



**APPROVED MINUTES OF THE REGULAR SESSION OF THE
BUILDING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
FEBRUARY 12, 2009 - 1:30 P.M. – COUNTY BUILDING, 200 NORTH MAIN
STREET - LOWER LEVEL CONFERENCE ROOM, ANN ARBOR, MI 48104**

MEETING CALLED TO ORDER at 1:37 p.m. by Chair Kenneth Winters

ROLL CALL

Members Present: (5) K. Winters, Sam Callan, P. Darling, R. Reik and R. Hart

Members Absent: (0)

Staff Present: (3) A. Savoni, K. Chamberlain (arr. 1:48 p.m.) and B. Acquaviva

A - APPROVAL OF AGENDA

A-1 Approved without objection.

B - APPROVAL OF MINUTES

B-1 Draft Minutes of the January 14, 2009 Regular Session

Moved by S. Callan, Seconded by R. Reik, **“to approve the January 2009 Draft Minutes as Presented.”**

On a Voice Vote – MOTION PASSED – UNANIMOUS (*Approved as Presented*).

C - APPEALS & ACTION

C-1 BBA09-005 – 401 North Fourth Avenue

Paul Sieben, owner/architect for this property, is requesting a variance from Section 704.8 and Table 704.8 of the 2006 Michigan Building Code.

Description and Petitioner Presentation

Note: Chair K. Winters has recused himself from this discussion as his employer is doing the structural work on this project. P. Darling takes over as Chair).

The applicant is requesting a variance from Section 704.8 of the 2006 Michigan Building Code which states that *“the maximum area of unprotected or protected openings permitted in an exterior wall in any story shall not exceed the values set forth in Table 704.8.”* Further, Table 704.8 states that a wall that is greater than 5 feet but less than 10 feet from the property line can have total openings no greater than 25% of the entire square footage of the wall.

Petitioner is constructing a new four story building. The first floor will be retail and floors 2 through 4 will be residential. The south elevation is greater than 5 feet but less than 10 feet from the property line. Code requires that openings in this wall be no larger than 25% of the entire square footage of this wall. Petitioner is proposing openings that will total 37% on the south elevation. The approved PUD requires the additional windows on the south elevation.

52 Paul Sieben, owner/architect and Mr. Barry Levin were present to speak on behalf of the appeal.
53 He stated that they are asking for a variance for the venting. Instead of the required 25 percent,
54 they would ask for 37 percent. They have offered to put in sprinklers at these window openings.
55

56 **Recommendation:**

57
58 A. Savoni (*Building Official*) – With regard to the window openings, these types of requests have
59 been previously presented to this Board. In each case, the appeal has been granted with the
60 following contingencies:

- 61
62 1. The Building shall be equipped with an automatic fire suppression system; additional
63 heads shall be provided above on the interior of each opening in question.
64 2. The openings on the wall shall not exceed that shown on the submitted sketch
65 3. If an adjacent building is built, and impacts these windows, the windows shall be closed to
66 comply with the fire rating of the code, or the applicant shall return to the Building Board of
67 Appeals for a new appeal.
68

69 Staff feels that in doing this, an equivalent form of construction has been proposed and would
70 support this request with these contingencies.
71

72 K. Chamberlain (*Fire Marshall*) – The Fire Department concurs with the Building Department,
73

74 **Comments and Questions from the Board**

75
76 Robert Hart –It’s just the ground floor windows? (Yes – that is what puts us over the 25
77 percent). So it doesn’t affect any of the residential windows? (No, it’s the retail/commercial
78 section of the building’s windows that are involved). Would the PUD change closing up those
79 windows at a later date?
80

81 A. Savoni – That would be a planning issue. They would have to decide at that time whether
82 they would even allow another building to be built adjacent to it.
83

84 P. Darling – You’re currently six feet back from the property line right now and the ‘alley’ that
85 runs behind is owned by you? (The alley that runs perpendicular is owned by the city or the
86 public – the other is ours). What is the adjacent use there? (Opposite these windows? Braun
87 Court – real estate, restaurants, etc.)
88

89 **Discussion:**

90
91 **MOTION**

92
93 Moved by R. Hart, Seconded by S. Callan, “**In regard to Appeal Number BBA09-005, 401**
94 **North Fourth Avenue, that a variance from Section 704.8 and Table 704.8 of the 2006**
95 **Michigan Building Code be granted permitting unprotected openings greater than 25 but**
96 **not exceeding 37 percent, provided that the building shall be equipped with an automatic**
97 **fire suppression system and additional sprinkler heads shall be provided above each**
98 **window in question on the interior of each opening. Openings shall not exceed those**
99 **shown on the approved drawings. If an adjacent building is built on the adjacent lot, the**
100 **windows will be in-filled and closed to comply with the Fire and Building Codes, and/or**
101 **the applicant shall return to the Building Board of Appeals for a new appeal. We find this**
102 **to be equivalent to what the Code requires.**
103

104 **On a Voice Vote – MOTION PASSED – UNANIMOUS (Variance Granted)**

105 (1) ABSTENTION (K. Winters also returns to the Board at this time).

Amy Seetoo, owner of this property, is requesting a variance from Sections R305.1 R311.4.2.1 and R311.5.1 of the 2003 Michigan Residential Code.

Description and Petitioner Presentation

Petitioner is creating a finished space in the basement crating a bedroom, recreation room and a bathroom. The code violations requiring the variances are as follows:

- The finished ceiling height in this room is 6 7 feet 0 (zero) inches. The ceiling height under the soffit at the ductwork, ranges from 6 foot 4-1/2 inches to 6 foot 5 inches. Code requires a minimum 6 foot 6 inches at the soffit.
- The stair down to the basement is 34-3/4 inches wide. Code requires a minimum 36 inch width.
- There are three doors located under the soffit that are 6 foot 4-1/4 inches in height. Code requires a minimum height of 6 foot 6 inches.

Amy Seetoo, owner, and Andre Marcoux, contractor, were present to speak on behalf of the appeal. Ms. Seetoo reiterated the information in the staff report as accurate. Mr. Marcoux stated that the original stair had drywall on one side and block on the other. They added ¾ of an inch insulation and ½ inch drywall on the block wall, which reduced this area. As to the soffits, the ceiling heights in most of the area does maintain a minimum 7' height, and they have altered the ductwork and plumbing lines to minimize the soffit headroom inadequacies.

The best they could achieve was 6'5" from the floor to the soffits. The affected area is between the bar and the stairwell wall. The soffit in front of the bathroom projects approximately 14" from the wall. The doors which fall below the minimum heights all occur beneath those soffit areas. The one at the bottom of the stairway has no jam or trim to assist in achieving greater headroom.

Recommendation:

A. Savoni (*Building Official*) – Staff is supportive of the ceiling height and door height request.

With regard to the stair width, Staff would be supportive of granting this request 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."*

We would suggest that if the Board is supportive of granting any variance, a fully automatic, building wide smoke detection system be a condition of the variance.

K. Chamberlain (*Fire Marshal*) – The Fire Department concurs with the Building Department.

Comments and Questions from the Board

R. Hart – What is the actual clear height of the stair door? (6' 4 ½"). Within the plan of this space, where is the egress window? (It's in the bedroom area which isn't in this diagram. There is a bedroom there and it faces the back of the house.

A. Savoni – There is no lock on the bedroom door, correct? (Correct).

160 R. Reik – What is the soffit at the widest point? (Seetoo – Above the bar?-Under four feet).

161

162 K. Winters – Besides the width of the soffit, what is the headroom under the soffit? Paperwork
163 states 6'4 1/2" (Builder – 6'4 1/2 is the lowest). (Builder - States he can't say what the actual
164 width of that soffit above the bar is.)

165

166 K. Winters – We can word the motion to say what a maximum allowable width is.

167

168 P. Darling – (Asked about the door heights and stairway handrails).

169

170 **Discussion:**

171

172 **MOTION**

173

174 Moved by R. Reik, Seconded by R. Hart, "In regard to Appeal Number BBA09-006, 2939
175 Sheffield Court, that a variance be granted from Sections R305.1, R311.4.2.1 and R311.5.1
176 of the 2003 Michigan Residential Code, to permit a finished ceiling height under a soffit in
177 the basement a minimum of 6 Feet 4 1/2 Inches and a soffit width not to exceed 4 Feet 6
178 Inches; to permit a stair width of 34 3/4 Inches and three doors, located under the soffits
179 with heights of 6 Foot 4 1/4 Inches as a minimum. In consideration of this, a building-
180 wide, fully automatic smoke detection system shall be a requirement of the variance and
181 shall be installed to the satisfaction of the Fire Marshal. There will be NO LOCK installed
182 on the basement bedroom door that would prevent access to the required egress window
183 for emergency escape purposes. In the case of the stair width, we defer to Appendix "J"
184 of the Code. We find this to be equivalent to what the Code requires."

185

186 On a Voice Vote – MOTION PASSED – **UNANIMOUS (Variances Granted)**

187

188

189 **C-3 BBA09-007 – 305 Brierwood Street**

190

191 Matthew Nicholas of Unique Project Solutions, contractor for this property, is requesting
192 a variance from Sections R307.1 and Figure R307.1 of the 2006 Michigan Residential
193 Code.

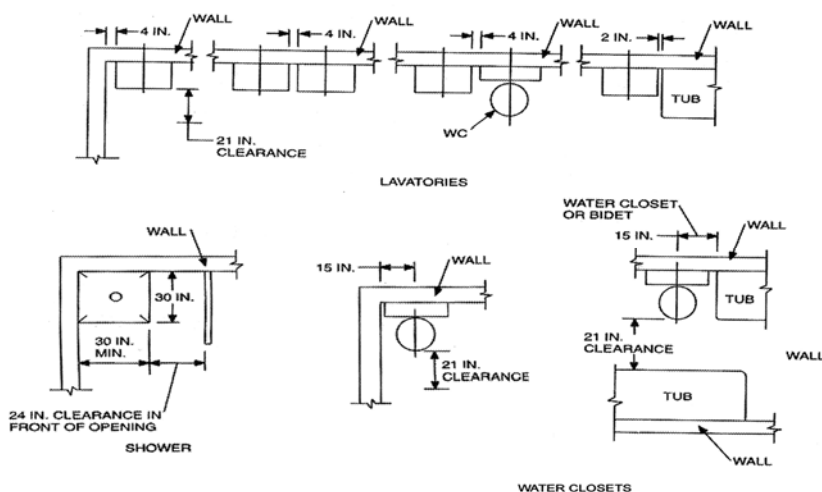
194

195 **Description and Petitioner Presentation**

196

197 The applicant is requesting a variance from Section R307.1 of the 2003 Michigan
198 Residential Code that requires that toilet fixtures spaced per the following diagram.

199



201 Petitioner is remodeling an existing bathroom. The bathroom does not meet code with relation
202 to fixture clearances. The bathroom is very small and there is not the required 4-inch clearance
203 between the toilet and the lavatory. The original bathroom walls were not changed.

204
205 Mr. Matt Nicholas was present to speak on behalf of the appeal. He stated they have moved
206 the toilet flange from the sidewall where it was previously to permit the 15 inches required. As
207 inspected, the toilet spacing was just under that. We can realign that, but probably will still fall
208 short of what is required by Code.

209
210 **Recommendation:**

211
212 A. Savoni (*Building Official*) - Staff is supportive of this request. This is a very small bathroom in
213 a very small house.

214
215 K. Chamberlain (*Fire Marshal*) – The Fire Department yields to the Building Department.

216
217 **Comments and Questions from the Board**

218
219 K. Winters – Previously there was an additional four inches or greater? (Nichols – In the
220 previous fixtures there was a greater space but closer to the closet wall.) So that would have
221 been a non-compliant dimension as well. (Correct.)

222
223 P. Darling – What is that dimension from? (A. Savoni – From the edge of the tank to the edge of
224 the lavatory. He has the smallest tank and sink you can probably buy.)

225
226 **Discussion:**

227
228 **MOTION**

229
230 Moved by P. Darling, Seconded by Reik, “**In Regard to Appeal Number BBA09-007, 305**
231 **Brierwood Street, from Section 307.1 and Figure 307.1 of the 2006 Michigan Residential**
232 **Code to allow the replacement of existing fixtures with new fixtures and allow a minimum**
233 **of 3 inch dimension from the edge of the sink to the edge of the toilet tank. We find this**
234 **to be equivalent to what the Code requires, given the conditions of the current**
235 **remodeling project.”**

236
237 **On a Voice Vote – MOTION TO APPROVE - PASSED – UNANIMOUS (Variance Granted)**

238
239
240 **C-4 BBA09-008 – 1009 South Main Street**

241
242 **Tom Wall owner of this property, is requesting a variance from Section R311.5.1 of the**
243 **2003 Michigan Building Code.**

244
245 **Description and Petitioner Presentation**

246
247 The applicant is requesting a variance from Section R311.5.1 which states that “*Stairways shall*
248 *not be less than 36 inches in clear width at all points above the permitted handrail height and*
249 *below the required headroom height.”*

250
251 Petitioner is replacing the stair to the basement. The new stair meets all code requirements
252 except for the width. The original stair was 28-1/2 inches wide. Based on the drawing, the new
253 stair is 32 inches wide at the bottom, narrows down to 28 inches and then widens out to 36

254 inches at the top. Petitioner states that they cannot make the stair any wider without altering the
255 structure of the house. The basement does have ground level access through an existing door.

256
257 Mr. Tom Wall was present to speak on behalf of this appeal. He stated that he and his wife use
258 this property as rental property. The home was built in 1898, all else is up to code. The
259 carpenter did some other additional work. He stated that even though the stairs are narrow, he
260 is a large guy and that he navigates those stairs comfortably. There is also an outside entrance
261 to the basement and this restricts the size of the stairs.

262
263 **Recommendation:**

264
265 A. Savoni (*Building Official*) – Staff would be supportive of granting this request based on
266 Appendix J of the code which states: “*Where compliance with these provisions or with this code*
267 *as required by these provisions is technically infeasible or would impose disproportionate costs*
268 *because of structural, construction or dimensional difficulties, other alternatives may be*
269 *accepted by the building official.*” The fact that there is also a ground level exit door in the
270 basement would further add to our acceptance of this condition.

271
272 We would suggest that if the Board is supportive of granting any variance, a fully automatic,
273 building wide smoke detection system be a condition of the variance.

274
275 K. Chamberlain (*Fire Marshal*) – (To Petitioner) Do those steps to the basement go tight against
276 that wall area into the open area? My concern is that if that is a ‘dead’ open space between
277 where the stair ends and where that wall to the left is, it could be a hazard. Is that wall solidly
278 attached to that? (T. Wall - That wall is secured pretty well).

279
280 My concern is if firefighters come down there carrying equipment, if that wall would give easily.
281 If there is a space that things could fall down into and get caught (i.e., Hoses, etc.) (T. Wall –
282 Yes, it’s solidly built). Based on the petitioner’s answers, the Fire Department concurs with the
283 Building Department.

284
285 **Comments and Questions from the Board**

286
287 P. Darling (to A. Savoni) Is the rise and run of the stairs compliant? (A. Savoni – Yes)

288
289 K. Winters – Kathleen brought up this question that I’d like to follow up on. The wall that is
290 adjacent to the stair – away from the outside wall. She stated that she wanted no ‘dead space’
291 between the stair risers and tread with the wall coming down? (T. Wall – As I look at the
292 pictures, I’m not a Builder. I’m fairly sure that that piece of board covered that area. If there are
293 any gaps, we would take care of that.)

294
295 I’m also looking at the next drawing you submitted which shows a bit farther down the steps – at
296 the end of that wall it appears that there is one stud and ½ inch plywood. I don’t see any other
297 studs on the stair side of that wall. The next drawing doesn’t show studs either. There is only
298 one stud there, and it is not adequate for what the Fire Marshall is concerned with. It looks like
299 the same piece of plywood. That wall should be built stronger.

300
301 Two layers of plywood or drywall. That wall is not adequate for what the Fire Marshall is
302 concerned with. My second concern is that projection on that stair. Will emergency personnel
303 even be aware that there is also a projection there? How large is that projection? (T. Wall - 4
304 inches). If firemen are coming up that stair, in smoke, they’re equipped with a hat, protective
305 equipment, backpack, etc., are they going to hit that projection? That is very large.
306 The required width is 36” and we’re down to 28 – that’s a lot.

307

308 P. Darling – What is the basement used for? (T. Wall – Stated that in the pictures he provided
309 show a washer, dryer and we use it for storage for my business – All Star Driver Education.
310 There is no dividing wall there. They’ll go down there to wash and dry their clothes, that’s it. He
311 stated that he had also just installed a new furnace as well.)

312
313 R. Hart – (To K. Winters – The structural issue of the wall aside, would you feel more
314 comfortable to transition the projection with a bevel at that area? The wider to the narrower
315 could be beveled to make certain it wasn’t so ‘sharp?’

316
317 K. Winters – Glad you brought that up – Yes, it does need to be beveled to about a 60 degree
318 angle. Once you go past the level of the bottom of that beam, it can be leveled or curved.
319 (T. Wall – How much would have to be cut off?) Not cutting it off, just beveling or softening it.
320 (R. Hart explained this to the petitioner).

321
322 A. Savoni – Told the petitioner that if his carpenter/contractor could come to the office, he would
323 draw up the small plan to show him how to achieve the bevel over the stair.

324
325 K. Winters – Is anyone concerned with the 28 inch stair width?

326
327 K. Chamberlain – It certainly isn’t desirable, but their equipment isn’t 28 Inches wide.

328
329 **Discussion:**
330 **MOTION**

331
332 Moved by P. Darling, Seconded by S. Callan “**In regard to Appeal Number BBA09-008, 1009**
333 **S. Main Street, that the Board grants a variance from Section R311.5.1 of the 2003**
334 **Michigan Residential Code, to allow an existing stair to remain in place under the**
335 **provision of Appendix “J” of the Code, with a minimum of 28 Inches at the top and 32**
336 **Inches at the bottom. Due to a 4 inch overhead projection on these stairs, a provision of**
337 **this variance shall be that a beveled piece of drywall or plywood be installed at a**
338 **60 degree angle from the horizontal to help ease the transition between the two surfaces**
339 **and soften the projection.**

340
341 **The sloped surface will be painted yellow or orange to bring attention to it.** The walls
342 separating the stairs from the rest of the basement shall have sufficient strength to
343 accommodate a 15 lb. per sq. ft. wall load. An Interconnected, hard-wired and/or remote
344 control fire protection system be installed throughout the entire house to the satisfaction
345 of the Fire Marshal. The existing ground level exit door must be maintained as an
346 emergency exit.

347
348 **On a Voice Vote – MOTION to TABLE - APPROVED – UNANIMOUS (Variances Granted).**

349
350 **D - OLD BUSINESS**

351
352 **E - NEW BUSINESS –**

353
354 **F - REPORTS & COMMUNICATIONS –**

355
356 **F-1 - Letter from State of Michigan – Re: Melting Pot Restaurant – A. Savoni**
357 **discussed with the Board and;**

358
359 **F-2 - Discussion on 401 East Washington no longer needing the elevator**
360 **compression variance.**
361

362 R. Hart – Asked what was being done with the “Dangerous Buildings” that the Board had
363 previously dealt with?

364
365 A. Savoni – Stated that he had heard from the attorney just today that they are taking the
366 owners to court and are going to force the owners to take the building down. Once again
367 the city is saying either you demolish it or we’ll demolish it.

368
369 B. Acquaviva - Are they stating anything about what they’re doing about site remediation
370 for the underground gas tanks? (A. Savoni – I did write to the Attorney and asked if they
371 were going to take the slab out or leave it in? I never received an answer about that.

372
373 **G - AUDIENCE PARTICIPATION – GENERAL**

374
375 **ADJOURNMENT**

376
377 The meeting was adjourned without opposition at 3:15 p.m.

378 ***Minutes prepared by B. Acquaviva, Administrative Support Specialist V***