

Cause No. 02-36V
Name: TDM, Inc.
Administrative Law Judge: William K. Teegarden
Date: December 15, 2003
Commission Action: Affirmed

FINDINGS OF FACT

1. The FPBSC is an agency within the meaning of IC 4-21.5.
2. The FPBSC is both the initial decision-maker and the ultimate authority over variances to the State Building or Fire Code.
3. IC 4-21.5, IC 22-13, and the State Fire Code ("SFC") apply to this proceeding.
4. At all times relevant to this proceeding, TDM operated a 24,000 sq.ft. warehouse in Kendallville, Indiana.
5. The warehouse is approximately 20 feet high.
6. The warehouse, built in 1999, is leased to a company which stores cardboard cereal boxes wrapped in plastic and stored on wood pallets.
7. The current use of the building clearly involves the storage of combustible materials, i.e. paper products in plastic wrap.
8. The building has a number of exits including large doors as part of the loading platform.
9. The public does not have access to the warehouse area.
10. TDM controls approximately ten acres of land in connection with the warehouse. Future expansion is planned.
11. The warehouse is in an industrial park.
12. There is sufficient room outside the building for fire department access.
13. 675 IAC 22-2.2-52 defines high piled storage for combustible materials as more than 12 feet high.
14. Table 81-A of the IFC (1997 Uniform Fire Code) requires buildings of 24,000 square feet used for high piled storage to be sprinklered.
15. The warehouse is not sprinklered.
16. When the pallets are stacked only two high, the building meets the IFC since the maximum height would be 10-12 feet.
17. When the pallets are stacked three high, the maximum height is considerably over 12 feet and a violation of the IFC occurs.
18. Both the LFO and LBO expressed concern about the high piled storage of paper products in an unsprinklered warehouse.
19. The Construction Design Release (exhibit 2) indicates the warehouse will not be used for high piled storage or combustible storage.
20. While there are sufficient exits to allow workers to flee an emergency situation and points of entry to allow fire department access, the fact that the 5 year old building was not designed for this type of storage greatly

- increases the chance of structural collapse in case of fire thus increasing the likelihood of property damage and danger to fire fighters.
21. Fighting a fire in this warehouse with pallets of cereal boxes stacked up to 18 feet would be both difficult and dangerous.
 22. TDM has priced a sprinkler system at around \$80,000.00.
 23. TDM is seeking a variance from the automatic fire suppression requirement for high piled storage.
 24. IC 22-13-2-11 provides that the FPBSC may grant a variance to a building on fire code whenever compliance causes a hardship and noncompliance is not adverse to public health, safety, or welfare.
 25. TDM meets the first part of the test; sprinkling would be a hardship.
 26. TDM has not shown sufficiently that allowing high piled storage would not be adverse to safety.
 27. The FPBSC should not grant the Variance.

NONFINAL ORDER

The initial decision of the Fire Prevention and Building Safety Commission to deny the Variance is affirmed. Variance 02-07-3 is hereby denied.