

BEFORE THE NORTH CAROLINA BUILDING CODE COUNCIL
RALEIGH, NORTH CAROLINA

Docket No. 2015-01

IN THE MATTER OF AN APPEAL)
BY CHAPEL OF THE CROSS REGARDING)
THE NORTH CAROLINA BUILDING CODE)

**CONSENT FINDINGS
AND ORDER**

This matter comes before the Building Code Council upon appeal by the Chapel of the Cross, a church in Chapel Hill affiliated with the Episcopal Diocese of North Carolina, from the decision of the North Carolina Department of Insurance (“the Department”), Chris Noles, Deputy Commissioner, dated 2 April 2015, affirming a 10 February 2015 decision by the Town of Chapel Hill Inspections Department rejecting the Chapel of the Cross’ request to omit sprinkler protection from its 1925 Church (the Church was referred to in the decision as the “Nave”).

The Chapel of the Cross was represented by John I. Mabe, Jr. of the firm Nexsen Pruet, PLLC, Raleigh North Carolina. The North Carolina Department of Insurance was represented by Assistant Attorney General Robert D. Croom. The Town of Chapel Hill was not a party to the appeal.

The following facts are not contested:

1. The Chapel of the Cross was constructed over a span of more than 150 years. In 2011 the facility comprised four general elements: the 1848 Chapel, the 1925 Church, the Battle Wing, and the Yates Wing. The Chapel and Church front on Franklin Street in Chapel Hill, with the Battle Wing behind the Chapel and the Yates Wing behind the Church.

2. The Chapel of the Cross complex, including the Church, is listed on the National Register of Historic Places.

3. There was internal connection between all four of these building components. There was no fire suppression equipment in the structures, nor were there any fire walls within the entire facility.

4. In 2011, the Chapel of the Cross applied for zoning approval to demolish the Battle Wing, to erect a new, larger wing behind the Chapel, and to partially demolish and fully rehabilitate the Yates Wing. The plan envisioned two phases, with the first being the demolition of the Battle Wing and the construction of the new wing behind the Chapel, and the second phase to be the remodeling of the Yates Wing.

5. The plans for the project were prepared by Hartman-Cox Architects, LLP, under the seal of Mary Kay Lanzillotta, a North Carolina licensed architect.

6. The Chapel of the Cross submitted construction plans dated 12 December 2012 to the Town of Chapel Hill for issuance of a building permit. The drawings in the construction plans indicate that no fire suppression equipment would be installed in either the Chapel or the Church.

7. The 2012 Appendix B Building Code Summary, page G 02 of the plans, indicates under the Basic Data section that the project would have sprinklers according to the provision of Section 506.3 of the 2012 Code, because the building exceeds the building area and height limits set forth in Table 503.

8. The Town of Chapel Hill issued a building permit based on the 12 December 2012 plans.

9. The Town of Chapel Hill conducted regular reviews of the progress of the work and ultimately issued final building inspection approvals of the building and its systems.

10. After the Chapel of the Cross applied for a Certificate of Occupancy, the Town of Chapel Hill Building Inspector decided that, because the Chapel of the Cross relied upon section 506.3 to exceed the allowable size limits of Table 503 of the 2012 North Carolina Building Code (2012 Code”), fire suppression equipment was required in the Chapel and the Church.

11. The Town of Chapel Hill issued a temporary certificate of occupancy, pending resolution of the question whether the 2012 Code requires either that the Chapel and the Church be protected with fire suppression equipment or else separated from the class and administrative buildings behind them by a fire separation complying with Section 706 of the 2012 Code.

12. The Chapel of the Cross agreed to add fire suppression equipment (sprinklers) to the Chapel as part of the first phase of the renovations but believes that sprinklers cannot be added to the Church without damaging the historic fabric of the building.

13. On appeal to the Department, the Chapel of the Cross argued that the Chapel and the Church are historic buildings and also provided a fire model and timed egress study for the Church, submitted by Morgan J. Hurley of Aon Fire Protection Engineering, which showed that the evacuation of the Church could be accomplished before a fire could affect an evacuation under the conditions of the model.

14. In its response, the Town of Chapel Hill contended that not having fire suppression in the Church makes the building a “distinct life safety hazard.” This would prevent application of Section 3409.1 to relax the requirements for fire suppression throughout the building, including the Church.

15. In its 2 April 2015 Decision, the Department found the Town of Chapel Hill’s opinion that not having fire suppression in the Church was a life safety concern was reasonable.

16. As part of the second phase of its renovation project, the Chapel of the Cross has agreed to install a fire barrier between the Church and the Yates Wing if required to do so by the Town of Chapel Hill at that time.

FINDINGS AND CONCLUSIONS

Based on the foregoing uncontested findings of fact, the following findings and conclusions are made:

1. This appeal is properly before the Council and the notice of hearing is in proper form. The Council has jurisdiction of this appeal.
2. Section 3409.1 of the 2012 North Carolina Building Code provides as follows:
3409.1 Historic Buildings. The provisions of this code relating to the construction, repair, *alteration, addition*, restoration and movement of structures, and change of occupancy shall not be mandatory for *historic buildings* where such buildings are judged by the *building official* to not constitute a distinct life safety hazard.
3. The Church is a historic building for the purposes of Section 3409.1 of the 2012 North Carolina Building Code.

4. Based on the specific facts of this case, the Building Code Council concludes that not having fire suppression in the Church does not constitute a distinct life safety hazard, and that fire suppression equipment is not required to be installed in the Church.

5. The Chapel of the Cross and the Department of Insurance agree that if the Town of Chapel Hill requires the Chapel of the Cross to construct a fire barrier between the Church and the Yates Wing as part of the second phase of the renovation project, the fire barrier will be constructed in accordance with Section 707 of the 2012 Building Code, or if a later edition of the Building Code is then in effect, in accordance with the section of the Building Code applicable to the construction of fire barriers.

ORDER

Based on the above Findings of Fact and Conclusions, the 2 April 2015 decision of the NCDOT is OVERTURNED.

On the specific facts of this case, the Chapel of the Cross may rely on the provisions of Section 3409.1 of the 2012 North Carolina Building Code to relieve it from adding fire suppression equipment in the Church. If and when the Chapel of the Cross proceeds with the second phase of its renovation project, the Town of Chapel Hill may require a fire barrier to be installed between the Church and the Yates Wing in accordance with Section 707 of the 2012 Building Code, or if a later edition of the Building Code is then in effect, then in accordance with the section of the Building Code applicable to the construction of fire barriers.

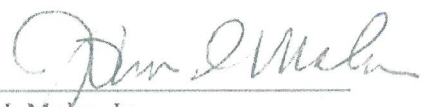
The Council instructs the NCDOT to transmit a copy of this Order immediately upon its issuance to the Town of Chapel Hill.


SO ORDERED, this the 15th day of March, 2016

NORTH CAROLINA BUILDING CODE
COUNCIL

By: 
Dan Tingen, Chairman

CONSENTED TO:

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