



CITY OF IDAHO SPRINGS
1711 Miner Street
P.O. Box 907
Idaho Springs, CO 80452-0907
Telephone (303) 567-4421
FAX (303) 567-4955

NOTICE AND AGENDA
VARIANCE BOARD OF ADJUSTMENTS
Idaho Springs City Hall
1711 Miner Street
Wednesday, March 15, 2023 – 6:00 p.m.

Call to Order

Roll Call

Conflict of interest

Appeal Hearing: 1546 Miner St. appeal of Building Dept. interpretation of building codes

Adjourn

IN-PERSON AND REMOTE MEETING PUBLIC ATTENDANCE AND PARTICIPATION INSTRUCTIONS

The Public is able to view and hear this meeting remotely at the following address on the City's website:
<https://www.colorado.gov/pacific/idahosprings/city-council-live>

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83506000349?pwd=REk5TFBZMS95NXhseFJoOUVzZlBoUT09>

Passcode: 242095

Or One tap mobile :

US: +17193594580

Webinar ID: 835 0600 0349

Passcode: 242095

For in-person Unscheduled Public Comment, please sign-in at the entrance to the Council Chambers.

Each individual that is providing public comment is limited to three (3) minutes.

TO: VARIANCE BOARD
CC: ANDREW MARSH, CITY ADMINISTRATOR
FROM: JONATHAN CAIN, ASSISTANT CITY ADMINISTRATOR,
INTERIM COMMUNITY DEVELOPMENT PLANNER
DATE: MARCH 15, 2023
SUBJECT: APPEAL OF BUILDING DEPARTMENT INTERPRETATION AT
1546 MINER STREET
ATTACHMENTS: APPEAL APPLICATION AND MATERIALS,
APPLICABLE SECTIONS OF THE INTERNATIONAL EXISTING
BUILDING CODE



REQUEST

Ross Bradley, owner of 1546 Miner Street (THE APPLICANT), is appealing the City Building Department’s interpretation of the International Existing Building Code (IEBC) requiring the construction of an accessible restroom for a change of occupancy classification and use from Business Group B to Mercantile Group M.

BACKGROUND

A Bank has operated at 1546 Miner Street for many years. Recently, the space was vacated, and the building’s owner would like to change the use of the building from B Business to M Mercantile.

Due to the proposed change of use, the City’s Building Department performed a code analysis to determine whether the new use meets Code requirements. The Building Department found that the application to change uses was incomplete because “the partial change of occupancy in section 305.4.1 (2018 IECC) references three sections (sections 305.6, 305.7, and 305.8). No compliance with section 305.8 was indicated in the permit application, and an accessible restroom must be provided.”

The building is a contributing structure within the National Historic District. The Applicant has argued that their application is solely for a change of occupancy from B to M. They state that their change of occupancy does not require any building permits, and none of the work includes anything that would rise to the level of “alteration” as defined by the 2018 IEBC: “Any construction or renovation to an existing structure other than a repair or addition.”

ZONING AND LAND USE

This property is zoned Historic District (HD) and is in the National Historic District. Its current occupancy classification is B (business). The new proposed use is M (mercantile).

ROLE OF THE VARIANCE BOARD

Section 21-109 (2) of the Idaho Springs Municipal Code grants the Variance Board the authority to “hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made in the administration of this Chapter.”

APPEAL CRITERIA

Section 21-109 states that the Variance Board may reverse, affirm, wholly or partly, or may modify the Building Official's order, requirement, decision, or determination where the Variance Board finds that the Official acted:

1. Without clear and convincing evidence to support the order, requirement, decision, or determination; or
2. Beyond the Building Official's Authority.

PUBLIC NOTICE

Meetings of the Variance Board are required to be posted in the usual posting areas of the City 24 hours in advance. This meeting was posted both at City Hall and on the City Website. City Code does not require any additional form of notice.

PROPOSED MOTION AND FINDINGS:

To Render a Decision: Based on the findings made on the record of this matter, I move to:

[OPTIONS]:

- **AFFIRM** the decision of the Building Official that IEBC sections 305.4.1, 305.6, 305.7, and 305.8 apply to the Applicant's change of use and an accessible restroom is required.
- **OVERTURN and REVERSE** the decision of the Building Official that IEBC Sections 305.4.1, 305.6, 305.7, and 305.8 apply to the Applicant's change of use. As a result, an accessible restroom is not required.
- **MODIFY** the decision of the Building Official that IEBC Sections 305.4.1, 305.6, 305.7, and 305.8 apply to the Applicant's change of use as follows *[Explain how the Board wishes to modify the Building Official's decision short of completely overturning/reversing the decision]*

Relevant Sections of the 2018 International Existing Building Code

SECTION 202 GENERAL DEFINITIONS P

[A] ADDITION. An extension or increase in floor area, number of stories, or height of a building or structure.

[A] ALTERATION. Any construction or renovation to an *existing structure other than a repair or addition*.

[A] APPROVED. Acceptable to the *code official*.

[A] BUILDING. Any structure utilized or intended for supporting or sheltering any occupancy.

[A] CHANGE OF OCCUPANCY. A change in the use of a building or a portion of a building that results in any of the following:

1. A change of occupancy classification.
2. A change from one group to another group within an occupancy classification.
3. Any change in use within a group for which there is a change in application of the requirements of this code.

305.6 Alterations.

A facility that is altered shall comply with the applicable provisions in Chapter 11 of the *International Building Code*, unless *technically infeasible*. Where compliance with this section is *technically infeasible*, the *alteration* shall provide access to the maximum extent technically feasible.

Exceptions:

1. The altered element or space is not required to be on an accessible route, unless required by Section 305.7.
2. Accessible means of egress required by Chapter 10 of the *International Building Code* are not required to be provided in existing facilities.
3. The *alteration* to Type A individually owned dwelling units within a Group R-2 occupancy shall be permitted to meet the provision for a Type B dwelling unit.
4. Type B dwelling or sleeping units required by Section 1107 of the *International Building Code* are not required to be provided in *existing buildings and facilities undergoing alterations where the work area is 50 percent or less of the aggregate area of the building*.

305.4 Change of occupancy.

Existing buildings that undergo a change of group or occupancy shall comply with this section.

Exception: Type B dwelling or sleeping units required by Section 1107 of the *International Building Code* are not required to be provided in *existing buildings and facilities undergoing a change of occupancy in conjunction with alterations where the work area is 50 percent or less of the aggregate area of the building*.

305.4.1 Partial change of occupancy.

Where a portion of the building is changed to a new occupancy classification, *any alterations shall comply with Sections 305.6, 305.7 and 305.8*.

305.7 Alterations affecting an area containing a primary function. P

Where an *alteration* affects the accessibility to, or contains an area of *primary function*, the route to the *primary function* area shall be *accessible*. The accessible route to the *primary function* area shall include toilet facilities and drinking fountains serving the area of *primary function*.

Exceptions:

1. The costs of providing the *accessible* route are not required to exceed 20 percent of the costs of the *alterations* affecting the area of *primary function*.
2. This provision does not apply to *alterations* limited solely to windows, hardware, operating controls, electrical outlets and signs.
3. This provision does not apply to *alterations* limited solely to mechanical systems, electrical systems, installation or *alteration* of fire protection systems and abatement of hazardous materials.
4. This provision does not apply to *alterations* undertaken for the primary purpose of increasing the accessibility of a *facility*.
5. This provision does not apply to altered areas limited to Type B dwelling and sleeping units.

305.8 Scoping for alterations.

The provisions of Sections 305.8.1 through 305.8.15 shall apply to *alterations to existing buildings and facilities*.

APPLICATION FOR REQUEST FOR VARIANCE

APPLICANT NAME: Bradley Engineering and Construction Co
APPLICANT ADDRESS: 1546 Miner Street (subject property)

LEGAL DESCRIPTION OF THE PROPERTY: (Must attach legal from Clear Creek County) attached

CITATION TO OR COPY OF ORDINANCE FROM WHICH THE VARIANCE IS BEING REQUESTED, OR A COPY OF THE BUILDING OFFICIAL'S ORDER, REQUIREMENT, DECISION OR DETERMINATION FROM WHICH AN APPEAL IS TAKEN:

attached

REASON FOR FILING AN APPEAL OR REQUEST FOR VARIANCE: (Requests for variances must describe the evidence supporting each of the conditions required in order for a variance to be granted)

attached

A LIST OF NAMES AND ADDRESSED OF THE OWNERS OF ALL PROPERTIES WITHIN ONE HUNDRED (100) FEET OF ANY PART OF THE AFFECTED PROPERTY:

attached



Date: 2/20/2023
Project: Change of Occupancy
Permit#: 23IDSP-00007
Contact Phone: (303)697-1600
Construction Type: VB

Jurisdiction: City of Idaho Springs.
Site Address: 1546 Miner Street
Contact Person: Ross Bradley
Contact Email: ross@bradleyblastingco.com
Occupancy: B to M

Resubmit plans to safebuiltcoloradoplanreview@safebuilt.com for the re-review

A RESPONSE IN WRITING MUST BE INCLUDED WITH THE REVISED PLAN SUBMITTAL.

Please be sure to include on the resubmittal the engineer's or architect's "wet" stamp, signature, registration number and date on the cover page of any structural calculations, all structural details and structural sheets of the plans if applicable.

BUILDING DEPARTMENT COMMENTS:

All code references are for the 2018 ICODES and 2020 NEC

The above referenced permit application is considered incomplete due to the following:

- 1.) The partial change of occupancy in section 305.4.1 (2018 IECC) references three sections (sections 305.6, 305.7, and 305.8.). No compliance with section 305.8.10 has been indicated. An accessible restroom must be provided.

Thank you.

Contact Person:

John Kupferschmid
SAFEbuilt Colorado
11409 Business Park Circle, Suite: 320
Firestone, CO 80504
(570)229-2798
jkupferschmid@safebuilt.com

BRADLEY ENGINEERING AND CONSTRUCTION CO
P.O. Box 465
Morrison, CO 80465

March 6, 2023

Sent via email to jcain@idahospringsco.com

Jonathan Cain, Interim City Planner
City of Idaho Springs
1711 Miner Street
Idaho Springs, Co 80452

Re: 1546 Miner Street – Application for request for variance

Dear Mr. Cain:

This letter is to acknowledge that we wish to appeal Safebuilt's denial of permit # 23IDSP-00007 in response to your letter of February 22nd.

First, our permit application is solely for a change of occupancy from B to M. The change of occupancy does not include any "alterations" as you correctly defined by the code as "construction or renovation to an existing structure, other than a repair or addition." The Variance Board should consider that the change of occupancy is the sole reason that initiated the building permit. Safebuilt's determination that section 305.8.10 of the adopted 2018 International Existing Building Code ("IEBC") assumes we are proposing "alterations." We do not plan on any work that alone generates a building permit. If a change in use were approved, I could foresee removing teller fixtures, furniture, painting, and changing the wearing surface of the floor. I do not believe that work is considered "construction or renovation." If the IEBC's interpretation of alteration includes that scope of work, everyone would have to get a building permit just to paint their interior.

Second, if the Variance Board were to conclude the change of occupancy permit is to include any future work and that future work would rise to an alteration, I ask them to look at our included letter provided by Building One Consulting, LLC to appeal Safebuilt's decision.

We hope the Variance Board will appeal Safebuilt's denial of permit #23IDSP-00007 because the permit itself does not include alterations as defined by IEBC, and, even if it did, we have an exception as one of our consultants has written on.

Sincerely,



Ross Bradley, Project Manager
(303) 697-1600 – Office
ross@bradleyblastingco.com

building ONE consulting, llc

March 2, 2023

Mr. Ross Bradley
Bradley Engineering and Construction
PO Box 465
Morrison, CO 80465

**RE: Accessible Bathroom Requirement
1546 Miner Street
Idaho Springs, CO 80452
Project Number 23-1027-A**

Dear Mr. Bradley:

Building One has reviewed the drawings submitted for change of occupancy on 1546 Miner Street and the response from SAFEbuilt, Inc. in regard to the requirement for an accessible bathroom in the project. Building One opines that an accessible bathroom is not required to be added to the project at this time because other changes are being made to improve the accessibility of the project that will exceed 20 percent of the total costs. The International Existing Building Code (IEBC) and 2010 Americans with Disabilities Act (ADA) both state that the cost of improvements to the accessibility of a building do not have to exceed this threshold.

Bradley Engineering reported that they will be installing an accessible parking space in the alley and replacing concrete flatwork on the accessible route between the accessible parking space and the building entrance. They also reported that the total costs of the interior remodel are only \$1,500. Therefore, the costs of the new concrete flatwork will likely exceed the total cost of the interior remodel. These improvements to the parking are considered part of the improvements to the accessible route serving the area of primary function.

SAFEbuilt reviewed the plan submission for permit on behalf of the city of Idaho Springs. They indicated that 2018 IEBC Section 305.8.10 requires an accessible bathroom be provided. Building One agrees that this section generally would require an accessible bathroom; however, Section 305.7 Exception 1 states that *"The costs of providing the accessible route are not required to exceed 20 percent of the costs of the alterations affecting the area of primary function."* Section 305.7 also states that *"The accessible route to the primary function area shall include toilet facilities and drinking fountains serving the area of primary function."* These requirements align with the requirements of the 2010 ADA Advisory to Section 202.4: *"Department of Justice ADA regulations state, 'Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area. (28 CFR 36.403 (f)(1)).'"* Therefore, the cost of providing the accessible route to the area of primary function, including the accessible bathroom, does not need to exceed 20 percent of the total cost of the remodel.

Ross Bradley
RE: 1546 Miner Street
March 2, 2023
Page 2

Additionally, per IEBC 305.4.1 alterations to the space must comply with Sec. 305.8. However, no alterations are being made to the bathroom, so 305.8 does not apply. Therefore, the bathroom does not need to be made accessible.

In summary, the project is providing improvements to the accessible parking that exceed 20 percent of the total project costs. Therefore, IEBC Section 305.7 Exception 1 applies and additional improvements to the area of primary function, including providing an accessible bathroom, are not currently necessary.

Procedures and Limitations

For this review, Building One was only provided with the following documents: Sheet A100, Architectural Site Plan, dated 02/03/2023 and SAFEbuilt's plan review letter dated 02/20/2023. Building One used these documents and the codes referenced above to form our opinion and cannot be held responsible for aspects of the project which we were not specifically informed.

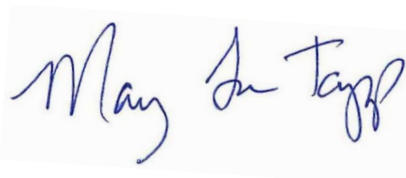
The sole purpose of this report is to address the noted aspects of the project. The use of this report is limited solely to the Client to whom it is addressed. This review is being completed pursuant to the requirements and scope of work from the Agreement for Consulting Services between Building One and Client.

Building One assumes limited liability regarding the content of this report, since design limitations, owner's program requirements, design fees, and other possible constraints and impacts were not reviewed by this office. In addition, the intent of this report is not for this office to assume any part of the design responsibility, rather to report our opinion/findings to our client to whom this is addressed.

Building One would be pleased to review any additional documentation under additional service provisions.

Sincerely,

Building One Consulting, LLC

A handwritten signature in blue ink that reads "Mary Jean McCarthy-Tapp". The signature is written in a cursive, flowing style.

Mary Jean McCarthy-Tapp, AIA, NCARB
Associate / Project Manager

ACCOUNT NUMBER **R004512**
 PARCEL NUMBER 183536312201
 TAX DISTRICT 030

(303) 679-2353
 www.clearcreekcounty.us
 clee@clearcreekcounty.us



Clear Creek County
 P.O. BOX 2000
 405 ARGENTINE STREET
 GEORGETOWN, CO 80444

2022 PROPERTY TAXES DUE 2023

TAX AUTHORITY	TAX LEVY	TEMP TAX CREDIT	GENERAL TAX	VALUATION	ACTUAL	ASSESSED
CCC LIBRARY DISTRICT	2.00000	0.00000	\$146.62	Land	\$21,120	\$6,120
CCC GENERAL	27.51600	0.00000	\$2,017.19	Building/Improve	\$231,680	\$67,190
CITY OF IDAHO SPRINGS	6.31000	0.00000	\$462.59	Personal	\$0-	\$0
CLEAR CREEK SCHOOL RE-1	21.37300	0.00000	\$1,566.85	Total	\$252,800	\$73,310
CCC OPEN SPACE	1.00000	0.00000	\$73.31	Sr/Vet Exemption	\$0	\$0
CCC PUBLIC WELFARE	0.89000	0.00000	\$65.25	Net Total	\$252,800	\$73,310
CLEAR CREEK METRO REC	2.00100	0.00000	\$146.69	SPECIAL MESSAGES NEW HOURS JAN 2023 7:30 a.m. to 5:30 p.m Monday - Thursday		
IDAHO SPRINGS R & B	2.87500	0.00000	\$210.77			
CCC IDAHO SPGS R & B	2.87500	0.00000	\$210.77			
IS ROAD PROJECT	0.00000	0.00000	\$0.00			
SCHOOL DIST RE1 BOND	8.23000	0.00000	\$603.34			
CLEAR CREEK METRO REC BON	0.00000	0.00000	\$0.00			
TOTALS	75.0700000		\$5,503.38			
GRAND TOTAL			\$5,503.38			

Unpaid Prior Year Taxes

No

Late payments without applicable interest will be returned.

SB 25 - In absence of State Legislative Funding, your school mill levy would have been 22.0850

PROPERTY ADDRESS AND LEGAL DESCRIPTION OF PROPERTY (may be incomplete)

1546 MINER ST, 1542 MINER ST, 217 16TH AVE
 Subdivision: IDAHO SPRINGS Block: 15 Lot: 1 AND:- Lot: 2 & IMPS 467/169 & WD 467/170

2022 Taxes Due 2023 2nd Half Payment Due June 15

Return this Coupon with Payment to:
 Clear Creek County Treasurer
 PO Box 2000
 405 Argentine Street
 Georgetown, CO 80444

CURRENT BILLING ADDRESS

LNB & PQB REAL ESTATE VENTURES I LLC
 PO BOX 465
 MORRISON CO 80465-0465

Account Number
R004512

For a receipt provide SAS envelope with payment

SECOND HALF DUE BY JUNE 15, 2023 \$2,751.69

2022 Taxes Due 2023 1st Half Due Feb 28 OR Full Payment Due April 30

Return this Coupon with Payment to:
 Clear Creek County Treasurer
 PO Box 2000
 405 Argentine Street
 Georgetown, CO 80444

CURRENT BILLING ADDRESS


 LNB & PQB REAL ESTATE VENTURES I LLC
 PO BOX 465
 MORRISON CO 80465-0465

Account Number
R004512

23545

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