

**BOARD OF EXAMINERS
HEARING SUMMARY**

Building Permit
13-486

R. Douglas Dumbrell
Hearing Examiner



The Hearing Examiner now provides the members of the Board of Examiners with this brief summary of the hearing held Wednesday, May 15, 2014. This is not an exhaustive record of the proceedings but is intended for use by the board members in organizing their discussions and providing a starting point for their deliberations. The board members should be in possession of copies of the City's exhibits A,B,C, and D.

- I. The issue: Should the Board grant a variance allowing Denali Construction, acting on behalf of Marshall Jewelry (Bruce Marshall and Maryann Marshall) to forego the installation of a key box on the exterior of their jewelry store at 1103 East Boxelder Road, Suites B & C?

A. Related issues:

- 1.) What is the scope of authority of the Board of Examiners to considering the Marshalls' request for variance?
- 2.) Have the Marshalls proposed an equivalent method of protection or safety to the lock box?

II. Relevant Regulations:

A. Gillette Ordinance § 5-I-8 B. (11)

(11) Section 506.1 *Where Required* of the International Fire Code is amended to read as follows:

506.1 Where Required. Key boxes shall be provided for Fire Department entry for all commercial companies within the City of Gillette. The key boxes shall be installed on all new businesses before occupancy is granted. Any existing businesses that obtained a permit to do any work or change of use or occupancy shall be required to install a key box before the work can be completed and signed off and occupancy resumed. The key box shall be located within 10 feet of the front doors, a minimum of 6 six feet above the ground level and not to exceed 7 seven feet in height unless approved in writing by the fire code official. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the fire code official.

(Ord. 3549, 5-5-08; Ord. 3691, 9-7-2010; Ord. 3771, 8-20-2012).

B. Gillette Ordinance § 5-I-8 B. (5)

108.1 Board of Examiners. The Board of Examiners of the City of Gillette shall be the Board of Appeals for the interpretation of the International Fire Code and may be referred to hereinafter as the Board. (Ord. 3691, 9-7-2010)

C. I.F.C. § 108.2

[A] 108.2 Limitations on authority. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall have no authority to waive requirements of this code.

III. The Marshall Jewelry contentions are:

- A. The lock box represents an unnecessary expense to their business.
- B. The lock box actually diminishes the business security by giving access to anyone who can get the lock box key. The use of the key adds forty five seconds to the time in which their alarm is activated. This can only be eliminated by expensive re-wiring of the existing security system.
- C. The Marshalls' business has special and extraordinary security needs.
- D. The Marshalls propose that if smoke or fire are visible the Fire Department would be authorized to break windows for entry. If an emergency didn't exist the Marshalls would come to open the store.
- E. The Marshalls contend they have shown an equivalent method of safety and protection.
- F. Marshalls stated their entire building except two offices is visible through tempered glass windows.
- G. The installation of the lock box combined with re-wiring of the alarm will have an estimated cost of several thousand dollars.

- H. The lock box is required to be in a conspicuous location and may actually prompt attempts to break in to the lock box or the business.
- I. A lock box should not be required.

IV. The City contends:

- A. The lock box is required by ordinance and the Board of Examiners may only reverse the Fire Marshall if the ordinance has been incorrectly interpreted, does not fully apply, or an equivalent method of protection and safety is proposed.
- B. The key boxes and the keys to them are secure and accessible only to a very limited number of Campbell County Fire Department personnel.
- C. Breaking glass to effect entry is a more dangerous method for fire fighters due to both glass hazards and oxygen control.
- D. There are 89 trucks in the department 10 of which have lock box keys.
- E. There have been no security problems with existing lock boxes to Mr. Acton's knowledge.
- F. Lock boxes can be tied to alarm systems to eliminate a delay setting of the alarm when the lock box key is used.
- G. The ordinance on lock boxes is clear and was properly interpreted by Eric Acton.
- H. The lock box is properly required.

- V. Conclusion: This summary should begin discussions for the board. Board members should feel free to discuss any of the evidence they saw or heard and to bring up any issues they see as fairly presented to them by the evidence and/or arguments.

I will attend deliberations June 10, 2014 at 12:30 P.M. and I will draft the Board findings of fact and conclusions of law after that.

R. Douglas Dumbrill

