

Cause No. 02-17V

Name: Triton Elementary School

Administrative Law Judge: William K. Teegarden

Date: July 8, 2003

Commission Action: Affirmed

**FINDINGS OF FACT**

1. The Commission is an agency within the meaning of IC 4-21.5.
2. The Commission is the state agency responsible for granting variances to the State Fire Code (IFC).
3. IC 4-21.5, IC 22-13, and the 1993 IBC (1993 UBC) apply to this proceeding.
4. The Commission is the ultimate authority over the grant or denial of Variances within the meaning of IC 4-21.5.
5. At all times relevant to this proceeding, the School was a functioning elementary school in the Northwestern Consolidated School District in Shelby County, Indiana.
6. During a routine inspection of the School, the SFM cited the School for having carpeting on the wall.
7. The School thought that the carpeting was properly rated and started the process to find manufacturer's specifications.
8. This search for the specifications began a nightmare worthy of a Kafka novel.
9. The School finally determined that the material in question is no longer made and was manufactured by a company that no longer exists.
10. The successor company was unwilling or unable to assist the School.
11. Since the carpeting had been installed a number of years before, the School sought a hardship Variance which was denied by the Commission.
12. At issue is Section 4205 of the IBC which requires cloth material on walls of unsprinklered buildings to be flame resistant.
13. The School has subsequently decided the approach to take, since neither the School nor the SFM can find evidence of the material's fire resistance, is to replace the material with current compliant material.
14. Budgetary limitations for the 2003-2004 school year prevent any further expenditures at this time.
15. The 2004-2005 budget will be used for the project.
16. The School thus seeks a temporary Variance through summer of 2004 to complete the project.
17. Given the length of time the material has been used, the SFM concurs with this proposed solution.
18. The Variance should be granted as a temporary Variance with an expiration date of September 1, 2004.

**NONFINAL ORDER**

Variance 02-03-02 is hereby modified to expire on September 1, 2004, and then approved as modified.

