



**APPROVED MINUTES OF THE REGULAR SESSION OF THE
BUILDING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
JUNE 11, 2008 - 1:30 P.M. – SECOND FLOOR – COUNCIL CHAMBERS
100 N. FIFTH AVENUE, ANN ARBOR, MI 48104**

MEETING CALLED TO ORDER at 1:32 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 Revised – Item Number C-4 Added.

B - APPROVAL OF MINUTES

B-1 April and May postponed (Not available)

C - APPEALS & ACTION

C-1 2008-B-021 – 2205 Brockman Blvd.

John Barrie, architect for this property, is requesting a variance from Section R311.5.2 of the 2003 Michigan Residential Code.

Description and Petitioner Presentation

The applicant is requesting a variance from Section R311.5.2 of the 2003 Michigan Residential Code that requires *“the minimum headroom in all parts of the stairway shall not be less than 6 feet 8 inches measured vertically from the sloped plane adjoining the tread nosing or from the floor surface of the landing or platform.”*

Petitioner is reworking the stair from the first to the second floor. The headroom in a portion of this stair is a maximum of 6 foot 1-1/2”. Code requires a minimum headroom of 6 foot 8 inches. Petitioner states that there is a second stair to the second floor that does meet headroom requirements. Petitioner also states that the new headroom is an improvement over the existing headroom but does not state what the existing conditions are.

Mr. John Barrie, Architect, and Mr. Richard DeVarti, owner of the property were present to speak on behalf of the appeal. Mr. Barrie outlined the project. He mentioned that there are two stairways to the second floor; one stairway is code compliant, the second is the one in question. This one has an existing condition of 6’1 ½ “of headroom. Three treads impinge on this headroom problem, but the worst is one tread that has the lowest point of 6’ 1 ½.”

51 The new stair above the one that creates the problem is the steepest and tightest it can be in
52 terms of construction. We have installed hard-wired, interconnected smoke detectors.

53

54 **Recommendation:**

55

56 A. Savoni - Staff is not supportive of this headroom height request in the stair. The head room
57 is too low and could impede rescue efforts in the case of an emergency. While a second stair is
58 located in the house, either may be used in an emergency so both must have the required
59 headroom.

60

61 K. Chamberlain – The Fire Department concurs with the Building Department.

62

63 **Comments and Questions from the Board**

64

65 P. Darling – What is the purpose of the reconstruction on this stairway? (J. Barrie – We’ve
66 constructed a third floor with habitable space.) Would it help to reconstruct the first to second
67 floor stair? (Rebuilding that would require rebuild of the basement stairs, and I’m not sure it
68 would help.)

69

70 K. Winters – You have only the one stair coming from the third to the second floor? (Yes, and
71 that stairway has 6’8” of headroom. If we took out the front hall stairway, this would still be a
72 code compliant building. A 6’1” stairway is better than it could be.) That’s debatable since
73 someone may hit their head.

74

75 R. Reik – Did you say that you couldn’t rebuild the basement stairs? (J. Barrie – I believe you
76 could rebuild the basement stairs to the first floor and then from the first floor to the second floor,
77 but it wouldn’t solve the problem. If you made it steeper, it *may* end up with less than the
78 existing.)

79

80 R. Hart – When you put the new stair into that second level landing, don’t you have to reframe
81 the landing to take the load of that stair? (J. Barrie – The bearing is not on the sculpted part, but
82 on the doubled joist on the stair, not on the narrow part. We’ve moved the bearing plate out so
83 that it stacks out over the existing part of the structure. It’s 80” from the curve directly to the
84 stair below. Because of the nosing to nosing measurement, we end up with that pinch point.)

85

86 K. Winters – The concern is that, for instance, a fireman coming in the front door is going to see
87 that stair to get to the third floor. The only other way around that is to close off that stair.
88 (J. Barrie – If we were to hypothetically eliminate the bedrooms and build the stairs in there, the
89 pinch point would still exist – it’s existing.) Can that be changed by restructuring to get greater
90 depth? (J. Barrie – Stated that the middle portion of those stairs are all 6’4”.) Because you are
91 rebuilding this stair, you have to have this improved to code.

92

93 **Discussion:**

94

95 *(The Board discussed at length possibilities for correcting the headroom problem, including*
96 *changing the fixtures in the bathroom to allow more room for the stair.)*

97

98 **MOTION**

99

100 Moved by S. Callan, Seconded by R. Reik, “in the matter of Appeal Number 2008-B-021,
101 **2205 Brockman Boulevard, to table the issue until the next Regular Session of the Board,**
102 **to allow petitioner time to design an alternate proposal.”**

103

104 **On a Voice Vote – MOTION TO TABLE - PASSED – UNANIMOUS (Tabled for 30 Days)**

105 **C-2 2008-B-022 – 627 South Division**

106
107 **Nancy Polmear-Swendris and James Swendris, owners of this property, are**
108 **requesting a variance from Sections R311.5.1, and R311.5.3.1 of the 2003**
109 **Michigan Residential Code.**

110
111 **Description and Petitioner Presentation**

112
113 The applicant is requesting a variance from the following sections of the 2003 Michigan
114 Residential Code regarding stairways:

115
116 Petitioner is planning on renovating the existing third floor of the house for a bedroom. The
117 stairs leading to the third floor do not meet code for the following reasons.

- 118
119
 - The width of the stair is 34 inches. Code requires a minimum 36 inch stair width.
 - The stair risers are 10 inches. Code allows a maximum 8-1/4 inch riser height. In the
120 sketch, the risers appear to vary more than the allowed 3/8" distance.

121
122
123 Mr. Swendris was present to speak on behalf of the appeal. He stated that they would like to
124 remodel their third floor into a bedroom. They currently have heating in that space and code
125 egress. They have looked into stretching those stairs out, but would have to go into a bedroom
126 or a bathroom to do it. He stated that they currently have the measurements outlined by staff.
127 They stated they could comply with installing a building-wide smoke detection system.

128
129 **Recommendation:**

130
131 A. Savoni - Staff would be supportive of granting this request based on Appendix J of the code
132 which states: "Where compliance with these provisions or with this code as required by these
133 provisions is technically infeasible or would impose disproportionate costs because of structural,
134 construction or dimensional difficulties, other alternatives may be accepted by the building
135 official." We would, however, like to see the stair be rebuilt if possible to obtain a more uniform
136 riser height. If the board is supportive of granting these requests, a fully automatic, building
137 wide smoke detection system should be a condition of the variance.

138
139 K. Chamberlain – The Fire Department concurs with the Building Department.

140
141 **Comments and Questions from the Board**

142
143 R. Hart – You stated that the door to those stairs would be removed. How wide is the door, and
144 will you be removing the frame to the full width of the stair? (The casing will be removed.)

145
146 **Discussion:**

147
148 K. Winters – If they rebuilt a platform at the start of the winders making those 8 1/4," we could
149 give them the variance for the difference. Changing the winder to a shallower stair wouldn't be
150 as bad as just one stair making the change.

151
152 **MOTION**

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154 Moved by R. Reik, Seconded by R. Hart - **"In regard to Appeal Number 2008-B-022,**
155 **627 South Division, to table the issue until the next Regular Session of the Board, to**
156 **allow petitioner time to design an alternate proposal."**

157
158 **On a Voice Vote – MOTION TO TABLE - PASSED – UNANIMOUS (Tabled for 30 Days)**

Description and Petitioner Presentation

Doug Behnke, contractor for this property, is requesting a variance from Section R305.1 of the 2003 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.

Petitioner is remodeling the basement constructing a Family Room and Bathroom. The proposed finished ceiling height will be 6 foot 11 inches. The ceiling height under ductwork and beams is 6 foot 2-1/4 inches. The width of this area is 4 foot 8 inches. Petitioner does not state whether he is covering this duct/beam space with drywall. Petitioner is installing an egress window in the basement.

Mr. Doug Behnke was present to speak on behalf of the appeal. He stated that the family has been using the unfinished basement as a playroom, but want to finish it off properly and insulate the area. In doing this renovation, there would be an egress window and a hard-wired, interconnected smoke detector system. We would need two variances. A finished ceiling height of 6'11" and there are existing steel beams and ductwork that has an existing clearance of 75." We propose drywall for the ceiling and leaving the beam exposed.

Recommendation:

A. Savoni - Staff is supportive of this ceiling height request as long as the area of the ductwork and beams is left exposed. 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 – The Fire Department concurs with the Building Department.

Comments and Questions from the Board

R. Reik – The information you submitted states you have 6'2 ¼"– and you're saying you have 6'3"? (D. Behnke – its 75" or 6'3.")

K. Winters – 6'3" has not been allowed before. 6'4" is the least we've allowed, and you're at 6'3" without finishing the steel beam. (I can't raise the steel beam because of the ductwork above it and that beam is 8" and we'd have to recess it into the ceiling and there is no way to do that with the ductwork above going into the walls. I don't see any other solution.) Another solution would be to change to a 6" beam and add columns to reduce the span, then shallow up the ductwork. (Cost is also an issue for the family. They're using the space now; we're just improving the space by making it safer.)

Are there any sleeping rooms down there? (No, just a large open area.)

P. Darling – Right now you show the egress window below where the lowest area of the soffit is. Would it be possible to put that egress window in a different window opening so that it's not under the low ceiling? (That window is large enough to give the clearance we need. That might be a possibility.)

(The Board discussed at length ways to reconfigure the area to assist in a viable solution.)

213 R. Reik – At one point on your drawing it shows 74 ¾”? (Depending on where you measure, it
214 varies from the finished floor.)
215

216 P. Darling – If you look at the return air supply, it looks as though it stops before the potential
217 egress window, and the ceiling height might be higher there.
218

219 R. Hart – Can you explain the ‘alcove’ area on the drawing? (They want to create a space to
220 put some chairs and a play area. There is no door planned at this time because there is no
221 egress window out of that space.)
222

223 Would they be amenable to moving the egress window to the other wall and before I make the
224 motion, does anyone have a problem with the alcove? (P. Darling – Doesn’t bother me.
225 K. Winters - If they enclose it – it may make it worse for smoke?)
226

227 K. Chamberlain – I hadn’t thought of it being closed off and I looked at it as being open toward
228 the stair which would be an advantage to give a clear path to the exit way.
229

230 **MOTION**
231

232 Moved by R. Hart, Seconded by P. Darling, “**Concerning Appeal Number 2008-B-023,**
233 **639 Trego Circle, the Board grants a variance from Section R305.1 of the 2003 Michigan**
234 **Residential Code, to permit a general ceiling height of 6’11” throughout the basement**
235 **area and allowing a variance with a minimum of 6’2” headroom under the existing**
236 **ductwork and steel beams and a width of 4’8,” provided the ductwork and beams are not**
237 **enclosed or finished. Further, provided that the egress window in the basement be**
238 **moved to the 6’11” ceiling height area and that a smoke detector be located in the alcove**
239 **and the general family room space area. An interconnected, building wide smoke**
240 **detection system shall be installed to the satisfaction of the Fire Marshall as a condition**
241 **of this variance. We find this to be equivalent to the intent of the Code.”**
242

243 **On a Voice Vote - MOTION FAILED – (Variances denied) 3 Nays to 2 Yeas**
244

245
246 **C-4 2008-B-024 – 2713 White Oak Drive**
247

248 **Description and Petitioner Presentation**
249

250 **Summit Homebuilding, contractor for this property, is requesting a variance from**
251 **Sections R305.1 and R310.1 of the 2003 Michigan Residential Code.**
252

253 **Recommendation:**
254

255 The applicant is requesting a variance from the following sections of the 2003 Michigan
256 Residential Code:
257

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

265 Mr. Rob McGowan, General Contractor with Summit Homebuilding was present to speak on
266 behalf of the appeal. He stated that he constructed a rather extensive addition onto the owners'
267 home, which included another bedroom and bathroom upstairs, a great room and a game room
268 below the great room. In the process of doing this work, there was a bedroom area that was
269 existing in which we moved a wall over about 6' feet to add space to the bedroom.

270
271 When doing the construction, I mentioned that I wasn't sure that the egress window would work.
272 I put two egress windows in the game room that have 34" sill heights. These are large
273 casement windows with half wells and one has a ladder on it. I made the provision there to
274 have egress from the basement. The ceiling in that bedroom maintains a ceiling height of 6'6"
275 as that was existing, but when we moved the wall that ceiling is now 3" below code at the drop;
276 most of the ceiling in that room is 7'6". I proposed building a permanent step in the egress
277 window for access to that window. This bedroom is only used seasonally when they have
278 guests in from out of town.

279
280 **Recommendation:**

281
282 A. Savoni - Staff is supportive of the ceiling height request.

283
284 With regard to the egress window, staff would not be supportive of this request. The code
285 specifically states that the bottom of the opening must be a maximum of 44 inches from the
286 finished floor and does not allow for any provisions or exceptions for a step located at the
287 window.

288
289 We would suggest that if the Board is supportive of granting any variance, a fully automatic,
290 building wide smoke detection system be a condition of the variance. Also, if the egress
291 variance is approved, Petitioner be required to install a permanent platform that is a minimum 3
292 foot by 3 foot, with a rise not greater than 8-1/4" and a permanent sign stating that the step is a
293 part of the emergency egress system and cannot be removed.

294
295 K. Chamberlain – The Fire Department has concerns with the restricted height in the normal
296 path of egress out of that bedroom; otherwise, we concur with the Building Department.

297
298 **Comments and Questions from the Board**

299
300 R. Hart – You're going to be moving the door that is there now? (It's already been relocated.)

301
302 K. Winters – So the new sized bedroom entails the 7'6" ceiling, and the soffit which is 6'6" in
303 another section and another section that is 7'6" and the door was moved to the 7'6" section.
304 (Yes.) There is also an exit through the bathroom that you could use to get to the stairs? (Yes.)

305
306 **MOTION**

307
308 Moved by R. Reik, Seconded by R. Hart, **"In the matter of Appeal Number**
309 **2008-B-024, 2713 White Oak Drive, to permit a variance from Sections R305.1 and R310.1**
310 **of the 2003 Michigan Residential Code, to permit a 6'6" clearance under the soffit that**
311 **has a width of 51" and to permit use of an egress window in that room, provided that a**
312 **permanent platform that is a minimum of 3' x 3' with a riser no greater than 8 1/4" with a**
313 **permanent sign stating that the step is a part of the emergency egress system and**
314 **cannot be removed be installed. A interconnected, building wide smoke detection**
315 **system shall be installed to the satisfaction of the Fire Marshall. We find this to be**
316 **equivalent to what the Code requires."**

317
318 **On a Voice Vote – MOTION TO APPROVE - PASSED – UNANIMOUS (Variances Granted)**

319 D - **OLD BUSINESS** – None.

320
321
322 E - **NEW BUSINESS**

323
324 E-1 – Communication from the **Michigan Construction Code Commission,**
325 **Department of Labor and Economic Growth, Bureau of Construction Codes**
326 regarding Appeal Number CCC-MECH-008-004, Jay Walden of Melting Pot
327 Restaurants vs. the City of Ann Arbor. In short, the ruling stated:
328

329 *Jay Walden of the Melting Pot Restaurants filed an appeal with the City of Ann Arbor requesting*
330 *a variance from Section 507.1, 507.2, 507.2.1 and 507.2.2 of the 2003 Michigan Mechanical*
331 *Code, which requires commercial kitchen hoods over equipment that produces heat, steam or*
332 *grease. On Wednesday, March 12, 2008, the appeal was heard by the Ann Arbor Building*
333 *Board of Appeals. The Board of Appeals denied the request for a variance. On May 5, 2008,*
334 *the Mechanical Division received an appeal of that decision. On May 14, 2008, the Michigan*
335 *Board of Mechanical Rules held a hearing regarding that appeal.*
336

337 *The Michigan Board of Mechanical Rules denied the appeal stating “The installation of the table*
338 *top fondue equipment without a hood is in violation of the 2003 MMC; Section 507.2.2 and there*
339 *is not a section that is applicable. The City of Ann Arbor (Building Board of Appeals) made no*
340 *error in the interpretation and application of the MMC and a compelling argument of practical*
341 *difficulty or alternative compliance were not made. Therefore, it is ordered that the request for*
342 *the relief from the requirements of Section 507.2.2 be denied.*
343

344 Chair Kenneth Winters commended the A2 Building Board members on their initial decision to
345 deny that appeal when it was heard in March of this year. The decision in its entirety is on file
346 with the city Building Department.
347

348 S. Callan – Asked about the status of 800 N. Main Street.

349
350 A. Savoni stated that the City Attorney in charge of this issue is deciding how she wants to
351 legally serve notice of the Board’s decision.
352

353
354 F - **REPORTS & COMMUNICATIONS**

355
356 Informed the Board of the new Planning and Development software for permitting called TrakIT.
357

358 F. **AUDIENCE PARTICIPATION – GENERAL** – None.

359
360 **ADJOURNMENT**

361
362 Moved by R. Reik, Seconded by R. Hart, **“that the meeting be adjourned.”**
363 The meeting was adjourned without opposition at 3:19 p.m.
364

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