

Cause #00-16V
Name: St. Michael The Archangel Church
Administrative Law Judge: William Teegarden
Date: June 8, 2001
Commission action: Affirmed

FINDINGS OF FACT

1. The FPBSC is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, 675 IAC 12-5, 675 IAC 21, and ANCI A 17.1 (1987) code applies to this proceeding.
3. The FPSBC is the ultimate authority within the meaning of IC 4-21.5 with respect to administrative reviews of Variance denials.
4. At all time relevant to this proceeding, the Church operated a place of worship in Waterloo, Indiana.
5. 675 IAC 21, which adopts the ANCI A 17.1 (1987) model code, is the current elevator code in Indiana.
6. Rule 2000.10a of the code requires a continuous pressure device to operate wheelchair lifts.
7. The Variance sought to replace the constant pressure device with automatic controls on a vertical wheelchair lift.
8. The minutes of the March FPBSC meeting show the reason for denial stated by the maker of the motion to deny was that no one was present at the meeting.
9. 675 IAC 12-5-3 discusses the standards for granting or denying a variance and all are based on the substance of the application; not on whether or not the proponent appears at the hearing.
10. In February of 2001, the installer filed an identical variance application for another church. The only difference between the two applications is the location of the building and the fact that much of the denied application was handwritten while the February application was typewritten. The two applications are attached to this decision as attachments "A" and "B".
11. The February Variance was approved by the FPBSC in April without opposition. See page 6 of the minutes of the meeting of April 3, 2001.

12. Having approved the February Variance, the FPBSC found that the change in the control panel in a church was not detrimental to public safety.
13. There is no reason to think that if the Variance in question had been considered on its merits the FPPSC would not have made a similar finding.
14. The Variance should be granted.

NONFINAL ORDER

Variance 01-02-8 is hereby approved.