

MINUTES

CALISTOGA BUILDING STANDARDS ADVISORY AND APPEALS BOARD

August 26, 2014

1 Richard Spitler, City Manager, executed the oath of office for new Board members
2 Jadd Elkeshen and Tim Wilkes.

3 The meeting was called to order at 6:04 pm at the Calistoga Community Center.

4 A. ROLL CALL

5 Board Members present Chair Paul Coates, Kate Coates, Shelby Valentine, Beverly
6 More, Jadd Elkeshen, Tim Wilkes, Bill Nance. Absent: None. Staff present: Building
7 Official Clif Castle, Public Works Director Mike Kirn, Planning & Building Director
8 Lynn Goldberg.

9 B. PUBLIC COMMENTS

10 None.

11 C. ADOPTION OF MEETING AGENDA

12 The meeting agenda of August 26, 2014 was accepted as presented.

13 D. COMMUNICATIONS/CORRESPONDENCE

14 None.

15 E. CONSENT CALENDAR

16 1. Minutes for the September 15, 2013 Board meeting

17 The September 15, 2013 minutes were unanimously adopted as presented.

18 F. TOUR OF INSPECTION

19 The Board left the Community Center and traveled to 1505 Grant Street to tour the
20 Monhoff Recreation Building. The Board returned at 6:40 pm.

21 G. NEW BUSINESS

22 1. Election of 2014 Board Officers

23 On a motion of **Board Member Wilkes** and seconded by **Board Member**
24 **Valentine**, Paul Coates was unanimously re-elected Chair of the Board.

25 On a motion of **Chair Coates** and seconded by **Board Member Valentine**,
26 **Board Member Wilkes** was elected Vice Chair of the Board.

27 2. **Appeal of Building Official Determination:** Consideration of an appeal of the
28 Building Official's interpretation that the scope of work required at the Monhoff
29 Recreation Building at 1505 Grant Street is considered an Alteration under the
30 2013 California Building Code

31 **Building Official Castle** presented the staff report for the item, explaining his
32 determination that the work needed to re-occupy the Monhoff Recreation Center
33 significantly exceeds the CBC's definition of "repair" and is an "alteration." He
34 cited the reconstruction of Calistoga Inn as an example of a situation where the
35 same determination had been made. A repair is on a much smaller scale than
36 what is needed to allow the Rec Center to be reoccupied.

37 In response to questions from **Board Member Wilkes**, **Mr. Castle** replied that
38 there was no structural damage caused by the roof leaks and that all of the
39 ceiling and drywall cutaways were done to dry out the building and assess the
40 damage.

41 In response to questions from **Board Member Elkeshen** regarding the City's
42 records of past repairs to the building, **Mr. Kirn** replied that there was a permit
43 issued for the top-most roof when it was installed, but there wouldn't necessarily
44 have been any permits for minor patching and repairs that had occurred since
45 then.

46 **Chair Coates** asked for public comments.

47 **Mike Hughes**, representing appellants Madsen, Kneepers & Associates, Inc.,
48 stated that it's very clearly defined in the code that an alteration means that
49 you're making something different; repair means you are restoring it to its
50 previous condition. In response to questions from Mr. Hughes regarding the
51 threshold between a repair and an alteration, and whether it is based on the code
52 or just experience, **Mr. Castle** replied that he doesn't look at the code in black
53 and white; there are a lot of gray areas, and this is one of them. They look at past
54 practice. **Mr. Hughes** acknowledged that the Building Official has broad latitude
55 in interpreting the code, but noted that the International Building Code refers to
56 alteration as something changing. The racquetball courts, for example could be
57 restored to their former condition. **Mr. Castle** replied that restoring the building
58 back to exactly the way it was would be impossible. The materials would be
59 different. In his opinion, it fits more into the alteration category. **Mr. Hughes** feels
60 that this is a very arbitrary decision.

61 **Chair Coates** believes that if you restore the building to what it was and it
62 doesn't meet the ADA and health and safety codes, then it crosses over to
63 alteration. In his experience in this community, you usually don't need a permit
64 for a repair. There will obviously be permits required for the work needed at the
65 Rec Center. It has to be made safe, which obviously involves alterations. In a
66 public building, you can't just restore it without meeting codes

67 **Mr. Hughes** observed that restoring the building to its previous condition
68 wouldn't be any worse than it was before, and that the City didn't appear to have
69 a problem with it then. He acknowledged there is no doubt that if it's an
70 alteration, it would have to be brought up to code.

71 **Board Member More** observed that if the installation of fire sprinklers is going to
72 be required, the roof would not be put back exactly as it is. It's going to have to
73 change, which would be an alteration.

74 **Mr. Hughes** noted there are some provisions in the code that exempt the
75 additional work, such as the roof replacement, from the repair/alteration
76 determination. Much of the drywall and flooring that was removed was done for
77 drying out the building and damage assessment.

78 **Robert Frey, Alliant Insurance Services**, the insurer for the City, reported that
79 the City's coverage includes code upgrades, such as ADA access. The Building
80 Official and Fire Chief believe that these upgrade requirements are triggered.
81 The policy would cover restoring the building plus the upgrades. If the Board
82 grants the appeal and code upgrades are not made, there is a possibility of a
83 claim against the City because safety and disability issues haven't been
84 addressed. Down the road, the City would have to defend the claim and possibly
85 make changes to address them. Once this claim is closed and if the Board has
86 approved the appeal, it wouldn't be the responsibility of their company.

87 In response to questions from **Vice Chair Wilkes**, Mr. Frey confirmed that since
88 the building has never been in compliance with the ADA requirements a claim
89 could be brought against the City at any time and its insurance doesn't cover the
90 upgrades if there's no damage claim because it hasn't suffered a compensable
91 event. In this case, the insurance company has been involved since the event
92 first occurred because there is a compensable claim. **Vice Chair Wilkes**
93 observed that the upgrades required to bring the building up to ADA is a big
94 project and expensive. It sounds like the best way for the City to get the
95 upgrades is to ignore the maintenance and wait until there is damage. **Mr. Frey**
96 acknowledged that insurance losses can be fortuitous for older buildings that are
97 not in the best of shape, because after restoration, the owner may end up coming
98 ahead. However, there are provisions in the policy that protect against damage
99 due to lack of maintenance.

100 **Vice Chair Wilkes** noted that the Board needs to focus on the question at hand,
101 which is an interpretation of the Building Code, and not whether the City can get
102 the insurance company to pay for upgrades.

103 **Phil Henry**, representing appellants Madsen, Kneepers & Associates, Inc.,
104 understands that the building has leaked in the past. You can see that one of the
105 racquetball courts has been exposed to water in the past.

106 **Vice Chair Wilkes** observed that repairs do require a building permit in some
107 cases, such as when you're spending more than \$500. Re-roofing a house could
108 be considered a repair and it would require a permit. The issue isn't whether the
109 building repairs will need permits or not; there will be permits required. That's
110 separate from whether it's a repair or alteration. The things that will need to be
111 restored, such as ceilings and carpets, if they're looked at as separate actions,
112 would they be considered a repair or an alteration? He has difficulty identifying

113 anything that would constitute an alteration, unless it's a cumulative effect, which
114 isn't provided for by the code. The colors and materials will necessarily be
115 different, but that doesn't constitute an alteration.

116 **Mr. Castle** informed the Board that the City's code provides that if more than
117 50% of the ceiling is removed, then fire sprinklers are required. He piggy-backed
118 on that determination by the Fire Chief somewhat, since that it is a straight-
119 forward quantification.

120 **Board Member More** asked if the fire sprinkler is an absolute requirement, than
121 does that trigger ADA compliance? **Vice Chair Wilkes** replied that there are
122 code exceptions, so he believes compliance would not be required.

123 **Board Member Valentine** believes that since the roof will have to be completely
124 removed and redesigned to accommodate the sprinklers and avoid further
125 damage, that is clearly an alteration.

126 **Vice Chair Wilkes** believes the Board needs to separate the sprinkler
127 requirement from the insurance claim. They're two different issues. The
128 sprinklers triggering the roof re-design would not constitute an alteration; there
129 are code exceptions. Reconstruction of the roof would be allowed as part of the
130 sprinkler installation and would not trigger other upgrades.

131 **Chair Coates** stated that repair has historically meant that less than 50% of the
132 building has been damaged.

133 In response to questions from **Board Member Elkeshen** regarding the Calistoga
134 Inn restoration, **Mr. Castle** reiterated that its restoration was considered an
135 alteration and not a repair. While some historic buildings are exempt from certain
136 upgrade requirements, the Monhoff building has not been classified as historic.

137 In response to questions from **Mr. Hughes**, **Mr. Kirn** replied that he was
138 unaware of any prior attempts by the City to upgrade the building to meet ADA.
139 The City has prepared an ADA transition plan and deficient items were identified
140 for this building, but there is no schedule for when these would be addressed.

141 In response to a question from **Board Member Coates**, **Mr. Kirn** replied that
142 there can't be just one unisex bathroom; the code requires two bathrooms. **Phil**
143 **Henry** believes this issue should be researched further. There are a lot of
144 businesses with a single ADA-compliant bathroom.

145 **Chair Coates** asked for a motion on the item.

146 A motion by **Board Member Valentine** and seconded by **Board Member Kate**
147 **Coates** to adopt a resolution denying the appeal of Madsen, Kneepers &
148 Associates, Inc., on behalf of Lexington Insurance Company/AIG and upholding
149 the Building Official's determination regarding the Monhoff Recreation Center
150 was approved on a 6-1 vote (Wilkes dissent).

151 The appellants were advised of their right to appeal the Board's decision to the
152 City Council within 10 days.

153 **H. MATTERS INITIATED BY BOARD MEMBERS**

154 **Board Member Valentine** confirmed that the directional sign posted next to the
155 library is on Caltrans property; however, she is still concerned because it appears to
156 say that the library is the Eurospa. The County Library Board has decided not to
157 pursue historic designation of the library and she is unsure of how to advocate for
158 this. **Director Goldberg** explained the historic status designation process. **Chair**
159 **Coates** noted that the Board has no purview over these issues.

160 **I. BUILDING OFFICIAL'S REPORT**

161 None

162 **J. ADJOURNMENT**

163 The meeting was adjourned at 7:38 pm.

Clif Castle, Secretary