



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

STEVEN H. HILFINGER
DIRECTOR

BARRIER FREE DESIGN BOARD
BUREAU OF CONSTRUCTION CODES
Conference Room 3
2501 Woodlake Circle
Okemos, Michigan 48864

AGENDA

May 13, 2011

9:30 a.m.

1. **Call to Order and Determination of Quorum**
2. **Agenda (pages 1-2)**
3. **Approval of Minutes (pages 3-9)**
4. **Exception Applications**
 - 01) 96599, Stormfield Theatre – Ingham (pages 10-26)
 - 02) 96600, Stormfield Theatre – Ingham (pages 27-42)
 - 03) 96817, Children’s Outreach: Angels in the Neighborhood II – Wayne (pages 43-51)
 - 04) 96966, Neo/Kincaid Henry – Ingham (pages 52-68)
 - 05) 97298, A Sons Construction – Oakland (pages 69-79)
 - 06) 97333, Salvation Army Flint Citadel – Genesee (pages 80-85)
5. **Other Business**
6. **Remands**
7. **Staff Report**
8. **Public Comment**

Providing for Michigan’s Safety in the Built Environment

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9. **Next Meeting** – July 8, 2011

10. **Adjournment**

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STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

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BARRIER FREE DESIGN BOARD
BUREAU OF CONSTRUCTION CODES
Conference Room 3
2501 Woodlake Circle
Okemos, Michigan 48864
MINUTES
March 11, 2011

MEMBERS PRESENT

Mr. Roger Donaldson
Mr. Daryl Domke
Mr. Brett Holt
Mr. Donald Link
Mr. James McGaugh

MEMBERS ABSENT

Ms. Karla Hudson
Mr. Timothy McGladdery

**MICHIGAN DEPARTMENT OF ENERGY, LABOR & ECONOMIC
GROWTH PERSONNEL ATTENDING**

Mr. Irvin Poke, Director, Bureau of Construction Codes
Mr. Todd Cordill, Chief, Plan Review Division
Ms. Usha Menon, Plan Reviewer
Ms. Margarita Torres, BFD Secretary, Plan Review Division

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OTHERS IN ATTENDANCE

Peter B. Holz
Brian Colburn

1. CALL TO ORDER AND DETERMINATION OF QUORUM

The meeting was called to order at 9:30 a.m. by Chairperson Donaldson. A quorum was determined present at that time.

2. MODIFICATIONS TO AGENDA

A **MOTION** was made by Board Member McGaugh and supported by Board Member Link to approve the *Amended* agenda for the March 11, 2011 Board meeting. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

A **MOTION** was made by Board Member McGaugh and supported by Board Member Domke to approve the minutes (with corrected page 4) of the January 14, 2011 meeting. **MOTION CARRIED.**

4. TABLED ITEMS

None

5. EXCEPTION APPLICATIONS

- 01) 96157, PNC Bank - Kent
- 02) 96361, Repair Clinic Inc - Wayne
- 03) 96420, Marble and Granite Works LLC - Wayne

A **MOTION** was made by Board Member Link and supported by Board Member Holt to adopt the reports of the Administrative Law Judge and the recommended decisions for the cases listed above. The Board

Barrier Free Design Board Minutes

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acknowledged the receipt of all materials submitted by the applicant.
MOTION CARRIED.

04) 96602, Hartlieb Building – Clinton

Mr. Cordill swore in Mr. Peter B. Holz who was speaking on behalf of Mr. Hartlieb. He presented a letter from Mr. Hartlieb that provided additional information to demonstrate compelling need for an exception to the barrier free design requirements.

Mr. Hartlieb's letter reads in part:

Please excuse me for not being able to be here in person. Previous obligations have required me to be out of state today. During the hearing I was asked how much I have invested in my building. I stated that the building cost in 2002 was \$220,000.00 and that I have invested approximately \$200,000.00 additional to renovate the building. The mayor and city council have applauded my efforts. I have no more funds to invest in it. Income on the building is from two lessees DeWitt computer center pays \$800.00 a month, and my business Touch Tone pays \$2,000.00. I have not received a paycheck from my business since November. Leasing out the third suite of my building will provide me with income to meet my basic needs. The State of Michigan allows a permanent variance where there is shown to be a compelling need according to Article 1. I believe the exception for economic limitations applies in my case; I eagerly await your decision as my potential tenant is considering other locations. Respectfully Paul Hartlieb.

A **MOTION** was made by Board Member Link and supported by Board Member McGaugh to adopt the reports of the Administrative Law Judge and the recommended decision. The plan of compliance has been reviewed and accepted. **THEREFORE**, it is the order of the Board to grant an exception from the requirements of the 2006 MBC, Section 1105.1 for accessible entrances for a period of 5 years. The exception granted by this order will

expire on March 11, 2016. The building must be in full compliance no later than the expiration date of this ordered relief. **MOTION CARRIED.**

6. OTHER BUSINESS

Board Member McGaugh announced that three weeks ago at Cobo Hall during the Michigan Democratic Party state convention, he was elected for a four year term of chairman of the disability caucus and he considered that quite an honor. Two weeks later at a special election of the Local Capital Area Chapter of Brain Injury Association of Michigan, he was elected as vice president and he is also very honored by that. Last week he celebrated his one year anniversary as being a mentor for the new Ingham County Veteran's Treatment Court. This all started with the North Side Neighborhood Association of Lansing because they inducted him as a Board member about two months ago to start this all in motion.

7. REMANDS

None

8. STAFF REPORT

Chief Todd Cordill reported on the following:

There are two code books in front of you, the 2009 edition of the Michigan Rehabilitation Code for Existing Buildings and the 2009 Michigan Building Code. These became effective on March 9, 2011. The barrier free requirements start, not only in 1966 Public Act 1, but in the code. The 2003 ICC/ANSI A117.1 is still the reference standard in the code.

As you know from the January meeting, we had some retirements at the end of last year, one of whom was our division secretary, Denise Davis. Some of you may have known her in the past when she performed some of the functions with this board. We hope to fill that vacancy in the near future.

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Staff Report Continued

There is an executive order coming from the new administration, that the hearings office will have a new director. The details of anything that affects our administrative law judge hearings has not come to us at this point. There may be some changes, but the procedure would be the same.

Director Irvin Poke Reported the Following:

As you may have heard Beth Aben's retirement becomes effective at the end of this month. A replacement has been selected and the announcement was made public yesterday. The new deputy director, Keith Lambert, who is currently the director of the Land Survey and Monumentation Division. Mr. Lambert will take the office April 3rd. Keith is a professional surveyor and we are looking forward to having him on board.

The Administrative Hearings Office will be separate from the Rules Office. The Rules Office will be called the Office of Regulatory Reinvention. Thus far, the process will remain the same, but the new administration will focus on the protection of health, safety, and welfare. Bureau staff is scheduled to update the rules again this year because the 2012 code will be published next month and then we will start looking at those for updating.

Mr. Donaldson Posed a Question:

Were there any other changes from that order that can affect the operations here? Because it sounded like energy was being moved to a different area.

Mr. Poke Continued:

The executive order took some of the offices and bureaus that were in the Department of Energy, Labor and Economic Growth and moved them to other departments. The Bureau of Energy Systems is transferring to the Department of Environmental Quality.

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Staff Report Continued

The Department of Licensing and Regulatory Affairs, which is going to be our new department name, will become effective on April 24th. Our department will have health licensing and medical marijuana licensing responsibilities in the near future. After discussions with department staff yesterday, the moves of these groups into our department could affect us in terms that some of the communities are passing ordinances that will not allow the growing of medical marijuana on unprotected property. The growing of medical marijuana is going to have to be in a building. That would not necessarily affect us, but in order to grow it inside a building there might be upgrades necessary to the electrical system to provide the kind of lighting needed. There might also be upgrades to plumbing systems to provide irrigation. We could see an increase in permitting activity either at the state level or the local level to facilitate medical marijuana. But that would have happened whether it was moved to this department or not. This department has no regulations that are specific to medical marijuana other than anything that would be necessary to upgrade a building's electrical, plumbing or ventilation systems and those are based upon equipment sizing.

Mr. Donaldson Added the Following:

Regarding Todd's comment about the new codes. If there is a bold line in the margin that means that section has been changed. If there is a double bold line in the margin, that's a change that comes from the State of Michigan. In looking through the chapters, it's an easier way to see where the changes are.

9. NEXT MEETING

May 13, 2011

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10. ADJOURNMENT

The meeting adjourned at approximately 10:10 a.m.

Approved: _____
 Roger Donaldson, Chairperson

Date: _____

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

<p>In the matter of</p> <p>Stormfield Theatre 201 Morgan Lane Lansing, MI, Applicant</p> <hr style="width: 300px; margin-left: 0;"/>	<p>Docket No. 2011-111</p> <p>Agency No. 96599</p> <p>Agency: Bureau of Construction Codes</p> <p>Case Type: Barrier Free Design Exception Request</p>
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I. EXCEPTION APPLICATIONS
01. 96599

Issued and entered
this 29th day of March, 2011
by Lauren G. Van Steel
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq.*; 1972 PA 230, as amended, MCL 125.1501 *et seq.*; and 1969 PA 306, as amended, MCL 24.201 *et seq.*

The purpose of this review is to examine an application for an exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on February 28, 2011, in Lansing, Michigan. Present on behalf of the Applicant, Stormfield Theatre, were Paul C. Wright, President of the Board of Directors, Shane Goodale, Board of Directors Member, and Kristine Thatcher, Producer and Artistic Director. Also present at the hearing were Usha Menon, representing the Plan Review Division of the Bureau of Construction Codes; and John Kloosterman and James Bennett on behalf of the City of Lansing Building Safety Office.

Mr. Wright, Mr. Goodale and Ms. Thatcher were sworn in and testified as witnesses for the Applicant. The following exhibits were offered by the Applicant as evidence and admitted into the record:

1. Applicant's Exhibit No. 1 is a copy of an Internal Revenue Service notice of Section 501(c)(3) status, dated May 11, 2010.
2. Applicant's Exhibit No. 2 is a copy of a Filing Endorsement on Articles of Incorporation for Stormfield Theatre, dated August 20, 2009.
3. Applicant's Exhibit No. 3 is a letter, To Whom It May Concern from Shane Goodale, dated December 13, 2010.
4. Applicant's Exhibit No. 4 is a letter to John Kloosterman, City of Lansing Building Safety, from Kristine Thatcher, dated September 30, 2010.

At the Applicant's request, the record was held open until March 14, 2011, to allow for additional evidence to be submitted.

On March 11, 2011, the Applicant submitted a cover letter and cost estimate of \$17,669.30 for remodeling of the men's bathroom (toilet room). The Applicant's filing of March 11, 2011 is admitted into the record as the Applicant's Exhibit No. 5.

On March 18, 2011, the Plan Review Division of the Bureau of Construction Codes filed a copy of a letter received from Jim Bennett of the City of Lansing, dated March 17, 2011, which is admitted into the record as "Respondent's Exhibit A".

ISSUE

The central issue presented is whether the Board should grant the Applicant an exception from Section 1109.2 of the 2006 Michigan Building Code for the

toilet rooms in its leased building. (Note: The Applicant initially intended to only seek an exception for the men's toilet room, but did not specify that on the exception request. Code compliance issues with both the men's and women's toilet rooms were addressed at hearing.)

FINDINGS OF FACT

The Applicant, Stormfield Theatre, seeks a permanent or "indefinite" exception from the 2006 Michigan Building Code for the toilet rooms located in its leased space at 201 Morgan Lane in Lansing, Michigan. Its current lease agreement is on a month-to-month basis. The Applicant is a non-profit professional theater that is open to the public on Thursday, Friday and Saturday evenings, and Sunday afternoons during its play production season. [Exhibit Nos. 1 & 2].

The poured concrete building in question is about 5,300 square feet in size and dates back to the 1960's. It was originally a car wash and has since been used for retail space. There is seating capacity for 110 audience members at this time. There is no eating facility in the building. To date, the Applicant has spent over \$8,000.00 to upgrade its leased space in the building.

Each play production costs about \$20,000.00 for the Applicant to produce, and the Applicant intends to put on five productions next year. It currently has enough money to produce its next show, but has very limited additional operating funds.

The Applicant has one regular employee currently. The rest of its workers are hired on a contractual basis, depending upon the productions being staged. Right now, the Applicant has four designers and five actors working in the building. The actors are present about five hours a day, six days a week. One designer is present eight to ten hours a day and Ms. Thatcher is present six to seven hours a day, six days

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a week. Administrative work is done off site. None of the current employees is physically disabled.

Shane Goodale, Applicant's Board of Directors member, is a paraplegic who requires the use of a wheelchair for mobility. He testified at hearing and has written that the width of the current men's toilet room in the Applicant's facility is "sufficient to allow me to move freely while inside, including the ability to spin 360 degrees." In his opinion, the current configuration of the men's toilet room is preferable to what would be required by Section 1109.2 of the 2006 Michigan Building Code:

I noted that there was room to navigate a wheelchair in such a way to get close to the toilet, between it and the east wall. This space is enough for a user to get close enough to the toilet and grab bars to make a safe transfer to the toilet. While transferring from a wheelchair to a toilet, the grab bars need to be relatively close to the toilet and wheelchair to allow the user to have adequate balance to safely make the transfer. . . . I will say, being an extremely mobile person who uses a wheelchair, this requirement would make the use of the toilet unsafe and inaccessible for me and other wheelchair users. An exception should be granted to the theater to not require the movement of that wall. [Exhibit No. 3].

Prior to the Applicant having leased and occupied the building, it was informed that both toilet rooms in the facility were certified as barrier free in 1995. [Exhibit No. 4]. Ms. Thatcher thinks she received this information from a friend of an architect. A recent search of the City of Lansing's records by the Lansing Building Department, however, does not shown this to be the case. [Resp. Exh. A]. According to Ms. Thatcher, the city's building inspector only had a concern recently with the men's toilet room, and did not say anything about a problem with the women's toilet room. The Applicant intended to file an exception request with the Board only as to the men's toilet room.

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A recent measurement of the men's toilet room by the City of Lansing Building Safety Office shows that the men's toilet room is 57 inches in the east/west dimension and 109.5 inches in the north/south dimension. The out-swinging door complies with the Code's requirements for size and maneuvering space. The toilet is located in the northwest corner and faces south. It does not comply with Code requirements for a 60-inch width of clearance, but rather has 57 inches provided. The installed grab bars are in compliance with the Code. The clear floor area is short by two inches in the required 48-inch dimension.

To make the men's toilet room compliant with the Code would require moving a non-supporting concrete wall and plumbing. The Applicant's problem with making these changes is mainly economic. It did not lease the building with any intention of ever having to move walls or toilet fixtures; to do so would not be in keeping with its current lease terms. It had planned only to seek a variance for the occupancy permit. The Applicant would have to re-negotiate its lease to make such changes in the building; it does not currently have the legal right to make any physical changes in the building structure. Also, moving the wall would reduce the size of a storage room used for electrical equipment and costumes, which would likely cause the Applicant to have to rent additional storage space at about \$192.00 per month.

The Applicant has recently obtained an estimate to remodel the men's toilet room only, at \$17,669.30. The Applicant's witnesses credibly indicated that this amount would be cost-prohibitive for the Applicant's non-profit organization. Making the required changes would put the Applicant's budget into a negative balance, which means it would likely have to close operations. Ms. Thatcher has referred to the

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Petitioner's current location as "temporary quarters" in a letter to the City of Lansing. [Exhibit No. 4].

James Bennett, Chief Plan Review Analyst for the City of Lansing Building Safety Office, testified that the city does not specify a particular way to reach Code compliance. It would be up to the Applicant to retain a licensed design professional and then make a proposal to obtain Code compliance. The city is not requiring the Applicant to move any specific wall, but rather to come up with a way to meet the Code. To Mr. Bennett's knowledge, neither the men's or women's toilet room in the Applicant's leased building is in compliance with the Code. At the time of the hearing, Mr. Bennett had not personally inspected the Applicant's facility. He thinks that professional designers are a "fairly creative lot" and that they may be able to come up with a way for the Applicant to meet Code compliance. Regarding Mr. Goodale's letter and testimony, Mr. Bennett stated that it is not the city's intent to make things worse for disabled persons.

John Kloosterman is a Plan Review Analyst for the City of Lansing Building Safety Office. He testified that neither the men's or women's toilet rooms in the Applicant's facility has a five-foot circle or "T", which means that there is not sufficient floor space or clearance. In addition, there was not a vertical grab bar in either toilet room as of the date of an inspection in September or October 2010 by Doug Halstead, building inspector. Mr. Kloosterman does not know, however, whether someone in a wheelchair could get in and out of the men's and women's toilet rooms adequately with the current amount of floor space.

The City of Lansing has determined that the women's toilet room, being 74.5 inches in the east/west dimension and 109.5 inches in the north/south dimension,

in the Applicant's facility is not in compliance with the Code. Specifically, the in-swinging door does not comply with maneuvering space requirements, the sink intrudes upon the required dimension space and the toilet area does not have the required 60-inch width of clearance (52 inches provided to edge of sink). There is the required amount of maneuvering space, however. [Resp. Exh. A].

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier-free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier-free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted. MCL 125.1355(6).

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier-free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1109.2 of the 2006 Michigan Building Code states as follows:

1109.2 Toilet and bathing facilities. Toilet rooms and bathing facilities shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of

each type of fixture, element, control or dispenser in each accessible toilet room and bathing facility shall be accessible.

Exceptions:

1. In toilet rooms or bathing facilities accessed only through a private office, not for common or public use and intended for use by a single occupant, any of the following alternatives are allowed:
 - 1.1 Doors are permitted to swing into the clear floor space, provided the door swing can be reversed to meet the requirements in ICC A117.1
 - 1.2 The height requirements for the water closet in ICC A 117.1 are not applicable;
 - 1.3 Grab bars are not required to be installed in a toilet room, provided that reinforcement has been installed in the walls and located so as to permit the installation of such grab bars; and
 - 1.4 The requirement for height, knee and toe clearance shall not apply to a lavatory.
2. This section is not applicable to toilet and bathing facilities that serve dwelling units or sleeping units that are not required to be accessible by Section 1107.
3. Where multiple single-user toilet rooms or bathing facilities are clustered at a single location, at least 50 percent but not less than one room for each use at each cluster shall be accessible.
4. Where no more than one urinal is provided in a toilet room or bathing facility, the urinal is not required to be accessible.
5. Toilet rooms that are part of critical care or intensive care patient sleeping rooms are not required to be accessible.

Based on the above findings of fact, it is concluded that the Applicant has presented compelling reasons in this matter to justify an exception for a period of time. The compelling reasons are the nature of the Applicant business as a non-profit professional theater, structural limitations, and the estimated cost of compliance. See MCL 125.1355a(2) and 1988 AACRS, R 125.1014(2)(b), (c) & (t). The estimated cost of compliance for the men's toilet room alone at \$17,669.30 is clearly very significant given the nature of the Applicant's non-profit organization and limited budget. It is reasonable

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to assume that the cost to remodel the women's toilet room would be roughly similar. The Applicant has credibly represented that these amounts would be cost-prohibitive at this time.

Further, there are structural limitations in the poured concrete building and the amount of deviation from Code requirements is not especially great. Mr. Goodale has credibly testified that the current configuration of the men's toilet room, while not meeting Code requirements, does allow adequate space for his maneuvering in a wheelchair. The dimensions of the women's toilet room are larger per the City of Lansing's March 17, 2011 letter in the record. [Resp. Exh. A]. This gives reason to believe that the current situation does not likely pose a critical problem for physically disabled patrons and employees.

Nevertheless, the Applicant has not shown why an exception should be granted on a permanent basis, rather than for a specific time frame. Allowing either the men's or women's toilet room to remain out of compliance with the Code on a permanent basis would be counter to the intent of the Act. Further, while Mr. Goodale may be personally able to maneuver in the men's toilet room space, another individual in a different wheelchair may have difficulty because the full dimensions specified in the Code are not in place.

As noted above, the Applicant has referred to its current performance space as "temporary quarters". If the Applicant chooses to remain in its current building for the next five years, it is reasonable to expect that it will be able to set aside enough money from its receipts in order to afford the costs to make the toilet room(s) compliant with the Code. Alternatively, the Applicant may determine that its current building size

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is simply inadequate to accommodate the requirements of the Act and find another location to stage its productions.

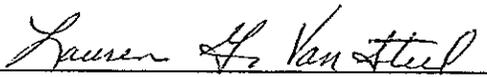
RECOMMENDED DECISION

Based on the above findings of fact and conclusions of law, the undersigned recommends that the Board grant the Applicant a five-year time exception from Section 1109.2 of the 2006 Michigan Building Code.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

As a condition to granting this time exception, the Applicant shall submit, within 60 days from the Board's Final Order issued after review of this recommendation, a plan/proposal detailing how compliance will be achieved within the time exception period. The plan/proposal must show or state that it is technically and structurally feasible to meet the applicable Barrier Free Design Rules.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.


Lauren G. Van Steel
Administrative Law Judge

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PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 29th day of March, 2011.



Janice K. Atkins

State Office of Administrative Hearings and Rules

Christine Segerlind
City of Lansing, Department of
Planning & Neighborhood
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316 North Capitol Avenue, C-1
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RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

STEVEN H. HILFINGER
DIRECTOR

March 18, 2011

Lauren VanSteel, Administrative Law Judge
Office of Administrative Hearings and Rules
611 West Ottawa Street
Ottawa State Office Building - 2nd Floor
P. O. Box 30695
Lansing, MI 48909

RE: Stormfield Theatre
Application No. 96599 – Ingham
Docket No. 2011 - 111

Dear Judge VanSteel,

A copy of the letter received from Mr. Jim Bennett, Lansing Building Department is attached for your review. In 1995 the accessibility standards are 1993 BOCA National Building Code along with 1992 CABO ANSI A117.1. The requirements for accessible toilets in 1995 are same as the current standards (2003 ICC/ANSI A117.1) except the vertical grab bar. Mr. Jim Bennett prepared the letter based on the current standards.

Since no FAX number or email address is provided by the applicant I'll send a hard copy of this letter to the applicant.

Sincerely,

Usha Menon, Building Plan Reviewer
Plan Review Division

Cc: Pual Wright

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Department of Planning and Neighborhood Development

316 N. Capitol Ave., Suite C-1 – Lansing, MI 48933-1238 – (517) 483-4355 – Fax (517) 377-0169
Robert Johnson, Director
www.cityoflansingmi.com

Virg Bernero, Mayor

Building Safety Office

March 17, 2011

Christine Segerlind
Building Safety Manager

Usha Menon
Plan Review Division
2501 Woodlake Circle
Okemos MI 48864-5955

Plan Review Analysts
Jim Bennett, Chief
John Kloosterman

RE: Stormfield Theatre – BFD Exception - Docket # 2011-111

Dear Ms. Menon;

Building Inspectors
Jon F. Wadsworth, Chief
Ralph Gregus
Doug Halstead
Steve Swan

Please relay the following information to the Administrative Law Judge and the Petitioner as required.

Plumbing Inspectors
Frank Birosius, Chief
David Burton

The Petitioner claims the toilet rooms were approved in 1995. Mr. John Kloosterman, plan review analyst, has searched the building department records and can find no record of a building permit to alter the toilet rooms in the structure from 1992 to the present. So to the best of his knowledge and belief, the existing toilet rooms have never been approved as compliant with Michigan Barrier Free Design Rules by our office.

Electrical Inspectors
Brian Carter, Chief
Chris Blackburn

On March 2, 2011 Mr. Doug Halstead, building inspector, and I visited the site and took measurements as follows.

Mechanical Inspectors
Brian Shields, Chief
Cal Baxter

Men's Room:

The men's room is 57 inches in the east/west (EW) dimension and 109.5 inches in the north/south (NS) dimension.

The out swinging door to the room complies with the size and maneuvering space requirements of the code.

The toilet is located in the NW corner and faces south. The toilet does not comply with section 604.3.1 ICC/ANSI A117.1 2003 requirement for 60 inch width of clearance area (57 inches provided).

The installed grab bars are in compliance.

The sink is located near the SE corner of the room on the E wall. The sink does not comply with section 606.2 ICC/ANSI A117.1 2003 for a forward approach. Utilizing the knee and toe clearances permitted, the clear floor area required by 305.3 is short by 2 inches in the required 48 inch dimension.

The toilet room does not comply with section 603.2.1 ICC/ANSI A117.1 2003. The room width is 57 inches so it is not possible to provide a 60 inch circle or "T".

Women's Room:

The women's room is 74.5 inches in the east/west (EW) dimension and 109.5 inches in the north/south (NS) dimension.

The in swinging door does not comply with the maneuvering space requirements of section 404.2.3.1 ICC/ANSI A117.1 2003 for either a front approach to the pull side or a latch side approach to the pull side. The sink is installed 38 inches along the west wall from the SW corner of the room (door is located in the south wall at west corner) and intrudes upon the required 60 inch or 48 inch dimension respectively.

The toilet is located in the NW corner and faces east. The toilet does not comply with section 604.3.1 ICC/ANSI A117.1 2003 requirement for 60 inch width of clearance (52 inches provided to edge of sink).

The installed grab bars are in compliance with the code.

The sink is in compliance with the code.

The maneuvering space required by section 603.2.1 ICC/ANSI A117.1 2003 is provided.

Feel free to contact me at (517) 483-4155 or by email at jbennett@lansingmi.gov if you need further information..

Sincerely,



James E. Bennett
Chief Plan Review Analyst

cc:
File

December 13, 2010

RE: Toilet Room Stormfield Theater

To Whom It May Concern:

I am writing this on behalf of the Stormfield Theater in response to their notice of a requirement to make the men's toilet room accessible. The notice requires that the west wall in that toilet room be moved an additional four inches to the west. After visiting the Theater and men's room, it is my opinion that moving the west wall an additional four inches would make the use of the toilet in that room **not accessible**.

Due to a back injury 17 years ago, I am a paraplegic requiring the use of a wheelchair for mobility. During this time, I have seen and used different restrooms in many communities and am quite aware of what is necessary to make a toilet room accessible. I have found that the two primary reasons that a toilet room is not accessible are:

1. The grab bars installed are too far away from the toilet, and
2. There is no space on one side or the other of the toilet to allow positioning of the wheelchair for use of the grab bars to access the toilet.

When I visited this toilet room, I noticed that the width of the room was sufficient to allow me to move freely while inside, including the ability to spin 360 degrees. I noted that there was room to navigate a wheelchair in such a way to get close to the toilet, between it and the east wall. This space is enough for a user to get close enough to the toilet and grab bars to make a safe transfer to the toilet. While transferring from a wheelchair to a toilet, the grab bars need to be relatively close to the toilet and wheelchair to allow the user to have adequate balance to safely make that transfer.

According to section 1109.2 of the 2006 version of the International Building Code, toilet rooms shall be accessible. I will say, being an extremely mobile person who uses a wheelchair, this requirement would make the use of the toilet unsafe and inaccessible for me and other wheelchair users. An exception should be granted to the theater to not require the movement of that wall.

Best Regards



Shane Goodale
Okemos, Michigan

RECEIVED

DEC 13 2010

TOWN OF OKEMOS
PLANNING DEPARTMENT

RECEIVED

DEC 14 2010

Application for Barrier Free Design Rule Exception
 Michigan Department of Energy, Labor & Economic Growth
 Bureau of Construction Codes / Plan Review
 P.O. Box 30255, Lansing, MI 4890
 517-241-9328
 www.michigan.gov/bcc

133

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

96599

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
---	---

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME Stormfield Theatre			STREET / SITE ADDRESS 201 Morgan Lane	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: Lansing			COUNTY Ingham	
Estimated Project Cost \$ 1,100.00		Estimated Cost of Compliance \$ 1,100.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building <input type="checkbox"/> Alteration <input checked="" type="checkbox"/> Change of Use			Building Permit / File Number B10-1181	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? Indefinite	USE GROUP A-3	CONSTRUCTION TYPE II-B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1109.2 Reason for Non-Compliance Compliance requires removal of non-structural masonry wall, building a new wall 4.5 inches to the west, relocating existing water closet, plumbing, grab bars. I				
ENFORCING AGENCY Dept. of Planning & Neighborhood Development		BUILDING OFFICIAL NAME Christine Segerlind -tc		REGISTRATION NUMBER 002846
ADDRESS 316 N. Capitol Ave. C-1	CITY Lansing	STATE MI	ZIP CODE 48933	TELEPHONE NUMBER (Include Area Code) (517) 483-4356
BUILDING OFFICIAL SIGNATURE (Must be an original signature) 		DATE 12-9-10	E-MAIL ADDRESS csegerl@lansingmi.com	
FAX NUMBER (Include Area Code) (517) 377-0169				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME		LICENSED INDIVIDUAL		MICHIGAN LICENSE NUMBER
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME Stormfield Theatre		APPLICANT NAME Paul Wright		FEIN OR SS NO. (Required)
ADDRESS P.O. Box 80463	CITY Lansing	STATE MI	ZIP CODE 48908	TELEPHONE NUMBER (Include Area Code) (517) 393-1867
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code)
APPLICANT SIGNATURE (Must be an original signature) 			DATE 12/08/10	

Tim Fox gospartans@hotmail.com

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of	Docket No.	2011-112
Stormfield Theatre	Agency No.	96600
201 Morgan Lane	Agency:	Bureau of
Lansing, MI,		Construction Codes
Applicant	Case Type:	Barrier Free Design
_____ /		Exception Request

2. EXCEPTION APPLICATIONS
02. 96600

Issued and entered
this 24th day of March, 2011
by Lauren G. Van Steel
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq.*; 1972 PA 230, as amended, MCL 125.1501 *et seq.*; and 1969 PA 306, as amended, MCL 24.201 *et seq.*

The purpose of this review is to examine an application for an exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on February 28, 2011, in Lansing, Michigan. Present on behalf of the Applicant, Stormfield Theatre, were Paul C. Wright, President of the Board of Directors, Shane Goodale, Board Member, and Kristine Thatcher, Producer and Artistic Director. Also present at the hearing were Usha Menon, representing the Plan Review Division of the Bureau of Construction Codes, and John Kloosterman and James Bennett on behalf of the City of Lansing.

Docket No. 2011-112
Page 2

Mr. Wright, Mr. Goodale and Ms. Thatcher were sworn in and testified as witnesses for the Applicant. The following exhibit was offered by the Applicant as evidence and admitted into the record:

1. Applicant's Exhibit No. 1 is a Floor Plan drawing for the performance area of Stormfield Theatre, 201 Morgan Lane in Lansing, Michigan.

At the Applicant's request, the record was held open until March 14, 2011, to allow for additional evidence to be submitted.

On March 11, 2011, the Applicant submitted a cover letter and cost estimate of \$3,813.60 for a "Handicap Ramp from stage" and cost estimate of \$5,499.00 for an "AmeriGlide Atlas Vertical Platform Lift - Portable." The record was closed on March 14, 2011. The Applicant's filing of March 11, 2011 is admitted into the record as the Applicant's Exhibit No. 2.

ISSUE

The central issue presented is whether the Board should grant the Applicant an exception from Section 1108.2.7 of the 2006 Michigan Building Code.

FINDINGS OF FACT

The Applicant, Stormfield Theatre, seeks a permanent or "indefinite" exception from the 2006 Michigan Building Code for access to a moveable wooden performance platform or deck inside its leased performance space located at 201 Morgan Lane in Lansing, Michigan. [Exhibit No. 1].

The Applicant's play productions typically involve one to eight actors. To date, there have not been any physically disabled actors in its productions. The performance space has an audience seating capacity of 110. The performance platform is 20 by 16 feet in size, and the height to the platform is 18 inches.

If a ramp were installed to the performance platform in its current location, the Applicant would likely lose space for 15 to 20 audience seats. This would reduce its ticket sales by \$300.00 to \$400.00 per performance (from receipts of \$2,200.00 at full capacity). There are usually 10 performances per production, resulting in a loss of \$3000.00 to \$4000.00 for every production in the season. [Exhibit No. 2]. (Rehearsals are done in another area in the building.) The performance platform is a mobile unit, so that its location can be changed depending upon the type of performance being staged.

The Applicant has recently obtained a cost estimate of \$3,813.60 to install a ramp to the performance platform, which is an amount that the Applicant cannot readily absorb at this time. [Exhibit 2A]. The estimated cost for a platform lift is even greater at \$5,499.00. These costs would have a very negative effect on the Applicant's ability to stage performances. A platform lift would also require resolving a question of electrical access, depending upon the placement of the performance platform. [Exhibit 2B].

The Applicant also points out that installation of a ramp to the performance platform's current location would impede the actors' entrance to the stage. Also, some productions may call for a "theater in the round" staging, for which a ramp might impede audience members from exiting, as well as further reduce the number of available audience seats. Nevertheless, Ms. Thatcher stated that if there was an actor with a permanent or temporary physical disability, the Applicant would build a ramp to accommodate the actor.

It is noteworthy that Ms. Thatcher has referred to the Applicant's current location as "temporary quarters" in a related matter before the Barrier Free Design Board. (See Exhibit No. 4 in Docket No. 2011-111).

Docket No. 2011-112

Page 4

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier-free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier-free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted. MCL 125.1355(6).

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier-free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1108.2.7 of the 2006 Michigan Building Code states as follows:

1108.2.7 Performance areas. An accessible route shall directly connect the performance area to the assembly seating area where a circulation path directly connects a performance area to an assembly seating area. An accessible route shall be provided from performance areas to ancillary areas or facilities used by performers.

Based on the above findings of fact, it is concluded that the Applicant has presented compelling reasons in this matter to justify an exception for a period of time. The compelling reasons are the nature of the business or facility, the use of the area proposed to be inaccessible, the number of employees who will be using the area or

Docket No. 2011-112
Page 5

facility and the estimated cost of compliance. See MCL 125.1355a(2) and 1988 AACRS, R 125.1014(2)(b), (c), (l) and (n). The estimated cost of installing a ramp to the performance platform or a platform lift, at \$3,813.60 and \$5,499.00, is quite significant given the level of receipts from tickets for performances. The Applicant has credibly represented that absorbing such a cost at this time would have a very negative impact upon its ability to continue staging performances. Further, installing a ramp would likely reduce receipts from tickets by \$300.00 to \$400.00 for every performance, because of the loss of audience seating. The area proposed to be inaccessible is only used for actual play performances, mainly by one to eight actors.

Nevertheless, the Applicant has not shown why an exception should be granted on a permanent basis, rather than for a specific time frame. Allowing the performance platform to remain inaccessible indefinitely may effectively bar physically disabled actors (or stagehands) from even applying for work in productions, even if the Applicant now indicates that it would install a ramp should there be a disabled actor. This is obviously counter to the intent of the Act.

As noted above, the Applicant has referred to its current performance space as "temporary quarters". If the Applicant chooses to remain in its current leased building for the next five years, it is reasonable to expect that it will be able to set aside enough money from its receipts in order to afford the installation of a ramp or a platform lift to the performance platform. It appears that a platform lift would disrupt less audience seating space, although a question of electrical access still would have to be resolved. Alternatively, the Applicant may determine that its current building size is simply inadequate to accommodate the requirements of the Act and find another location to stage its productions.

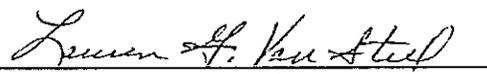
RECOMMENDED DECISION

Based on the above findings of fact and conclusions of law, the undersigned recommends that the Board grant the Applicant a five-year time exception from Section 1108.2.7 of the 2006 Michigan Building Code.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

As a condition to granting this time exception, the Applicant shall submit, within 60 days from the Board's Final Order issued after review of this recommendation, a plan/proposal detailing how compliance will be achieved within the time exception period. The plan/proposal must show or state that it is technically and structurally feasible to meet the applicable Barrier Free Design Rules.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.

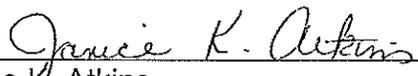


Lauren G. Van Steel
Administrative Law Judge

Docket No. 2011-112
Page 7

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 24th day of March, 2011.



Janice K. Atkins
State Office of Administrative Hearings and Rules

Christine Segerlind
City of Lansing, Department of
Planning & Neighborhood
Development
316 North Capitol Avenue, C-1
Lansing, MI 48933

Usha Menon
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
P.O. Box 30254
Lansing, MI 48909

Paul Wright
Stormfield Theatre
P.O. Box 80463
Lansing, MI 48908

John H Kloosterman
City of Lansing, Building Safety
316 N. Capitol Ave., Suite C-1
Lansing, MI 48933

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

ARTICLES OF INCORPORATION

Domestic Nonprofit Corporation

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:

ARTICLE I. The name of the corporation is:

Stormfield Theatre

Article II. Purposes. The purpose or purposes for which the corporation is organized are: To advance the performing arts, through such means as sponsoring public theatrical productions, providing education about the performing arts to people of all ages, training performers, and outreach and service to the community, and raising funds needed to support the organization's work.

The corporation is organized exclusively for charitable, literary, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code or corresponding section of any future federal tax code.

Article III.

- 1. The corporation is organized upon a nonstock basis.
- 2.a. The description and value of its real property assets are: none.
- 2.b. The description and value of its personal property assets are: none.
- 2.c. The corporation is to be financed under the following general plan: contributions, grants, income from activities.
- 2.d. The corporation is organized on a directorship basis.

Article IV.

- 1. The address of the registered office is: 500 S. Bridge Street, Grand Ledge, MI 48837-1504.
- 2. The mailing address of the registered office, if different than above: N/A
- 3. The name of the resident agent at the registered office is: Kristine M. Thatcher

Article V.

The name and address of the incorporator is as follows:

Kristine M. Thatcher, 500 S. Bridge Street, Grand Ledge, MI 48837-1504.

Article VI.

Section 1. Nonprofit operation. No part of the earnings of the corporation shall inure to the benefit of or be distributable to its members, directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, except as may be elected under provisions of the Internal Revenue Code, and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code or corresponding section of any future federal tax code.

Section 2. Dissolution. Upon the dissolution of the corporation, any remaining unencumbered assets shall be distributed by the corporation to any nonprofit organization or organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of by the corporation shall be so disposed of by the Circuit Court or any other court of the State of Michigan that has jurisdiction in the place where the principal office of the corporation is then located.

Section 3. Compromise or arrangement or reorganization. As allowed by Section 204 of the Michigan Nonprofit Corporation Act, when a compromise or arrangement or a plan of reorganization is proposed between this corporation and some or all of its creditors, a court of equity jurisdiction within this state, on application of this corporation, of a creditor, or of a receiver appointed for the corporation, may order a meeting of the affected creditors, to be summoned in such manner as the court directs. If a majority in number representing $\frac{3}{4}$ in value of the affected creditors agree to it, a compromise or arrangement or a reorganization of this corporation, if approved by the court, shall be binding on all the creditors and also on this corporation.

Section 4. Directors' and officers' and volunteers' liability. The personal liability of volunteer directors and officers of the corporation is eliminated to the fullest extent permitted by the provisions of Section 209(c) and (d) of the Michigan

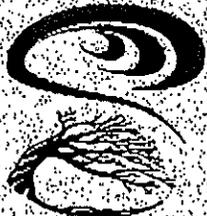
Stormfield Theatre ■ Articles of Incorporation ■ Page 3

Nonprofit Corporation Act, as amended and supplemented, and the personal liability of nondirector volunteers of the corporation is eliminated to the fullest extent permitted by the provisions of Section 209(e) of the Michigan Nonprofit Corporation Act, as amended and supplemented. To the fullest extent permitted by law, the corporation assumes all liability to any person other than the corporation or its members for all acts or omissions of a volunteer director or officer or of a nondirector volunteer incurred in the good faith performance of duties as a director or officer or volunteer occurring on or after the date this Article is adopted by the corporation. If the Michigan Nonprofit Corporation Act is amended after adoption of this Article to authorize corporate action further eliminating or limiting the personal liability of volunteer directors and officers or of nondirector volunteers, then the liability of a director or officer or volunteer of the corporation shall be eliminated or limited to the fullest extent permitted by the Michigan Nonprofit Corporation Act as so amended. Any repeal or modification of this Article shall not adversely affect any right or protection of a volunteer director or officer or of a nondirector volunteer of the corporation pursuant to this Article existing at the time of any acts or omissions occurring before the effective date of the repeal or modification.

Section 5. Nondiscrimination. The corporation shall not discriminate against any person on the basis of age, race, color, sex, religion, physical handicap, national origin, sexual orientation, gender identification, or any other basis provided in federal, state, or local law, regarding any service performed by or for the corporation.

I the incorporator sign my name this 19 day of August, 2009.

Christine M. Hatcher



Stormfield Theatre

March 11, 2011

BOARD OF DIRECTORS

Kristine Thatcher
Artistic Director
 Paul C. Wright
President
 Dana Munshaw Brazil
Vice President
 Jerry Mattson
Secretary
 Kirk Domez
 Cele Priestater
 Catherine Groll
 Bill T. Henson

ADVISORY BOARD

Carman Decker
 Gary Houston
 Keegan Michael Key
 Terry F. McCabe
 John Peakes
 Paula Prentiss
 Jeffrey Sweet
 Ron West
 Dennis Zacek

Judge Lauren G. Van Steel
 State Office of Administrative Hearings and Rules
 611 West Ottawa Street, 2nd Floor
 Lansing, Michigan 48933

In Re: Docket No. 2011-111 and
 Docket No. 2011-112

Dear Judge Van Steel:

Following our hearing before you to request an exception to Building Code Section 1109.2 and Building Code Section 1108.2.7 you requested we provide more detailed information regarding the costs for the work needed to bring the men's bathroom at 201 Morgan Lane, Lansing, Michigan and a ramp to the acting platform at the same address. We obtained an estimate from William Adcock Builders for both the men's bathroom and the ramp (see Attachment A). In addition, Usha H. Menon suggested we consider using an electric lift. Since our acting platform is moveable, we obtained information regarding a portable lift (see attachment B).

In any case, the costs of these would exceed the cash available to us at the present time. Installing the ramp or using the portable lift would reduce our seating by 15 to 20 seats. The revenue loss from removing these seats would be \$300 to \$400 per performance. We have 10 performances per production, which could result in a loss of \$3000 to \$4000.

If additional information is needed, please contact me at 517-332-4281.

Sincerely,

Paul C. Wright, President
 Stormfield Theatre
 201 Morgan Lane
 Lansing, Michigan

P.O. Box 80463
 Lansing, MI 48908
 Main: (735) 263-1486

A Living Theatre For Our Community

B

(800) 647-0916
Talk to an expert
7am-Midnight EST, 7 Days a Week

AmeriGlide Atlas Vertical Platform Lift - Portable

AmeriGlide

model: aavplp



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Call (800) 647-0916 for the absolute lowest price on this product.

Your Price \$5,499.00

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Product Review

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Write a review!



- Product Description
- Product Specs
- Available Options

We recommend the AmeriGlide Atlas Portable Vertical Platform Lift when you need a lift for regular scheduled use, but need it out of the way when not in use. We also recommend it for multiple locations

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

C

Date: MAY 11 2010

STORMFIELD THEATRE
PO BOX 80463
LANSING, MI 48908-0463

Employer Identification Number: 27-0773999
DLN: 17053068321040
Contact Person: BENJAMIN L DAVIS ID# 31465
Contact Telephone Number: (877) 829-5500
Accounting Period Ending: June 30
Public Charity Status: 170(b)(1)(A)(vi)
Form 990 Required: Yes
Effective Date of Exemption: August 20, 2009
Contribution Deductibility: Yes
Addendum Applies: No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

D

Michigan Department of Energy, Labor & Economic Growth

Filing Endorsement

*This is to Certify that the ARTICLES OF INCORPORATION - NONPROFIT
for
STORMFIELD THEATRE
ID NUMBER: 70707L*

*received by facsimile transmission on August 20, 2009 is hereby endorsed
Filed on August 20, 2009 by the Administrator.*

*The document is effective on the date filed, unless a
subsequent effective date within 90 days after
received date is stated in the document.*



*In testimony whereof, I have hereunto set my
hand and affixed the Seal of the Department,
in the City of Lansing, this 20TH day
of August, 2009.*

, Deputy Director

Bureau of Commercial Services

RECEIVED

DEC 14 2010

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Application for Barrier Free Design Rule Exception
Michigan Department of Energy, Labor & Econ
Bureau of Construction Codes / Plan Review
P.O. Box 30255, Lansing, MI 48906
517-241-9328
www.michigan.gov/bcc

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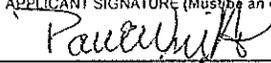
96600

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
---	---

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME Stormfield Theatre		STREET / SITE ADDRESS 201 Morgan Lane		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: Lansing			COUNTY Ingham	
Estimated Project Cost \$ 1,500.00		Estimated Cost of Compliance \$ 1,400.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building <input type="checkbox"/> Alteration <input checked="" type="checkbox"/> Change of Use		Building Permit / File Number B10-1181		
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? Indefinite	USE GROUP A-3	CONSTRUCTION TYPE II-B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1108.2.7 Reason for Non-Compliance Compliance requires 18 ft. ramp to access performance area (deck). Deck is moveable, but never accessible to public - only cast and crew.				
ENFORCING AGENCY Dept. of Planning & Neighborhood Development		BUILDING OFFICIAL NAME Christine Segerlinck		REGISTRATION NUMBER 002846
ADDRESS 316 N. Capitol Ave. C-1	CITY Lansing	STATE MI	ZIP CODE 48933	TELEPHONE NUMBER (Include Area Code) (517) 483-4356
BUILDING OFFICIAL SIGNATURE (Must be an original signature) 		DATE 12-9-10	E-MAIL ADDRESS csegerlin@lansingmi.com	
FAX NUMBER (Include Area Code) (517) 377-0169				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME		LICENSED INDIVIDUAL		MICHIGAN LICENSE NUMBER
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME Stormfield Theatre		APPLICANT NAME Paul Wright		FEIN OR SS NO. (Required)
ADDRESS P.O. Box 80463	CITY Lansing	STATE MI	ZIP CODE 48908	TELEPHONE NUMBER (Include Area Code) (517) 393-1867
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code)
APPLICANT SIGNATURE (Must be an original signature) 			DATE 12/08/10	

*This information is confidential. Disclosure of confidential information is protected by the Federal Privacy Act

TIM FOX gospars-toms@hotmail.com

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of	Docket No.	2011-148
Children's Outreach: Angels in the Neighborhood II 5716 Michigan Avenue Detroit, MI; Applicant	Agency No.	96817
_____ /	Agency:	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

3. EXCEPTION APPLICATIONS
03. 96817

Issued and entered
this 23rd day of March, 2011
by Lauren G. Van Steel
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq.*; 1972 PA 230, as amended, MCL 125.1501 *et seq.*; and 1969 PA 306, as amended, MCL 24.201 *et seq.*

The purpose of this review is to examine an application for an exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on February 28, 2011, in Lansing, Michigan. Present on behalf of Children's Outreach: Angels in the Neighborhood II, Applicant, were Stephen Pariseau, project manager, and John H. Donoian, architect, of Shelter Design Studio, LLC and Cheryl L. Frost, director of operations for the Applicant. Also present was Usha Menon, representing the Plan Review Division of the Bureau of Construction Codes. Mr. Pariseau, Mr. Donoian and Ms. Frost were sworn in and testified as witnesses for the Applicant. The following exhibit, offered by the Applicant, was

admitted into evidence:

1. Applicant's Exhibit No. 1 is a copy of the blueprint for the basement/lower level interior of the building located at 5716 Michigan Avenue, Detroit, MI.

The record was closed at the conclusion of the hearing.

ISSUE

The central issue presented is whether the Board should grant the Applicant an exception from Section 1109.2 of the 2006 Michigan Building Code.

FINDINGS OF FACT

The Applicant, Children's Outreach: Angels in the Neighborhood II, seeks an exception from the 2006 Michigan Building Code for a portion of a building located at 5716 Michigan Avenue in Detroit. The building was constructed in 1910 and formerly used as an office equipment warehouse. The total historic renovation project cost is about \$7 million, with about \$150,000 in project costs for the suite in question. The budget allotted for the historic renovation did not go as far as originally anticipated because of certain "found conditions" on site. The renovation project is currently nearing completion.

The building has four floors plus a basement/lower level. It will house a "wellness center" for the community, including the Applicant's child care facility, a Women, Infants and Children (WIC) agency office, a medical/dental clinic and counseling offices. The exception request here pertains to a 2,500 square foot licensed child care center in the lower level of the building. The exception request time period is for as long as the Applicant occupies the space, rather than a "temporary" request. The Applicant, a non-profit agency, was recently licensed to care for 40 children, ages 0-17.

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The Applicant has a two-year lease in the building. The majority of the children will be five years old and younger. The child care center will serve many families in financial hardship. The majority of families seeking child care with the Applicant are Department of Human Services (DHS) subsidized. The child care center will operate Mondays through Fridays with approximately 12 employees (maintaining required child-to-provider ratios). In order to make the center work financially, the project renovation has attempted to maximize the square footage available to use for child care.

The lower level has accessible restrooms in the corridor adjacent to the child care center, but outside the parameters of the licensed center. Children could be taken by staff to the accessible men's and women's restrooms, which have been approved by the licensing agency for use by school-aged children in the Applicant's care. In the basement/lower level, the other suite would be occupied by a WIC office and open to the public.

Within the Applicant's child care center suite, there are two sets of unisex toilet rooms already constructed with a total of four toilet fixtures in place. Neither of the unisex toilet rooms currently meets the requirements of the 2006 Michigan Building Code for accessibility. (See Petitioner's Exhibit No. 1). The City of Detroit did not bring up the accessibility problems upon its initial plan review, but did so after the rough and final inspections.

The Applicant could remove one toilet stall in the toilet room marked as "B-212" to make it comply with accessibility requirements without changing the footprint of the space. The "B-212" toilet room is in an area of the child care center intended for children ages 0-3 years old, but could be used by any of the children in the child care

center without them leaving the overall suite space. It would cost the Applicant about \$500.00 to make the "B-212" toilet room comply with accessibility requirements. The number of toilet fixtures would be reduced in "B-212" from two to one.

The Applicant estimates that bringing the toilet room shown in "B-211" into compliance with accessibility requirements of the Code would require approximately \$5,000.00 in electrical, mechanical and finish changes, including moving a wall over for required clearance space. Making the required changes in "B-211", which is within an area intended for 3 to 4 year-old children, would reduce the number of toilet fixtures from two to one. If both "B-212" and "B-211" were to come into compliance, the total number of toilet fixtures within the child care center for use by the children would be reduced to two, which would not meet the requirements for the number of children in care (not including the accessible public restroom). It would also reduce 40 or 50 square feet of child care space and limit office space by causing a wall to be moved. The Applicant believes that limiting the available office space would negatively impact the administration of the child care center. Further, making changes to "B-211" to make it meet Code requirements, costing about \$5,000.00, would not be financially feasible for the Applicant at this time and would delay the opening of the child care center.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier-free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier-free design requirements for a stated time period

and upon stated conditions, and require alternatives when exceptions are granted. MCL 125.1355(6).

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier-free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1109.2 of the 2006 Michigan Building Code states as follows:

1109.2 Toilet and bathing facilities. Toilet rooms and bathing facilities shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of each type of fixture, element, control or dispenser in each accessible toilet room and bathing facility shall be accessible.

Exceptions:

1. In toilet rooms or bathing facilities accessed only through a private office, not for common or public use and intended for use by a single occupant, any of the following alternatives are allowed:
 - 1.1 Doors are permitted to swing into the clear floor space, provided the door swing can be reversed to meet the requirements in ICC A117.1
 - 1.2 The height requirements for the water closet in ICC A 117.1 are not applicable;
 - 1.3 Grab bars are not required to be installed in a toilet room, provided that reinforcement has been installed in the walls and located so as to permit the installation of such grab bars; and
 - 1.4 The requirement for height, knee and toe clearance shall not apply to a lavatory.

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2. This section is not applicable to toilet and bathing facilities that serve dwelling units or sleeping units that are not required to be accessible by Section 1107.
3. Where multiple single-user toilet rooms or bathing facilities are clustered at a single location, at least 50 percent but not less than one room for each use at each cluster shall be accessible.
4. Where no more than one urinal is provided in a toilet room or bathing facility, the urinal is not required to be accessible.
5. Toilet rooms that are part of critical care or intensive care patient sleeping rooms are not required to be accessible.

Based on the above findings of fact, it is concluded that the Applicant has presented compelling reasons in this matter to justify an exception for the duration of the Applicant's lease (which may be continued after a period of two years and is thus indefinite at this time), for the toilet room shown in "B-211," on the condition that the toilet room shown in "B-212" is brought into compliance with Section 1109.2 of the Michigan Building Code, supra. The compelling reasons to grant the exception are the estimated cost of compliance to change the fixtures already in place, and economic limitations of the Applicant, being a non-profit child care facility serving publicly subsidized child care, and the nature of the business or facility. See MCL 125.1355a(2)(c) and 1988 AACRS, R 125.1014(2)(b) &(c).

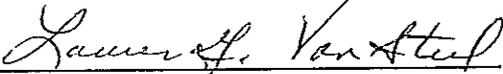
If an exception is granted for the "B-211" toilet room, accessible facilities will still be available in "B-212" within the suite for young children and in the adjacent public restroom for school-aged children (with supervision). The access needs of the children in the child care center will thus be met, and three toilet fixtures will be available in the suite. The Applicant has shown that the cost to bring "B-212" up to Code at \$500.00 is much more feasible than the estimated \$5,000.00 cost for "B-211".

RECOMMENDED DECISION

Based on the above findings of fact and conclusions of law, the undersigned recommends that the Board grant the Applicant an exception from Section 1109.2 of the 2006 Michigan Building Code for the "B-211" toilet room as shown in Petitioner's Exhibit No. 1, on the condition that the Applicant brings the "B-212" toilet room up to Code requirements, and that the exception be granted only for the duration of the Applicant's lease.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

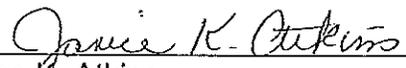
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.


Lauren G. Van Steel
Lauren G. Van Steel
Administrative Law Judge

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PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 23rd day of March, 2011.



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State Office of Administrative Hearings and Rules

Cheryl Frost
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Detroit, MI 48210

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Okemos, MI 48864

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JAN 18 2011

Application for Barrier Free Design Rule Exception
 Michigan Department of Energy, Labor & Economic Growth
 Bureau of Construction Codes / Plan Review I
 P.O. Box 30255, Lansing, MI 48909
 517-241-9328
 www.michigan.gov/bcc

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96817

BUREAU OF CONSTRUCTION CODES

PLAN REVIEW DIVISION

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
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The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME		STREET / SITE ADDRESS		
Children's Outreach: Angels in the Neighborhood II		5716 Michigan Avenue		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED				COUNTY
<input checked="" type="checkbox"/> City	<input type="checkbox"/> Village	<input type="checkbox"/> Township	of: Detroit	Wayne
Estimated Project Cost \$ 150,000.00		Estimated Cost of Compliance \$ 5,000.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building		<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Change of Use	
		Building Permit / File Number 15415		
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP	CONSTRUCTION TYPE
			B	HT-Fully Sprinkled
Project Does Not Comply With Barrier Free Design Requirements As Follows:				
Michigan Building Code Section(s) Michigan Building Code 2006, Section 1109.1 Reason for Non-Compliance 1st, 2nd, 3rd and 4th floors have fully accessible bathrooms for public use. Lower Level has fully accessible bathrooms for public use. Day Care (Lower Level) suite has additional bathrooms that are not accessible.				
ENFORCING AGENCY		BUILDING OFFICIAL NAME		REGISTRATION NUMBER
City of Detroit, Plan Review Department		Daljit S. Benipal		
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
2 Woodward Avenue, #409	Detroit	MI	48226	(313) 224-0297
BUILDING OFFICIAL SIGNATURE (Must be an original signature)		DATE	E-MAIL ADDRESS	FAX NUMBER (Include Area Code)
		01/11/11	benipald@detroitmi.gov	(313) 224-1634
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME		LICENSED INDIVIDUAL		MICHIGAN LICENSE NUMBER
John H. Donoian-Shelter Design Studio, LLC		John H. Donoian		35119
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
129 De Villen Avenue	Royal Oak	MI	48073	(248) 629-7153
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME		APPLICANT NAME		FEIN OR SS NO.* (Required)
Children's Outreach: Angels in the Neighborhood II		Cheryl Frost		
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
P.O. Box 10509	Detroit	MI	48210	(313) 539-8524
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code)
				(313) 896-1675
APPLICANT SIGNATURE (Must be an original signature)			DATE	
			01/12/11	

*This information is confidential. Disclosure of confidential information is protected by the Federal Privacy Act.

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MAR 31 2011

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION
In the matter of

Neo/Kincaid Henry
934 Clark Street
Lansing, MI,
Applicant

Docket No. 2011-208
Agency No. 96966
Agency: Bureau of
Construction Codes
Case Type: Barrier Free Design
Exception Request

4. EXCEPTION APPLICATIONS
04. 96966

Issued and entered
this 30th day of March, 2011
by Lauren G. Van Steel
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq.*; 1972 PA 230, as amended, MCL 125.1501 *et seq.*; and 1969 PA 306, as amended, MCL 24.201 *et seq.*

The purpose of this review is to examine an application for an exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on March 17, 2011, in Lansing, Michigan. Present on behalf of the Applicant were David C. VanderKlok, architect, and Ryan N. Henry, building owner. Usha Menon appeared on behalf of the Plan Review Division of the Bureau of Construction Codes. Also present were James Bennett and John Kloosterman on behalf of the City of Lansing Building Safety Office.

Mr. VanderKlok and Mr. Henry were sworn in and testified as witnesses for the Applicant. The following exhibits, offered by the Applicant, were admitted into evidence:

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1. Applicant's Exhibit A is a copy of an Application for Barrier Free Design Rule Exception, dated January 4, 2011.
2. Applicant's Exhibit B is copy of MCL 125.1355a.
3. Applicant's Exhibit C is a copy of Section 1104.4 of the 2006 Michigan Building Code.
4. Applicant's Exhibit D contains two photographs of the Applicant's building at 934 Clark Street in Lansing, Michigan.
5. Applicant's Exhibit E is a copy of the blueprints for proposed interior space in the basement, first floor and second floor levels of Applicant's building.
6. Applicant's Exhibit F is a copy of a civil engineer site drawing of Applicant's building location.

The record was closed at the conclusion of the hearing.

ISSUE

The central issue presented is whether the Board should grant the Applicant an exception from Section 1104.4 of the 2006 Michigan Building Code.

FINDINGS OF FACT

The building in question, at 934 Clark Street in Lansing, Michigan, dates back to 1914. It is a "Group B" building, and the only commercial building in a single family residential area. The building sits out of the ground about six feet from the west side and four to five feet on the rear. It has been targeted for redevelopment, having been vacant for some time. The current state of the building is that it is highly contaminated with mold and has overgrown landscaping. It was likely most recently used as a print shop, with some office space. [See Pet. Exh. D].

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The Applicant seeks an exception for inaccessible second floor and basement levels above and below the accessible first-floor level. Mr. VanderKlok notes that there is a difference between federal and state law requirements regarding the necessity for installing an elevator between the three levels. The federal Americans with Disabilities Act allows 3,000 square feet of inaccessible space on each level above and below an accessible level, while Michigan law only allows an aggregate area of not more than 3,000 square feet to be inaccessible on the levels above and below an accessible level. [Pet. Exh. C]. The first floor will be accessible with a ramp, and will have accessible restroom facilities, shared break room and conference room, and accessible drinking fountains. There will also be accessible office space available on the first floor.

It has been the Applicant's intent to install as many barrier-free accessible features as possible in its proposed renovations to the building. Currently, there is a gravel parking lot next to the building. The Applicant will be spending \$6,300.00 to make the parking lot barrier free van accessible. Also, because of the limited size of the site and the amount of elevation, the Applicant has had to remove a substantial part of the building and will expend \$5,000.00 to put in a 54-foot ramp. The Applicant is choosing to put in a concrete ramp, as well as four fully accessible toilet rooms on the three floors. The cost for these building changes is \$64,300.00.

The Applicant has also looked at exiting problems on the building and proposed removing non-compliant stairs which are currently in poor shape, for a cost of \$24,600.00. There will be a fire-rated stairs system to interconnect all three floors, with one-hour rated "areas of refuge" on all three floors for emergency purposes. There is also going to be installed a required means of egress on the basement level.

Mr. VanderKlok testified that his firm has installed many three-stop elevators in buildings in the city of Lansing and other jurisdictions throughout the country, and is well-versed in the construction costs involved. Here, installation of an elevator between the three floors would require underpinnings, a recessed elevator pit for hydraulics, a cab and shaft, a fire-rated hydraulics room, and lighting and mechanical facilities for a total additional cost of \$85,000.00.

The Applicant's current total project cost to renovate the building is \$400,000.00. The cost for the ramps, toilet rooms and accessible features and elevator would be 37.3% of total renovation costs. The elevator alone would be 21.25% of total renovation costs. If all of the changes proposed were installed, including the fire-rated stairs, ramps, toilets, areas of refuge, plus the elevator, this would represent almost 44% of the total renovation costs. The Applicant is seeking an exception from installation of an elevator based on "economic limitations" under MCL 125.1355a(2)(c). [Pet. Exh. B].

It is contemplated that there will be different users of the building, with rights to use all accessible facilities on the first floor. The basement/lower level will have a mixture of open cubicles and offices as "incubator space" for business start-ups. With the current state of the economy, there are a lot of people out of work. The "incubator space" would allow entrepreneurs to only rent a cubicle and have shared facilities such as a copier, break room, etc. The occupant load in the basement level will be 24, but it would likely be a lower occupant number.

On the first floor, the Kincaid/Henry construction and development company will occupy approximately two-thirds of the 3,814 square feet of space. On the southwest corner will be a shared break room, conference room, fully accessible

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men's and women's toilet rooms and drinking fountains. There is also an area for an accessible office. The maximum number of occupants would be 38 on the first floor.

On the second floor, there will be additional "incubator" office space with 2,198 square feet. The maximum number of occupants on the second floor will be 21.

The vertical height from the basement to the first floor, and the first floor to second floor, is approximately 10 feet, 6 inches. The elevation to the first floor is about six feet. Where the ramp will be installed, the elevation is about 4½ feet.

Regarding status of construction, at this point the drawings have been submitted for building permit approval. The drawings are being held up, however, for the barrier free exception application and for the paving of the parking lot in compliance with storm water drainage requirements. (There was some demolition on the building previously through the Ingham County Land Bank with a previous owner.)

The Applicant understands that pursuant to the 2003 Michigan Building Code, an applicant could claim monetary or technical infeasibility, but that this language has been deleted in the 2006 Michigan Building Code.

The Applicant points out further that there are structural limitations on the wood-frame building. Nevertheless, the Applicant is not claiming an impossibility to modify the structure because a fully compliant fire-rated stairs system is being put in. The \$85,000.00 cost for the elevator would include a modification to bolt the foundation system, shaft and cab, hydraulics and hydraulics room, the floor framing system and modification of framing for the elevator to go through the roof to a hoist beam. Mr. VanderKlok thinks it would be a "design challenge" to install an elevator, although not an impossibility. An elevator likely would be installed, if necessary, in the west-half of the building. That would cut into the available tenant space on the second floor. The

minimum Code-compliant elevator would require a 2,500 pound elevator, with about 53 square feet for the elevator shaft and about 45 square feet for the hydraulics room. It is likely that a toilet room would have to be relocated on the first floor if an elevator were installed.

Mr. Henry testified that if an elevator were required to be installed, the Applicant would not proceed forward with its project to renovate the building. Having an elevator installed would limit the available cubicle space to be rented. The Applicant is planning to be able to rent 17 cubicles on the basement level, four cubicles on the first floor level and six cubicles on the second-floor level. The Applicant would likely lose two cubicles on each floor if an elevator were installed. The proposed rental income for the cubicles varies based on the amount of cubicle space. The economic impact of the Applicant not being able to have the full rental space would be about \$7,200.00 per year, out of a total estimated rental income of \$55,000.00.

The Applicant is purchasing the building on a land contract basis over a 15-year period. It has had a construction business since 2005, with about 10 employees who do office administration, construction program management and skilled trades work in the field.

Mr. Henry testified that the Applicant could not justify going forward with the renovation project, if it had to absorb the proposed elevator cost. If an exception were not granted, the severe economic difficulty would be the \$85,000.00 cost for the elevator, and the loss of rental income. The Applicant has not been able to secure bank loans for any additional renovation monies; it has been turned down by more than one bank for any additional loans on the project. If the Applicant could not go forward with the project, it would affect its business from the loss of about \$25,000.00 in "soft costs"

already expended. Further, the Applicant would lose the possibility of expanding its business from its currently leased 1,300 square-foot location in East Lansing that it has outgrown, to the proposed 2,500 square-foot space (with 800 square feet of shared conference and break room space) in the new location. It is noted that the Applicant could expand to the other floors in the new location as well, if necessary after expiration of leases. The Applicant would not be able to take on additional projects for clients, which may require it to turn away work and not hire additional staff.

The Applicant points out that it is taking a building that has never been accessible and making the first floor fully accessible, with accessible features being installed at a cost of \$64,300.00. The building in question is in an area of a federally-designated stabilization program, in a highly distressed area of the city. The Applicant's hope is to spark revitalization in the area. Also, the Ingham County Land Bank would tear down the building, if it was not renovated.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier-free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal

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application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible. MCL 125.1355a.

Section 1104.4 of the 2006 Michigan Building Code requires in pertinent part:

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

* * *

Based on the above findings of fact, it is concluded that the Applicant has presented compelling reasons to justify an exception. The compelling reasons are the nature of the proposed facility and the cost of compliance in relation to the total project cost. 1988 AACRS, R 125.1014(2)(c) & (s). As to the nature and use of the facility, the Applicant has credibly shown that it will allow accessible space for an office, conference room, break room and toilet facilities on the first floor of the building. The Applicant is clearly benefiting the community by renovating a building in currently vacant and poor condition, and making the first floor of the building accessible through a ramp system.

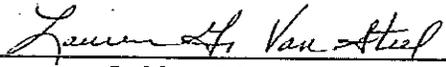
Further, the estimated cost of compliance at \$85,000.00 is disproportionately high, given the other costs being expended to make the building accessible and in relation to the total project cost of \$400,000.00. The Applicant has credibly shown that it is unable to finance the cost for an elevator at this time, and that it would not go forward with the planned building renovation without an exception being granted. Therefore, compelling need for an exception has been shown based on the nature of the facility and the relative cost of compliance. R 125.1014(2)(c)&(s).

RECOMMENDED DECISION

Based on the above findings of fact and conclusions of law, the undersigned recommends that the Board grant the Applicant an exception, without time limitation, from Section 1104.4 of the 2006 Michigan Building Code for purposes of the elevator in question.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

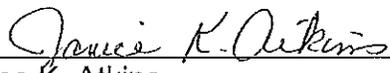
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.



Lauren G. Van Steel
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 30th day of March, 2011.



Janice K. Atkins
State Office of Administrative Hearings and Rules

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Lansing, MI 48909

D

demo to install
BF ramp @
new BF
ramp



REAR



FRONT

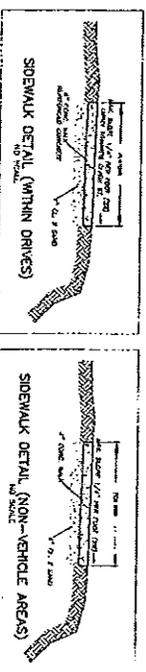
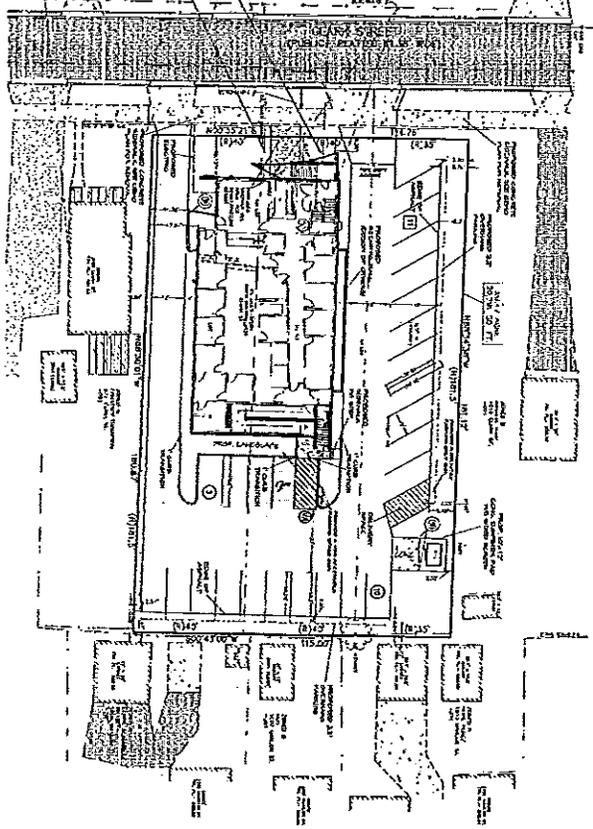
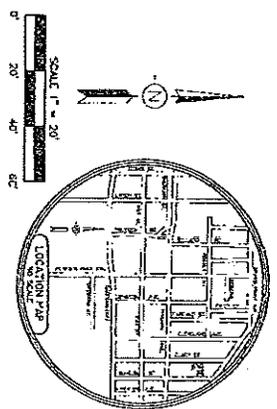
Kincaid Henry/Neo Center

City of Lansing, Ingham County, Michigan

CLIENT:
 KINCAID HENRY BUILDING GROUP, INC.
 RYAN HENRY
 1151 NICHOLAN AVENUE, 103
 ANN ARBOR, MICHIGAN 48103
 PH: (313) 263-0994
 FAX: (313) 263-0994

ENGINEER/SURVEYOR:
 KCBES, INC.
 2116 HASLETT RD.
 HASLET, MI 48846
 PH: (517) 335-1014
 FAX: (517) 338-1044

ARCHITECT:
 STUDIO (CHANG) ARCHITECTS
 1114 S. WASHINGTON ST., STE. 100
 LANSING, MI 48910
 PH: (313) 377-8804
 FAX: (313) 372-0005



LEGAL DESCRIPTION:
 (As provided by Capital Fund The Services, LLC, Commitment No. 623135, dated July 14, 2010)
 Lots 9, 10 and 11, Assessor's Plot Number 21, City of Lansing, Ingham County, Michigan, according
 to the provided plat Invernet, Ingham County, Michigan.

SCHEDULE 9 - SECTION II, EXCEPTIONS:
 (As provided by Capital Fund The Services, LLC, Commitment No. 623135, dated July 14, 2010)
 There are no easements of record listed.

FAX ID # 432-01-01-00-40-071 & 432-01-01-00-40-081
 ADDRESS: 934 CLARK STREET

SITE DATA

PROJ: 2010-01 (PROFESSIONAL SERVICE)
 0.91 ACRE AREA - 0.47 ACRES
 EX. 20-000 B (PROFESSIONAL SERVICE)

BUILDING SETBACKS

FRONT - 14.99 FEET (EXISTING)
 SIDES - 30.00 FT - 11.0 FEET (EXISTING)
 REAR - 53.25 FEET (EXISTING) - 53.25 FEET (PROPOSED)

BUILDING DATA

PROPOSED - 8,727 S.F. GROSS FLOOR AREA
 RESERVED - 6,100 S.F. GROSS FLOOR AREA
 TOTAL - 14,827 S.F. GROSS FLOOR AREA

PARKING

RESERVED - 11 SPACES
 TOTAL - 25 SPACES

UTILITIES

CITY PUBLIC WATER MAIN (UP EX. LEAD TO EX. PUMP)
 SANITARY
 CITY PUBLIC SANITARY (USE EX. LEAD TO EX. TANK)
 CITY PUBLIC STREETS
 TRANSIT CONVALENT SERVICE

GENERAL NOTES:

1. The site and location of the building are shown on the attached site plan. The building is to be constructed on the site shown on the attached site plan.
2. The site and location of the building are shown on the attached site plan. The building is to be constructed on the site shown on the attached site plan.
3. The site and location of the building are shown on the attached site plan. The building is to be constructed on the site shown on the attached site plan.
4. The site and location of the building are shown on the attached site plan. The building is to be constructed on the site shown on the attached site plan.
5. The site and location of the building are shown on the attached site plan. The building is to be constructed on the site shown on the attached site plan.

EX. SERVICE INDICATED:

EXISTING SIDEWALK
 EXISTING DRIVE
 EXISTING UTILITY
 EXISTING STREET LIGHTING
 EXISTING LANDSCAPE
 EXISTING FENCE
 EXISTING SIGNAGE
 EXISTING CURB
 EXISTING PAVEMENT
 EXISTING GRADE
 EXISTING TREES
 EXISTING BUSHES
 EXISTING SHRUBS
 EXISTING FOLIAGE

NEW SERVICE INDICATED:

NEW SIDEWALK
 NEW DRIVE
 NEW UTILITY
 NEW STREET LIGHTING
 NEW LANDSCAPE
 NEW FENCE
 NEW SIGNAGE
 NEW CURB
 NEW PAVEMENT
 NEW GRADE
 NEW TREES
 NEW BUSHES
 NEW SHRUBS
 NEW FOLIAGE

NOTE: ALL PUBLIC WATER SHALL BE WITHIN A 20' PUBLIC EASEMENT

SHEET INDEX

1. SITE & UTILITIES PLAN
 2. SIDEWALK, PARKING & LANDSCAPE PLAN
 3. REVISION PLAN

PROJECTED REVISIONS:

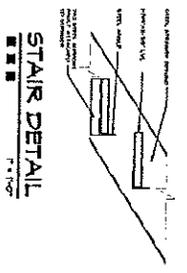
1. REVISIONS PROPOSED NUMBER OF 0.51 ACRE (AS PER) PARKING SPACES
 2. REVISIONS PROPOSED NUMBER OF 0.51 ACRE (AS PER) PARKING SPACES

CLIENT: KINCAID HENRY BUILDING GROUP, INC.
ARCHITECT: STUDIO (CHANG) ARCHITECTS
ENGINEER/SURVEYOR: KCBES, INC.

DATE: 7/14/10
SCALE: 1" = 20'

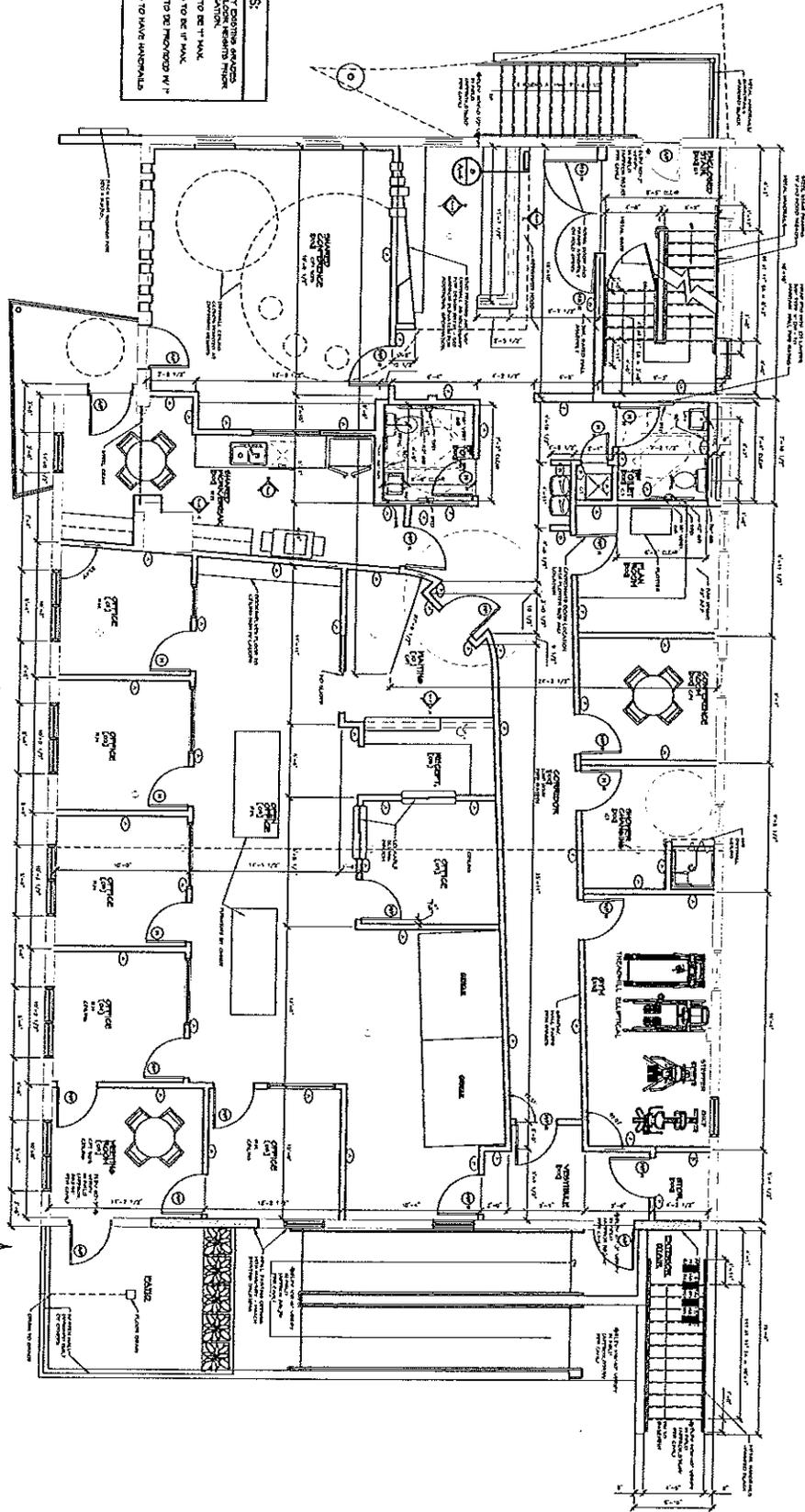
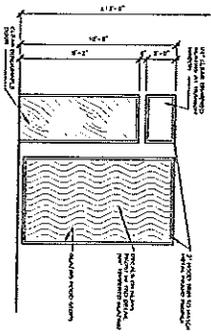
STAIR NOTES:

1. FIELD STAIRS: POSITION, SPACING AND FLOOR TO FLOOR HEIGHTS TO BE DETERMINED BY ARCHITECT.
2. ALL STAIRS TO BE 11" MAX.
3. ALL STAIRS TO BE 11" MAX.
4. ALL STAIRS TO BE PROVIDED WITH HANDRAILS.



- DOOR, WINDOW, CASE, ETC.**
- ⊙ - ALUMINUM OR OTHER TYPE
 - ⊙ - METAL
 - ⊙ - WOOD 8'-0" x 7'-0" SOLID CLEAR SIGNATURE
 - ⊙ - METAL SPAN/TEAL LOOK
 - ⊙ - WOOD SPAN/TEAL LOOK
- GLASS**
- - CLEAR GLASS
 - - TINTED GLASS
- FINISHES**
- - CARPET SQUARES (MIS)
 - - CERAMIC TILE
 - - REFINISHED WOOD
- * METAL FINISHES SHALL BE PAINTED GRAY AS A LINE COLOR.

TYPICAL DOOR AND SIDELITE ELEVATION
1/4" = 1'-0"



UNITE NOTE:
UNITE SHALL BE PROVIDED ON ALL INTERIORS IN WALL THROUGHOUT.

WALL LEGEND

DOORWAY
FINISHED

PRELIMINARY NOT FOR CONSTRUCTION
12/21/07

ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
ALL FINISHES ARE TO BE AS SHOWN ON THE FINISH SCHEDULE. ALL FINISHES ARE TO BE PAINTED GRAY AS A LINE COLOR. ALL FINISHES ARE TO BE PAINTED GRAY AS A LINE COLOR.

3,814#

A-2
10036

KINGCOTE HENRI
RENOVATION GROUP

NEO / ARK STREET
934 CLARK STREET
LANSING, MICHIGAN

COMMERCIAL REDEMPTION

studio [intrigue] INTERIORS
3130 W. GRAND AVENUE, SUITE 100
LANSING, MI 48202
734-555-5555

limitations" under the Barrier Free Act of 1966 125.13552(2)(c).

We have proposed barrier free compliance in the alteration of the building, including:

- A. new ramp system to the first floor
- B. new stairways
- C. new areas of refuge on all floors
- D. new toilet rooms on all floors
- E. handicap parking
- F. door clearances

The items listed (A-F) are the compliance upgrades we are able to complete to the maximum feasible extent possible. The elevator shaft, foundations, req'd demolition, hydraulics, cab, exhaust, fire ratings, hoist beam + interconnections exceed 20% of the total renovation cost. This is an "economic limitation" per 125.13552(2)(c).

Application for Barrier Free Design Rule Exception
 Michigan Department of Energy, Labor & Economic Growth
 Bureau of Construction Codes / Plan Review Division
 P.O. Box 30255, Lansing, MI 48909
 517-241-9328
 www.michigan.gov/bcc

96 966

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, request to individuals with disabilities.
---	---

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION					
FACILITY NAME NEO / KINCAID HENRY			STREET / SITE ADDRESS 934 CLARK STREET		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: LANSING				COUNTY INGHAM	
Estimated Project Cost \$ 400,000			Estimated Cost of Compliance \$ 85,000		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)					
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use			Building Permit / File Number _____		
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? —	USE GROUP B	CONSTRUCTION TYPE III-B	
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 2006 MBC 1104.4					
Reason for Non-Compliance * AGGREGATE EXCEEDS 3,000 S.F. (ACTUAL 4,610 S.F.)					
ENFORCING AGENCY CITY OF LANSING		BUILDING OFFICIAL NAME Christine Segerlind		REGISTRATION NUMBER 2846	
ADDRESS 316 N. CAPITOL	CITY LANSING	STATE MI	ZIP CODE 48933	TELEPHONE NUMBER (Include Area Code) 517-483-4375	
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>[Signature]</i>		DATE 1-18-11	E-MAIL ADDRESS CSegerlind@lansingmi.gov	FAX NUMBER (Include Area Code) 517-377-0169	
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)					
COMPANY NAME STUDIO [INTRIGUE] ARCHITECTS		LICENSED INDIVIDUAL DAVID VANDEKLOK		MICHIGAN LICENSE NUMBER 10346738	
ADDRESS 1114 S. WASHINGTON	CITY LANSING	STATE MI	ZIP CODE 48910	TELEPHONE NUMBER (Include Area Code) 517-372-2204	
APPLICANT (Note: All correspondence will be sent to this address)					
COMPANY NAME KINCAID / HENRY BLDG GROUP		APPLICANT NAME RYAN HENRY		FEIN OR SS NO.* (Required) [REDACTED]	
ADDRESS 1151 Michigan AVE	CITY E. LANSING	STATE MI	ZIP CODE 48823	TELEPHONE NUMBER (Include Area Code) 517-332-8210	
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) 517-332-8710	
APPLICANT SIGNATURE (Must be an original signature) <i>[Signature]</i>			DATE 1/4/2011		

* seeking exception to elevator requirement under "compelling need" due to "economic

over →

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of	Docket No.	2011-332
A Sons Construction 18860 West Ten Mile Road Southfield, MI, Applicant	Agency No.	97298
_____ /	Agency:	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

5. EXCEPTION APPLICATIONS
05. 97298

Issued and entered on
this 15th day of April, 2011
by Renée A. Ozburn
Administrative Law Judge

REPORT OF ADMINISTRATIVE LAW JUDGE

PROCEDURAL HISTORY

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended, MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*. The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on April 14, 2011, in Lansing, Michigan. Dennis Krestel and Jim Tessadri appeared on behalf of the Applicant A Sons Construction. Usha Menon appeared on behalf of the Plan Review Division of the Bureau of Construction Codes.

ISSUE

Whether the Applicant should be granted an exception from 2006 Michigan Building Code, Section 1104.4.

FINDINGS OF FACT

1. On February 17, 2011, A Sons Construction submitted an application for an exception to requirements for elevator/lift access to the upper level of an existing split level office building being renovated for more efficient use of the upper level. The building is a wood, steel beam and block wall structure built in 1967. Each of the two levels is approximately 5000 square feet. There is approximately a 6 ft. to 7 ft. elevation grade to the upper level and approximately a 3 ft. to 4 ft. elevation grade to the lower level with stairs between levels.
2. A Sons Construction is a property preservation company that provides services to the federal government and banks regarding foreclosed property. There are 15 employees who would work on the second level. These employees work primarily in the field inspecting properties out in the community. They return to the building to complete paperwork and data entry/storage functions. All employees must be able bodied to perform the field work. Each employee is required to have government (e.g. FBI) clearance. Because of the sensitive nature of the documents and information stored at the building, there is no public access and signage

outside of the building warns the public that government regulations prohibit their access.

3. The cost of the anticipated renovations is estimated to be \$100,000.00. This will entail reconfiguring partitions and upgrades on the upper level as well as parking lot and signage improvements.
4. There are no plans to use the lower level of the building for any purpose. Due to security issues and parking restrictions it is not anticipated that the lower level will be used or rented in the near future. However, the Applicant is gradually improving accessibility to the entire building and surrounding properties. The upper level renovations will make that level barrier free compliant.
5. The Applicant estimates the cost of installing the least expensive lift at \$32,000, which is a third of the renovation budget.
6. To install a lift would also require removing, shoring and reframing approximately 120 sq. ft. of floor area, including 20 ft. long 2' by 12' floor joists, and could result in the cracking of the concrete floor well beyond the shaft area.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for

exceptions to any or all of the barrier free design requirements for a stated period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when compelling need is demonstrated by the Applicant. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules which have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

The Applicant has shown that the cost of adding an elevator/lift to this limited use facility is economically prohibitive. In addition, a lift may potentially cause structural problems. The facility is not accessible by the public, and all employees must be able bodied. No use changes are planned for the future.

The Applicant has shown compelling needs which justify granting an exception to the requirements of 2006 Michigan Building Code Section 1104.4.

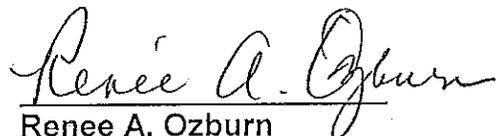
RECOMMENDED DECISION

I recommend the Board grant the Applicant's request for exception from 2006 Michigan Building Code, Section 1104.4.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

Docket No. 2011-332
Page 5

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.


Renee A. Ozburn
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 15th day of April, 2011.



Shirley Dacus
State Office of Administrative Hearings and Rules

Wayne R. Jewell
City of Southfield
26000 Evergreen Road
P.O. Box 2055
Southfield, MI 48037

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Joseph A. Guido
Guido Architects, Inc.
23419 Ford Road
Dearborn, MI 48128

Guido Architects Inc.
Architects / Planners

23419 Ford Road
Dearborn, Michigan 48128
Voice (313) 274-7800 Fax (313) 274-7808
jguido@guidoarchitects.com

RECEIVED

FEB 25 2011

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

February 7, 2011

City of Southfield
Building Department
26000 Evergreen Road
Southfield, Michigan 48076-4453

Attention: Mr. Mark Pilot

Re: Barrier Free Design Rule Exception for alteration to 18860 West Ten Mile Road,
Southfield, Michigan

Dear Mr. Pilot,

Enclosed please find an application, existing and proposed floor plan and new building owner affidavit, for new business activity at the above location. Outlined herein, you will find further building data and our considerations for possible rule exception for an accessible route to connect the levels of this multistory existing building as required by Sections 1104.4 and 3409.6 of the 2006 Michigan Building Code.

The building was built around the late 1960's or early 1970's. It has a small grade level entrance with split stairways down to a 5,200 s.f. lower level and up to a 5,200 s.f. upper level. The structure is of wood floor and roof framing supported on steel columns and beams and masonry walls. As far as we know all past uses have been office, Use Group B.

As stated in the enclosed letter from A-Sons Construction, the new building owner, the structure will continue to house an office use with no change in occupancy classification. Alterations including partition removal and space reconfiguration are planned for a portion of the upper level, representing a work area approximately 40% of the aggregate area of all the floors.

If we consider the 2006 Michigan Rehabilitation Code for Existing Buildings, Section 404 considers the proposed work a "Level 2 - Alteration". Section 308.6, of that code, will refer us back to the multistory accessibility requirement of Section 3409.6 of the Michigan Building Code. This Section does accept compliance where it is "technically infeasible", our first reason for exception. Section 3402 of the Michigan Building Code defines "technically infeasible. It includes difficulties due to existing structural conditions that require the removal or alteration of a load bearing member that is an essential part of the structural frame". The enclosed proposed floor plan indicates the best location for a vertical wheelchair lift, if required to access the different levels. For this installation, 20 ft. long 2x12 loading bearing floor joist, running north and south between the southerly outside bearing wall and the first bearing steel beam must be shored, re supported and partially removed.

A second consideration is the required mobility of employees and the barring of "public" access stated in the A-Sons Construction affidavit.

A third consideration is the improvements proposed for the building and site, by this occupant. They represent significant progress in attaining total accessibility and life/safety upgrades. This building obviously functioned well in the past but will now be improved to provide, on this altered level, lever handled door hardware, accessible toilet rooms, a barrier free water fountain, minimum 36" wide doorways, where they were 30", door access clearances, when there were none, a ramped main entry instead of only steps, an extended stair handrail, some updated wiring and newly placed and more effective exit and emergency lights.

Lastly, consider the "upside down" cost for the installation of a vertical lift. As stated in the A-Sons Construction letter the remodeling budget is \$75,000.00. According to Wright and Filippis the State approved vertical wheelchair lift would cost \$26,000.00 installed. Add another \$ 6,000.00 minimum for shaft and pit construction and electrical service and the total is \$ 32,000.00 or approximately 50% of the remodel budget. Section 3409.6 exception #1, of the 2003 Michigan Building Code provided that accessibility may not be required if over 20% of the costs of the alterations. Although this exception was deleted in the 2006 Michigan Building Code, I have been informed by the State of Michigan that this fact is still being considered in exception rulings.

Please review our submittal package, consider the minimum affect the lifting device could have at this time, the unbalanced cost, and the potential delay in opening the business, and the improvements provided. I believe the intent of the code for existing buildings in particular, is to reasonably provide for greater accessibility, a step at a time, over time. It is our hope this exception may be ruled on administratively through your building department, and without presentation to the State. Prompt re-occupancy scheduling is of the essence to allow A-Sons Construction to provide an important service to our communities.

Thank you for your consideration. Please contact our office with any questions.

Sincerely,


Denny Krestel

RECEIVED

FEB 8 5 2011

BUREAU OF CONSTRUCTION
PLAN REVIEW DIVISIONA-SON'S CONSTRUCTION1301 E. Riggins Rd., Muncie, IN 47303
Phone 765-282-2100 Fax 765-282-5329

Mr. Mark Pilot
 Building development
 Development Services Building, Southfield Municipal Complex
 26000 Evergreen Road
 Southfield, Michigan 48076

Friday, January 28, 2011

Dear Sir,

A-Son's Construction, Inc. (A-Son's), a national REO property preservation company, has recently purchased the property located at 18860 West Ten Mile Road in Southfield, Michigan and is requesting a variance for the requirement to install an elevator/vertical lift due: 1) to the fact only minor alterations will be completed to the existing building 2) that it would constitute a financial hardship to install a lift 3) that A-Son's does not directly serve the public 4) that A-Son's does not have walk-in customers and must maintain a secure office 5) All A-Son's employees must be mobile due to the nature of our business.

A-Son's provide a variety of services to Fannie Mae, Freddie Mac, HUD, GSA, local banks, major banks, and REO agents for maintaining foreclosed properties in a safe and secure manner through resale. Many of our customers give us access to secure web sites with confidential information regarding current or former homeowners. These web sites are open and visible during normal business hours. In addition many clients send us controlled documents. Since web sites and documents of a sensitive and personal nature are utilized and conversed with the entire office on a daily basis, A-Son's secures the entire office and cannot offer to perform work directly to the public. In addition, all office personnel must be capable of entering any foreclosed property under our management control for eviction, appraisal, evaluation, or qc purposes. Lastly, A-Son's shies away from any public awareness of our existence as we have a very sober job to perform and do not want the public to know who or where we are located.

Late in 2007 A-Son's began exploring areas in Michigan to lease office space. It was our intent to lease a building for 18-24 months and then purchase a suitable building in an area that had the best climate for new business. A-Son's leased office space early in 2008 at 29532 Southfield Rd in Southfield to support 3 employees.

By the fall of 2010 A-Son's had grown to 17 employees while continuing to lease office space at the same commercial complex located at 29532 Southfield Rd. (on the 2nd floor and with no lift service).

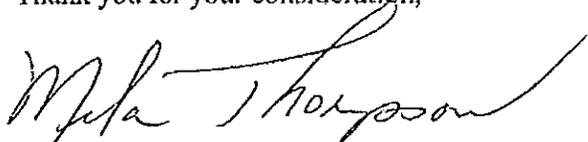
It was decided to permanently have a presence in Southeast Michigan; thus a search began to identify a building that would need minimum repairs and could be used for our expected continued growth, since we found the local business climate in Southfield to be exceptional and a comfortable place to conduct our business. It is a clean and safe town with many service outlets, restaurants, and shopping opportunities mixed with a large population base. It was decided by A-Son's ownership to conduct a 90 day search only in the Southfield area.

In November of 2010 a foreclosed building located at 18860 West Ten Mile Road, Southfield, Michigan was identified and purchased. It is a 10,000 sq.ft., 2-story split level building that needed a minimum amount of re-configuration to not only meet our needs but our budget as well. A-Son's plans on utilizing the entire upper floor of the building with no immediate plans to rehab or utilize the lower level.

The primary type of business that will be completed from this office is coordinating construction and property preservation activities. Staff are often required to travel to the properties themselves to review and identify problem issues and then issue corrections. Due to the nature of our business and the sensitive information with security requirements we receive from our customers we do not allow visits from the general public.

A-Son's internal re-habilitation budget for the property is \$75,000. This includes rehabbing the bathrooms, tearing out walls, adding insulation, creating an internal meeting room for 25 employees (used only for employee training and team meetings), Operations Manager office, updating electrical wiring, and installing new carpets. None of this money was ear-marked for the installation of a lift. The move-in target date of March 15th will drastically be altered if and when additional capital can be identified and funded. This, I believe, constitutes an extreme financial hardship to A-Son's as it would increase the budget by 70% in order to install a lift that will not be used by the public or their employees.

Thank you for your consideration,



Milan Thompson
CEO

A-Son's Property Preservation & Construction Services, Inc.

1301 E. Riffin Road

Muncie, In. 47303

(765)282-2100 ext. 1903

(765)282-5329 fax

www.asons.net

mthompson@asons.net

Application for Barrier Free Design Rule Exception
 Michigan Department of Energy, Labor & Economic Growth
 Bureau of Construction Codes / Plan Review
 P.O. Box 30255, Lansing, MI 48909
 517-241-9328
 www.michigan.gov/bcc

133

97 298

This form can be completed by tabbing to each field and typing in the required information.

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
---	---

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Iran Info: 133 16616323-1 02/22/11
 Chk#: 2989 Amt: 4300.00
 ID: CURRUT & ASSOCIATES LLC

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION		STREET / SITE ADDRESS	
FACILITY NAME A-Son's Construction		18860 West Ten Mile Road	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: Southfield			COUNTY Oakland
Estimated Project Cost \$ 75,000.00		Estimated Cost of Compliance \$ 32,000.00	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)			
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number _____	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	PERIOD OF TIME REQUESTED? N/A	USE GROUP B	CONSTRUCTION TYPE V-B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1103.2.2 3409., 3409.6, 3409.7, 3409.8, 3409.9.2 or 3410.1, Level 3 (405.1), 806.1 Reason for Non-Compliance Level 3 (405.1) Alteration exceeds 50% of the aggregate area and must comply with Section 806.1 for accessibility. An exception would be a variance from mandated accessibility.			
ENFORCING AGENCY City of Southfield	BUILDING OFFICIAL NAME Wayne R. Jewell, CBC	REGISTRATION NUMBER 000232	
ADDRESS 26000 EVERGREEN	CITY Southfield	STATE MI	ZIP CODE 48076
TELEPHONE NUMBER (Include Area Code) 248-796-4110	E-MAIL ADDRESS Njewell@cityofsouthfield.com		FAX NUMBER (Include Area Code) 248-796-4105
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
COMPANY NAME Guido Architects, Inc.	LICENSED INDIVIDUAL Joseph A. Guido	MICHIGAN LICENSE NUMBER 27944	
ADDRESS 23419 Ford Road	CITY Dearborn	STATE Michigan	ZIP CODE 48128
TELEPHONE NUMBER (Include Area Code) (313) 274-7800			
APPLICANT (Note: All correspondence will be sent to this address)			
COMPANY NAME Guido Architects, Inc.	APPLICANT NAME Joseph A. Guido	FEIN OR SS NO.* (Required) 5	
ADDRESS 23419 Ford Road	CITY Dearborn	STATE Michigan	ZIP CODE 48128
TELEPHONE NUMBER (Include Area Code) (313) 274-7800			
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.			FAX NUMBER (Include Area Code) (313) 274-7808
APPLICANT SIGNATURE (Must be an original signature) Joseph A. Guido			DATE 2/17/11

*This information is confidential. Disclosure of confidential information is protected by the Federal Privacy Act.

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Salvation Army Flint Citadel
211 West Kearsley Street
Flint, MI,
Applicant

Docket No. 2011-348

Agency No. 97333

Agency: Bureau of
Construction Codes

Case Type: Barrier Free Design
Exception Request

Issued and entered
this 15th day of April, 2011
by Renée A. Ozburn
Administrative Law Judge

REPORT OF ADMINISTRATIVE LAW JUDGE

PROCEDURAL HISTORY

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended, MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*. The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on April 14, 2011, in Lansing, Michigan. Philip Lewis and Jon Augenstein appeared on behalf of the Salvation Army Flint Citadel (Applicant). Usha Menon appeared on behalf of the Plan Review Division of the Bureau of Construction Codes.

ISSUE

Whether the Applicant should be granted an exception from 2006 Michigan Building Code, Section 1104.4.

FINDINGS OF FACT

1. On February 24, 2011, the Salvation Army Flint Citadel submitted an application for an exception to requirements for elevator access to a 2-story building originally constructed in 1910. A one story addition was added in 1966. The Applicant is planning renovations which will add accessible toilet facilities to the 1st and 2nd levels of the 1910 section of the building.
2. There is a 13 ft. 3 in. height difference between the first and second levels of the 1910 section. The 1st floor of both sections of the building is 26,715 sq. ft. The 2nd level of the 1910 section is 3,746 sq. ft.
3. The 2nd floor of the older section is used for Sunday school, band activities and summer day camp. Between 25 and 50 children use the 2nd floor on Sundays and Wednesdays during the school year. Up to 65 children use the 2nd floor on a daily basis in the summer. There are 6 employees during the summer and volunteers throughout the school year.

- 4. All children’s activities conducted on the 2nd floor can be conducted on the 1st floor in the event that a child or adult/employee is disabled.
- 5. The Applicant is also adding a barrier free ramp from the parking lot to the 1st floor of the 1910 section of the building for accessibility.
- 6. The total project cost to add barrier free toilets to the 1st and 2nd floor is approximately \$75,000. The cost to install a 2-door elevator and elevator lobby area is estimated at \$310,000.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created “to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public.” The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when compelling need is demonstrated by the Applicant. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules which have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Docket No. 2011-348

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The Applicant has shown that adding an elevator to the building would cost 4 times the estimated cost of the planned renovation thereby creating an extreme economic hardship. The Applicant is willing and able to transfer any activities that might involve a disabled child or adult to the accessible 1st floor.

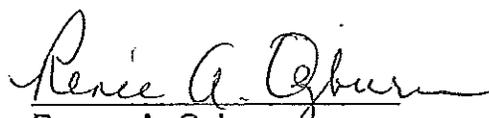
Therefore, the Applicant has shown a compelling economic need and reasonable alternatives justifying an exception to the requirements of 2006 Michigan Building Code Section 1104.4.

RECOMMENDED DECISION

I recommend the Board grant the Applicant's request for exception from 2006 Michigan Building Code, Section 1104.4.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.


Renee A. Ozburn
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 15th day of April, 2011.


Shirley Dacus
State Office of Administrative Hearings and Rules

Kevin Rutherford
City of Flint Building Dept.
1101 South Saginaw
Flint, MI 48502

Philip Lewis
Gazall Lewis & Associates Architects
Salvation Army Flint Citadel
503 S Saginaw Street, Ste. 100
Flint, MI 48502

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Application for Barrier Free Design Rule Exception
 Michigan Department of Energy, Labor & Economic Growth
 Bureau of Construction Codes / Plan Review
 P.O. Box 30255, Lansing, MI 48909
 517-241-9328
 www.michigan.gov/bcc

97333

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
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The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME Salvation Army Flint Citadel		STREET / SITE ADDRESS 211 West Kearsley Street		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: Flint			COUNTY GENESEE	
Estimated Project Cost \$ 75,000.00		Estimated Cost of Compliance \$ 310,000.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building		<input checked="" type="checkbox"/> Alteration		<input type="checkbox"/> Change of Use
Building Permit / File Number _____				
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP A-3	CONSTRUCTION TYPE III-B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) SECTION 1104.4 Reason for Non-Compliance Economical and Technological limitations. Cost to add four level stop elevator, required lobbies for four levels of access results in an extreme financial burden on the Salvation Army at this time.				
ENFORCING AGENCY CITY OF FLINT		BUILDING OFFICIAL NAME KEVIN RUTHERFORD		REGISTRATION NUMBER 5440
ADDRESS 1101 S. SAGINAW STREET	CITY FLINT	STATE MI	ZIP CODE 48506	TELEPHONE NUMBER (include Area Code) (810) 766-7284
BUILDING OFFICIAL SIGNATURE (Must be an original signature) 		E-MAIL ADDRESS KRUTHERFORD@CITYOFFLINT		FAX NUMBER (Include Area Code) (810) 762-7379
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME GAZALL LEWIS & ASSOC. ARCHITECTS INC.		LICENSED INDIVIDUAL PHILIP LEWIS		MICHIGAN LICENSE NUMBER
ADDRESS 503 S. SAGINAW ST. SUITE 100	CITY FLINT	STATE MICHIGAN	ZIP CODE 48502	TELEPHONE NUMBER (Include Area Code) (810) 239-4691
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME GAZALL LEWIS & ASSOC. ARCHITECTS INC.		APPLICANT NAME PHILIP LEWIS		FEIN OR SS NO.* (Required)
ADDRESS 503 S. SAGINAW ST. SUITE 100	CITY FLINT	STATE MICHIGAN	ZIP CODE 48502	TELEPHONE NUMBER (Include Area Code) (810) 239-4691
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) (810) 239-5191
APPLICANT SIGNATURE (Must be an original signature) 			DATE February 24, 2011	

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