



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
IRVIN J. POKE
DIRECTOR

STEVEN H. HILFINGER
DIRECTOR

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

AGENDA
September 9, 2011
9:30 a.m.

1. **Call to Order and Determination of Quorum**
2. **Agenda**
3. **Approval of Minutes**
4. **Exception Applications**
 - 01) 98511, Eric Charles Design – Oakland (pp. 8-17)
 - 02) 98173, Eastern Michigan University – Washtenaw (pp.18-31)
 - 03) 96258, Welch’s RV Sales – Chippewa (pp.32-59)
 - 04) 98664, Grosse Pointe South High School – Wayne (pp. 60-72)
 - 05) 98665, Defer Elementary School – Wayne (pp.73-84)
 - 06) 98667, Robert Trombley Elementary School - Wayne (pp.85-96)
 - 07) 98464, Beethoven Apts Bottom Line Coffee House – Wayne (pp. 97-109)
 - 08) 98739, Promotion - Oakland (pp. 110-114)
 - 09) 98946, Pulver Brothers Sinclair Filling Station – Ingham (pp. 115-124)

Providing for Michigan's Safety in the Built Environment

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Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
P.O. BOX 30254 • LANSING, MICHIGAN 48909
www.michigan.gov/bcc • Telephone (517) 241-9302 • Fax (517) 241-9570

Barrier Free Design Board Meeting Agenda
Page 2
September 9, 2011

5. **Other Business** – Approval of 2012 meeting schedule (p. 125)
6. **Remands**
7. **Staff Report**
8. **Public Comment**
9. **Next Meeting** – November 18, 2011
10. **Adjournment**

"The meeting site is accessible, including handicapped parking. Individuals attending the meetings are requested to refrain from using heavily scented personal care products in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations in order to participate in the meeting should contact Margarita Torres at (517) 241-9328 at least 10 working days before the event."



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Okemos, Michigan 48864

MINUTES
July 8, 2011

MEMBERS PRESENT

- Mr. Roger Donaldson
- Mr. Vincent DeLeonardis
- Mr. Daryl Domke
- Mr. Michael Harris
- Mr. Brett Holt
- Ms. Karla Hudson
- Mr. Donald Link
- Mr. James McGaugh

MEMBERS ABSENT

- Mr. Jerry Harkness

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS PERSONNEL ATTENDING

- Mr. Todd Cordill, Chief, Plan Review Division
- Ms. Usha Menon, Plan Reviewer
- Ms. Margarita Torres, BFD Secretary, Plan Review Division
- Mr. Kevin Lambert, Deputy Director, BCC

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OTHERS IN ATTENDANCE

None

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 Link and supported by Board Member Harris to approve the amended agenda for the July 8, 2011 Board meeting. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

A **MOTION** was made by Board Member Harris and supported by Board Member Domke to approve the minutes of the May 13, 2011 meeting. **MOTION CARRIED.**

4. TABLED ITEMS

None

5. EXCEPTION APPLICATIONS

01) 97600, Covenant Christian High School - Kent

A **MOTION** was made by Board Member Harris and supported by Board Member Holt to adopt the reports of the Administrative Law Judge and the recommended decisions for the case(s) listed above. The Board acknowledged the receipt of all materials submitted by the applicant. **MOTION CARRIED.**

Barrier Free Design Board Minutes
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02) 97658, Pound Bar and Grill, The – Livingston

A **MOTION** was made by Board Member McGaugh and supported by Board Member DeLeonardis to adopt the report of the Administrative Law Judge. The Board concurs with the Conclusions of Law and Recommendation. **MOTION CARRIED.** Board Member Harris voted nay.

03) 97690, Thayers Historic Barn – Wayne

A **MOTION** was made by Board Member Harris and supported by Board Member DeLeonardis to adopt the report of the Administrative Law Judge. The Board concurs with the Conclusions of Law and Recommendation. **MOTION CARRIED.**

04) 97800, Genesee County Administration - Genesee

A **MOTION** was made by Board Member Link and supported by Board Member Holt to deny relief from the 2003 ICC/ANSI A 117.1, Section 604.3.1. The Board found that the cost of compliance did not present a compelling need considering the project cost. **MOTION CARRIED.**

6. **OTHER BUSINESS**

None

7. **REMANDS**

97642, Soo Brewing Company - Chippewa

A **MOTION** was made by Board Member Link to remand this exception request for a re-hearing and (supported by Board Member Hudson). The Board and staff found justification for a rehearing based on information from the applicant. **MOTION CARRIED.**

Barrier Free Design Board Minutes
Page 4
July 8, 2011

8. STAFF REPORT

Division Chief Todd Cordill reported on the following:

The 2009 Michigan Building Code has been in effect since March. Both the 2006 and 2009 MBC reference the 2003 edition of ICC/ANSI A117.1. A copy of this reference standard has been mailed to the new board members.

We have a new division secretary, Kathy Cosgray, who will start this coming Monday, July 11. She comes to us from the Department of Corrections. Margarita will continue to be the Barrier Free Design Board secretary.

Part of what we do as staff is receive complaints from the public of alleged non-compliance with barrier free design requirements on behalf of the board. For example, we just received one last week that dealt with a curb ramp. What we do with these cases is gather information and send it to the local enforcing agency who investigates the case and reports back with the history and possibly photographs. Many times we find out that the project was built to a previous code and does not have to comply with today's code or the local enforcing agency resolves the case and reports the findings and conclusions to us. Cases involving ADA are referred to the U.S. Department of Justice and not the board or the bureau. The state's accessibility code is similar to the federal ADA guidelines but is not the same document

When we grant an accessibility exception to the code with a specified time limit to comply, it is up the local enforcing agency to follow up on compliance at the end of the time limit.

9. NEXT MEETING

September 9, 2011

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10. ADJOURNMENT

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

Approved: _____
Roger Donaldson, Chairperson

Date: _____

DRAFT

8

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of	Docket No.	2011-854
Eric Charles Design 460 West Maple Road Birmingham, MI, Applicant	Agency No.	98511
	Agency:	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

RECEIVED

JUL 06 2011

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Issued and entered
this 5th day of July, 2011
by Renée A. Ozburn
Administrative Law Judge

REPORT OF THE 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 exceptions from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on June 29, 2011, in Lansing, Michigan. Roger Young and Eric Jirgens appeared on behalf of Eric Charles Design (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 1104.3 and 1109.2, and 2003 ICC/ANSI A 117.1, Section 502.2.

FINDINGS OF FACT

1. The Applicant is renovating an 1860 residential farmhouse with historic designation from the Birmingham Michigan Historic District.
2. The historic building designation requires maintaining certain exterior and interior features of the structure.
3. The renovation is changing the home from a multi-family unit to an interior design studio. The only business of the design studio involving the public will be by appointment only. Approximately five staff will work in the building.
4. There are two levels with a 2½ foot grade elevation between the levels on the first floor that reflects an addition to the 1860 structure added in the 1920's. The first level is approximately 2000 square feet. The Applicant seeks an exception from having to provide contiguous access between the old and new sections of the first level. The Applicant is also seeking an exception from having to add a second compliant bathroom and another compliant entrance to avoid having to make structural changes that would seriously affect the historic nature of the building's exterior and exterior. To add a lift inside on the first level would cost \$9,000 to \$15,000. In addition to cost factors, to provide an additional compliant bathroom and construct an additional accessible entrance to the first level would require destruction of interior walls and exterior features. Further, unique millwork would be destroyed that would cost approximately \$50,000 to \$75,000 to replicate.

5. The primary functions of the business will be conducted in the fully compliant and accessible area on the first level. This includes a fully accessible toilet facility. The remaining section of the first level will be used for a library, an office and for staging. All functions of the non-compliant section can be made available in the compliant area.
6. ADA compliant exterior access has been provided. There is a private accessible parking space that has room enough for a van to maneuver for entrance and exit directly adjacent to a new ADA ramp leading directly into the building. There is also an accessible public garage within 300 feet of the building directly across the street.

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. 2011-85
Page 4

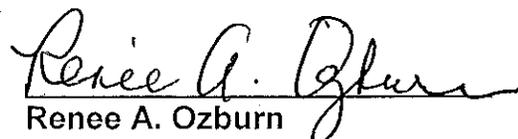
The Applicant has proven a compelling need to grant the exception requests. The structural difficulties and costs of reconfiguring the interior and exterior, as well as the potential destruction of unique historic features are unnecessary because all functions of the business can be conducted in the compliant area of the first level. The accessible van parking for the building is a reasonable alternative for the limited traffic the, by appointment only, business is likely to receive at any given time and there is the fully compliant public garage directly across the street.

RECOMMENDED DECISION

I recommend the Board grant the Applicant's exception to 2006 Michigan Building Code, Section 1104.3 and 1109.2, and 2003 ICC/ANSI A 117.1, Section 502.2.

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 5th day of July, 2011.



Shirley Dacus
Michigan Administrative Hearing System

Roger Young
Young and Young Architects
1133 West Long Lake Road
Bloomfield Hills, MI 48302

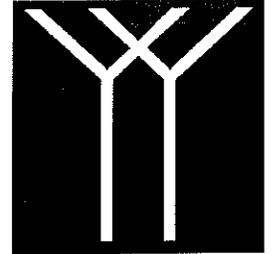
Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Kenneth Cooper
City of Birmingham
151 Martin Street
Birmingham, MI 48012

RECEIVED

JUN 03 2011

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION



YOUNG & YOUNG
ARCHITECTS INC.

TRANSMITTAL MEMORANDUM

To:	Michigan DLEG Bureau of Construction Code Plan Review Division	Date:	May 24 th , 2011
		Project No.:	YY#0813
		Project Name:	Historic Renovation 460 Maple Birmingham MI

Urgent
 For Review
 For Your Use
 Per Your Request

WE TRANSMIT HEREWITH:

- 1 Site Plan & Main Level Floor Plan signed & sealed
- 1 Barrier Free Design Rule Exception Form / Letter from Municipality

REMARKS:

Please find enclosed documents pertaining to the existing historic residence commonly known as the Campbell-Chatfield residence in Birmingham, Michigan.

Once you have had an opportunity to review the enclosed documents and application, please do not hesitate to contact me should you require any additional information.

Thank You.

Roger W. Young
 Young & Young Architects
 1133 West Long Lake Rd.
 Suite 100
 Bloomfield Hills, MI 48302
 248.646.4900 / 248.646.3113 fax

Roger Wade Young



March 09, 2010

Michigan Department of Labor & Economic Growth
Bureau of Construction Codes & Fire Safety
Plan Review Division
P.O. Box 30255
Lansing, Michigan 48909

RECEIVED
JUN 01 2011
BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Dear Michigan Barrier Free Design Board Members:

The City of Birmingham is the administrative authority responsible for issuing a building permit for the proposed renovation project. The City maintains a full time building department and staff including a Building Official, Assistant Building Official, two Building Inspectors, one Electrical Inspector, one inspector for plumbing and mechanical inspections, and three support staff employees. All registered code officials in the department have one or more International Code Council (ICC) certifications in their area of authority. The Building and Assistant Building Official maintain the ICC Accessibility Inspector/Plans Examiner certification.

The applicant applied for a building permit to convert a historical single family home into a professional interior design studio. The proposal changes the current "R-3" use into a "B" use group. During the plan review process the applicant was informed the main level shall include an accessible route per section 1104.3 to each portion of the building. The applicant believes that several site conditions exist which cause a hardship for not being able to comply with current code. The facts stated within the owner's exhibit "A" regarding barrier free improvements are correct. The applicant's description of the existing structure is also correct.

The City of Birmingham thanks the board for the services they provide communities, residents, businesses, and building permit applicants concerning barrier free building code issues within Michigan. If the board has any questions regarding this matter, or needs addition information, I can be contacted during normal business hours at (248) 530.1849. Thank you for your consideration of this matter.

Sincerely,

Kenneth P. Cooper
Assistant Building Official

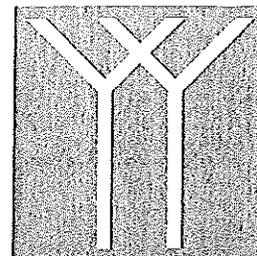
Cc: Bruce R. Johnson -- Building Official
Rodger W. Young -- Architect of Record
Sheila Bashiri -- City Planner / Historic Commission Liaison
File

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JUN 03 2011

BUREAU OF CONSTRUCTION CODES
 460 Maple Road
 Birmingham, Michigan

Exhibit "A"



YOUNG & YOUNG
 ARCHITECTS INC

Future Office of Eric Charles Design

Project does not comply with Barrier Free Design Requirements per the following:

Explanation of non-compliance:

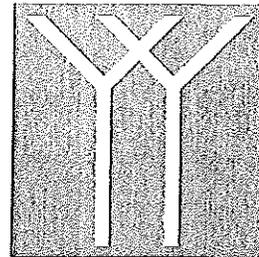
Mr. Eric Jirgens (the Owner), has purchased the former Cambell-Chatfield residence located at 460 Maple Road, Birmingham, Michigan from the original family's estate. Both the residence and Site, which are located in the downtown district of the City of Birmingham have been classified as historic and all improvements must follow guidelines of the Birmingham Historic District Commission and Department of Interior for Historic Preservation.

The residence was granted unanimous approval from the Birmingham Historic District for a Certificate of Appropriateness to restore the building in October of 2009. Subsequently, Mr. Jirgens was also granted a Special Use Variance in October of 2009 and again in November of 2010 (permit expired and was renewed by the City BZA), which permits the Owner to provide professional interior design services for his business, Eric Charles Designs, in a non-retail, by-appointment capacity within the building (see attached Exhibit "B" meeting minutes).

It is the Owner's requirement due to the Historic Designation of this Building that the original Architecture and details both inside and out be preserved, as well as, the character of the Site.

The applicant's historic property consists of two distinctly different attached buildings. The Sa wood-sided and wood-framed traditional farmhouse constructed circa 1860 and a combined masonry and wood framed structure designed by noted Architect Wallace Frost in the late Nineteen Twenties.

The Owner and Architect's proposed design and additions for the former Wallace Frost northerly building provides Barrier Free Access to the primary business meeting areas. A new, private handicap parking space is provided for the Clients and is directly adjacent to a new ADA ramp leading directly into the building from the North entrance and provides the shortest accessible route of travel to the accessible building entrance. This entrance will be the continuously staffed, primary arrival point for the Owner, the Clients, day-to-day business activities and occasional deliveries. All areas from the point of arrival and throughout the primary office meeting area and conference room have been modified to meet ADA guidelines to provide a contiguous access path of travel to both the Public and Primary Functions areas of the building. This work also includes the widening of the existing entry door, increasing the width of all interior openings, provided flush transitions between flooring surfaces and the design of an ADA compliant unisex bathroom.



YOUNG & YOUNG
ARCHITECTS INC

Page Two
Exhibit "A" Cont.
460 Maple Road

The southerly, original 1860 residential farmhouse will provide additional offices spaces for staff designers, production areas and materials/catalog resources. This building has a finish floor elevation that is approximately two and a half feet higher than the southerly Frost Studio, where all primary meeting functions and day-to-day business activities will take place.

During the site walk thru by the local building official, this existing transition between the 1860 Farmhouse and Frost Studio levels was identified as potentially not complying with ADA accessible routes. Upon further review of the Code by the Birmingham Building Officials, it was determined that contiguous access must be provided throughout the entire main level(s) due to the change of use from multi-family residential to commercial (per the granted Use Variance), change in occupant load (less than five employees) and the scope of alterations required to bring the building up to Code compliance. In addition, the tasks performed in the Southerly 1860 Farmhouse will be exclusive to the staff and Owner.

It is the applicant's understanding that an exception under the Building Code may be granted when an applicant proves a *Compelling Need* under MCL125.1355a(1). The applicant believes that strict compliance with Sec.36.403 by providing two ADA ramps results in an exceptional practical difficulty and would threaten and destroy the historic significance of the building. By locating the ramp to the North entrance, the Historic character of this landmark building from the Public View is preserved – a design consideration that the Historic Commission applauded during their plan review.

Furthermore, another factor in determining Compelling need is determining the anticipated public traffic in the area. The professional services performed and provided by the applicant's Interior Design Firm are "by appointment only" and there will be no public activities conducted on the site, or within the building. Lastly, the Use of the building is mixed, more of a cottage industry, as Owner's residence will be located on the Upper Level.

We look forward to the opportunity to meet with you to discuss this very special Project.

Sincerely,



Roger W. Young

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JUN 23 2 10

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 48901
517-241-9328
www.michigan.gov/bcc

98511

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.

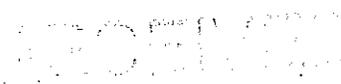
Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME ERIC CHARLES DESIGN		STREET / SITE ADDRESS 460 W. MAPLE 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: BIRMINGHAM				COUNTY OAKLAND
Estimated Project Cost \$ 385,000.00		Estimated Cost of Compliance \$ 50,000.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building		<input type="checkbox"/> Alteration		<input type="checkbox"/> Change of Use
Building Permit / File Number				
Is a Temporary Exception Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP	CONSTRUCTION TYPE
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) Reason for Non-Compliance		PLEASE SEE ATTACHED EXHIBIT A & B		
ENFORCING AGENCY CITY OF BIRMINGHAM		BUILDING OFFICIAL NAME KENNETH P. COOPER		REGISTRATION NUMBER 3875
ADDRESS 151 MARTIN	CITY BIRMINGHAM	STATE MI	ZIP CODE 48009	TELEPHONE NUMBER (Include Area Code) 248-530-1849
BUILDING OFFICIAL SIGNATURE (Must be an original signature) Kenneth Cooper		DATE 5-10-11	E-MAIL ADDRESS	FAX NUMBER (Include Area Code)
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME YOUNG & YOUNG ARCHITECTS INC.		LICENSED INDIVIDUAL TODD M. YOUNG AIA		MICHIGAN LICENSE NUMBER 1301029938
ADDRESS 1133 W. LONG LAKE ROAD	CITY BLOOMFIELD	STATE MI	ZIP CODE 48302	TELEPHONE NUMBER (Include Area Code) (248) 646-4900
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME YOUNG & YOUNG ARCHITECTS		APPLICANT NAME ROGER YOUNG		FEIN OR SS NO.* (Required) 1
ADDRESS 1133 WEST LONG LAKE RD	CITY BLOOMFIELD	STATE MI	ZIP CODE 48302	TELEPHONE NUMBER (Include Area Code) (248) 646-4900
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) (248) 646-3113
APPLICANT SIGNATURE (Must be an original signature) 			DATE 04/28/11	

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of	Docket No.	2011-809
Eastern Michigan University 946 Washtenaw Ypsilanti, Michigan, Applicant	Agency No.	98173
_____ /	Agency:	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

EXCEPTION APPLICATIONS
02. 98173
4


 JUL 16 2011
 BUREAU OF CONSTRUCTION CODES
 PLAN REVIEW DIVISION

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

AMENDED REPORT OF THE ADMINISTRATIVE LAW JUDGE

(This Report amends the 2nd Paragraph of the Recommended Decision.)

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 exceptions from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on June 29, 2011, in Lansing, Michigan. Paul Maxwell appeared on behalf of Eastern Michigan University (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 2003 ICC/ANSI A 117.1, Section 404.2.4.

FINDINGS OF FACT

1. The Applicant is conducting a total renovation of an existing 180,000 square foot Science Complex.
2. The total estimated project cost is \$21,720,000.00.
3. There are 8 doors on the first floor and 1 door in the basement that do not meet the latch side clearance requirements of the Barrier Free Design Rules. Bringing the doors into full compliance would require structural changes to the walls. The Applicant would like to leave the door walls as is because of structural, aesthetic and architectural considerations.
4. The 8 doors on the first floor are for access to 4 lecture hall/classrooms. Each tiered lecture hall provides full compliant access on the lower tier of each room.
5. The basement room with a non-compliant door is to be used as a research lab by faculty and students. The activities conducted in this lab will not necessarily be replicated elsewhere in the renovated building or at another location.
6. As an alternative to a complete restructuring of walls, if the Applicant were to install push button access to one door of each lecture hall (i.e. 4 doors) and the 1 basement lab door, it would cost

approximately \$6,000 for each door for a total estimated cost of \$30,000. The Applicant would like to forgo the \$30,000 cost of installing push button access because of the full accessibility to the rooms at the lower level of each room.

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 proven a compelling need to grant the exception requests for the 8 non-compliant lecture hall doors because of the structural changes that would be required for full compliance and the cost of the push button installation. This exception is justified because there is alternative compliant access to the rooms which provides full accessibility to the function of the room.

Docket No. 2011-809

Page 4

However, there are no reasonable alternatives to or alternate accommodations for the basement lab room. Therefore, the Applicant should be required to install at least push button access to the basement room.

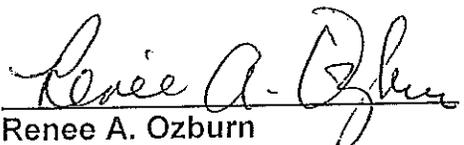
RECOMMENDED DECISION

I recommend the Board grant the Applicant's exception request to 2003 ICC/ANSI A 117.1, Section 404.2.4. for the 4, first floor lecture/classrooms.

I recommend that the Board grant the exception for the basement lab door, provided the Applicant installs an automatic door opener for the basement lab door.

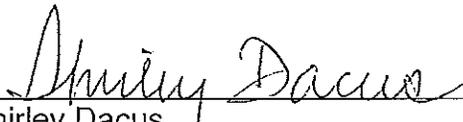
As a condition to granting the above recommended exceptions, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

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 July, 2011.



Shirley Dacus
Michigan Administrative Hearing System

Terry Sargent
Lord Aeck Sargent Architecture
Eastern Michigan University
213 South Ashley Street
Ann Arbor, MI 48104

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

Kevin Abbasse
Secondary Institution - Self Regulating
875 Ann Street
Ypsilanti, MI 48197

STATE OF MICHIGAN
DEPARTMENT OF CONSTRUCTION

MAY 10 2011

ATTACHMENT TO

BUREAU OF CONSTRUCTION
PLAN REVIEW DIVISION

**Application for Barrier Free Design Exception
May 3, 2011**

PROJECT DESCRIPTION:

Eastern Michigan University is renovating their existing Mark Jefferson Science Complex. The building is six stories plus a basement which includes 178,000 gross square feet of building area. The original project was constructed in 1967. The project includes the "gutting" of the building by demolishing exterior windows, interior ceilings, some of the walls, and all mechanical, HVAC, plumbing, and electrical work. The completed facility will provide new, state of the art instructional and research laboratories, classrooms, offices, lecture halls, and support space. The facility will also be a LEED-certified, energy efficient building. The cost of the building renovation portion of the program is \$21,720,000.

The newly renovated facility will also be upgraded to be completely accessible in accordance with the latest Michigan Barrier Free requirements.

Some of the existing interior partitioning is 6" CMU, and, CMU with face brick. The design endeavored to maintain these partitions where possible due to architectural, structural, and economic reasons. For the most part, where these partitions remain, the design calls for door replacement in the existing masonry openings.

During demolition it was realized that some of the existing doors in these masonry partitions were not strictly compliant with current latch side clearance requirements. Eight doors for entry into the higher level of the lecture halls (1st floor) and one door for entry into the Surface and Materials Research Lab (basement) have an insufficient existing latch side clearance. The existing clearance is 15" at the lecture halls and 9" in the Research Lab where 18" would be required by ANSI 117.1. Since the project only requires replacement of the doors in these locations, the latch side clearance would remain the same.

COST OF COMPLIANCE:

The most cost-effective means of complying with the latch side dimensional requirement would be to provide motor actuated door opener/closers with push button actuators. We believe that code compliance could be achieved by providing these actuators, one for each of four lecture halls and one for the entry to the Surface and Materials Research Lab for a total of five (5) actuators. We estimate that each actuator would cost \$6000 (\$4500 for motorized door hardware and actuator, plus \$1500 for conduit and wire for power to each door). Therefore the cost to comply would be \$30,000.

REASONABLE ALTERNATIVE:

The lecture halls have additional doors at the lower level of each room. These doors are fully compliant. Barrier Free seating is being provided at this lower level as well as the upper level. Also, non-compliant doors are not prohibitive for barrier free access even as it is acknowledged that the latch side clearance will be a moderately constraining issue for wheel chair access.

COMPELLING REASONS FOR EXCEPTION:

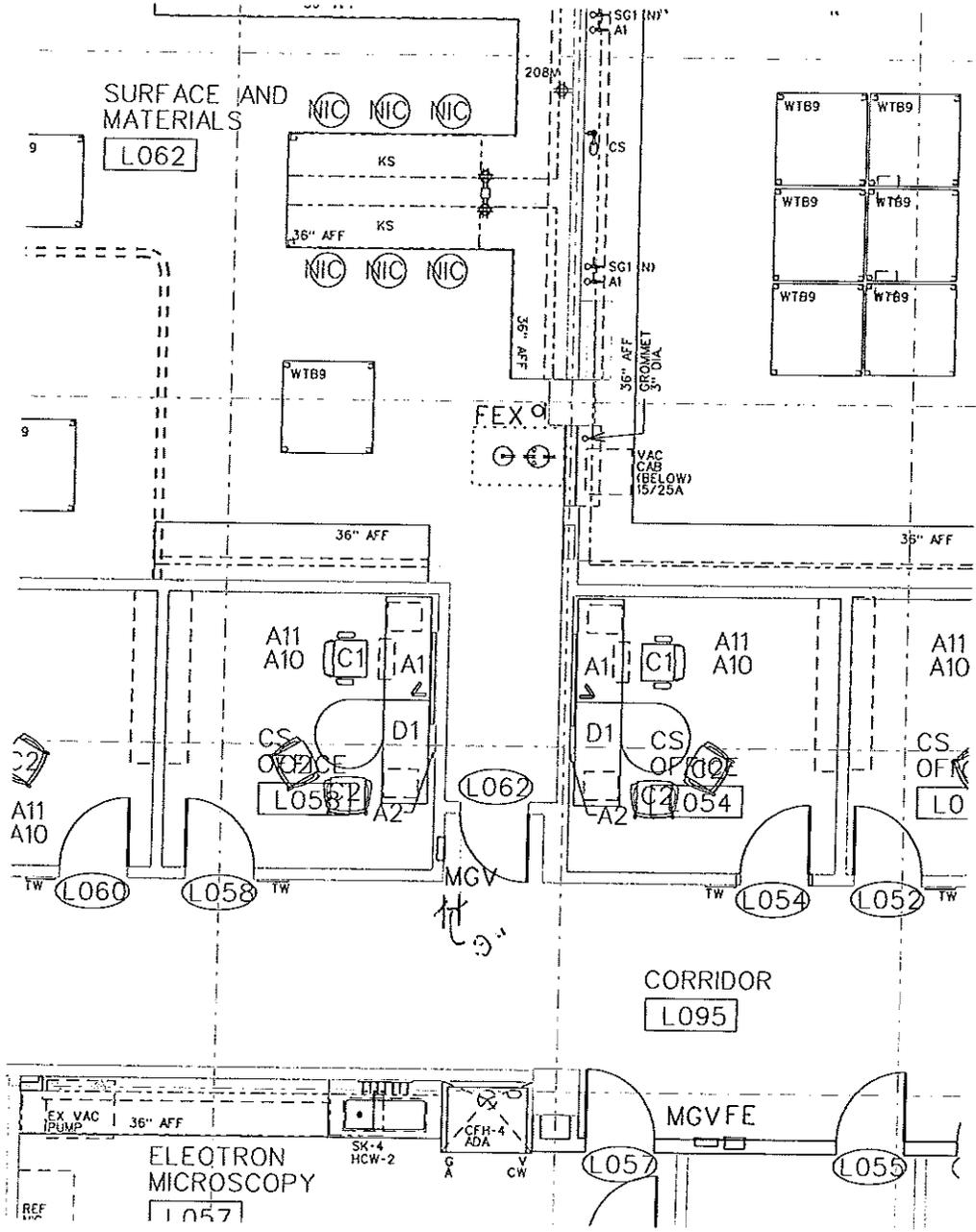
We offer economic reasons and structural considerations as compelling reasons for granting this exception, as follows:

- There is a very high cost of compliance (economic) in consideration of the following facts:
 - This has been an existing condition for this 44 year old building which, to the best of our knowledge, has never received a complaint for accessibility for the rooms in question.
 - The non-compliant doors are not prohibitive to accessibility.
 - There is a reasonable alternative for compliant access to the lecture halls.
- Demolition and reconstruction of the existing masonry walls (structural) to provide added latch side clearance was considered. But, this was discounted as not feasible as these walls provide necessary fire rated construction and this solution would be much more costly than the alternative cost to comply.

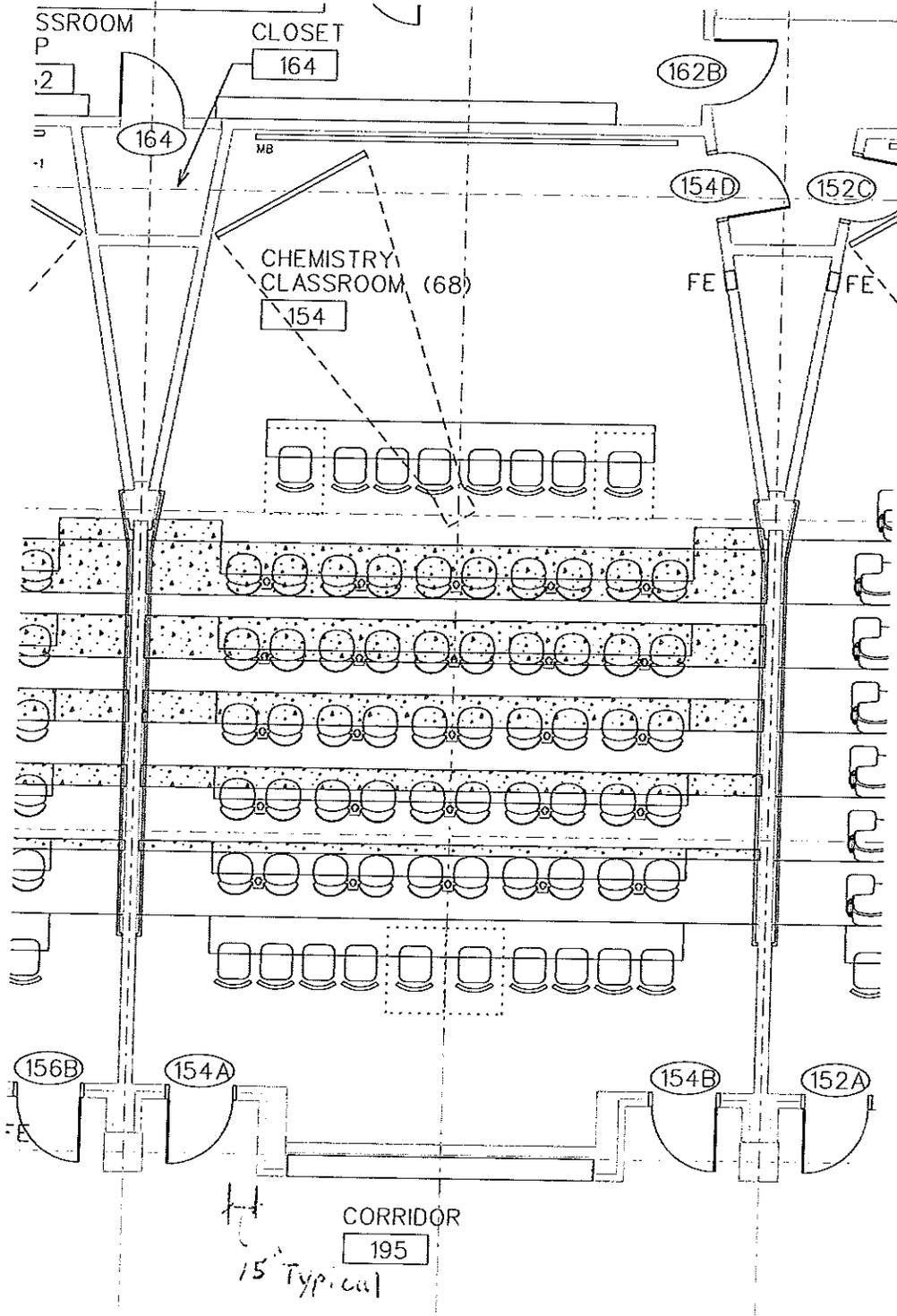
PROPOSED CONSTRUCTION PROJECT
NO. 100-100-100-100
DATE: 10/10/10

MAY 06 2010

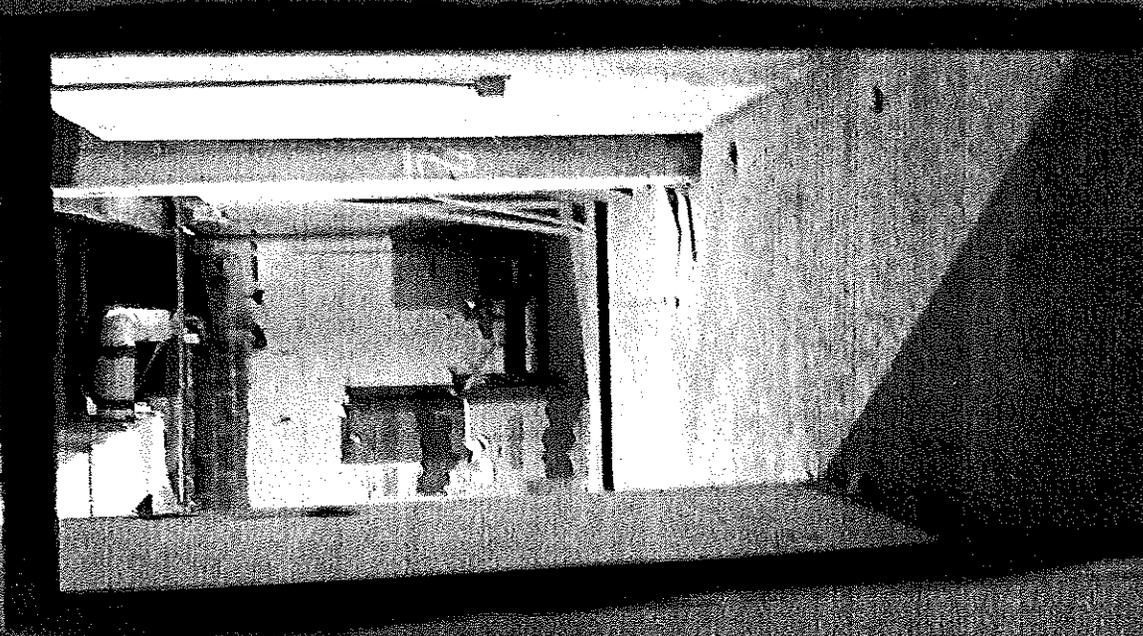
BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION



BUREAU OF CONSTRUCTION SERVICES
PLAN REVIEW DIVISION

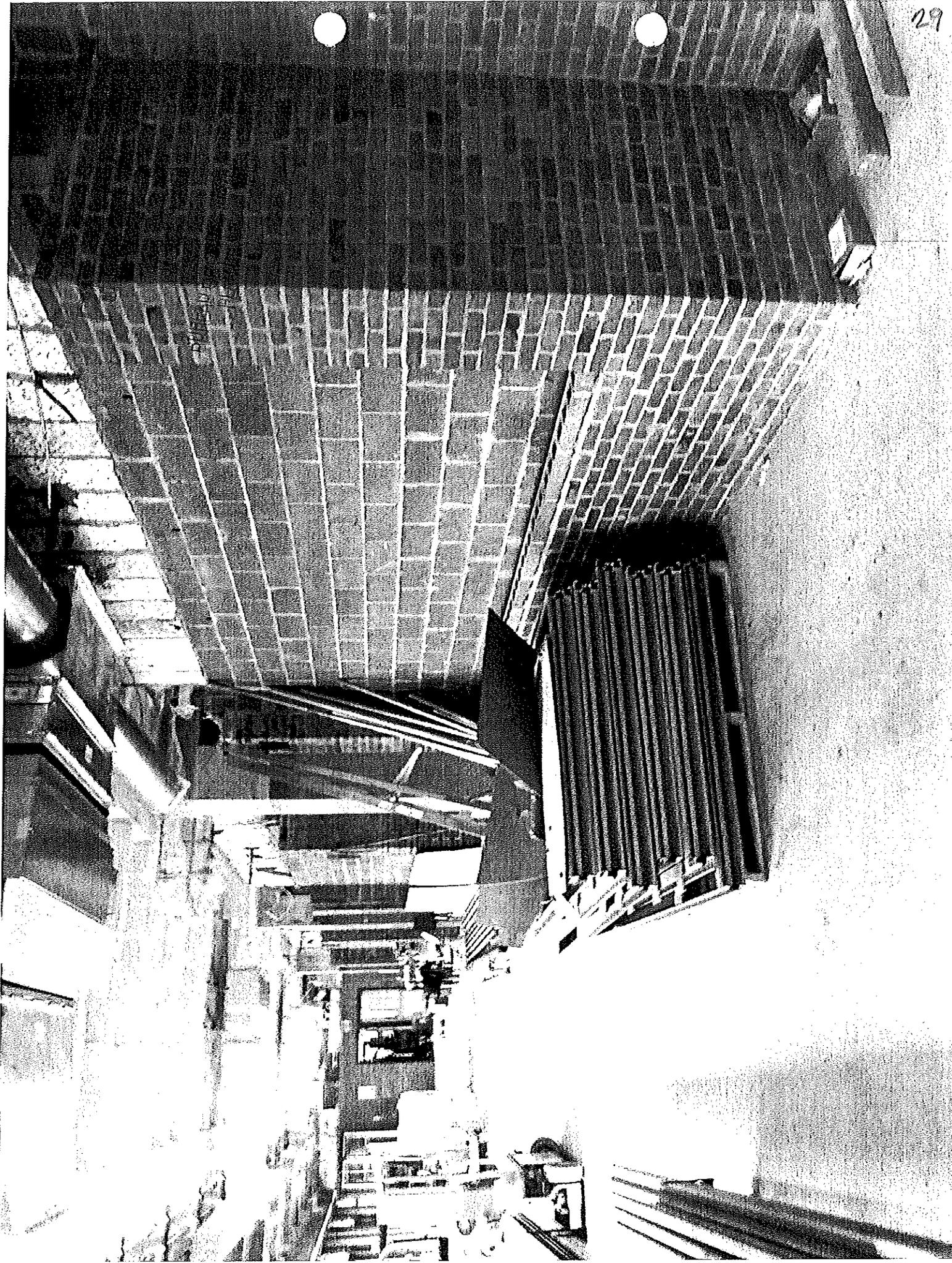


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MAY 08 2011
BUREAU OF CONSTRUCTION
PLANNING DIVISION





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MAY 06 2011

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

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MAY 06 2011

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 48906
 517-241-9328
 www.michigan.gov/bcc

98 173

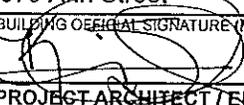
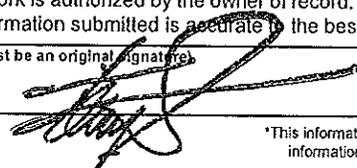
BUREAU OF CONSTRUCTION CODES
 PLAN REVIEW DIVISION

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.
---	---

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		
Eastern Michigan University - Mark Jefferson Science Comple		946 Washtenaw, Ypsilanti, MI 48197		
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: Ypsilanti			Washtenaw	
Estimated Project Cost \$ 21,720,000.00		Estimated Cost of Compliance \$ 30,000.00		
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			NA	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP	CONSTRUCTION TYPE
Project Does Not Comply With Barrier Free Design Requirements As Follows:				
Michigan Building Code Section(s) Section 1101.2 Design - Reference ICC/ANSI A 117.1 Section 404.2.4 Maneuvering Clearances Reason for Non-Compliance The project includes replacement of existing doors. Nine existing doors did not meet latch side clearance requirements. So, the new doors will also not comply. The existing and new latch side clearance is 12" to 14" (req. 18").				
ENFORCING AGENCY		BUILDING OFFICIAL NAME		REGISTRATION NUMBER
Secondary Institution - Self Regulating		Kevin Abbasse - EMU Safety Mgr		NA
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
875 Ann Street	Ypsilanti	MI	48197	734-487-3426
BUILDING OFFICIAL SIGNATURE (Must be an original signature)		DATE	E-MAIL ADDRESS	FAX NUMBER (Include Area Code)
 EMU		5-3-11	kabbasse@emich.edu	(734) 487-8680
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME		LICENSED INDIVIDUAL		MICHIGAN LICENSE NUMBER
Lord Aeck Sargent		Terry Sargent		22247
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
213 South Ashley Street	Ann Arbor	MI	48104	(734) 827-3932
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME		APPLICANT NAME		FEIN OR SS NO.* (Required)
Lord Aeck Sargent		Terry Sargent		1
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
213 South Ashley Street	Ann Arbor	MI	48104	(734) 827-3932
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)
				(734) 827-3952
APPLICANT SIGNATURE (Must be an original signature)			DATE	
			05/03/11	

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

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

In the matter of	Docket No.	2010-1246
Welchs RV Sales 2681 Ashmun Street Sault Ste. Marie, MI, Applicant	Agency No.	96258
	Agency:	Bureau of Construction Codes
_____ /	Case Type:	Barrier Free Design Exception Request

4. EXCEPTION APPLICATIONS
03. 96258

RECEIVED

JUL 26 2011

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Issued and entered
this 19th day of July, 2011
by J. Andre Friedlis
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 24.101 *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. On June 10, 2011, the Applicant waived the Applicant's right to an in person hearing and agreed to submit written answers to questions posed by the Plan Review Division. These answers were received on July 14, 2011.

ISSUE

Should the Board grant the Applicant an exception from Section 1109.2 of the 2006 Michigan Building Code (MBC)?

FINDINGS OF FACT

The Applicant leases a one story building built in 1975 as a body shop. The Applicant leases a portion for an RV repair and installation business. The portion leased has a service garage, two offices, service counter, bathroom, and small areas for selling parts and accessories. The business is open from May through October.

The bathroom is the same as constructed in 1975. It does not satisfy the requirements of Section 1109.2 of the 2006 MBC. The Applicant's answer to Question 7 details this matter:

According to the ADA codes, the area in front of the toilet is too small to allow a five foot turning radius for a wheel chair. The city water meter is located 24 inches in front of the toilet. This water meter was installed when the building was built in 1975 and goes down through the cement floor which is also the foundation. The main interior wall of the bathroom cannot be moved due to the vent pipe that runs vertically inside the wall and through the cement floor as well. We also share all plumbing with the attached business next door, meaning we would have to gut their bathroom to get to the plumbing non their side and between our walls.

The Applicant's answer to Question 8 provides detail as to what changes would be required to make this bathroom comply with the rule:

In order for our bathroom to be in compliance, the cement flooring (foundation) in our bathroom and the bathroom of the attached business next door would have to be completely removed, the city water meter would have to be removed and relocated to an unknown location (possibly in the attached business next door), the main interior wall of the bathroom will have to be torn down and the vent pipe will have to be removed and relocated, the water heater would have to be removed and relocated, the main office's two walls would have to be torn down, remove the toilet, remove the vanity/sink, tear down the interior wall that has the bathroom door on it, tear down the exterior wall that is attached to the business next

door, tear out all of the plumbing and vent pipes in our building, tear out all the plumbing and pipes from the business next door. Basically we would have to completely gut and renovate two bathrooms since we share plumbing and vent pipes with the attached business next door.

While the Applicant estimates this work would cost \$14,000, it is quite possible that it could cost much more. The Applicant does not have consent from the owner to undertake this modification, and the landlord will not pay for the cost of renovation. Moreover, this work will affect the adjoining business possibly affecting that business' operations.

If required to make these modifications, the Applicant will likely go out of business.

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 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,

Docket No. 2010-1246

Page 4

practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1109.2 of the MBC provides:

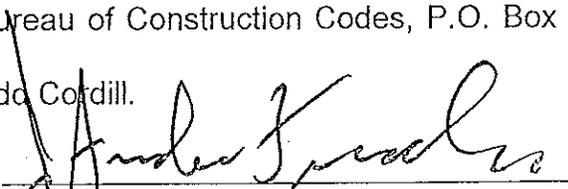
Toilet and bathing facilities. Toilet rooms and bathing facilities shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of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

Compelling need based on cost, structural problems, and nature of the business, lease provisions, and limited use has been presented to justify granting the Applicant's request for exception. While the existing bathroom does not satisfy the barrier free requirements, it is impossible to provide a compliant bathroom without great expense and alteration of not only the Applicant's but the adjoining lease space.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1109.2 of the MBC for the bathroom described above. 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.


 J. Andre Friedlis
 Administrative Law Judge

Docket No. 2010-1246

Page 5

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 19th day of July, 2011.



Shirley Dacus

Michigan Administrative Hearing System

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

Vickie Portlock
Welchs RV Sales and Service
2681 Ashmun Street
Sault Sainte Marie, MI 49783

Darien M. Neveu
City of Sault Ste. Marie
325 Court Street
Sault Ste. Marie, MI 49783

Sworn Statement in the Matter of 96258 – Chippewa Welch's RV Sales
2681 Ashmun St. Sault Ste Marie, MI 49783 Chippewa County

The following are the answers to the questions found on the original affidavit sent to our business.

1. State your full name, address and telephone number.

Business Address:
Vickie Portlock
2681 Ashmun St.
Sault Ste Marie, MI 49783

2. Are you the building owner? If not, state your interest in this matter.

Answer:

No, we are not the owners of the building. We lease the building for our business. I am the office manager and have been involved in this matter of obtaining an occupancy permit for our business from day one.

3. Describe the activities that take place on each floor at this facility.

Answer:

The building is a single story building. Our business is primarily an RV repair and installation facility. We have a service garage, two offices, a service counter, a bathroom and a small area for selling parts and accessories.

4. Is there a seasonal function in the number of persons that use the facility? Please describe.

Answer:

Yes, we are primarily a seasonal business May thru October (RV parts and service). In the past we have closed during the winter months, however, we have stayed opened thru the off season with limited hours and on-call emergency basis.

5. What is the total project cost?

Answer:

The estimated minimal project cost is \$14,000. This cost could be considerably more.

6. This application states that the use of the building has been changed. Explain the changes.

Answer:

The primary use of the building has not been changed. We are a repair and installation facility with offices and a small retail area. This building was built in 1975 as a body shop. Then it became an auto detail shop. We changed the garage door from the front of the building to the side of the building. We added four walls to enclose 1 office and the garage area. We did nothing structurally to the bathroom. It is the existing bathroom from 1975.

7. List those items, which do not comply with the barrier free design requirements in the toilet facility.

Answer:

According to the ADA codes, the area in front of the toilet is too small to allow a five foot turning radius for a wheel chair. The city water meter is located 24 inches in front of the toilet. This water meter was installed when building was built in 1975 and goes down through the cement floor which is also the foundation. The main interior wall of the bathroom cannot be moved due to the vent pipe that runs vertically inside the wall and through the cement floor as well. We also share all plumbing with the attached business next door, meaning we would have to gut their bathroom to get to the plumbing on their side and between our walls.

8. Describe in detail the renovations, which would have to be done to bring the toilet and bathing rooms into compliance with the barrier free requirements?

Answer:

In order for our bathroom to be in compliance, the cement flooring (foundation) in our bathroom and the bathroom of the attached business next door would have to be completely removed, the city water meter would have to be removed and relocated to an unknown location (possibly in the attached business next door), the main interior wall of the bathroom will have to be torn down and the vent pipe will have to be removed and relocated, the water heater would have to be removed and relocated, the main office's two walls would have to be torn down, remove the toilet, remove the vanity/sink, tear down the interior wall that has the bathroom door on it, tear down the exterior wall that is attached to the business next door, tear out all of the plumbing and vent pipes in our building, tear out all of the plumbing and pipes from the business next door. Basically we would have to completely gut and renovate two bathrooms since we share plumbing and vent pipes with the attached business next door.

9. What is the estimated cost to bring bathroom in compliance?

Answer:

The minimum estimated cost is \$14,000.

10. Explain your reasons of compelling need for an exception from the requirements of barrier free toilet facilities.

Answer:

First, we do not own the building, we lease the building. We do not have permission from our landlord to do a major structural renovation and our landlord will not pay for any renovations. Second, we are a small and a seasonal business, we do not have the finances to pay for any renovations. If we have to bring the bathroom into compliance, we will be forced to close our business. Third, being an RV repair and installation facility, we do not have customers that are confined to wheel chairs. The reality is RV's are not handicap accessible nor are they wheel chair friendly. We are a small business that employs myself and two other people and are not planning on hiring any more people in the near future. Forth, we have suggested to the city that we do not have to have a public or a private bathroom and we will take the toilet out and use the room as storage area, the city building inspector told us that we had to have a public bathroom. Fifth, we would like to be able to move to a different building, but that is not a feasible option for us right now.

We completely understand that there are codes that need to be met, ordinances that need to be complied with, etc. We have done everything the city has asked us to do in regards to bringing this building into compliance with the barrier free design. This bathroom is our last obstacle. I feel that it is not our responsibility to pay for any renovations that would need to be done to this building when we don't own it. We are trying to run a small business and make a living and if we have to do these renovations to comply, we will have to close our doors. It would put us out of business.

We appreciate and thank you for your time and consideration in this matter.

11. How old is this building?

Answer:

The building was built in 1975.

It is 36 years old.

10. Explain your reasons of compelling need for an exception from the requirements of barrier free toilet facilities.

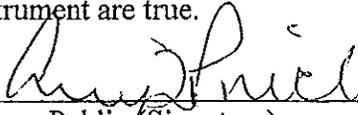
Answer:

11. How old is the building?

Answer:


Respondent (Signature)

Before me Amy L Price, a Notary Public in and for Chippewa County, State of Michigan personally appeared Vickie Postlock and he/she being first duly sworn by me upon his oath says that the facts alleged in the foregoing instrument are true.


Notary Public (Signature)

My Commission Expires 2-14, 2018

State of Michigan

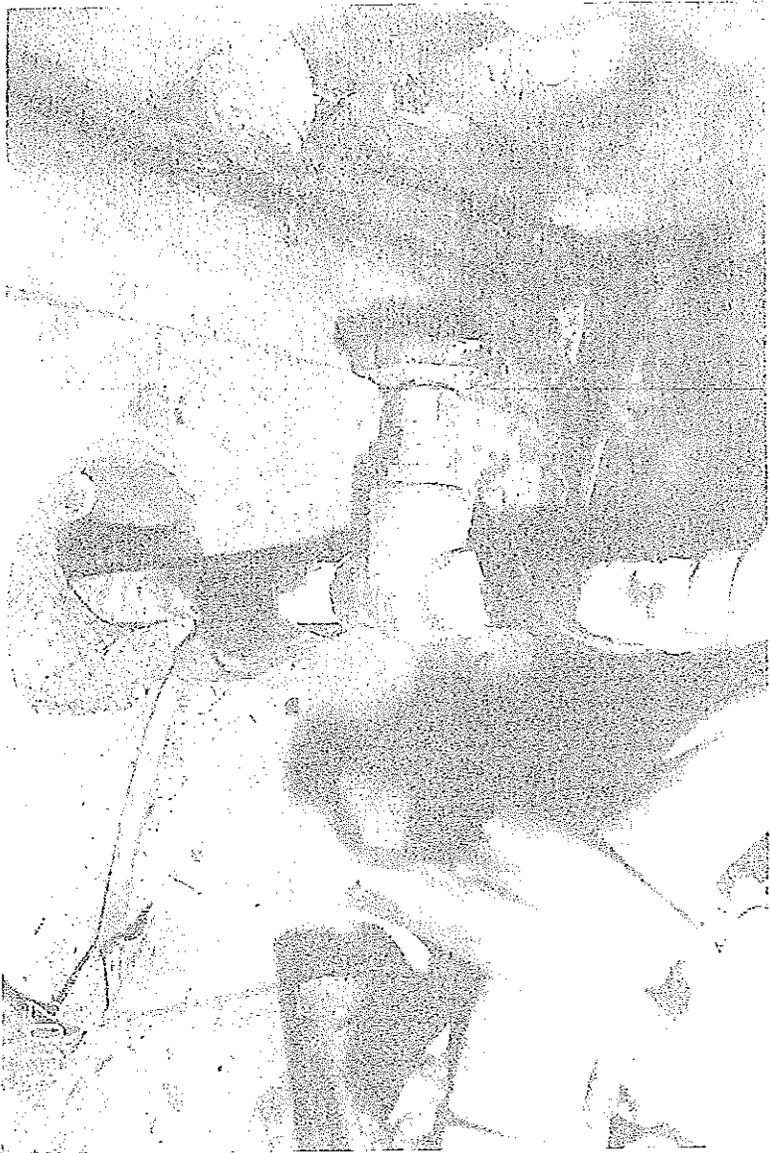
Amy L Price
— Notary Public —

Appointment Date & County: 6/23/2011, Chippewa
Expiration Date: 2/14/2018



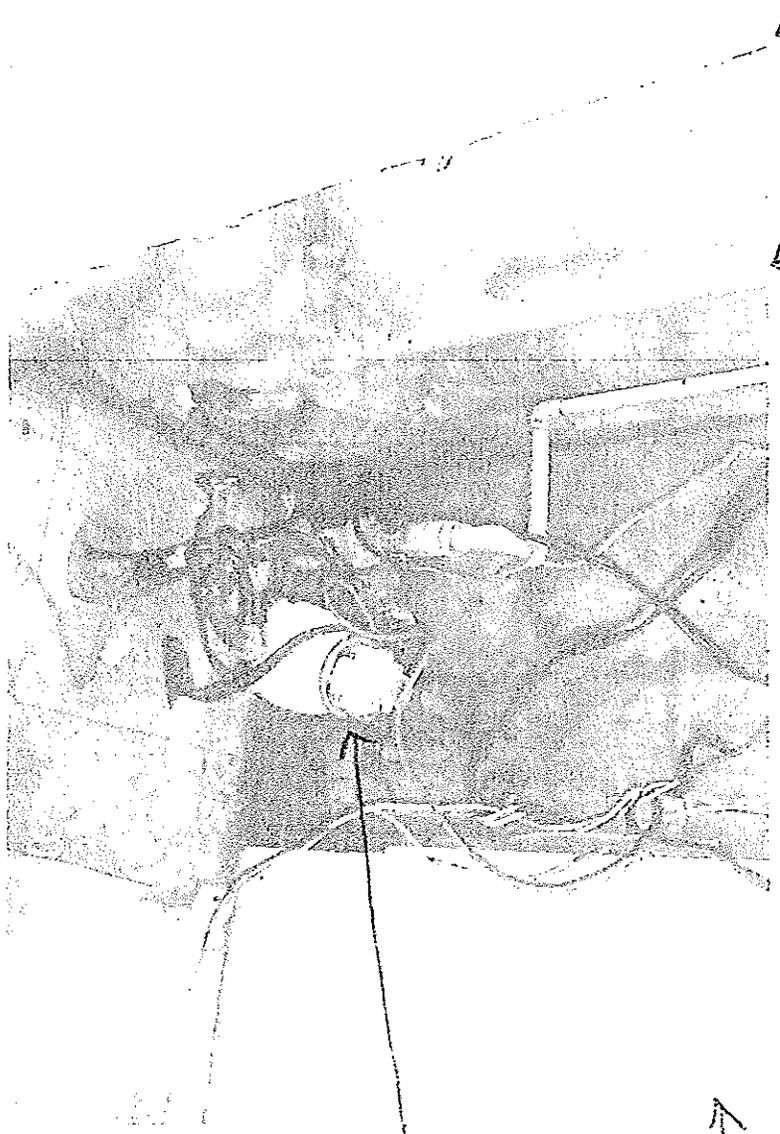
Ruth Johnson, Secretary of State
Department of State

Close up of water line through
concrete floor to water meter.



interior wall to office (office floor is 1 1/2" higher than bathroom floor)

↓ sewer vent pipe



← interior wall separates businesses.

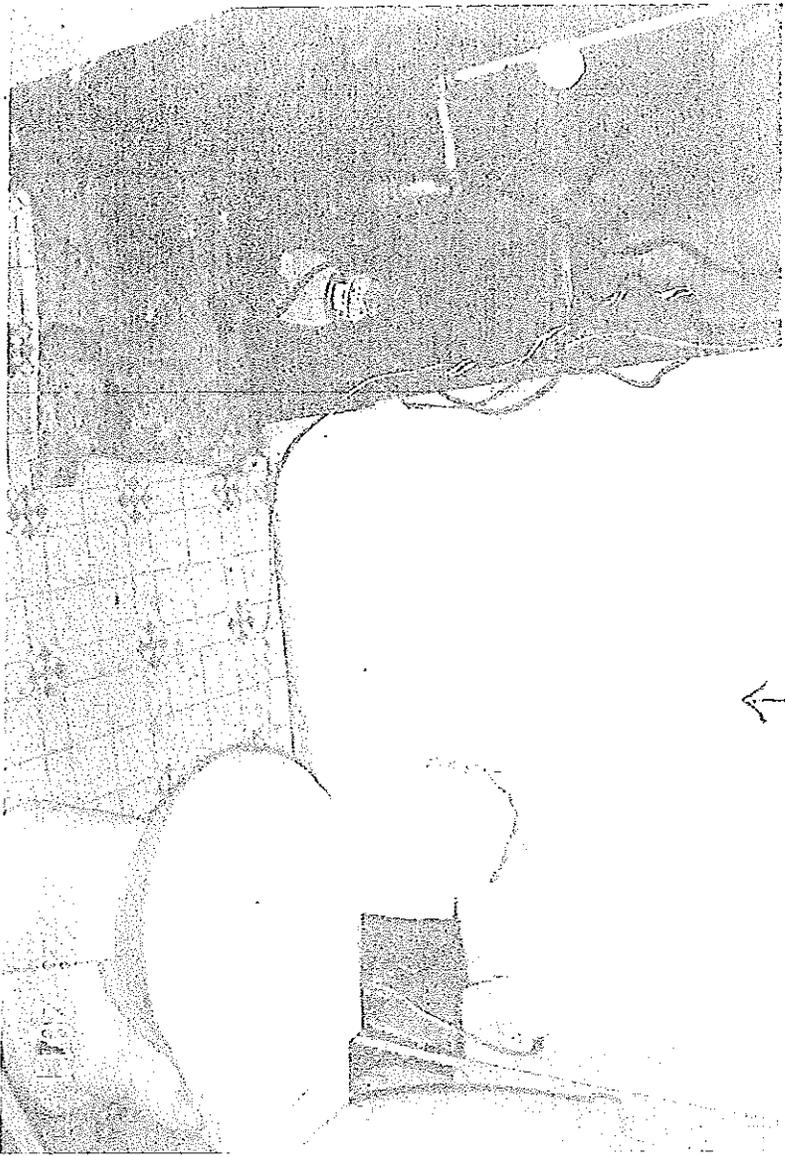
← city water line meter

View from toilet to water meter sewage pipe

sewage pipe
↓

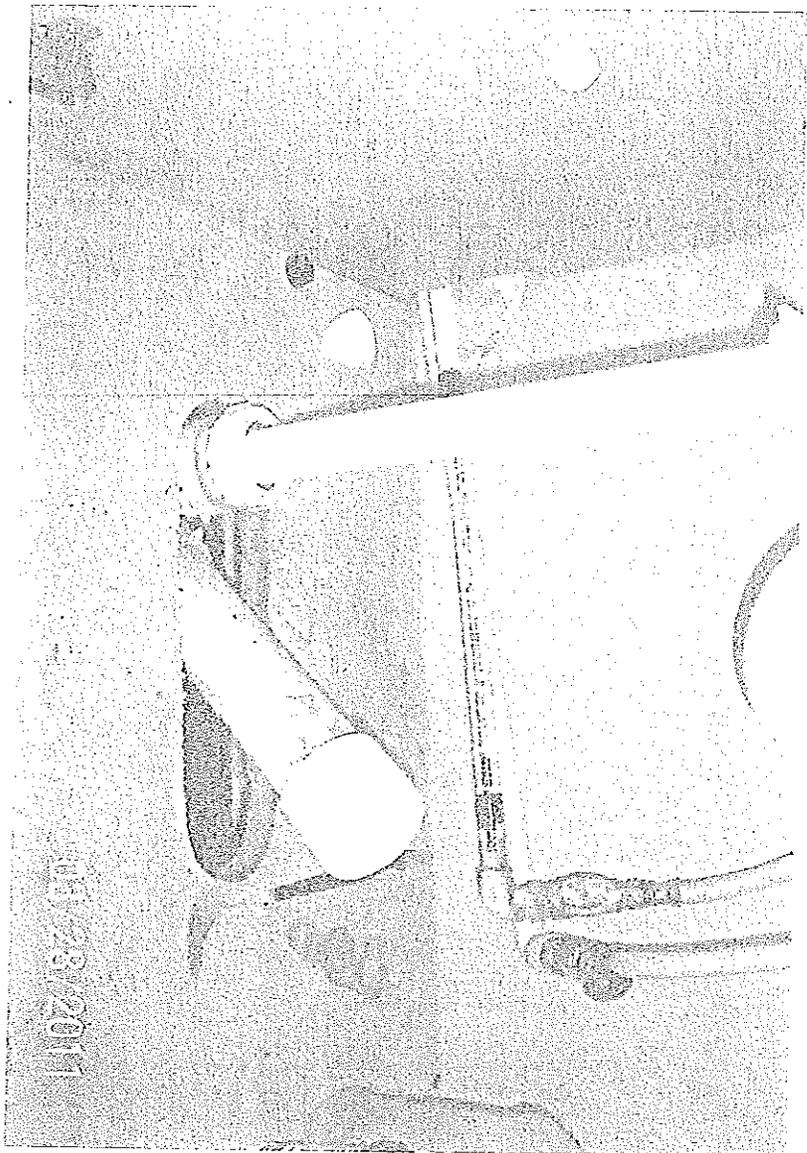


view of toilet & water meter



interior wall that separates businesses
↓

inside vanity cabinet - waste drain through vanity & concrete floor

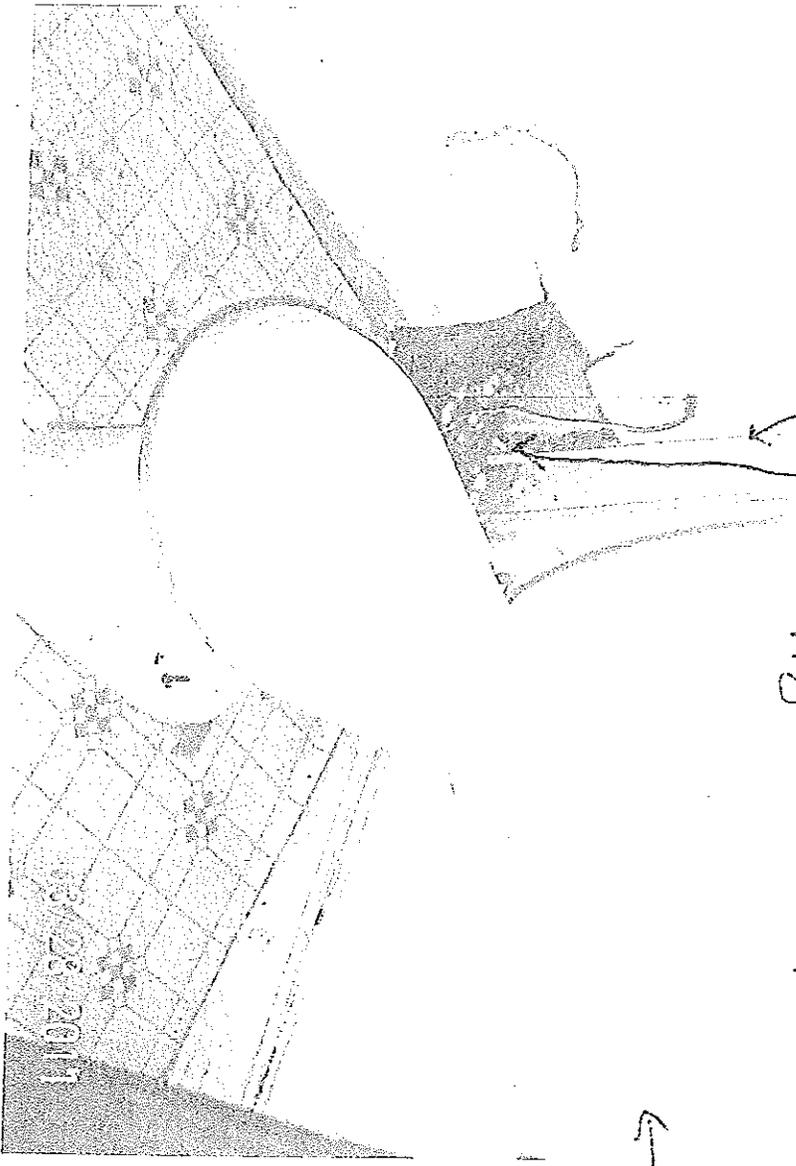


toilet

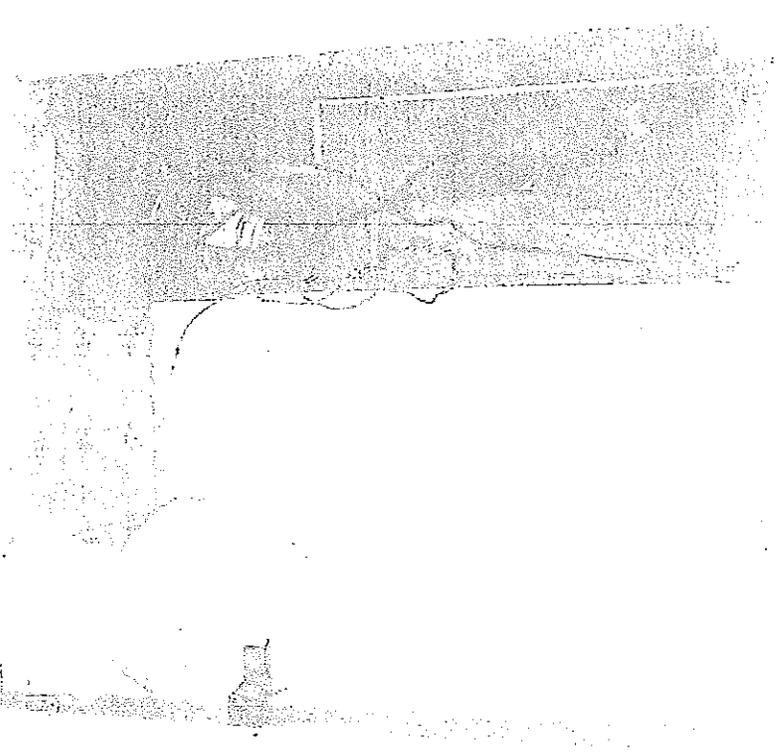
interior wall that separates businesses

water supply lines to separate business space

← exterior wall



View from Bathroom entry
distance from toilet to water meter is 24"
Overall dimensions of Bathroom 66" x 72"



In trying to comply with what
was on our blue print drawings:
Dry wall at the corner
was removed to move the
interior wall into the office
space, but realized the
sewage pipe runs in the
middle of the wall (as seen
in previous pictures).



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
IRVIN J. POKE
DIRECTOR

STEVEN H. HILFINGER
DIRECTOR

June 16, 2011

Vickie Portlock
Welch's RV Sales & Service
2681 Ashmun Street
Sault Ste. Marie, MI 49783

RE: Docket No. 2010-1246
Welch's RV Sales
2681 Ashmun Street
Sault Ste. Marie, MI 49783

Dear Ms. Portlock:

We have determined that your exception request is suitable to be handled by sworn statement, instead of holding a hearing in Lansing, Michigan before an Administrative Law Judge. Enclosed is a series of questions as a sworn statement.

You will provide your answers on this document. The information that is sought must be given under an oath, whether it is secured by you, your agent, representative or attorney or any other person who has made this knowledge known to you. It is your responsibility to demonstrate compelling need.

After answering all questions, make three copies and have each statement notarized as indicated. Your response must be received on or before July 14, 2011. Send one statement each to the following.

State Office of Admin. Hearing System
Ottawa State Office Building
P.O. Box 30695
Lansing, MI 48909

Mr. Todd Cordill, NCARB
Chief, Plan Review Division
Bureau of Construction Codes
P.O. Box 30254
Lansing, MI 48909

David M. Neveu
City of Sault Ste. Marie
325 Court Street
Sault Ste. Marie, MI 49783

If you have any questions, please feel free to contact our office at (517) 241-9328.

Sincerely,

Plan Review Division

Cc: State Office Of Admin. Hearing System
Mr. David M. Neveu- City of Sault Ste. Marie

I decline the opportunity to provide a sworn statement. I want to have a hearing and I understand they will hold the hearing in Lansing, Michigan.

Signature

Date

Providing for Michigan's Safety in the Built Environment

SWORN STATEMENT
IN THE MATTER OF
96258 - CHIPPEWA
WELCH'S RV SALES
2681 ASHMUN STREET
SAULT STE. MARIE, MI-49783
CHIPPEWA COUNTY

I, _____ provide the following information under oath. All information is true, accurate and complete:

- 1. State your full name, address and telephone number.

Answer:

- 2. Are you the building owner? If not, state your interest in this matter.

Answer:

- 3. Describe the activities that take place on each floor at this facility.

Answer:

- 4. Is there a seasonal fluctuation in the number of persons that use the facility? Please describe.

Answer:

5. What is the total project cost?

Answer:

6. The application states that the use of the building has been changed. Explain the changes.

Answer:

7. List those items, which do not comply with the barrier free design requirements in the toilet facility.

Answer:

8. Describe in detail the renovations, which would have to be done to bring the toilet and bathing rooms into compliance with the barrier free requirements?

Answer:

9. What is the estimated cost to bring bath room in compliance?

Answer:

10. Explain your reasons of compelling need for an exception from the requirements of barrier free toilet facilities.

Answer:

11. How old is the building?

Answer:

Respondent (Signature)

Before me _____, a Notary Public in and for _____
County, State of Michigan personally appeared _____ and
he/she being first duly sworn by me upon his oath says that the facts alleged in the foregoing
instrument are true.

Notary Public (Signature)

My Commission Expires _____, 20__

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BARRIER FREE DESIGN BOARD
2501 Woodlake Circle
Okemos, MI 48864

Project No. 96258
Exception No. 2010-1246
Use Group: B

2681 Ashmun Street
Sault Sainte Marie, Michigan
Chippewa County

ORDER OF THE MICHIGAN BARRIER FREE DESIGN BOARD

On May 13, 2011 the Barrier Free Design Board reviewed the Report of the Administrative Law Judge dated January 27, 2011. All supplemental materials received before the Board meeting were reviewed. Copies were sent to all parties. This order is issued pursuant to Section 5(6)(a) of 1966 P.A. 1, as amended; 1972 P.A. 230, as amended; and Section 81 of 1969 of P.A. 306, as amended, and Rule R 125.1016.

FINDINGS AND CONCLUSIONS: The Board adopted the report of the Administrative Law Judge. The Board concurs with the Conclusions of Law and Recommendation. However the Board found justification for a rehearing based on the clarification from the staff.

THEREFORE, it is the order of the Board to remand this matter to the Administrative Law Judge for a rehearing.

The Board can only grant or deny exceptions to Michigan's barrier free design requirements. The Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

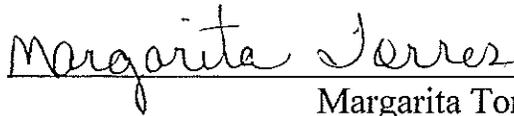


Todd Y. Cordill, NCARB
Chief, Plan Review Division for the
Barrier Free Design Board

May 26, 2011

PROOF OF SERVICE
ORDER OF THE MICHIGAN BARRIER FREE DESIGN BOARD
96258 – Welch’s RV Sales

I, Margarita Torres, 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, e-mail 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 26th day of May, 2011.



Margarita Torres
Plan Review Division

Ms. Vickie Portlock
Welch RV Sales and Service
2681 Ashmun Street
Sault Ste Marie, MI 49783

Mr. Darien M Neveu
City of Sault Ste Marie
102 Washington Street
Suite 217
Marquette, MI 49855

Andre Friedlis, ALJ
SOAHR
611 W. Ottawa Street, 2nd Floor
Lansing, MI

Welch RV Sales and Service
2681 Ashmun St.
Sault Ste Marie, MI 49783

March 28, 2011

Todd Cordill
Bureau of Construction Codes
Plan and Review Division
P.O. Box 30255
Lansing, MI 48909

Project # 96258
Docket # 2010-1246

Re: Barrier Free Design Exception Request

To Whom It May Concern:

I am writing this letter to request a Barrier Free Design Exception for our bathroom in our store. The City of Sault Ste Marie will not grant us an Occupancy Permit if our bathroom is not up to code meeting the ADA requirement. Our building, in which we lease and do not own, is 40+ years old. When we moved into the building, it was a garage. We put up a few walls creating office space, retail space and a smaller garage, all within the existing space. We relocated the original garage door, which was located at the front of the building, to the side of the building. The bathroom is the original and only bathroom in our building. We did not change any walls to this bathroom. The city has said that changing the garage door and entry door has changed the building structure and therefore must be compliant with the ADA requirement. When this building was built, the city installed a water meter in the concrete floor of the bathroom; this same water meter still exists today and is utilized. The main sewage pipe is located in the original bathroom wall located directly behind the city water meter. This water meter is located a few feet in front of the toilet, thus hindering the 5 foot turning radius needed for the ADA requirement. We cannot move the original interior bathroom wall due to the sewage pipe that it houses. We cannot remove and replace the city water meter as the pipe runs under our building and would require taking out our concrete floor at great expense.

We have told the city that we will not have a public bathroom, but they insisted that we had to have one. We have had a contractor come assess the bathroom and try to figure out how we could comply with the requirement and the only way would be to tear down the existing exterior wall and move it 3 feet, however doing this would put the building over the property line. There is another office building that is connected to our building we share water and electricity with, but is not part of our existing building. The water pipes run through our wall and their wall. Moving any exterior wall would require moving their existing exterior wall as well and there again putting us over the property line.

We are an RV sales and service business and have never had any customers inside of our store that use a wheelchair. RV's, for that matter, are not handicap accessible. None of our employees use a wheel chair. We have tried working with the city on this issue to no avail. This is our last attempt to resolving this issue.

We are submitting several photos that were taken of the bathroom, water meter, sewage pipe, and water pipes. There is an explanation of each photo on the paper that the photo is printed.

April 1, 2011

Please accept this letter and pictures as testimony on our behalf regarding the Barrier Free Design Exception for our bathroom. We have made the necessary changes that the city has asked of us. This bathroom is the last remaining issue in order for us to obtain an occupancy permit to keep our business open. We appreciate your time on this matter and look forward to hearing from you soon. If you need more photos or any information, please contact us at 906-635-0502.

Thank you,

Vickie Portlock
Weich RV Sales and Service

CERTIFICATE OF INSURANCE

BUREAU OF COMPENSATION CODES DATE 07/21/10

PRODUCER PROFESSIONAL DESIGN INSURANCE MANAGEMENT CORPORATION P.O. BOX 501130 INDIANAPOLIS, IN 46250 Phone: (317) 570-6945 Fax: (317) 579-6410	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHT UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
COMPANIES AFFORDING COVERAGE	
INSURED U.P. Engineers & Architects, Inc. 100 Portage Street Houghton, MI 49931	COMPANY A LETTER Architects and Engineers Insurance Company (ABIC)
	COMPANY B LETTER
	COMPANY C LETTER
	COMPANY D LETTER
	COMPANY E LETTER

COVERAGES
 THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAME ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSION, AND CONDITION OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIM MADE <input type="checkbox"/> OCCURRENCE <input type="checkbox"/> OWNER'S & CONTRACTORS PROTECTIVE <input type="checkbox"/>				GENERAL AGGREGATE \$ PRODUCTS-COMP/OPS AGGREGATE \$ PERSONAL & ADVERTISING INJURY \$ EACH OCCURRENCE \$ FIRE DAMAGE (ANY ONE FIRE) \$ MED. EXPENSE (ANY ONE PERSON) \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/>				CSL \$ BODILY INJURY (PER PERSON) \$ BODILY INJURY (PER ACCIDENT) \$ PROPERTY DAMAGE \$
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA				EACH OCCURRENCE \$ STATUTORY \$ AGGREGATE \$
	WORKERS' COMPENSATION AND EMPLOYER LIABILITY				\$ (EACH ACCIDENT) \$ (DISEASE-POLICY LIMIT) \$ (DISEASE-EACH EMPLOYEE)
A	OTHER PROFESSIONAL LIABILITY <input checked="" type="checkbox"/> ARCHITECTS AND ENGINEERS <input type="checkbox"/>	ABICPG-10	7/18/2010	7/18/2013	\$1000000 LIMIT EACH CLAIM AND \$1000000 IN THE AGGREGATE.

DESCRIPTION OF OPERATIONS/LOCATION/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

ACORD 25-S (1/95)

AUTHORIZED REPRESENTATIVE

Lori Burton

ACORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 7/8/2010
PRODUCER FRANK A. DOUGLASS AGENCY, INC. 324 SHELDEN AVENUE HOUGHTON, MI 49931 906-482-2660		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED U.P. ENGINEERS & ARCHITECTS, INC. 100 PORTAGE STREET HOUGHTON, MI 49931		
		INSURERS AFFORDING COVERAGE
		INSURER A: CITIZENS INS. CO. OF AMERICA
		INSURER B: THE HARTFORD
		INSURER C:
		INSURER D:
		INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

RTR	RDR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	GENERAL LIABILITY	Z7W 0319887	01/16/10	01/16/11	EACH OCCURRENCE \$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMSMADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO.JECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	X	AUTOMOBILE LIABILITY	A7W 6880257	06/30/10	06/30/11	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
		<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
		ANY AUTO				OTHER THAN AUTO ONLY: EA ACC \$
						AGG \$
A	X	EXCESS/UMBRELLA LIABILITY	U7W 8630817	08/16/09	08/16/10	EACH OCCURRENCE \$ 5,000,000
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				AGGREGATE \$ 5,000,000 \$ \$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	81 WEC JV9212	06/30/10	06/30/11	<input checked="" type="checkbox"/> WC STATE/TORY LIMITS <input type="checkbox"/> OTHER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER 	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE
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96258

RECEIVED

NOV 19 2010

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

From Info:133 16322947-1 11/17/10
Chk#: 4129 Amt: \$300.00
Agency Use Only
ID: WELCH RV SALES AND SERVICE

BUREAU OF CONSTRUCTION CODES

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.
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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 Welch's RV Sales		STREET / SITE ADDRESS 2681 Ashmun 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: Sault Ste. Marie		COUNTY Chippewa	
Estimated Project Cost \$ 10,000.00		Estimated Cost of Compliance \$ 65,000.00	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)			
<input type="checkbox"/> New Building <input type="checkbox"/> Alteration <input checked="" type="checkbox"/> Change of Use		Building Permit / File Number PB 07-053	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP B/M
CONSTRUCTION TYPE VB			
Project Does Not Comply With Barrier Free Design Requirements As Follows:			
Michigan Building Code Section(s) (I) Section 1109.2			
Reason for Non-Compliance (I) The toilet room is not accessible lacking the accessible entrance door, accessible water closet, accessible sink and the clear floor spaces for the door and all of the fixtures.			
NAME Darren M. Neveu		ENFORCING AGENCY City of Sault Ste. Marie	
ADDRESS 325 Court Street		CITY Sault Ste Marie	TELEPHONE NUMBER (Include Area Code) (906) 632-5700
		ZIP CODE 49783	FAX NUMBER (Include Area Code) (906) 635-5606
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>Darren M. Neveu</i> 9-29-10			
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
NAME Ken Czapski		MICHIGAN LICENSE NUMBER 1301027017	FIRM NAME U.P Engineers & Architects
ADDRESS 102 Washington St. (Suite 217)	CITY Marquette	STATE Michigan	TELEPHONE NUMBER (Include Area Code) (906) 228-6061
ZIP CODE 49855			
APPLICANT (Note: All correspondence will be sent to this address)			
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Vickie Portlock		COMPANY NAME Welch RV Sales & Service	SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 2681 Ashmun St.	CITY Sault Ste Marie MI	STATE MI	TELEPHONE NUMBER (Include Area Code) 906-635-0502
		ZIP CODE 49783	FAX NUMBER (Include Area Code) 906-635-0547
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.			
APPLICANT SIGNATURE (Must be an original signature) <i>Vickie Portlock</i>		DATE 10-18-10	

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of	Docket No.	2011-931
Grosse Pointe South High School	Agency No.	98664
11 Grosse Pointe Boulevard	Agency:	Bureau of Construction Codes
Grosse Pointe Farms, MI, Applicant	Case Type:	Barrier Free Design Exception Request

EXCEPTION APPLICATIONS
04, 98664
4

RECEIVED

JUL 28 2011

Issued and entered
this 27th day of July, 2011
by Renée A. Ozburn
Administrative Law Judge

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE 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 exceptions from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on July 26, 2011, in Lansing, Michigan. Marc Chamberlin and Angela Burke appeared on behalf of Grosse Pointe South High School (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 2003 ICC/ANSI A 117.1, Section 404.2.3.1.

FINDINGS OF FACT

1. The Applicant is renovating 2 bathrooms on the second floor of a school building constructed in 1927 during the first phase of an interior restroom alteration project. The building is registered with the National Registry of Historic Buildings.
2. The bathroom doors do not have the 18" clearance required under current Codes.
3. The Applicant seeks an exception to restructuring the doorways in the historic corridor because the masonry with marble and plaster finishes as well as mechanical and electrical systems and unknown structural nuances of this 84 year old building make compliance technically infeasible.
4. The doors to the school bathrooms remain open at all times except when the building is closed to the public. When the doors are open they have a 36" clearance that meets accessibility standards.
5. Automatic door openers would be a financial hardship and unnecessary because the doors will remain open at all times during the day.

6. Although the current exception request is for the first phase of work on school bathrooms, the remaining bathrooms in the school will be renovated during later phases and have the exact same structural/technical feasibility issues.

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.

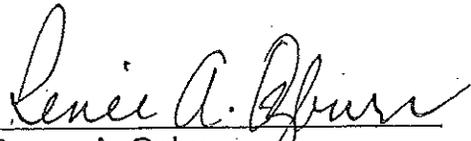
The Applicant has proven a compelling need to grant the exception requests. The structural/technical infeasibilities and costs of making the doorways compliant are prohibitive and unnecessary because there is full alternative accessibility through the practice of having the doors open at all times when they are available for public use.

RECOMMENDED DECISION

I recommend the Board grant the Applicant's exception to 2003 ICC/ANSI A 117.1, Section 404.2.3.1.

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. The Applicant has also shown good cause to grant an exception for additional bathrooms to be renovated during later phases of this project.

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.



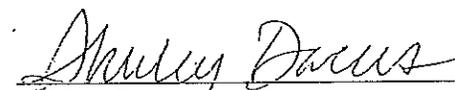
Renee A. Ozburn
Administrative Law Judge

Docket No. 2011-931

Page 5

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 27th day of July, 2011.



Shirley Dacus
Michigan Administrative Hearing System

Rich VanGorder
Grosse Pointe Public Schools
Grosse Pointe South High School
389 St. Clair Avenue
Grosse Pointe, MI 48230

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

65
Ehresman Associates, Inc.

architects • engineers

01 June 2011

Michigan Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Plan Review Division
PO Box 30254
Lansing, MI 48909
2501 Woodlake Circle
Okemos, MI 48864

RE: Grosse Pointe Public School System
Grosse Pointe South High School
Restroom Alteration
Application for Barrier Free Design Rule Exception
EA Project No. 2610
BCC Job No. 97736 - Wayne

Dear Todd,

We are requesting this project be approved for a Barrier Free Design Rule Exception, based upon the Historic Nature of the building, the extent of the interior alteration of the project and the existing structural integrity of the building. Altering the doorway in the historic corridor, which are constructed of masonry, with marble and plaster finishes could be a very costly and time consuming addition to an otherwise straight forward restroom remodeling project. It is the owner's intent to have this project start as soon as school is out for the summer and be completed and open for the 2011-2012 school year.

This project is Phase One of an interior restroom alteration at Grosse Pointe South High School. It consists of remodeling two (2) restrooms of the eight (8) total in the Main Building. The school district intends on remodeling two (2) restrooms per summer over the next 4 school years. Each phase of this alteration contains a similar door issue. We are requesting approval for all 4 phases.

The High School was built in 1927 and is registered with the National Registry of Historic Buildings, we've attached a photo of the plaque indicating Historic Status, as well as a few photos of the overall building and restrooms, for your reference. The restrooms to be remodeled as a part of this project are original to the building. The fixtures, plumbing, HVAC, finishes, etc. are all approximately 84 years old, long past the estimated useful life of such items.

The project does not include replacement of the existing doors, limiting the work to the interior of the restrooms only. The existing doors meet the barrier free requirement of 32" clear width opening, while in the open position. The restroom walls and ceiling are fire rated, allowing the door to be held in the open position through out the day. The door has a hold open on it, which is engaged at all times students occupy the building, the staff does close and lock the doors after hours and for cleaning purposes.

Enclosed is (1) set of plans and specifications (signed and sealed) for your department's review, along with a check in the amount of \$300.00.

Please **INVOICE** the **GROSSE POINTE PUBLIC SCHOOL SYSTEM** for any additional fees:

Mr. Rich VanGorder
Grosse Pointe Public School System
389 St. Clair
Grosse Pointe, MI 48230

Please note, approval for the above mentioned project has been provided, contingent upon the following barrier free items, we've attached the plan review letter for your reference:

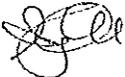
2009 Michigan Building Code – Usha Menon

- 1. We understand that the project does not meet the maneuvering clearance for swinging doors per ICC/ANSI A117.1, Section 404.2.3.1. The minimum clearance of 18" on the pull side parallel to the doorway beyond the latch for a frontal approach at the door to the Girls Toilet 223 is not met.

Per our phone conversation, we are moving forward with construction based upon the conditional approval of the project, the general contractor will be applying for all permits. Per our earlier conversation, we further understand that any invoices must be paid prior to issuance of the permits. We understand that the barrier free design rule exception process should not interfere with the project's progress and construction completion prior to the start of the 2011-2012 school year. A temporary certificate of occupancy may be required, should the design rule exception process not be complete by the time the new school year starts.

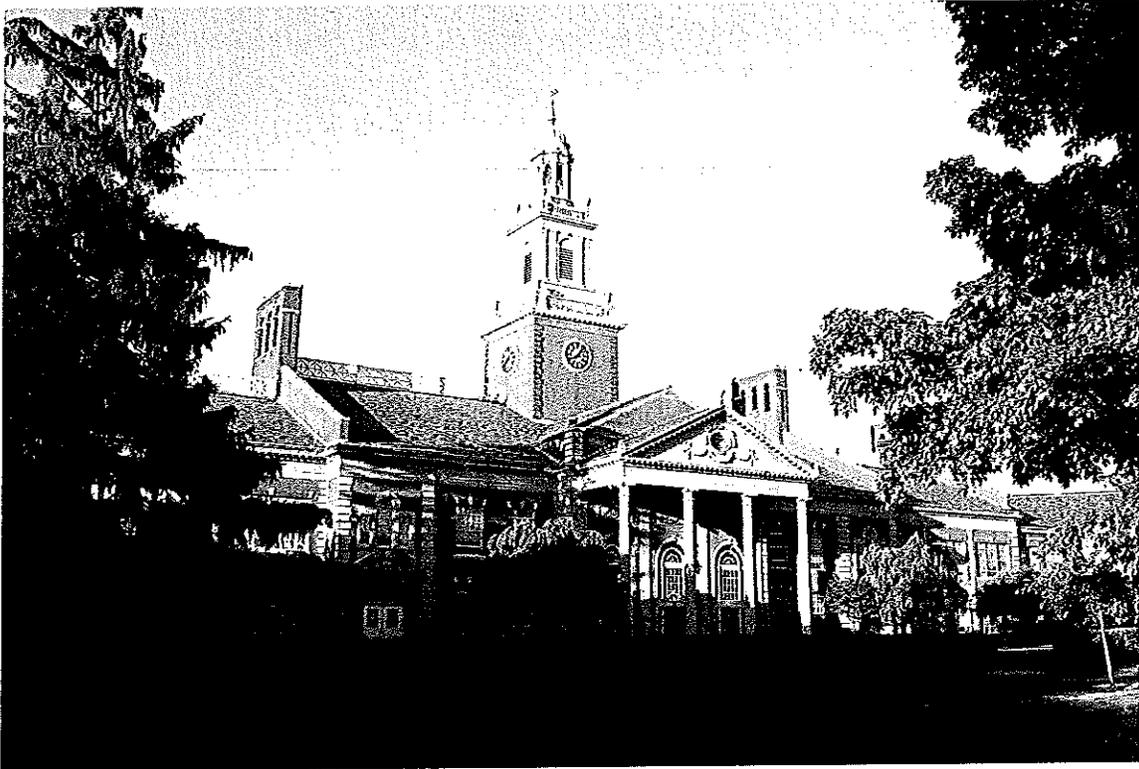
If you should have any questions, or require additional information, please contact this office.

Sincerely,



Angela Burke
Architectural Designer
angela@ehresmanassociates.com

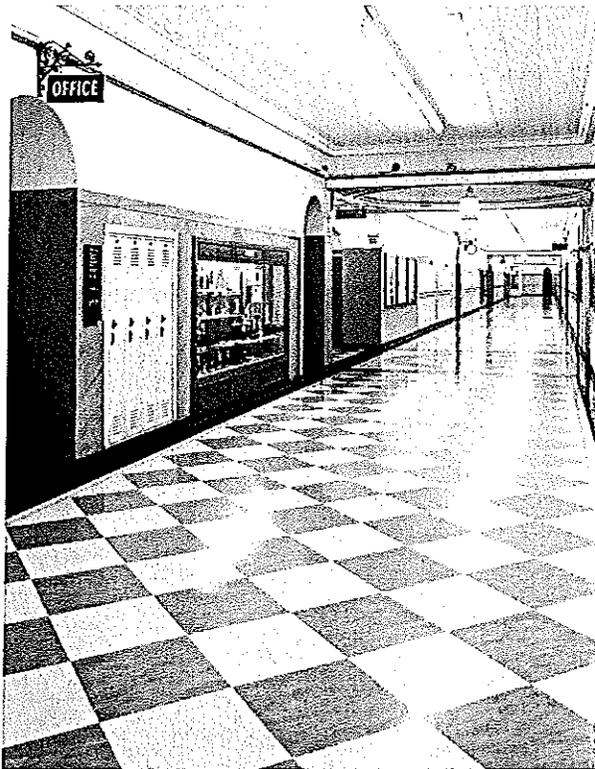
- cc: C. Fenton, GPPSS
- R. VanGorder, GPPSS
- A. Sheridan, GPPSS
- J. Gelle, Ferlito Construction



Front entrance of the Historic Main Building of Grosse Pointe South High School



Historic Cleminson Hall



Typical corridor in the Main Building, illustrating wall construction at restroom doors, marble and plaster finishes.



Existing Door to Girls Restroom 223. Typical door opening, recessed into marble and plaster finished on masonry wall construction. Door in question for Phase 1, Phases 2, 3 & 4 are similar.

69
H



RICK SNYDER
GOVERNOR

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

STEVEN H. HILFINGER
DIRECTOR

April 18, 2011

Mr. Rich VanGorder
Grosse Pointe Public School System
389 St Clair
Grosse Pointe, MI 48230

RE: Project Number: 97736 - Wayne	Use Group:	E
Arch. Project Number: 2610	Construction Type:	IIB
Grosse Pointe South High School	Square Footage:	Alt 556
11 Grosse Pointe Boulevard		
Grosse Pointe Farms, MI		
Description: Second Floor Restroom Remodeling		

Dear Mr. VanGorder:

Enclosed please find 1 set of approved construction documents for the above referenced project. This project has been reviewed for compliance with the 2009 edition of the Michigan Mechanical Code, 2008 edition of the Michigan Electrical Code, 2009 edition of the Michigan Building Code and 2009 edition of the Michigan Plumbing Code. This approval is subject to item(s) noted herein and field inspection. One set of approved construction documents and all plan review correspondence shall be placed on the project site in accordance with the code.

2009 Michigan Plumbing Code - Peter Ingalls

1. MPC, Section 607.1 - Tempered water shall be supplied through a water temperature limiting device that conforms to ASSE 1070, as referenced in Chapter 13 of the code, and shall limit the tempered water to a maximum of 110°F (43°C). This provision shall not supersede the requirement for protective shower valves in accordance with Section 424.3 of the code.

Providing for Michigan's Safety in the Built Environment

BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254 • LANSING, MICHIGAN 48909
Telephone (517) 241-9328 • Fax (517) 241-9308
www.michigan.gov/dleg

DELEG is an equal opportunity employer/program.
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

Mr. Rich VanGorder
Page 2
April 18, 2011

Tempered water shall be supplied to bathing and hand washing facilities in the occupancies identified in subdivision (a) to (h) of this subrule by individual water temperature limiting devices to individual fixtures.

- (a) Elementary schools.
- (b) Child care centers.
- (c) Day care centers.
- (d) Nurseries.
- (e) Adult group homes.
- (f) Adult congregate homes.
- (g) Children's camps.
- (h) At accessible plumbing fixtures.

- 2. MPC, Section 901.2.1 - Every trap and trapped fixture shall be vented in accordance with one of the venting methods specified in Chapter 9 of the code.
- 3. MPC, Section 1002.4 - Where a trap seal is subjected to loss by evaporation, a trap seal primer valve shall be installed.

2009 Michigan Building Code - Usha Menon

- 1. ICC/ANSI A117.1, Section 404.2.3.1 - Maneuvering clearance for swinging doors shall comply with Table 404.2.3.1. as follows:

For front approach doors the minimum clearance on the pull side shall be 18 inches parallel to the doorway beyond the latch. The door to the girl's toilet 223.

- 2. If compliance can not be achieved barrier free design rule exception is required.

Upon receipt of payment for the enclosed invoice, our approval will be forwarded to the code official. If you have any questions regarding your plan review, contact the Plan Review Division at (517) 241-9328.

Sincerely,

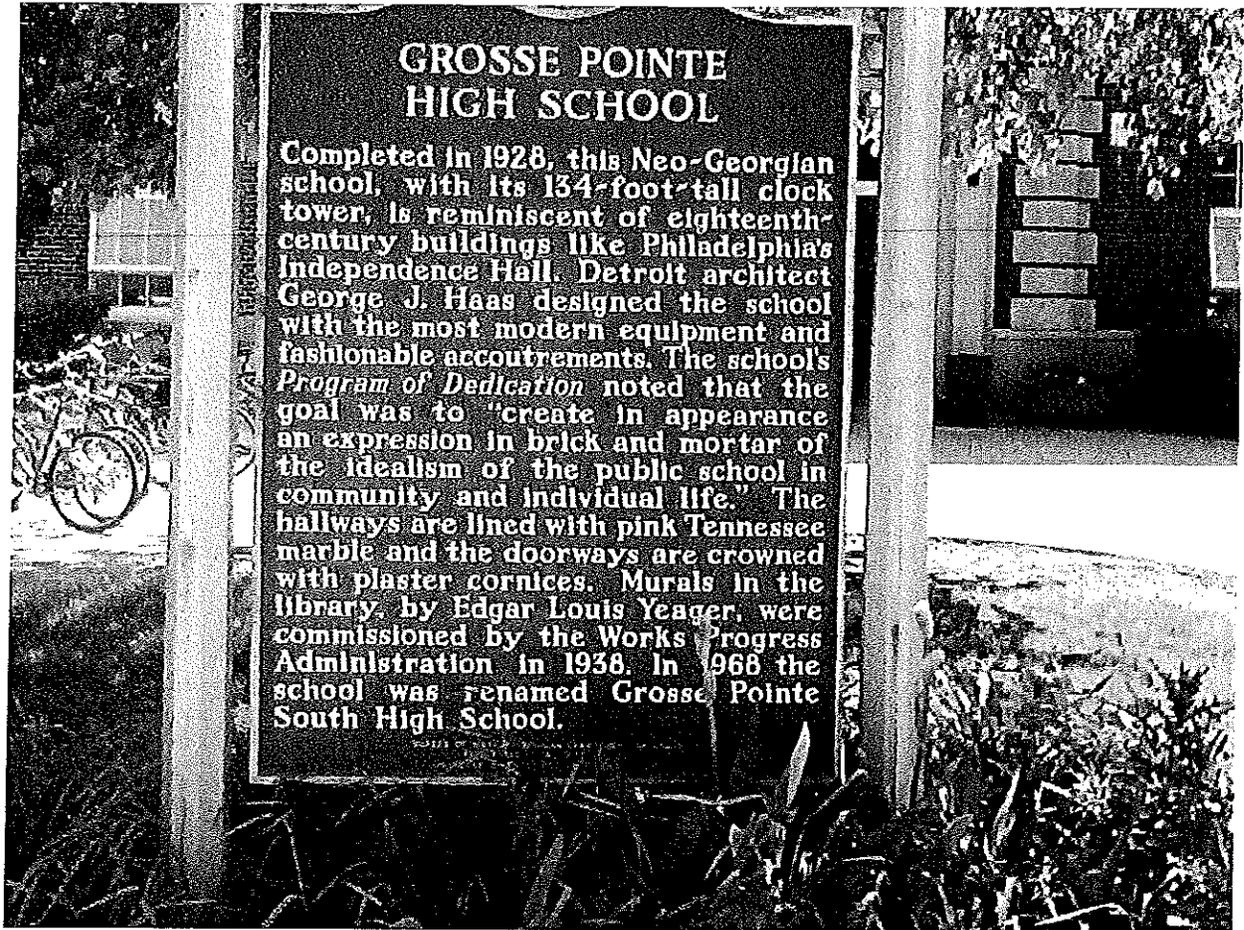


Todd Y. Cordill, NCARB
Chief, Plan Review Division

TYC/hf

Enclosure

cc: BCC - Electrical, Building, Plumbing, Mechanical Division(s)
Ehresman Associates Inc - Dale Ehresman



GROSSE POINTE HIGH SCHOOL

Completed in 1928, this Neo-Georgian school, with its 154-foot-tall clock tower, is reminiscent of eighteenth-century buildings like Philadelphia's Independence Hall. Detroit architect George J. Haas designed the school with the most modern equipment and fashionable accoutrements. The school's *Program of Dedication* noted that the goal was to "create in appearance an expression in brick and mortar of the idealism of the public school in community and individual life." The hallways are lined with pink Tennessee marble and the doorways are crowned with plaster cornices. Murals in the library, by Edgar Louis Yeager, were commissioned by the Works Progress Administration in 1938. In 1968 the school was renamed Grosse Pointe South High School.

Application for Barrier Free Design Rule Exception
 Michigan Department of Licensing and Regulatory Affairs
 Bureau of Construction Codes / Plan Review Division
 P.O. Box 30255, Lansing, MI 48909
 517-241-9328
 www.michigan.gov/bcc

133

98 664

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	LARA is an equal opportunity employer/program. Auxiliary aids, see 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 Grosse Pointe South High School		STREET / SITE ADDRESS 11 Grosse Pointe Blvd		
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: Grosse Pointe Farms				COUNTY Wayne
Estimated Project Cost \$ 249,000.00		Estimated Cost of Compliance \$		
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 E	CONSTRUCTION TYPE II B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 2003 100/ANSI A 117.1, SECTION 404.2.3.1 Reason for Non-Compliance See attached letters				
ENFORCING AGENCY STATE OF MICHIGAN, BUREAU OF CONSTRUCTION CODES		BUILDING OFFICIAL NAME TODD CORDILL		REGISTRATION NUMBER 4994
ADDRESS P.O. Box 30255	CITY LANSING	STATE MI	ZIP CODE 48909	TELEPHONE NUMBER (Include Area Code) (517) 241-9328
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>Todd Cordill</i>		DATE 20 June 2011	E-MAIL ADDRESS cordillt@michigan.gov	FAX NUMBER (Include Area Code) (517) 241-9308
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME Ehresman Associates, Inc.		LICENSED INDIVIDUAL Dale Ehresman		MICHIGAN LICENSE NUMBER 18759
ADDRESS 803 W. Big Beaver Rd Ste 350	CITY Troy	STATE MI	ZIP CODE 48084	TELEPHONE NUMBER (Include Area Code) (248) 244-9710
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME Grosse Pointe Public School System		APPLICANT NAME Rich VanGorder		FFIN OR SS NO.* (Required)
ADDRESS 389 St. Clair	CITY Grosse Pointe	STATE MI	ZIP CODE 48230	TELEPHONE NUMBER (Include Area Code) (313) 432-3082
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) 432-3086
APPLICANT SIGNATURE (Must be an original signature) <i>Rich VanGorder</i>			DATE	

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of	Docket No.	2011-932
Defer Elementary School 15425 Kercheval Grosse Pointe Park, MI, Applicant	Agency No.	98665
	Agency:	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

EXCEPTION APPLICATIONS
05. 98665

RECEIVED
JUL 28 2011

Issued and entered
this 27th day of July, 2011
by Renée A. Ozburn
Administrative Law Judge

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE 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 exceptions from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on July 26, 2011, in Lansing, Michigan. Marc Chamberlin and Angela Burke appeared on behalf of Defer Elementary School (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 2003 ICC/ANSI A 117.1, Section 404.2.3.1.

FINDINGS OF FACT

1. The Applicant is renovating bathrooms on two floors a school building constructed in 1923 during the first phase of an interior restroom alteration project. The building is registered with the National Registry of Historic Buildings.
2. The bathroom doors do not have the 18" clearance required under current Codes.
3. The Applicant seeks an exception to restructuring the doorways in the historic corridor because the masonry and plaster and wood finishes as well as mechanical and electrical systems and unknown structural nuances of this 88 year old building make compliance technically infeasible.
4. The doors to the school bathrooms remain open at all times except when the building is closed to the public. When the doors are open they have a 36" clearance that meets accessibility standards.
5. Automatic door openers would be a financial hardship and unnecessary because the doors will remain open at all times during the day.

Docket No. 2011-932

Page 3

6. Although the current exception request is for the first phase of work on school bathrooms, the remaining bathrooms in the school will be renovated during later phases and have the exact same structural/technical feasibility issues.

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 proven a compelling need to grant the exception requests. The structural/technical infeasibilities and costs of making the doorways compliant are prohibitive and unnecessary because there is full alternative accessibility through the practice of having the doors open at all times when they are available for public use.

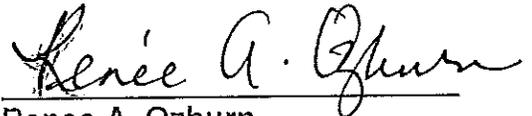
Docket No. 2011-932
Page 4

RECOMMENDED DECISION

I recommend the Board grant the Applicant's exception to 2003 ICC/ANSI A 117.1, Section 404.2.3.1.

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. The Applicant has also shown good cause to grant an exception for additional bathrooms to be renovated during later phases of this project.

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 27th day of July, 2011.



Shirley Dacus
Michigan Administrative Hearing System

Rich VanGorder
Grosse Pointe Public Schools
Defer Elementary School
389 St. Clair Avenue
Grosse Pointe, MI 48230

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

Ehresman Associates, Inc.

architects • engineers

RECEIVED

JUN 9 2011

06 June 2011

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Michigan Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Plan Review Division
PO Box 30254
Lansing, MI 48909
2501 Woodlake Circle
Okemos, MI 48864

RE: Grosse Pointe Public School System
Defer Elementary School
Restroom Alteration
Application for Barrier Free Design Rule Exception
EA Project No. 7510
BCC Job No. 97667 – Wayne – 1

Dear Todd,

We are requesting this project be approved for a Barrier Free Design Rule Exception, based upon the Historic Nature of the building, the extent of the interior alteration of the project and the existing structural integrity of the building. Altering the doorway in the historic corridor, which are constructed of masonry, with plaster and wood finishes could be a very costly and time consuming addition to an otherwise straight forward restroom remodeling project. It is the owner's intent to have this project start as soon as school is out for the summer and be completed and open for the 2011-2012 school year.

This project is Phase One of an interior restroom alteration at Defer Elementary School. It consists of remodeling three (3) restrooms of the six (6) total in the building. The school district intends on remodeling the remaining three (3) restrooms during the summer next year. Each phase of this alteration contains a similar door issue. We are requesting approval for both phases.

Defer Elementary School was built in 1923 and is registered with the National Registry of Historic Buildings, we've attached a photo of the plaque indicating Historic Status, as well as a few photos of the overall building and restrooms, for your reference. The restrooms to be remodeled as a part of this project are original to the building. The fixtures, plumbing, HVAC, finishes, etc. are all approximately 88 years old, long past the estimated useful life of such items.

The project currently includes replacement of the existing doors on the second and third floors. The existing doors currently swing into the corridor, the intention of replacing the doors is to reverse the swing, into the restroom. The existing doors meet the barrier free requirement of 32" clear width opening, while in the open position. The restroom walls and ceiling are fire rated, allowing the door to be held in the open position through out the day. The door has a hold open on it, which is engaged at all times students occupy the building, the staff does close and lock the doors after hours and for cleaning purposes.

Enclosed is (1) set of plans and specifications (signed and sealed) for your department's review, along with a check in the amount of \$300.00.

Please **INVOICE** the **GROSSE POINTE PUBLIC SCHOOL SYSTEM** for any additional fees:

Mr. Rich VanGorder
Grosse Pointe Public School System
389 St. Clair
Grosse Pointe, MI 48230

Please note, approval for the above mentioned project has been provided, contingent upon the following barrier free items, we've attached the plan review letter for your reference:

2009 Michigan Building Code – Usha Menon

1. We understand that the project does not meet the maneuvering clearance for swinging doors per ICC/ANSI A117.1, Section 404.2.3.1. The minimum clearance of 48" on the latch side approach to the doorway is not met on the second and third floors due to the existing wall construction.

Per our phone conversation, we are moving forward with construction based upon the conditional approval of the project, the general contractor will be applying for all permits. Per our earlier conversation, we further understand that any invoices must be paid prior to issuance of the permits. We understand that the barrier free design rule exception process should not interfere with the project's progress and construction completion prior to the start of the 2011-2012 school year. A temporary certificate of occupancy may be required, should the design rule exception process not be complete by the time the new school year starts.

If you should have any questions, or require additional information, please contact this office.

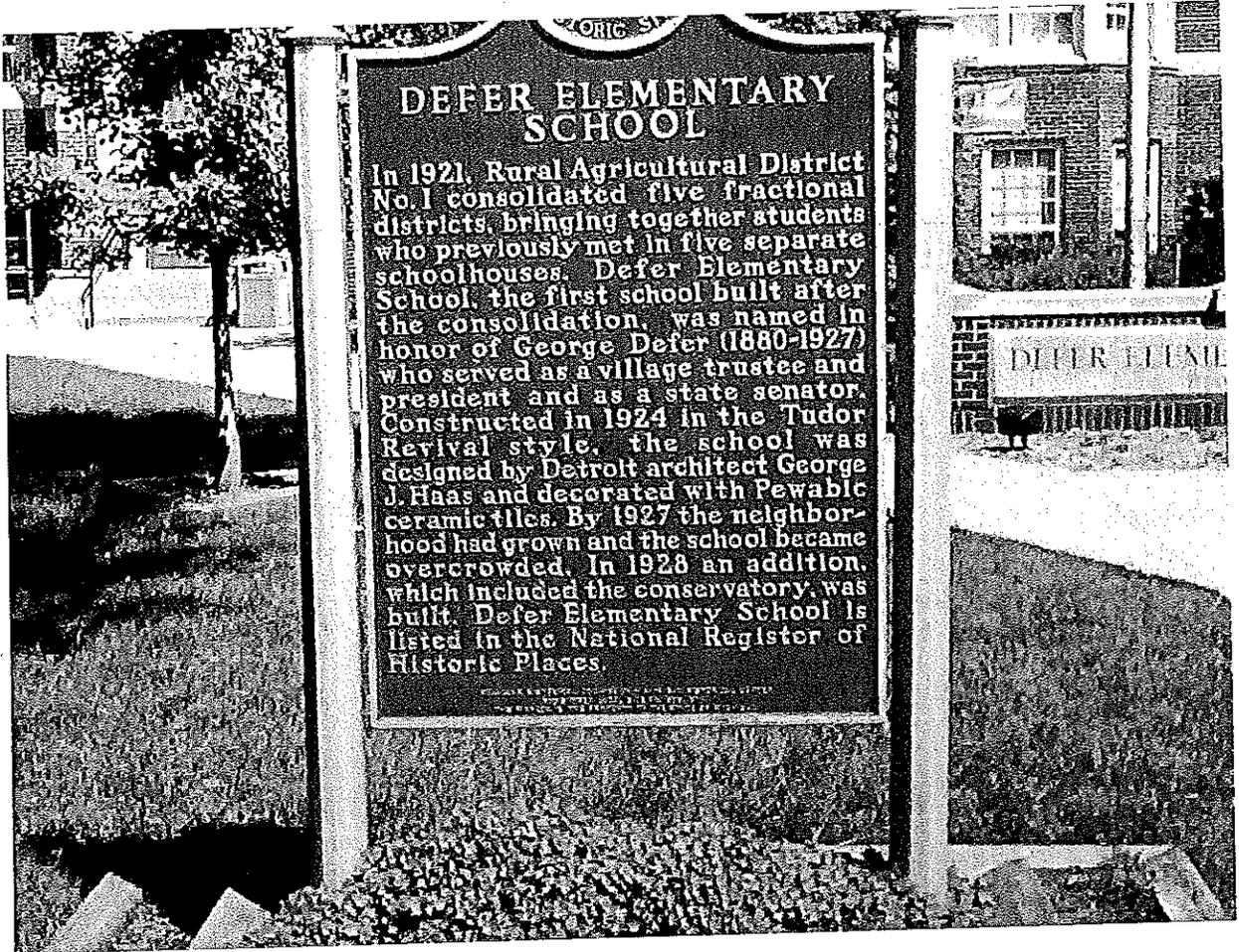
Sincerely,



Angela Burke
Architectural Designer
angela@ehresmanassociates.com

cc: C. Fenton, GPPSS
R. VanGorder, GPPSS
A. Sheridan, GPPSS
B. Wiemer, Axiom Construction Services Group, LLC.
D. Mougrabi, Axiom Construction Services Group, LLC.

7510 Defer Restrooms\documents\Barrier Free Design Rule Exception BCC



Lawn Sign

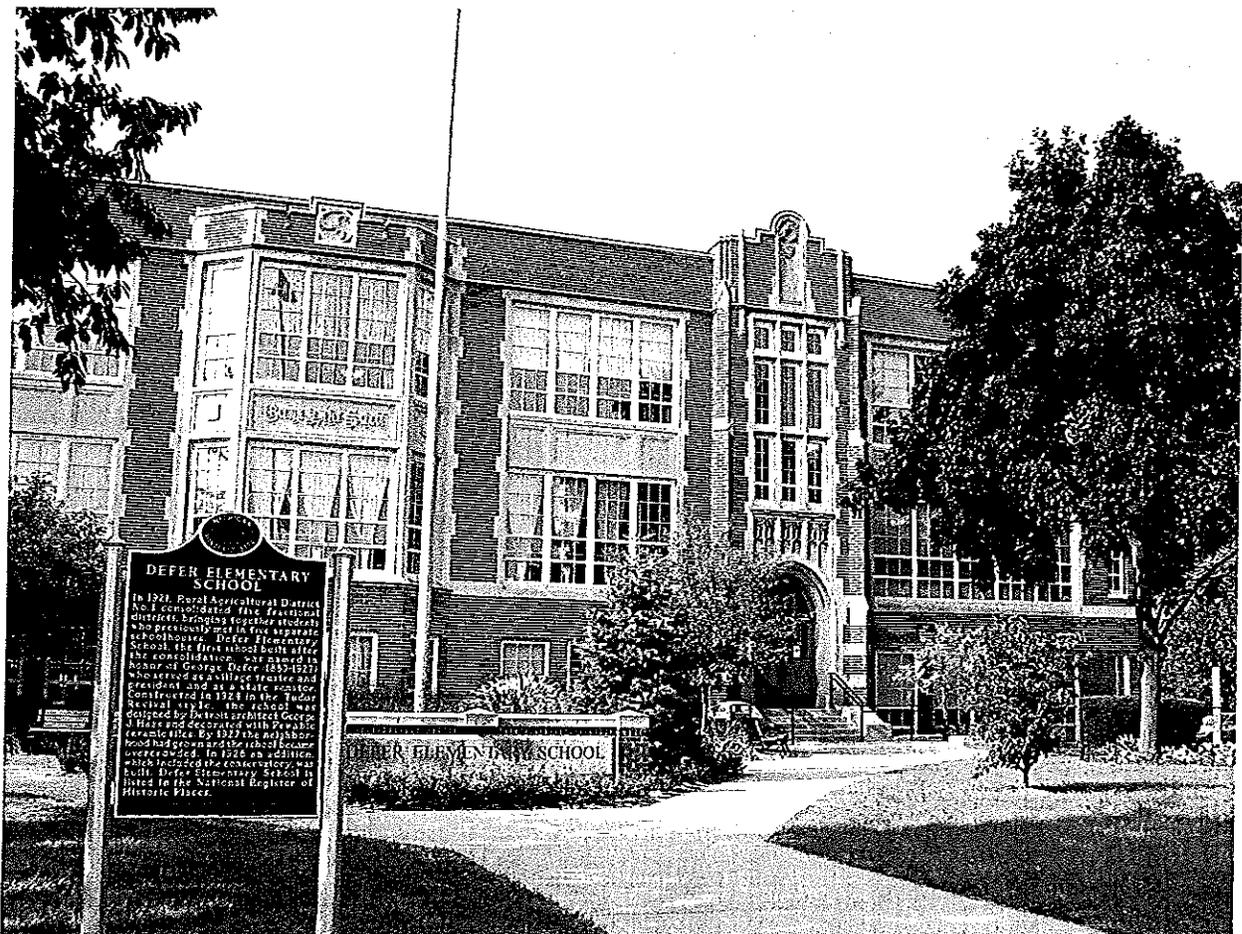


State Register Certificate



Typical existing door on the second and third floors.

Front entrance of the Elementary School (below)



82
A



RICK SNYDER
GOVERNOR

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

STEVEN H. HILFINGER
DIRECTOR

April 18, 2011

Mr. Rich VanGorder
Grosse Pointe Public School System
389 St Clair
Grosse Pointe, MI 48230

RE: Project Number: 97667 - Wayne - 1	Use Group:	E
Arch. Project Number: 7510	Construction Type:	IIB
Defer Elementary School	Square Footage:	Alt 793
15425 Kercheval		
Grosse Pointe Park, MI		
Description: Boys Restroom Remodel		

Dear Mr. VanGorder:

Enclosed please find 1 set of approved construction documents for the above referenced project. This project has been reviewed for compliance with the 2009 edition of the Michigan Mechanical Code, 2008 edition of the Michigan Electrical Code, 2009 edition of the Michigan Building Code and 2009 edition of the Michigan Plumbing Code. This approval is subject to item(s) noted herein and field inspection. **One set of approved construction documents and all plan review correspondence shall be placed on the project site in accordance with the code.**

2009 Michigan Building Code - Usha Menon

1. ICC/ANSI A117.1, Section 404.2.3.1 - Maneuvering clearance for swinging doors shall comply with Table 404.2.3.1, as follows:

On latch side approach from the pull side the minimum clearance shall be 48 inches (54 inches if closer is provided). For the toilet doors in the second and third floors.

2. If compliance can not be achieved barrier free design rule exception is required.

Providing for Michigan's Safety in the Built Environment

BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254 • LANSING, MICHIGAN 48909
Telephone (517) 241-9328 • Fax (517) 241-9308
www.michigan.gov/dleg

Mr. Rich VanGorder

Page 2

April 18, 2011

2009 Michigan Plumbing Code - Peter Ingalls

- 1. MPC, Section 607.1 - Tempered water shall be supplied through a water temperature limiting device that conforms to ASSE 1070, as referenced in Chapter 13 of the code, and shall limit the tempered water to a maximum of 110°F (43°C). This provision shall not supersede the requirement for protective shower valves in accordance with Section 424.3 of the code.

Tempered water shall be supplied to bathing and hand washing facilities in the occupancies identified in subdivision (a) to (h) of this subrule by individual water temperature limiting devices to individual fixtures.

- (a) Elementary schools.
- (b) Child care centers.
- (c) Day care centers.
- (d) Nurseries.
- (e) Adult group homes.
- (f) Adult congregate homes.
- (g) Children's camps.
- (h) At accessible plumbing fixtures.

- 2. MPC, Section 901.2.1 - Every trap and trapped fixture shall be vented in accordance with one of the venting methods specified in Chapter 9 of the code.
- 3. MPC, Section 1002.4 - Where a trap seal is subjected to loss by evaporation, a trap seal primer valve shall be installed.

Upon receipt of payment for the enclosed invoice, our approval will be forwarded to the code official. If you have any questions regarding your plan review, contact the Plan Review Division at (517) 241-9328.

Sincerely,



Todd Y. Cordill, NCARB
Chief, Plan Review Division

TYC/hf

Enclosure

cc: BCC - Electrical, Building, Mechanical, Plumbing Division(s)
Ehresman Associates Inc - Dale Ehresman

Application for Barrier Free Design Rule Exception
 Michigan Department of Licensing and Regulatory Affairs
 Bureau of Construction Codes / Plan Review Division
 P.O. Box 30255, Lansing, MI 48909
 517-241-9328
 www.michigan.gov/bcc

98 665

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	LARA is an equal opportunity employer/program. Auxiliary aids, service 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 Defer Elementary School		STREET / SITE ADDRESS 15425 Kercheval		
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: Grosse Pointe Park				COUNTY Wayne
Estimated Project Cost \$ 161,000.00		Estimated Cost of Compliance \$		
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 E	CONSTRUCTION TYPE II B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 2003 ICC/ANSI A117.1, SECTION 404.2.3.1 Reason for Non-Compliance see attached letter				
ENFORCING AGENCY STATE OF MICHIGAN, BUREAU OF CONSTRUCTION CODES		BUILDING OFFICIAL NAME TODD CORDILL		REGISTRATION NUMBER 4994
ADDRESS P.O. BOX 30255		CITY LANSING	STATE MI	ZIP CODE 48909
TELEPHONE NUMBER (Include Area Code) (517) 241-9328		E-MAIL ADDRESS cordillt@michigan.gov		FAX NUMBER (Include Area Code) (517) 241-9308
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME Ehresman Associates, Inc.		LICENSED INDIVIDUAL Dale Ehresman		MICHIGAN LICENSE NUMBER 18759
ADDRESS 803 W. Big Beaver Rd Ste 350		CITY Troy	STATE MI	ZIP CODE 48084
TELEPHONE NUMBER (Include Area Code) (248) 244-9710		APPLICANT (Note: All correspondence will be sent to this address)		
COMPANY NAME Grosse Pointe Public School System		APPLICANT NAME Rich VanGorder		FEIN OR SS NO.* (Required)
ADDRESS 389 St. Clair		CITY Grosse Pointe	STATE MI	ZIP CODE 48230
TELEPHONE NUMBER (Include Area Code) (313) 432-3082		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) 432-3086		APPLICANT SIGNATURE (Must be an original signature) Rich VanGorder		
		DATE		

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

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of

Docket No. 2011-933

Robert Trombly Elementary School
820 Beaconsfield
Grosse Pointe Park, MI,
Applicant

Agency No. 98667

Agency: Bureau of
Construction Codes

Case Type: Barrier Free Design
Exception Request

EXCEPTION APPLICATIONS
06. 98667

4.

RECEIVED
JUL 28 2011

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Issued and entered
this 27th day of July, 2011
by Renée A. Ozburn
Administrative Law Judge

REPORT OF THE 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 exceptions from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on July 26, 2011, in Lansing, Michigan. Marc Chamberlin and Angela Burke appeared on behalf of Robert Trombly Elementary School (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 2003 ICC/ANSI A 117.1, Section 404.2.3.1.

FINDINGS OF FACT

1. The Applicant is renovating bathrooms on the first and second floor of a school building constructed in 1927.
2. The bathroom doors do not have the 18" clearance required under current Codes.
3. The Applicant seeks an exception to restructuring the doorways because the masonry, marble wall panels, mechanical and electrical systems and unknown structural nuances of this 84 year old building make compliance technically infeasible.
4. The doors to the school bathrooms remain open at all times except when the building is closed to the public. When the doors are open they have a 36" clearance that meets accessibility standards.
5. Automatic door openers would be a financial hardship and unnecessary because the doors will remain open at all times during the day.
6. Although the current exception request is for the first phase of work on school bathrooms, the remaining bathrooms in the school will be renovated during later phases and have the exact same structural/technical feasibility issues.

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 proven a compelling need to grant the exception requests. The structural/technical infeasibilities and costs of making the doorways compliant are prohibitive and unnecessary because there is full alternative accessibility through the practice of having the doors open at all times when they are available for public use.

RECOMMENDED DECISION

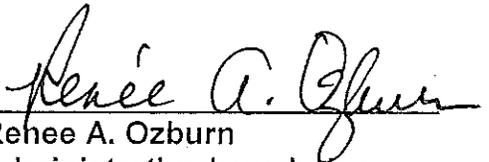
I recommend the Board grant the Applicant's exception to 2003 ICC/ANSI A 117.1, Section 404.2.3.1.

Docket No. 2011-933

Page 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. The Applicant has also shown good cause to grant an exception for additional bathrooms to be renovated during later phases of this project.

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 27th day of July, 2011.



Shirley Dacus
Michigan Administrative Hearing System

Rich VanGorder
Grosse Pointe Public Schools
Robert Trombly Elementary School
389 St. Clair Avenue
Grosse Pointe, MI 48230

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

Ehresman Associates, ...c.

architects • engineers

RECEIVED

06 June 2011

JUN 10 2011

Michigan Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Plan Review Division
PO Box 30254
Lansing, MI 48909
2501 Woodlake Circle
Okemos, MI 48864

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

RE: Grosse Pointe Public School System
Trombly Elementary School
Restroom Alteration
Application for Barrier Free Design Rule Exception
EA Project No. 7610
BCC Job No. 97666 – Wayne – 1

Dear Todd,

We are requesting this project be approved for a Barrier Free Design Rule Exception, based upon the Historic Nature of the building, the extent of the interior alteration of the project and the existing structural integrity of the building. Altering the doorway in the historic corridor, which are constructed of masonry, with marble and plaster finishes could be a very costly and time consuming addition to an otherwise straight forward restroom remodeling project. It is the owner's intent to have this project start as soon as school is out for the summer and be completed and open for the 2011-2012 school year.

This project is Phase One of an interior restroom alteration at Trombly Elementary School. It consists of remodeling two (2) restrooms of the four (4) total in the building. The school district intends on remodeling the remaining two (2) restrooms during the summer next year. Each phase of this alteration contains a similar door issue. We are requesting approval for both phases.

Trombly Elementary School was built in 1927, we've attached a few photos of the overall building and restrooms, for your reference. The restrooms to be remodeled as a part of this project are original to the building. The fixtures, plumbing, HVAC, finishes, etc. are all approximately 84 years old, long past the estimated useful life of such items.

The project does not include replacement of the existing doors, limiting the work to the interior of the restrooms only. The existing doors meet the barrier free requirement of 32" clear width opening, while in the open position. The restroom walls and ceiling are fire rated, allowing the door to be held in the open position through out the day. The door has a hold open on it, which is engaged at all times students occupy the building, the staff does close and lock the doors after hours and for cleaning purposes.

Enclosed is (1) set of plans and specifications (signed and sealed) for your department's review, along with a check in the amount of \$300.00.

Please **INVOICE** the **GROSSE POINTE PUBLIC SCHOOL SYSTEM** for any additional fees:

Mr. Rich VanGorder
Grosse Pointe Public School System
389 St. Clair
Grosse Pointe, MI 48230

Please note, approval for the above mentioned project has been provided, contingent upon the following barrier free items, we've attached the plan review letter for your reference:

2009 Michigan Building Code – Usha Menon

1. We understand that the project does not meet the maneuvering clearance for swinging doors per ICC/ANSI A117.1, Section 404.2.3.1. The minimum clearance of 18" on the pull side parallel to the doorway beyond the latch for a frontal approach at the door on the first and second floor is not met.

Per our phone conversation, we are moving forward with construction based upon the conditional approval of the project, the general contractor will be applying for all permits. Per our earlier conversation, we further understand that any invoices must be paid prior to issuance of the permits. We understand that the barrier free design rule exception process should not interfere with the project's progress and construction completion prior to the start of the 2011-2012 school year. A temporary certificate of occupancy may be required, should the design rule exception process not be complete by the time the new school year starts.

If you should have any questions, or require additional information, please contact this office.

Sincerely,



Angela Burke
Architectural Designer
angela@ehresmanassociates.com

cc: C. Fenton, GPPSS
R. VanGorder, GPPSS
A. Sheridan, GPPSS
G. Degenhardt, Degenhardt & Sons, Inc.

7610 Trombly Restrooms\documents\Barrier Free Design Rule Exception BCC

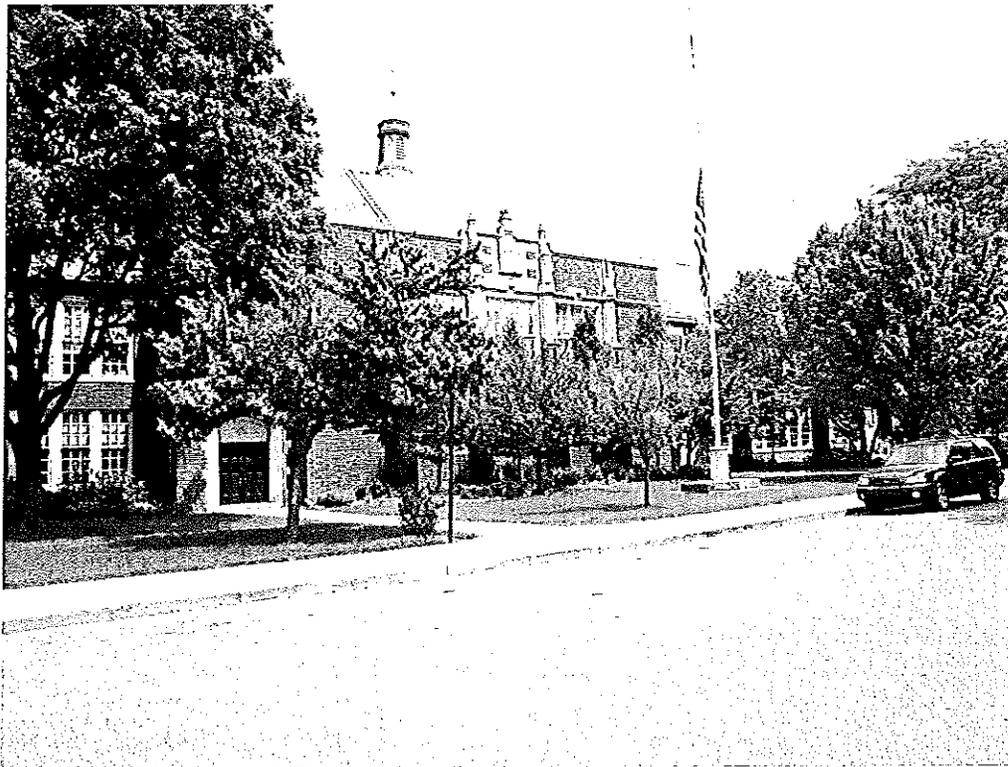


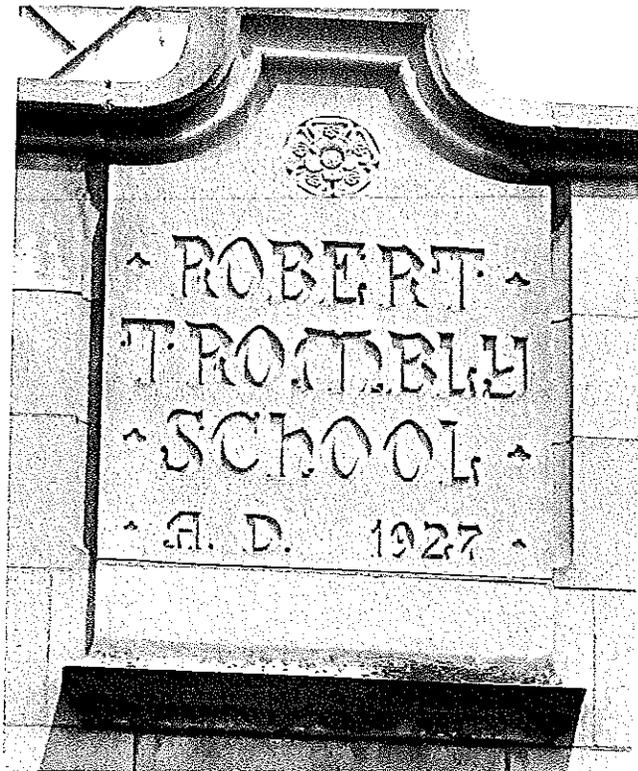
Typical existing door to remain on the first and second floors, in the closed position.

Typical existing door to remain on the first and second floors, in the open position.



Front entrance of the Elementary School (below)





Cornerstone on Building

94
A



RICK SNYDER
GOVERNOR

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

STEVEN H. HILFINGER
DIRECTOR

April 18, 2011

Mr. Rich VanGorder
Gross Pointe Public School System
389 St Clair
Grosse Pointe, MI 48230

RE: Project Number: 97666 - Wayne - 1	Use Group:	E
Arch. Project Number: 7610	Construction Type:	IIB
Robert Trombly Elementary School	Square Footage:	Alt 378
820 Beaconsfield		
Grosse Pointe Park, MI		
Description: Girl's Restroom Remodel		

Dear Mr. VanGorder:

Enclosed please find 1 set of approved construction documents for the above referenced project. This project has been reviewed for compliance with the 2009 edition of the Michigan Mechanical Code, 2008 edition of the Michigan Electrical Code, 2009 edition of the Michigan Building Code and 2009 edition of the Michigan Plumbing Code. This approval is subject to item(s) noted herein and field inspection. One set of approved construction documents and all plan review correspondence shall be placed on the project site in accordance with the code.

2009 Michigan Plumbing Code - Peter Ingalls

1. MPC, Section 607.1 - Tempered water shall be supplied through a water temperature limiting device that conforms to ASSE 1070, as referenced in Chapter 13 of the code, and shall limit the tempered water to a maximum of 110°F (43°C). This provision shall not supersede the requirement for protective shower valves in accordance with Section 424.3 of the code.

Tempered water shall be supplied to bathing and hand washing facilities in the occupancies identified in subdivision (a) to (h) of this subrule by individual water temperature limiting devices to individual fixtures.

- (a) Elementary schools.
- (b) Child care centers.

Providing for Michigan's Safety in the Built Environment

BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254 • LANSING, MICHIGAN 48909
Telephone (517) 241-9328 • Fax (517) 241-9308
www.michigan.gov/dleg

Mr. Rich VanGorder
 Page 2
 April 18, 2011

- (c) Day care centers.
 - (d) Nurseries.
 - (e) Adult group homes.
 - (f) Adult congregate homes.
 - (g) Children's camps.
 - (h) At accessible plumbing fixtures.
2. MPC, Section 901.2.1 - Every trap and trapped fixture shall be vented in accordance with one of the venting methods specified in Chapter 9 of the code.
 3. MPC, Section 1002.4 - Where a trap seal is subjected to loss by evaporation, a trap seal primer valve shall be installed.

2009 Michigan Building Code - Usha Menon

1. ICC/ANSI A117.1, Section 404.2.3.1 - Maneuvering clearance for swinging doors shall comply with Table 404.2.3.1. as follows:

For front approach doors on the pull side the minimum clearance shall be 18 inches parallel to the doorway beyond the latch. Doors to the toilet rooms in first and second floors.

2. If compliance can not be achieved, barrier free design rule exception is required.

Upon receipt of payment for the enclosed invoice, our approval will be forwarded to the code official. If you have any questions regarding your plan review, contact the Plan Review Division at (517) 241-9328.

Sincerely,



Todd Y. Cordill, NCARB
 Chief, Plan Review Division

TYC/hf

Enclosure

cc: BCC - Electrical, Building, Mechanical, Plumbing Division(s)
 Ehresman Associates Inc - Dale Ehresman

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JUN 10 2011

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BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Application for Barrier Free Design Rule Exception
Michigan Department of Licensing and Regulatory Affairs
Bureau of Construction Codes / Plan Review Division
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

Application Fee: \$300.00

98 667

Authority: 1966 PA 1
Completion: Mandatory
Penalty: Exception will not be granted
LARA 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 Trombly Elementary School			STREET / SITE ADDRESS 820 Beaconsfield	
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: Grosse Pointe Park			COUNTY Wayne	
Estimated Project Cost \$ 118,000.00			Estimated Cost of Compliance \$	
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 E	CONSTRUCTION TYPE II B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 2005 ICC/ANSI A117.1, SECTION 404.2.3.1 Reason for Non-Compliance see attached letter				
ENFORCING AGENCY STATE OF MICHIGAN, BUREAU OF CONSTRUCTION CODES		BUILDING OFFICIAL NAME TODD CORDILL		REGISTRATION NUMBER 4994
ADDRESS P.O. BOX 30255	CITY LANSING	STATE MI	ZIP CODE 48909	TELEPHONE NUMBER (Include Area Code) (517) 241-9328
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>[Signature]</i>		DATE 20 June 2011	E-MAIL ADDRESS cordill@michigan.gov	FAX NUMBER (Include Area Code) (517) 241-9308
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME Ehresman Associates, Inc.		LICENSED INDIVIDUAL Dale Ehresman		MICHIGAN LICENSE NUMBER 18759
ADDRESS 803 W. Big Beaver Rd Ste 350	CITY Troy	STATE MI	ZIP CODE 48084	TELEPHONE NUMBER (Include Area Code) (248) 244-9710
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME Grosse Pointe Public School System		APPLICANT NAME Rich VanGorder		FEIN OR SS NO.* (Required)
ADDRESS 389 St. Clair	CITY Grosse Pointe	STATE MI	ZIP CODE 48230	TELEPHONE NUMBER (Include Area Code) (313) 432-3082
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) 432-3086
APPLICANT SIGNATURE (Must be an original signature) <i>Richard VanGorder</i>			DATE	

JUL 29 2011

The STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

In the matter of	Docket No.	2011-930
Beethoven Apts Bottom Line Coffee House 4474 Third Avenue Detroit, MI, Applicant	Agency No.	98464
_____ /	Agency:	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

EXCEPTION APPLICATIONS
07. 98464
4.

Issued and entered
this 28th day of July, 2011
by Renée A. Ozburn
Administrative Law Judge

REPORT OF THE 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 July 26, 2011, in Lansing, Michigan. Alphonso Harris appeared on behalf of Beethoven Apts Bottom Line Coffee House (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 1105.1.

FINDINGS OF FACT

1. The Applicant has received city and state approval to operate a coffee shop in a 500 square foot commercial space in a 28-apartment residential structure, located in Detroit, Michigan. The structure, built in 1921, has an historic designation. The coffee house qualifies as a change of use because the former commercial operation is thought to have been a grocery store.
2. The coffee house is to be in a below ground level space that is accessible only by stairs. The entrance to both the apartment building itself and the coffee house are not structurally amenable to ramps or lifts because of the lack of clearance between the front of the building and the street and the lack of adjacent clearances on either sides of the building. There is no elevator in the building and residents have to be able bodied to ambulate to and from apartments.
3. The Applicant is planning to have seating for 15 to 18 people and will provide coffee and baked goods that are brought into the building.
4. The City of Detroit is working with the Applicant to approve a plan for providing pick up and delivery of coffee/baked goods in front of the building which would allow a person to call for service and coffee/baked goods could be delivered at the curb or on the sidewalk.

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 creating accessibility to the space in question is technically and structurally infeasible. The plans for a delivery service that would service customers directly outside of the coffee store will provide an alternative means of getting the product from the store to non-able bodied customers in the vicinity. Therefore, the Applicant has shown a compelling need and reasonable alternatives justifying an exception to the requirements of 2009 Michigan Building Code Section 1105.1.

Docket No. 2011-930

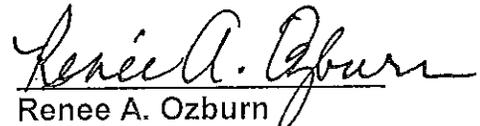
Page 4

RECOMMENDED DECISION

I recommend the Board grant the Applicant's request for exception from 2006 Michigan Building Code, Section 1105.1.

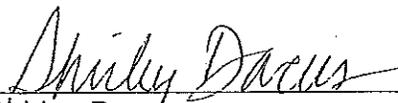
As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

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 28th day of July, 2011.



Shirley Dacus
Michigan Administrative Hearing System

Al Harris
The Bottom Line Coffee House
4474 Third Street, #B2
Detroit, MI 48201

Daljit Benipal
City of Detroit
2 Woodward Avenue
Suite 411
Detroit, MI 48226

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

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MAY 26 2011

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

McCleer | Architetto
4736 Avery
Detroit Michigan 48208
313 831 8116
mccarch@flash.net

April 29, 2011

Re. Application for Barrier Free Design Rule Exception
The Bottom Line Coffee House
Beethoven Apartments
4474 Third Ave
Detroit MI

It is technically infeasible to meet all the applicable Barrier Free requirements of the Michigan Building Code 2006 for the above Coffee House project. This letter details the reasons why, citing the 2006 Michigan Building Code (as all the Beethoven's building permits have been pulled under the 2006 Michigan Building code).

I. Description of Project

The Beethoven Apartments were built in 1921. It is a building type common in Detroit: a 3-1/2 story (with the basement level approx. 4 feet below grade) brick-exterior apartment building. The Beethoven has a single, center corridor with stairways at both ends. The building never had an elevator.

The building almost completely fills its 62' x 120' lot (please see attached drawings TS-1, enlargement of TS-1, and A-1) The building's exterior walls are tight to the West (Third Ave), North (Prentis St) and East (alley) property lines. The building's South wall is set back approx. 5 feet from the South property line.

Historically, the upper three floors of the building had 10 apartments per floor; the basement had two commercial lease spaces at its Third Avenue side, with the rest of the basement housing a boiler room, laundry, storage, and two apartments. The rehabilitation of the building retained this same division of uses within the building.

Historically, the building did not provide on-site parking for either its residents or for the two commercial spaces.

The Beethoven is located in and is a "contributing" building to the City of Detroit Warren-Prentis Historic District. The Beethoven's owner applied for and received approval from the City of Detroit Historic District Commission for the building's rehabilitation.

The Beethoven is also located in and is a “contributing” building to the National Register of Historic Places Historic District. The Beethoven applied for and received Federal and State of Michigan Historic tax credits for its rehabilitation.

II. Barrier Free Code Requirements

At present, each of the Beethoven’s two existing commercial lease spaces has its own independent exterior access, via exterior concrete stairs that date from the building’s 1921 construction. The existing basement floor level is approximately 34” below the existing exterior grade level.

If the Beethoven were a new structure, the MBC2006 would require barrier-free access to these commercial spaces in the basement level.

III. Request for Barrier Free Design Rule Exception

MBC2006 Code-compliant Barrier-free access to the existing basement level could be provided by an elevator, a ramp, or a wheelchair-lift device. We believe that, because of the existing physical parameters of the Beethoven building, these three means are technically infeasible.

A. Elevator

A new elevator would have to travel the vertical distance of half of one floor, from the exterior grade level to the basement level. This elevator would be required to have doors on two different faces: one door to open at the exterior grade level, the other door to open to the basement level. This elevator would also have to fit within the existing Beethoven’s building envelope, as there is no other possible location on the property.

The elevator could **not** be located off the present apartment lobby facing Third Avenue, because there is an existing single step at the exterior, and because the existing grade level lobby would not have the required BF clearances. Further, locating an elevator here (or anywhere along the building elevations that face Third Avenue or Prentis Street) would result in alterations to the façade(s) that would not be approved by the City of Detroit Historic District Commission or the State of Michigan SHPO office.

If this new elevator were located at the South elevation, the entrance to a new grade-level lobby for this elevator would have to be located off the South yard, the existing steps and entry to the existing basement Lease Space B-2 would have to be relocated to the east; both the first floor apartment above and the south façade would have to be altered; and the elevator would provide BF access only to Lease Space B-2 and not Lease Space B-1.

B. Ramp

A new ramp from the existing exterior grade level to the existing basement level would have physical dimensions (per the required one-in-twelve slope, and the required width of 42" with handrails at both sides) of 40' long by 4' wide.

This ramp could neither be located within the building's footprint, nor could it be located in the public right-of-ways at the two street facades. Nor could it be located in the south yard, as the ramp's length and the required clearances at a relocated entrance/exit door (MBC2006 BF 404.2.3.1) make it impossible (see attached Enlargement of TS-1 with putative ramp sketch).

C. Wheelchair-lift Device

The physical dimensions of this device and its outward-swinging door requirements would preclude locating this in any area except the south yard; and if located here, it would block any exit travel to Third Avenue and/or the existing steps to Lease Space B-2. It is physically impossible to locate a wheelchair lift in the south yard.

The three means of providing Barrier Free access to the existing basement level are all technically infeasible, if not physically impossible and fiscally prohibitive.

Sincerely,



Michael J. McCleer

Cc: Alphonso C. Harris, Sr. The Bottom Line Coffee House
Scott Lowell Beethoven Apartments

Enclosures: 1. Application for Barrier Free Design Rule Exception
2. Drawings (all dated 01.28.2008)

- TS-1 Site Plan
- TS-1 Site Plan (enlarged)
- A-1 Basement Plan

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PLAN REVIEW DIVISION

Renovations to the Beethoven Apartments

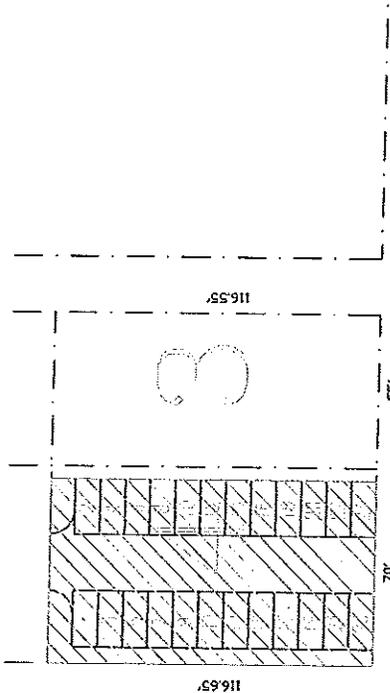
List of Drawings

- T-1 Title Sheet, Site Plan, Pertinent Data
- CD-1 Civil Data & Site Allowance Data
- A-1 General Level Architectural Floor Plan
- A-2 Typical Architectural Floor Plan - Floors 1 through 3
- A-3 Roof Plan
- A-4 Building Elevations
- A-5 Third Ave. Signage Elevation Details
- S-1 Basement Ceiling / New Floor Structural Plan
- S-2 Roof Deck Structural Framing Plan
- S-3 General Level Plumbing & HVAC Plan
- M-1 Typical Floor Plumbing & HVAC Plan - Floors 1 through 3
- M-2 Plumbing DWV Schematics
- E-1 General Level Electrical Plan
- E-2 Typical Floor Electrical Plan - Floors 1 through 3
- E-3 Electrical Panel Schedules & Riser Diagrams

McClerk
Architects

1111 Broadway
New York, NY 10036
Tel: 212 512 1111

Professional Seal
Architect License No. 11111



Pertinent Data

PROJECT DATA
PROJECT ADDRESS

START LEVEL: 000' ETD (1st Floor)
 CITY AND STATE: NEW YORK, NY
 JOB NO.: 11111
 DATE: 11/11/11
 DRAWN BY: J. J. J.
 CHECKED BY: J. J. J.
 PROJECT NAME: RENOVATIONS TO THE BEEHIVEN APARTMENTS

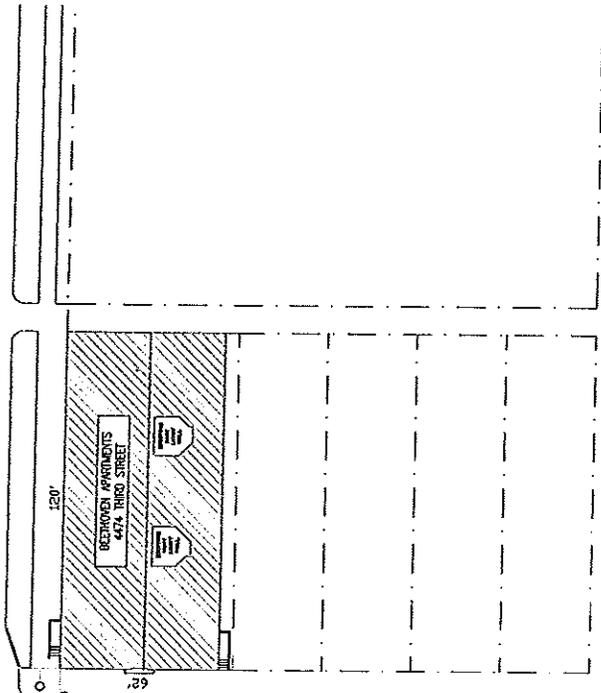
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SECOND FLOOR	1,477 SF	1,477 SF	1,477 SF	1,477 SF	1,477 SF	1,477 SF	1,477 SF	1,477 SF
THIRD FLOOR	1,477 SF	1,477 SF	1,477 SF	1,477 SF	1,477 SF	1,477 SF	1,477 SF	1,477 SF
TOTAL	4,431 SF	4,431 SF	4,431 SF	4,431 SF	4,431 SF	4,431 SF	4,431 SF	4,431 SF

SCOPE OF PROJECT

THE PROJECT CONSISTS OF THE RENOVATION OF THE EXISTING BEHIVEN APARTMENTS BUILDING AT 47TH STREET AND 1111 BROADWAY, NEW YORK, NY. THE PROJECT INCLUDES THE RENOVATION OF THE EXISTING BUILDING TO MEET THE REQUIREMENTS OF THE CITY OF NEW YORK AND THE STATE OF NEW YORK. THE PROJECT ALSO INCLUDES THE RENOVATION OF THE EXISTING BUILDING TO MEET THE REQUIREMENTS OF THE CITY OF NEW YORK AND THE STATE OF NEW YORK.

LIST OF OTHER RELATED DRAWINGS

THE PROJECT IS IN THE CITY OF NEW YORK, NEW YORK. THE PROJECT HAS BEEN APPROVED BY THE CITY OF NEW YORK AND THE STATE OF NEW YORK. THE PROJECT HAS BEEN APPROVED BY THE CITY OF NEW YORK AND THE STATE OF NEW YORK.



Project Site Plan
SCALE: 1/8" = 1'-0"

Renovations to the Beethoven Apartments
1111 Broadway, New York, NY 10036
Tel: 212 512 1111

Revised:	10/22/2007
Revised:	11/20/2007
Revised:	01/07/2008
Revised:	01/28/2008

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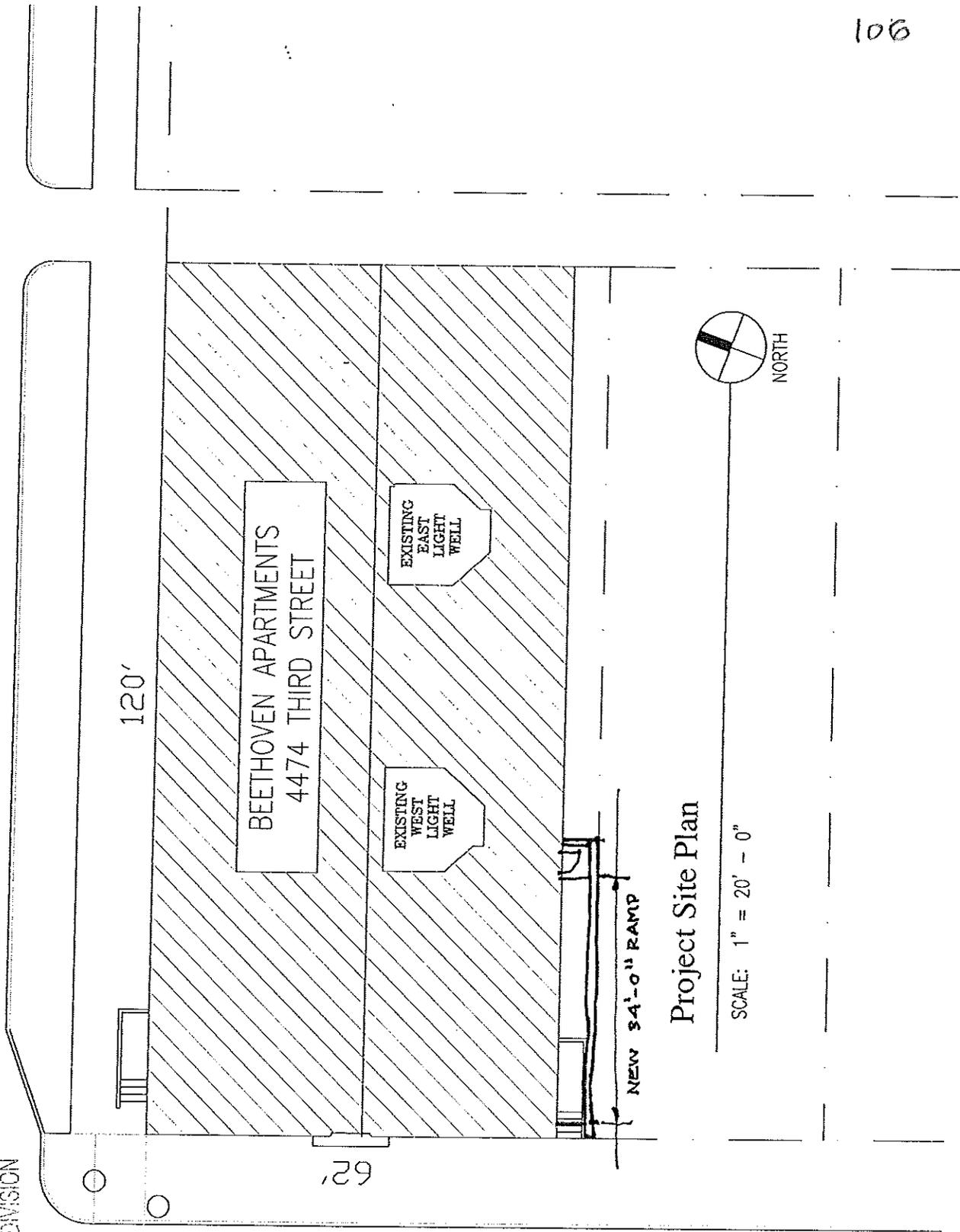
Prentis Avenue

MAY 26 2011

60' ROW

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Third Avenue
70' ROW



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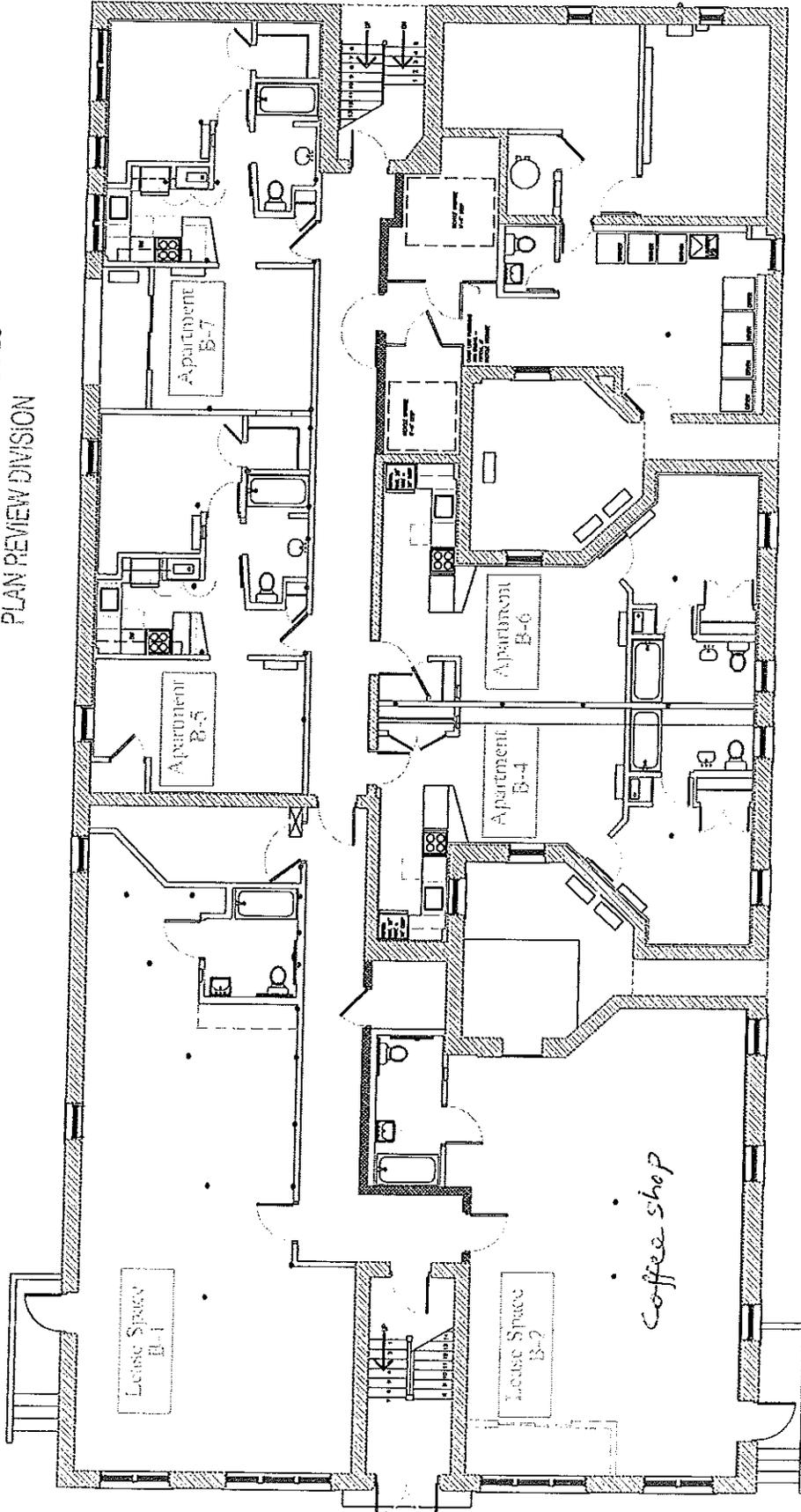
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BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

McCleer
Architetto

D.M. VOTI
Principal Architect (A201)
(1111 N. W. 11th St.)

CONSTRUCTION
REVISIONS



WALL SCHEDULE

- 1. EXTERIOR WALL / INTERIOR CLIFF
- 2. INTERIOR WALL TO ROOM
- 3. CORE WALL
- 4. CORE WALL TO CORE WALL
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Ground Level Architectural Floor Plan
Scale: 1/8" = 1'-0"

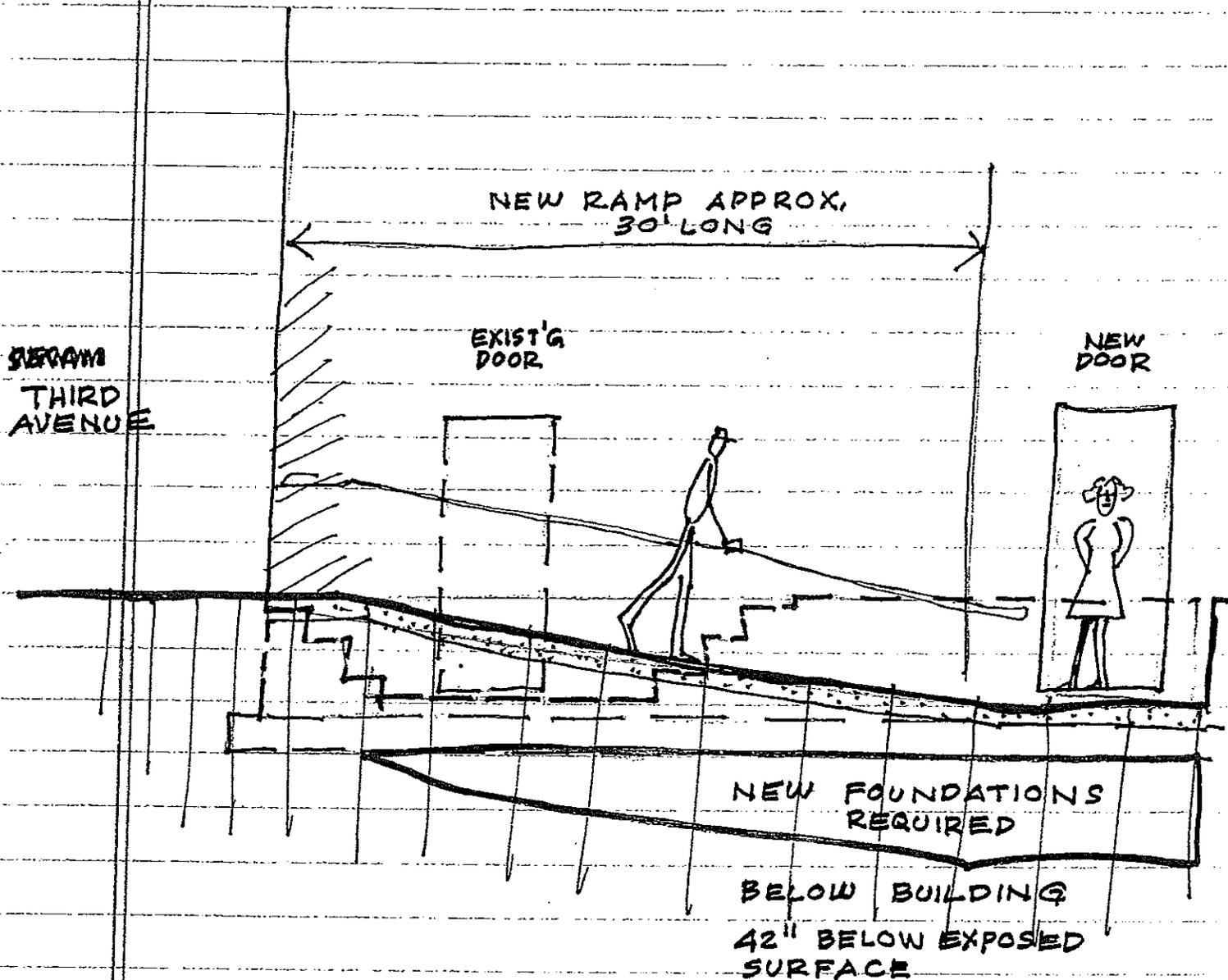
Renovations to the Beehives Apartments
1111 North West 11th Street
Miami, Florida 33136

Project	04.11.2007
Issue	05.23.2007
Revised	05.12.2007
Revised	11.20.2007
Revised	01.07.2008
Revised	01.23.2008

A 1

MBL 2006

3402.1 "Technically Infeasible"



BEETHOVEN APARTMENTS
DETROIT MI

PARTIAL SOUTH ELEVATION

04.19.2011

RECEIVED

Application for Barrier Free Design Rule Excepti
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes & Fire Safety

Plan Review Division
P.O. Box 30255
Lansing, MI 48909
517-241-9328
www.michigan.gov/bccfs

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Agency Use Only

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.
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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 Beethoven Apts/The Bottom Line Collective		STREET / SITE ADDRESS 4474 Third Street	
NAME OF CITY, VILLAGE, OR TOWNSHIP IN WHICH THE FACILITY IS LOCATED <input checked="" type="checkbox"/> CITY <input type="checkbox"/> VILLAGE <input type="checkbox"/> TOWNSHIP OF: Detroit MI 48201			COUNTY WAYNE
ESTIMATED PROJECT COST \$ 5000-		ESTIMATED COST OF COMPLIANCE \$	
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 PRV 2011-00181	
IS A TEMPORARY EXCEPTION REQUESTED? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		PERIOD OF TIME REQUESTED?	CONSTRUCTION TYPE A-2 II B
PROJECT DOES NOT COMPLY WITH BARRIER FREE DESIGN REQUIREMENTS AS FOLLOWS: MICHIGAN BUILDING CODE SECTION(S): MBC 2009 section 1105 REASON FOR NON-COMPLIANCE: EXISTING BUILDING, EXISTING CONDITIONS, NO PLACE TO PROVIDE ACCESSIBLE RAMP			
NAME DALJIT SINGH BENIPAL		ENFORCING AGENCY CITY OF DETROIT	
ADDRESS 2 Woodward Ave, Suite 409		CITY DETROIT	TELEPHONE NUMBER (Include Area Code) 313-224-0297
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>[Signature]</i>		ZIP CODE 48226	FAX NUMBER (Include Area Code) 313-224-1634
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
NAME		MICHIGAN LICENSE NUMBER	FIRM NAME
ADDRESS		CITY	STATE ZIP CODE TELEPHONE NUMBER (Include Area Code)
APPLICANT (Note: All correspondence will be sent to this address)			
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Al Haeris Jr.		COMPANY NAME The Bottom Line Collective	SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 4474 Third St # B2		CITY Detroit	STATE ZIP CODE TELEPHONE NUMBER (Include Area Code) MI 48201 734 657-0807
I certify that 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) 734 879-1237
APPLICANT SIGNATURE (Must be an original signature) <i>[Signature]</i>		DATE 4/29/2011	

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of

Promotion
29755 Beck Road
Wixom, MI,
Applicant

Docket No. 2011-1000

Agency No. 98739

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

EXCEPTION APPLICATIONS
8. 98739
4.

RECEIVED

AUG 11 2011

Issued and entered
this 10th day of August, 2011
by J. Andre Friedlis
Administrative Law Judge

BUREAU OF CONSTRUCTION RECORDS
PLAN REVIEW DIVISION

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 24.101 *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 August 9, 2011, at the Michigan Administrative Hearing System, Ottawa State Office Building, 611 West Ottawa, 2nd Floor, Lansing, Michigan. Present were John Lipchik, Building Official for the city of Wixom and James Greene, representing the Plan Review Division. No one appeared on behalf of the Applicant.

Docket No. 2011-1000
Page 2

ISSUE

Should an exception be granted from Section 1104.4 of the 2009 Michigan Building Code (MBC)?

FINDINGS OF FACT

After discussion between the Mr. Lipchik and Mr. Greene, it was concluded that no exception is needed. The mezzanine level is below 3000 square feet.

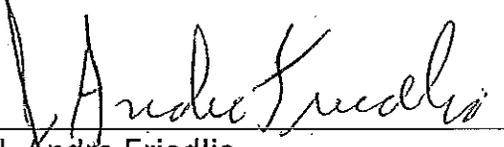
CONCLUSIONS OF LAW

No exception is required since the mezzanine level will be below the 3000 square foot limit permitted in Rule 1104.4 Exception 1.

RECOMMENDED DECISION

I recommend the Board acknowledge that no exception is needed from Rule 1104.4 of the MBC.

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



J. Andre Friedlis
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 10th day of August, 2011.



Shirley Dacus
Michigan Administrative Hearing System

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

Kevin Atkinson
Atkinson Construction
9808 Mandon
White Lake, MI 48386

John R. Lipchik
City of Wixom
49045 Pontiac Trail
Wixom, MI 48393



04/05/2011

Kevin Atkinson Construction
9898 Mandon
White Lake, MI 48386

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JUN 16 2011

TYPE OF CONSTRUCTION	3B
USE GROUP	B
OCCUPANT LOAD	??
BUILDING CODE	2009 Michigan Building Code

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

th

RE: PLAN REVIEW AT 29755 BECK RD

Dear Kevin,

Your building application to renovate the second floor has been **Denied**. The corrections need to be added on revised plans, clouded and 3 complete sets shall be resubmitted. The corrections are:

1. **Code Section 1104.4 Multilevel buildings and facilities.** At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.
Exceptions:
 1. An accessible route is not required to stories and mezzanines above and below accessible levels that have an aggregate area of not more than 3,000 square feet (278.7 m²). This exception shall not apply to:
 - 1.1. Multiple tenant facilities of Group M occupancies containing five or more tenant spaces;
 - 1.2. Levels containing offices of health care providers (Group B or I); or
 - 1.3. Passenger transportation facilities and airports (Group A-3 or B).
 2. In Group A, I, R and S occupancies, levels that do not contain accessible elements or other spaces required by Section 1107 or 1108 are not required to be served by an accessible route from an accessible level.
 3. In air traffic control towers, an accessible route is not required to serve the cab and the floor immediately below the cab.

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JUN 16 2011

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

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

98 739

Application Fee: \$300.00

Authority: 1956 PA 1	DELEG is an equal opportunity employer/program. Auxiliary & request to individuals with disabilities.
Completion: Mandatory	
Penalty: Exception will not be granted	

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 <u>Promotion</u>	STREET / SITE ADDRESS <u>29755 Beck Rd</u>
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: <u>Wixom</u>	COUNTY <u>Oakland</u>
Estimated Project Cost \$	Estimated Cost of Compliance \$
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 <u>PB11-0018</u>
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	PERIOD OF TIME REQUESTED? <u>Permanent</u> USE GROUP <u>B</u> CONSTRUCTION TYPE <u>3B</u>
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) <u>MBC 1104.4</u> Reason for Non-Compliance <u>The mezzanine exceeds 3000 square feet</u>	
ENFORCING AGENCY <u>City of Wixom</u>	BUILDING OFFICIAL NAME <u>John R Lipchik</u> REGISTRATION NUMBER <u>4937</u>
ADDRESS <u>491073</u> 48393 Pontiac trail CITY <u>Wixom</u>	STATE <u>MI</u> ZIP CODE <u>48393</u> TELEPHONE NUMBER (include Area Code) <u>248-624-0880</u>
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <u>John R. Lipchik</u> DATE <u>6-16-11</u>	E-MAIL ADDRESS <u>JLipchik@wixomgov.org</u> FAX NUMBER (include Area Code) <u>248-624-0867</u>
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)	
COMPANY NAME <u>FRANKLIN ASSOCIATES</u>	LICENSED INDIVIDUAL <u>JEREMY FRANKLIN</u> MICHIGAN LICENSE NUMBER
ADDRESS <u>1310 HARDWAY</u> CITY <u>W. ANTHONY</u> STATE <u>MI</u>	ZIP CODE <u>48106</u> TELEPHONE NUMBER (include Area Code) <u>248-568-1456</u>
APPLICANT (Note: All correspondence will be sent to this address)	
COMPANY NAME <u>ATKINSON CONSTRUCTION</u>	APPLICANT NAME <u>KEVIN ATKINSON</u> FEIN OR SS NO.* (Required)
ADDRESS <u>9808 MANLY RD</u> CITY <u>WIDE LAKE</u> STATE <u>MI</u>	ZIP CODE <u>48186</u> TELEPHONE NUMBER (include Area Code) <u>248-310-2573</u>
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.	
APPLICANT SIGNATURE (Must be an original signature) <u>[Signature]</u>	DATE <u>6-14-11</u>

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

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of	Docket No.	2011-1070
Pulver Brothers Sinclair Filling Station 127 West Grand River Avenue Lansing, MI, Applicant	Agency No.	98946
	Agency:	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

4. EXCEPTION APPLICATIONS
9. 98946

Issued and entered
this 12th day of August, 2011
by J. Andre Friedlis
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 24.101 *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 August 9, 2011, at the Michigan Administrative Hearing System, Ottawa State Office Building, 2nd Floor, 611 West Ottawa Street, Lansing, Michigan. Present were Building Owner Dale Schrader and Ken Jones, Architect representing the Applicant; John Miller, prospective tenant; James Bennett, representing the Lansing Building Official; and James Greene, representing the Plan Review Division of the Bureau of Construction Codes.

Docket No. 2010-836

Page 2

ISSUE

Should the Barrier Design Board grant the Applicant exceptions from Sections 1105.1 and 1109.2 of the 2006 Michigan Building Code (MBC)?

FINDINGS OF FACT

Building Owner Schrader purchased the 186 square foot building at issue in 2008 for \$25,000. He has since spent \$60,000 on a new roof and overhang, repairing and replacing oak wood trim, installing new electrical wiring, and brick repair. Pictures of this structure have been sent to the Plan Review Division and are available for Board review.

This structure was built in 1925 and has been boarded up for 50 years. The gas tanks used when it was an active gas station were removed 60 years ago. The building has been an "eyesore" for many years. The city of Lansing is pleased that Mr. Schrader has made these renovations and hope the structure can be used for the business planned by Mr. Miller. The Building Official supports the Board's approval of the exceptions requested by the Applicant.

Applicant Exhibit 1 is a letter from Historical Architect McKay of the Michigan State Housing Development authority to Mr. Schrader. Mr. McKay reports that this property is one of a very few filling stations from the early 20th century:

* * *

As we have discussed this property was surveyed as part of the context development work associated with the creation of the Automobile National Heritage Area (ANHA). As a part of the study this property was determined to be one of only a handful of early 1900's filling stations remaining throughout the state in near original condition. The ANHA was established to help highlight the role that the development and popularization of the private car has played in shaping our communities, lives, state and nation.

Docket No. 2011-1070

Page 3

You have indicated that you are being asked to install a new barrier free toilet room in this approximately 200 sq. ft. building. While we do understand this requirement as it relates to both rehabilitation and new construction projects, we are concerned that this requirement would substantially diminish the qualities and characteristics of the building which result in its eligibility for listing on the National Register of Historic Places. Specifically the construction of an approximately 80 sq. ft. barrier free restroom in this predominately intact building interior would virtually eliminate a persons ability to experience and understand how the space was used historically. While in other instances this might not be a critical issue, filling stations from this particular era are remarkably uncommon especially those with historically significant interiors.

* * *

Mr. Miller proposes to lease this structure as a coffee shop. There will be a walk up window to purchase coffee on the west side of the building and a drive up location on the north side. No coffee will be sold inside. Three employees will work in this business. During warm weather, Mr. Miller may provide outside seating although this has not been finally determined. As matters now stand, he hopes to open for business with the Board's approval in October 2011.

As explained by Architect Jones, there are two entrances to the building - on the west and north. The west entrance is 30 inches wide. Enlarging this opening would require cutting into the masonry walls. The north entrance does not have enough interior space for maneuvering once the coffee equipment is installed.

A barrier free toilet would require at least 50 square feet. Adding this facility would make it impossible to install coffee making equipment and operate the business.

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 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 1105.1 of the 2006 MBC provides:

1105.1 Public entrances. In addition to accessible entrances required by Sections 1105.1.1 through 1105.1.6, at least 60 percent of all public entrance shall be accessible. (Exceptions omitted)

Section 1109.2 of the 2006 MBC provides:

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 omitted)

Docket No. 2011-1070

Page 5

The Applicant is unable to satisfy these provisions without making the building unusable as a coffee shop. The building only has 186 square feet. Mr. Miller's business plan and Mr. Schrader's renovations promise to make a 1925 building again usable as an active business with three employees.

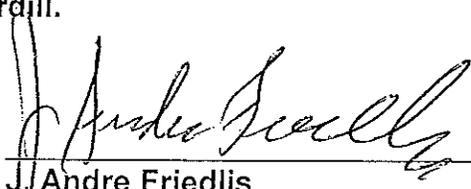
Compelling need based on lack of space and cost justifies approving the Applicant's requests for exception for the building entrances and bathroom.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Sections 1105.1 and 1109.2 of the 2006 Michigan Building Code (MBC).

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.



J. Andre Friedlis
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 12th day of August, 2011.



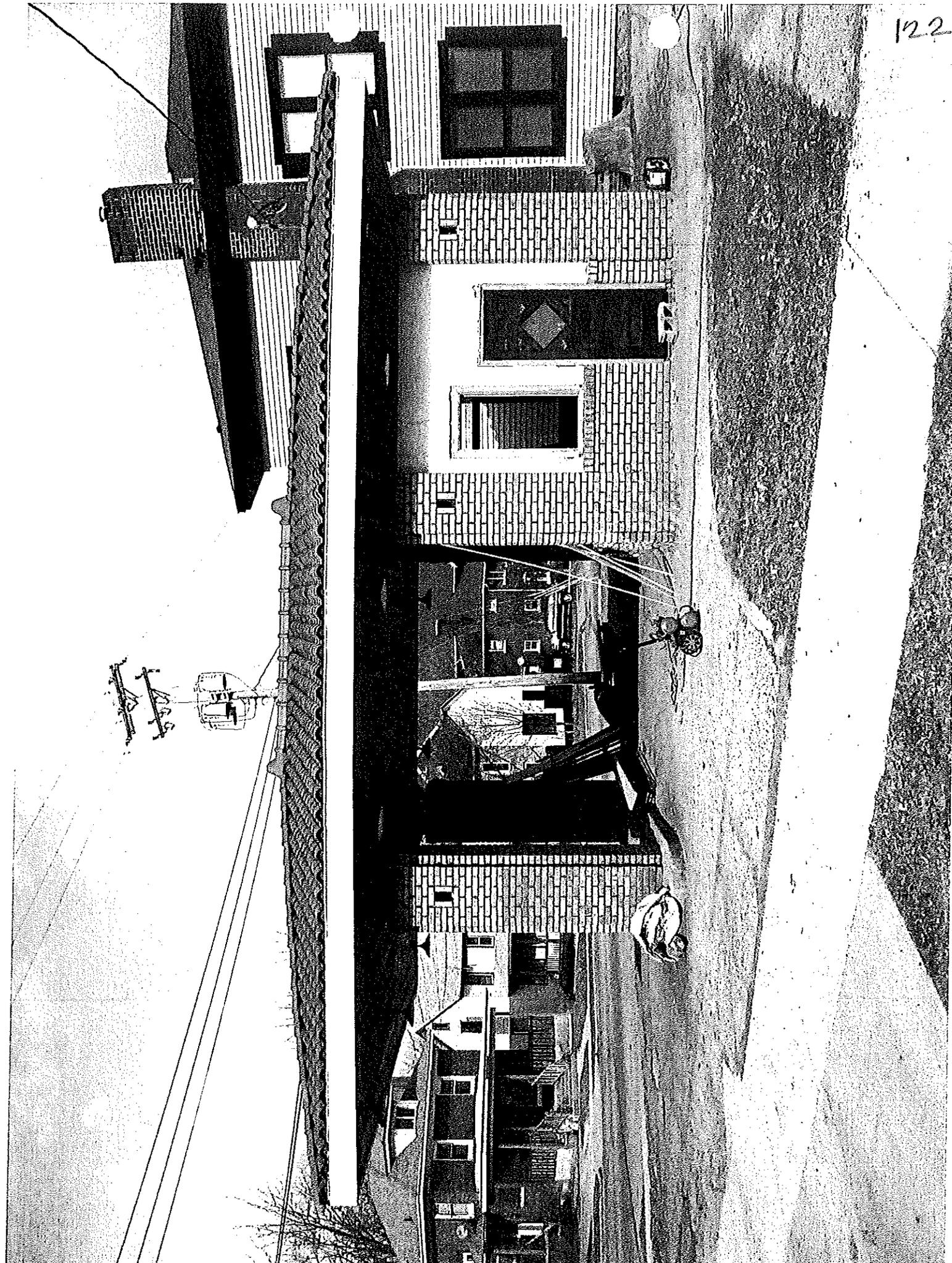
Shirley Dacus
Michigan Administrative Hearing System

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

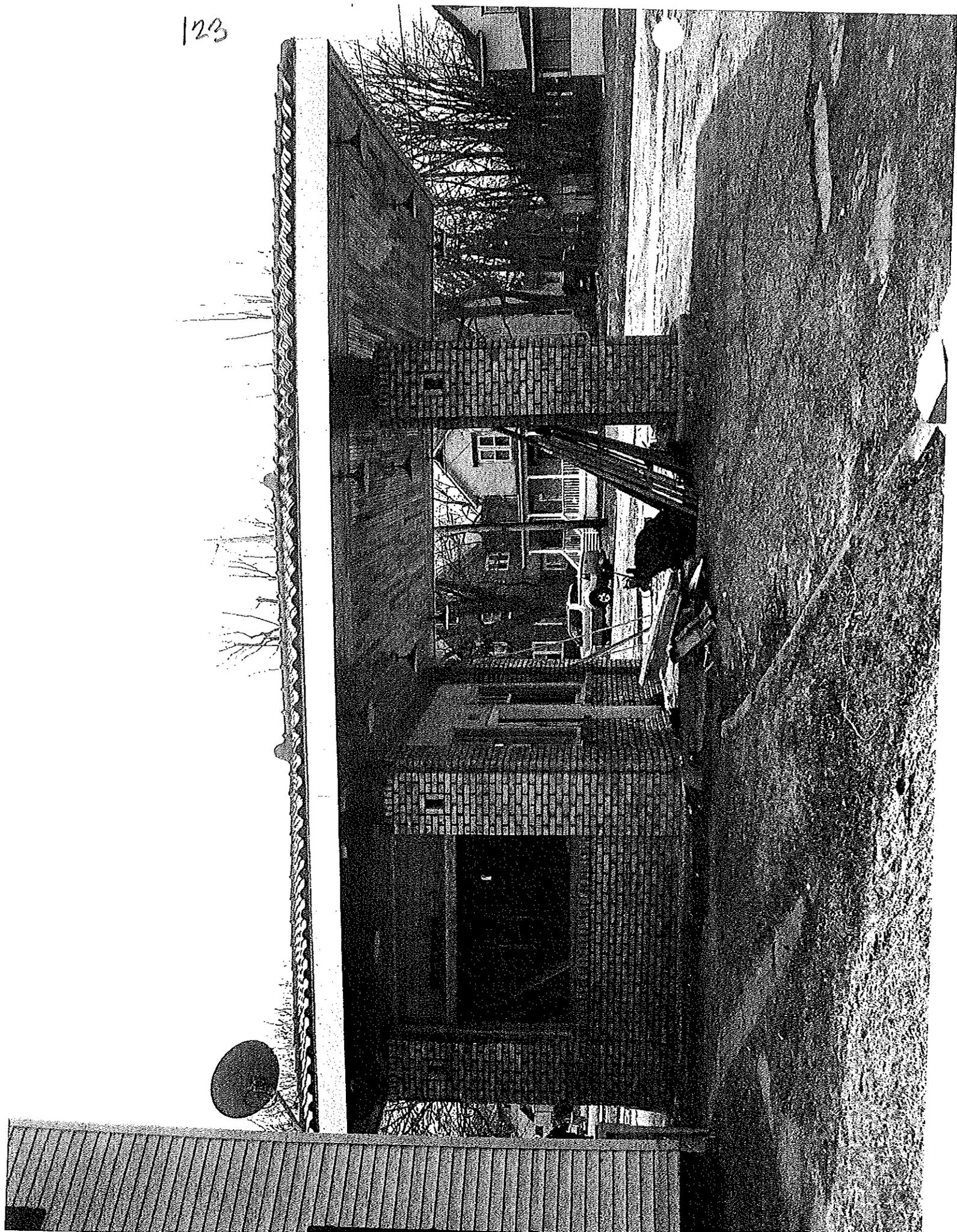
Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Dale Schrader
SA Properties, LLC
212 South Pine River Avenue
Ithaca, MI 48847





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JUL 13 2011

Application for Barrier Free Design Rule Exception

Michigan Department of Licensing and Regulation
Bureau of Construction Codes / Plan Review
P.O. Box 30255, Lansing, MI 48909
517-241-9328

98946

BUREAU OF CONSTRUCTION CODES

www.michigan.gov/bcc

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	LARA 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 Pulver Brothers Sinclair Filling Station		STREET / SITE ADDRESS 127 W. Grand River Ave. Lansing, MI 48906		
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 \$ 90,000.00		Estimated Cost of Compliance \$		
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
Is a Temporary Exception Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? Perm	USE GROUP B	CONSTRUCTION TYPE VB
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1109.2, 1105.1 Reason for Non-Compliance SIZE OF BUILDING DOES NOT ALLOW FOR REQUIRED CLEARANCES AT DOORS & TOILET ROOM W/ USABLE SPACE REMAINING.				
ENFORCING AGENCY City of Lansing		BUILDING OFFICIAL NAME Christine Segerlind		REGISTRATION NUMBER 002846
ADDRESS 316 N. Capital	CITY Lansing	STATE MI	ZIP CODE 48993	TELEPHONE NUMBER (Include Area Code) 517-483-4375
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>[Signature]</i>		DATE 7/13/11	E-MAIL ADDRESS csgerlind@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 KENNETH L. JONES II		MICHIGAN LICENSE NUMBER 54003
ADDRESS 1114 S. WASHINGTON	CITY LANSING	STATE MI.	ZIP CODE 48910	TELEPHONE NUMBER (Include Area Code) (517) 372-8804
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME SA Properties, LLC		APPLICANT NAME Dale Schrader		FEIN OR SS NO.* (Required)
ADDRESS 212 S. Pine River Ave.	CITY Ithaca	STATE MI	ZIP CODE 48847	TELEPHONE NUMBER (Include Area Code) (989) 875-6500
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) (989) 875-8880
APPLICANT SIGNATURE (Must be an original signature) <i>[Signature]</i>			DATE 5/11/11	

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

Schedule of Meetings/Hearings

2012

Bureau/Commission/Office: Bureau of Construction Codes	
Board/Council/Commission: Barrier Free Design Board	
Address: 2501 Woodlake Circle	Telephone: (517) 241-9328
City: Okemos	Michigan Zip Code: 48864
Contact Person: Margarita Torres	Date: 09/09/2011

The meeting site and parking is accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative format) in order to participate in the meeting should call Margarita Torres at 517/241-9328 at least 10 work days before the event. LARA is an equal opportunity employer/program. The Division on Deafness will provide assistance in locating assistive listening devices or interpreters, with advance notice, at (517) 373-1837.



X	Regular Meeting	Special Meeting	Rescheduled Meeting
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DATE	TIME	LOCATION
01/13/2012	9:30 am	Conference Room No. 3, 2501 Woodlake Circle, Okemos, MI
03/16/2012	9:30 am	Conference Room No. 3, 2501 Woodlake Circle, Okemos, MI
05/11/2012	9:30 am	Conference Room No. 3, 2501 Woodlake Circle, Okemos, MI
07/13/2012	9:30 am	Conference Room No. 3, 2501 Woodlake Circle, Okemos, MI
09/14/2012	9:30 am	Conference Room No. 3, 2501 Woodlake Circle, Okemos, MI
11/09/2012	9:30 am	Conference Room No. 3, 2501 Woodlake Circle, Okemos, MI

The above is provided pursuant to Sections 4 and 5 of Act 267 of Public Acts of 1976, being Sections 15.264 and 15.265 of the Michigan Compiled Laws.