER: Would you read it again, please, if you would, or do you want to put it up there?

MR. SIMON: Application for appeal may be made when it is claimed that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, an equally good or better form of construction be used, or undue hardship is created by strict compliance with the letter of the code but has no significant effect on health, safety, and welfare of the public or any individual. That's what the ordinance says.

MR. SHANKER: So --

CHAIRMAN PAGE: You left out the last part of it, though. The ordinance does not talk about the cost estimate. It's just this sheet that talks about it.

MR. SIMON: We added that to the sheet per your-all's recommendation a couple years ago, and the only time we have not gotten that number is with last month's appeal.

CHAIRMAN PAGE: Rick?

MR. SHANKER: So what does the "undue hardship" mean?

CHAIRMAN PAGE: I guess that's in the eyes of the beholder.

MR. WEBER: I think the reason why us as a body attached cost estimate is because we think hardship is a cost.

MR. SHANKER: Okay. Let's just say --

MR. WEBER: We're not in the emotion business here.

MR. SHANKER: Let's just say that's true. What is the cost basis of undue hardship? I mean, what is our yardstick for deciding that John -- I mean Jay did something, you know what, that's not a hardship. 50 percent? You know, what's our criteria?

MR. WEBER: But that's why we're here, to decide that on a case-by-case basis. But without some cost, all you're just saying is it's too expensive. Well, how expensive? That's why we had that problem, because it wasn't definitive. It was just anecdotal.

MR. SHANKER: I agree with that. But there's got to be some yardstick.

CHAIRMAN PAGE: I think that's for us to determine on a case-by-case basis. I don't think you can have a yardstick for every one. I think they're all different. And you have to determine that on a case-by-case basis. I don't think there's any other way you can do it. Are you suggesting having something that we look at that's a chart or what are you saying?

MR. SHANKER: I am suggesting that it's so arbitrary that what is the cost basis have to do with anything? If it's -- if a structure's worth $30,000 and the estimate for repair is $25,000, is that an undue hardship? I don't know.

MR. WEBER: It was put in the ordinance for a reason; right? I mean, because --

MR. SHANKER: We did put that in.

MR. WEBER: Way before our time. It's always been that way, the hardship, hasn't it, in the ordinance?

MR. SHANKER: No.

CHAIRMAN PAGE: JP?

MR. WATSON: I think kind of using that extreme safety issue, the cost is almost relevant. You're not going to say it's undue hardship if the building's about to collapse, but if you're trying to put a bathroom in a basement and you have to run a pipe in an exterior wall and it's going to cost you $25,000, then there's some undue hardship there. But it seems like it's a sliding scale. It depends on a safety aspect versus maybe a pipe freezing.

CHAIRMAN PAGE: But remember part of the language here, but has no significant effect on the health, safety, and welfare of the public or any individual.

MR. WATSON: That's true.

CHAIRMAN PAGE: So that's already in there, that part of it, so. Brian?

MR. CONNELL: And to reinforce that statement, I think it's the second half of that statement in that sentence that is often overlooked in presentations to this Commission. So in other words, people are coming in here seeking to represent that it's an undue hardship, but then they may or may not be willing or able to demonstrate that there is -- where is it? -- that there is no significant effect on health, safety, and welfare of the public.

CHAIRMAN PAGE: And that's part of it.

MR. CONNELL: Clearly.

CHAIRMAN PAGE: But they're not looking at it like that.

MR. CONNELL: Well, either they aren't or we aren't.

MR. CARLSON: But I think that the undue hardship should be presented to the City in the application process so it's not made up at the time of our meeting. I mean, if they're saying it's going to cost $5 or $500 or $10,000 or whatever it is, that should be turned in with the application process and already be up front, not made up at the meeting.

Well, my buddy down the street said he can do it for ten grand. What's that mean? That's just hearsay. We're not here for hearsay. We're here for documented evidence, and if he's going to prove hardship, it needs to be turned in with the application, not presented at the time of the meeting.

CHAIRMAN PAGE: It also says on here attach a cost estimate for hardship at counter.

MR. CARLSON: I'm not sure we're getting that.

MR. SIMON: You're looking at the application; correct?

CHAIRMAN PAGE: Yes.

MR. SIMON: I apologize. We did not get that last month. We will work harder to get that in the future.

CHAIRMAN PAGE: I think if that line's checked off, they do need to do that. It does need to be part of what you-all collect.

MR. SIMON: Well, that's not written in the ordinance, John. We do a pretty good job of getting it. We didn't get it last month. I apologize.

CHAIRMAN PAGE: Is this something we need to add? Go ahead, Rick.

MR. SHANKER: He knew he was supposed to have that with him. So I'm okay with all that, but one more thing is do they still just check one or can they check more than one? Does it have to be one?

MR. WEBER: It says check all boxes that apply.

MR. SHANKER: Okay. It does say "all." Thanks. That's all I've got.

MR. WEBER: Yeah, we had to add those things.

CHAIRMAN PAGE: Question for John: Does this language need to be added to the ordinance that they need to be bringing this in?

MR. SIMON: We've never had any significant problem getting that. Again, I'm not at the counter every time an application comes in, and I missed it, and I apologize.

CHAIRMAN PAGE: Okay.

MR. SIMON: I will make every effort to get them in the future.

CHAIRMAN PAGE: If it's something that needs to be added, maybe we will need to add that to the ordinance.

MR. SIMON: Again, we've had no significant resistance. If you wish to try to add that to the ordinance, I'm happy to write that memo for an ordinance change.

CHAIRMAN PAGE: Is there anything else? Matt?

MR. YOUNG: Doug Muzzy said he wanted to write an apology on that.

MR. SIMON: It's being written. Three times.

VI. NEXT MEETING DATE - February 26, 2018

VII. ADJOURNMENT

CHAIRMAN PAGE: Anybody from the public want to make comment? You have the opportunity if you want to. Seeing none, we'll adjourn the meeting.

(The meeting was adjourned at 5:33 p.m.)

Members of the public may attend any open meeting. For requests for accommodations related to disability, please call 573-874-7214. In order to assist staff in making the appropriate arrangements for your accommodation, please make your request as far in advance of the posted meeting date as possible.