

**Cause No.: 04-61V**

**Name: Emmanuel Lutheran School Addition**

**Administrative Law Judge: William K. Teegarden**

**Date: May 11, 2005**

**Commission Action: Affirmed**

**FINDINGS OF FACT**

1. The Commission is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, 675 IAC 12, and the Indiana Building Code ("IBC") apply to this proceeding.
3. The Commission is the State agency responsible for granting variances to the IBC.
4. At all times relevant to this proceeding, the Church operated an elementary school on Church property in Allen County, Indiana.
5. The Church is approximately 3 miles from the nearest public water supply.
6. At sometime prior to 2003, the Church prepared plans for campus additions but funding concerns prevented the submission of those plans at that time.
7. Included in the previously prepared plans was a newly constructed one story gymnasium which under the 1997 Uniform Building Code did not require sprinklers.
8. The 2003 IBC does require sprinklers. See Section 903.2.1.3.
9. The Church sought the Variance to delete sprinklers.
10. The existing school building is approximately 8500 square feet.
11. The gymnasium is approximately 14,000 square feet and would be separated from the other building by a 2 hour fire barrier.
12. The construction of the gymnasium is designed to have minimum fire hazard and minimum fire loading.
13. The gymnasium has 3 exits directly to the outside plus one exit through the existing school building.
14. The farthest an occupant of the gymnasium can be from a code compliant exit is approximately 75 feet.
15. Since the nearest public water supply is 3 miles away, the installation of a sprinkler system would require tanks and pumps in addition to the system itself.
16. The school will install a code compliant smoke detection system.
17. Via mutual aid, the new Haven Adams Township Fire Department estimates approximately 15,000 gallons of water can be brought to the scene quickly.
18. The School has a daily occupancy of approximately 85 people including staff.
19. The largest possible crowd expected in the gymnasium is the annual fish fry which rarely exceeds 200 persons.
20. The Church will post a maximum occupant load of 300.
21. None of the three area Volunteer Fire Departments object to the Variance. See letters attached.
22. Likewise, the Allen County Building Commissioner has no objection.

23. 675 IAC 12-5-3 allows the Commission to grant a variance to its rules if an applicant demonstrates both hardship and that noncompliance when considering the proposed alternatives is not adverse to the public health, safety, or welfare.
24. Given the lack of objections from local regulators and the State Fire Marshal, the limited fire load, and the distance from a public water supply, the trier of fact concludes the applicant has met the minimum requirements for a variance.
25. The Variance should be granted.

**NONFINAL ORDER**

Variance 04-1-58 is hereby granted.