

New York State Building Standards and Codes Application for Appeal of Determinations Concerning the
Rand Hall Fine Arts Library at Cornell University
Petitioner: Jonathan Ochshorn

Exhibit 6

Decision of the Capital Region-Syracuse Board of Appeal, July 18, 2013 (Petition No. 2013-0250)

Summary: In 2012, shortly after the construction of Milstein Hall—which combined Rand, Sibley and Milstein Halls into a single Type VB building—Cornell’s Fine Arts Library was moved to the third floor of Rand Hall in violation of the New York State Building Code, which prohibits library (A-3) occupancies above the second floor of Type VB construction. This violation was successfully challenged by the petitioner at this hearing of the Capital Region–Syracuse Board of Review.



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DEPARTMENT OF STATE
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ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

CAPITAL REGION – SYRACUSE BOARD OF REVIEW

In the Matter of the Petition of:
CORNELL UNIVERSITY
Appealing a determination made by an official
charged to enforce the New York State
Uniform Fire Prevention and Building Code

DECISION

PETITION NO. 2013-0250

Upon the application of Cornell University, filed pursuant to 19 NYCRR 1205 on June 19, 2013, and upon taking testimony and hearing argument thereon at a duly noticed hearing before the Capital Region – Syracuse Board of Review held at the Hughes State Office Building, 333 East Washington Street, Syracuse, New York, on July 18, 2013, and upon all other papers in this matter, the Board makes the following determination.

NATURE OF GRIEVANCE AND RELIEF SOUGHT

The petition pertains to a B occupancy and an A-3 occupancy, mixed occupancy, three stories in height of square footage numbers as noted in the submittal of Type VB construction located at 943 University Avenue, City of Ithaca, County of Tompkins, State of New York.

The petitioner is seeking an appeal to decisions of the code official regarding many fire safety issues. This appeal is based upon 2002 Code of New York State regarding the following sections:

19 NYCRR 1221, The Building Code of New York State, Section 1004.2.2.1, 1008.2, 1004.2.5, 303.1 and Table 1003.2.2.2, 1005.2.1 and Table 503 Appendix K.

FINDINGS OF FACT

1. Inadequate exits from Crit room assembly space, there is testimony and submittals that the hall has two exits, and the exits may not be remote, in addition to other comments from the Petitioner in the submittal.
2. Noncompliant protruding objects in egress path pertain to numerous instances in Milstein Hall where sloping structural elements and sloping guards may create protruding objects within the path of egress and on walking surfaces.
3. Inadequate fire barrier between Milstein and East Sibley Hall, the fire area or the fire barrier is more than 25 percent of openings in the wall, and there is a question regarding adequacy of installed equipment to meet the requirements of the Code

4. Improper mezzanine designation, the argument is that the mezzanine interpretation is flawed because of a calculation and location of the noted mezzanine.
5. Milstein/Sibley/Rand Hall exceeds Table 503 floor area limits based on Appendix K. In Appendix K, there is a statement that additions are allowed to exceed values greater than noted in Chapter 5 if a fire barrier is constructed.
6. Improper occupancy class designation at the second floor of Milstein Hall classifying the area as an A-3 and B Occupancy.
7. Inadequate exits from 261 East Sibley Hall in drawings submitted seem to indicate that there is only one exit from the Sibley Hall Room Number 261, and the existing posting of the room is greater than allowed under the Code.
8. Noncompliant A-3 library occupancy of Rand Hall at the third floor, this appeal concerns the construction type of Rand, Sibley, and Milstein Halls and the Table noted, 503, in allowing or disallowing a Type VB constructed building to have an assembly space on the third floor.
9. The details of these specific issues are noted in the submittals and clarified in testimony and in other submittals from Cornell University as of today.

CONCLUSIONS OF LAW

In accordance with the above findings, testimony and submitted information regarding appealing the determination made by a Code Official which includes items in favor of the Petitioner and items in favor of the Code Official. The granting or denial of this appeal will not substantially adversely affect the Uniform Code's provisions for health, safety and security.

DETERMINATION

WHEREFORE IT IS DETERMINED that the application for an appeal from 19 NYCRR Part 1221, Section 1004.2.2.1, 1008.2, 1004.2.5, 303.1 and Table 1003.2.2.2, 1005.2.1 and 503 Appendix K, be and is hereby PROPOSED TO BE GRANTED OR DENIED as follows:

1. Inadequate exits from Crit room assembly space, the Board sustains the appeal for the Petitioner and, therefore, reverses the determination of the Code Enforcement Official.
2. Noncompliant protruding objects in egress path, the Board sustains the appeal for the Petitioner and, therefore, reverses the determination of the Code Enforcement Official, however, it has been testified today and submitted with information from an expert in the field of handicapped accessibility that these

items are being corrected or have been corrected, and, although in favor of the Petitioner, the building will be in compliance with the Code.

3. Inadequate fire barrier between Milstein and East Sibley Hall, the Board upholds the decision of the code enforcement official in light of information submitted and testimony given today that adequate code-compliant fire separation does exist, and the Board of Review will expect a submittal from the City of Ithaca on the testified approvals from the compliance testing lab.
4. Improper mezzanine designation, the Board upholds the decision of the code enforcement official.
5. Milstein/Sibley/Rand Halls exceeding Table 503 floor area limits, the Board upholds the decision of the code enforcement official.
6. Improper occupancy classifications, the Board upholds the decision of the code enforcement official and notes that there was testimony today that there is specific requirement from the City of Ithaca Building Department for any changes in occupancy classification or use of this space.
7. Inadequate exits from 261 East Sibley Hall, the Board upholds the decision of the code enforcement official, and testimony today seemed to confirm that currently there is a business occupancy in this area and changes in the future will require proper review and permission from the city of Ithaca Building Department. The Board notes that the posting of the occupant load as stated today needs to be immediately reviewed for the current use and altered as required.
8. The Board sustains the appeal for the petitioner and, therefore, reverses the determination of the code enforcement official for Number 8.

Furthermore, it should be noted that the decision of the Board is limited to the specific building and application before it, as contained within the petition, and should not be interpreted to give implied approval of any general plans or specifications presented in support of this application.

Chairman George Maney, and members, Richard Lafferty, Mark L. Dedrick, Michael J. Hrab and Robert Almy all concur.

So ordered.

Capital Region – Syracuse Board of Review


By: George Maney, Chairman

Date: 8/20/13