

**BEFORE THE CITY OF)
GILLETTE BOARD OF)
EXAMINERS (ACTING) SS
AS A BOARD OF APPEALS)**

**APPEAL OF: DENALI)
CONSTRUCTION ON BEHALF)
OF MARSHALL JEWELRY,)
BRUCE MARSHALL AND)
MARYANN MARSHALL)**

**IN THE MATTER OF
BUILDING PERMIT #13-486
1103 EAST BOXELDER ROAD, SUITES B & C**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came before the City of Gillette Board of Examiners acting as a Board of Appeals for the appeal hearing on the 15th day of May, 2014. The Board met to deliberate in a public meeting the 10th of June, 2014. R. Douglas Dumbrill, an attorney in good standing in the State of Wyoming served as Hearing Examiner. The Board framed the issues, heard evidence and being fully informed in the premises now FINDS:

- 1) The issue presented by the Marshall appeal is: 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?
- 2) Related issues are:
 - a) What is the scope of authority of the Board of Examiners to consider the Marshall's request for variance.
 - b) Have the Marshalls proposed an equivalent method of protection or safety to the installation of a lock box?
- 3) Gillette Ordinance § 5-I-8 B. (11) interpreted correctly as it was by Eric Acton requires a lock box at the Marshall's business of the type and location(s) designated in the ordinance.
- 4) The installation of the lock box represents a substantial expense to the Marshalls. The expense is balanced in the Board's view against safety concerns for fire fighters, property and neighbors.
- 5) There is no showing or precedent that the lock boxes have impaired or hampered security at any business in Gillette in the past. The Board does not foresee any impairment or reduction in security at the Marshall's business from the installation or use of the lock box.
- 6) The proposal of Marshall's that a window (or windows) at the building could be broken to allow emergency access for fire fighters does not seem to the Board to present an option that is as safe as the lock

box. Evidence showed that fire fighters could be injured or their equipment damaged by broken glass, and that a lack of control of air flow to the fire site could present additional danger to property and personnel.

The Board therefore CONCLUDES AS A MATTER OF LAW:

- 1) The above referenced ordinance, (5-I-8 B. (11)) was correctly interpreted by Fire Marshal, Eric Acton.
- 2) I.F.C. § 108.2 as adopted by City Ordinance allows the Board to grant variances or exceptions only if the code or rules have been incorrectly interpreted or an equivalent method of protection or safety is proposed.
- 3) The Marshall's proposed method of safety and protection is not equivalent to that offered by installation and use of the lock box in accordance with the ordinance.
- 4) The determinations of the Fire Marshal contained in his letter of March 21, 2014 (Exhibit A) are generally affirmed. The variance appealed for by the Marshalls generally denied.
- 5) The decision evidenced by these Findings of Fact and Conclusions of Law is effective upon the signature of the Board Members below.

DATED and EFFECTIVE this 13 day of June, 2014.


BRIAN SHIPPY, CHAIRMAN


JOHN ALT


STEVE KING


LOREN TUCKER


DOUG NORTON



JAYE DRAKE


SCOTT HEIBULT


CHAD RENKEN


WESTON SCOTT

PREPARED BY:


R. DOUGLAS DUMBRILL
ADMINISTRATIVE HEARING EXAMINER