

Memo

To: City Council
From: Bryan Myrkle, Community Development Director
Date: September 10, 2015
Re: Building Board of Appeals & Fire Board of Appeals

I would like to request that the City Council authorize City Attorney Tom Hitch to prepare two new ordinances – one to establish a local Building Board of Appeals separate from the Zoning Board of Appeals, and one to designate this new board as the city’s Fire Board of Appeals.

As council members no doubt remember, the City Council was recently designated the city’s Zoning Board of Appeals, and the former ZBA was dissolved. Our local ordinances also designate the ZBA as both the Building Board of Appeals and the Fire Board of Appeals. However, the City Council is not properly organized to serve as this need.

Public Act 230 of 1972, the state construction code act, states the requirements necessary for a local Building Board of Appeals. What specifically disqualifies the City Council is that members of a local Building Board of Appeals are to be ‘qualified by experience or training’ to make judgments on construction code issues. And, while individual members of the City Council might be qualified, we cannot ensure that the balance of the council ever would be.

When properly constituted, a local Building Board of Appeals can also serve as its Fire Board of Appeals.

The issue arises now because of a question concerning the redevelopment of a portion of the Masonic Temple building downtown. You may remember that the city has obtained a grant to assist in the

creation of four new apartment units in the building. The Mason's original design called for the removal of some existing windows facing Seminary Street, and replacement with new vinyl windows that would have had large emergency egress openings.

This design was rejected by the Michigan State Historic Preservation Office, which has to sign-off on the Mason's redevelopment plans as part of the grant. They are requiring that the original windows be retained.

I spoke to Fire Chief Kevin Fullerton about this, and the fire department would support a variance allowing the original windows to be kept. The windows do open, and the openings are larger than the minimum size our local department would require.

However, even provided the fire department's support, there is no existing city board qualified to evaluate and grant this variance.

Therefore, I am asking that steps be taken to constitute a qualifying Building Board of Appeals & Fire Board of Appeals*, both to hear this issue and any future building code or fire code issue in the city.

* Council members should note that, if these boards are created, there may be other areas of the city code referencing the building or fire boards of appeals that will need to be adjusted in the future, beyond the two that I am specifically requesting.