

ANN ARBOR BUILDING BOARD OF APPEALS

STAFF REPORT

Meeting Date: January 19, 2023

Type of Request: APPEAL

Building Board of Appeals Request **BBA22-2004** at 727 E. Kingsley, ANN ARBOR, MI 48104.

(Parcel Identification Number: **09-09-28-200-003**)

DESCRIPTION AND DISCUSSION

Property Owners Name and Address:

Cabrio on Kingsley, LLC 2350 S. Huron Pkwy Ann Arbor, MI 48104

BACKGROUND

The property at 727 E. Kingsley is an R-2 Occupancy Classification as described by the 2015 Michigan Building Code and as indicated on the signed sealed plans submitted with the permit application. Building Permit BLDG22-0558 was issued 4/11/2022. 727 E. Kingsley was built in 1958. The stairway pertaining to this appeal was issued a permit for replacement 10/30/1986. The stairway geometry on the approved plan does not meet the minimum Code requirements of section 1011.5.2 of the 2015 Michigan Building Code however the referenced code sections on the plan do indicate the proper rise and run required by minimum code. Plan reviewer notes on a revision submitted 8/13/2022 and comments on the aspects that do not meet the minimum code standards. The petitioner is requesting relief from the minimum requirements of section 1011.5.2 of the 2015 Michigan Building code.

Standards for Approval:

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; and*
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 reduction in stairway Geometry is less safe than that required by the governing code (2015 Michigan Building Code).

The intent of the Codes is to establish minimum requirements. The stairway in this appeal does not meet these minimum standards.

101.3 Intent. The purpose of this code is to establish the minimum requirements to provide a reasonable level of safety, public health and general welfare through structural strength, *means of egress* facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations.

While the plan was approved with the proper Code section and description of the minimum standard for stair geometry, there was a detail provided that did not comply with the 2015 Michigan Building Code, there is a provision in the code for just such situations. Section 105.4 states:

105.4 Validity of permit. The issuance or granting of a *permit* shall not be construed to be a *permit* for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. *Permits* presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a *permit* based on *construction documents* and other data shall not prevent the *building official* from requiring the correction of errors in the *construction documents* and other data. The *building official* is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

Per section 1011.5.2 of the 2015 Michigan Building Code the minimum stairway rise and tread depth states stair riser height cannot exceed seven inches, and tread depth shall be eleven inches minimum exception 3 of section 1011.5.2 allows an increase in riser height and reduction in tread depth from the previously mentioned dimensions allowing for seven and three quarter maximum rise and minimum tread depth of ten inches Exception 3 only applies to stairway that are accessory to an individual dwelling unit, which is not the case at 727 E. Kingsley. The stairway in question serves multiple units as a common stairway.

1011.5.2 Riser height and tread depth. *Stair riser heights shall be 7 inches (178 mm) maximum* and 4 inches (102 mm) minimum. The riser height shall be measured vertically between the *nosings* of adjacent treads. Rectangular *tread depths shall be 11 inches (279 mm) minimum* measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's *nosing*. *Winder* treads shall have a minimum tread depth of 11 inches (279 mm) between the vertical planes of the foremost projection of adjacent treads at the intersections with the walkline

and a minimum tread depth of 10 inches (254 mm) within the clear width of the *stair*.

Exceptions:

1. Spiral stairways in accordance with Section 1011.10.
2. Stairways connecting stepped aisles to cross aisles or concourses shall be permitted to use the riser/tread dimension in Section 1029.13.2.
3. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwelling units in Group R-2 occupancies; the maximum riser height shall be 7³/₄ inches (197 mm); the minimum tread depth shall be 10 inches (254 mm); the minimum winder tread depth at the walkline shall be 10 inches (254 mm); and the minimum winder tread depth shall be 6 inches (152 mm). A nosing projection not less than 3/4 inch (19.1 mm) but not more than 1¹/₄ inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279 mm).

The 2015 Michigan Rehabilitation Code for Existing Buildings states in section 403.1, that alterations to any building or structure shall comply with International Building Code. this stairway is new construction and the rise was not at the maximum allowable. The window in question is not an emergency escape and rescue opening which could allow for modification without reducing the level of safety inside the dwelling unit.

403.1 General. Except as provided by Section 401.2 or this section, *alterations* to any building or structure shall comply with the requirements of the *International Building Code* for new construction. *Alterations* shall be such that the *existing building* or structure is no less conforming to the provisions of the *International Building Code* than the *existing building* or structure was prior to the *alteration*.

Exceptions:

1. An existing stairway shall not be required to comply with the requirements of Section 1011 of the *International Building Code* where the existing space and construction does not allow a reduction in pitch or slope.
2. Handrails otherwise required to comply with Section 1011.11 of the *International Building Code* shall not be required to comply with the requirements of Section 1014.6 of the *International Building Code* regarding full extension of the handrails where such extensions would be hazardous due to plan configuration.

The petitioner's appeal is that *The True intent of the code or the rules governing construction have been incorrectly interpreted*. It is staff's opinion that the code is clear on minimum requirements for stair geometry and that the intent is to keep people safe while using common stairways which is

why the minimum standards were developed and adopted. As stated in the petitioners Description “we did a stair replacement at this property, and the rise and run are off by less than 1 inch. If this was not done, it would have interfered and gone through the window that was already in place”. It is unclear how this statement demonstrates a misinterpretation of the code. The rise of the stair meets the code requirement and the tread depth does not meet the minimum 11 inches. The basis of the appeal is stated as “The cost to take down the new staircase, move the window and rebuild a new staircase would be extremely expensive, and we have already invested over \$50,000 in the project” Per the permit application the estimated cost of the project was \$15,000 and costs do not take precedence over code requirements. Project cost is also not listed in Section 113 as a basis for appeal. It is staff’s opinion that these statements do not support the true intent of the code being misinterpreted and do not justify a Board of Appeals Approval. If approved, it would allow stairs in violation of the 2015 Michigan Building Code to remain in service.

City Staff Response to Questions from the Board:

1. Is the issue that the staircase was simply not constructed to the 7/11 riser /tread requirement and the applicant is seeking relief from the code?

Answer: The petitioner is requesting relief form the tread depth requirement of 11 inches measured from nosing to nosing

2. By how much was the applicant off? (bc the code allows a riser range of 4-7”)- all they allude to is that the rise /run were “off by an inch”

Answer: The current tread depth is 10 inches one inch short of the 11 inches required by code. The rise from tread to tread is 6.5 inches and is within the code requirement.

3. Clarify the stair replacement was issued a permit in 1986??

Answer: The current project permit was issued 4/11/2022. The reference to the permit issued in 1986 was to document what was existing prior to the new stairs being built.

4. Do not understand the reference on the city inspection form that additional verbiage needed to be added to the drawings as requested by the inspector and that was the reason for inspection fail? - the drawings indicate 7/11. Are the added notes for MBC 1011.5.2 for accessory stairs constitute the applicant’s rationale for equivalency and approval?

Answer: I believe the design professional was using this as code language (Section 1011.5.2 Exception 3) to claim the current configuration meets the code requirement, however this stairway is not within a dwelling unit. This submittal was not approved and prompted the appeal.

5. Are the handrail extensions (or lack thereof) also an issue? And just a point -the drawings called for no skid FRP step covers - they don’t seem to be there :

Answer: These were not addressed because the stairway will need to be reconstructed to meet the code minimums. This would require the guards be reconstructed to align with the

new stair geometry. Once reconstructed the elements listed in the question above would require reinspection and would need to meet all minimum code standards and be built per the approved plan before the project would pass final inspection. The petitioner had not indicated requesting relief from these code requirements and has only indicated a request for relief from the tread depth requirement.

PROPOSED MOTION

APPEAL GRANTED

That in Case BBA22-2004, **the appeal of the Building Official's decision** that the work performed at **727 E. Kingsley** is **GRANTED** relief from section 1011.5.2, 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 Building Code and section 1011.5.2 governing the renovation of 727 E. Kingsley has been incorrectly interpreted by the Building Official;
- (2) The provisions of 2015 Michigan Building Code section 1011.5.2 does not apply to the construction at 727 E. Kingsley;
- (3) The applicant has proposed an equal or better form of construction.

Stipulations – If Applicable:

[Chairman to check box(es) following vote]

Yeas:

Nays:

Absent for this vote:

Date

Paul Darling, Chairperson
Building Board of Appeal _____

OR

APPEAL DENIED

That in Case BBA22-2004 **the appeal of the Building Official's decision** that the work to be performed at **727 E. Kingsley** 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 Building Code and section 1011.5.2 governing the construction at 727 E. Kingsley has been correctly interpreted by the Building Official;
- (2) The provisions of 2015 Michigan Building Code section 1011.5.2 applies to the construction at 727 E. Kingsley;
- (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 Appeal