

ANN ARBOR BUILDING BOARD OF APPEALS

STAFF REPORT

Meeting Date: August 20, 2020

Type of Request: Appeal/Variance

Building Board of Appeals Request BBA20-002 at 1101 S. University Ann Arbor, MI

(Parcel Identification Number: 09-09-28-312-005)

DESCRIPTION AND DISCUSSION

Property Owners Name and Address:

Roshanak-Ameli-Tehrani
South University Properties, LLC
2710 Quebec St. NW
Washington, DC 20008

BACKGROUND

1101 S. University was built in 1930 that is undergoing a three-story addition and is abutted on two sides by the Collegian.

Desired relief:

Relief from section 705, and table 705.8 allowing an opening in the fire rated wall of 1101 S. University for access to garbage collection, bike lockers, electrical transformers and storm water detention (see plans and statements provided).

STAFF RECOMMENDATION

Staff neither supports nor opposes the appeal. Staff believes that the drawings as submitted showing a new opening with eight inch CMU blocks around the opening between the two buildings, The deluge sprinkler between the buildings, the three hour door equipped with an alarm, and the overhead 2 hour rated fire shutter could provide an equal amount of protection as the code requirements of section 705, Table 705.8 for fire wall separation distance less than three feet provides.

PROPOSED MOTION

I move to Approve/Deny regarding relief from Section 705, and table 705.8 allowing an opening in the fire rated wall of 1101 S. University for access to garbage collection, bike lockers, electrical transformers and storm water detention (see plans and statements provided).

The board finds that one or more of the following statements is within their limitations of authority to approve/deny:

1. The true intent of the code or the rules governing construction have been incorrectly interpreted;
2. The Provisions of the code do not apply; or
3. An equal or better form of construction is proposed.

[A] **110.4 Inspection agencies.** The *building official* is authorized to accept reports of *approved* inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

[A] **110.5 Inspection requests.** It shall be the duty of the holder of the building *permit* or their duly authorized agent to notify the *building official* when work is ready for inspection. It shall be the duty of the *permit* holder to provide access to and means for inspections of such work that are required by this code.

[A] **110.6 Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *building official*. The *building official*, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the *permit* holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *building official*.

SECTION 111 CERTIFICATE OF OCCUPANCY

111.1 Use and occupancy. A building or structure shall not be used or occupied, and a change in the existing occupancy classification of a building or structure or portion thereof shall not be made until a certificate of occupancy has been issued in accordance with the act.

Exception: Certificates of occupancy are not required for work exempt from permits under Section 105.2.

R 408.30412

111.2 Certificate issued. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department and all permit and plan review fees are paid, the building official shall issue a certificate of occupancy that contains all of the following:

- (a) The building permit number.
- (b) The address of the structure.
- (c) A description of that portion of the structure for which the certificate is issued.
- (d) A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
- (e) The name and signature of the building official or designee, registered in accordance with the building officials and inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313.
- (f) The edition of the code under which the permit was issued.
- (g) The use and occupancy, in accordance with the provisions of chapter 3.

- (h) The type of construction as defined in chapter 6.
- (i) The design occupant load.
- (j) If an automatic sprinkler system is provided, whether the sprinkler system is required.
- (k) Any special stipulations and conditions of the building permit.

R 408.30412

[A] **111.3 Temporary occupancy.** The *building official* is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the *permit*, provided that such portion or portions shall be occupied safely. The *building official* shall set a time period during which the temporary certificate of occupancy is valid.

[A] **111.4 Revocation.** The *building official* is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

SECTION 112 SERVICE UTILITIES

[A] **112.1 Connection of service utilities.** A person shall not make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a *permit* is required, until released by the *building official*.

[A] **112.2 Temporary connection.** The *building official* shall have the authority to authorize the temporary connection of the building or system to the utility, source of energy, fuel or power.

[A] **112.3 Authority to disconnect service utilities.** The *building official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 101.4 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without the approval required by Section 112.1 or 112.2. The *building official* shall notify the serving utility, and wherever possible the *owner* and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the *owner* or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION 113 BOARD OF APPEALS

113.1 Means of appeal. An interested person may appeal a decision of the enforcing agency to the board of appeals in accordance with the act. An application for appeal shall be based on a claim that the true intent of the code or the rules governing construction have been incorrectly interpreted, the provisions of the code do not apply, or an equal or better form

of construction is proposed. The decision of a local board of appeals may be appealed to the construction code commission in accordance with the act and time frames.

Exception: Requests for barrier free design exception shall be in accordance with 1966 PA 1, MCL 125.1352 to 125.1356.

R 408.30414

[A] 113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

113.3 Qualifications. The board of appeals shall consist of members who are qualified in accordance with the act and are not employees of the governmental subdivision or the agency enforcing the code.

R 408.30414

SECTION 114 VIOLATIONS

[A] 114.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, *repair*, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

[A] 114.2 Notice of violation. The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, *alteration*, extension, *repair*, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a *permit* or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

[A] 114.4 Violation penalties. It is unlawful for any person, firm, or corporation to violate a provision of the code or fail to conform with any of the requirements thereof, or erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure, or equipment regulated by the code, or cause work to be performed or done, in conflict with or in violation of the approved construction documents or directive of the enforcing agency, or a permit or certificate issued under the code. A violator shall be assessed a fine in accordance with the act.

R 408.30410

SECTION 115 STOP WORK ORDER

[A] 115.1 Authority. Where the *building official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *building official* is authorized to issue a stop work order.

115.2 Issuance. Notice shall be in accordance with the act. A person who is served with a stop work order, except for work that the person is directed to perform to remove a violation or unsafe condition is subject to the penalty provisions prescribed in the act.

R 408.30411

[A] 115.3 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT

[A] 116.1 Conditions. Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate *means of egress* facilities, inadequate light and ventilation, or that constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the *building official* deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

[A] 116.2 Record. The *building official* shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

[A] 116.3 Notice. If an unsafe condition is found, the *building official* shall serve on the *owner*, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *building official* acceptance or rejection of the terms of the order.

[A] 116.4 Method of service. Such notice shall be deemed properly served if a copy thereof is (a) delivered to the *owner* personally; (b) sent by certified or registered mail addressed to the *owner* at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the *owner*.

[A] 116.5 Restoration. Where the structure or equipment determined to be unsafe by the *building official* is restored to a safe condition, to the extent that repairs, *alterations* or *additions* are made or a change of occupancy occurs during the restoration of the structure, such *repairs*, *alterations*, *additions* and change of occupancy shall comply with the requirements of Section 105.2.2 and the *International Existing Building Code*.

TABLE 705.8
MAXIMUM AREA OF EXTERIOR WALL OPENINGS BASED ON
FIRE SEPARATION DISTANCE AND DEGREE OF OPENING PROTECTION

FIRE SEPARATION DISTANCE (feet)	DEGREE OF OPENING PROTECTION	ALLOWABLE AREA ^a
0 to less than 3 ^{b, c, k}	Unprotected, Nonsprinklered (UP, NS)	Not Permitted ^k
	Unprotected, Sprinklered (UP, S) ⁱ	Not Permitted ^k
	Protected (P)	Not Permitted ^k
3 to less than 5 ^{d, e}	Unprotected, Nonsprinklered (UP, NS)	Not Permitted
	Unprotected, Sprinklered (UP, S) ⁱ	15%
	Protected (P)	15%
5 to less than 10 ^{e, f, j}	Unprotected, Nonsprinklered (UP, NS)	10% ^h
	Unprotected, Sprinklered (UP, S) ⁱ	25%
	Protected (P)	25%
10 to less than 15 ^{e, f, g, j}	Unprotected, Nonsprinklered (UP, NS)	15% ^h
	Unprotected, Sprinklered (UP, S) ⁱ	45%
	Protected (P)	45%
15 to less than 20 ^{f, g, j}	Unprotected, Nonsprinklered (UP, NS)	25%
	Unprotected, Sprinklered (UP, S) ⁱ	75%
	Protected (P)	75%
20 to less than 25 ^{f, g, j}	Unprotected, Nonsprinklered (UP, NS)	45%
	Unprotected, Sprinklered (UP, S) ⁱ	No Limit
	Protected (P)	No Limit
25 to less than 30 ^{f, g, j}	Unprotected, Nonsprinklered (UP, NS)	70%
	Unprotected, Sprinklered (UP, S) ⁱ	No Limit
	Protected (P)	No Limit
30 or greater	Unprotected, Nonsprinklered (UP, NS)	No Limit
	Unprotected, Sprinklered (UP, S) ⁱ	No Limit
	Protected (P)	No Limit

For SI: 1 foot = 304.8 mm.

UP, NS = Unprotected openings in buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

UP, S = Unprotected openings in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

P = Openings protected with an opening protective assembly in accordance with Section 705.8.2.

a. Values indicated are the percentage of the area of the exterior wall, per story.

b. For the requirements for fire walls of buildings with differing heights, see Section 706.6.1.

c. For openings in a fire wall for buildings on the same lot, see Section 706.8.

d. The maximum percentage of unprotected and protected openings shall be 25 percent for Group R-3 occupancies.

e. Unprotected openings shall not be permitted for openings with a fire separation distance of less than 15 feet for Group H-2 and H-3 occupancies.

f. The area of unprotected and protected openings shall not be limited for Group R-3 occupancies, with a fire separation distance of 5 feet or greater.

g. The area of openings in an open parking structure with a fire separation distance of 10 feet or greater shall not be limited.

h. Includes buildings accessory to Group R-3.

i. Not applicable to Group H-1, H-2 and H-3 occupancies.

j. The area of openings in a building containing only a Group U occupancy private garage or carport with a fire separation distance of 5 feet (1523 mm) or greater shall not be limited.

k. For openings between S-2 parking garage and Group R-2 building, see Section 705.3, Exception 2.

705.8.6 Vertical exposure. For buildings on the same lot, opening protectives having a *fire protection rating* of not less than $\frac{3}{4}$ hour shall be provided in every opening that is less than 15 feet (4572 mm) vertically above the roof of an adjacent building or structure based on assuming an imaginary line between them. The opening protectives are required where the *fire separation distance* between the imaginary line and the adjacent building or structure is less than 15 feet (4572 mm).

Exceptions:

1. Opening protectives are not required where the roof assembly of the adjacent building or struc-

ture has a *fire-resistance rating* of not less than 1 hour for a minimum distance of 10 feet (3048 mm) from the *exterior wall* facing the imaginary line and the entire length and span of the supporting elements for the fire-resistance-rated roof assembly has a *fire-resistance rating* of not less than 1 hour.

2. Buildings on the same lot and considered as portions of one building in accordance with Section 705.3 are not required to comply with Section 705.8.6.