

**BEFORE THE DELAWARE STATE  
FIRE PREVENTION COMMISSION**

**IN RE:** )  
 ) **ORDER**  
**THE MARY CAMPBELL CENTER** )  
 )

**NATURE OF THE PROCEEDINGS**

Pursuant to 16 *Del.C.* §§ 6609 and 6610, and Delaware State Fire Prevention Regulation 701 Sections 7.0 and 8.0, the State Fire Prevention Commission (“the Commission”) held a properly noticed public hearing on October 18, 2011, to hear the Notice of Appeal and Request for Variance or Special Exception of The Mary Campbell Center (the “Center”).

Specifically the Center seeks relief from the requirements of Regulation 705, chapter 5, Section 4.8, which states that “[o]verhangs, canopies, balconies, or any other building feature shall not project over any primary or secondary fire lane.”

A quorum of the Commission members deliberated and voted on the appeal. The Center was present and represented by Thomas C. Shea, Jr., Director of External Affairs for the Center. Elio Battista, Jr., Deputy Attorney General, advised the Commission.

**SUMMARY OF THE EVIDENCE**

The Commission considered the following exhibits, admitted by the Center without objection and made part of the record:

1. Canopy proposal prepared by the Center.
2. Map of the Center showing hydrant and fire department connection locations and location of proposed canopy.
3. Architectural rendering of the proposed canopy.

4. Letter from Jason L. Stiebel, Deputy Chief Talleyville Fire Company.

Thomas C. Shea, Jr., Director of External Affairs for the Center was sworn and testified. Mr. Shea testified that the main entrance of the Center is where residents in wheelchairs are transferred in and out of accessible vehicles and school buses. This process takes several minutes, and in inclement weather, it causes the residents to be rain soaked or snow covered. The variance will allow the Center to install a canopy to allow a safer and more dignified transfer in inclement weather.

Mr. Shea further testified that most residents and program participants use power wheelchairs and that many of the wheelchairs are configured with expensive electronic communication devices and that the installation of a canopy will safeguard the integrity of this highly technical equipment. In addition, the Center receives numerous visitors, many of whom are family members who are elderly and would benefit from the installation of a protective canopy.

Mr. Shea further testified that the proposed canopy will not cause a detriment to public safety or the safety of fire department personnel, and in no way takes away from the accessibility of the building. Mr. Shea testified that the roof of the Center would still be accessible using ground ladders and that the location of all the hydrants and standpipes on the property do not require equipment access to the canopy area.

Mr. Shea further testified that the Deputy Chief of the Talleyville Fire Company has written a letter stating that the Talleyville Fire Company has no objection to the granting of a variance for the proposed canopy.

Mr. John Rudd, Assistant Chief of Technical Services for the Delaware State Fire Marshal was sworn and testified. Mr. Rudd testified that he inspected the Center to review the location of the proposed canopy from an operational standpoint from the fire department's aerial operations and also from a code compliance standpoint.

Mr. Rudd further testified that upon his review, there will be no detriment to adding the proposed canopy.

Grover P. Ingle, Delaware State Fire Marshal was sworn and testified. Mr. Ingle testified that the fire department connection to the Center is in the rear of the building and that the placement of the proposed canopy will not interfere with fire department operations and should not have any detriment to public safety.

### **THE LAW**

The current Regulation at issue was previously set forth herein. The Commission's authority to promulgate that Regulation arose from Section 6604 of Title 16 of the Delaware Code, which states in relevant part that "[s]uch regulations shall be in accordance with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection ...."

The Commission's authority to grant the Center's request arises from Section 6610 of Title 16, which states in relevant part that the Commission has the power to:

“(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the State Fire Marshal, or the Marshal's Deputy or Deputies, based on or made in the enforcement of this chapter;

(2) To hear and decide, in accordance with any duly adopted regulation, requests for special exceptions or for interpretation of regulations or for decisions upon other special questions upon which the State Fire Prevention Commission is required by any regulation to pass;

(3) To authorize a variance from particular provisions of the regulations duly promulgated under § 6604 of this title where strict compliance with such provisions would entail practical difficulties or unnecessary hardships, provided such relief may be granted without substantial detriment to the public safety and without substantially impairing the intent and purpose of the regulations promulgated under § 6604 of this title;

(4) All decisions, authorizations or interpretations made by the State Fire Prevention Commission hereunder shall be written and signed by the Chairperson or Vice-Chairperson and filed in the office of the State Fire Marshal, or the Marshal's Deputy or Deputies, within 30 days following the appeal.”

### **FINDINGS OF FACT**

Based upon the evidence presented, the Commission finds the following facts to be supported by the evidence.

1. Pursuant to its authority under 16 *Del.C.* § 6610(3), the Commission finds that strict compliance with Regulation 705, chapter 5, Section 4.8 by the Center would entail practical difficulties as well as unnecessary hardships.

2. The Commission finds that granting of the requested variance of Regulation 705, chapter 5, Section 4.8 pursuant to its authority under 16 *Del.C.* § 6610(3), causes no detriment whatsoever to public safety, nor does it impair the intent or purpose of the existing regulations as these were promulgated pursuant to 16 *Del.C.* § 6604.

3. The Delaware State Fire Marshal has no objections to the design and placement of the proposed canopy.

4. The Talleyville Fire Company has no opposition to this request.

5. No evidence was presented in opposition to the request.

**DECISION**

The Commission having heard the evidence presented, and upon a finding of the facts and the law as set forth herein, on the affirmative vote of the undersigned members, hereby **GRANTS** the relief sought by the Center and **ORDERS** the Delaware State Fire Marshal to approve the plan for proposed canopy as presently submitted.

IT IS SO **ORDERED** this 15<sup>th</sup> day of November, 2011.

**STATE FIRE PREVENTION COMMISSION**

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David J. Roberts, Chairman

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Alan Robinson, Vice Chairman

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Tom DiCristofaro, Commissioner

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Douglas S. Murray, Commissioner

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Marvin C. Sharp, Jr., Commissioner

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William F. Tobin, Commissioner

DATE MAILED: \_\_\_\_\_