



City of Ann Arbor 12-3-15
PLANNING & DEVELOPMENT SERVICES — CONSTRUCTION SERVICES

Mailing: 301 E. Huron St. P.O. Box 8647 Ann Arbor, Michigan 48107-8647

734.794.6263 734.994.8460 building@a2gov.org

APPLICATION FOR VARIANCE - BUILDING BOARD OF APPEALS

Section 1: Applicant Information		
Name of Applicant: <u>Tom Fitzsimmons, Huron Kingsley LLC</u>		
Address of Applicant: <u>425 West Liberty, Ann Arbor, MI 48103</u>		
Daytime Phone: <u>734-320-9680</u>		Fax: _____
Email: <u>thomasrfitzsimmons@comcast.net</u>		
Applicant's Relationship to Property: _____		
Section 2: Property Information		
Address of Property: <u>121 Kingsley West, Ann Arbor, MI 48104</u>		
Zoning Classification: <u>D2</u>		
Tax ID# (if known): _____		
*Name of Property Owner: _____		
<i>*If different than applicant, a letter of authorization from the property owner must be provided.</i>		
Section 3: Request Information		
<input type="checkbox"/> Variance		
Chapter(s) and Section(s) from which a variance is requested:	REQUIRED dimension:	PROPOSED dimension:
<u>See attached.</u>	_____	_____
_____	_____	_____
Example: 2003 Building Code, Section 5:26	Example: 7' Ceiling Clearance	Example: 6'5" under landing
Give a detailed description of the work you would need this variance for (attach additional sheets if necessary)		
<u>(see attached)</u>		

Section 4: Variance Request

The City of Ann Arbor Building Board of Appeals has the powers granted by State law and Building Codes. A variance may be granted by the Building Board of Appeals only in cases involving practical difficulties or unnecessary hardships when **ALL** of the following is found **TRUE**.

Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Building Board of Appeals.

1. Are there hardships or practical difficulties to complying with the Code? Are these hardships or practical difficulties an exception or unique to the home compared to other homes in the City?

See attached.

2. Are the hardships or practical difficulties more than mere inconvenience or inability to obtain a higher financial return, or both? (explain)

See attached.

3. What effect will granting the variance have on the neighboring properties?

See attached.

4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the Code?

See attached.

5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?

See attached.

Section 5: Required Materials

The following materials are required for all variance requests. Failure to provide these materials will result in an **incomplete application** and will delay staff review and Building Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application. All materials must be provided on **8 1/2" by 11" sheets**. **If incomplete, you will be scheduled for the NEXT MEETING DATE ON THE FOLLOWING MONTH.**

- State proposed use of property, size of lot and size and type of proposed changes.
- Building floor plans showing interior rooms, including dimensions. (continued....)
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.
- Letter of Authority if being represented by someone other than the property owner.

Section 3: Request Information

Variance Chapter(s) and Section(s) from which a variance is requested:

1. Section 510.2 (1) which requires a 3 hour fire-resistance rating for a horizontal assembly separating buildings being constructed using the prescriptive provisions of section 510.2;
2. Section 510.2 (3) which requires a type 1-A construction for a horizontal assembly separating buildings being constructed using the prescriptive provisions of section 510.2; and
3. Section 403.1 which defines the level at which a building must be considered as a "high rise" building for purposes of code application.

Give a detailed description of the work you would need this variance for (attach additional sheets if necessary)

1. The need for Variances (1) and (2) arises out of differing opinions between the Architects, Rueter Associates Architects, and the Building Official as to what constitutes a "story above grade plane" under MBC 2009 Chapter 2 definitions. If the building level in question is not a "story above grade plane" then the height limitations of Type VA construction of four stories would not apply to this building and these two variances would not be necessary. The question then arises in how to measure the "average grade plane".

The architects have measured the average grade plane at points along the finished grade at the perimeter of the site as described in "definitions of grade plane". (Commentary 502.1(4)) Using this procedure, the lowest story is a "story below grade plane". The Building Official however has measured the average grade as a series of elevations around the most westerly structure and thru the lower level parking structure making this level a "story above grade".

In a meeting with the previous Building Official at the preliminary design stage, we were encouraged to classify the three structures on the site as being one building under MBC 2009 503.1.2 and to assume that the story in question was a "story below grade". In the Architect's conversations with technical code officials at the ICC, where to measure the grade plane is a question with little or no ICC interpretation history.

We are not asking the Board to make an interpretation as to how or where to measure the "grade plane", but to approve a method of an equal or better form of construction in order move the project forward. This would involve classification of the lowest story as having a horizontal building separation under MBC 2009 510.2 and 510.4 "Parking beneath Group R" which would allow for the construction of four stories above this level.

Both of these conditions presently exist in the westerly structure. Half of the space is private parking garage S2 or U (MBC2009 406.3) and the other street side half is R2. The spaces are separated by a Type 1 cmu wall (Design No.U914 three hours). The upper stories are also supported by Type 1 (Design No.U914) cmu walls and concrete clad steel columns. The horizontal assembly however is of type 5a construction. In order to qualify for a horizontal separation under 510.2 or 510.4, all construction must be of Type 1. The assembly separating the R2 space above the R2 space must be a Type 1A three-hour assembly. The assembly separating the R2 space above the parking needs to be Type 1 B (two hour).

We are proposing to create a horizontal assembly over both the R-2 and S-2 spaces approaching three hours (2 hrs. and 50-55 min), (see Exhibit #1) using MBC 2009 Section 722 Calculated Fire Resistance in lieu of a tested assembly and to substitute this

for the required Type 1 construction. The structure is also completely sprinkled (NFPA 13).

2. The need for Variance 3 arises out of an interpretation as to where the vertical height is measured for purposes of determining whether or not a building is a high rise. The code MBC 2009 403.1 requires that the measurement be taken at the lowest level of "fire department vehicle access". In this section of the code there is no definition of "lowest level of fire department access". It could be assumed that this level is at the intersection of Kingsley and Ashley Streets. The Architects however have proposed that this level is at two locations: the main pedestrian entrance on Ashley Street and the main vehicular access on Kingsley Street. This is based upon the code commentary and definition of "fire department access" as defined where building height requires Standpipe Systems (Section 905.3.1 Exception (5.2)). Here the code makes an exception for topography where access is impractical or impossible for fire department vehicles. At the lowest level, access to the building would be impeded by a six-foot grade difference from the sidewalk to the lowest level building floor.

The fire chief and fire marshal visited the site and confirmed the street intersection is not where fire department vehicles would be staged for building access. They have further confirmed that in their opinion, this building should not be considered a high-rise building.

Section 4: Variance Request

1. *Are there hardships or practical difficulties to complying with the Code? Are these hardships or practical difficulties an exception or unique to the home compared to other homes in the City?*

The practical difficulties arise from an interpretation of the building code and the fact that the structural shell of the building is almost complete. The difficulties in interpreting the building code arise from a topographical condition in which the grade across the site varies from one corner to the opposite corner of approximately 18 feet.

2. *Are the hardships or practical difficulties more than mere inconvenience or inability to obtain a higher financial return, or both? (explain)*

The structural shell except for the top floor is almost complete. If the variances are denied, construction would need to be halted for a redesign, the building would be exposed to the elements during this process and exposure would lead to structural deterioration.

3. *What effect will granting the variance have on the neighboring properties?*

There would be a negative impact upon neighboring properties if the variances were denied as construction would be delayed and the neighborhood subjected to a prolonged construction phase or an uncompleted building.

4. *What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the Code?*

The difficulties in interpreting the building code arise from a topographical condition in which the grade across the site varies from one corner to the opposite corner of approximately 18 feet.

5. *Is the condition which prevents you from complying with the ordinance self-imposed? How did the*

condition come about?

The natural elevation changes across the site are not self-imposed. The difference of opinion on what constitutes a "story above grade" is not self-imposed.

Section 5: Required Materials

1. *Proposed use of property, size of lot and type of proposed changes.*

This project consists of two residential structures and one existing two story historic structure. The eastern structure is two stories plus a mezzanine above a private parking garage. The western structure is four stories plus a mezzanine above a private parking structure and two private residences. Both structures are connected with an uncovered outdoor private and public deck with a garage driveway below. The project is a residential condominium being constructed on a 16,451 steeply sloping site. (see attachment a below).
2. Attachments: floor plans, cross sections, illustrations and additional graphic materials.
 - a. Birds eye perspective of project
 - b. Site plan showing grades
 - c. Lower level parking and residential plans
 - d. Cross section

Section 6: Acknowledgement

SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Applicable City Code and/or 2006 Michigan Residential Code and/or 2006 Michigan Building Code for the stated reasons, in accordance with the materials attached hereto.

734-660-3716
Phone Number

[Signature]
Signature

chuck@huroncontracting.com
Email Address

S.C. HETHERWICK
Print Name

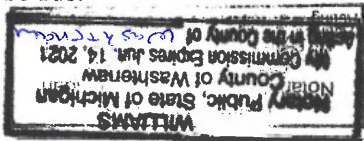
I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith are true and correct and have received all coversheets with dates, deadlines and instructions. Applicant acknowledges that they are aware of these meeting dates and will not receive further notification of meeting dates and times. All applicants are expected to know when and where the meeting is and to appear to present their appeal in a timely fashion:

[Signature]
Signature

Further, I hereby give City of Ann Arbor Planning and Development Services unit staff and members of the Building Board of Appeals permission to access the subject property for the purpose of reviewing my variance request. As a condition of granting any variance, the property owner is also responsible for reinstating, paying fees for or acquiring new permits to inspect and final out any outstanding work at this property:

[Signature]
Signature

On this Eighth day of January, 2016, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.



Notary Commission Expiration Date

[Signature]
Notary Public Signature
Debra G. Williams
Print Name

STAFF USE ONLY

Date Submitted: 12-3-15 Fee Paid: \$500.00

File No.: BBA15-031

Pre-Filing Review Person & Date: _____

Secondary Staff Review Person & Date: _____

Date of Public Hearing: _____

BBA Action: _____

OUTSTANDING PERMITS: _____



CITY OF ANN ARBOR

100 N. FIFTH AVE • ANN ARBOR, MI 48104
(734) 794-6267

Receipt Number: 2016-00028888

Project Number BBA15-031
Receipt Print Date: 12/03/2015
Address 121 W KINGSLEY ST
Applicant
Owner HURON-KINGSLEY, LLC
Project Description STORY ABOVE GRADE

FEES PAID

0026-033-3370-0000-4361

P&D - APPEAL FEES 15/16

BBA - ALL OTHER STRUCTURES	0026-033-3370-0000-4361	500.00
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Total Fees for Account 0026-033-3370-0000-4361:	500.00
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TOTAL FEES PAID	500.00
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DATE PAID: Thursday, December 3, 2015

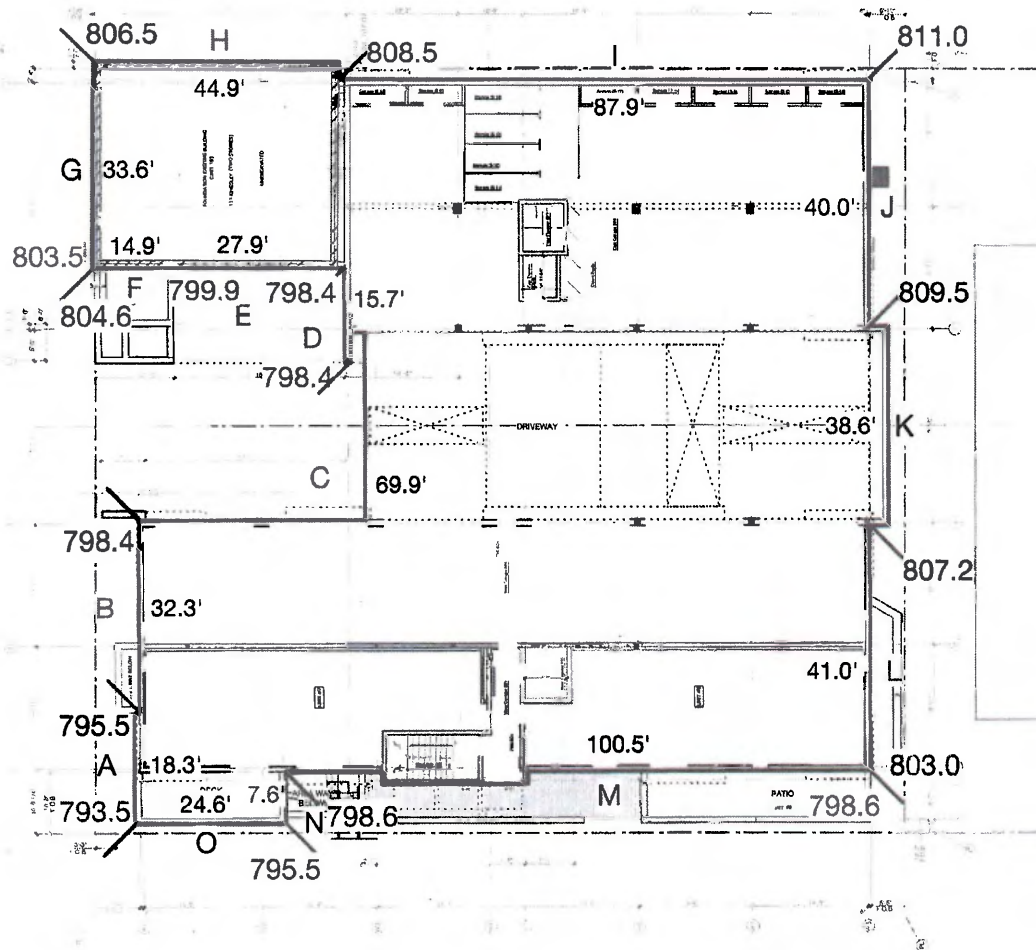
PAID BY: LOGOS

PAYMENT METHOD: CHECK 1201



ATTACHMENT A

1 NORTH BIRDSEYE LOOKING SOUTH
NO SCALE

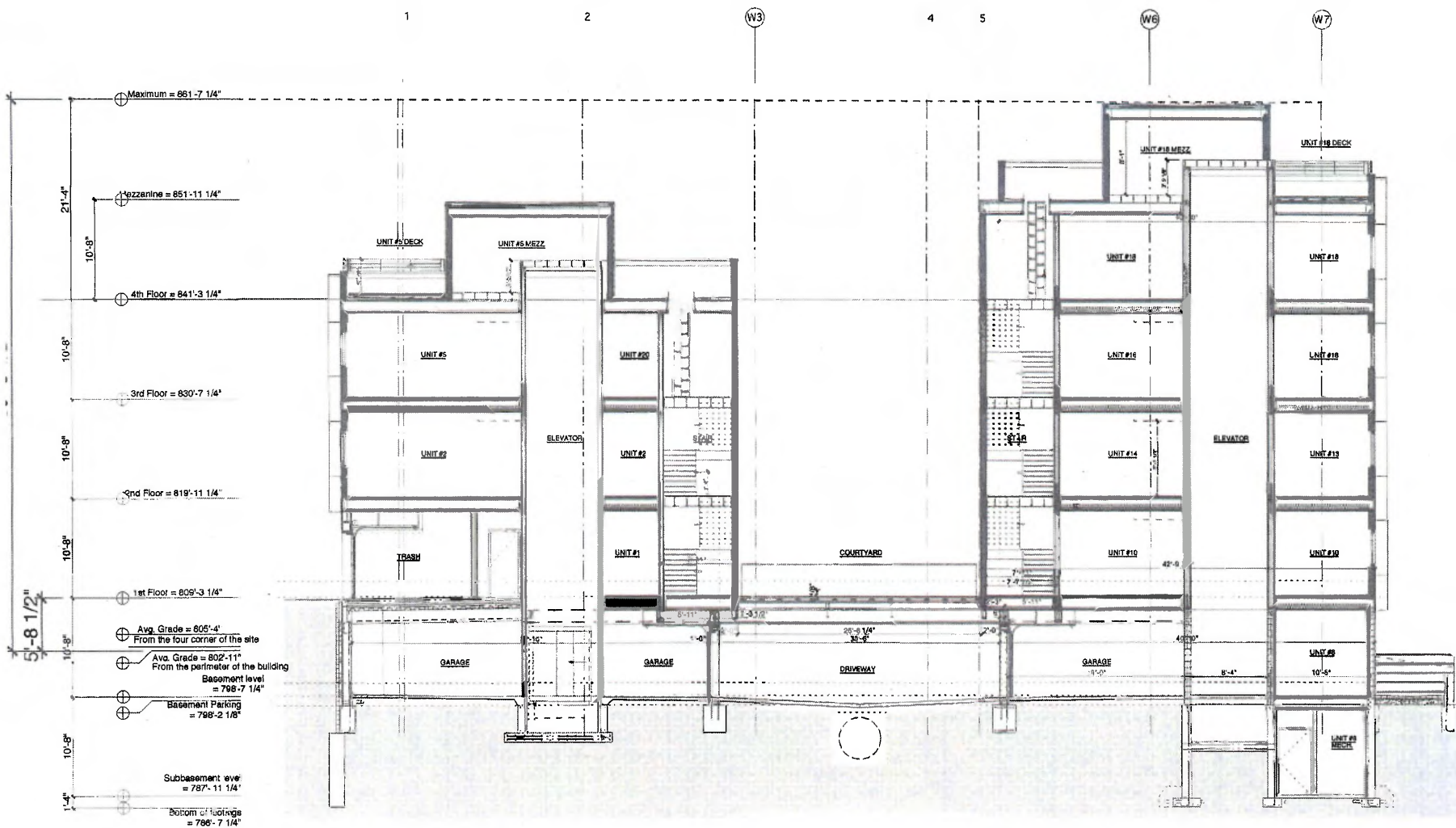


121 KINGSLEY WEST
GRADE PLANE CALCULATION

LOCATION	AVG. ELE.	DIST.	
A	794.75	18.3	14543.93
B	797.40	32.3	25756.02
C	798.40	69.9	55808.16
D	798.55	15.7	12537.24
E	799.30	27.9	22300.47
F	804.60	14.2	11425.32
G	805.00	33.6	27048.00
H	807.50	44.9	36256.75
I	809.80	87.9	71181.42
J	810.25	40	32410.00
K	808.45	38.6	31206.17
L	805.35	41	33019.35
M	798.60	100.5	80259.30
N	796.80	7.6	6055.68
O	794.25	24.6	19538.55
TOTAL PERIMETER		597	479346.35

AVG GRADE PLANE: $479346.35/597 = 802.91$

Attachment "b"



Attachment "d

■ **RUETER ASSOCIATES** ■
 ARCHITECTS
 515 Fifth Street, Ann Arbor, Michigan 48103
 phone: (734) 769-0070, fax: (734) 769-0167

121 Kingsley West
 Kingsley, Ann Arbor, Michigan 48103
 RAA: 14-010
 REVIEW DWG: 12.2.15

SK#2



CITY OF ANN ARBOR, MICHIGAN

Community Services Area
Planning & Development Services Unit
301 East Huron, P.O. Box 8647,
Ann Arbor, Michigan 48107-8647
Phone: (734) 794-6261
Fax: (734) 994-8460

December 7, 2015

Tom Fitzsimmons
Huron Kingsley LLC
425 West Liberty
Ann Arbor, MI 48103

Re: 121 W Kingsley Street, Ann Arbor, Michigan
Parcel Identification Number ("PIN"): 09-09-29-139-098

Dear Mr. Fitzsimmons:

Please consider this as a reminder to attend the Ann Arbor Building Board of Appeals meeting for your variance request in regards to the measurement of a story above grade, 3 hr fire resistance, horizontal assembly at 121 W Kingsley.

The meeting will take place on Friday, December 18, 2015 at 1:30 PM in the Basement of City Hall. Please bring materials and interested parties to the meeting for your presentation of the variance request if needed.

Sincerely,

Craig Strong, Building Official
City of Ann Arbor Construction Services
cstrong@a2gov.org



CITY OF ANN ARBOR, MICHIGAN

Community Services Area
Planning & Development Services Unit
301 East Huron, P.O. Box 8647,
Ann Arbor, Michigan 48107-8647
Phone: (734) 794-6261
Fax: (734) 994-8460

January 4, 2016

Huron-Kingsley, LLC
408 North First Street
Ann Arbor, MI 48103

Re: 121 West Kingsley Street, Ann Arbor, Michigan
Parcel Identification Number ("PIN"): 09-09-29-139-098

Dear Huron-Kingsley, LLC:

Please consider this as a reminder to attend the Ann Arbor Building Board of Appeals meeting for your variance hearing for 121 West Kingsley Street.

The meeting will take place on **Wednesday, January 13, 2016 at 1:30 PM on the 2nd floor of City Hall in the City Council Chambers.** Please bring materials and interested parties to the meeting for your presentation to the Board if needed.

Sincerely,

Craig Strong, Building Official
City of Ann Arbor Construction Services
cstrong@a2gov.org
(734)794-6261