

Cause #: 98-54V
Name: South Bend North Pumping Station
Administrative Law Judge: William K. Teegarden
Date: December 23, 1998
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, and 675 IAC 13-2.3, the 1998 Indiana Building Code (IBC) apply to this proceeding.
3. 675 IAC 12-5 governs the issuance of variance, from the IBC.
4. At all times relevant to this proceeding, the City has operated a municipal water works.
5. In 1998, the City finalized plans for a remodeled pumping station and treatment area.
6. By necessity, a water treatment facility must contain potentially hazardous materials.
7. The potentially hazardous materials are stored and used in rooms specifically designed for that purpose and those rooms are designated "H" occupancies by the IBC.
8. In July of 1998, the City realized that four of the rooms were designed with over 200 square feet and thus sought a variance from the IBC to allow construction with only one exit.
9. Section 1007.4.1 of the IBC requires every portion of a group H occupancy having a floor area over 200 square feet to have 2 separate exits.

10. The four rooms in question are as follows:
 - (a) Fluoride room 258 ft²

- (b) Chlorine room 317 ft²
 - (c) Chlorine scrubber room 339 ft²
 - (d) Chemical room 332 ft²
11. None of the four rooms in question has length exceeding 20 ft, hence travel distance to an exit is not a problem.
 12. All four rooms are designed with one oversized exit.
 13. IDEM will not approve the storing of these chemicals with an interior exit because in case of a release, it is essential for escaping vapors to exit the room to the outside rather than spread throughout the building.
 14. As a tradeoff, the City proposes to use 72" doors (which in one of the rooms is over 40% of the exterior wall width) and sprinkle areas of the existing building which are otherwise not required to have a sprinkling system.
 15. 675 IAC 12-5-3 (and IC 22-13-2-11) allow the granting of a variance of a building rule by the FPSBC if the applicant can show undue hardship and show that the grant will not be adverse to public safety.
 16. IDEM's restrictions on interior exits from these rooms creates a hardship.
 17. At any given time, there will normally be no persons in the four rooms.
 18. There will not be any members of the general public in these rooms.
 19. Periodically, one City worker will check on operations or in the case of the chemical room, may remove or store chemicals.
 20. The absolute maximum number of people to be in these rooms is two employees.
 21. Significant amounts of square footage are taken up by equipment or storage.
 22. The maximum distance of travel to the door is 20 feet.
 23. Given the lack of population, the short distances of travel to exit, the use of 6 foot wide doors, and the use of an expanded sprinkler system, the trier of fact concludes the approval of this variance would not create a safety hazard.

24. Both the local building official (Don Fozo) and the local fire official (Bert Prawat) testified at the hearing.
25. Both testified that they have been involved with the remodeling project from its inception and both agreed that the short travel distances combined with the oversized doors solve any safety problems with this project.
26. Both also agreed that by sprinkling the attic and some other older parts of the building not otherwise required to be sprinklered, the net result will be a safer building than the City had prior to this project.
27. The variance should be granted.

IV. NONFINAL ORDER

Variance 98-9-4 is approved.

Date: December 23, 1998

WILLIAM K. TEEGUARDEN
Administrative Law Judge
State Emergency Management
302 West Washington Street
Indiana Government Center South, Rm E208
Indianapolis, Indiana 46204
Telephone: 317/232-3835

A copy of the foregoing has been sent to the following:

Karen A. Cavett

BONESTROO, ROSENE, ANDERLIK & ASSOCIATES, INC.
2335 West Highway 36
St. Paul, Minnesota 55113

cc: Marlys Pedtke
William Nicholson
Mara Snyder