

Cause #: 97-3V

Name: Wabash National Corporation

Administrative Law Judge: William K. Teegarden

Date: December 17, 1997

Commission Action: Affirmed

## **FINDINGS OF FACT**

1. The Indiana State Building Commissioner, (“ISBC”) the State Fire Marshal, (ISFM”) and the Fire Prevention and Building Safety Commission (“FPBSC”) are agencies with the meaning of IC 4-21.5.
2. IC 4-21.5, IC 22-12, and 675 IAC 12 apply to this proceeding.
3. The ISBC and the ISFM are the state agencies who review requests for variances from State Building and Fire Codes.
4. The FPBSC is the only entity that can grant variances and it is also the ultimate authority within the meaning of IC 4-21.5.
5. At all times relevant to this proceeding, Wabash National Corporation (“Wabash”) was a corporation involved in manufacturing with a plant in Lafayette, Indiana.
6. On December 12, 1996, Wabash filed application D97-1-4 for a variance with the FPBSC.
7. The variance request would delete the requirement of sprinklers from a canopy addition to an existing sprinklered building.
8. The State Building Commission recommended disapproval of the variance and on January 7, 1997, the FPBSC denied the variance.
9. Wabash filed a timely petition for administrative review.
10. Commissioner Charles Holman was originally appointed as administrative law judge and in September of 1997, the matter was reassigned to administrative law judge Teegarden.
11. The variance application as originally filed (exhibit A) did not contain a great deal of information.
12. Subsequently, Wabash has provided the Agency with considerably more

information about the variance including the following:

- (a) A letter and testimony from Richard Doyle, Assistant Chief, Fire Prevention, Lafayette Fire Department, (Exhibit 2), requesting that the variance be approved.
  - (b) Pictures of the canopy area showing the site to basically be an open site with 100 feet of opening at the west end.
  - (c) Information and testimony showing that the only work activity taking place in the area involves putting decals on trailers. There is no welding in the canopied area, no storage of combustible material, and the roof and sides are metal. The structure is unheated.
13. Testimony from the State Fire Marshal clearly indicated that had the Marshal's office been aware of this information, the variance would have been placed in category A or B, not D.
14. Both the representative of Wabash and the representative of the Lafayette Fire Department testified that if there is either a significant change in the use of the structure or the west end is enclosed, the structure will have to be sprinklered.
15. At some point during the hearing, the subject of heat detectors was raised and Doyle agreed when recalled that heat detectors were a viable alternative.
16. On the basis of the sworn testimony at the hearing and the opinion of the State Fire Marshal, the trier of fact concludes that the variance request should be approved with the condition that heat detectors be installed in the canopy area.

**NONFINAL ORDER**

Variance request D97-1-4 should be granted with the condition that the structure in question have heat detectors installed.