



**APPROVED MINUTES OF THE REGULAR SESSION OF THE  
BUILDING BOARD OF APPEALS OF THE CITY OF ANN ARBOR  
NOVEMBER 12, 2008 - 1:30 P.M. – SECOND FLOOR – COUNCIL CHAMBERS  
100 N. FIFTH AVENUE, ANN ARBOR, MI 48104**

**MEETING CALLED TO ORDER** at 1:36 p.m. by Chair Kenneth Winters

**ROLL CALL**

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

Members Absent: (0)

Staff Present: (4) A. Savoni, K. Chamberlain, Vernon Pappas and  
B. Acquaviva

**A - APPROVAL OF AGENDA**

**A-1** Approved as Presented without opposition.

**B - APPROVAL OF MINUTES**

**B-1** September 8, 2008 Draft Minutes

Moved by R. Reik, Seconded by R. Hart, "to approve the September 10, 2008 Draft Minutes." (Note: There was no October meeting, and no minutes).

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

**C - APPEALS & ACTION**

**C-1 BBA08-010 – 711 Packard Road**

**Sahba La'al, architect for for this property, is requesting a variance from Section 1008.1.1 of the 2003 Michigan Building Code.**

**Description and Petitioner Presentation**

The applicant is requesting a variance from section 1008.1.1 of the 2003 Michigan Building Code which states "*The minimum width of each door opening shall be sufficient for the occupant load thereof and shall provide a clear width of not less than 32 inches. Clear openings of doorways with swinging doors shall be measured between the face of the door and the stop, with the door open 90 degrees.*" Further, exception 5 in this section states: "*Door openings within a dwelling unit or sleeping unit shall not be less than 78 inches in height.*"

Petitioner has created an apartment in the truss space on the fourth floor in an existing building. This space was finished without permits and applicant is now obtaining permits to certify this space as legal rental space. The architect states that the existing trusses are adequate to support the floor and roof loads.

51 As shown on the submitted drawings, the corridor in the apartment is clipped off at the top  
52 corner, at the locations where it passes through the truss. This encroaches on the required  
53 minimum door width of 32 inches wide by 78 inches high.

54  
55 It should be noted that petitioner is calling this a “door opening” even though a door does not  
56 exist at these locations. Section 1003.2 requires a minimum corridor height of 7 feet 0 (zero)  
57 inches. Protruding objects are allowed to extend below the required ceiling height provided a  
58 minimum ceiling height of 80 inches is provided for any walking surface. Section 1016.2 would  
59 require a minimum corridor width, within dwelling units, of 36 inches.

60  
61 Mr. Sahba La'al, architect on the project, was present to speak on behalf of the appeal. He  
62 gave a history of this building, in which the owner, Mr. Lagos once operated a store on the  
63 ground floor level and had this particular space as an apartment and office for himself, in which  
64 he lived in the 1970's and 1980's. He stated that they have passed all of the building trade  
65 permits and fire inspections. Once it was decided that Mr. Lagos wanted to rent this unit, it was  
66 determined that some facets did not meet code. The site plan for this has been approved, but  
67 we need a variance for the headroom.

68  
69 He added that there is a corridor in the lower level that opens to two other apartments (units 2  
70 and 3) where the same condition exists as this proposed apartment. Those were approved in  
71 the 1980's without variances. Those spaces have less headroom than apartment 5 which we  
72 seek the variance for. This apartment has more width and height than the others (**Note:**  
73 **Petitioner is referencing *Housing Code*, and not *Building Code*, which has different**  
74 **requirements. Had this apartment had legal permits, the building aspect of this would**  
75 **never have been allowed under past or current building code).**

76  
77 **Recommendation:**

78  
79 A. Savoni (*Building Official*) – Staff is not supportive of this request. The space the petitioner is  
80 providing does not meet minimum requirements for a corridor, which it is, nor does it meet the  
81 reduced minimum requirements for a door opening.

82  
83 We would suggest that if the Board is supportive of granting any variance, a fully automatic,  
84 building wide smoke detection system be a condition of the variance.

85  
86 K. Chamberlain (*Fire Marshal*) – The Fire Department concurs with the Building Department,  
87 and states that they have no record of a Fire Inspection at that location. (S. La'al – Stated that  
88 he had a copy of the Fire Inspection with him. *Note: Mr. La'al did not offer staff a copy of that*  
89 *document*). I have not found a record of an inspection at that location. Do you have a sprinkler  
90 system in that building? I was refused entry to check the sprinkler system prior to your  
91 occupancy. (No, it does not have a sprinkler system).

92  
93 **Comments and Questions from the Board**

94  
95 R. Hart (To A. Savoni) – Is this looked at as a corridor or a doorway, and is this under the 2003  
96 Code or the 2006 Code? (Even though they applied for this permit after the work had already  
97 been done, it was applied for during the effective dates of the 2003 Michigan Building Code.  
98 This situation has been ongoing. This is really a corridor with some penetrations or  
99 ‘indentations;’ it's not really a doorway).

100  
101 K. Chamberlain – Otherwise, it would still be considered as a part of the means of egress.

102  
103 R. Hart – (To S. La'al) – Can you explain how you get in and out of this apartment? There is a  
104 stair that leads to a roof, then there's a stair to the street, then there's a spiral stair mid-way in

105 the apartment? (S. La'al – Yes. The spiral stair goes into a central stairway that the other four  
106 apartments have access to, and that goes all the way down to the south (or right) going to  
107 Packard Street). A top to bottom stair? (Yes. The other stair goes half way to a roof, then if  
108 you continue, there is another enclosed stair that goes directly to the parking lot and out).

109  
110 R. Hart (To A. Savoni) – Doesn't the spiral stair have to be rated? (Yes, it should be a rated  
111 stair). He has issues beyond the corridor egress if that stair is not completely enclosed).

112  
113 K. Winters – Enclosed meaning a fire door? (R. Hart – Yes).

114  
115 S. Callan – Any apartment building three stories and taller has to have an automatic fire  
116 sprinkler system. Now that they're using the third floor, it has to be brought up to code.

117  
118 A. Savoni – The question is, when did you apply for the permit to do this work? (S. La'al –  
119 About a year ago). A sprinkler system would be required as they are now required in any  
120 residential occupancies that are mixed with commercial use. You would have to have one.  
121 (Even though they would be fire separated from each other?) Yes. Anything other than a one  
122 or two family home now has to have a sprinkler system.

123  
124 K. Winters – There is also the requirement that Bob brought up regarding the spiral stair being  
125 enclosed. At each floor level where you would gain access to it, you would have to have a door,  
126 and that is not part of this appeal. I'm not sure it's something that could be appealed.

127  
128 A. Savoni – Basically, the work was done without permits, the owner lived in it, now we're trying  
129 to make this legitimate to make it a rental property. When it was originally reviewed, the fact  
130 that this was built illegally was not set forth.

131  
132 *(Questions from the Board to the Architect regarding the submitted drawings and continued*  
133 *dialogue addressing the openings, the angles, the trusses and various aspects of the floor and*  
134 *proposed apartment as well).*

135  
136 **Discussion:**

137  
138 *(Discussion by the Board on required ceiling heights (required is 7 ft) as opposed to the current*  
139 *6'6 inches that exists. The corridor width is also a problem – existing is 32 inches; code*  
140 *requires 36 inches. The projections are also projecting into the space more than a foot, which*  
141 *would make the head room at that juncture 5 ft., 4 inches).*

142  
143 P. Darling (To S. La'al) – We have three ways in which we can grant a variance; 1. The intent of  
144 the Code is not being interpreted correctly, 2. The version of the code is not being applied  
145 correctly, or 3. You can accomplish an alternative to this that is equal to or better than what the  
146 code requires. Which one of these three do you see that would fit your request for this appeal?

147  
148 S. La'al – Better construction. We are going to provide a smoke detection system throughout  
149 the building, and we will provide additional emergency lighting in that corridor and mark these  
150 openings as lower, so that whoever is passing through would be aware of those.

151  
152 K. Winters – (Asked the architect about conflicting information regarding the ridge line). Looking  
153 at the scale attached to this, something is wrong. (S. La'al – That's an error in the drawing. I  
154 will have to revisit that). Does this ridgeline affect the spiral stair? (Everything would be moved  
155 to the bottom. I will have to re-measure those rooms for the distance to the parapet, though it  
156 won't affect the stairway clearances. The spiral stair is between the two truss lines). The  
157 building department would have to have a drawing that reflects the actual 'condition.'

158

159 S. Callan – You’re also talking about just putting in a building wide smoke detection system, and  
160 we’re advising you that you must have a building wide sprinkler system – that is not a choice, it’s  
161 a requirement.

162  
163 R. Hart – That is a ‘minimum’ requirement, but there are other latent issues that have come out.  
164 Is a 28” wide spiral stair ok for a four story building? (A. Savoni – Yes, because it’s only one  
165 floor).

166  
167 (After extensive discussion between the petitioner and the Board, it was determined that the  
168 petitioner needed to revisit his drawings and return at a later meeting to try to look at this more  
169 comprehensively. There are too many issues to solve with incorrect drawings and information).

170  
171 R. Hart – Suggested that because this is going to become a rental property, drastic measures  
172 will have to be undertaken to solve this problem. (He suggested that it is not improbable or  
173 impossible to reconfigure the truss so that the opening is clean. The kingpost can be left where  
174 it is and reconfigure the cord). The entire issue needs to be re-evaluated.

175

176 **MOTION**

177  
178 Moved by S. Callan, Seconded by R. Hart, “**To Table Appeal Number BBA08-010,**  
179 **711 Packard Road, FOR SIXTY DAYS in order to allow the petitioner to revisit the site, re-**  
180 **measure the areas in question and propose a different solution.**

181

182 **On a Voice Vote – MOTION TO TABLE - PASSED – UNANIMOUS (Tabled for 60 Days)**

183

184

185 **C-2 BBA08-011 – 1235 Bardstown Trail**

186

187 **Description and Petitioner Presentation**

188  
189 **Renewal by Anderson, contractor for this property, is requesting a variance from Section**  
190 **R310.1 of the 2003 Michigan Residential Code.**

191  
192 The applicant is requesting a variance from Section R310.1 which states: “...*Every sleeping*  
193 *room shall have at least one operable emergency escape and rescue opening. All emergency*  
194 *escape and rescue openings shall have a minimum net clear opening of 5.7 square feet. Grade*  
195 *floor openings shall have a minimum net clear opening of 5 square feet. The minimum net clear*  
196 *opening height shall be 24 inches. The minimum net clear opening width shall be 20 inches.*”

197  
198 Petitioner has replaced the picture and awning style windows in this house with new double  
199 hung windows. Per the building code, the windows in all bedrooms must meet egress. The  
200 bedroom windows are required to have a net clear opening of 5.7 square feet. Petitioner states  
201 that they have a net clear opening of 4.317 square feet (approximately a 25% reduction from the  
202 required opening size.)

203  
204 The policy of the Building Department for the years that this code requirement has been in effect  
205 states:

206  
207 Appendix J (Existing Buildings & Structures) of the code states “*Minor reductions in the clear*  
208 *opening dimensions of replacement doors and windows that result from the use of different*  
209 *materials shall be allowed, whether or not they are permitted by this code.*”

210

211

212 Mr. Robert Minush of Renewal by Anderson was present to speak on behalf of the appeal. He  
213 stated that they had done window replacement for the owner whereby they took out a  
214 combination window – a picture window on the top and an awning window on the bottom that  
215 ‘cranked out.’ He stated that they did bring samples with them to demonstrate what type of  
216 window was removed and what they replaced it with.

217  
218 The issue is that they took a non-compliant egress window and replaced it with the best possible  
219 solution to maximize the egress. They meet egress requirements with the width and height of  
220 the double-hung, but are slightly shy of the required 5.7 feet requirement for the opening. Even  
221 though we improved the opening, it does not meet code. There was no header or  
222 reconstruction done. We replaced it with what would fit into the existing opening.

223  
224 Homeowner – Stated that there are four bedrooms with 8 windows – We would have to redo at  
225 least one window in every room. It’s not just one window in question, but four windows.

226  
227 **Recommendation:**

228  
229 A. Savoni (*Building Official*) – Mr. Savoni stated that he would read the policy that has been in  
230 effect with the Building Department for years, and also available to the public in the form of an  
231 informational printed hand-out.

232  
233 ***“When replacing windows in current bedrooms or replacing windows in  
234 basements with habitable spaces which do not meet egress requirements, the  
235 homeowner or contractor is required to meet egress requirements if changing the  
236 style of the window. If window styles do not change, the homeowner or contractor  
237 is encouraged to make the opening as large as possible by enlarging the opening  
238 to the existing framing members; however, the Building Code does allow minor  
239 reductions in the clear openings of replacement windows. If the existing frames  
240 are left in place and new windows installed, the reduction in clear opening space  
241 must be no more than 10%.”***

242  
243 Therefore, staff is not supportive of this request. The building code has specific requirements  
244 for egress windows in bedrooms. The Building Department has interpreted this to require  
245 egress windows in this situation. We would suggest that if the Board is supportive of granting  
246 any variance, a fully automatic, building wide smoke detection system be a condition of the  
247 variance.

248  
249 K. Chamberlain (*Fire Marshal*) – The Fire Department concurs with the Building Department.

250  
251 **Comments and Questions from the Board**

252  
253 S. Callan (To A. Savoni) – Clarify this for me? The windows are the correct height and width,  
254 but overall area is too small? (A. Savoni – Yes, but by 25%, not 10% as allowed by code).

255  
256 Petitioner – Part of the logic of going with the double-hung window was to get some sort of  
257 egress. If we had put the same type of window back in place (picture over awning style), the  
258 homeowner would still not meet egress – but the homeowner would not be before you for a  
259 variance, because replacing like kind windows would pass inspection.

260  
261 Homeowner – The alternative for us is that if this is not approved, we would have to go back and  
262 reinstall awning style windows.

263  
264 K. Winters – If they put the same thing back, it’s not required to meet egress? (A. Savoni – If  
265 you’re not changing the ‘style,’ you’re not required to meet egress. By Code, it’s not considered

266 'new construction' which would trigger that it be brought up to current code standards of egress.  
267 Since they changed the style of the window, it is considered 'new construction').  
268 (Discussion between the Board and petitioner regarding previous and current windows).  
269

270 S. Callan – Does the home have a building wide smoke detection system? (Homeowner – Just  
271 smoke detectors). How wide are the windows? (Petitioner – Clear opening width is currently 28  
272 and 3/8 inches; clear opening height is 21 3/8). *The petitioner offered to show the samples that*  
273 *they brought with them.* After further discussion it was determined that the clear opening height  
274 also does NOT meeting code.  
275

276 A. Savoni – Informed the petitioner that there is a double-hung window (all one piece) available  
277 that opens like a 'door' instead of a window, allowing greater clear space and meeting code.  
278 (Petitioner stated that Anderson windows does not make that style of window).  
279

280 P. Darling – Asked how the window unlatches to allow the window to be opened for egress  
281 escape. Petitioner stated that the window can be moved up or down and can pop out. They are  
282 not glued shut.  
283

284 (The Board and the Petitioner looked at the samples they brought with them and discussed  
285 opening techniques. P. Darling suggested that if the Board considered granting a variance for  
286 these windows, that instruction signage permanently attached nearby each window might  
287 suffice. Addition of smoke detectors would also be a contingency).  
288

## 289 Discussion:

## 290 MOTION

291  
292  
293 Moved by P. Darling, Seconded by S. Callan, "In regard to Appeal Number BBA08-011,  
294 1235 Bardstown Trail, the Board grants a variance from Section R310.1 of the 2003  
295 Michigan Residential Code, to allow the use of replacement windows as egress windows  
296 out of the four current bedrooms that are less than what the current code requires for  
297 egress standards in the City of Ann Arbor, provided that an interconnected, building-  
298 wide smoke detection system be installed to the satisfaction of the Fire Marshall. In  
299 addition, a 3 x 5 inch sign shall be permanently affixed and posted next to at least one  
300 window in each bedroom, indicating how the upper sash can be removed to provide an  
301 enlarged, clear opening width that would meet the 5.7 feet of required square footage.  
302 We find this to be equivalent to what the code requires."  
303

304 On a Voice Vote – MOTION PASSED - **UNANIMOUS (Variances Granted)**  
305  
306

## 307 **C-3 BBA08-012 – 201 South Main Street**

308  
309 **Robert T. Gates, building manager for this property, is requesting a variance from**  
310 **Section 503.5.6.1 of the 2006 International Fuel Gas Code.**  
311

## 312 Description and Petitioner Presentation

313  
314 The applicant is requesting a variance from the following Section 503.5.6.1 of the 2006  
315 International Fuel Gas Code which states: "Chimneys shall be lined in accordance with NFPA  
316 211" The exception further states that "Existing chimneys shall be permitted to have their use  
317 continued when an appliance is replaced by an appliance of similar type, input rating, and  
318 efficiency."  
319

320 The building has two boilers, one primary and one standby. For the past 24 years, the primary  
321 boiler has been the one used over 99% of the time. Petitioner is installing a new boiler on the  
322 pad occupied by the standby boiler and this will now become the primary boiler. The chimney  
323 for these boilers is not lined. The code requires that a liner be installed when a boiler is  
324 replaced unless the old and new boilers are of similar type. The new boiler is the same type as  
325 the primary boiler but is different from the standby boiler. Petitioner states the chimney has  
326 been inspected and shows no signs of deterioration.

327  
328 The liner forms the flue passageway and is the actual conductor of all products of combustion.  
329 The chimney liner must be able to withstand exposure to high temperatures and corrosive  
330 chemicals. The chimney lining protects the masonry construction of the chimney walls and  
331 allows the chimney to be constructed gas tight. This section of the code regulates liners and  
332 relining systems. Liners are often used to salvage a masonry chimney or allow connection of  
333 higher efficiency appliances.

334  
335 The exception is intended to allow an unlined chimney to serve a new appliance that is installed  
336 to replace a previously served appliance if the new appliance does not create any different  
337 operating conditions in the chimney; that is the volume, water vapor content and dilution air  
338 content of the new appliance flue gasses are the same as those of the old appliance.

339  
340 Mr. John Teeter (substituting for petitioner Mr. Robert Gates) of First Martin Corporation and  
341 Dennis Skomack of Peter Bass and Associates were present to speak on behalf of the appeal.  
342 Mr. Teeter stated that there is a 1985 cast sectional boiler, which is the primary boiler for  
343 heating the building. There was a 1929 Pacific steel boiler that was the stand-by boiler in the  
344 building, and that one is being replaced with another boiler that is basically identical to the other  
345 1985 boiler which will now serve as the primary boiler, leaving the other one as the back-up  
346 boiler.

347  
348 What is triggering the demand for the liner is that the Code states that a liner must be installed  
349 when a boiler is replaced unless the old and new boilers are of a similar type. The boiler that  
350 has been running since 1985 is identical to the new one we're installing, but different from the  
351 one being replaced (the 1929 model). We had looked at other products that might have  
352 different efficiencies, but we would have to excavate out into the sidewalk into Washington  
353 Street to create a path into the building to put one in, and this is why we're requesting the  
354 variance. He concluded that they have had the chimney inspected and it is in good condition.

355  
356 **Recommendation:**

357  
358 Vernon Pappas – Mechanical Inspector - Staff is not supportive of the request to not line the  
359 chimney. The exception to lining states "Existing chimneys shall be permitted to have their use  
360 continued when an appliance is replaced by an appliance of similar type, input rating and  
361 efficiency". The applicant was requested to provide a full report regarding the efficiency of the  
362 existing boiler. Absent documentation, we cannot assume the efficiency of a much older boiler  
363 to be equivalent to today's efficiencies. The petitioner also cites hardship as the reason for not  
364 lining the chimney.

365  
366 The Code does not allow this as a reason for appeal. In essence, the 1929 boiler that was  
367 removed is being replaced with another boiler that is not the same efficiency rating. This can  
368 cause subsequent problems to the chimney and cause degradation in the overall condition of  
369 the building. This is a 60 percent efficiency boiler being replaced with an 80 percent efficiency  
370 model. The chimney must be resized to accommodate the new boiler. This code changed in  
371 the year 2000. In trying to improve efficiency in today's boilers, you also create condensation  
372 which can change flue temperatures and the mortar in the brick absorbs the condensation and  
373 becomes a 'wick.' Once the exterior temperatures drop, that condensation will freeze, expand

374 and 'blow out' the bricks in the chimney and cause the chimney to come down, thereby plugging  
375 up the flue – this is the reason for the liner.

376 If the boilers were wired so that only one boiler can operate at a time, you can resize the  
377 chimney to a much smaller size and you can install a smaller liner that would not require the  
378 extensive construction that the petitioner cites.

379  
380 K. Chamberlain – The Fire Department concurs with the Building Department.

381  
382 **Comments and Questions from the Board**

383  
384 S. Callan – This is heat coming out of the new boiler or the vapors that are of concern?  
385 (V. Pappas – Both – byproducts of gas are carbon dioxide and water going up the chimney.  
386 With 80% efficient boilers, the flue temperatures are about 350 degrees. On the old boilers at  
387 60 % efficiency, the temperatures were nearly doubled – 700 degrees, so they were able to  
388 keep that brick dry and the moisture could not develop within the chimney. Now with the  
389 reduced flue gas temperature, the moisture would just collect and suck in the moisture. I spoke  
390 with the contractor that evaluated the chimney, and they're recommendation is also to line the  
391 chimney with a new liner. There is also pressure differential from outside air that will affect  
392 these conditions as well).

393  
394 Dennis Skomack (Contractor) – Stated that they are not disputing that the boiler they're  
395 installing has a higher efficiency than the one that is being replaced, but the boiler that has been  
396 operating using this chimney has not experienced those problems. The inspection that we had  
397 done showed no problems with the brick and mortar currently in place. We don't expect that  
398 these boilers will run simultaneously.

399  
400 (The Board asked questions regarding the intent of the code and the code change in the year  
401 2000. Inspector Pappas stated that the code changed specifically due to chimney disasters due  
402 to exactly this type of situation. The code says you *must* line all chimney's when a new  
403 'appliance' is installed. We require this even on homes that replace a gas burning appliance –  
404 the chimney must be lined).

405  
406 P. Darling – How often do you currently do chimney inspections – Annually, semi-annually?  
407 (Petitioner - We don't do that on a schedule. We did this one because of the replacement  
408 boiler). If we were to allow a variance to replace this boiler without the chimney liner, I think we  
409 would want to see more frequent inspections of the chimney to be certain that it's not  
410 deteriorating. (If that's something you'd want to do, I'd say that annually is probably excessive  
411 and that the time period should be stretched out a bit more than that). Is the cost factor the  
412 biggest reason for not wanting to line it? (The cost would be about \$30,000.00 and \$35,000.00).

413  
414 S. Callan – What does it cost to do a chimney inspection? (The cost was \$100.00).

415  
416 V. Pappas – I want to emphasize that the 'exceptions' mentioned mean that you must meet all  
417 three conditions – not one, but all three in order for the exception to apply. This doesn't meet  
418 the efficiency.

419  
420 P. Darling – In my mind, they've been using a similar boiler for 25 years and don't see any  
421 problems with that is reassuring to a point. The fact that this is a secondary boiler that may not  
422 run at the same time – if we're granting a variance, we want to make sure that it doesn't  
423 deteriorate, bricks fall in – blocking the draft. So, an additional inspection turned into the city  
424 might be a consideration as an alternate method.

425  
426 R. Reik – (To V. Pappas) – Would it be prudent to put a lock on one so that only one runs at a  
427 time? Would that be a benefit at all?



428 V. Pappas – It won't benefit us without resizing the chimney. I'd feel more comfortable if they  
429 were both operating at the same time – one first stage, the other second stage, so they would  
430 be operational at the same time to provide enough heat up the chimney without having a  
431 problem. I believe the Board would be making an error to grant this variance, as the code  
432 doesn't give you that option.

433  
434 R. Hart – We're being asked to rule on the exception in this code, correct? Not the fact that the  
435 code 20 plus years ago might have warranted resizing the chimney because of a higher  
436 efficiency appliance in 1985. The essence is that the code says if you're replacing the  
437 appliance, spec for spec, it will allow the unlined condition to continue? (Correct)

438  
439 K. Winters – What size is the chimney at present? (V. Pappas – 26 ½ x 30 is what it appears  
440 per their paperwork. This is also an outside chimney, and that's another code problem – all  
441 outside chimney's are to be lined).

442  
443 R. Reik – The changes they made in 1985 was under different code. If they had made those  
444 changes under this current code, it would have had to been have been lined. Since 1985, there  
445 is enough evidence that the design changes mandate these changes due to better efficiencies  
446 in appliances. The fact is, this stack was designed for a different boiler. There is enough  
447 evidence to say that this circumstance has caused problems with other chimneys. My concern  
448 is letting them be 'grandfathered in' for this second boiler – when it's the lining and sizing. We're  
449 trying to prevent these types of situations from occurring, not inspect and see whether or not  
450 they're happening. I think it should be sized correctly and a liner installed.

451  
452 V. Pappas (To Petitioner) – When the chimney was last inspected, did they provide you with a  
453 video inspection, or just provide the one picture you've given us? (We don't have one, we can  
454 find out if they have one). A video of the whole chimney would give us a better idea of the  
455 condition of the chimney after the last 24 years of operation. As you get to the top of the  
456 chimneys, this is where you see most deterioration, caused by condensation.

457  
458 R. Hart – We're being asked to rule on the exception in the code, correct? Not that the code 20  
459 odd years ago may have warranted resizing the chimney in 1985? The essence of the variance  
460 states that if you have an unlined chimney, and you replace the appliance 'spec for spec' that it  
461 will allow the unlined condition to continue, is that correct? (V. Pappas – Correct).

462  
463 **MOTION**

464  
465 Moved by R. Hart, Darling Seconded by R. Reik, **"In regard to Appeal Number BBA08-012,**  
466 **201 South Main Street, the Board grants a variance from Section 503.5.6.1 of the 2006**  
467 **International Fuel Gas code, whereby an existing unlined masonry chimney is allowed to**  
468 **remain in that condition, provided that the new boiler that is replacing the existing**  
469 **standby boiler, is the exact same specification as the current primary boiler (i.e, meeting**  
470 **identical operating conditions; volume, water vapor content, dilution air content and flue**  
471 **gases, etc.) and have an identical efficiency rating. The current alternating sequence of**  
472 **operation between the permanent and standby boiler be maintained.**

473  
474 **An annual video inspection of the chimney will be conducted as a part of this variance to**  
475 **demonstrate non-deteriorated condition of the masonry. The results of these inspections**  
476 **shall be given to the building department in actual video form as provided by the**  
477 **inspections company. If deterioration is found, a code compliant lining will be required**  
478 **at that time. We find this to be equivalent to the intent of the Code.**

479  
480 **On a Voice Vote – MOTION PASSED – 3 Yes, 2 No**  
481 **YES (3) – R. Hart, P. Darling, S. Callan NO (2) – K. Winters, R. Reik (Variance Granted)**

Philip A. Duncan of Hamilton Building, contractor for 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**

The applicant is requesting a variance from the following sections of the 2003 Michigan Residential Code:

- Section R305.1 that requires a 7 foot 0 (zero) inch ceiling height in a basement with habitable space, and allows beams/girders not less than 4 feet on center to project below, a maximum of 6 inches.
- Section R311.4.2.1 which states that *“Interior doors shall be not less than 24 inches width and 6 feet, 6 inches in height.”*
- Section R311.5.1 which states that *“Stairways shall not be less than 36 inches in clear width at all points above the permitted handrail height and below the required headroom height.”*

Petitioner is creating a finished playroom in the basement. This space will contain an egress window. The code violations requiring the variances are as follows:

- The finished ceiling height in this room is 6 foot 10-1/2 inches. The ceiling height under the soffit will be 6 foot 3-1/2 inches. Petitioner does not show the exact location of the soffit on the submitted plans.
- The stair down to the basement is 30 inches wide. Code requires a minimum 36” width.
- There are two doors located under the soffit that are 6 foot 0 (zero) inches in height. Code requires a minimum height of 6 foot 6 inches.

Phillip Duncan was present to speak on behalf of the appeal. He stated that the homeowner was aware that the renovation they wanted to do would require moving the furnace, which they did at significant cost. All of the ducts are now run through a single soffit which gained as much ceiling height as possible through about 80 % of the basement. They are about 1 ½ inches from the 7 foot minimum. The existing staircase running down into the basement didn’t meet rise and run, so they ripped that out and rebuilt that. In order to make the stairs completely compliant at 36”, we would have had to completely rebuild the foyer upstairs that runs from the main floor to the second floor, which is cost prohibitive.

The third issue is the interior door height - a door going into a small bathroom that was a part of the addition. The bathroom is located where it is because of proximity to plumbing in the basement. They looked at two alternative places to put a door, but both ran into the same problem – they were both underneath the new soffit. That door height is 72”. As a proactive measure to this, they did install a fully-automatic, building wide smoke protection system.

**Recommendation:**

A. Savoni - Staff is supportive of the ceiling height request in the room. 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.”*

535 Staff is not supportive of the door height and would like to see the space reworked to avoid this  
536 condition. The door height is too low and could impede rescue efforts in the case of an  
537 emergency. We would suggest that if the Board is supportive of granting any variance, a fully  
538 automatic, building wide smoke detection system be a condition of the variance.  
539

540 K. Chamberlain – The Fire Department concurs with the Building Department. I don't have a  
541 problem with the door width, but the door height is a problem. I also don't know where the soffit  
542 starts. It appears from the bathroom area trying to reach the stairwell, is there another soffit  
543 drop that you have to negotiate? Also, from the playroom, is this a condition there as well?  
544

545 Petitioner – Yes, the soffit runs under that area (showing information on plans).  
546

547 So you DO have to go under that soffit to get to the playroom from the stairs? (Correct). Is  
548 there any soffit in the bathroom as well? Is there a continuous drop, or a higher ceiling in the  
549 bathroom? (The soffit does narrow as it comes in, but the soffit runs over that bathroom door.  
550 Once you're in the bathroom, the ceiling height does increase). I have concerns at that  
551 restriction as that is an additional impediment to egress. (Petitioner – Stated there is also an  
552 additional egress window on that side of the basement as well).  
553

#### 554 **Comments and Questions from the Board**

555

556 *(K. Winters – Asked the petitioner to clarify some indications of the soffit on the drawing.)*  
557

558 K. Winters – What is the size of the soffit? (Petitioner – I don't have those numbers with me,  
559 probably less than 40"). We'll need to know that information to consider a variance. (Petitioner  
560 stated this is 40" wide and headroom is 6'3"). (More questions to the petitioner regarding the  
561 door height) It might be better to have you work with the homeowner on a better height at that  
562 door. You can work with less furring and trim and work to resize that ductwork by pushing it up  
563 two inches. 6'3" will not pass here. (This was all reengineered when they moved the furnace).  
564

565 R. Hart – If you take a section through the soffit and the beam next to it, what is the absolute  
566 bottom of the beam and the duct, do you know? (Petitioner – I don't know. I just measured to  
567 the finish). If there was a possibility there is 1 ½ of furring which is dictating the current height, if  
568 the door disappeared off the playroom and an open corridor and at 6'4" as a passageway? That  
569 might be one option. It's hard to comment on the bathroom door without knowing what is  
570 underneath that soffit. You could put in a door that has no casing at the top to gain a few  
571 inches. Instead of drywall, possibly a piece of painted plywood? A few ideas without causing  
572 additional inordinate costs.  
573

574 K. Winters – Suggested that the Board table this issue to allow the petitioner time to consult with  
575 the home owner on how they would like to resolve the door and bathroom soffit/head room  
576 issue. (The Board conveyed to the applicant that they would be willing to grant the other  
577 variances requested when the petitioner returns by January 2009).  
578

#### 579 **MOTION**

580

581 Moved by P. Darling, Seconded by R. Hart, **"In regard to Appeal Number BBA08-013,  
582 1111 Olivia Avenue, the Board Tables this Appeal for no more than sixty days in order to  
583 review the case with new sectional drawings of the areas in question (soffit/door head  
584 height).**  
585

586 **On a VOICE VOTE – MOTION TO TABLE – PASSED – UNANIMOUS (Tabled)**  
587 **(Appeal to be reheard (if required) no later than the January 14, 2009 Regular Session)\***  
588

590  
591 **H Scott Diels, architect for this property, is requesting a variance from Section R311.5.1**  
592 **of the 2006 Michigan Residential Code.**

593  
594 **Description and Petitioner Presentation**

595  
596 The applicant is requesting a variance from Section R311.5.1 of the 2003 Michigan Residential  
597 Code which states that "*Stairways shall not be less than 36 inches in clear width at all points*  
598 *above the permitted handrail height and below the required headroom height.*"

600 The petitioner is relocating a basement stair under an existing stair from the first to second floor.  
601 A portion of the new basement stair will have a width of 30-1/2 inches. This stair accesses a  
602 recreation room in the basement. This is the only finished space. This Petitioner is adding an  
603 egress window to the habitable space in the basement.

604  
605 Mr. Scott Diels was present to speak on behalf of the appeal. He stated that this house had  
606 been gutted by fire, and that he was contracted by the owners to help them restore as much of  
607 the home as possible as well as renovate it. They are looking at relocating the stairs under the  
608 second floor. They would like to keep the stair the way it is, but the stair below is reduced to 30"  
609 wide due to a foundation wall. The new stair is 36" wide, but is 30" at it's narrowest.

610  
611 **Recommendation:**

612  
613 A. Savoni - Staff would be supportive of granting this request for the reduced stair width based  
614 on Appendix J of the code which states: "*Where compliance with these provisions or with this*  
615 *code as required by these provisions is technically infeasible or would impose disproportionate*  
616 *costs because of structural, construction or dimensional difficulties, other alternatives may be*  
617 *accepted by the building official.*"

618  
619 We would suggest that if the Board is supportive of granting the variance, a fully automatic,  
620 building wide smoke detection system be a condition of the variance.

621  
622 K. Chamberlain – The Fire Department concurs with the Building department.

623  
624 **Comments and Questions from the Board**

625  
626 P. Darling – Is the foundation wall in question in good shape? (Diels – It's in good shape. It's  
627 cut fieldstone. We may glue a layer of finish over the top of it, depending on how much area we  
628 can get.

629  
630 K. Winters – One thing to remember is that structurally, you're taking the floor away that is  
631 bracing that side wall, leaving the stair so that the top of the stone wall has no bracing. We see  
632 a lot of this where the wall is deteriorated because it's not braced – and it moves. If you were  
633 able to put a 4 x 8 on top of that wall as a sill to help span and anchor that to the wall, this would  
634 improve that condition.

635  
636 Owner – The basement wall will push in? (K. Winters – Yes).

638 **MOTION**

639

640 Moved by R. Hart, Seconded by P. Darling, “In the matter of BBA08-014, 411 West Jefferson  
641 Street, the Board grants a variance from Section R311.5.1 of the 2003 Michigan  
642 Residential Code, permitting a new relocated basement stair for total width of 30 ½  
643 inches, and we find this to be equivalent to Appendix “J” of the Code. Further, a fully-  
644 automatic, building wide smoke detection system shall be installed as a condition of the  
645 variance to the satisfaction of the Fire Marshall.”

646

647 **On a Voice Vote – MOTION TO APPROVE – PASSED – UNANIMOUS**

648

649 **Note:** Due to the fire, the kitchen remodeling permits were never closed out. A. Savoni stated  
650 the petitioner only need to submit a record stating that any unfinished permits be closed out, as  
651 new ones are being submitted to replace those.

652

653

654 **D - OLD BUSINESS**

655

656 **D-1 BBA08-006 – ~~2841~~ 2849 Whitewood Street**

657

658 (The following is PREVIOUSLY PRESENTED INFORMATION FROM THE SEPTEMBER 2008  
659 REGULAR SESSION):

660

661 **John Fialkowski of Cornerstone Contractors, contractor for this property, is requesting a**  
662 **variance from Sections R305.1, R311.4 and R311.5.1 of the 2003 Michigan Building Code.**

663

664 **Description and Petitioner Presentation**

665

666 The applicant is requesting a variance from the following sections of the 2003 Michigan  
667 Residential Code:

668

- 669 • Section R305.1 that requires a 7 foot 0 (zero) inch ceiling height in a basement with  
670 habitable space, and allows beams/girders not less than 4 feet on center to project  
671 below, a maximum of 6 inches.
- 672 • Section R311.4 which states that “Interior doors shall be not less than 24 inches width  
673 and 6 feet, 6 inches in height.”
- 674 • Section R311.5.1 which states that “Stairways shall not be less than 36 inches in clear  
675 width at all points above the permitted handrail height and below the required headroom  
676 height.”

677

678 Petitioner is creating a finished room in the basement. This room will contain an egress window.  
679 The finished ceiling height in this room is 6 foot 10 inches. The stair down to the basement is  
680 32-1/4 inches wide. The finished ceiling height at the beams at the bottom of the stairs is 6 foot  
681 1-1/2 inches. While it appears that the door into the finished area meets the 6 foot 6 inch  
682 minimum door height requirement, from the picture provided, one must pass under the low  
683 beam to enter/exit the room.

684

685 John Fialkowski and Brian Brighton, owner, were present to speak on behalf of the appeal.  
686 The contractor stated that they currently have a basement headroom of 6’10” with finished  
687 drywall and carpeting.

688

689 The door entering into that room in the basement is 79 inches in height. The current basement  
690 stairway clear width is currently at 32 ¼” (these were the old ‘Pittsfield’ condos that were there  
691 for many years). There are block walls on each side that appear original. Everything has been

692 finished and continues all the way up into the hallway going into the kitchen and rooms so it's a  
693 'fixed frame' unit. The contractor stated that he didn't see much room to make that area any  
694 wider. (The contractor expounded on various other code problems they are dealing with).

695  
696 *(Discussion between the Board and the petitioner as to how the beam can be reduced in order*  
697 *to increase the headroom heights. A replacement with a 4" steel beam was suggested, as well*  
698 *as reducing the size of the ductwork. It was proposed that the petitioner go back and*  
699 *investigate these possibilities).*

700  
701 THE FOLLOWING MOTION WAS PASSED AT THE SEPTEMBER 2008 REGULAR SESSION:

702  
703 **PREVIOUS MOTION**

704  
705 Moved by P. Darling, Seconded by S. Callan, "That Appeal Number BBA08-008,  
706 **2849 Whitewood Street be tabled for no more than 60 days (the November 2008 Regular**  
707 **Session of the Building Board of Appeals) in order to allow the petitioner adequate time**  
708 **to investigate the beam and ductwork in question and find a way to rework those areas to**  
709 **provide a head clearance of no less than 6 feet, 4 inches."**

710  
711 **On a Voice Vote – MOTION TO TABLE - PASSED – UNANIMOUS**  
712 **(Tabled to the November 2008 Regular Session)**

713  
714 **NOTE: Petitioner has contacted the Building Official, and he reported the following:**

715  
716 A. Savoni – Stated that the petitioner has now decided that it would be too costly to alter the  
717 beam that the Board stated he needed to modify in order to turn that basement study room into  
718 a bedroom; he has now resubmitted new drawings showing that room as only 'storage.' Under  
719 those conditions, the Board will have to deny the variance on the current outstanding appeal.  
720 This is a rental property, and if the Housing Inspector should find a bed in that room then the  
721 situation will have to be dealt with accordingly. Since he has not 'withdrawn' the variance, the  
722 Board will have to deny that request.

723  
724 **MOTION**

725  
726 Moved by R. Reik, Seconded by S. Callan, "In the matter of BBA08-008, 2849 Whitewood  
727 Street, that a variance be granted from Sections R305.1, R311.4 and R311.5.1 of the 2003  
728 Michigan Residential Code, to allow a finished ceiling height of 6'10", a stair down to the  
729 basement which is 32 ¼" wide, and a finished ceiling height at the beam at the bottom of  
730 the stairs of 6'1 ½", provided that a hard-wired, interconnected smoke detection system  
731 be installed to the satisfaction of the Fire Marshal as a condition of the variances. We  
732 find this to be equivalent to what the Code requires."

733  
734 **On a VOICE VOTE – MOTION TO APPROVE – FAILED – UNANIMOUS (Variances Denied)**

735  
736  
737 **C-2 BBA08-005 - 1939 Peppermill Way**

738  
739 (The following is PREVIOUSLY PRESENTED INFORMATION FROM THE AUGUST 2008  
740 REGULAR SESSION):

741  
742 **Diego Ascani, owner of this property and Harold Klee, contractor, are requesting a**  
743 **variance from Sections R305.1 and R311.4.2.1 of the 2003 Michigan Residential Code.**

744 **Description and Petitioner Presentation**

745  
746 The applicant is requesting a variance from the following sections of the 2003 Michigan  
747 Residential Code:

- 748
- 749 • Section R305.1 that requires a 7 foot 0 (zero) inch ceiling height in a basement with  
750 habitable space, and allows beams/girders not less than 4 feet on center to project  
751 below, a maximum of 6 inches.
- 752 • Section R311.4.2.1 that states “Interior doors shall be not less than 24 inches in width  
753 and 6 feet, 6 inches in height.”

754  
755 Petitioner is remodeling the basement constructing a family room, office, den and bathroom.  
756 Per the petition:

- 757
- 758 • The finished ceiling in a majority of the basement will be 6 foot 11-1/2 inches.
- 759 • The finished soffit under the ductwork has a ceiling height of 6 foot 1-3/4”. The soffit is  
760 48-1/2 inches wide.
- 761 • There are 4 door openings/pass throughs in a wall located under the existing beam. Two  
762 openings are 6 foot 2-1/2 inches high. Two door openings are 6 foot 3-1/2 inches high.

763  
764 *(The Board discussed the areas near the projection of the ceiling heights. The petitioner stated*  
765 *that the contractor framed this incorrectly. Staff stated that they were unaware that this variance*  
766 *was any kind of ‘continuation’ of the former variance granted to this address, and was not*  
767 *presented to the Board in that way. Petitioner stated he was unaware that he needed to do that.*  
768 *Staff provided the Board with impromptu copies of the former variance information granted to*  
769 *this address).*

770  
771 **THE FOLLOWING MOTION WAS PASSED AT THE AUGUST 2008 REGULAR SESSION:**

772  
773 **PREVIOUS MOTION**

774  
775 Moved by R. Reik, Seconded by S. Callan, “In regard to Appeal Number BBA08-005,  
776 **1939 Peppermill Way, that the Board TABLES this issue for sixty (60) days to allow the**  
777 **petitioner time to reevaluate the project and find alternative ways to achieve at least**  
778 **6 feet four inches in ceiling height everywhere in the basement as was specified in the**  
779 **previously approved Appeal Number 2008-B-009 as well as 6 feet four inch clearances on**  
780 **all of the doors.”**

781  
782 **On a Voice Vote - MOTION TO TABLE - PASSED – (Tabled for 60 Days).**  
783 **(Appeal to be reheard (if required) no later than the October 2008 Regular Session)\***

784  
785 Since there was NO October 2008 Regular Session, petitioner had until the November 2008  
786 Regular Session to resubmit data as put forth by the Board in the previous motion. Petitioner  
787 failed to contact staff and provide any new information regarding this appeal. The Board took  
788 the following action:

789  
790 A. Savoni – Stated that the petitioner had been in to speak with him regarding turning some of  
791 this space into storage space, but has never submitted new plans. The Board needs to deny  
792 the variance since it’s still active, and there is finished space in that basement that is currently  
793 illegal.

794 **MOTION**

795

796 Moved by R. Reik, Seconded by S. Callan, “In regard to Appeal Number BBA08-005,  
797 1939 Peppermill Way, that the Board grants a variance from Sections R305.1 and  
798 R311.4.2.1 of the 2003 Michigan Residential Code, to permit a finished ceiling height of  
799 6’ 11 ½”, a finished soffit under the duct work of 6’ 1 ¾” for a soffit 48 ½” wide, and 4  
800 door openings – two of which are 6’2 ½” high and two that are 6’3 ½” high, provided that  
801 a hard-wired, interconnected smoke detection system be installed to the satisfaction of  
802 the Fire Marshal as a condition of the variances. We find this to be equivalent to what the  
803 Code requires.”

804

805 **On a VOICE VOTE – MOTION TO APPROVE – FAILED – UNANIMOUS (Variances Denied)**

806

807 **E - NEW BUSINESS – Discussion on City Hall Construction.**

808

809 K. Winters – Stated that the Board had received information from staff that due to the new City  
810 Hall construction that will take place in the next 24 months, the Building Board of Appeals  
811 meetings will be held at 200 North Main Street (County Building), in the lower level conference  
812 room. Meetings will still be held at 1:30 p.m. on the second Wednesday of each month.

813

814 The Building Department gets a lot of traffic. There will be an addition onto this building, and we  
815 will be moving to 2000 South Industrial. Staff also mentioned that the city is no longer issuing  
816 parking passes. Staff has inquired as to where Board members can park during their meetings,  
817 but there has been no communication to that effect as of this date.

818

819 The Building official also stated that as of December 2008, the Board is no longer handling the  
820 “Dangerous Buildings’ cases. These will be handled solely by the City Attorney’s Office.

821

822 **F - REPORTS & COMMUNICATIONS**

823

824 **G - AUDIENCE PARTICIPATION – GENERAL – None.**

825

826 **ADJOURNMENT**

827

828 The meeting was adjourned without opposition at 3:42 p.m.

829

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