## ANN ARBOR HOUSING BOARD OF APPEALS

## STAFF REPORT

## Meeting Date: January 21, 2021

Type of Request: APPEAL
Building Board of Appeals Request BBA21-001 at 830 Henry, ANN ARBOR, MI 48104.
(Parcel Identification Number: 09-09-33-316-016)

## DESCRIPTION AND DISCUSSION

## Property Owners Name and Address:

Prentice Partners of Ann Arbor, LLC
P.O. Box 70

Port Costa, CA 94569

## BACKGROUND

The property at 830 Henry is a mixed-use building containing R-2, A-3, B and S-2 occupancy classifications as described by the 2015 Michigan Building code. Building Permit BLDG19-2148 was issued 11/20/2019. 830 Henry has been approved for some occupancy only unit 11 has noncompliant stairways. At final inspection of Unit 11 the building inspector cited stairway measures thirty-five inches wide not meeting the minimum requirement of Section 1011.2 exception 1 of the 2015 Michigan Building Code which requires a stairway not have a width of less than thirty-six inches. The applicant requests relief from this code requirement.

## 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 width is less safe than that required by the governing code ( 2015 Michigan Building Code).

While the applicant states the unit is designed as a townhouse this is not possible in a multi-use building the 2015 Michigan Residential Code is a standalone code that only pertains to single family houses, duplexes and townhouses and offers no provisions for mixed-use structures the Introduction to the 2015 Michigan Residential Code states:
"This comprehensive, stand-alone residential code establishes minimum regulations for one- and two-family dwellings and townhouses using prescriptive provisions."

Furthermore, a townhouse is defined as a single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with a yard or public way on not less than two sides. 830 Henry does not meet this definition and therefore is not a townhouse. The mixed-use nature of this building including R-2, A-3, B and S-2 has increased safety concerns that are not considerations in the 2015 Michigan Residential Code which is why it is regulated by the 2015 Michigan Building Code.

Because 830 Henry is not under the prevue of the 2015 Michigan Residential Code it must comply with the minimum code requirements of the 2015 Michigan Building code, which per section 101.3 states:
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.

Per section 1011.2 of the 2015 Michigan Building Code the minimum width of a stairway cannot be not less than forty-four inches, with the exception that Stairways serving an occupant Load of less than fifty shall have a width of not less than thirty-six inches.
1011.2 Width and capacity. The required capacity of stairways
shall be determined as specified in Section 1005.1, but
the minimum width shall be not less than 44 inches (1118
mm ). See Section 1009.3 for accessible means of egress
stairways.

## Exceptions:

1. Stairways serving an occupant load of less than 50
shall have a width of not less than 36 inches (914
mm ).
The Residential code is not intended to be used in commercial buildings. It is a standalone code that is not to become the standard when the requirements of the building code are not being met. Because the 2015 Michigan Building Code is a minimum standard and the code governing this project, it does not meet the standards of approval. The code has not been misinterpreted, the provisions of the 2015 Michigan Building Code do apply, and the reduced stairway width is neither equal to or better than the code requirements.

## PROPOSED MOTION

## APPEAL GRANTED

That in Case BBA21-001, the appeal of the Building Official's decision that the work to be performed at $\mathbf{8 3 0}$ Henry is GRANTED relief from section 1011.2, 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 1011.2 governing the construction 830 Henry have been incorrectly interpreted by the Building Official;(2) The provisions of 2015 Michigan Building Code section 1011.2 does not apply to the construction at 830 Henry;(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 BBA21-001 the appeal of the Building Official's decision that the work to be performed at $\mathbf{8 3 0}$ Henry is DENIED and the Building Board of Appeals AFFIRMS the Building Official's decision for the reason(s) that [state reason in motion]:
$\square$ (1) The true intent of the 2015 Michigan Building Code and section 1011.2 governing the construction at 830 Henry have been correctly interpreted by the Building Official;
(2) The provisions of 2015 Michigan Building Code section 1011.2 applies to the construction at 830 Henry;
(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


Applicant (all correspondence will be sent to this address)

| Name (company or individual) <br> O\|X STUDIO, INC. |  | Applicant Name <br> ROBB BURROUGHS |  |
| :--- | :--- | :--- | :--- | :--- |
| Street Address <br> 2373 OAK VALLEY DR STE 180 | City <br> ANN ARBOR | State <br> MI | Zip |
| Phone <br> $(734) 929-9014$ | Fax |  | Email <br> robb@oxstudioinc.com |

Application Fee (applicant is responsible for paying fee)
Residential \$250.00 Commercial \$500.00 $\square$

Note: You have the right to appeal the City of Ann Arbor's Building Boards of Appeals decision to the State of Michigan. If you choose to appeal this decision, then application must be made within 10 days of the decision to the address listed below, in accordance with Section 16 of 1972 PA 230. Michigan Department of Labor \&

Economic Growth, Bureau of Construction Codes, P.O. Box 30255, Lansing, MI 48909 517-241-9303, www.michigan.gov/bcc

Note: Reasons for Appeal (Per MRC, Section R112.2, MBC, Section 113.2) include:

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.
3. An equal or better form of construction is proposed.

Applicant Signature
Date

## 830 Henry - Unit 11

Building Board of Appeals
Summary of Appeal (Continuation sheets)
MBC Section 1011.2 Stairway Width and Capacity
1011.2 Width and capacity. The required capacity of stairways shall be determined as specified in Section 1005.1, but the minimum width shall be not less than 44 inches (1118 $\mathrm{mm})$. See Section 1009.3 for accessible means of egress stairways.

## Exceptions:

1. Stairways serving an occupant load of less than 50 shall have a width of not less than 36 inches (914 mm ).
2. Spiral stairways as provided for in Section 1011.10.
3. Where an incline platform lift or stairway chairlift is installed on stairways serving occupancies in Group $\mathrm{R}-3$, or within dwelling units in occupancies in Group R-2, a clear passage width not less than 20 inches ( 508 mm ) shall be provided. Where the seat and platform can be folded when not in use, the distance shall be measured from the folded position.

## Statement of Facts and Reasoning

## Statement of Facts:

Unit 11 is a multi-story dwelling unit designed as a townhouse. Townhouses are typically considered to function as a single-family household per the MBC. Bedrooms ( 3 total) are all located on the lower level of this unit. The unit is suppressed with an NFPA 13R fire suppression system. This is a single exit structure per the MBC - the stairs converge on the main level which is the primary point of exit discharge. The total occupant load as calculated is 8 persons. Per Zoning Drdinance, the maximum occupant load is capped at 6 persons.

See attached plans for reference to the constructed configuration.
The stairs in question are fully constructed at this time. This by itself does not justify the nature of this request but is a fundamental hardship, admittedly self-induced, related to any outcome. In order to make the stairs compliant, $1^{\prime \prime}$ of additional width would need to be added to the stair section. This is virtually unattainable at this time without a complete modification to not only the conventional wood framed walls but more so the removal of additional sections of precast slab and concrete covering. This is presently over 12 " in total thickness. Only the western side of this slab opening is even accessible for additional inches as the eastern side is supported by a W8x31 steel beam which sits at the edge of this opening. Additionally, the western wall of the stair between the main level and the upper terrace is a load bearing wall that supports the roof framing. We certainly acknowledge that making a modification of this nature is not clinically impossible, but we cannot begin to understand the complications implicit in attempting this level of invasive surgery particularly in relation to the concrete core section that would require the most extensive modification.

Accommodation for reduction of required stairway width from 36 " to 35 " was determined by building inspector during final inspection. Partial and final Rough Framing inspections were conducted with formal approval granted on 10/15/2020. Final inspections commenced in December 2020. The building inspector noted the following issue on 12/11/2020 during which the final inspection of this unit failed:

In addition to the standard code violations on other units from 12/8/2020, the stairs to 2nd floor and basement 35in wide.

The stair is fully compliant in all other measures related to code requirements.

Through no fault of any single entity or construction occurrence, the stair was inadvertently constructed with such a tight tolerance that it has limited the capacity of the width to be compliant with the minimum standard dimension of 36 ". The following construction components compounded and have led to this outcome.

- The lower level to main level stair sets the dimension for both this and the upper stair - both are contingent upon the vertical framing to support both the load of the stair as well as the roof load.
- The "plinth" level that separates the lower and main floors is composed of a 10 " precast concrete deck with a 2 " concrete topping. The lower level stair penetrates through this condition and is contained within factory formed opening that ultimately establishes the
- There is an $8 \times 31$ precast concrete beam framing the eastern opening of the stair and supporting the deck and vertical fire separation assemblies above.

All of these exceedingly tight variables have compounded to render the current outcome.

## Statement of Reasoning:

We are requesting an exception of 1 " in minimum stair width - from the prescribed 36 " to 35 ". We feel that the provisions of the code do not apply to this specific adaptation based upon the following findings:

1) The occupant load is at the extreme low end of the prescribed number.
1011.2, Exception 1 is provided to reduce the minimum stair width from 44 " to 36 " presuming the maximum occupant is 50 or less. In this case, the occupant load is at the extreme low end of any calculation - there is a total of 6 persons by Zoning or a maximum of 8 persons per combined occupant load as established by measurement of all floors. While the code does not take into account a sliding scale in regards to width reduction, it needs to be reiterated that the requested exception of 1 " of width needs to be understood in conjunction with an occupant load that is at the extreme low end of the prescribed range. It is clearly more than O but far less than 50 .
2) The stairs in question will serve primarily a single flow of traffic relative to the level of exit discharge.

Per the IBC Code Commentary outlined with Section 1011.2, the design of stairs is predicated upon the safe and efficient flow of two-way traffic. One-way traffic is not identified but could be presumed to be compliant with dimensions less than those prescribed owing the reduced occupants and likewise by the arrangement of spaces between the two habitable floors.

This unit is functionally a two-story townhouse. Townhouses are consistently viewed by MBC as a single-family residence. In this case, the lower level is primarily the sleeping level and is where
the 3 bedrooms are located. The main level contains the primary entry/exit (formal level of exit discharge) and contains the kitchen and dining zones. The upper level, which is not internal habitable space, is an outdoor terrace limited to use by the inhabitants of the unit.

Owing to the arrangement of the spaces, the fact that is a residential use, as well as the fact that both stairs converge at the level of exit discharge, the flow of traffic between levels would innately be limited to a very small number. Additionally, in the case of an emergency situation, it would be presumed that occupants on the main level would be exiting out of the primary exit and those on the lower or upper levels would either be converging to exit at the main level rather than the main level exiting in the opposite direction. Two-way flow on the respective stairs would be functionally negated based upon these existing conditions and displacement of floors and uses.
3) Secondary means of egress are provided as part of the primary sleeping level.

It should be additionally noted that ALL of the bedrooms, the spaces of greatest concern for egressing based upon the inherent danger of inhabitants being asleep during an emergency situation, are contained within the lower level. Per MBC Section 1030, emergency escape and rescue openings are required in each bedroom - each of the three bedrooms provides compliant emergency egress windows and wells. Additionally, a fourth emergency egress window and well is likewise provided in the common living area. This provides additional redundancy for egressing from this level of the structure.

A final note. While the project has been designed and reviewed under the auspices of the MBC, the code itself clearly and consistently defines townhouses specifically as single-family residential units. As a result, it is interesting to understand some of the subtle variations related to review of the width dimension reviewed in conjunction with the Michigan Residential Code.

Regarding and specific to the stair width, the MRC does offer up a uniquely different dimension for the width between handrails:

R311.7.1 Width. Stairways shall be not less than 36 inches ( 914 mm ) in clear width at all points above the permitted handrail height and below the required headroom height. Handrails shall not project more than $47 / 2$ inches ( 174 mm ) on either side of the stairway and the clear width of the stairway at and below the handrail height, inc/uding treads and landings, shall be not less than $317 / 2$ inches (787 mm ) where a handrail is installed on one side and 27 inches ( 698 mm ) where handrails are provided on both sides.

This provides much tighter accommodation of clearance between handrails, potentially making the functional width of the stair as small as 27 ". In the case of this stair, only one handrail has been provided meaning that the operable dimension between handrail and wall is equal to $301 / 2^{\prime \prime}$ which is well above the minimum of 27 " width.

Floor Plans and Drawings (Note: Unit 11plans highlighted by opaque box to delineate from other plans)

Fire-rated Separation Notes
Garage Level Construction
Per MEC 510.2. Garage Level construction to be Type 7 -A construction. All bearing wall sand primary structural framing elements shall be of 3 -hour firie-
resistance rated construction.

## Townhouse / Garage Separation


Townhouse Fire-resistance Rated Construction
Each townhouse shall be considered a separate building and shall be separated by 2 2
accomplished with a partition assembly per UL U336. Smoke elarms shall be provided
Townhouse Fire-rated Parapet Exception
Per 2015 MEC 70.11, Exception 5.5 .1
A parapet is not required whire the roof covering complies with a minimum Class C raing as tested in accordance with ASTM E108 or $U$ UL 790 and fire
retardant treated retardant-traeted dylywod for a dis
within 4 feet of the common walls.



Accessibility General Notes

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er 2015 MBC 107.7.2
satistory dwelling ynits that are not provided with elevator

## Setback Calculations

R4C Multi-Family Schedule of Area, Height and Placement Regulations:


Existing Front Yard Setback Table:
 are located within 100 feet of e either side of a lot and on which there are existing buildings, is greater than the required front setback speeified in this chapter, required setback line shall be provided on the lot equal to this graater average depth
but not to exceed 40 feet. Where such average of the established front setbacks is less than min

Address
Existing Front Setback Address Existing Front Setback $\underset{810}{812 \text { Henry }}$

${ }^{810} \mathrm{Henry}$ St


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\text { Average Setback: } \quad 23^{\prime}-55^{\prime \prime}
$$

Average Setback: $\quad 20^{\prime}-3^{\prime \prime}$
Side Yard Setback Calculation



 to the side lot tine, of revectangle within whict the building may be located. The eviliding width shall b.
Building Length $=122^{\prime}-0^{\prime \prime} \quad$--> $122^{\prime}-50^{\prime}=72^{\prime} \quad$--> $1.5^{\prime \prime} \times 72=108^{\prime \prime}$ or $9^{\prime} \quad$--> Side $Y$ Yard Setback $=12^{\prime}+9^{\prime}=21$

Applicable Codes \& Building Data Summary










## 2015 IBC Code Commentary

1011.2 Width and capacity.

The required capacity of stair-ways shall be determined as specified in section 1005.1, but the minimum width shall be not less than 44 inches ( 1118 mm ). See Section 1009.3 for accessible means of egress stairways.

## Exceptions:

1. Stairways serving an occupant load of less than 50 shall have a width of not less than 36 inches ( 914 mm ).
2. Spiral stairways as provided for in Section 1011.10.
3. Where an incline platform lift or stairway chairlift is installed on stairways serving occupancies in Group R-3, or within dwelling units in occupancies in Group R-2, a clear passage width not less than 20 inches ( 508 mm ) shall be provided. Where the seat and platform can be folded when not in use, the distance shall be measured from the folded position.

## Commentary:

To provide adequate space for occupants traveling in opposite directions and to permit the intended full egress capacity to be developed, minimum dimensions are dictated for means of egress stairways. A minimum width of 44 inches ( 1118 mm ) is required for stairway construction to permit two columns of users to travel in the same or opposite directions. The reference to Section 1005.1 is for the determination of stairway width based on the occupant load it will serve (i.e, capacity). The larger of the two widths is to be used.

Exception 7 recognizes the relatively small occupant loads of less than 50 that permit a staggered file of users when traveling in the same direction. When traveling in opposite directions, one column of users must stop their ascent (or descent) to permit the opposite column to continue. Again, considering the relatively small occupant loads, any disruption of orderly flow will be infrequent. The use of this exception is limited to buildings where the entire occupant load of each upper story and/or basement is less than 50.

## Existing Condition Photographs



1. View of stair from main level to lower level

2. View of stair from lower level to main level

3. View of stair from main level to upper level (outdoor terrace)

4. View of stair from upper level (outdoor terrace) to main level

5. View of egress window/well from Bedroom 1

6. View of egress window/well from Bedroom 2

7. View of egress window/well from Bedroom 3

8. Views of egress window/well from lower level living space

Fire-rated Separation Notes
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Per MEC 510.2. Garage Level construction to be Type 7 -A construction. All bearing wall sand primary structural framing elements shall be of 3 -hour firie-
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Applicable Codes \& Building Data Summary










