

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 7

Decision of the Capital Region-Syracuse Board of Appeal, October 16, 2013 (Petition No. 2013-0456)

Summary: This 2013 variance permitted Rand Hall, with a library on the third floor (and potentially on the second floor), to exceed floor area and height limits for A-3 occupancies in Type VB construction.



STATE OF NEW YORK
DEPARTMENT OF STATE
 ONE COMMERCE PLAZA
 99 WASHINGTON AVENUE
 ALBANY, NY 12231-0001

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
 For a Variance to the New York State
 Uniform Fire Prevention and Building Code

DECISION

PETITION NO. 2013-0456

Upon the application of Cornell University, filed pursuant to 19 NYCRR 1205 on October 16, 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 November 21, 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 an addition to an existing building, Rand Hall, Milstein Hall, East Sibley Hall of B and A-3 mixed occupancy, three story in height, Type 5B construction, approximately 172,486 square feet in gross floor area, and located at 947 University Avenue, City of Ithaca, County of Tompkins, State of New York.

The petitioner is seeking relief from:

19 NYCRR Part 1221, The Building Code of New York State, Section 503.1, which requires states in general, the height and area of a building of different construction types shall be governed by the intended use of the building and shall not exceed the limit in Table 503, except as modified hereafter.

FINDINGS OF FACT

With respect to the petition of Cornell University requesting variance from the following Sections of the Uniform Code:

19 NYCRR Part 1221, The Building Code of New York State, Section 503.1, dealing with height and areas for buildings of different construction types; shall be governed by the intended use of the building and shall not exceed the limits in Section 503 except as modified hereafter; each part of the building included within the exterior walls or the exterior walls at fire walls where provided shall be permitted to be a separate building, and

Code Section 504.2 as included today with respect to increasing the automatic increases for automatic fire sprinkler installations in fire areas, and in addition Code Section 715.1 of the 2010 Building Code of New York State, which is added by the Board of Review, the Board makes the following findings:

1. The petition pertains to alterations to an existing building, Rand Hall, Milstein Hall and East Sibley Hall. East Sibley Hall is three stories in height of type 5B construction. Rand Hall is three stories in height. Milstein Hall is two stories in height. The buildings are properly placed in Occupancy Group B and A-3, and other assembly use is not classified elsewhere in Group A, including but not limited to Libraries. Buildings are approximately 172,000 square feet in gross floor area and located at 947 University Avenue, City of Ithaca, County of Tompkins, State of New York.
2. Rand Hall was built as a three story building for college level instruction in the early 1900's. Rand Hall has construction which would be Type IIB construction as a stand-alone building.
3. Sibley Hall is a three story building of Type V construction as has been determined under strict interpretation of the Code and built in the late 1800's; perhaps 1894, and is a member of the Arts Quad Historic District.
4. In May of 2007 the building department application was filed and a permit subsequently issued by the City of Ithaca for a new addition of Type IIB construction now known as Milstein Hall. The two story Hall connects Rand Hall to the East and Sibley Hall. No fire walls were provided to separate the Sibley Hall construction from the Milstein Hall construction which also connects to Rand Hall.
5. Rand Hall and Milstein Hall were noted as being able to comply with Type IIB construction if they were stand alone buildings. Due to the connection with Sibley Hall, the aggregate building is downgraded to a Type VB construction. The three buildings are considered one building under the Code.
6. The grading of construction type of Rand Hall meant that the Library, A-3 occupancy, cannot be located on the third floor. Table 503 limits an A-3 occupancy in a Type VB being to the first floor. All of the buildings are fully sprinklered, and as per Section 504.2 of the Building Code, an automatic sprinkler system increase would allow the A-3 occupancy on the second floor. Petitioner wishes it to be on the second and third floors.
7. No part of Rand Hall is in physical contact with East Sibley Hall except through Milstein Hall. Between the physical connections of Rand Hall to Sibley Hall are two one hour constructions that separate Rand Hall from East Sibley Hall, one each at the juncture of these buildings with Milstein Hall. There is

approximately 60 feet of separation distance between Rand Hall and East Sibley Hall at their closest point; that measurement continues through Milstein Hall.

8. Constructing a firewall or the equivalent of a firewall to Milstein Hall at Rand Hall would be extremely costly and disruptive. Rebuilding Sibley Hall, a contributing historic structure, to a A-3 construction would not likely to gain approval from the Ithaca Landmark's Preservation Commission and Cornell's own guidelines for treating its historic buildings. Additionally, costs from embellishing the third floor structure and replacing it with a non-combustible construction appears to be excessive and unreasonable given that the building and the adjacent buildings are protected throughout with an automatic fire sprinkler system.
9. It has been testified that the two fire barriers between Sibley and Rand Halls appear to provide better protection than simply having one fire barrier as might be allowed in the Code if built to separate the areas. The approximate 60 foot separation from Rand Hall shall remain as indicated on the exhibits submitted and testified to today.
10. There are exterior fire sprinklers installed under what may be termed an overhang around Milstein Hall at grade level. This further limits the exposure between Milstein Hall and the adjacent areas noted as Rand Hall and Sibley Hall.
11. There are on-site trained campus police available 24 hours a day to respond to fire alarms on the campus and communicate with the Ithaca Fire Department to provide information as determined in their standard operating procedures. There are separate risers for the water supplies for each of these areas for the fire sprinkler systems that protect these three areas throughout the buildings.
12. With reference to Section 715.1, the Code official has stated that the fire barriers are in compliance with the Code. However, even if the installation does not completely meet the rigid standards the Board finds that the existing construction provides protection and acts as a proper fire barrier, fire partition or fire separation that would act between these three areas.
13. These findings include a brief review of the 2010 Building Code of the State of New York, Section 912.5.1, which allows the use of fire barriers for separations. The intended objectives of the Sections of the Existing Building Code of New York State and Building Code of New York State from which the variance is sought are to promote fire safety.
14. The petitioners' position is that keeping a college library use, A-3 in East Sibley Hall, which as a stand-alone would be considered a VB building, and by connection includes Milstein Hall and Rand Hall in that determination.

- 15. If the Code were literally followed, it does not promote fire safety as much as moving the library to Rand Hall, which as a stand alone building could be classified as a Type IIB building. The petitioner's position is that housing a library in Rand Hall would meet the objectives of the Code better than keeping it in the actual wood framed area of Sibley Hall.
- 16. By testimony and letter today, the fire department of the city of Ithaca approves of the granting of this variance. The Code official that has testified today approves of the granting of this variance as well.

CONCLUSIONS OF LAW

The Board finds in granting this variance it will have no substantial adverse effect on health, safety and security. Therefore, in accordance with the above findings, the Board finds that strict compliance with the provisions of the New York State Uniform Fire Prevention and Building Code would entail practical difficulties and unnecessary hardship, and would be unnecessary in light of alternatives which ensure the achievement of the Code's intended objective , or in light of alternatives which, without a loss in the level of safety, achieves the Code's intended objective more efficiently, effectively or economically.

DETERMINATION

WHEREFORE IT IS DETERMINED that the application for a variance from 19 NYCRR Part 1221, Sections 503, 504 and 715, as noted above, be and is hereby PROPOSED TO BE GRANTED with the following condition:

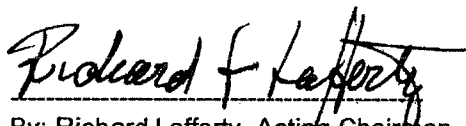
- 1. In all other aspects of the building in its construction shall be in compliance with the applicable codes, rules and regulations.

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.

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

So ordered.

Capital Region – Syracuse Board of Review



By: Richard Lafferty, Acting Chairman

Date: Dec. 21, 2013