

ANN ARBOR BUILDING BOARD OF APPEALS

STAFF REPORT

Meeting Date: June 16, 2022

Type of Request: APPEAL

Building Board of Appeals Request **BBA22-2001** at 1299 Harpst St., ANN ARBOR, MI 48104

(Parcel Identification Number: **09-12-04-201-039**)

DESCRIPTION AND DISCUSSION

Property Owners Name and Address:

TEGINV1299H, LLC
842 Packard
Ann arbor, MI 48104

BACKGROUND

The property at 1299 Harpst St. is a single-family rental property. The house was built in 1940, upon a rental inspection conducted 1/11/2022, it was noted that the basement had been finished without permits. The work done would require permits and a permit was applied for 3/23/2022 and Building permit BLDG22-0669 was issued 4/28/2022. The plan review document issued with the permit acknowledges the intentions of the property owner seeking relief from sections R310.1, R311.2.1 and R311.6 of the 2015 Michigan Residential Code.

Standards for Approval:

1. The True intent of the code or the rules governing construction have been incorrectly interpreted.

1.2. The provisions of the code do not apply; and

2.3. An equal or better form of construction is proposed

STAFF RECOMMENDATION

Staff recommends this application be denied as it does not meet the standards for approval, the code has not been misinterpreted, the provisions of the code do apply and the existing condition is less safe than the minimum requirements of the 2015 Michigan Residential Code. Because no permits were issued at the time of construction this area needs to meet the requirements of the 2015 Michigan Residential Code. In its current configuration it does not meet the requirements of the 2015 Michigan Residential Code. If the renovation did take place forty years ago it would not meet the code at the time the 1981 BOCA Code (see attachments 1,2,3) used for reference.

The petitioner states the replacement of the windows would not correct the situation and references Appendix J section AJ 102.4.3 (1) which gives allowances to areas that are not changing use. If a new sleeping room was being created in an existing structure (as has happened at this property), that sleeping room would require an emergency escape and rescue opening.

Section R310.1 of the Michigan Residential Code States:

R310.1 Emergency escape and rescue opening required.

Basements, habitable attics and every sleeping room shall have not less than one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, an emergency escape and rescue opening shall be required in each sleeping room. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

Exception: Storm shelters and *basements* used only to house mechanical *equipment* not exceeding a total floor area of 200 square feet (18.58 m²).

There are two rooms intended for sleeping and neither has a properly sized emergency escape and rescue window. Section R310.2.1 gives the required opening size and dimensions required for such an opening:

R310.2.1 Minimum opening area. Emergency and escape rescue openings shall have a net clear opening of not less than 5.7 square feet (0.530 m²). The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. The net clear height opening shall be not less than 24 inches (610 mm) and the net clear width shall be not less than 20 inches (508 mm).

Exception: *Grade* floor or below *grade* openings shall have a net clear opening of not less than 5 square feet (0.465 m²).

The petitioner is requesting relief from section R311.2.1 which requires a door height of six feet six inches in minimum height, the only exception to this requirement is for doors to areas less than ten square feet of floor area, the rooms the doors lead to are over 10 square feet.

R311.2.1 Interior doors. Interior doors shall be not less than 24 inches (609 mm) in width and 6 feet, 6 inches (1980 mm) in height.

Exception: Doors to areas less than 10 square feet of floor area.

Furthermore, Appendix J Existing Buildings and Structures states:

AJ102.1 General. Regardless of the category of work being performed, the work shall not cause the structure to become unsafe or adversely affect the performance of the building; shall not cause an existing mechanical or plumbing system to become unsafe, hazardous, insanitary or overloaded; and unless expressly permitted by these provisions, shall not make the building any less compliant with this code or to any previously *approved* alternative arrangements than it was before the work was undertaken.

Finally, the petitioner requests relief from section R311.6 which simply states the “width of a hallway shall not be less than 3 feet” there is no reference in the Code language to allow an exception.

Section R311.6:

R311.6 Hallways. The width of a hallway shall be not less than 3 feet (914 mm).

This appeal does not meet the standards of approval. The violations documented do not meet the requirements of the 2015 Michigan building Code, and if alterations did occur forty years ago, they would not have met the code requirements of the time (see attachments 1,2,3). The code has not been misinterpreted, the provisions of the 2015 Michigan Building Code do apply, and the alterations to the house are neither equal to, nor better than, the code requirements.

PROPOSED MOTION

APPEAL GRANTED

That in Case BBA22-2001, **the appeal of the Building Official's decision** that the work to be performed at **1299 Harpst** is **GRANTED** relief from section R310.1, R311.2.1, and R311.6 , and the Building Board of Appeals **REVERSES** the Building Official's decision for the reason(s) that *[state reason in motion]*:

- ☐ (1) The true intent of the 2015 Michigan Residential Code and sections R310.1, R311.2.1 and R311.6 governing the renovation of 1299 Harpst have been incorrectly interpreted by the Building Official;
- ☐ (2) The provisions of 2015 Michigan Residential Code sections R310.1, R311.2.1 and R311.6 do not apply to the construction at 1299 Harpst;
- ☐ (3) The applicant has proposed an equal or better form of construction.

Stipulations – If Applicable:

[Chairman to check box(es) following vote]

OR

APPEAL DENIED

That in Case BBA22-2001 **the appeal of the Building Official's decision** that the work to be performed at **1299 Harpst** is **DENIED** and the Building Board of Appeals **AFFIRMS** the Building Official's decision for the reason(s) that *[state reason in motion]*:

- ☐ (1) The true intent of the 2015 Michigan Residential Code and sections R310.1, R311.2.1 and R311.6 governing the construction at 1299 Harpst have been correctly interpreted by the Building Official;
- ☐ (2) The provisions of 2015 Michigan Residential Code sections R310.1, R311.2.1 and R311.6 applies to the construction at 1299 Harpst;
- ☐ (3) The applicant has not proposed an equal or better form of construction;

Stipulations – if Applicable:

[Chairman to check applicable box(es) following vote]

Yeas:

Nays:

Absent for this vote:

Date

Paul Darling, Chairperson
Building Board of Appeals

(15240 mm) on the first story. Areas complying with the definition for basements shall not be counted as a story for the purpose of this section.

809.4 Emergency escape: Every sleeping room below the fourth story in buildings of Use Group R shall have at least one operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside opening without the use of separate tools. Where windows are provided as a means of egress or rescue, they shall have a sill height not more than 44 inches (1118 mm) above the floor. All egress or rescue windows from sleeping rooms must have a minimum net clear opening of 5.7 square feet (0.53 m²). The minimum net clear opening height dimension shall be 24 inches (610 mm). The minimum net clear opening width dimension shall be 20 inches (508 mm).

Bars, grilles or screens placed over emergency escape windows shall be releasable or removable from the inside without the use of a key, tool or excessive force.

Exceptions

1. Grade floor windows may have a minimum net clear opening of 5 square feet (0.47 m²).
2. In buildings of Use Group R-3, where the sleeping room is provided with a door to a corridor having access to two remote exits in opposite directions, then an outside window or an exterior door for emergency escape from each such sleeping room is not required.

809.5 Open parking structures: Parking structures shall have not less than two exits from each parking tier, except that where vehicles are mechanically parked, only one exit need be provided. The maximum distance from any point on a parking tier to an exit at that tier shall not exceed 300 feet (91440 mm). Unenclosed vehicle ramps may be considered as required exits if pedestrian facilities are provided. Interior exit stairways need not be enclosed.

SECTION 810.0 EXIT ACCESS PASSAGEWAYS AND CORRIDORS

810.1 Access passageway: Direct exit access shall be provided to required exits through continuous passageways, aisles or corridors, conveniently accessible to all occupants and maintained free of obstruction.

810.1.1 Turnstiles and gates: Access through turnstiles, gates, rails or similar devices shall not be permitted unless such a device is equipped to readily swing in the direction of exit travel under a total pressure of not more than 15 pounds (73.23 N).

810.1.2 Restrictions: The required width of passageways, aisles or corridors shall be maintained free of projections and restrictions; except doors opening into such spaces may reduce the clear width to not less than one half the required width. When fully open the door shall not project more than 7 inches (178 mm) into the required width.

Entrance Only in letters not less than 6 inches (152 mm) in height and legible from both inside and outside.

812.3 Size of doors: The minimum width of single door openings shall provide a clear width of not less than 32 inches (813 mm) except that for door openings within a dwelling unit the clear width shall be not less than 28 inches (711 mm). The maximum width shall be 48 inches nominal. Means of egress doors in Use Group I used for the movement of beds shall be at least 44 inches (1118 mm) wide. When the doorway is subdivided into two or more separate openings, the minimum clear width of one opening shall be not less than 32 inches (813 mm) and each opening shall be computed separately in determining the number of required units of egress width. A door 40 inches (1016 mm) in width shall be deemed the equivalent of two full units of egress width. The height of doors shall not be less than $6\frac{2}{3}$ feet (2032 mm), except that within a dwelling unit the height of the doors shall be not less than $6\frac{1}{2}$ feet (1981 mm).

812.4 Location of doors: The required doorways opening from a room or space within a building and leading to an exit access shall be located as remote as practicable from each other. The distance of exit access travel from any point in a room or space to a required exit door shall not exceed the limitations of Section 807.4.

812.5 Door hardware: Every egress door serving an area having an occupant load of more than ten or serving a high hazard occupancy shall be of the side hinged swinging type.

812.5.1 Locks and latches: All egress doors shall be readily openable from the side from which egress is to be made without the use of a key or special knowledge or effort, except for special institutional uses as indicated in Section 812.5.5. Except for dwelling units, draw bolts, hooks and other similar devices shall be prohibited on all egress doors.

812.5.2 Flush and surface bolts: Manually operated or surface mounted flush bolts and surface bolts are prohibited. When egress doors are used in pairs and approved automatic flush bolts are used, the door leafs having the automatic flush bolts shall not have a door knob or surface mounted hardware. The unlatching of any leaf shall not require more than one operation.

812.5.3 Double cylinder dead bolts: Double cylinder dead bolts requiring a key operation on both sides are prohibited on required means of egress in Use Group R occupancies.

812.5.4 Panic hardware: All doors equipped with latching devices in buildings of Use Group A and serving rooms or spaces with an occupant load of

810.2 Dead ends: Exit access passageways and corridors in all stories which serve more than one exit shall provide direct connection to such exits in opposite directions from any point in the passageway or corridor, insofar as practicable. The length of a dead end corridor shall not be more than 20 feet (6096 mm).

810.3 Width: The width of passageways, aisles and corridors shall be that width required for the capacity as determined by Section 808.0 but not less than 44 inches (1118 mm).

Exceptions

1. In buildings of Use Group I used for the movement of beds, the minimum width shall be 96 inches (2438 mm).
2. In Use Group A-4 with more than 100 occupants, the minimum width shall be 72 inches (1829 mm).
3. The minimum width may be reduced to 36 inches (914 mm) when servicing an occupant load of 50 or less.
4. Aisles conforming to Section 826.0.

810.4 Enclosures: All corridors serving as exit access shall be enclosed in fire separation walls having a fire resistance rating of at least one hour when serving an occupant load greater than 30.

810.4.1 Automatic fire suppression system alternatives: When an approved automatic fire suppression system is installed and is supervised in accordance with Section 1718.1, Parts 1, 2 or 3, and has its water flow alarm device connected to an approved central station system, proprietary system or remote station system of the jurisdiction, a fire resistance rating is not required in Use Groups A-4, B, F, M, and S. In Use Groups R-1 and R-2, the corridor enclosure walls shall have a fire resistance rating of not less than one half hour. Corridor walls in Use Groups R-1 and R-2 shall be constructed tight to the underside of the ceiling directly above.

810.4.2 Opening protectives: All door assemblies from rooms opening onto a corridor required to be of fire resistance rated construction shall be self closing or automatic closing by smoke detection, with a 20 minute fire resistance rating when tested in accordance with ASTM E152 listed in Appendix A without the hose stream and labeled and listed by an approved agency. All door assemblies from rooms opening onto a corridor, required by Table 401 to be of two hour fire resistance rated construction, shall be one and one half hour fire doors.

SECTION 811.0 GRADE PASSAGEWAYS USED AS AN EXIT ELEMENT

811.1 Passageways: Every required interior and exterior exit element which does not adjoin a public way shall be directly connected to the public way or to an open court leading to the public way by an enclosed grade passageway or other unobstructed exit element constructed as provided in this section.

Desired Relief:

In addition to the items below the Owner is correcting the existing staircase to the basement. This one item will provide the greatest improvement to egress requirements to the basement. We are asking for relief from the doors to the bedrooms in the basement, a short section of hallway and the emergency egress windows. The existing doors and windows are not an issue based on the housing code. However, we are being asked to appeal based on no record of the existing items having permits issued for work some 40 years ago prior to the current building owner.

Basis of Appeal:

Doors to habitable rooms:

Two doors in the basement that connect the habitable rooms to hallway are 6'-4 1/2" in height to the carpet/ceramic tile floor. Section R311.2.1 states the doors shall be 6'-6" height. Note that flooring materials are 1/2" high. Which means the overall door opening from the basement slab is 6'-5" high. The current wall that the doors are located in is below the first-floor beam for the house and there is very little room between the door head and structural beam. We are requesting a variance for 1 inch discrepancy listed in the code for the height of doors.

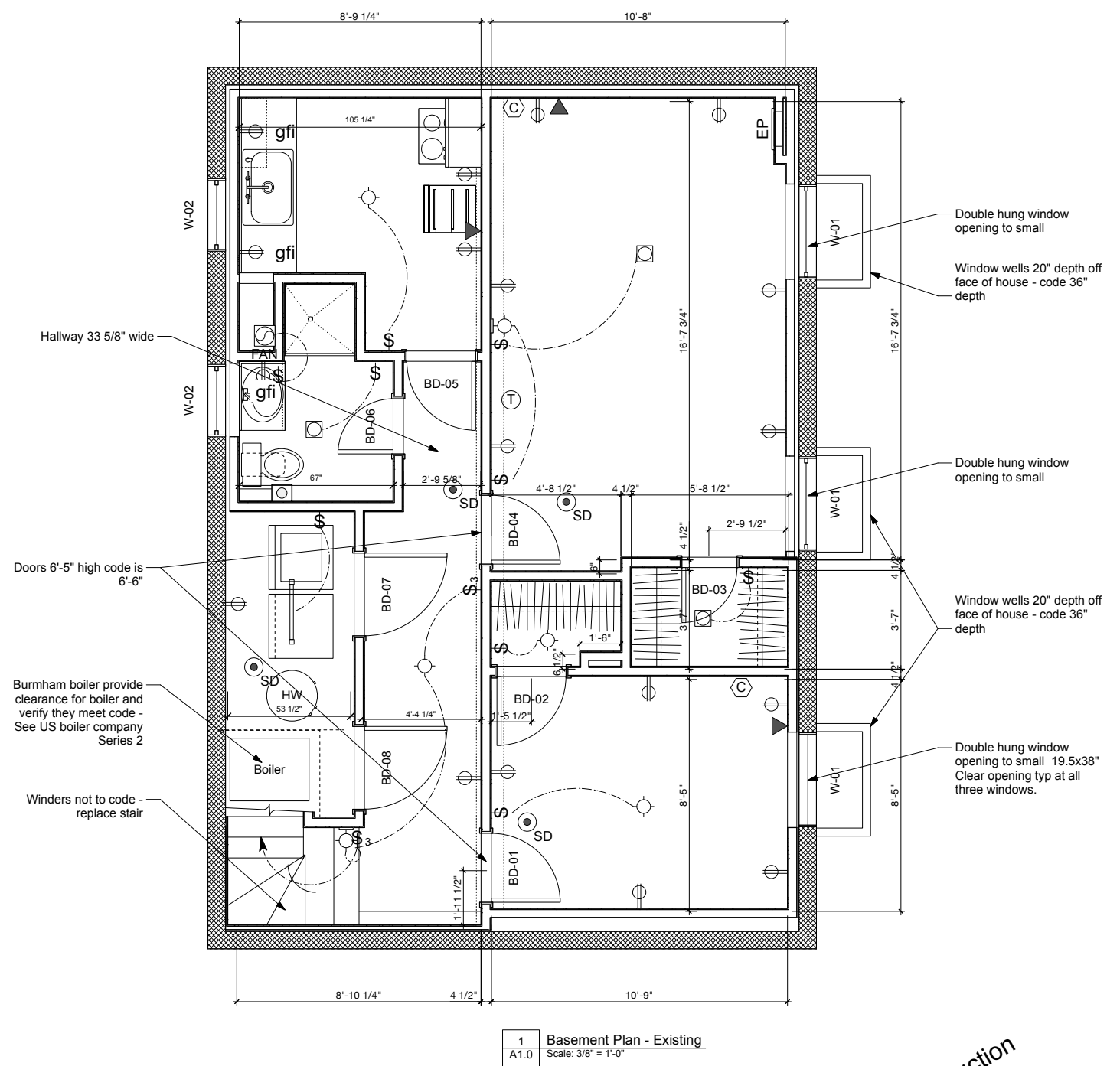
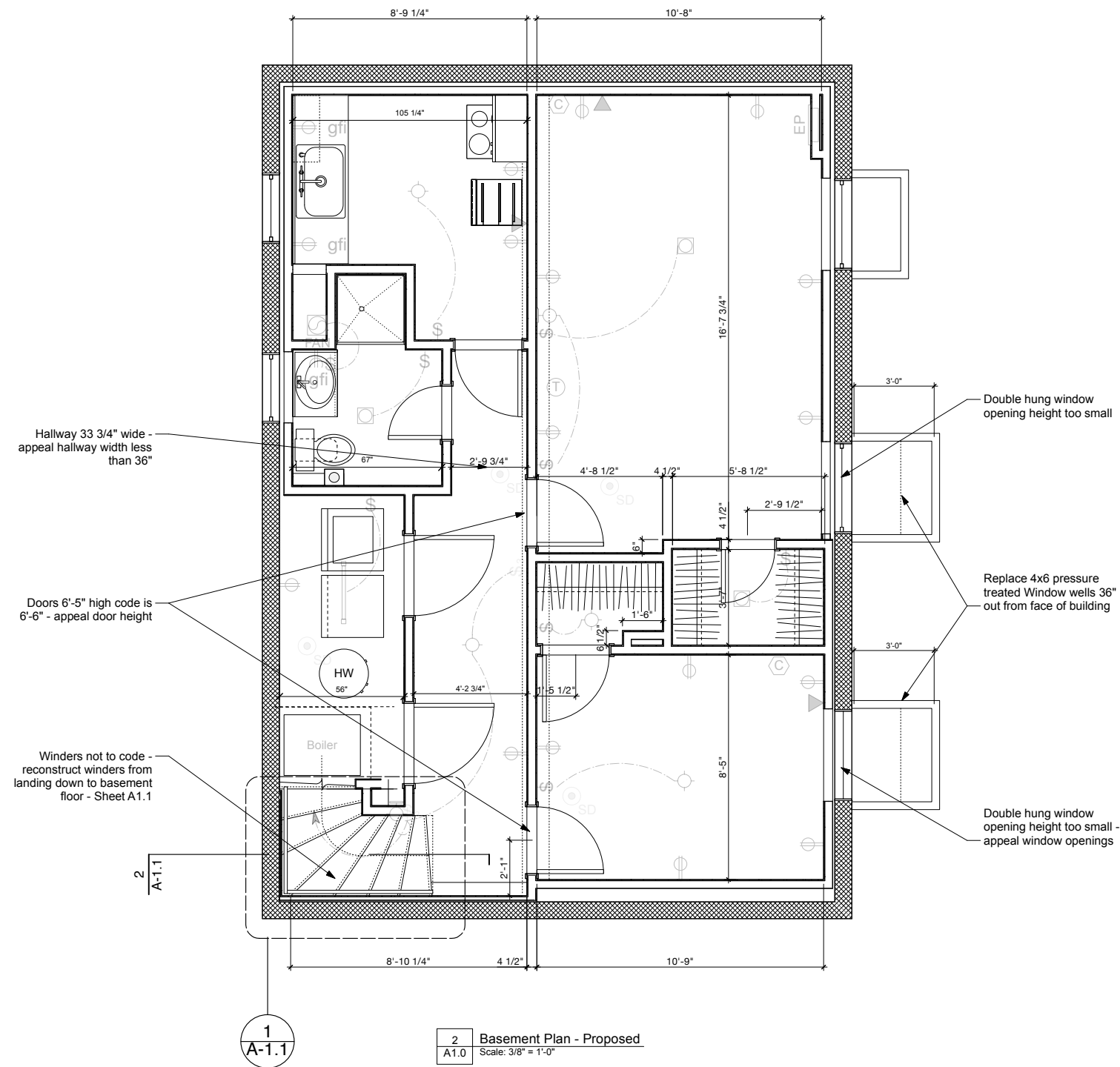
Basement Hallway

The current hallway is 33 3/4" wide for 5'-7" of the 20'-5" hallway. The remainder of the hallway is 50 3/4" wide. The majority of this hallway greatly exceeds the required code width of 36" R311.6. Since the overall hallway exceeds the code, we are asking for variance for the last 67". This section of the hallway, accesses only the kitchen and bathroom both are non-habitable spaces. Section R304.1

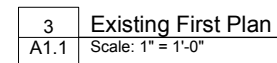
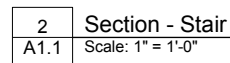
Basement windows:

The current emergency escape basement windows from the habitable rooms in the basement are double hung windows. We believe the windows were replaced at the time the basement walls were replaced. The current windows are compliant with current code except for one issue. The required 24" height is 19.5 inches for the clear opening. We don't believe the replacing the existing windows would result in correcting these issues based on AJ102.4.3.1. Which states the replacement window is the manufacturer's largest standard size window that will fit within the existing frame or rough opening. The replacement window shall be permitted to be of the same operating style as the existing window. As a part of the work, we are willing to correct the area ways on the exterior to 36" deep from the face of the building to increase the safety of the unit. This depth requirement was not codified at the time the existing windows were installed. We are asking that the current windows be exempt from this work.

We are providing corrections to areas to provide an equal or better level of safety.



For Construction



For Construction



PLAN SNAPSHOT REPORT BBA22-2001 FOR THE CITY OF ANN ARBOR

Plan Type: Building Board of Appeals	Project:	App Date: 05/17/2022
Work Class: Administrative Appeal	District: Ward 4	Exp Date: NOT AVAILABLE
Status: Fees Paid	Square Feet: 0.00	Completed: NOT COMPLETED
Valuation: \$0.00	Assigned To: Dempsey, Glen	Approval
Description: Plans are already submitted		Expire Date:

Parcel: 09-12-04-201-039	Main	Address: 1299 Harpst St Ann Arbor, MI 48104	Main	Zone: R1D(R1D)
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Applicant	Owner 1
Jim Scrivens	Tom E Garthwaite
515 Fifth Street	824 Packard
Ann Arbor, MI 48103	Ann Arbor, MI 48104
Business: 734	

Plan Custom Fields

Type of Building	Residential	New Building	No	Addition	No
Building Use	Single Family	Alteration	No	No. of Floors	1
Repair	Yes	Construction Type	5B construction	Area/Floor	704
No. of Occupants	2	BBAStatementofFactsa ndReasoningMemo	<p>In addition to the items below the Owner is correcting the existing staircase to the basement. This one item will provide the greatest improvement to egress requirements to the basement.</p> <p>We are asking for relief from the doors to the bedrooms in the basement, a short section of hallway and the emergency egress windows. The existing doors and windows are not an issue based on the housing code. However, we are being asked to appeal based on no record of the existing items having permits issued for work some 40 years ago prior to the current building owner.</p>		
		BBADesiredReliefMemo	<p>Doors to habitable rooms:</p> <p>Two doors in the basement that connect the habitable rooms to hallway are 6'-4 1/2" in height to the carpet/ceramic tile floor. Section R311.2.1 states the doors shall be 6'-6" height. Note that flooring materials are 1/2 high. Which means the overall door opening from the basement slab is 6'-5" high. The current wall that the doors are located in is below the first-floor beam for the house and there is very little room between the door head and structural beam. We are requesting a variance for 1 inch discrepancy listed in the code for the height of doors.</p> <p>Basement Hallway</p> <p>The current hallway is 33 3/4" wide for 5'-7" of the 20'-5" hallway. The remainder of the hallway is 50 3/4" wide. The majority of this hallway greatly exceeds the required code width of 36" R311.6. Since the overall hallway exceeds the code, we are asking for variance for the last 67". This section of the</p>		

PLAN SNAPSHOT REPORT (BBA22-2001)

hallway, accesses only the kitchen and bathroom both are non-habitable spaces. Section R304.1

BBA Basis of Appeal Memo

We are providing corrections to areas to provide an equal or better level of safety.

Basis of Appeal

Provisions do not apply

Basement windows:
The current emergency escape basement windows from the habitable rooms in the basement are double hung windows. We believe the windows were replaced at the time the basement walls were replaced. The current windows are compliant with current code except for one issue. The required 24" height is 19.5 inches for the clear opening. We don't believe the replacing the existing windows would result in correcting these issues based on AJ102.4.3.1. Which states the replacement window is the manufacturer's largest standard size window that will fit within the existing frame or rough opening. The replacement window shall be permitted to be of the same operating style as the existing window. As a part of the work, we are willing to correct the area ways on the exterior to 36" deep from the face of the building to increase the safety of the unit. This depth requirement was not codified at the time the existing windows were installed. We are asking that the

Historic District	None	Floodplain	No
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Attachment File Name	Added On	Added By	Attachment Group	Notes
A1.0 Plans 1299 Harpst.pdf	05/17/2022 15:56	Scrivens, Jim	Available Online	Supporting Materials
A1.1 Stair layout 1299 Harpst.pdf	05/17/2022 15:56	Scrivens, Jim	Available Online	Supporting Materials
Building Board of Appeals.pdf	05/17/2022 15:56	Scrivens, Jim	Available Online	Supporting Materials
Signature_Jim_Scrivens_5/17/2022.jpg	05/17/2022 15:56	Scrivens, Jim		Uploaded via CSS
1299 Harpst.pdf	06/10/2022 16:16	Lemieux, Michael	Available Online	Staff Report

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00006235	BBA - Single Family Appeal	\$250.00	\$250.00
Total for Invoice INV-00006235		\$250.00	\$250.00
Grand Total for Plan		\$250.00	\$250.00

PLAN SNAPSHOT REPORT (BBA22-2001)

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Application Completeness Check - Board of Appeals v.1	Approved	05/17/2022	05/18/2022	05/18/2022	No	Yes

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Application Completeness Check - Brandi	Community Services	Lewis, Brandi	Not Required	05/17/2022	05/18/2022	05/18/2022

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Application Completeness Check - Debra	Community Services	Williams, Debra	Approved	05/17/2022	05/18/2022	05/18/2022

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Plan Review [Building Board of Appeals] v.1	Approved	05/17/2022	06/01/2022	06/10/2022	No	Yes

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Building Board of Appeal Review	Building	Lemieux, Michael	Approved	05/17/2022	06/01/2022	06/10/2022

Workflow Step / Action Name	Action Type	Start Date	End Date
Application Completeness Check v.1			05/18/2022 12:03
Application Completeness Check - Board of Appeals v.1	Receive Submittal	05/17/2022 0:00	05/18/2022 12:03
Plan Review v.1			06/10/2022 10:49
Plan Review [Building Board of Appeals] v.1	Receive Submittal	05/17/2022 0:00	06/10/2022 10:49

Appeals Approval Process v.1

Board of Appeals Case for Processing v.1	Task
Staff Report Created and Attached v.1	Generic Action
Notification to Tenants v.1	Generic Action
Staff Report Submitted to Legistar v.1	Generic Action
Building Board of Appeals Decision v.1	Generic Action
Decision Letter Created and Attached v.1	Generic Action
Minutes Created and Published v.1	Generic Action