

Cause #: 98-22V
Name: Conkle Pontiac
Administrative Law Judge: William K. Teegarden
Date: May 20, 1998
Commission Action: Affirmed

FINDINGS OF FACT

1. The Fire Prevention and Building Safety Commission (“FPBSC”) is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, IC 22-12, 675 IAC 12, and the NFPA apply to these proceedings.
3. At all times relevant to these proceedings, Conkle Pontiac (“Conkle”) operated a new car sales and service business near Kokomo, Indiana.
4. Conkle built a new facility on the edge of Kokomo.
5. The new building is just outside the utilities service district although there is a fireplug as close as 3 blocks.
6. The project consists of two distinct connected areas, the showroom/sales office and the body shop area.
7. The showroom area is not at issue here.
8. The requested variance deals with relief from the requirement to sprinkle 100% of the body shop area.
9. The parties agree that the applicable building and fire codes require sprinkling of the entire facility.
10. Sprinkling the service area in entirety (6,000 square feet) without city water service would be both difficult and expensive.
11. As a trade off, the service area is separated from the sales room by a concrete wall (2 hour separation) and the service area is constructed entirely of metal.
12. Conkle has sprinkled approximately 20% of the service area.
13. The sprinkled portion of the service area is that part of the building used for painting. All flammable materials are kept and used in the sprinkled area.
14. The building contains a state of the art exhaust system.

15. The Kokomo Fire Department inspected the building and was not opposed to the variance.
16. The State Fire Marshal was originally opposed to the variance in part because of concerns about welding.
17. Welding takes place outside the sprinkled area, but is flameless and there is only one welding unit.
18. At the close of testimony, the State Fire Marshal asked to see the manual for the welding unit.
19. Upon reviewing the manual, the State Fire Marshal was no longer concerned about welding as a hazard.
20. Also at the hearing, Conkle produced evidence that the suburban area in which it is located is a rapidly growing area and it is likely that water service will be extended in the next few years.
21. Conkle presented evidence that it intends to install a full sprinkling system when the water system is extended.
22. Also at the hearing, Conkle proposed to install and maintain a smoke detector system in unsprinkled areas until water is available.
23. After hearing this evidence and examining the welding manual, the State Fire Marshal agreed to a 5 year variance.
24. With all of the trade offs proposed at the hearing and with the understanding that a full sprinkling system would be installed when a water supply source is extended to the property, a limited term variance should be granted.

NONFINAL ORDER

Variance D 97-12-1 is granted subject to the following conditions:

1. All flammable materials will be kept in a sprinklered area.
2. Smoke detectors will be installed and maintained in unsprinklered areas.
3. The building will be fully sprinklered within 90 days after

water supply service is available.

4. This variance shall expire on December 31, 2003.