



**Building and Fire Code Board of Appeals
APPROVED Minutes**

**Board Meeting
August 28, 2019**

The Building and Fire Code Board of Appeals convened in a Regular Meeting on August 28, 2019 at the One Texas Center, Conference Room 500, 5th Floor

Chairman, Alan Schumann called the meeting to order at 1:37 p.m.

Board Members in Attendance: Ben Abzug, Aubrey Brasfield, Alicia Jones, Pieter Sybesma, Alan Schumann, James Wilsford and Timothy Arndt

Board Members Not in Attendance: Bobby Johns and Marco Fiorilo

Staff in Attendance: Rick Arzola (DSD), Marlin Hartmann (DSD), Beth Culver (DSD), Tom Vocke (AFD), and Daniel Word (ACC),

1. **CITIZEN COMMUNICATION:** Stuart Hersh spoke preliminary to the appeal and provided examples to the Board of venues in Austin that lack the requirement of sprinkled buildings and other code related hazards issues that went forward with modifications. Mr Hersh points out that this how we interpreted the code in the last century.
2. **APPROVAL OF MINUTES:** The May 29, 2019 minutes were approved as written by Board member Abzug motion second by Brasfield for a 7-0 vote.

3. DISCUSSION AND/OR POSSIBLE ACTION

- A. **Appeal Hearing- Fire Watch:** Appellant Stuart Hersh met with the Building and Fire Board to appeal a decision by the Building Official with Development Services Department on a requirement for a Fire Watch at 1701 Toomey Road. Mr. Hersh is asking for the Building and Fire Board to reverse the Building Official decision following the Special Called meeting on May 29, 2019 on not to uphold the suspension of Certificate of Occupancies at 1701 Toomey Road.

Appellant Hersh is requesting a ruling on the appeal. According to the Land Development Code Section 25-1-461 Appeal, Mr Hersh is contesting in Subchapter F, that the appropriated technical board or Land Use Commission shall hear the appeal at the next regular scheduled meeting. Than an appeal is automatically granted either of two Commission or Board does not hear before the 21st day following the receipt of notice of appeal. The appeal believes was filed more than 60 days ago and is requesting a ruling from the board before offering his subsequent testimony.

Staff did contact legal, and legal responded 25-1-461 does not apply. This is not a stop work order, remove or restore order, revocation or suspension, rather the board is hearing a challenge on the Building Official decision on a fire watch requirement under 2-1-121 which is a Building Fire Code Board of appeals ordinance and board shall hear and decide appeals of orders, decisions, or determinations made by the building official relating to the application and interpretations of the Building Code and Fire Code. There were no specified time limit.

After discussion on the timeline of the appeal, Chairman Schumann reopens the hearing and reiterates that the appeal is for the Fire Watch. Building Official does remind the board that they have the option to “uphold, deny or make modifications” or a “no vote”

In his message to the board, Mr. Hersh speaks on the applicable codes for 1701 Toomey Rd started in 1964 in construction with front building and in 1967 the construction of the back building. Back building was not built in violation of the fire code because the fire code was not adopted until 7 years later in 1974 (Fire Criteria Manual). In his message, you could build a building more than 100ft. from the property without it having a fire access road or sprinkled. Mr. Hersh provided documentation of this to the Building Official but did not provide backup. But adds it was his “contention” that it was not required by law to have a fire access road and a sprinkled building but was done none the less and now are attempting to get all the city paperwork in and catch up with the construction paperwork by a license to practice in the State of Texas Engineer and to be treated fairly and allowed to turn the water valves on and have the fire code issue go away.

City staff Beth Culver, Building Official replies that the certificate of occupancy for Casa de Luz were suspended on May 2, 2019. Depending on the result of the appeal to council hearing we currently did not revoke or suspend the utilities on site. The owners continue to operate and places citizen in harm’s way. In a meeting with the Fire Marshall, the building does not meet the minimum fire code requirements therefore using tools that were available to us, Development Service Department (DSD) enacted the Fire Watch to safeguard the occupants of the building during normal business hours even though it does not meet code, it allows them to continue to work on the building as they meet code. The requirement of the Fire Watch went into place on June 10 after notification of the owner on June 3.

Stuart Hersh responded that in 1988 City of Austin adopted the Uniform Code of Building Conservation. It measured what new code standards do and don’t have to be met when you change occupancy of a building. Today that standard is the International Existing Building Code in which the city has adopted by reference. In his statement, Mr Hersh points on which interpretation code applies and that staff position was to come up with construction standards in the fire and building code when occupancy changed.

Chairman Schumann closed the appeal hearing after comments from the Appellant. Board member Sybesma made a motion to deny the appeal by the Appellant, and board member Abzug, seconded the motion. Vote to deny the appeal by the appellant passes 6-0. Board member Arndt did not participate in the vote as he exited the building prior to the vote took place.

- B. Discuss and consider initiations of Amendments to Titles 25&30 of City Code Related to floodplain regulations-** Kevin Shunk, Flood plain Administrator with Watershed Protection Program makes a presentation on flood risk in Austin and a new understanding of the risk because of a rainfall report by the National Weather Service. Atlas 14 is a nationwide study of rainfall intensities in conjunction with federal agencies. In the 1970’s there were nearly 2000 buildings constructed in the 100 year floodplain and not till 1983 regulations on encroachment limits began in that floodplain. In response to the study, staff developed a 3 step process that they recommend: Land Development Code Amendments (LDC), Drainage Criteria Manual revisions and Flood Risk Evaluation. Within these steps, the LDC changes and four steps are created, floodplain definitions, exception to the redevelopment, Colorado River exception and increase the freeboard requirement-increasing a building finished floor in the 100 year floodplain from 1 ft. to 2 ft. Board wants to hear the results from stakeholder meetings and more time to read with items to consider.

4. **ADJOURN** – Board member Brasfield made the motion to adjourn the meeting at 3:08 p.m. Board member Abzug seconded the motion. Motion passed 6-0.