



MINUTES OF THE REGULAR SESSION OF THE
BUILDING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
SEPTEMBER 10, 2008 - 1:30 P.M. – SECOND FLOOR – COUNCIL CHAMBERS
100 N. FIFTH AVENUE, ANN ARBOR, MI 48104

MEETING CALLED TO ORDER at 1:30 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: (3) A. Savoni, K. Chamberlain and
B. Acquaviva

A - APPROVAL OF AGENDA

A-1 Approved as Presented without opposition.

B - APPROVAL OF MINUTES

B-1 July 9, 2008 Draft Minutes

Moved by R. Hart, Seconded by R. Reik, **“to approve the July 9, 2008 Draft Minutes.”**

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

B-2 August 13, 2008 Draft Minutes – Postponed to the September Regular Session.

Corrections: Line 256, Delete extraneous entry of **“Darling;”** Line 321, Add **“Appendix J”** language to the motion.

Moved by R. Hart, Seconded by R. Reik, **“to approve the August 13, 2008 Draft Minutes as Amended.”**

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

C - APPEALS & ACTION

C-1 BBA08-006 - 1708 Glastonbury Road

Melissa Gregory and Mitchell Kaplan, owners of this property, are requesting a variance from Section R305.1 of the 2006 Michigan Residential Code.

The applicant is requesting a variance from Section R305.1 of the 2003 Michigan Residential Code 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.

52 **Description and Petitioner Presentation**

53

54 Petitioner is remodeling the basement constructing a family room, future bedroom, bathroom
55 and laundry room. It appears that the ceiling in the majority of the basement will meet the 7 foot
56 0 (zero) inch minimum requirement. However the proposed ceiling height under the
57 ductwork/beam will be 6 foot 4 inches. The soffit width will be 4 foot 5-1/2 inches. Petitioner is
58 installing an egress window in the future bedroom.

59

60 Petitioner does not state whether the stair headroom would be affected by the lowered soffit
61 which is located at the foot of the stair. Also note that the door into the laundry room is located
62 under the soffit and may require a variance if the height does not meet code.

63

64 Mr. Fred Sons (Contractor), and Melissa Gregory (Homeowner), were present to speak on
65 behalf of the appeal. Mr. Sons explained the appeal.

66

67 **Recommendation:**

68

69 A. Savoni (*Building Official*) – Staff is supportive of the ceiling height and door height requests
70 as long as the headroom at the foot of the stairs and the laundry room door meet code. We
71 would suggest that if the Board is supportive of granting any variance, a fully automatic, building
72 wide smoke detection system be a condition of the variance.

73

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

75

76 **Comments and Questions from the Board**

77

78 R. Hart – Do you know what the headroom is under the stairs, because it appears that the beam
79 and the ductwork cut across the last few risers. (Yes. At the bottom of the stairs, the first step,
80 if you put a tape on the concrete floor and measured to the floor joist, it would still be 85". Then
81 within a foot up from that stair, the ductwork is above, so it goes to 77".

82

83 K. Winters – So the length of the stair, you have 6'8" clearance? (Yes.)

84

85 A. Savoni – The landing also needs to be 6'8". *To petitioner* – what is the height of the door is
86 into the laundry room? Is it at least 6'6'? (The double doors at the bottom of the stairs would be
87 slightly lower than the height of the duct, but if we need the door to be roughly 80" we could
88 move the door somewhere else. (The homeowner stated that could move the door somewhere
89 so that it meets code)).

90

91 K. Winters – (To petitioner) – You have 6'5" for a width from the center beam to the edge of the
92 ductwork? (Homeowner – Yes. The drawings are a bit confusing. The ductwork and the beam
93 don't go beyond and don't infringe on the stairway at all).

94

95 *(Continued extensive discussion between the petitioner and the Board regarding clarification of*
96 *duct, ceiling and head room height on the stairs and the landing).*

97

98 *The applicant asked if the Board wanted them to provide a corrected drawing. The Board stated*
99 *that yes, they would have to provide a corrected drawing to the Building Department for the*
100 *actual records, as long as the Board was clear about what they were approving due to the*
101 *inadequate plans submitted).*

102

103 R. Reik – (To Petitioner) – You're not doing anything with the stairs, are you? (We'll make sure
104 it's code, with the correct railings, etc.) – But you're not rebuilding them, are you? (No, just
105 dress them up to look nice).

106 (Additional discussion between the petitioner and the Board, as R. Hart pointed out that the
107 drawing indicates 6'4" at the ductwork, and not 6'5" as the petitioner now states. There is to be
108 drywall installed on it, along with carpeting on the floor, which would account for the lesser inch
109 of space, which now changes the available headroom).

111 K. Winters – It is up to you, the petitioner, to state what you want for the variance. You're
112 requesting a variance down to 6'4" then? (We should, yes).

114 R. Hart – The egress window is through the future bedroom? (Homeowner – Yes). So you
115 have to cross under the soffit to get to the egress window. There is a door there, and it should
116 be a non-locking door.

118 P. Darling – Does the house have a smoke detection system? (Homeowner – Just batteries,
119 but we'll get that installed).

121 **Discussion:**

123 **MOTION**

125 Moved by R. Hart, Seconded by R. Reik , "In regard to Appeal Number BBA08-006,
126 1708 Glastonbury, the Board grants a variance from Section R305.1 of the 2006 Michigan
127 Residential Code, permitting a 6'4" ceiling height under a finished soffit that is 4'10"
128 wide. A non-locking door to the path to the egress window (through the bedroom) will be
129 a condition of the variance; in addition, a variance from Section R311.5.2 to permit a 6'4"
130 ceiling height at the base of the stairs underneath the same soffit area. A fully automatic,
131 building-wide smoke detection system is installed to the satisfaction of the Fire Marshal.
132 We find this to be equivalent to what the Code requires."

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

135 **NOTE: Petitioner is to provide the Building Department with REVISED PLANS to reflect this**
136 **information.**

139 **C-2 BBA08-007 – 701 South Forest**

141 **Mike Van Goor, architect for this property, is requesting a variance from Section 1208.2**
142 **of the 2003 Michigan Building Code.**

144 **Description and Petitioner Presentation**

146 Mike Van Goor, architect for this property, is requesting a variance from Section 1208.2 of the
147 2003 Michigan Building Code which states: "Occupiable spaces, habitable spaces and corridors
148 shall have a ceiling height of not less than 7 feet 6 inches. Bathrooms, toilet rooms, kitchens,
149 storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7
150 feet.

152 Petitioner is rebuilding an existing rental unit in the basement. The ceiling height in the unit is 7
153 foot 4 inches. While the ceiling height in the unit is an existing condition, the applicant is
154 requesting a variance for the ceiling height in a newly created bedroom #3. This new bedroom
155 has a code compliant egress window. The ceiling height in this room is proposed to be 7 foot 4
156 inches. There is a significant portion of this room that will have a lowered ceiling under a duct.
157 This area is located in front of the egress window. This ceiling will be 6 foot 2-1/2". It will be
158 raised at the egress window to 6 foot 8 inches as shown in the sketch prepared by the applicant.

160 The bathroom and kitchen are also noted as new. The bathroom ceiling height will be 6 foot 9-
161 1/2 inches, code requires a 7 foot 0 (zero) ceiling height in this room. A variance is not required
162 in the kitchen as the minimum 7 foot 0 (zero) ceiling height has been met.

163
164 Mike Van Goor of Van Goor Architects was present to speak on behalf of the appeal. He stated
165 that the intent of the project was to accomplish several things:

- 166
- 167 1. Turn an existing 4-person, 2-bedroom unit into a 4-person, 3-bedroom unit;
 - 168 2. Update the finishes, layout and fixtures in the unit;
 - 169 3. Make the unit code compliant by making a one-hour floor/ceiling assembly between this
170 unit and the two units above.

171
172 This unit is currently on the lower, basement level of a three unit structure. There are three
173 sections to the appeal. The first is what was existing bedroom #2. There were constant
174 requests to provide a divider between this larger bedroom and in order to accomplish that, the
175 bathroom was moved to the kitchen location, and the kitchen was moved into the common area
176 to provide an open kitchen/living room situation. In so doing, the bath area was incorporated
177 into a new bedroom (Exhibit 1 and 6). Part of that space was not habitable, given it was a
178 bathroom unit. (He cited the ceiling height requirements not met).

179
180 The second item is the bathroom ceiling heights – by providing the one-hour fire rating, we lose
181 some of the headroom due to the sanitary piping that was encapsulated into the ceiling. (He
182 citing the ceiling height requirements not met and possible solutions).

183
184 The third item is regarding a section of new bedroom number 3 which was created. From the
185 utility room, there is ductwork that was created and there are ceiling height problems there.

186
187 **Recommendation:**

188
189 A. Savoni (*Building Official*) - Staff is supportive of the ceiling height requests except for the
190 lowered ceiling in front of the egress window, as it is too low and could impede rescue efforts in
191 the case of an emergency. We would suggest that if the Board is supportive of granting any
192 variance, a fully automatic, building wide smoke detection system be a condition of the variance.

193
194 K. Chamberlain (*Fire Marshal*) – The Fire Department concurs with the Building Department.

195
196 **Comments and Questions from the Board**

197
198 R. Hart – In bedroom number 2, what is in the lower left-hand corner? (It's the housing on the
199 water meter). How small is that, is it a step up? (About 3 feet, but it doesn't impact the access
200 to the egress window, as that one is a double window).

201
202 (*General discussion between the board and petitioner regarding the requests and that this
203 request is covered under the Michigan Building Code as opposed to the Residential code,
204 because it's greater than a duplex – it's a multi-family structure, so the ceiling heights are
205 greater*).

206
207 K. Winters – Stated that he is concerned with the limited access window – that something may
208 be put in front of that window, creating an egress problem. (He asked if this was a concern to
209 anyone else on the Board).

210
211 P. Darling – Stated that like any dwelling, they could put anything they want in front of the
212 window, that can't be controlled.

213 K. Winters – Stated that he is also concerned with the 6'2 ½" headroom (under the soffit) on the
214 path of egress, especially since it can't be controlled as to what kind of obstructions a tenant
215 might put in front of the egress window.

216
217 P. Darling – Suggested the petitioner build wing walls that would extend out to prevent anyone
218 going under that particular low spot. (The petitioner stated that this would be an acceptable
219 solution).

220
221 A. Savoni – Suggested that those areas could even be turned into bookshelves or auxiliary
222 storage space.

223
224 *(Further discussion by the petitioner and the Board as to possible solutions for that particular*
225 *headroom problem).*

226
227 **Discussion:**

228
229 **MOTION**

230
231 Moved by R. Reik, Seconded by P. Darling, **"In regard to Appeal Number BBA08-007,**
232 **701 South Forest Avenue, that the Board grants a variance from Section 1208.2 of the**
233 **2003 Michigan Building Code, to permit a ceiling height in the new basement bedroom of**
234 **7 feet 4 inches; to permit a ceiling height of 6 feet 9 ½ inches in the bathroom and 6 foot 8**
235 **inches in the alcove area of bedroom #3; Concerning the new egress window and path to**
236 **the egress, wing walls are to be installed to block any area less than 6 feet 8 inches in**
237 **ceiling height (NO DOORS to be installed at or near the wing walls, or any other**
238 **obstruction to prevent access to the path of egress). An interconnected, building-wide**
239 **smoke detection system shall be installed to the satisfaction of the Fire Marshall as a**
240 **condition of these variances. We find this to be equivalent to what the code requires."**

241
242 **On a Voice Vote – MOTION PASSED – 4 Yea to 1 Nay (Variances Granted)**
243 *Yea (4) – P. Darling, R. Reik, R. Hart & S. Callan*
244 *Nay (1) - K. Winters*

245
246
247 **C-3 BBA08-008 – 2840 Whitewood Street**

248
249 **John Fialkowski of Cornerstone Contractors, contractor for this property, is requesting a**
250 **variance from Sections R305.1, R311.4 and R311.5.1 of the 2003 Michigan Building Code.**

251
252 **Description and Petitioner Presentation**

253
254 The applicant is requesting a variance from the following sections of the 2003 Michigan
255 Residential Code:

- 256
- 257 • Section R305.1 that requires a 7 foot 0 (zero) inch ceiling height in a basement with
258 habitable space, and allows beams/girders not less than 4 feet on center to project
259 below, a maximum of 6 inches.
 - 260 • Section R311.4 which states that *"Interior doors shall be not less than 24 inches width*
261 *and 6 feet, 6 inches in height."*
 - 262 • Section R311.5.1 which states that *"Stairways shall not be less than 36 inches in clear*
263 *width at all points above the permitted handrail height and below the required headroom*
264 *height."*

265 Petitioner is creating a finished room in the basement. This room will contain an egress window.
266 The finished ceiling height in this room is 6 foot 10 inches. The stair down to the basement is
267 32-1/4 inches wide. The finished ceiling height at the beams at the bottom of the stairs is 6 foot
268 1-1/2 inches. While it appears that the door into the finished area meets the 6 foot 6 inch
269 minimum door height requirement, from the picture provided, one must pass under the low
270 beam to enter/exit the room.

271
272 John Fialkowski and Brian Brighton, owner, were present to speak on behalf of the appeal.
273 The contractor stated that they currently have a basement headroom of 6'10" with finished
274 drywall and carpeting.

275
276 The door entering into that room in the basement is 79 inches in height. The current basement
277 stairway clear width is currently at 32 ¼" (these were the old 'Pittsfield' condos that were there
278 for many years). There are block walls on each side that appear original. Everything has been
279 finished and continues all the way up into the hallway going into the kitchen and rooms so it's a
280 'fixed frame' unit. The contractor stated that he didn't see much room to make that area any
281 wider. (The contractor expounded on various other code problems they are dealing with).

282
283 **Recommendation:**

284
285 A. Savoni (*Building Official*) - Staff is supportive of the ceiling height request in the room. Staff
286 is not supportive of the ceiling height request under the beam as it is too low and could impede
287 rescue efforts in the case of an emergency.

288
289 With regard to the stair width, Staff would be supportive of granting this request based on
290 Appendix J of the code which states: *"Where compliance with these provisions or with this code
291 as required by these provisions is technically infeasible or would impose disproportionate costs
292 because of structural, construction or dimensional difficulties, other alternatives may be
293 accepted by the building official."*

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

296
297 K. Chamberlain – The Fire Department concurs with the Building Department.

298
299 **Comments and Questions from the Board**

300
301 R. Hart – Under the beam, the door closes against the beam? (No. There is approximately less
302 than a foot) – No, the beam projects toward the door? You have a 79" door, but you only have a
303 73" opening? (Correct. The homeowner stated that the beam comes to 6'2", then covered by
304 drywall, is about 6'1 ½").

305
306 P. Darling – Is the beam steel or wood? (Wood).

307
308 K. Winters – What is that room used for presently? (Owner – Right now it's just used as
309 storage, but we'd like to make it a study/storage area). Will you be making it into a bedroom?
310 (It would be nice if someone could use it as a bedroom). *The contractor stated that they are
311 installing an egress window in the basement, so it may be useable for that purpose.*

312
313 K. Winters – Have you investigated any solutions as to what might be done with the beam in
314 order to provide additional headroom? Taking that beam out and replacing it with something
315 else that would improve the ceiling height? (Owner - The ceiling height over the stairs meets
316 code). The ceiling height at the bottom of the steps? (Right., well, there is that duct work there).

317
318 A. Savoni - The landing beyond would still have to be 6'8."

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Owner – Right now that’s 6’1 ½ under that drywalled duct. The beam itself runs the entire length of the basement and supports the house, so I don’t think we can remove it).

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

MOTION

Moved by P. Darling, Seconded by S. Callan, “**That Appeal Number BBA08-008, 2840 Whitewood Street be tabled for no more than 60 days (the November 2008 Regular Session of the Building Board of Appeals) in order to allow the petitioner adequate time to investigate the beam and ductwork in question and find a way to rework those areas to provide a head clearance of no less than 6 feet, 4 inches.**”

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

C-4 BBA08-009 – 1415 Wells Street

David and Ruth Markovitz, owners of this property, are requesting a variance from Section R305.1 of the 2003 Michigan Residential Code.

Description and Petitioner Presentation

The applicant is requesting a variance from Section R305.1 of the 2003 Michigan Residential Code which states “*Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements shall have a ceiling height of not less than 7 feet. The required height shall be measured from the finish floor to the lowest projection from the ceiling.*” Exception 4 in this section states: “*Bathrooms shall have a minimum ceiling height of 6 feet 8 inches over the fixture and at the front clearance area for fixtures as shown in Figure R307.1*”.

Petitioner is constructing a new bathroom. A small portion of the curved ceiling in this room, in front of the toilet, varies from 6 foot 5 inches to 7 foot 7 inches. The ceiling height in the remainder of the bathroom is 7 foot 7 inches. Code requires a minimum ceiling height of 6 foot 8 inches at the entire front clearance area of the toilet.

Ruth Markovitz, owner, was present to speak on behalf of the appeal. She stated that her contractor was taken ill and would not be able to present the appeal, but she would try to answer any questions the Board might have.

Recommendation:

A. Savoni (*Building Official*) – The contractor was in to speak with me previously about this appeal. There are cove ceilings that make the condition of insufficient ceiling height. He has 6’8” in most of the room, and some built-ins in the area with less than 6’8”, but there is still a small portion that is not 6’8,” and this is what the appeal is for. Staff is supportive of the ceiling height request. 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 has no code issues associated with this,

373 and concurs with the Building Department.

374

375 **Comments and Questions from the Board**

376

377 P. Darling – They have an issue because the toilet is there? (A. Savoni – Yes).

378

379 R. Hart – Is this a new bathroom? (Owner – Yes, with additional space that was taken from a
380 closet). *(There was some question regarding the space between the fixtures. The homeowner*
381 *stated that they are also building out into the room a bit as well, so they should have enough*
382 *room to accommodate the fixtures. Board member Hart stated that the current plans only add*
383 *up to 13” and code is 15.” Board member Winters said that they could make it a stipulation in*
384 *the motion that the owner provide the Building Department with revised plans reflecting this*
385 *change).*

386

387 A. Savoni stated that the plans he approved for this state that all fixture clearances must meet
388 code, and that the inspectors would enforce that. The owner stated that she was familiar with
389 that section of the code and that they would comply with it.

390

391 **MOTION**

392

393 Moved by P. Darling, Seconded by R. Reik, “In regard to Appeal Number BBA08-009, 1415
394 Wells Street, that the Board grants a variance from Section R305.1 of the 2003 Michigan
395 Residential Code, to allow a reduced ceiling height in the new bathroom on the second
396 floor of 6’5 ½” ceiling height at one edge over the toilet, per the attached plans, provided
397 the toilet be located a minimum of 15” off the edge of the cabinet as per the 2003
398 Michigan Plumbing code. We find that this meets the intent of the code. A fully
399 automatic, building-wide smoke detection system shall be installed to the satisfaction of
400 the Fire Marshal as a condition of this variance. We find this to be equivalent to what the
401 Code requires.”

402

403 On a Voice Vote – MOTION TO APPROVE – **UNANIMOUS (Variance Granted)**

404

405

406 D - **OLD BUSINESS**

407

408 D-1 **2008-B-024 – 2713 White Oak Drive (Clarification)**

409

410 Summit Homebuilding, contractor for this property, is requesting a variance from
411 Sections R305.1 and R310.1 of the 2003 Michigan Residential Code.

412

413 **Description and Petitioner Presentation**

414

415 At the June 2008 Regular Session, the applicant requested a variance from the following
416 sections of the 2003 Michigan Residential Code:

417

- 418 • Section R305.1 requires a 7 foot 0 (zero) inch ceiling height in a basement with
419 habitable space, and allows beams/girders not less than 4 feet on center to project
420 below, a maximum of 6 inches.
- 421 • Section R310.1 that states: “Basements with habitable space and every sleeping
422 room shall have at least one openable emergency escape and rescue opening.
423 Where emergency escape and rescue openings are required, they shall have a sill
424 height of not more than 44 inches above the floor.”

425

426 A. Savoni (Building Official) – Clarified the situation with the Board. It appears that the
427 original drawings that the petitioner submitted show a 7’8” ceiling height. When he
428 installed the step he needed for the egress window, he found that his ceiling height was
429 actually 6’10.” Rather than have the contractor come in, if the Board will approve a 6’10”
430 height over the egress step, then a motion to approve that will be needed from the Board.
431

432 **MOTION**

433
434 Moved by S. Callan, Seconded by P. Darling, to amend the original appeal Number 2008-B-024
435 to include a variance for the ceiling height under the step for the egress window to be 6’10.”
436

437 **On a Voice Vote – MOTION TO APPROVE AMENDMENT – PASSED – UNANIMOUS**
438 **(Variance Granted and added as a part of the original appeal).**
439

440
441 **E - NEW BUSINESS – None.**

442
443 **F - REPORTS & COMMUNICATIONS**

444
445 **G - AUDIENCE PARTICIPATION – GENERAL – None.**
446

447 **ADJOURNMENT**

448
449 The meeting was adjourned without opposition at 3:15 p.m.
450

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