

Minutes of the State Appeals Board
Appeal #09-01
Monday, March 23, 2009

Called to Order:

- Appeals Board Members included Gary Hagedorn, Building Official for the City of Blaine; Steve Kothman, with Hanson Builders Inc.; Thomas Downs Jr., President and structural engineer with BKBM Structural Engineers; Ron Wasmund owner and Building Official of Inspectron Inc.; Craig Hess, an architect with Elness Swenson Graham Architects; Ex-officio member Scott McLellan. Other CCLD staff included Doug Nord with Construction Codes and Licensing Division.
- Chairman Tom Downs called the meeting to order at 9:05 am.
- Those present in the audience were Ron Glubka, Building Official for the City of Woodbury; Michael Bent, Building Department, City of Woodbury; Elroy Berdahl, Building Department, City of Woodbury; Jason Johnson, Dreamstructure Inc.; Mike Skrukud, homeowner; Michael Godfrey, Scott Nelson and Chris Meyer with Construction Codes and Licensing Division.

Introduction to the Appeal:

- Tom Downs asked Doug Nord to explain the appeal. Doug explained that the contractor has installed a direct-vent gas fireplace located on an exterior wall of the home that vents into a screened-in porch. He believes he has met the code by following the listing and installation requirements of the manufacturer. However, the building official believes that this appliance should be treated as an unvented room heater because it vents onto a screened porch. Unvented room heaters or appliances are not permitted by the code.

Discussion:

- Ron Glubka introduced their presentation that showed why this appliance does not comply with International Fuel Gas Code (IFGC) section 503.2.3, Direct-vent equipment. A presentation report was handed out to the board members.
- Mike Bent stated that the IFGC defines unvented appliances as not venting products of combustion to the outside atmosphere. The code uses the Merriam-Webster Collegiate Dictionary for terms not defined in Minnesota Rule Chapter 1300.0070, Definitions. Mike went over definitions for words such as; directly, outside, outdoors, to show that the appliance does not vent to the outside atmosphere and would therefore, be an unvented appliance.
- Elroy Berdahl said Minnesota Statute 326B.101, Policy and Purpose, goes back to the laws of 1971 and covers health and safety. Chapter 1300 says when different provisions of the code occur, the most restrictive apply. Elroy gave some history regarding a mechanical code being in place prior to adoption of the State Building Code and stated that the mechanical code did not allow unvented heaters back then. The Consumer Product Safety Commission has addressed many issues on unvented heaters due to numerous deaths. Unvented heaters have oxygen depletion sensors and this appliance does not have one. Code sections 620 and 901 do not allow unvented heaters. Elroy pointed out some items in the installation manual such as considering prevailing winds in the northern climates, and the note that refers to the possibility of some odor and small amounts of soot

associated with venting onto a screened in porch. Elroy contacted the manufacturer requesting the test conditions but they could not provide that information. Elroy pointed out that porch screening may be different than the code requirement for vent screening which does not allow for screening to be less than ¼ inch. He also pointed out there is the potential for a lot of water created and freeze-up.

- Mike Skrukrud explained they designed their home around this fireplace and had submitted plans which the city approved before they moved forward with construction. During construction, a new inspector came to the jobsite that would not approve the fireplace. He claims their contractor installed the unit per its listing and manufacturer's installation instructions. He feels they were up front from the beginning and aren't trying to do anything wrong.
- Ron Glubka made some final comments. He went over 'exhaust to the outside' and definitions of 'outside and outdoor.' The appliance is listed to a national standard but we have a Minnesota standard that doesn't allow this type of appliance. Ron pointed out he had an experience with fireplaces that were listed but had issues of performance that affected two different homeowners with carbon monoxide. Just because an appliance is listed doesn't mean its bullet-proof.

Board Discussion:

- Tom closed the testimony and opened up time for board member discussion.
- Gary Hagedorn asked Jason Johnson if the appliance had a vent pipe on the top of the unit as it appeared so in one of the pictures. Jason said there was not.
- Craig Hess asked if UL is a listing agency and Gary Hagedorn said yes.
- Ron Wasmund asked Ron Glubka if there is a question as to the unit being installed per its listing or whether the listing is consistent with the State Building Code based on definition of not meeting 'outdoors.' Ron Glubka said that was pretty accurate. Ron Wasmund said that if a word is unclear, the code sends us to Merriam-Webster. If this space is deemed not outdoors, then we have an unvented heater. The question is if there is enough dilution air in the porch, but no information could be provided on that. Based on the definition of outdoor, he feels you have to go with the most restrictive provision. Therefore the porch becomes part of the dwelling and this appliance becomes an unvented heater.
- Gary Hagedorn said this is a listed direct-vent unit and would have a hard time calling it an unvented appliance. The listing is very clear in it being direct-vent.
- Tom Downs agreed with Gary Hagedorn and accepts the listing as meeting the State Building Code.
- Steve Kothman said that by UL, this is a direct-vent appliance and complies with the code if it meets the installation instructions.
- Craig Hess concurred with the comments made by Gary Hagedorn, Tom Downs and Steve Kothman. In the information package the board members received there is a letter from UL which is specific to the UL listed gas fireplace being installed within a screened porch. UL has taken into account minimums for the screened porch. Mike Bent then stated they can call it anything they want but a code official's task is to enforce and administer the State Building Code
- Steve Kothman asked Mike Bent, how he reconciles 901 to UL. Mike responded, the fact that it's not to the outside.

- Ron Wasmund said that 'outdoor' as defined by Merriam-Webster leaves questions as to the porch having enough air. If the definition is used, this unit does not comply with the 'outdoors.' Ron feels the unit will work but is in conflict with the code.
- Tom Downs proposed to close discussion if there was no more board discussion. Gary Hagedorn moved to close discussion and Steve Kothman seconded it.
- Tom Downs asked for a motion.
- Gary Hagedorn made a motion saying that this gas appliance complies with the State Building Code [for venting].
- Steve Kothman seconded the motion.
- Tom Downs asked for a vote by the board members on the motion.
- All were in favor of the motion with the exception of Ron Wasmund. Motion carried.
- The meeting adjourned at 10:00 am.

Respectfully submitted,

Doug Nord