



**APPROVED MINUTES OF  
THE REGULAR SESSION OF  
THE BUILDING BOARD OF APPEALS  
OF THE CITY OF ANN ARBOR, MICHIGAN**

**JULY 12, 2006**

I. The meeting was called to order at 1:33 p.m. by Chairman Ken Winters.

II. **Roll Call:**

Members Present: (5) Kenneth Winters, Samuel Callan,  
Paul Darling, Roger Reik and Dennis Darling  
(arrived 1:34 p.m.)

Members Absent: (1) Robert Hart

Staff Present: (4) Anthony Savoni, Ron Heemstra  
Lynn Bowen & Brenda Acquaviva

III. **Approval of Minutes**

April 12, 2006 and May 10, 2006 Regular Sessions –

April 12, 2006 minutes - Accepted as presented – Motion by K. Winters,  
Seconded by S. Callan.

*On a Voice Vote – MOTION PASSED - UNANIMOUS*

May 10, 2006 minutes – accepted with the following changes:

R. Reik – stated that on Pg. 2, Voted for Appeal, but shown absent, Pg.  
5, shows Nay, but did support, Pg. 7, shows absent, but voted Aye.’

K. Winters – stated Pg. 7, second paragraph shows “The ‘other’ shall  
provide a written statement – should be ‘owner’ shall provide.... Pg. 4,  
first paragraph – “where the ‘pit’ is not 30” high “ – Should read “parapet”  
is not 30” high – Check voting on this same issue as the motion was  
‘granted’ and recorded voting does not reflect that.

Motion by K. Winters, Seconded by R. Reik to Approve the May 10, 2006  
minutes as amended.

*On a Voice Vote – MOTION PASSED - UNANIMOUS*

IV. **APPEALS & ACTION - UNFINISHED**

1. **2006-B-20, 240 Crest Avenue** (Was previously pulled from the  
agenda per the Petitioners request).

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55                   **Requesting a variance from Section R305.1 of the 2003 Michigan**  
56                   **Residential Code which requires a 7 foot 0 (zero) inch ceiling height**  
57                   **in a basement with habitable space, and allows beams/girders not**  
58                   **less than 4 feet on center to project below, a maximum of 6 inches.**  
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60                   Petitioner Jacquemin Hughes was not present, but was represented by William Gross.  
61                   Wants to install a drop ceiling which would require the variance.  
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63                   A. Savoni – The ceiling is too low and the ductwork should either be left exposed for  
64                   greater headroom and/or reconfigured. A fully automatic smoke detection system  
65                   should be implemented if approved.  
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67                   R. Heemstra – With additional smoke detectors (a minimum of three just in the  
68                   basement area) I would be supportive.  
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70                   Board agrees that 6' 1" is very low for ceiling height – ceiling would be 6' 4" with no  
71                   ceiling (exposed). Ductwork could also be reconfigured and thinner/wider to provide  
72                   greater headroom.  
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74                   **Moved by R. Reik, Seconded by S. Callan “that a variance be**  
75                   **granted for appeal 2006-B-20, Section R305.1 of the 2003**  
76                   **Michigan Residential Code, to permit a ceiling height in the**  
77                   **basement of 6’10” in the main area and a 6’4” height under**  
78                   **the soffett that would be 6’ wide. In consideration of this, a**  
79                   **requirement of a fully automatic building-wide smoke**  
80                   **detection system be installed to the satisfaction of the Fire**  
81                   **Marshall and find this to be equivalent to what the Code**  
82                   **requires.”**  
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84                   On a Voice Vote – **MOTION PASSED – UNANIMOUS – Variance is Granted**  
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86                   V.    APPEALS & ACTION - NEW  
87

88                   1.    2006-B-22, 777 E., Eisenhower  
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90                   **Requesting a variance from section M507.2 of the 2003 Michigan**  
91                   **Mechanical Code that states: “A Type I or Type II hood shall be**  
92                   **installed at or above all commercial cooking appliances in**  
93                   **accordance with Sections 507.2.1 and 507.2.2. -- 507.2.2 Type II**  
94                   **hoods.**  
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96                   Janeen Robeson, property manager was present to speak on the appeal along with Nick  
97                   Vlisides, owner of Seven’s Café and Gary Shaw, the mechanical contractor who performed  
98                   the work. Ms. Robeson states that this is basically a toaster oven, labeled as a ‘grill.’ She  
99                   explained the use of the equipment, intended use is strictly for reheating sandwiches and that  
100                  the County Health inspector has approved its use without a hood.  
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Discussion

A. Savoni & R. Heemstra – Staff is not supportive because the code requires a hood to be installed because it is called a ‘grill’ and not a toaster or an oven. These are basically like a toaster where you take it out of the box and plug it in. We need an interpretation from the Board.

Board Members – Mentioned that if this were approved, that at some point in time that someone could think it was ‘ok’ to cook raw food on. If it is approved, it must be stated that this is for reheating purposes only.

**Moved by P. Darling, Supported by, D. S. Callan “to allow a Variance for Appeal 2006-B-22 from Section M507.2 of the 2003 Michigan Mechanical Code to allow installation without a Type II Hood, as it is not required for the device ~~to be installed over a device that will be used to~~ when reheating previously cooked food ~~only~~. This exception is allowed through exception 3 of Section M507.2.”**

*On a Voice Vote* – **MOTION PASSED** – UNANIMOUS – Variance is Granted

**2. 2006-B-23, 910 Woodlawn Ave.**

**Requesting a variance from the following three sections of the 2003 Michigan Residential Code: R305.1, R311.4.2.1 and R311.5.2. (Headroom and Basement Ceiling Heights)**

Howard Gold, owner, was present to speak on the appeal. He states that the property is a rental property and that he finished off the basement two years prior and all inspections are finished with exception of three issues: ceiling height, one doorway into an inhabitable room and the headroom at the bottom of the stairway.

Discussion

A. Savoni & R. Heemstra – Staff is supportive of the Variance of the 6’11” ceiling height, but not supportive of the rest of the request as the ceiling is too low at the location of the duct work and the doors. We recommend the ductwork be left exposed for greater headroom and if possible, reconfigured to gain additional space. Regarding the stairs, a variance can be granted based on Appendix ‘J’ of the code. We still feel that the 6’3” at the bottom of the stairs is too low. If the Board is supportive of granting this request, we request that a fully automatic building-wide smoke detection system be a condition of the variance.

Questions from the Board included:

Is there a way to modify the ceiling height at the bottom of the stairs? (Petitioner) The stairway up to the second floor is there, and a landing, so it would be structural, taking out a joist which could be complicated. Basement would be study area/recreation room.

155 K. Winters – The biggest concern is the doorway into the bedroom. One alternative is  
156 to move that door.

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158 You can move the doorway to the other side ‘into’ the bedroom and swing the door  
159 into the space. (Petitioner) You can take out the jam and increase that by 1” or so, but  
160 the rest is a steel beam.

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162 It was suggested that the floor be made thinner to gain additional headroom, or that  
163 the petitioner have a structural engineer look at that situation and make suggestions  
164 to raise it to a minimum of 6’4”.

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166 **Moved by P. Darling, Seconded by S. Callan “that a variance be granted for**  
167 **appeal 2006-B-23, Section R311.5.2 of the 2003 Michigan Residential Code to**  
168 **allow an existing stairway to remain in place which complies with appendix ‘J’**  
169 **with the provision that it be looked at by a structural engineer and investigate**  
170 **the headroom at the bottom of the basement stair to achieve 6’4” clear. A letter**  
171 **from the structural engineer will be required stating what his recommendations**  
172 **or limitations are.” (MOTION TABLED)**

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174 The Board and the Petitioner agreed to table the Item until the Petitioner can provide  
175 more information.

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177 **Moved by P. Darling, Seconded by Winters “to Table the Appeal until the Board**  
178 **receives additional information from the applicant for what can be modified.”**

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180 *On a Voice Vote –* **MOTION PASSED – UNANIMOUS – Variance is Tabled.**

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182 Petitioner asked if he had to reapply for be reheard; A. Savoni informed him he  
183 needed to document the information and get a report to us to go out to the board in the  
184 next packet. L. Bowen informed the Petitioner that he needed to get the information to  
185 her as soon as possible for the Board to review it. Petitioner stated he was a  
186 carpenter and could take this apart and evaluate it; K. Winters said that was  
187 acceptable; A. Savoni stated that however it was evaluated must be stated in writing  
188 for the Board to review it.

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191 **3. 2006-B-24, 111 N. Ashley Street**  
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193 **Requesting a variance from Table 704.8 of the 2003 Michigan**  
194 **Building Code that states that openings are not permitted in**  
195 **exterior walls of buildings that are within 3 feet of the property line.**

196  
197 William Meier of Meier Group Architects was present to speak on behalf of the appeal.  
198 Two items we want to look at:

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200 1. Windows on the second floor of this building in the office level by lowering the  
201 West property line. These are 18” off the property level, but the residential area  
202 above is set back 18’. We propose to do this by putting in a window and a fire  
203 suppression curtain to protect each of the openings. The building next door is  
204 vacant. The building is fully sprinkled.

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2. Elevator enclosure on the elevator lobbies above the third floor are in residential levels, and we are required to have a separation from the elevator lobby to the corridor. We would like to propose that since this is allowed in the new 2006 code to be adopted next year, that we be allowed to do it. This building won't be occupied until approximately fall of 2007.

A. Savoni & R. Heemstra – With regard to the window openings, these types of requests have been previously presented to this Board. In each case, the appeal has been granted with the following contingencies:

1. The Building shall be equipped with an automatic fire suppression system; additional heads shall be provided above on the interior of each opening in question.
2. The openings on the wall shall not exceed that shown on the submitted sketch.
3. If an adjacent building is built, and impacts these windows, the windows shall be closed to comply with the fire rating of the code, or the applicant shall return to the Building Board of Appeals for a new appeal.

A. Savoni - Staff feels that in doing this, an equivalent form of construction has been proposed and would support this request with these contingencies.

In the case of the elevator lobby, the code specifically requires the elevator lobby and fire barriers. While it is true that the pressurization is an approved exception in the 2006 International Building Code, Michigan has not adopted this code as of this date, and may choose not to accept this amendment. In any case, this project was submitted for permit under the 2003 Building Code and will be reviewed and inspected based on this code.

Our concern on the elevators is smoke control. As to a pressurization system, it's possible but it may not be amended by 2007.

Discussion

Reason for the pressurization system? (Heemstra) To control the smoke by not allowing the elevator shaft to become a chimney and letting smoke permeate into the individual corridors.

Annual inspections of the system? (Yes, much like the pressurization of the stairs). Board will separate the requests into two motions to accommodate the two separate appeals:

**Motion #1**

**Moved by R. Reik, Seconded by D. Darling “that a variance be granted for appeal 2006-B-24, Table 704.8 of the 2003 Michigan Residential Code to allow an opening on an exterior wall that is within 3’ of the property line, provided that**

257 the building is equipped with a fire suppression system and additional heads  
258 provided above the interior of each opening in question.

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260 The openings on the wall shall not exceed that shown on the submitted sketch;  
261 if any adjacent building is built and impacts these windows, the windows shall  
262 be closed to comply with the fire rating or the code or the applicant shall return  
263 to the Building Board of Appeals for a new appeal.”

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265 *On a Voice Vote – MOTION PASSED – UNANIMOUS – Variance is*  
266 *Granted.*

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268 **Motion #2**

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270 Moved by P. Darling, Seconded by D. Darling “that a variance be granted from  
271 Section 707.14.1 of the 2003 Michigan Code to permit use of a pressurized  
272 elevator shaft in lieu of the required elevator lobby, provided the building is fully  
273 fire suppressed and that the  
274 mechanical equipment required to provide power for the elevator shaft  
275 pressurization system is to be connected to an emergency electric generation  
276 device.

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278 The pressurization system shall inspected by an independent party every two  
279 years, with a report provided to the Fire Marshall. We find this to be equivalent  
280 to what the Code requires.” (\*Note: this is currently a procedure accepted within  
281 the 2006 Building Code, yet to be adopted.\*)

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283 On a Voice Vote – **MOTION PASSED – 3 Yeas to 2 Nays** (Kenneth Winters, Samuel  
284 Callan) - **Variance is Granted.**

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287 **4. 2006-B-25, 1917 Washtenaw Avenue**

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289 Requesting a variance from Table 704.8 of the 2003 Michigan Building  
290 Code that states that unprotected openings are not permitted in exterior  
291 walls of buildings that are within 5 feet of the property line.

292  
293 Also requesting a variance from section 1009.3 of the 2003 Michigan  
294 Building Code that states: “Stair riser heights shall be 7 inches maximum  
295 and 4 inches minimum. Stair tread depths shall be 11 inches minimum.”

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297 Dan Mooney was present to speak on behalf of the architectural firm, and Kai  
298 Constantinov, petitioner and proprietor. They explained that the site is a bed and  
299 breakfast and the proposal is to use the accessory building into usable space for  
300 assembly.

301  
302 A. Savoni – With regard to the window openings, these types of requests have been  
303 previously presented to this Board. In each case, the appeal has been granted with the  
304 following contingencies:

- 305  
306 1. The Building shall be equipped with an automatic fire suppression system; additional  
307 heads shall be provided above on the interior of each opening in question.

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2. The openings on the wall shall not exceed that shown on the submitted sketch.
3. If an adjacent building is built, and impacts these windows, the windows shall be closed to comply with the fire rating of the code, or the applicant shall return to the Building Board of Appeals for a new appeal.

Staff feels that in doing this, an equivalent form of construction has been proposed and would support this request with these contingencies.

Regarding the stairs, *staff would be in favor of this request and a variance could be granted based on Appendix J of the code which states: "Where compliance with these provisions or with this code as required by these provisions is technically infeasible or would impose disproportionate costs because of structural, construction or dimensional difficulties, other alternatives may be accepted by the building official."*

R. Heemstra - Concurs with A. Savoni

Discussion

Board asked what size water line was supplying water to the building? (Petitioner – Unknown, but plumbing was upgraded to that building.) The Board suggested that the variance be granted with the contingency that the petitioner provides documentation that the water lines are large enough to pressure the sprinklers in the accessory building when pulling the permit to do the work.

Motion #1

**Moved by P. Darling, Seconded by R. Reik, "that a variance be granted for Appeal 2006-Z-25 from Table 704.8 of the 2003 Michigan Building Code to permit the existing windows in the accessory building (a.k.a. the "Tea House Structure") to remain in place provided that it shall have sprinkler heads on the inside face of the windows. The Fire Marshall shall approve this based on an adequate water supply.**

**The openings shall not exceed the square footage shown on the sketch, which is 7.5 percent of the wall area. If anything is built on the adjacent lot or impacts these windows, the windows shall be closed up to comply with the fire code or the applicant shall return to the Building Board of Appeals for another appeal. We find this equivalent to what the Code requires."**

*On a Voice Vote – MOTION PASSED – UNANIMOUS – Variance is Granted.*

Motion #2

**Moved by P. Darling, Seconded by S. Callan, "that a variance be granted for Appeal 2006-Z-25 from Section 1009.3 of the 2003 Michigan Code to permit the existing stairway in the "Tea House" to remain as a rise of 8" and a tread of 10." We find this is compliant with Appendix 'J' of the 2003 Michigan Residential Code."**

*On a Voice Vote – MOTION PASSED – UNANIMOUS – Variance is Granted.*

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5. 2006-B-26, 401 E. Liberty Street

**Requesting a variance from Section 506.3 of the 2003 Michigan Building Code that states: “Where a building is protected throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, the area limitation in Table 503 is permitted to be increased by an additional 200 percent for multistory buildings.**

John Wieth of McKinley and David Esah of Cornerstone Design (Architect) were present to speak on behalf of the Appeal. We intend to extend the sprinkler system into the older buildings. We are in the process of renovating the building, and the sprinkler system is required. This is an issue of timing for us, as we have tenants moving out and tenants moving in during renovation. We’re requesting approval to delay completion of the sprinkler system until the current tenant, TCF Bank moves out.

A. Savoni - Staff is not in favor of this request. In order to obtain an exception to the area limitation required in the code the building must be fully sprinkled. We would be concerned that the building would not be safe for occupancy and in violation of the code if it were occupied before all conditions were met.

R. Heemstra – Our biggest concern is some means of guaranteeing that the work will get done. We’ve had past experience where we have granted extensions and then the work doesn’t get done and we’re playing a ‘catch-up’ game. If I were in support of this request, it would have to have a strict time limitation on when the work would be completed. The other requirement would be a fire alarm system. I’m not sure what currently exists, but that should be a contingency as well so that you at least have manual pulls to indicate to the rest of the building that there is an issue.

Discussion

Comments from the Board included: What time frame is proposed for occupancy – you mentioned January, the first floor? (Petitioner) Sometime in August they would have 60 days for a build out for restaurant use and approval, so sometime around October we would be prepared to start the fire suppression system, the date that TCF moves out. I can give you a drop-dead date of the end of the year, possibly sooner.

The sprinkler system that is going to be added after TCF moves out will be done two weeks to a month after they move out? (Petitioner) It would be started as soon as they move out and would probably take two weeks to a month to complete that project. The rest of the building sprinkler system would be done *prior* to submitting to a certificate of occupancy for the restaurant.

You will not be waiting until after the area is ‘re-tenanted’ to perform the work? (Petitioner)  
No.

Suggestions were put forth regarding a timeline and a bond to assure that the work is completed within the time frame.

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Moved by P. Darling, Seconded by R. Reik, “that a variance be granted for Appeal 2006-B-26 from Section 506.3 of the 2003 Michigan Building Code to permit occupancy of the first floor of the south tower prior to the entire facility being equipped with a sprinkling system, provided that plans and documentation for the fire alarm and detection systems be submitted to the Building department and Fire Marshall prior to occupancy of the first floor.

The schedule of proposed implementation of the remainder of the fire suppression system be included with the submitted drawings, and project is completed no later than February 1, 2007. A walk-through by the Fire Marshall shall take place prior to this to inspect the current fire pull or existing fire alarm system, and shall be upgraded as necessary in the interim.”

On a Voice Vote – MOTION PASSED – UNANIMOUS – Variance is Granted.

6. 2006-B-27, 217 N. Division Street

Requesting a variance from the following sections of the 2003 Michigan Building Code: 1009.2, 1009.3, 1009.4 and 1009.11.5.

**1009.2 – “Stairways shall have a minimum headroom clearance of 80 inches measured vertically from a line connecting the edge of the nosings.”**

**1009.3 – “In occupancies within dwelling units in Group R-2 the maximum riser height shall be 7.75 inches and the minimum tread depth shall be 10 inches.”**

**1009.4 – “There shall be a floor or landing at the top and bottom of each stairway. Doors opening onto a landing shall not reduce the landing to less than one-half the required width.”**

H. Scott Diels, Petitioner (Architect) was present to speak on behalf of the owner, Carolyn Berge. This is an old residence that has been turned into a four-unit apartment building. The owner would like to finish the third floor. There is an existing stair to the third floor, but it’s just exposed construction.

A. Savoni - Staff would be in favor of *portions* of this request.

Section 3406.3 of the 2003 Michigan Building Code states: “Existing stairways in an existing structure shall not be required to comply with the requirements of a new stairway here the existing space and construction will not allow a reduction in pitch or slope.

This would allow the treads, risers and headroom to remain. We would, however, want to see the plan revised, if possible, to allow the proper landings and handrail extensions put in place.

460 If the board is supportive of granting this request, we request that a fully automatic, building  
461 wide smoke detection system be a condition of the variance.  
462

463  
464 R. Heemstra – Nothing additional.  
465

466 Discussion:  
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468 Other questions were - what unit the stairs attach to? (Petitioner – Unit 4), additional egress  
469 (2 separate means per units 3 and 4), the door to unit 4 takes up part of the landing to unit's 4  
470 and 5. It was mentioned that the current status of work to be restructured does not meet  
471 current code. After further discussion, motion to table until further information is submitted  
472 was suggested.  
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474 **Moved by R. Reik, Seconded by D. Darling, "that Appeal 2006-B-27 be tabled until the**  
475 **Board receives additional information or options on the stair rise and run to the fourth**  
476 **floor.**  
477

478 *On a Voice Vote – MOTION PASSED – UNANIMOUS – Variance is Tabled.*  
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480 \*Note: P. Darling departs at 3:15 p.m.  
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483 **7. 2006-B-28, 1200 Miller Avenue**  
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485 **Requesting a variance from Sections R305.1, R311.5.2 and R311.5.4**  
486 **of the 2003 Michigan Residential Code.**  
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- 488 **1. R305.1 requires a 7' zero inch ceiling height in a basement with**  
489 **habitable space, and allows beams/girders not less than 4' on center**  
490 **to project below, a maximum of 6".**  
491  
492 **2. R311.52 requires the minimum headroom in all parts of the stairway**  
493 **be not less than 6' 8 " measured vertically from the sloped plane**  
494 **adjoining the tread nosing or from the floor surface of the landing or**  
495 **platform.**  
496  
497 **3. R311.5.4 requires a floor or landing at the top and bottom of each**  
498 **stairway. The landing shall have a minimum dimension of 36"**  
499 **measured in the direction of travel.**  
500

501 Richard Napier, Petitioner was present to speak on behalf of the owner, Constance Pearson  
502 Ramirez. Mr. Napier spoke about the Appeal to adjust the ceiling/headroom height on the  
503 stairs and the beam and duct work.  
504

505 A. Savoni - Staff is not supportive of this request as the ceiling height is too low at the  
506 location of the ductwork. We would recommend that the ductwork be left exposed at this  
507 point for greater headroom and, if possible, be reconfigured to gain even more space.  
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509 Regarding the stairs, *staff would be in favor of this request and a variance could be granted*  
510 *based on Appendix J of the code which states:"*

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*Where compliance with these provisions or with this code as required by these provisions is technically infeasible or would impose disproportionate costs because of structural, construction or dimensional difficulties, other alternatives may be accepted by the building official.” We are concerned, however, about the low headroom issue and would like to see if it can be improved.*

If the board is supportive of granting this request, a fully automatic, building wide smoke detection system should be a condition of the variance.

R. Heemstra – First concern is the headroom at the bottom of the stairs – 5’9” is very low. Second issue is only one egress window if there is a lock on the bedroom door – a second egress window should be installed or comply with the height issues.

Discussion:

Board determined with Petitioner that the entrance can be closed and moved which will solve the head room issue. Extensive discussion continued regarding bringing the issue up to current code and alternatives to achieve that.

**Moved by R. Reik, Seconded by D. Darling “that a variance be granted for Appeal 2006-B-28 from Sections R305.1 of the 2003 Michigan Building Code to allow a minimum soffit height of 6’4” and from R311.5.4 to allow a landing of 32” vs. 36,” provided that an additional egress window is installed in the bedroom, that the existing stairway is improved to meet current code requirements and that a fully automatic, building wide smoke detection system is installed to the satisfaction of the Fire Marshall. We find this equivalent to what the Code requires.”**

*On a Voice Vote – **MOTION PASSED – UNANIMOUS – Variance is Granted.***

VI. **UNFINISHED BUSINESS**

None.

VII. **NEW BUSINESS**

None.

VIII. **REPORTS & COMMUNICATIONS**

None.

IX. **AUDIENCE PARTICIPATION - GENERAL**

None.

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X. **ADJOURNMENT**

The Board thanked Lynn Bowen for her service to the BBA, and welcomed Brenda Acquaviva as the new Administrative Support Specialist. There being no further business to come before the Board, K. Winters moved that the meeting be adjourned. The meeting was adjourned at 3:55 p.m. by Chairman K. Winters.

Brenda Acquaviva  
Administrative Support Specialist V  
Building Board of Appeals

\_\_\_\_\_  
Kenneth Winters, Chairman

\_\_\_\_\_  
Dated -8-9-06 BBA Minutes