

COLLEGE TOWNSHIP COUNCIL
SPECIAL MEETING
TUESDAY, JULY 5, 1983

A Special Meeting of the College Township Council was called to order by Chairman Dargitz at 4:00 P.M. on Tuesday, July 5, 1983, in the College Township Municipal Building.

Members present: Donald E. Bailey, Gale L. Dargitz - Chairman, J. Carroll Dean, Herbert W. Stewart, Dolores A. Taricani

Others present: C. Thomas Lechner - Manager

CONSIDERATION OF THE APPEAL OF THE VICTORIAN MANOR

Dargitz provided the background. Centre Regional Code Enforcement Director James Quigley denied a Building Permit to Chris Exarchos for the addition of an underground dining room to his restaurant, the Victorian Manor, located in the Historic Lemont District. The basis of the denial was that the addition's plan failed to meet the requirements of the 1981 BOCA Code's Section 1702.13 regarding "windowless story". (The Township adopted an Ordinance subscribing to the 1981 BOCA Codes earlier this year.)

Exarchos contended that the plans, designed by Architect John Haas, while not meeting the letter of the law, met the intent of the law: "to provide for the relief of gas pressure and smoke to allow fire fighters access to the space". Furthermore, the present plans for the underground dining area are in keeping with the building's and the Village's historical character; the additions Quigley is calling for would be disruptive to the image of both. As a result, Exarchos brought his case before the Centre Regional Building and Housing Code Board of Appeals. This agency upheld Quigley's decision.

Exarchos next requested the College Township Council to hear his appeal. His request was granted and that review is the subject of today's Special Meeting.

Dargitz requested that each side present separate testimony.

Quigley spoke first and began by quoting Section 1702.13 of the 1981 BOCA Codes which defines a "Windowless Story". The Victorian Manor's proposed underground dining area comes under that definition, Quigley said, and would therefore come under that Section's requirement that "All areas of a windowless story, cellar or basement shall be provided with an approved automatic fire suppression system".

Quigley added that this dining area, while not containing hazardous materials, could, with its 60-70 dining capacity, be considered a "hazardous occupancy".

The suppression system would not be required throughout the entire building, Quigley replied in answer to Dean's question, but only in the basement addition. To Taricani's question on the applicability of the State's Labor and Industry Regulations, he replied that not only do those laws date from 1927 but they also do not relate to the issue at hand, as the College Township Ordinance specifically states that when a conflict arises between State and Local Laws the more stringent law would prevail.

In answer to Dargitz's question, Quigley noted that Applications of Appeal to the Code Board are made when it is claimed that the true intent of the Code or the rules legally adopted thereunder may have been incorrectly interpreted. Such was the basis of the Victorian Manor's appeal.

Dean emphasized that the Code Board of Appeals deals with the Code as written. For the Council to do the same would be a waste of time. What the Council can and should do, however, is to either decide to amend the Code or to seek some sort of compromise.

Testimony of the Applicant, John Haas for Chris Exarchos, was next presented. Mr. Haas referred to a drawing of the proposed building layout while giving testimony. He felt there was sufficient safety precautions taken and safe egress would be provided.

Exarchos said that it would be very easy for him to ask Haas to amend the design so as to remove the addition from the category of a windowless story; but, to do so would be detrimental to the historical character of the Village of Lemont. He feels that he has done everything to maintain the integrity of the historical structure: "We've been fair, we've been reasonable -- we expect some consideration in return". Stating that "Community interests, the quality of life, are sometimes more important than the letter of the law", he added that he fears the BOCA Codes will have a serious impact upon the Lemont District.

In response to Dargitz's question whether, when added to the significant cost of the addition, contending the extra \$7-10,000 cost of a fire sprinkler system is just making a "mountain out of a molehill", Exarchos replied that it is not.

Quigley said that the underground addition is in no way an historical structure. The addition neither has anything to do with the building above nor is it built in historical style. Plastic skylights, he contended, are not in the historical mode.

Council Special Meeting
July 5, 1983
Page 3

The issue that is at hand, Quigley stressed, is one of public safety. The underground dining area constitutes a windowless story and provides no safe egress, plastic skylight notwithstanding. He further stated that the addition of an automatic fire suppression system would in no way affect the appearance of the building.

To the Applicant's contention that the addition is to be constructed of steel and concrete, Quigley replied that it is not the foundation that will burn, it will be the contents that will burn. The reason for the sprinkler requirement is to keep the fire under control so that the people can get out.

Haas said that the issue at hand was supposed to be windowless stories -- as specified by the Code -- and not egress. Not only is it unfair that the egress issue has been brought up, he said, but it is also unfair that he is being accused of designing an unsafe building. It would be easier for him, as a College Township resident and professional, to take a low profile and acquiesce to the Code Director; however, that would not solve the larger issue of tailoring the codes to meet local requirements.

Haas stated that he is not anti-Code. Problems can develop, however, when, as it was with the design of the Victorian Manor, a project is begun under one Code -- the 1978 BOCA Code -- and assessed under another -- the present 1981 BOCA Code. This situation has led to confusion, lack of creditability, and additional cost to the owner.

Furthermore, Haas opined, revisions to the BOCA Code should not be made automatically. The burden of proof should be placed on the revisions, and the affect they would have on local concerns.

The code has not yet been written, Haas said, that covers every situation. The Code Board of Appeals should review those things that are peculiar to a particular case. In this particular case, he added, it would have been helpful had one of the members of the Code Board been a fire fighting professional.

In the matter of the Victorian Manor, Haas concluded, the Code would force the owner to design a building of lesser benefit to the Community. The design he has put forth represents an "acceptable level of risk" and should be reviewed with an eye toward the "extenuating circumstance" that the Victorian Manor is an Historic Building.

After a brief questioning period led by the Council, the Special Meeting was adjourned. Dargitz said that the Council would meet in private session and would announce its decision within a day or two.

OTHER BUSINESS

1. Henry Lawlor summarized what has occurred in reference to the South Atherton Bikeway; an over-run in expenditures as a result of various items not included in the contract, involving ~~many items~~ ^{ADDITIONAL} ~~costs~~ ^{CONSTRUCTION}. An estimated \$16,000 was determined to be the amount incurred. Of this amount, the Federal Government will pay \$12,000 and the Local

Municipalities are obligated for the remaining \$4,000 which would amount to \$1,333 for each of the three Municipalities involved. This amount will probably be needed within the next month. These expenses were explained on the second page of the report which was presented by Mr. Lawlor. Discussion followed by various members of Council.

Dolores Taricani made a motion, based on the report from Henry Lawlor dated July 5, 1983, that the previous contract amount expended to \$14,000 be increased by \$1,500, the total contract being \$15,500. Mr. Dean seconded the motion and it was unanimously carried.

- 2. Lechner spoke about potential safety hazard of the proposed access of the Gordon Kissinger Subdivision onto Branch Road.

Council's Decision on the Victorian Manor's Appeal.

Dargitz stated that four options were open to the Council in the matter of the Victorian Manor Appeal:

- 1) to uphold the Appeals Board,
- 2) to overturn the decision of the Appeals Board,
- 3) to create a variance, or
- 4) to amend the Ordinance to provide relief for these kinds of situations in general.

After careful deliberation, Dargitz said, the Council has decided to uphold the decision of the Appeals Board by a 4-1 vote: Dargitz, Taricani, Bailey, and Dean in favor; Stewart dissenting.

In reaching their decision, Dargitz said, the assenting members were of the opinion that the action of the Code Board was proper; the members were also of the opinion that they had no legal right to grant a variance to the BOCA Code. However, the Council members did decide to consider, as swiftly as possible, amendments to the Ordinance which would be more sensitive to local concerns, specifically Historic Districts.

Mr. Dean volunteered to work on the amendments to the Ordinance for Council and have them ready for the next regular meeting.

ADJOURNMENT

The meeting was then adjourned.

Respectfully submitted,
C. Thomas Lechner
Secretary