



**APPROVED MINUTES OF THE REGULAR SESSION OF
THE HOUSING BOARD OF APPEALS - CITY OF ANN ARBOR, MI
100 NORTH FIFTH AVENUE - SECOND FLOOR – CITY COUNCIL CHAMBERS
APRIL 3, 2007**

I. The meeting was called to order at 1:30 p.m. by Chair Ron Suarez.

II. **ROLL CALL**

Members Present: (5) R. Suarez, D. Fleece, L. Wessinger, M. Goldstein,
C. Christiansen

Members Absent: (1) A. Stuart

Staff Present: (3) N. Sylvester, K. Chamberlain, and B. Acquaviva

III. **APPROVAL OF MINUTES**

Minutes of the March 6, 2007 Regular Session –

Moved by C. Christiansen, Seconded by D. Fleece, **“to approve the minutes of
March 6, 2007 Regular Session as presented.”**

On a Voice Vote – MOTION PASSED – UNANIMOUS

IV. **APPEALS & ACTION – UNFINISHED** - None.

V. **APPEALS & ACTIONS – TIME EXTENSIONS** – None.

VI. **APPEALS & ACTION – CLARIFICATIONS** - None.

VII. **APPEALS & ACTION – NEW**

2007-H-002 – 402 Benjamin Street

Ravi Sachdev, owner of this property, is requesting a variance from **Chapter 105, Section 8:503(6) of the Ann Arbor Housing Code to allow “Use of a Cellar Space as a Kitchen.”**

Staff Description and Discussion:

(N. Sylvester) – We visited the location with a site visit today looking at a kitchen located in a cellar at 402 Benjamin Street. The owner of this property, Ravi Sachdev, seeks to obtain a Housing Board of Appeals Variance from the grade requirements of the Housing Code in order to use a cellar space as habitable space. This is a twelve room Rooming House. The building is protected by an interconnected smoke detector system which is connected to a central station monitored 24/7 by HSM, previously known as Ann Arbor Alarms.

Section 8:503(6) of the Ann Arbor Housing Code prohibits the use of a cellar as habitable space unless approved by the Housing Board of Appeals based on a City inspection report showing that certain standards are met. The Cellar Requirements Worksheet is attached. The headroom at the bottom of the stairway drops to 5’4” above one tread and 5’6” at the next tread.

54
55 The Housing Code allows a reduction to 5'6" at one location covering not more than three treads if
56 interconnected smoke detectors are installed at the top of each flight of stairs within a common
57 stairwell.

58
59 There is a smoke alarm system in place that is monitored twenty-four hours per day. There is no
60 second means of egress from this kitchen area.

61
62 **Standards for Approval:**

63
64 **a. Practical difficulties or unnecessary hardship**

65
66 Prohibiting the use of the cellar area as a kitchen would create an unnecessary hardship for
67 the tenants because they would have no access to cooking facilities.

68
69 **b. The variance does not violate the intent of this chapter**

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71 The primary purpose of the Ann Arbor Housing Code is to protect the health, safety and
72 welfare of residents. By complying with the Cellar Requirements Worksheet, this will be
73 achieved.

74
75 **c. The variance does not jeopardize the public health and safety**

76
77 Public health and safety will not be jeopardized because the variance is contingent upon
78 the smoke detector, egress, electrical, sanitary sewer and radon requirements being met.
79 In addition, by granting this variance the tenants will be less likely to cook food in their
80 sleeping rooms, an outcome that would enhance the safety of the occupants.

81
82 **Recommendation:**

83
84 Staff recommends the following motion:

85
86 Motion to approve a variance from the grade requirements of section 8:503 to allow the cellar to be
87 used as a kitchen with the following contingencies:

- 88
89 1. Install a casement window with the following minimum clear opening:
90 27" wide by 47" high or 22" wide by 53" high; remove the counter in front of this window so that
91 clear access is provided; install an approved window well on the exterior of the building.
92 Building Permit required.
- 93 2. Maintain the interconnected monitored smoke alarm system 24/7.
- 94 3. Have the sanitary sewer cleaned by a qualified contractor.
- 95 4. Provide acceptable radon test results from a qualified contractor.
- 96 5. Install a stove/oven. Mechanical Permit required for gas line or electrical permit for outlet.
- 97 6. *Install an additional outlet above the counter if the stove will impede access to the existing
98 outlet. Ensure the outlet is operable and has GFCI protection. *(Had been replaced at time of*
99 *variance hearing).*
- 100 7. If a new or additional outlet is installed, an Electrical Permit is required.

101
102 K. Chamberlain (Safety Services) – My concern was the hot plate – we would like something more
103 permanent (this was discussed in N. Sylvester's report) and the addition of a second means of egress
104 and a permanent step in order to access that window, including permanent language on the step

105 stating what it is for and that it cannot be removed and that interconnected smoke detectors exist are
106 installed. (Petitioner stated there are detectors, but in the common areas only).
107
108

109 N. Sylvester – Stated that C. Christensen had also mentioned the egress step, and that their
110 discussion included location for that (just to the right of the current sink - cut out part of the
111 countertop) so that access to the window can be free. The sill of the window is probably going to be
112 about 36” off the floor, so this could accommodate that. Required dimensions for the egress window
113 are 27” wide by 47” high (clear opening) or 22” wide by 53” high (net/clear opening).
114

115 **Petitioner Presentation**

116
117 Mr. Ravi Sachdev was present to speak on behalf of the appeal. He stated that he has owned the
118 property for thirty-three years and this area has been used in this capacity for many years. If the
119 kitchen were not there, he is afraid that the residents would end up putting microwaves and various
120 cooking equipment in their rooms which would be a much greater hazard.
121

122 **Questions of Staff by the Board**

123
124 L. Wessinger – (To N. Sylvester) – I thought that ‘habitable space’ applied to bedrooms, so as far as
125 the radon concern, I’m not sure that I’m in agreement that the radon would be a problem since you’re
126 coming and going in this area as opposed to spending twelve hours per day in a bedroom.
127

128 N. Sylvester – The code does not make that distinction that it’s only bedrooms. “Habitable space” is
129 space that is used for eating, sleeping, living purposes and does not exempt any ‘habitable use’ from
130 the radon requirements. (*The Board discussed the radon requirements*).
131

132 D. Fleece – Stated what the requirements/standards were and that he would want to take the radon
133 results on a case-by-case basis as opposed to granting a blanket variance. He asked if the kitchen
134 was the only activity in that area. (N. Sylvester) – There is a boiler room next to it and a laundry area.
135

136 D. Fleece – I have no objections to the brief periods of time that someone uses the kitchen to warm
137 something up, but we are in an area with high levels of radon (per the E.P.A.) and we have had
138 homes tested within Washtenaw county that have been very high (over 100 ppc a liter, and the
139 standard is 4), so I don’t want to get to a point where we routinely set aside the radon requirement. I
140 would recommend (but not require) a radon test. If you have a high level, I would install a radon
141 removal system.
142

143 C. Christiansen – Asked about the common room areas. (The petitioner stated that there aren’t any.)
144 I’m uncomfortable not having a radon test as you have people who visit, extended stays, etc.
145

146 M. Goldstein – I have concerns with the radon as we all know that students eventually come back,
147 hang out in the ‘common areas;’ this is the only common area, and they’ll be spending more time
148 down there.
149

150 L. Wessinger – Second means of egress. If you think about any normal kitchen, the counter would be
151 in front of the window. You would just climb on the counter to exit the window, so why the specificity
152 of the step for the egress? (N. Sylvester) – In order to get the proper height, it will run into the
153 counter.
154
155

L. Wessinger – I like the idea of the full stove and I would be in support of the staff recommendation on that as it is much safer than the hot plate.

N. Sylvester – Smoke detectors – currently monitored. Mentioned that the Board might want to mention that these continue to be monitored in the future in case the property ever changes hands.

L. Wessinger – We're not in the business of requiring that.

N. Sylvester – A concern about the new stove covering the outlet that exists, in which case we'd like another outlet over the countertop area.

MOTION #1

Moved by L. Wessinger, Seconded by M. Goldstein, **“that Appeal Number 2007-H-002, 402 Benjamin Street, be granted a variance dependent on staff recommendations that include the following:**

- 1. Install a casement window with the following minimum clear opening: 27” wide by 47” high or 22” wide by 53” high and remove the counter in front of this window so that clear access is provided. The maximum step up from the floor to the step or the step to the window shall be no more than 24”;** Building Permit required.

A permanent sign shall state that this step is for egress purposes and shall not be removed. The step shall be permanently attached as it is considered a part of the emergency (egress) exit and shall run the length of the window. Install an approved window well on the exterior of the building.

- 2. Maintain the interconnected smoke alarm system.**
- 3. Have the sanitary sewer cleaned by a qualified contractor.**
- 4. Install a stove/oven. Mechanical Permit required for gas line or electrical permit for outlet.**
- 5. *Install an additional outlet above the counter if the stove will impede access to the existing outlet. Ensure the outlet is operable and has GFCI protection. (Owner stated this had already been replaced prior to the variance hearing).**
- 6. If a new or additional outlet is installed, an Electrical Permit is required.**
- 7. Completion date of 90 days.”**

On a Voice Vote – MOTION PASSED - UNANIMOUS – Variance Granted

C. Christiansen - Friendly Amendment – (Add radon requirements). Amendment dies – C.C. Asks that this be done by the owner, but not a part of the last motion. (N. Sylvester) Stated that if the Board does not require this test that the owner take it upon himself to have the radon levels checked.

MOTION #2

Moved by L. Wessinger, Seconded by C. Christiansen, “that Appeal Number 2007-H-002, 402 Benjamin Street, be granted a variance for the requirement of a radon test for the cellar kitchen; however, the Board urges the petitioner to have the test done of his own accord.”

On a Voice Vote – MOTION PASSED - UNANIMOUS – Variance Granted

- VIII. UNFINISHED BUSINESS - None.
- IX. NEW BUSINESS - None.
- X. OLD BUSINESS - None.
- XI. REPORTS & COMMUNICATIONS - None.
- XII. AUDIENCE PARTICIPATION – GENERAL - None.
- XIII. ADJOURNMENT

Moved by R. Suarez, Seconded by C. Christiansen “that the meeting be adjourned.”

On a Voice Vote – MOTION PASSED - UNANIMOUS

Chair Ron Suarez adjourned the meeting at 2:23 p.m.

(Submitted by: Brenda Acquaviva, Administrative Support Specialist V – Housing Board of Appeals)