



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

AMENDED
AGENDA

January 13, 2012
9:30 a.m.

1. **Call to Order and Determination of Quorum**
2. **Amended Agenda (pages 1-2)**
3. **Approval of Minutes (pages 3-6) Minutes Amended January 10, 2012**
4. **Exception Applications**
 - 01) 99652, Grand Haven Steel Products – Ottawa (pages 7-14)
 - 02) 99716, Wayne County Sheriff Administration Office – Wayne (pages 15-18)
 - 03) 99852, Floyd's Place – Wayne (pages 19-30)
 - 04) 99896, Panera Bread Bakery/Café, Muskegon (pages 31-41)
 - 05) 100038, Crescent Academy – Oakland (pages 42-50)

Added:

 - 06) 101052, Hostel Detroit – Wayne (pages 51-57)
5. **Unfinished Business**
6. **New Business**

Providing for Michigan's Safety in the Built Environment

LARA is an equal opportunity employer
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) 241-9328 • Fax (517) 241-9308

Barrier Free Design Board Meeting Agenda
Page 2
January 13, 2012

7. Remands

97642, Soo Brewing Company – Chippewa (pages 58-76)

8. Staff Report

9. Public Comment

10. Next Meeting – March 16, 2012

11. Adjournment

"The meeting site is accessible, including barrier-free 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."



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

MINUTES
November 18, 2011

MEMBERS PRESENT

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

MEMBERS ABSENT

Mr. Jerry Harkness
Ms. Karla Hudson

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PERSONNEL ATTENDING

Mr. Todd Cordill, Chief, Plan Review Division
Mr. George Herrity, Assistant Chief, Plan Review Division
Ms. Usha Menon, Plan Reviewer
Ms. Margarita Torres, BFD Secretary, Plan Review Division

OTHERS IN ATTENDANCE

Providing for Michigan's Safety in the Built Environment

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P.O. BOX 30254 • LANSING, MICHIGAN 48909
www.michigan.gov/bcc • Telephone (517) 241-9302 • Fax (517) 241-9570

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 Harris and supported by Board Member Domke to approve the amended agenda for the November 18, 2011 Board meeting. **MOTION CARRIED.**

3. **APPROVAL OF MINUTES**

A **MOTION** was made by Board Member DeLeonardis and supported by Board Member Harris to approve the minutes of the September 9, 2011 meeting. **MOTION CARRIED.**

4. **TABLED ITEMS**

None

5. **EXCEPTION APPLICATIONS**

- 01) 98446, Rainbow Child Care Center – Wayne
- 03) 99052, United Way of the Lakeshore, Inc. – Muskegon
- 04) 99185, Swanson’s Adult Foster Care – Oakland
- 05) 99552, Keicher Elementary School – Jackson

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

- 02 99018, Zeigler Honda – Kalamazoo

A **MOTION** was made by Board Member Holt and supported by Board Member Harris to deny relief from the 2009 MBC Section 1104.4 for interior vertical barrier free access to the second floor. The Board does not agree that the elevator

would not be needed since an office area and toilet facilities are provided on the second floor level. Compelling need has not been demonstrated when the cost of an elevator is compared to the overall project cost. No other compelling need has been established in the record that is in accordance with 1966 Public Act 1.
MOTION CARRIED.

6. OTHER BUSINESS

7. REMANDS

None

8. STAFF REPORT

Todd Cordill reported on the following:

The bureau has been given approval by the department to proceed with the 2012 Building Code, Residential Code, and the Rehabilitation Code. This would involve taking the International Codes and doing a study of what has changed versus what we're on now, which is the 2009 code. There will be more information about this matter at the next board meeting.

Mr. Donaldson Asked:

Is the Senate going to follow through with legislation for a six-year cycle instead of a three-year cycle? Since the 2012 code is going to be adopted, the 2009 ANSI Standard A117.1 for barrier free design closely matches the 2010 ADA. It would be a good idea.

Mr. Cordill stated that: we are still under the three year code cycle and the Construction Code Act. It will not be compulsive that it goes to six years. It's giving the department the option to stretch it out to a six year cycle.

9. PUBLIC COMMENT

None

9. PUBLIC COMMENT

None

10. NEXT MEETING

The next meeting will be on January 13, 2012 at 9:30 am.

11. ADJOURNMENT

The meeting adjourned at approximately 10:00 a.m.

Approved: _____
Roger Donaldson, Chairperson

Date: _____

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of	Docket No.	2011-1384
Grand Haven Steel Products 1627 Marion Grand Haven, MI, Applicant	Agency No.	99652
	Agency:	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

2. EXCEPTION APPLICATIONS
02. 99652

RECEIVED
STATE OF MICHIGAN
ADMINISTRATIVE HEARING SYSTEM
NOV 23 2011

Issued and entered
this 17th day of November, 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 November 15, 2011 in Lansing Michigan. Present were Mark Oppenhuizen, Project Architect on behalf of Petitioner, and Usha Menon representing the Bureau of Construction Code's Plan Review Division.

ISSUES

Should the Applicant be granted an exception from Section 1104.3 of the 2009 Michigan Building Code (MBC)?

FINDINGS OF FACT

The Applicant machines steel parts for heavy equipment companies. The east portion of the plant was built in the 1950's; the west portion in the 1970's. The entire plant satisfies barrier free requirements. The company employs 50 to 55 employees; 35 employees work on the first shift. See the photographs in Applicant Exhibit 1.

The Applicant now wishes to build an enclosed 3300 square foot area where trucks can deliver material and the material can be stored inside. The truck well will be 4 feet below the building floor. This placement will allow the truck bed to be level with the building floor to make it easier to unload.

This addition is expected to cost \$213,000. A building permit will be requested this week. Deliveries are expected up to 3 times per week. One to two employees will assist the truck driver to unload material. A crane will also be used for this purpose. No customers will be allowed in the lower level.

It would cost approximately \$20,000 to construct a switch back ramp; this will take approximately 240 square feet. See Applicant Exhibit 2. The Applicant needs all 3,300 square feet for material storage. No employee will need to use the ramp. All employees working in this area must be ambulatory.

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 1104.3 of the MBC provides:

Connected Spaces. When a building or portion of a building is required to be *accessible*, an *accessible route* shall be provided to each portion of the building, to *accessible* building entrances connecting *accessible pedestrian walkways* and the public way. (Exceptions omitted)

Compelling need based on limited use by up to two employees and the need for these employees to be physically able to unload trucks has been presented to support the Applicant's exception request. A person with a disability will not be able to perform the work needed in this truck unloading area. Moreover, no visitors will come to this area. The remainder of the building is barrier free. It would be a waste of resources to require expenditure of \$20,000 for a ramp that will not be used and deprive the Applicant of space needed for material storage.

RECOMMENDED DECISION

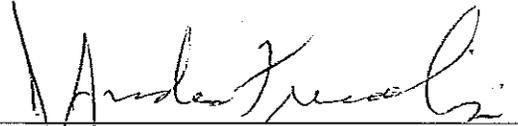
I recommend the Board grant the Applicant an exception from Section 1104.3 of the MBC for access between the two levels of the building described above.

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.

Docket No. 2011-1384

Page 4

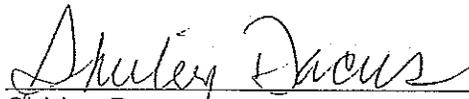
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill



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 17th day of November, 2011.



Shirley Dacus
Michigan Administrative Hearing System

Bruce Dodge
City of Grand Haven
20 N. Fifth Street
Grand Haven, MI 49417

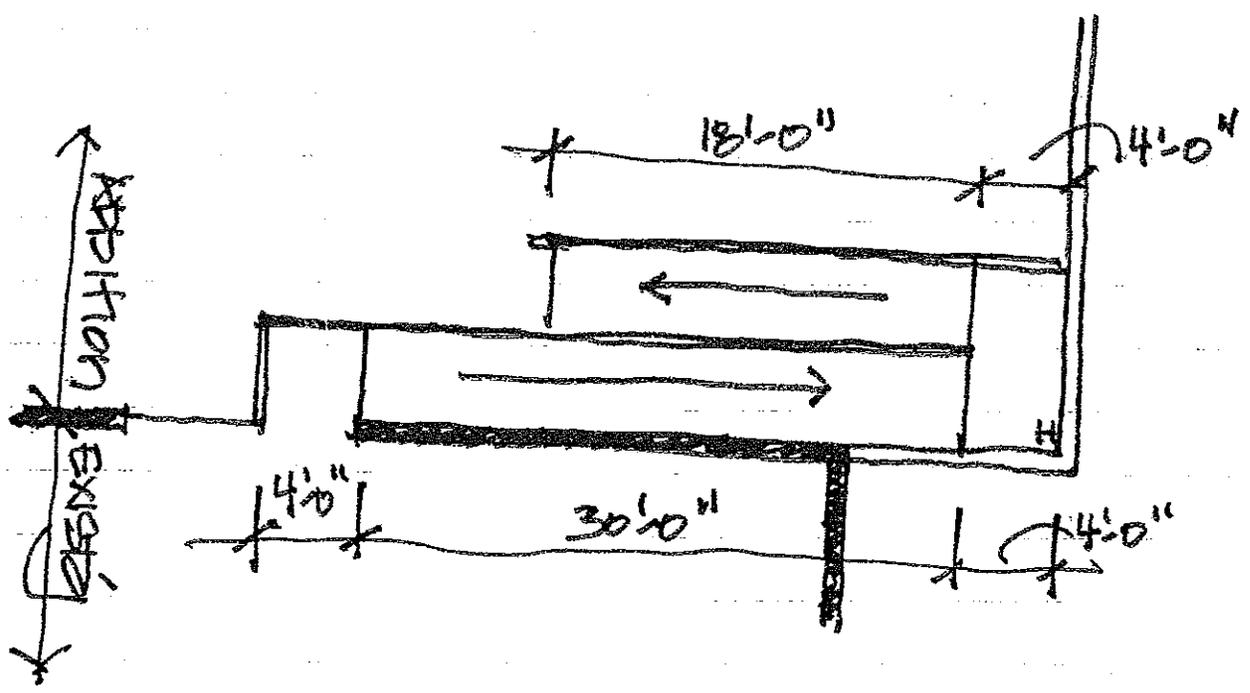
Mark Oppenhuizen
Oppenhuizen Architects
333 Jackson
Grand Haven, MI 49417

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

GRAND HAVEN STEEL PRODUCTS

COMM. NO. 2211

11-14-11



PLAN - RAMP

1/8" = 1'-0"

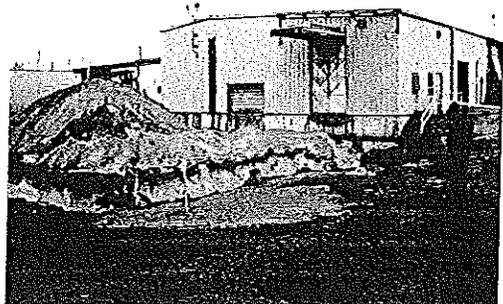
333 Jackson St.
 Grand Haven
 Michigan
 49417
 616 846 8990
 Fax 616 846 8898

OppenhuizenArchitects

Mark A. Oppenhuizen AIA



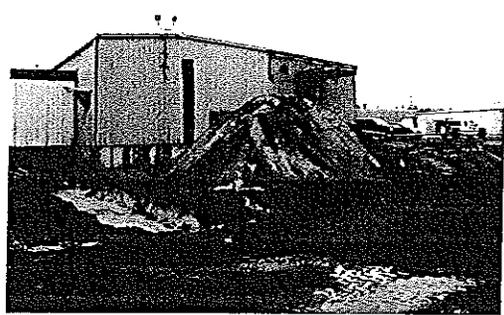
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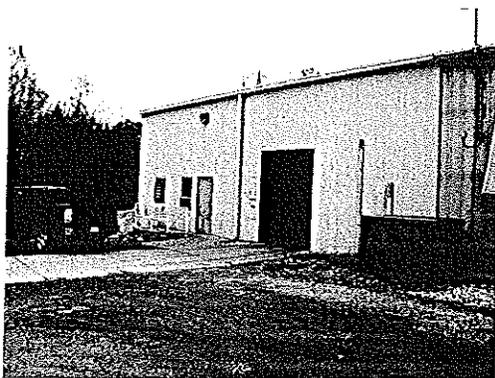
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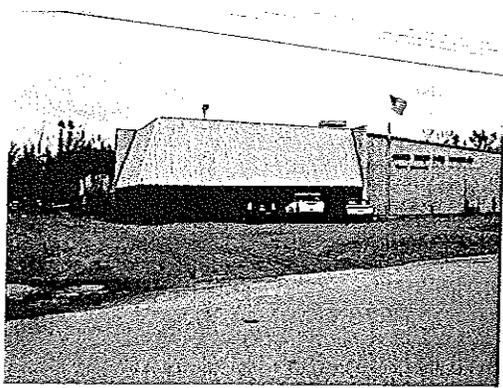
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DSC02285.JPG



DSC02286.JPG



DSC02287.JPG

PHOTOS OF GRAND HAVEN STEEL PRODUCTS.
11-11-11

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

99 2052

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.

Trans Info: 133 17120023-1 09/20/11
 CHK#: 10981 Amt: \$300.00
 ID: OPENHUIZEN ARCHITECTS

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

FACILITY INFORMATION				
FACILITY NAME GRAND HAVEN STEEL PRODUCTS		STREET / SITE ADDRESS 1027 MARION		
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: GRAND HAVEN				COUNTY OTTAWA
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 checked="" type="checkbox"/> New Building		<input 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 F-2	CONSTRUCTION TYPE 3-B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1104 Reason for Non-Compliance No Ramps or LIFT IS BEING PROVIDED BETWEEN THE TWO LEVELS BUT THERE STAIRS.				
ENFORCING AGENCY City of Grand Haven		BUILDING OFFICIAL NAME Bruce Dodge		REGISTRATION NUMBER 2586
ADDRESS 20 N FISH	CITY Grand Haven	STATE MI	ZIP CODE 49417	TELEPHONE NUMBER (Include Area Code) 616-935-3225
BUILDING OFFICIAL SIGNATURE (Must be an original signature) Bruce Dodge		DATE 8-29-11	E-MAIL ADDRESS bdodge@grandhaven.mi	FAX NUMBER (Include Area Code) 616-844-2051
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME OPENHUIZEN ARCHITECTS		LICENSED INDIVIDUAL MARK A. OPENHUIZEN		MICHIGAN LICENSE NUMBER 29909
ADDRESS 333 JACKSON ST.	CITY GRAND HAVEN	STATE MICHIGAN	ZIP CODE 49417	TELEPHONE NUMBER (Include Area Code) 616-846-8990
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME OPENHUIZEN ARCHITECTS		APPLICANT NAME MARK A. OPENHUIZEN		FEIN OR SS NO. * (Required)
ADDRESS 333 JACKSON	CITY GRAND HAVEN	STATE MI.	ZIP CODE 49417	TELEPHONE NUMBER (Include Area Code) 616-846-8990
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) 616-846-8998
APPLICANT SIGNATURE (Must be an original signature) Mark A. Openhuizen			DATE September 19, 2011	

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

<p>In the matter of</p> <p>Wayne County Sheriff Administration Office 4747 Woodward Detroit, MI, Applicant</p> <hr/>	<p>Docket No. 2011-1385</p> <p>Agency No. 99716</p> <p>Agency: Bureau of Construction Codes</p> <p>Case Type: Barrier Free Design Exception Request</p>
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3. EXCEPTION APPLICATIONS
03. 99716

Issued and entered
this 16th day of November, 2011
by J. Andre Friedlis
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

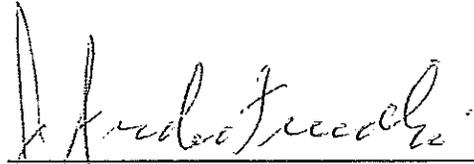
This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

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 scheduled for November 15, 2011, at the Michigan Administrative Hearing System, Ottawa State Office Building, 2nd Floor, 611 West Ottawa Street, Lansing, Michigan at 10:00 a.m. Present was Usha Menon, representing the Plan Review Division. The Applicant failed to appear. It is the responsibility of the Applicant to appear at the hearing in order to present compelling need why an exception should be granted.

The records of the Michigan Administrative Hearing System indicate that proper notice of the hearing was sent to the Applicant, that no adjournment was granted, and that no explanation has been provided for the Applicant's absence from the hearing. I find the Applicant had a duty to appear in order to present competent evidence concerning the request for exception.

As indicated above, exception requests are approved only when compelling need has been demonstrated by the Applicant. In the absence of the Applicant, no proof was advanced to establish compelling need.

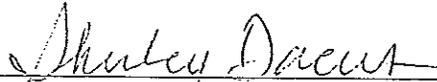
For these reasons, I recommend the request for exception be denied.



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 16th day of November, 2011.



Shirley Dacus
Michigan Administrative Hearing System

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

Ted Gatzarous
Wayne County Sheriff Adm. Ofc.
400 Monroe Associates
Detroit, MI 48226

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

99 716

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 Wayne County Sheriff Administration Office		STREET / SITE ADDRESS 4747 Woodward		
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: Detroit		COUNTY Wayne		
Estimated Project Cost \$ 100,000.00		Estimated Cost of Compliance \$ 45,000.00		
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 BLD2011-05162		
Is a Temporary Exception Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	PERIOD OF TIME REQUESTED? 3 YRS	USE GROUP B	CONSTRUCTION TYPE masonry	
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1103.2.16 Reason for Non-Compliance All members of the Wayne County Sheriff's Office are to be located at this location are active duty deputies. If by chance there is an injured deputy and placed desk duty, there are rest rooms and office space available on the first floor				
ENFORCING AGENCY City of Detroit		BUILDING OFFICIAL NAME Daljet S Benipal		REGISTRATION NUMBER 4506
ADDRESS 2 Woodward	CITY Detroit	STATE MI	ZIP CODE 48226	TELEPHONE NUMBER (Include Area Code) (313) 224-0297
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>Daljet S Benipal</i>		DATE 09/22/11	E-MAIL ADDRESS FAX NUMBER (Include Area Code) (313) 224-1634	
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME Easthill Associates		LICENSED INDIVIDUAL Bunlap Chan		MICHIGAN LICENSE NUMBER 28012
ADDRESS 1001 Woodward	CITY Detroit	STATE MI	ZIP CODE 48226	TELEPHONE NUMBER (Include Area Code) (586) 206-8554
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME 400 Monroe Associates		APPLICANT NAME Ted Gatzarous		FEIN OR SS NO.* (Required)
ADDRESS 400 Monroe	CITY Detroit	STATE MI	ZIP CODE 48226	TELEPHONE NUMBER (Include Area Code) (313) 963-3357
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) 963-2333
APPLICANT SIGNATURE (Must be an original signature) <i>Ted Gatzarous</i>			DATE SEP 22. 11	

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

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of	Docket No.	2011-1408
Floyd's Place	Agency No.	99852
18818 Ryan Road	Agency:	Bureau of Construction Codes
Detroit, MI 48226,		
Applicant	Case Type:	Barrier Free Design Exception Request

4. EXCEPTION APPLICATIONS
04, 99852

Issued and entered
This 17th day of November, 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 November 15, 2011, in Lansing, Michigan. Present were Lance Floyd, Owner and Brian Jewell, Partner representing the Applicant, and Usha Menon, representing the Bureau of Construction Code's Plan Review Division.

ISSUE

Should an exception be granted from Section 1105.1 of the 2009 Michigan Building Code (MBC)?

FINDINGS OF FACT

The building at issue was built in 1930. It has a home in the rear with 1000 square feet and a store front with 600 square feet. The Applicant purchased the structure in 1986. After construction, the store front was used as a restaurant, but the building was vacant before purchase by the Applicant.

Mr. Floyd is a journeyman electrician who is unable to find sufficient work in Detroit, but who doesn't want to leave the city. He would like to open the store front as a convenience store selling pop, candy, chips, and similar items from behind a counter. Customers will enter the store and give him their orders. Purchased items and money would be exchanged via a "lazy Susan" device. Customers will not have direct access to merchandise.

The area in front of the counter measures 100 square feet. There is only one door which is at most 6 inches from the public sidewalk. There is a 4 and $\frac{3}{4}$ inch step from the side walk to the door. There is no space to provide a ramp. On both sides of the building are city owned vacant lots.

Mr. Floyd has spent approximately \$20,000 for the ceiling, walls, floors, and electrical upgrades. He expects to spend more for an awning, cooler, and signage.

The Applicant has no idea as to how many customers will come to his store, but he will come outside to personally serve any customer unable to enter his store.

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 2009 MBC provides:

Public entrances. In addition to accessible entrances required by Sections 1105.1.1 through 1105.6, at least 60% of all public entrances shall be accessible.

Exceptions:

1. An accessible entrance is not required to areas not required to be accessible.
2. Loading and service entrance that are not the only entrance to a tenant space.

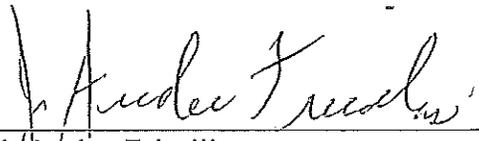
Compelling need based on impossibility of compliance due to site restrictions has been presented. There is no space on the property to build a ramp or lifting device. The Applicant cannot encroach on the public sidewalk or adjacent property to provide building access. Mr. Floyd will personally serve any customer who is unable to enter his store.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1105.1 of the 2009 Michigan Building Code.

As a condition to granting these 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**.



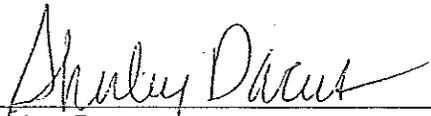
J. Andre Friedlis
Administrative Law Judge

Docket No. 2011-1408

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 17th day of November, 2011.

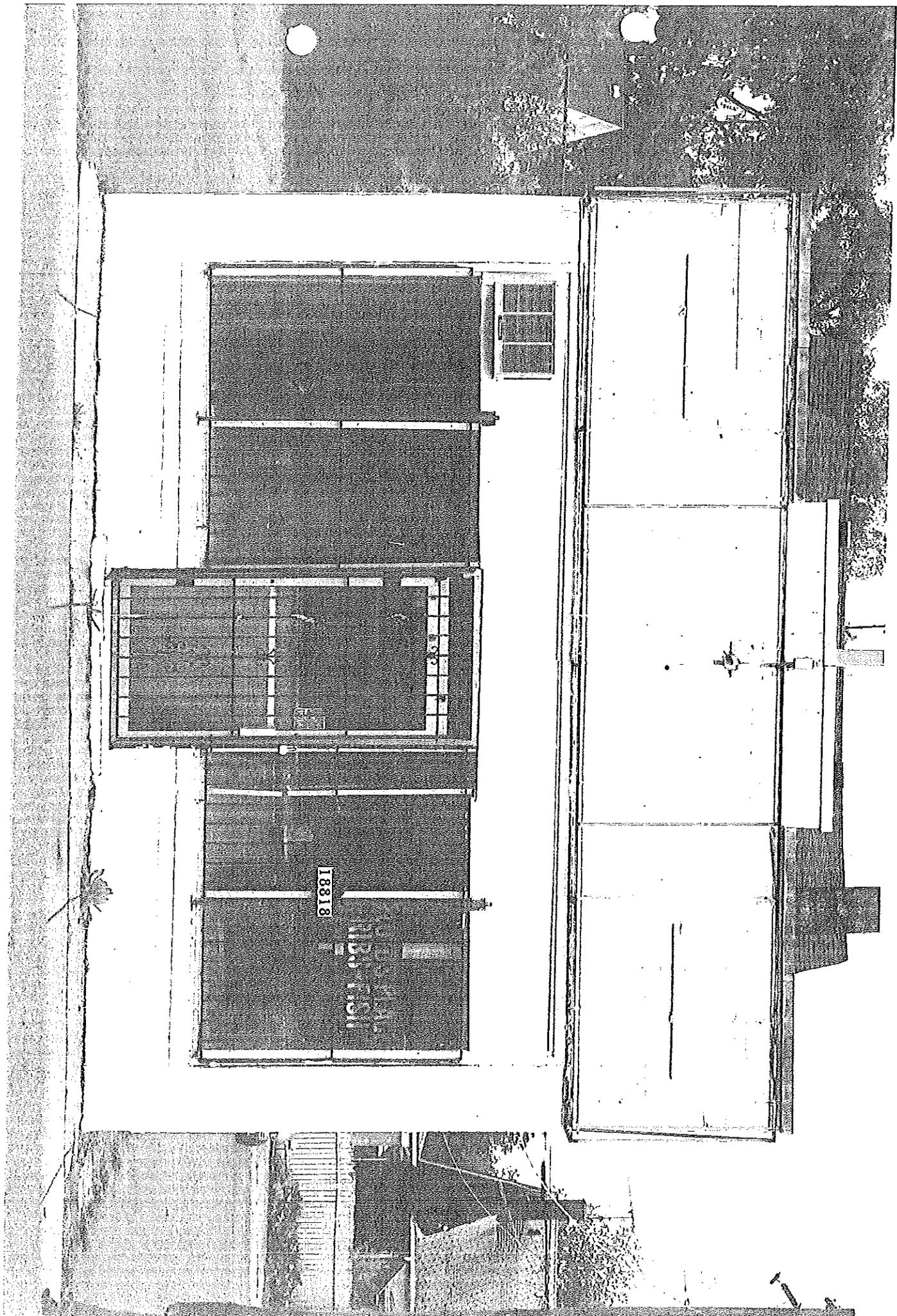


Shirley Dacus
Michigan Administrative Hearing System

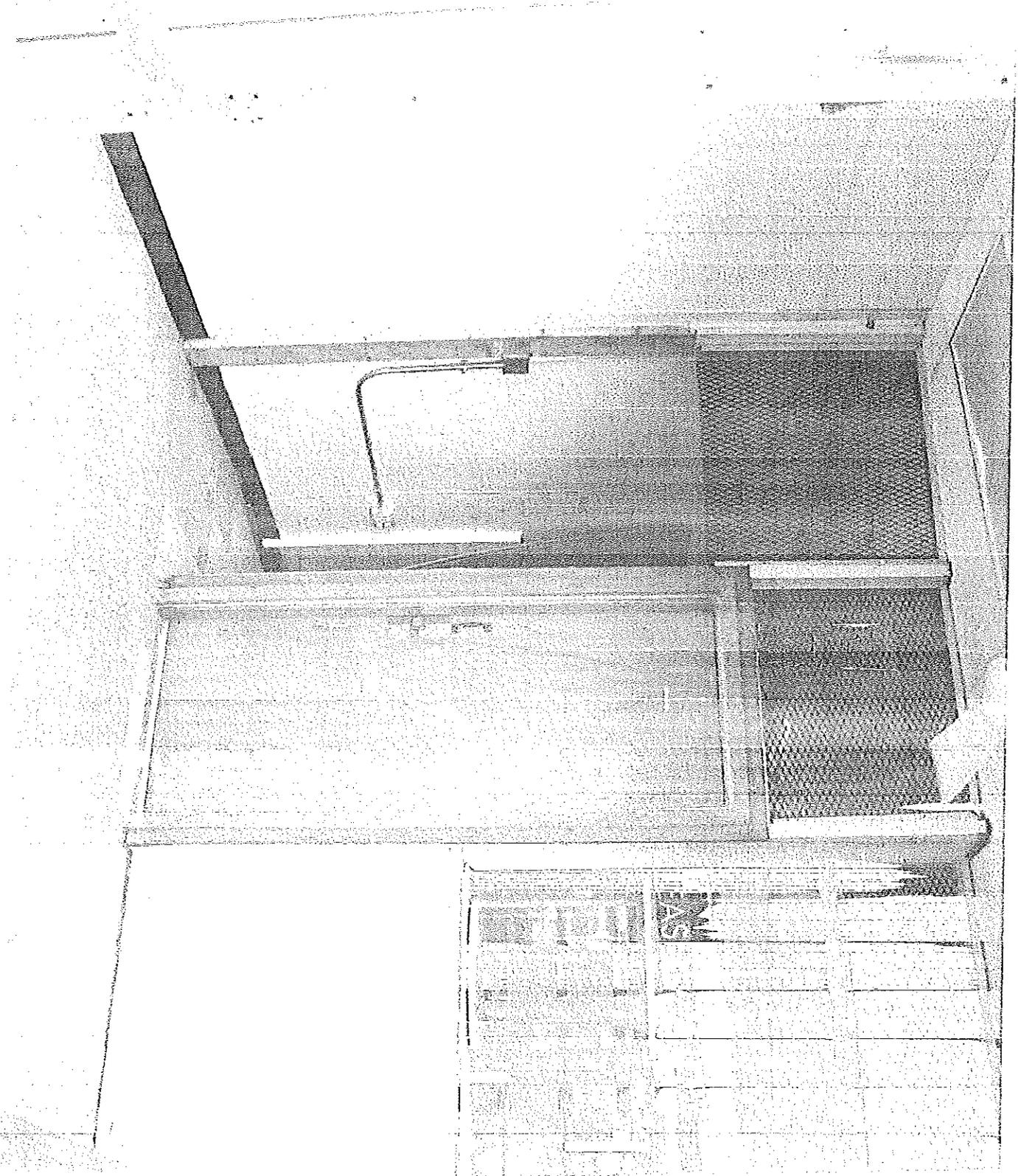
Lance W. Floyd
Floyd's Inc.
Floyd's Place
18818 Ryan Road
Detroit, MI 48234

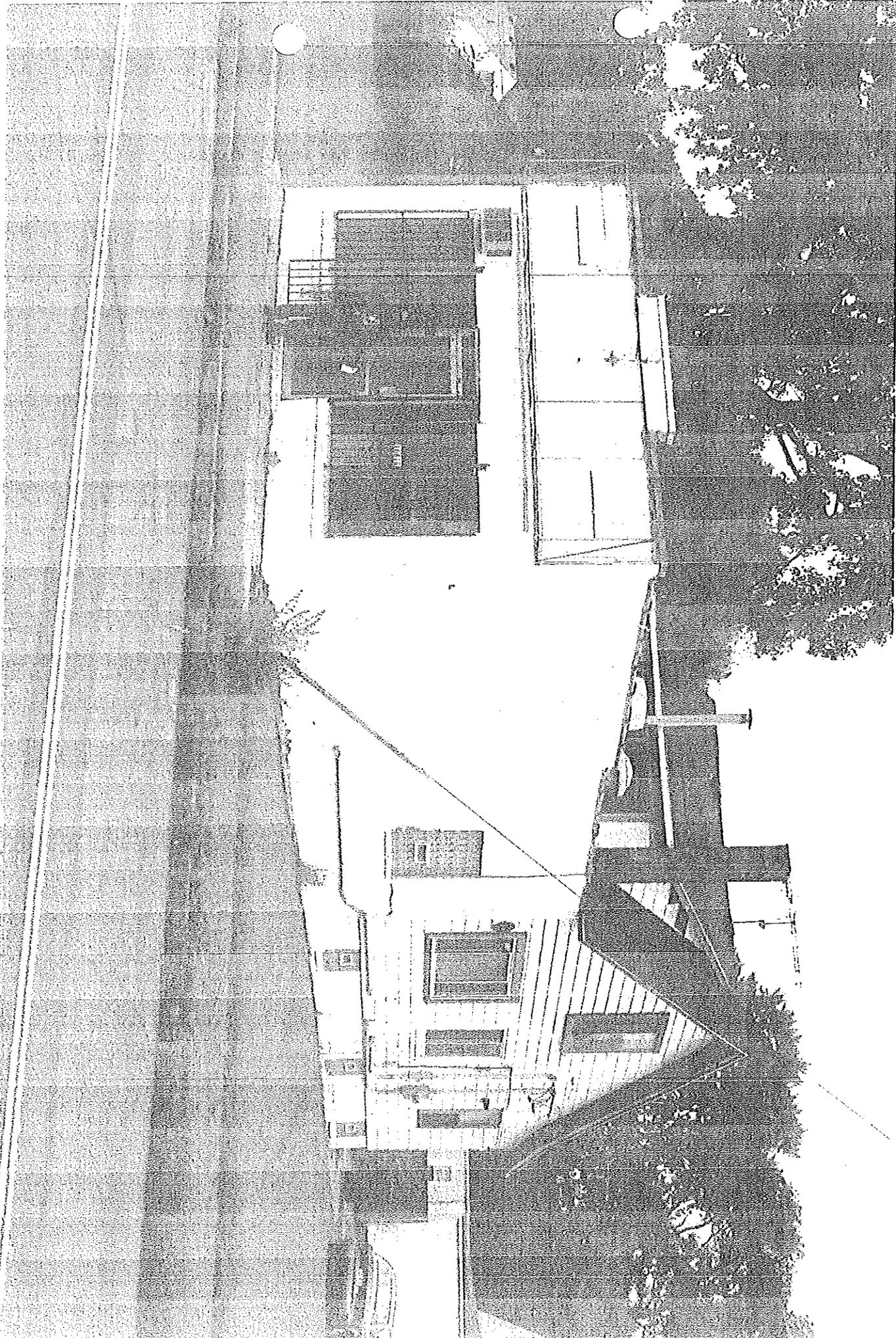
Daljit Benipal
City of Detroit
2 Woodward Avenue
Suite 411
Detroit, MI 48226

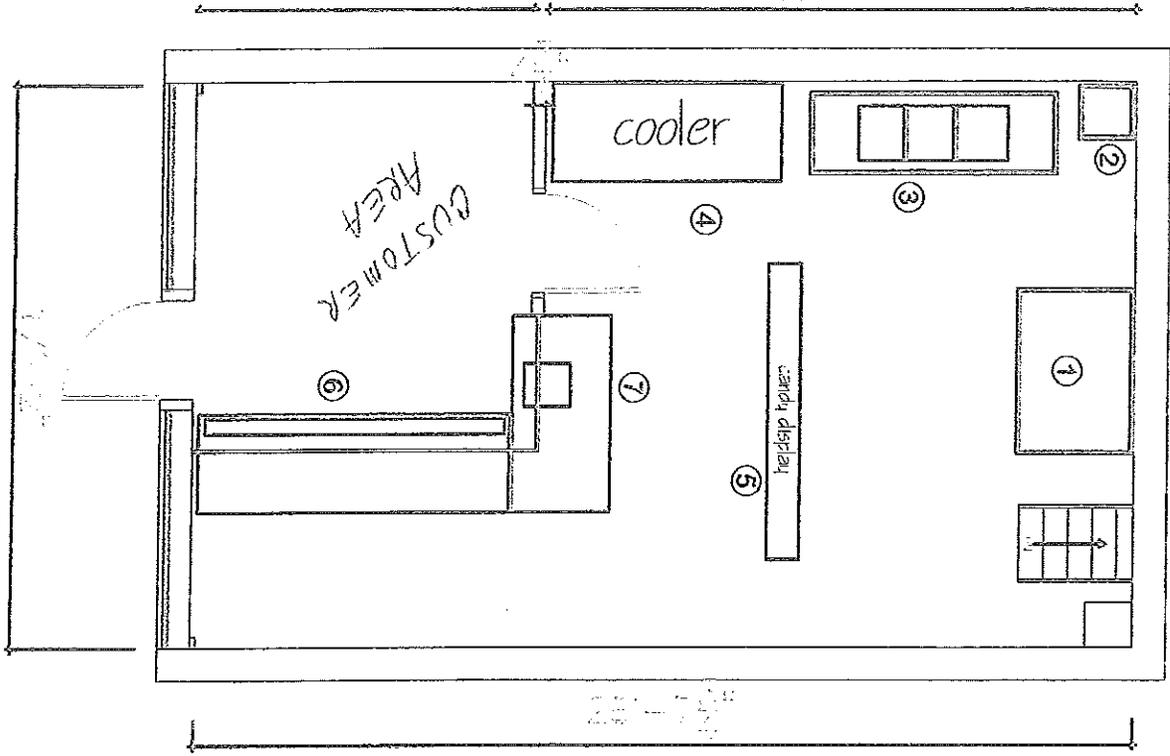
Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864



18818







EQUIPMENT LIST

1. WORK TABLE
2. HAND SINK
3. COMPONENT S / S SINK
4. DOOR REFRIGERATOR
5. CANDY DISPLAY CASE
6. 9'6" DISPLAY CASE
7. 6' SERVICE CABINET WITH COUNTER



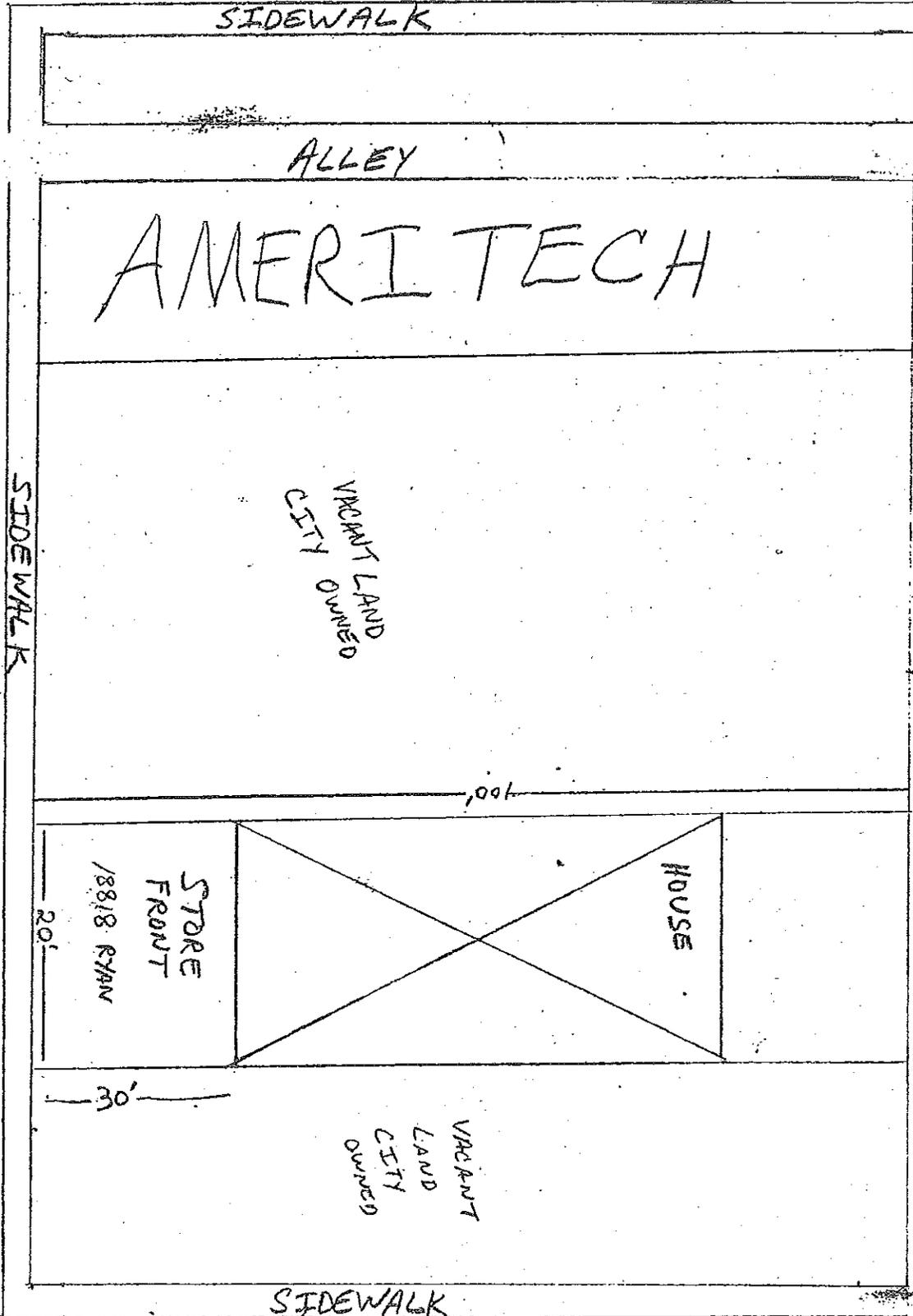
FOR THE COMPANY'S USE
 PLAN REVIEW SHEET

DATE: 10/11/11

<p>Freelance Drafting 1325 Bedford RD GROSSE POINTE PARK, MI 48230</p>			
<p>PROJECT</p> <p>Floyd's Place 18818 Ryan Road Detroit, MI</p>		<p>LOCATION</p> <p>Floorplan - F1</p>	
<p>Drawn By: H. Ellison</p>	<p>Project Mgr:</p>	<p>Checked By:</p>	<p>Proj No:</p>
<p>Date Plotted: 09-19-11</p>	<p>Scale: 3/4" = 1'-0"</p>	<p>Plot:</p>	<p>Plot No: 1st</p>

99 852
 Shelf No. File
PLAN REVIEW
COPY

E. 7 MILE ROAD



ROBINWOOD AVE.

- To whom it may concern, enclosed is an application for a barrier free design rule exception. I am hoping that you will allow this exception. My property is very small, and the customer area is approximately only 10' X 10'. Certainly I recognize the need for handicap accessibility. However providing this accessibility causes me a hardship. Quite simply, I would not be able to open for business. I am an unemployed journeyman electrician, I have invested my savings to open this business, I am making a stance in Michigan, in Detroit, this is my home, I do not want to relocate. I am willing to work with your agency, to do what is necessary within my means to open for business. Can you please help me, allow me to open this business and grant this exception upon your review. Thank you very much.

RECEIVED
OCT 14 1982
BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Lance Floyd
18818 RYAN ROAD
DET., MI 48234
313-330-2082

Application for Barrier Free Design Rule Exception
 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

Agency Use Only

99 852

Application Fee: \$300.00

Authority: 1966 PA 1	The Department of Labor & Economic Growth will not discriminate against any individual on the basis of race, color, marital status, disability, or political beliefs. If you need help with reading, writing, or making your needs known to this agency.
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.

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

FACILITY INFORMATION				
FACILITY NAME <i>FLOYD'S PLACE</i>		STREET / SITE ADDRESS <i>18818 RYAN RD.</i>		
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 <i>DETROIT</i>				COUNTY <i>WAYNE</i>
ESTIMATED PROJECT COST \$ <i>0</i>		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		
IS A TEMPORARY EXCEPTION REQUESTED? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		PERIOD OF TIME REQUESTED? <i>N.A.</i>	USE GROUP <i>M/R-3</i>	CONSTRUCTION TYPE <i>T-13</i>
PROJECT DOES NOT COMPLY WITH BARRIER FREE DESIGN REQUIREMENTS AS FOLLOWS: <i>NOT HANDICAP ACCESSIBLE</i>				
MICHIGAN BUILDING CODE SECTION(S): <i>MBC 2009 SECTION 1103.1 (ENTRANCE)</i>				
REASON FOR NON-COMPLIANCE <i>NOT FEASIBLE BECAUSE OF THE SMALL AREA INVOLVED. THE FINANCIAL COST IS PROHIBITIVE. AREA FOR SERVING CUSTOMER IS ONLY APPROXIMATELY 10' X 10'.</i>				
NAME <i>DALJIT S. BEMIPAL</i>		ENFORCING AGENCY <i>CITY OF DETROIT</i>		TELEPHONE NUMBER (Include Area Code) <i>313-224-0297</i>
ADDRESS <i>2 WOODWARD AV. #409</i>		CITY <i>DETROIT</i>	ZIP CODE <i>48226</i>	FAX NUMBER (Include Area Code) <i>313-224-1634</i>
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>[Signature]</i>				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code of law)				
NAME		MICHIGAN LICENSE NUMBER	FIRM NAME	
ADDRESS		CITY	STATE	TELEPHONE NUMBER (Include Area Code)
ADDRESS		CITY	STATE	TELEPHONE NUMBER (Include Area Code)
APPLICANT (Note: All correspondence will be sent to this address)				
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE <i>LANCE W. FLOYD</i>		COMPANY NAME <i>FLOYD INC</i>		SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS <i>18818 RYAN ROAD</i>		CITY <i>DETROIT</i>	STATE <i>MI</i>	TELEPHONE NUMBER (Include Area Code) <i>313-330-2082</i>
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)
APPLICANT SIGNATURE (Must be an original signature) <i>[Signature]</i>			DATE <i>9/30/2011</i>	

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

In the matter of	Docket No. 2011-1517
Panera Bread Bakery Cafe 1710 East Sherman Road Muskegon, MI, Applicant	Agency No. 99896 Agency: Bureau of Construction Codes
_____ /	Case Type: Barrier Free Design Exception Request

Issued and entered
this 20th day of December, 2011
by Lauren G. Van Steel
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

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

The purpose of this review is to examine an application for an exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on November 22, 2011, in Lansing, Michigan. Present on behalf of the Applicant were Peter A. Dubin and Carolyn Farrugia. Usha Menon appeared on behalf of the Plan Review Division of the Bureau of Construction Codes.

Mr. Dubin, project architect, and Ms. Farrugia, project manager with NORR Illinois Inc., were sworn in and testified as witnesses for the Applicant. The following exhibit, offered by the Applicant, was admitted into evidence:

1. Applicant's Exhibit 1 contains four pages of photographs showing the side exit-only door on the building in question.

The record was closed at the conclusion of the hearing.

ISSUE

The central issue presented is whether the Board should grant the Applicant an exception under Section 1105.1 of the 2006 Michigan Building Code.

FINDINGS OF FACT

Based on the entire record in this matter, the following findings of fact are established:

1. The Applicant has constructed a building located at 1710 East Sherman Road in the City of Muskegon, Michigan. The building is currently in use as a Panera Bread Bakery/Café.
2. There is a door on the side of the building that is for emergency exit only. The door is located on a side of the dining area of the restaurant. The Applicant does not include the exit-only side door in its count of public entrances to the restaurant. There is no hardware on the outside of the side exit-only door to allow entrance by either patrons or employees. See Applicant's Exhibit No. 1.
3. In an emergency, the side exit-only door could be used by physically limited persons to go out of the building from the dining area, although the side walkway is not now of accessible width.
4. Per the credible testimony of Mr. Dubin and Ms. Farrugia, patrons and employees would not be allowed to enter the restaurant using the side exit-only door. Also, the side exit-only door would not be used as part of the restaurant's drive-up or food pick-up operation.
5. There is an accessible service door on the back of the building for use by restaurant employees.

6. Mr. Dubin and Ms. Farrugia credibly testified that 100% of public entrance to the building in question, being the one front door shown in Applicant's Exhibit No. 1, is currently fully accessible within the meaning of Section 1105.1 of the 2006 Michigan Building Code.

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. MCL 125.1355a.

Section 1105.1 of the 2006 Michigan Building Code states in pertinent part:

1105.1 Public entrances. In addition to accessible entrances required by Section 1105.1.1 through 1105.1.6, at least 60 percent of all public entrances shall be accessible. Exceptions:

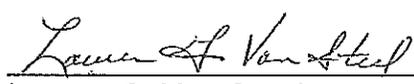
1. An accessible entrance is not required to areas not required to be accessible.
2. Loading and service entrances that are not the only entrance to a tenant space. (Emphasis supplied).

Based on the above findings of fact, it is concluded that the Applicant has shown by a preponderance of evidence that it is currently in compliance with Section 1105.1 of the 2006 Michigan Building Code for the building in question, in that "at least 60 percent of all public entrances" are accessible. Therefore, an exception to Section 1105.1 is not required.

RECOMMENDED DECISION

Based on the above findings of fact and conclusions of law, the undersigned recommends that the Board find that the Applicant is in compliance with Section 1105.1 of the 2006 Michigan Building Code and that an exception is not required for the building in question.

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

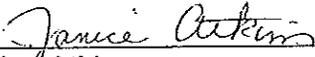


Lauren G. Van Steel
Administrative Law Judge

Docket No. 2011-1517
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 20th day of December, 2011.



Janice Atkins
Michigan Administrative Hearing System

Donald L LaBrenz, II
City of Muskegon
933 Terrace Street
P.O. Box 536
Muskegon, MI 49443

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

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

Carolyn Farrugia
NORR Illinois, Inc.
325 North LaSalle Street #700
Chicago, IL 60654



10/10/2011

Michigan Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
PO Box 30255
Lansing, MI 48909

Att: Plan Review Division

Re: Panera Bread Bakery/Cafe
1710 E. Sherman Blvd.
Muskegon, MI
Barrier Free Design Rule Exception



Dear Department of Regulatory Affairs:

I hereby submit this letter with an application and supporting documents to request the board to approve the second means of egress at the Panera Bread Bakery/Cafe in Muskegon, MI on Sherman Blvd.

When the existing building was first constructed 50% of all exits were required to be accessible. It was the intent of the Civil Engineer as well as the Architect to provide 60% accessible exits during the remodel of the existing building, which included adding a drive-thru. During construction the site conditions confirmed a curb ramp that would meet Barrier Free guidelines could not be obtained due to the slope of grade from the existing building door to the curb.

Based on the site conditions the curb ramp at the second means of egress on the east side of the building, adjacent to the drive-thru was not installed.

It is our position that the second means of egress can still be used by all persons in case of an emergency and if required the area adjacent to the door can be used as an area of refuge.

We appreciate your review and consideration of the requested exception.

Yours very truly,

Carolyn Farrugia
Project Manager
T: 312.873.1013
Carolyn.farrugia@norr.com





Photo 1: Existing – Pre Drive-thru

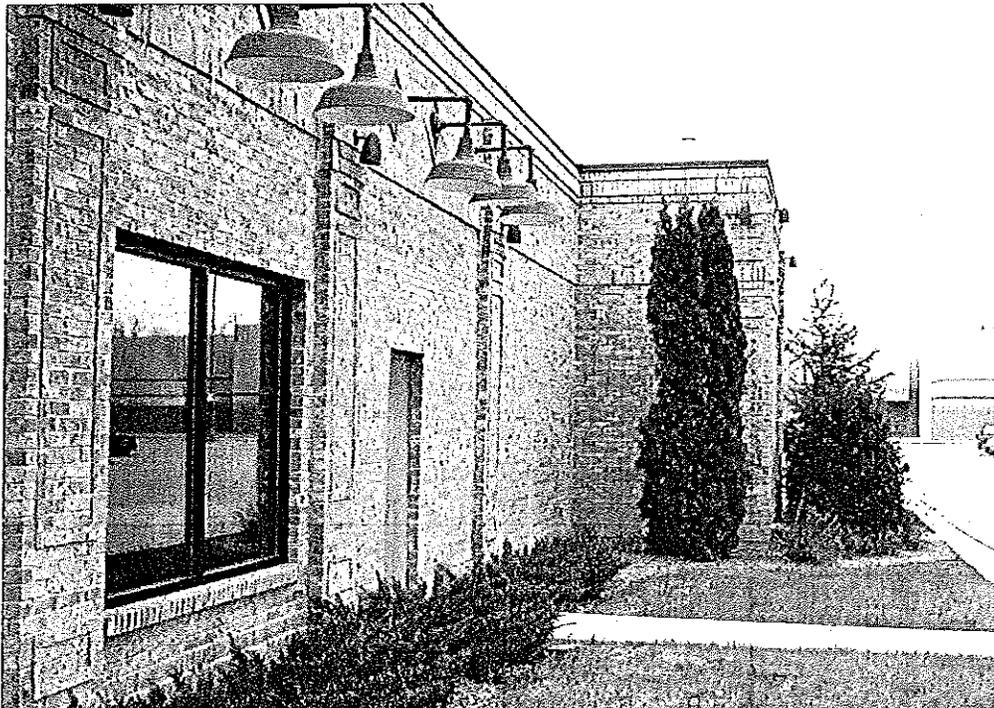


Photo 2: Existing – Pre Drive-thru



Photo 4: Existing – Pre Drive-thru

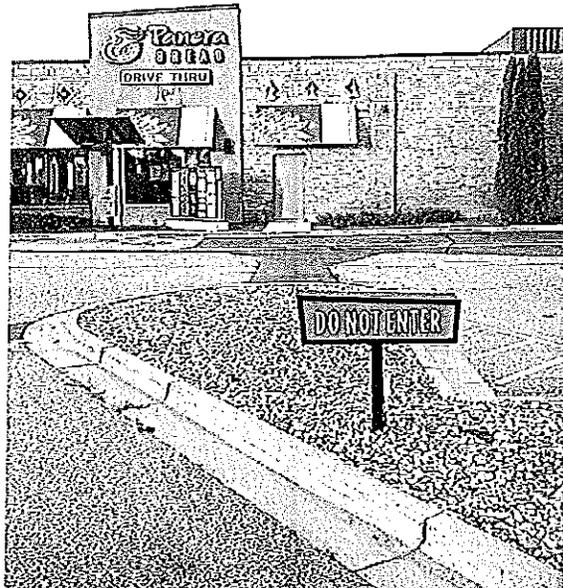


Photo 5: Post Drive-thru

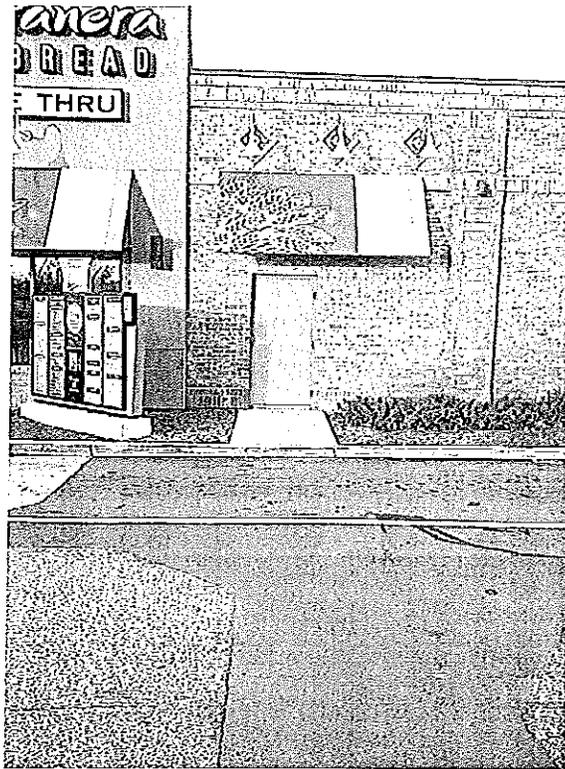


Photo 6: Post Drive-thru



Photo 7: Post Drive-thru

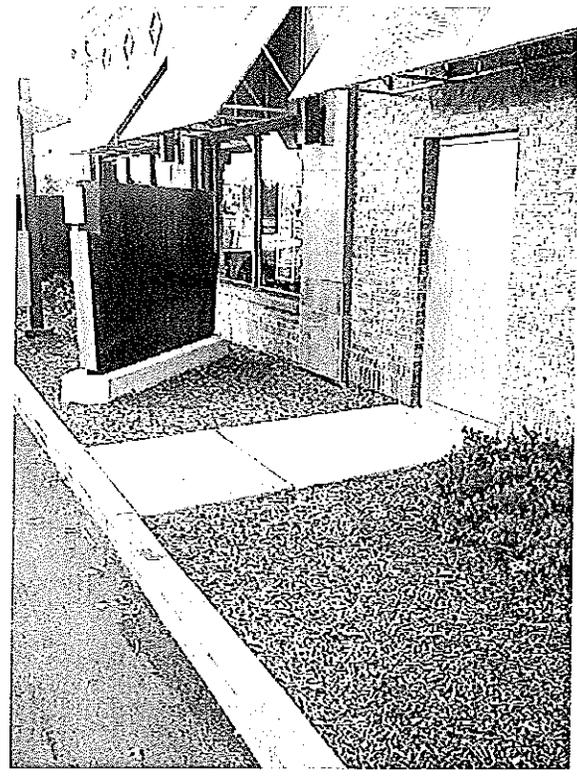
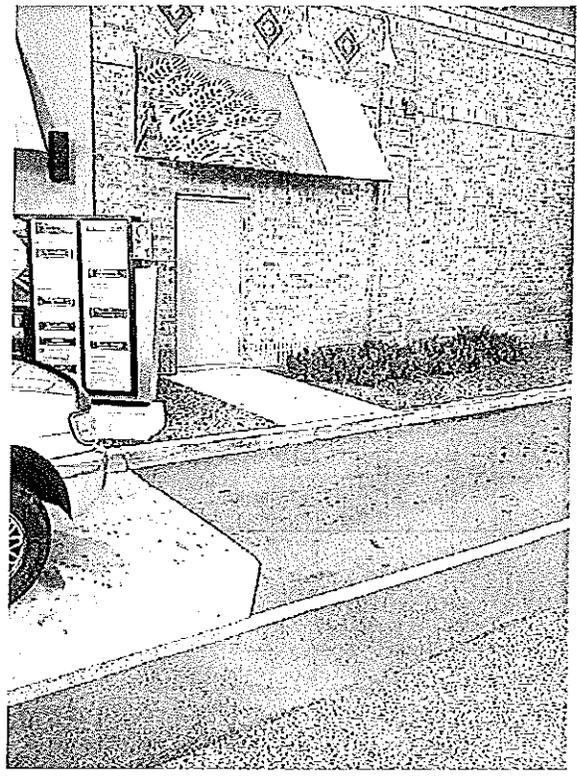


Photo 8: Post Drive-thru



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

99 8916

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, 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.

Plan Info: 133 3719401-1 10/10/11
 CASE: 60102 AM: 1006.00
 TEL: 517-241-9328

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

FACILITY INFORMATION	
FACILITY NAME Panera Bread Bakery/Cafe	STREET / SITE ADDRESS 1710 East Sherman 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: Muskegon	COUNTY Muskegon County
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 PK 110085
Is a Temporary Exception Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes	PERIOD OF TIME REQUESTED? USE GROUP AZ CONSTRUCTION TYPE 5B
Project Does Not Comply With Barrier Free Design Requirements As Follows: <i>in appropriate number of accessible entrances.</i>	
Michigan Building Code Section(s) 1105.1	
Reason for Non-Compliance EAST PUBLIC EXIT DOOR DOES NOT HAVE A RAMP AT THE CURB TO ALLOW ACCESS TO THE PUBLIC WAY.	
ENFORCING AGENCY <i>City of Muskegon</i>	BUILDING OFFICIAL NAME <i>Donald L. Labrentz</i>
ADDRESS <i>933 Ferris Ave, Muskegon</i>	STATE MI
CITY <i>Muskegon</i>	ZIP CODE <i>49443-0536</i>
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>[Signature]</i>	E-MAIL ADDRESS <i>don.labrentz@perc.state.mi.us</i>
DATE	FAX NUMBER (Include Area Code) <i>231-728-4371</i>
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)	
COMPANY NAME NORR Illinois, Inc.	LICENSED INDIVIDUAL Peter A. Dubin
ADDRESS 325 N. LaSalle Street #700	STATE IL
CITY Chicago	ZIP CODE 60654
MICHIGAN LICENSE NUMBER 42836	TELEPHONE NUMBER (Include Area Code) (312) 424-2400
APPLICANT (Note: All correspondence will be sent to this address)	
COMPANY NAME NORR Illinois Inc.	APPLICANT NAME Carolyn Farrugia
ADDRESS 325 N. LaSalle Street #700	STATE IL
CITY Chicago	ZIP CODE 60654
FEIN OR SS NO.* (Required)	TELEPHONE NUMBER (Include Area Code) (312) 873-1013
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) (312) 424-2424
APPLICANT SIGNATURE (Must be an original signature) <i>Carolyn Farrugia</i>	DATE 7-5-2011

*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. 2011-1515

Crescent Academy
17550 West 12 Mile Road
Southfield, MI,
Applicant

Agency No. 100038

Agency: Bureau of
Construction Codes

Case Type: Barrier Free Design
Exception Request

Issued and entered
this 20th day of December, 2011
by Lauren G. Van Steel
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

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

The purpose of this review is to examine an application for an exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on November 22, 2011, in Lansing, Michigan. Present on behalf of the Applicant was Michael Kennedy, Architect with Lindhout Associates. Usha Menon appeared on behalf of the Plan Review Division of the Bureau of Construction Codes. Also present was Mark Jeffries, construction manager and representative for the building owner.

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

1. Applicant's Exhibit 1 is an aerial photograph of the building in question for Crescent Academy (K-2) and surrounding buildings at 15660 W. 12 Mile Road in

6. EXCEPTION APPLICATIONS
06. 100038

Southfield, Michigan.

2. Applicant's Exhibit 2 is a copy of the "Basement Plan" blueprint for Crescent Academy.
3. Applicant's Exhibit 3 is a copy of the "Cross Section" blueprint for Crescent Academy.
4. Applicant's Exhibit 4 is a copy of a letter from Cherise Cupidore, Superintendent, Crescent Academy, dated September 29, 2011.
5. Applicant's Exhibit 5 is a copy of the "Floor Plan" blueprint for Crescent Academy.

The record was closed at the conclusion of the hearing.

ISSUE

The central issue presented is whether the Board should grant the Applicant an exception from Section 1104.4 of the 2009 Michigan Building Code.

FINDINGS OF FACT

Based on the entire record in this matter, the following findings of fact are established:

1. The Applicant, Crescent Academy, operates a charter school at 17550 West 12 Mile Road in Southfield, Michigan.
2. The Applicant seeks an exception for a leased building built in the early 1970's that it plans to use for Kindergarten through 2nd grade instruction with a maximum of 240 students and 20 teachers, aides and administrative personnel.
3. There is a total of 8,530 square feet on the first floor of the building. The vertical height between the basement and first floors is nine (9) feet. The building is otherwise fully compliant.

4. The building in question, which was formerly a doctor's office, is next to another charter school building that is currently used for instruction. (See aerial photograph shown in Applicant's Exhibit No. 1.)
5. Mr. Kennedy and Mr. Jeffries credibly testified on behalf of the Applicant that the basement of the building in question, containing 8,145 square feet, will be used for mechanical space only and will not be accessed by more than five (5) staff members through stairways. There will be a sign posted indicated that there can be a maximum of five (5) occupants in the basement. This limited use of the basement is also confirmed in a letter from the charter school superintendent admitted as Applicant's Exhibit No. 4.
6. Mr. Kennedy and Mr. Jeffries credibly testified on behalf of the Applicant that the basement of the building in question will not be used for school instruction and that the doors to the basement will be kept under lock and key to prevent access by schoolchildren and the public. Interior space on the first floor will be used as emergency shelter by students and personnel in case of tornadoes.
7. The building in question has recently been retrofitted to allow for sufficient fresh air flow in the school. The air flow units are hung below duct work in the basement. The total project cost is estimated at \$850,000.00 with the adding of a new fire line and two public bathrooms. The status of construction is 95% complete.
8. The cost to install an elevator to the basement is estimated to range from \$50,000.00 to \$150,000.00. Mr. Jeffries also credibly testified that there is a major concern that installing an elevator would undermine the existing foundation of the building, given the high water table. There may be flooding of the elevator

pit and/or cracks and leaks created in the foundation were an elevator to be installed.

9. Installing even a platform lift elevator in the building in question would seriously disrupt the location of existing mechanical and plumbing equipment in the basement, as well as intrude on the square footage available on the first floor for instruction, per Mr. Kennedy's credible testimony. It is likely that the 2nd grade classroom would have to be eliminated if a platform lift were installed, which would likely affect the economic viability of the charter school.
10. The Applicant's current lease of the building in question is for a five-year period. The Applicant's school may move to a different location in the future.

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. MCL 125.1355a.

Section 1104.4 of the 2009 Michigan Building Code states in pertinent part:

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

Exceptions:

* * *

4. Where a two-story building or facility has one story with an occupant load of five or fewer persons that does not contain public use space, that story shall not be required to be connected by an accessible route to the story above or below. (Emphasis supplied).

Based on the above findings of fact, it is concluded that the Applicant has presented compelling reasons to justify an exception. The compelling reasons are the nature and use of the proposed facility and the anticipated public traffic. 1988 AACS, R 125.1014(2)(c) & (d). As to the nature and use of the facility, the Applicant has credibly shown that the basement of the building in question will be used for mechanical and storage purposes only. There will be no anticipated public traffic, but rather access to the basement by a maximum of five (5) staff persons at any one time. The Applicant has credibly shown that students, school personnel and/or members of the public will not have reason to access the basement in question during the Applicant's lease of the building. Accordingly, the exception set forth as Exception #4 in Section 1104.4 of the 2009 Michigan Building Code, *supra*, has been shown to apply.

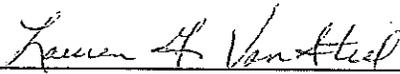
RECOMMENDED DECISION

Based on the above findings of fact and conclusions of law, the undersigned recommends that the Board grant the Applicant an exception, for the duration of the Applicant's current lease and any continuing lease, from Section 1104.4 of the 2009 Michigan Building Code for purposes of installing an accessible route to the basement of the building in question.

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

Docket No. 2011-1515
Page 6

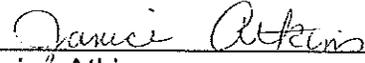
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.



Lauren G. Van Steel
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 20th day of December, 2011.



Janice Atkins
Michigan Administrative Hearing System

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

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

Michael Kennedy
Lindhout Associates
10465 Citation
Brighton, MI 48103

Mark Jeffries
Corrigan Construction, LLC
775 North Second Street
Brighton, MI 48116



September 29, 2011

Adam Krouse
Plan Review Division
Bureau of Fire Services

RE: Building Capacity for Crescent Academy K-2 Facility

Dear Mr. Krouse:

The new building at Crescent Academy K-2 facility will allow us to have a maximum occupancy of 240 students. We will have 9 classrooms in the new facility with a maximum of 25 students per classroom. These numbers as noted above will allow us to offer students a quality educational program for students in grades K-2.

We are aware that we must post the maximum occupancy in the lobby of our building for the public as well as our staff members. We will ensure that the maximum occupancy is adhered to. Furthermore; we understand that the basement is for mechanical space usage not to exceed the maximum occupancy of 5 staff members.

Should you have any questions regarding this letter please feel free to contact me at the Academy located at 17570 W. 12 Mile Road, Southfield, MI 48076 or by calling 248-423-4581.

Educationally yours,

Cherise M. Cupidore

Cherise M. Cupidore, Superintendent

CRESCENT ACADEMY

Application for Barrier Free Design Rule Exception
 Michigan Department of Licensing and Regulatory Affairs
 Bureau of Construction Codes / Plan Review
 P.O. Box 30255, Lansing, MI 4890
 517-241-9328
 www.michigan.gov/bcc

SEP 24 2011

2501 WOODLAKE
 CIRCLE
 OKEMOS, MI 48864

100038

Application Fee: \$300.00

Authority: 1988 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.
---	--

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 Crescent K-2 School		STREET / SITE ADDRESS 17550 W. 12 Mile Rd.		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: Southfield		COUNTY Oakland		
Estimated Project Cost \$ 340,000.00		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 checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number 98880 Oakland		
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP E	CONSTRUCTION TYPE VB
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1104.4 Multilevel buildings and facilities Reason for Non-Compliance The schools needs the building for classroom space and the existing basement for mechanical and electrical systems only. Though 8,000 sq.ft. in area the basement was already there and is not needed for any other function.				
ENFORCING AGENCY State of Michigan, Bureau of Constr. Codes Plan Rev.		BUILDING OFFICIAL NAME TODD CORDILL		REGISTRATION NUMBER 4994
ADDRESS P.O. BOX 30254	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 24 October 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 Lindhout Associates architects		LICENSED INDIVIDUAL David A. Richardson		MICHIGAN LICENSE NUMBER 00264000 40255
ADDRESS 10465 Citation Dr.	CITY Brighton	STATE MI	ZIP CODE 48116	TELEPHONE NUMBER (Include Area Code) (810) 227-5668
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME Corrigan Construction		APPLICANT NAME Mark Jeffries		FEIN OR SS NO.* (Required)
ADDRESS 775 W. 2nd ST	CITY BRIGHTON	STATE MI	ZIP CODE 48116	TELEPHONE NUMBER (Include Area Code) 517-404-4976
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) 810 494 2149
APPLICANT SIGNATURE (Must be an original signature) <i>[Signature]</i>			DATE 10/24/11	

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

7. EXCEPTION APPLICATIONS
07. 101052

In the matter of	Docket No.	2011-1594
Hostel Detroit	Agency No.	101052
2700 Vermont	Agency:	Bureau of
Detroit, MI 48216,		Construction Codes
Applicant	Case Type:	Barrier Free Design
_____ /		Exception Request

Issued and entered
This 22nd day of December, 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 December 19, 2011, in Lansing, Michigan. Present were Michel Soucisse, General Manager, representing the Applicant, and Usha Menon, representing the Bureau of Construction Code's Plan Review Division.

ISSUE

Should a one year time exception be granted from Section 1105.1 of the 2009 Michigan Building Code (MBC)?

FINDINGS OF FACT

The building at issue is 110 years old. It is a two story corner brick building measuring 27 feet x 92 feet. There are five rooms on the second floor that are rented on a month to month basis. The first floor has one private room, one two person room, and one room for up to ten overnight lodgers.

The Applicant began renting the building in April 2011. A new lease has been proposed for 2012 with an option to purchase. The building is leased by a non profit group to provide lodging for travelers. As part of this program, the Applicant provides volunteer ambassadors to assist travelers who wish to focus on architectural, artistic, or music offered by Detroit. Travelers are allowed to stay on the first floor without cost. Building expenses such as rent and are paid for by the tenants who rent the second floor rooms.

The front entrance has a raised step 3 and ½ inches created when the city reconfigured the sidewalk to provide ramped access. The Applicant plans to either convince the city to redesign the sidewalk to take off the raised step, persuade the landlord to remodel the entrance to remove this obstacle, purchase the building from the landlord and remodel the entrance, or raise the funds through fund raising or grants to make this change.

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 2009 MBC provides:

Public entrances. In addition to accessible entrances required by Sections 1105.1.1 through 1105.6, at least 60% of all public entrances shall be accessible.

Exceptions:

1. An accessible entrance is not required to areas not required to be accessible.
2. Loading and service entrance that are not the only entrance to a tenant space.

Compelling need has been presented to give the Applicant a one year exception to provide a barrier free front entrance. This will be accomplished by either convincing the city to redesign the sidewalk to take off the raised step, persuading the landlord to remodel the entrance, purchasing the building from the landlord and remodeling the entrance, or raising the funds through fund raising or grants to make this change.

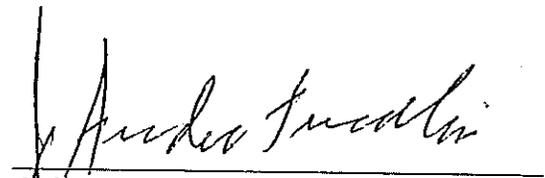
RECOMMENDED DECISION

I recommend the Board grant the Applicant a one year time exception from Section 1105.1 of the 2009 Michigan Building Code.

Docket No. 2011-1594
Page 4

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

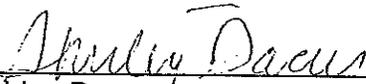
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: **Todd Cordill**.



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 22nd day of December, 2011.



Shirley Dacus
Michigan Administrative Hearing System

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

Patrick Patrello
City of Detroit
2 Woodward Avenue
Detroit, MI 48201

Emily Doerr
Hostel Detroit
2700 Vermont
Detroit, MI 482166



Application for Barrier Free Design Rule Exception
 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

Free Information 1-800-243-7000
 Agency Use Only
 DETROIT

Application Fee: \$300.00

Authority: 1956 PA 1	The Department of Labor & Economic Growth will not discriminate against any individual on the basis of race, color, marital status, disability, or political beliefs. If you need help with reading, writing or making your needs known to this agency.
Completion: Mandatory	
Penalty: Exception will not be granted	

101 052

The Barrier Free Design Board has no authority over the federal standards contained in the Amr 12204.

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

FACILITY INFORMATION			
FACILITY NAME <i>HOSTEL DETROIT</i>		STREET / SITE ADDRESS <i>2700 VERMONT</i>	
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: <i>DETROIT</i>		COUNTY <i>WAYNE</i>	
ESTIMATED PROJECT COST \$ <i>20,000.00</i>		ESTIMATED COST OF COMPLIANCE \$ <i>5000.00</i>	
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 <i>#BLD2011-03418</i>	
IS A TEMPORARY EXCEPTION REQUESTED? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES		PERIOD OF TIME REQUESTED? <i>1 year</i>	USE GROUP <i>A-1</i>
CONSTRUCTION TYPE <i>III B</i>			
PROJECT DOES NOT COMPLY WITH BARRIER FREE DESIGN REQUIREMENTS AS FOLLOWS:			
MICHIGAN BUILDING CODE SECTION(S): <i>MRC 906.1</i>			
REASON FOR NON-COMPLIANCE <i>(drawing shows new concrete)</i> <i>No HANDICAP ENTRANCE - will construct new one in back yard.</i> <i>Building is 100+ years old; front door was accessible prior to city sidewalk "cut-outs" for ramps into street. Additional effort will make back door accessible too.</i>			
NAME <i>PATRICK PATRELLO</i>		ENFORCING AGENCY <i>DETROIT</i>	TELEPHONE NUMBER (include Area Code) <i>313.628.2618</i>
ADDRESS <i>2700 VERMONT #401</i>		CITY <i>DETROIT</i>	ZIP CODE <i>48206</i>
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>[Signature]</i>		FAX NUMBER (include Area Code) <i>313.224.1634</i>	
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
NAME <i>Steven Flum</i>	MICHIGAN LICENSE NUMBER <i>13011036304</i>	FIRM NAME <i>Steven C. Flum, Inc.</i>	
ADDRESS <i>4147 Trumbull Avenue</i>	CITY <i>Detroit</i>	STATE <i>MI</i>	ZIP CODE <i>48208</i>
			TELEPHONE NUMBER (include Area Code) <i>(313) 831-2844</i>
APPLICANT (Note: All correspondence will be sent to this address)			
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE <i>Emily Doerr</i>		COMPANY NAME <i>Hostel Detroit</i>	SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS <i>2700 Vermont</i>	CITY <i>Detroit</i>	STATE <i>MI</i>	ZIP CODE <i>48216</i>
			TELEPHONE NUMBER (include Area Code) <i>(313) 451-0333</i>
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)
APPLICANT SIGNATURE (Must be an original signature) <i>[Signature]</i>			DATE <i>11/1/11</i>

*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. 2011-497

Soo Brewing Company
223 West Portage Avenue
Sault Sainte Marie, MI,
Applicant

Agency No. 97642

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design

Issued and entered
this 17th day of November, 2011
by J. Andre Friedlis
Administrative Law Judge

COPY

1. EXCEPTION APPLICATIONS
01. 97642

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. On September 2, 2011, the Applicant waived the Applicant's right to an in-person hearing and agreed to provide answers by sworn statement. Accordingly, the hearing scheduled for October 3, 2011, was cancelled. On October 7, 2011, the Department's Plan Review Division sent questions to the Applicant. These were answered on November 7, 2011.

RECEIVED
NOV 22 2011

ISSUE

Should the Board grant the Applicant an exception from Section 404.2.1 of the 2003 ICC/ANSI A117.1 Code?

FINDINGS OF FACT

The building at issue is approximately 110 years old but is not on the state historic register. The building was formerly used as a silk screening and embroidering business.

The building is currently used as micro-brewery. As noted in the answer to question 3:

Soo Brewing Company is a Michigan Licensed micro-brewery. The brewing process and customer consumption take place on the first floor (street level). The chilling process transpires in the basement beneath the brewing equipment on the first floor. The business office, storage, and walk-in cooler are on the first floor also.

There are two entrances to this building – one on the north and one on the south. Each entrance has sliding doors panels each 30 inches wide. The main customer entrance is on the north. The Applicant provides its defense to the rule in the answers to questions 13 and 14:

Because the current door is very close to 36", and renovation would involve the door frame being expanded. Costs of renovation would run approximately \$3000 to \$3500. I have not received any complaints from patrons or public officials thus far.

The door on the north entrance is very close to the 36" limit. The rear doors actually provide more access than if one simply had a 36" door. The facility as it exists represents a rather minimal efficiency, thus a variance should be granted when comparing the potential benefits of remodeling versus the costs.

Docket No. 2011-497

Page 3

The Applicant estimates the cost for modifying an entrance would be \$3,000.

The answer to questions 7 and 8 provide more detail:

I have been advised that the cost, if required, would be approximately \$3000. In all actuality, I may not have the ability to have supplies delivered as supplies are loaded by hand.

IF there is to be a renovation of the building with regards to the southern entrance, it would require taking out two doors and replacing them with a single door of at least 36" wide. Since the door frame is based on two 30" doors, if I went with the entrance by expanding the current aperture by an additional 12".

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 404.2.1 of the 2003 ICC/ANSI A 117.1 Code provides:

Double-Leaf Doors and Gates. At least one of the active leaves of doorways with two leaves shall comply with Sections 404.2.2 and 404.2.3.

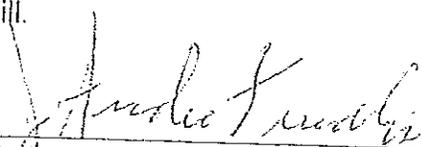
The north door is the main customer entrance to the Applicant's business. The Applicant does not have to expand both door leaves. The rule requires only one meet the 32 inch clear width requirement. The Applicant need not expand the entire door space and provide two door leaves of 32 inches each. One is sufficient. The Applicant may also narrow not widen the opening to provide one door meeting the 32 clear width dimension.

The Applicant has not established that the expenditure of \$3,000 would be excessive. The Applicant has not established compelling need either through cost, structural difficulties, or operational needs to support the requested exception.

RECOMMENDED DECISION

I recommend the Board deny the Applicant's request for exception from Section 404.2.1 of the 2003 ICC/ANSI A117.1 Code.

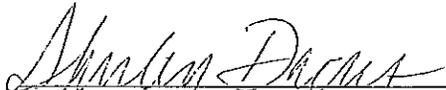
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.



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 17th day of November, 2011.



Shirley Dacus
Michigan Administrative Hearing System

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

William Dyke Justin
Law Offices of Wm. Dyke Justin, PC
P.O. Box 746
713 Ashmun, Suite 202
Sault Sainte Marie, MI 49783

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

Ray Bauer
Soo Brewing Company
P.O. Box 314
Sault Sainte Marie, MI 49783

SWORN STATEMENT
IN THE MATTER OF
97642 CHIPPEWA
SOO BREWING COMPANY
223 W. PORTAGE AVE.
SAULT STE. MARIE, MI 49783
CHIPPEWA COUNTY

COPY

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

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

Raymond Bauer
Answer: 212 Brady St.
Sault Ste. Marie, MI 49783

(906) 632-4400

Soo Brewing Company
223 W. Portage Ave.
Sault Ste Marie, MI 49783

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

Answer: No. My interest is as the building lessee.

- 3. Describe the nature of this facility and activities that take place on each floor and size of each floor.

Answer: Soo Brewing Company is a Michigan Llicensed micro-brewery. The brewing process and customer consumption take place on the first floor (street level). The chilling process transpires in the basement beneath the brewing equipment on the first floor. The business office, storage, and walk-in cooler are on the first floor also.

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

Answer: No.

* CEO of Soo Brewing Company, LLC

5. What was the previous use of this building?

Answer: This building was a silk screening and embroidering business.

6. Is this a historic building? If yes, provide details.

Answer: The building is not "historic" for purposes of state law, but the building itself is approximately 110 years old.

7. What is the projected renovation cost?

Answer: I have been advised that the cost, if required, would be approximately \$3000. In all actuality, I may not have the ability to have supplies delivered as supplies are loaded by hand.

8. List in detail all of the proposed renovation.

Answer: IF there is to be a renovation of the building with regards to the southern entrance, it would require taking out two doors and replacing them with a single door of at least 36" wide. Since the door frame is based on two 30" doors, if I went with two 36" doors I would have to modify the doorjamb and expand the entrance by expanding the current aperture by an additional 12".

9. What is the status of construction?

Answer: At this point, I hope to receive a variance and not have to undergo remedial construction.

10. List the entrances of this building and where they are located?

Answer: There are two entrances to the building. The northern, which abuts Portage, is equipped with doors that were built approximately 110 years ago. Its width is 55 1/2", as above mentioned.

11. Explain in detail, why the entrance door does not comply with accessibility requirements?

Answer: The rear door entrance is essentially two doors which provide a 60" opening when combined. In effect, since both doors are used, there is more access than a 36" door could give.

12. Describe in detail the renovations, which would have to be done to create an accessible door at the entrance.

Answer: As to the northern entrance, a custom door would have to be made so that the door is consistent with the style of building.

13. What is the estimated cost to provide an accessible door at the entrance?

Answer: Because the current door is very close to 36", and renovation would involve the door frame being expanded. Costs of renovation would run approximately \$3000 to \$3500. I have not received any complaints from patrons or public officials thus far.

14. Explain your reasons of compelling need for an exception from providing an accessible door at the entrance;

Answer: The door on the north entrance is very close to the 36" limit. The rear doors actually provide more access than if one simply had a 36" door. The facility as it exists represents a rather minimal efficiency, thus a variance should be granted when comparing the potential benefits of remodeling versus the costs.

15. How old is the building?

Answer: Approximately 110 years

[Signature]
Respondent (Signature)

Before me Jeannie M. Glover, a Notary Public in and for Chippewa
County, State of Michigan personally appeared Raymond Bower and
he/she being first duly sworn by me upon his oath says that the facts alleged in the

foregoing instrument are true.

[Signature]
Notary Public (Signature)

My Commission Expires January 30, 2017

Jeannie M. Glover
Notary Public, State of Michigan
County of Chippewa
My Commission Expires: January 30, 2017
Acting in the County of Chippewa

Law Office Of Wm. Dyke Justin, P.C.

PO Box 746
713 Ashmun, Suite 202
Sault Ste Marie, MI 49783
906.632.1145
906.632.0878 (fax)

Wm. Dyke Justin

Betsy McDonoff
Legal Secretary

December 2, 2011

Office of J. Andre Friedlis
Michigan Administrative Hearing System
611 West Ottawa, 2nd Floor
Lansing, MI 48933

COPY

RE: Soo Brewing Company
Docket No. 2011-497

Dear Sir:

Please find enclosed photographs taken of each of the doors of Soo Brewing Company which indicate how much room is available for those entering the North and South entrances of the Company. Perhaps a visual representation would be more effective. Note that there is no centerpiece to the doors and that they both open without any center obstruction.

We would like you to reconsider your recommendation in light of the visual representation which we hope demonstrates the quality of both doors.

If there are any further questions or comments, please contact my office.

Sincerely,

WM. DYKE JUSTIN, P.C.

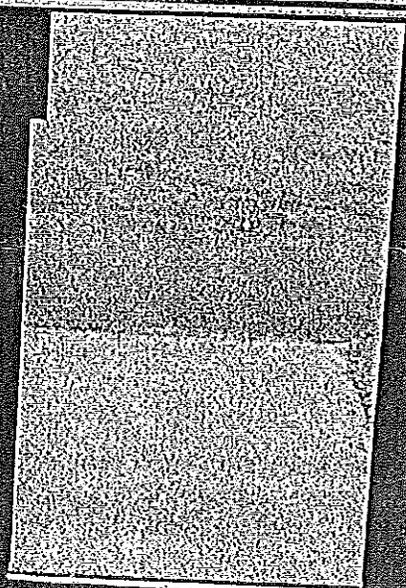
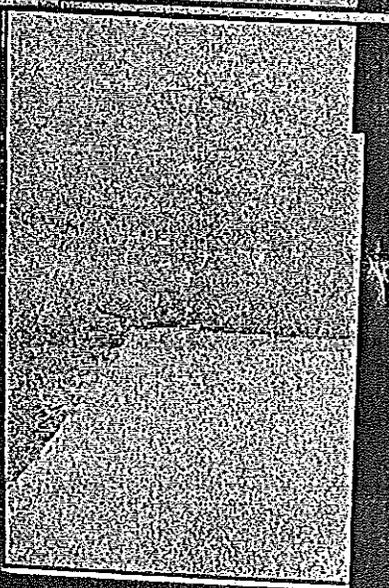
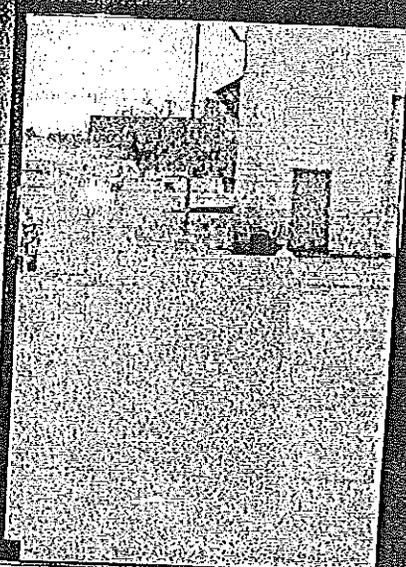
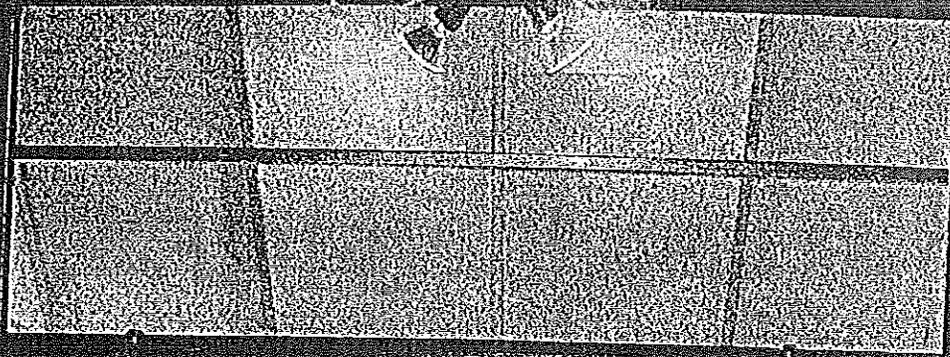


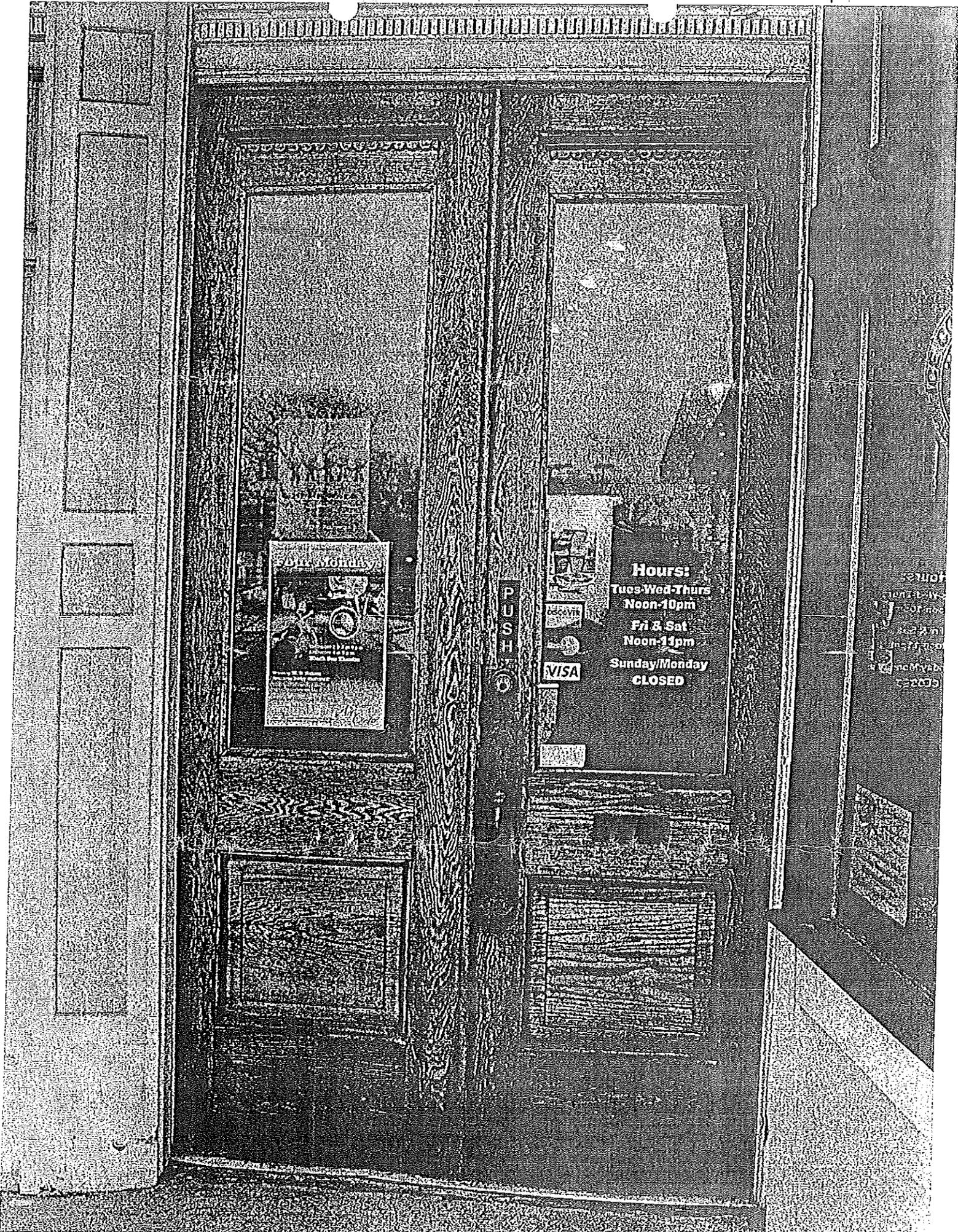
Wm. Dyke Justin
Attorney at Law

WDJ/bam

Soo Brewing Company







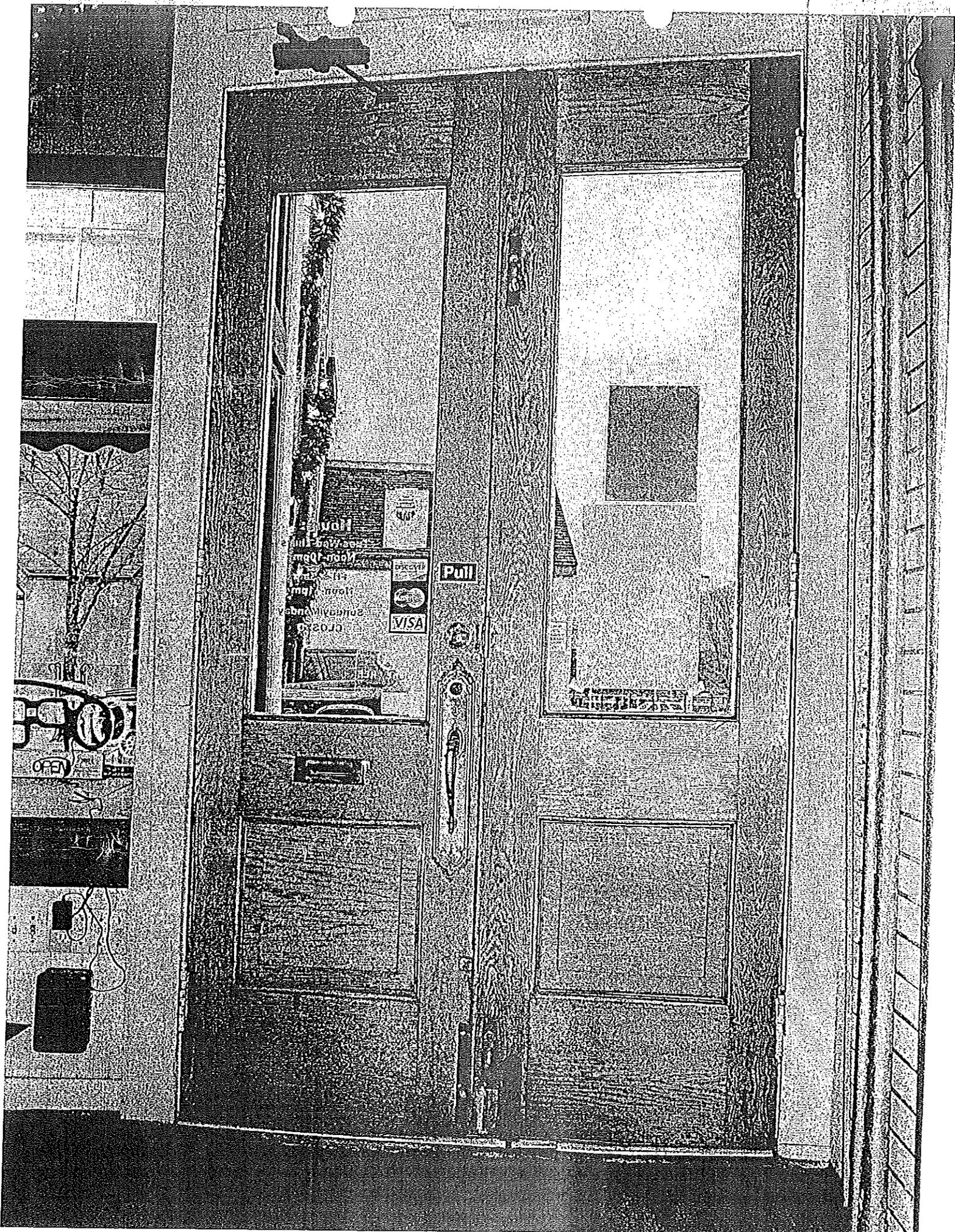
Dixie Mondays
 featuring a classic car
 every Monday
 11am - 5pm
 123 Main Street
 Phone: 555-1234

P
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Hours:
 Tues-Wed-Thurs
 Noon-10pm
 Fri & Sat
 Noon-11pm
 Sunday/Monday
 CLOSED

VISA

sewof
 front
 1234
 5678
 9012
 3456
 7890





Law Office Of Wm. Dyke Justin, P.C.

PO Box 746

718 Ashmun, Suite 202

Sault Ste Marie, MI 49783

906.632.1145

906.632.0878 (fax)

Wm. Dyke Justin

Betsy McDonoff
Legal Secretary

May 2, 2011

Michigan Liquor Control Commission

7150 Harris Drive

P.O. Box 30005

Lansing, MI 48909

RECEIVED
MAY 2 2011
BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

RE : Soo Brewing Company, LLC License Holders
LCC # 199286-2011

Dear Sir or Madam:

The following fax is a License Holders Affidavit in Support of Variance for Soo Brewing Company, LLC. If you have any questions or comments please contact me at your convenience.

Sincerely,

WM. DYKE JUSTIN, P.C.

Wm. Dyke Justin
Attorney at Law

WDJ/bam

Michigan Liquor Control Commission
7150 Harris Drive
POBox 30005
Lansing, MI 48909

License Holders Affidavit
in Support of Variance

After being duly sworn, Ray Bauer states the below in support of the variance request sought by Soo Brewing Company, LLC. The licensed address is at 223 W. Portage Ave., Sault Ste Marie, Michigan.

1. That your affiant is duly authorized to execute this affidavit on behalf of Soo Brewing Company, LLC.
2. License holders LCC License number is 199286-2011
3. That per regulation the license holders patron limit is 49.
4. That the Northern ingress and egress is 56 inches wide.
5. That the Southern ingress and egress is 60 inches wide.
6. That the Northern ingress and egress utilizes the original door for the building which is in excess of 100 years old and cosmetically blends with other businesses surrounding Soo Brewing Company, LLC.
7. That your affiant believes both doors are adequate for safety conditions especially based upon the number of patrons as ordered by city officials.
8. This affiant on behalf of Soo Brewing Company, LLC, respectfully requests a variance in the required width of the ingresses and egresses serving the license holder.



Ray Bauer on behalf of Soo Brewing Company, LLC

Subscribed and sworn to before me, this 2nd day of May, 2011.

[Handwritten Signature]
Signature of Notary

Diane S. Cork
Printed Name of Notary

Chippewa County, Michigan

My commission expires: 12-15, 2012.

DIANE S. CORK
NOTARY PUBLIC, STATE OF MICHIGAN
COUNTY OF CHIPPEWA
MY COMMISSION EXPIRES DEC. 15, 2012
ACTING IN CHIPPEWA COUNTY

3-10

9:40 John Gamelin - American Gbes

- See Brewing rear door:

A) Remove two 30" doors, install a
36" door and 24" sidelite \$1,689 -

B) Remove two 30" doors, install a ^{\$217}
42" door and 18" sidelite \$1,906 _{difference}

- Existing door framing is less than ^{30"}84" high -
the door will have to be cut down a little
to fit in the existing framing.

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

97 042

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 Soo Brewing Company		STREET / SITE ADDRESS 223 W. Portage Avenue		
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 \$ 27,834		Estimated Cost of Compliance \$ 1,689-1,906		
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 PB10-101		
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP B, F-2	CONSTRUCTION TYPE III-B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) Section 912.8 of the 2006 Michigan Rehabilitation Code for Existing Buildings Reason for Non-Compliance The construction drawings indicate that the existing double doors at the accessible entrance at the south side of the building will be replaced with a single door complying with the minimum width requirements. The existing double doors are 30 inches per leaf and do not comply with the minimum width requirement of 32 inches of clear opening with one leaf. The applicant is requesting an exception to allow the existing doors to remain.				
ENFORCING AGENCY City of Sault Ste. Marie Building Department		BUILDING OFFICIAL NAME Darren Neveu		REGISTRATION NUMBER 001592
ADDRESS 325 Court Street	CITY Sault Ste. Marie	STATE MI	ZIP CODE 49783	TELEPHONE NUMBER (Include Area Code) (906) 632-5700
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>Darren Neveu</i>		E-MAIL ADDRESS dneveu@sault.com		FAX NUMBER (Include Area Code) (906) 635-5606
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME Northwoods Land Surveying, Inc.		LICENSED INDIVIDUAL Beverly R. McCready		MICHIGAN LICENSE NUMBER 6201032870
ADDRESS P.O. Box 758	CITY Sault Ste. Marie	STATE MI	ZIP CODE 49783	TELEPHONE NUMBER (Include Area Code) (906) 632-1500
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME Soo Brewing Company		APPLICANT NAME Ray Bauer		FEIN OR SS NO.* (Required)
ADDRESS PO Box 314	CITY Sault Ste. Marie	STATE MI	ZIP CODE 49783	TELEPHONE NUMBER (Include Area Code) (906) 632-4400
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code)
APPLICANT SIGNATURE (Must be an original signature) <i>Ray Bauer</i>			DATE 3-10-11	

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