

**CITY OF KERRVILLE, TEXAS  
BUILDING BOARD OF ADJUSTMENT & APPEALS**

**August 5, 2020**

**MEMBERS PRESENT:**

Bruce Motheral, Chair  
Christina Holcomb, Board Member  
Michael Walker, Board Member  
Dallas Coon, Alternate

**MEMBERS ABSENT:**

Jorge Garcia, Board Member  
Art Lenard, Board Member  
Armando De la Mora, Alternate

**STAFF PRESENT:**

Guillermo Garcia, Executive Director  
Stephen Riggs, Interim Chief Building Official  
Jason Lackey, Fire Marshal  
Joel Bryant, Deputy Fire Marshal  
Mike Hayes, City Attorney  
Dorothy Miller, Recording Secretary

**1. CALL TO ORDER:**

On August 5, 2020, the Kerrville Building Board of Adjustment and Appeals regular meeting was called to order at 4:15 p.m. in the City Hall council chambers, 701 Main Street.

**2. APPROVAL OF MINUTES**

**2A. Approval of the minutes from the May 30, 2019 meeting.**

Mr. Walker moved to approve the minutes as presented; motion was seconded by Ms. Holcomb and passed 4-0.

**3. CONSIDERATION AND ACTION**

**3A. Appeal regarding 1001 Water Street, Ste. G**

Mr. Garcia introduced the case and recommended denial.

Mr. Brent Bates, appellant, introduced himself and presented his case with the aid of a handout given to each board member. Mr. Bates' appeal is in regards to the occupancy load. He stated the code the city follows goes back to 1970 and feels it is outdated and should be revised. He also stated he believes other buildings within the city do not meet the occupancy code he is being asked to meet.

Mr. Steve Riggs began by discussing what the board of appeals is about with the aid of a power point presentation. Mr. Riggs noted that several proponents city staff has asked for in regards to this project have not been received. He believes Mr. Bates wants the city to rewrite the code when staff is here to enforce the code.

Mr. Jason Lackey discussed the history of this project, conferring that several components were not present while the project was being reviewed. Mr. Lackey allowed



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approval of the project to help get the project moving along; however, he included several notes in his review and listed several safety concerns. The water flow rate (in the event of a fire) did not meet code and spoke with Mr. Jeff Finley, an associate of Mr. Bates, to ask how they were going to meet the water flow code. Mr. Lackey had asked multiple times for revised plans for the project. Mr. Lackey stated this project began in 2018 and is still continuing today, having had multiple changes to plans and having to wait for requested information that took some time to receive.

Mr. Riggs continued by explaining the occupancy calculation. He stated the city expects all other buildings to meet the code and thus did not accept Mr. Bates request. The code specifically says there are no exceptions when it comes to office buildings. In addition, the city cannot predict the extent of the use of the building. Will there be conferences that exceed the occupant load? Will there be excessive occupancy during events, specifically Independence Day, due to the view?

Mr. Lackey continued by explaining fire code and the options for fire safety for buildings have two or more stories. The building has to either be rated with a one hour rating per code, or the entire building must have a fire sprinkler. Mr. Bates had changed plans throughout the project and submitted incomplete plans and because of these changes, the Fire Marshal issued thirty-three (33) comments. Current plans that have been submitted have yet to be approved. The occupancy calculations are based on the square footage of the building, not by the expected occupancy proclaimed by the builder. The standard is a nationally recognized standard.

Mr. Riggs finished the presentation by stating that the remedy for the issues is to submit requested information and most likely, the building will have to be completely sprinkled. Other deficiencies were found during a walk through by the previous Building Official and city inspectors.

Mr. Guillermo reviewed what the role of the BBAA is in rendering a decision in this case.

Mr. Bates discussed his project, what he has submitted, and stated he was never denied a permit to the best of his knowledge. He asked Mr. Lackey for a copy of the ICC letter previously mentioned during Mr. Lackey's presentation. Mr. Bates believes the city simply wants him to sprinkle the entire building although the walls are concrete, and the building has enough exits for safety. Mr. Bates discussed several aspects of this project including water flow and what he believed to be multiple issues with the permitting process, submitting requested information, address issues, and an Engineer's letter. Mr. Bates went on to say that there is nothing that says they have to use the maximum formula. Mr. Lackey stated it was not their intention to require fire sprinklers. The issue is that Mr. Bates changed his construction type that facilitated the need for fire sprinklers throughout the entire building.

Mr. Jeff Finley discussed the construction type and the advantages for changing them. He stated that code commentary is not code but an advisory for inspectors. Mr. Finley

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explained why the building would not be at maximum occupancy and that if future use changed, the change would need to be approved by Development Services.

Mr. Lackey reiterated the same comments that Mr. Bates was given in 2018. Mr. Riggs stated staff does not know what is inside the existing walls because they have not received a UIL listing or an Engineer's report and there have been no inspections requested.

Mr. Finley told the board they are waiting on the board's decision so they know how to move forward with their project. He stated Mr. Bates wants to get the most use of the building without spending money on something that will never be challenged due to the expected low occupancy.

Mr. Motheral asked Mr. Hayes if there was an exception to the occupancy code. Mr. Hayes stated we are talking about safety and council has adopted the codes we use and staff needs to adhere to them.

Board members expressed their feelings in regards to what was presented.

Mr. Walker moved to take no vote; motion was seconded by Mr. Coon and passed 3-1.

*(Per Mr. Hayes, if the board does not make a decision within five (5) days, the appeal then goes before city council.)*

**4. DISCUSSION**

**4A. Update on 2018 ICC Codes**

Mr. Guillermo reported where we stand on the update on 2018 ICC Codes. Codes were presented to city council during a workshop. Council has instructed staff in moving forward approving the codes and the first reading is scheduled for August 25<sup>th</sup>. Mr. Motheral and Mr. Walker suggested looking at the occupancy code and not considering a "one size fits all" code.

**5. STAFF REPORTS**

Mr. Guillermo reported Danny Batts has retired as Chief Building Official and Steve Riggs has been promoted to that position. There is currently an open position for building inspector.

**5. Adjourn**

The meeting was adjourned at 6:40 p.m.

ATTEST:



Bruce Motheral, Chair

  
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Trina Sanchez, Recording Secretary  
Donna Bowyer