



NEW YORK STATE DEPARTMENT OF STATE
DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION

APPLICATION FOR VARIANCE OR APPEAL

UNIFORM FIRE PREVENTION AND BUILDING CODE

This is an application for a variance or appeal of a local determination regarding applicable provisions of the New York State Uniform Fire Prevention and Building Code. To be deemed complete, the application must be signed by the petitioner or authorized agent, must contain all necessary documentation, be accompanied by the appropriate fee and been reviewed and accepted by a Regional Office.

06/01/2011

The completed application including at least one (1) copy of all required documents must be submitted to the appropriate Regional Office. For Board of Review petitions, seven (7) additional copies of all documents shall be delivered to our Central Office in Albany at the address below, after Regional Office review. A hearing will be scheduled when all required documents are received.

Department of State
Division of Code Enforcement and Administration
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231-0001
(518) 474-4073

PETITION NO: _____

ROUTINE VARIANCE

BOARD VARIANCE

BOARD APPEAL

(FOR OFFICE USE ONLY)

Mailing an application directly to our Central Office without first involving a Regional Office will result in a delay.

Certain variance requests may be treated as routine cases as determined by the Department in cooperation with the local code enforcement office. Provide two (2) copies of all required documents to the appropriate Regional Office.

PART 1 - GENERAL INFORMATION

PETITIONER

(Check one) Owner Agent Architect or Engineer Attorney

Name: Thomas D. Hoard

Title/Company: HOLT Architects, P.C.

Mailing Address: 217 North Aurora Street
Ithaca, New York 14850

Telephone: (607) 273-7600 Fax: (607) 273-0475

e-mail: tdh@holt.com

REGIONAL OFFICE PHONES:

| | |
|-----------------|----------------|
| BUFFALO (north) | (716) 847-7611 |
| BUFFALO (south) | (716) 847-7612 |
| CAPITAL | (518) 477-7497 |
| FINGER LAKES | (315) 587-4563 |
| KINGSTON | (845) 334-9768 |
| LONG ISLAND | (631) 952-4909 |
| NORTHERN NY | (518) 441-1895 |
| PEEKSKILL | (914) 734-1347 |
| ROCHESTER | (585) 533-1058 |
| SOUTHERN TIER | (585) 437-5534 |
| SYRACUSE | (315) 428-4434 |
| UTICA | (315) 793-2526 |

PROPERTY City Town Village of Ithaca County of Tompkins

Address Rand Hall, 947 University Avenue Tax Map No.: _____

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Owner if other than petitioner Gary Wilhelm, Project Manager, CP&P</p> <p>Name <u>Cornell University</u></p> <p>Street Address <u>102 Humphreys Service Building</u></p> <p>Post Office <u>Ithaca, NY</u> Zip <u>14850</u></p> <p>Telephone: <u>(607) 254-8022</u></p> <p>Fax: <u>(607) 255-1968</u></p> <p>e-mail: <u>GNW1@cornell.edu</u></p> | <p>Code Enforcement Official</p> <p>Name <u>Michael Niechwadowicz, Acting Building Commissioner</u></p> <p>Street Address <u>108 East Green Street</u></p> <p>Post Office <u>Ithaca, New York</u> Zip <u>14850</u></p> <p>Telephone: <u>(607) 274-6508</u></p> <p>Fax: <u>(607) 274-6521</u></p> <p>e-mail: <u>MIKEN@cityofithaca.org</u></p> |
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Addresses for Department of State Regional Offices and tentative hearing dates can be found on our web site at www.dos.state.ny.us or by calling (518) 474-4073 during normal business hours.

PART 2 - MINIMUM BUILDING INFORMATION

Height in Stories 3 Gross Area (all floors) 172,486 Sq. Ft. Construction type IIB and VB

Occupancy: One-family Dwelling Two-family Dwelling Townhouse Accessory structure
 Other B, Education above the 12th Grade, with A-3 Uses

PART 3 - APPLICABLE BUILDING CODE AND RELIEF REQUESTED (Check all that apply)

- Title 9 - Uniform Fire Prevention and Building Code - Applicable 1/1/1984 to 12/31/2002
 Title 19 - Uniform Fire Prevention and Building Code - Applicable 1/1/2003 to present
 Part 1220 Residential Part 1221 Building Part 1222 Plumbing Part 1223 Mechanical
 Part 1224 Fuel Gas Part 1225 Fire Part 1226 Property Maintenance
 Part 1227 Existing Building
 Multiple Residence Law (MRL)

On the chart below, list the specific code sections which are the subject of your variance request. (Use separate sheet if necessary).

- Variance Appeal Appeal / variance

| CODE SECTION(S) | TOPIC | RELIEF SOUGHT |
|----------------------|------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| 2010 EBCNYS 912 | Change of Occupancy | Determination that replacing an A-3 Studio use with an A-3 Library is not a change in occupancy/use. |
| 2010 BCNYS Table 503 | Use and Occupancy | Determination that College studios/teaching labs with more than 49 occupants is an A-3 Assembly occupancy/use. |
| 2010 BCNYS 103 | Assembly Group A | Determination that use described above falls under A-3, "other uses not classified elsewhere in Group A." |
| 2010 BCNYS 304 | Business Use/Occupancy | Determination that overall classification of a building for Educational Uses above the 12th grade is in fact a B classification. |

PART 4 - FILING

NON-REFUNDABLE FILING FEES (Please review fee schedule with Regional Office)

- Routine (administrative) variance review process\$ 50
 Board of Review Petitions
 Construction, alteration, or renovation of residential or agricultural occupancies
 no more than one structure; no more than 2 dwelling units.\$ 50
 Construction, alteration or renovation of other buildings or structures having a gross area of:
 • not more than 8,000 square feet\$ 100
 • more than 8,000 square feet but not more than 25,000 square feet\$ 300
 • more than 25,000 square feet but not more than 50,000 square feet\$ 500
 • more than 50,000 square feet\$ 1,000
 Maintenance or use of buildings or materials and not otherwise provided for above . \$ 100

Checks must be made payable to New York State Department of State. Enter amount of check: \$ 1,000.00
 I make this application pursuant to 19NYCRR Part 1205 and I assert under penalty of perjury that the information furnished by me in support of this application is true and correct to the best of my knowledge.

Previous Action

Has any previous action related to the subject property been taken by the Department of State or another administrative agency or a court? (Include any formal interpretations, decisions, orders or informal advisories issued by the Department of State, the Division of Housing and Community Renewal or the Department of Labor.)

- No Yes (Describe below and provide relevant documents.)
 The Capital Region - Syracuse Board of Review made a decision in Petition No 2013-0250.
 I request that a hearing before the Board of Review be scheduled on this application for variance or appeal.

SIGNATURE Thomas A. Howard DATE: 13 SEPTEMBER 2013

For routine variances, STOP HERE, do not proceed to page 3
 For Board of Review variances, or appeals proceed to Part 5 on page 3

PART 5 - ADDITIONAL CONTACT INFORMATION

For Board of Review Variances provide the following names and addresses, if applicable.

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Architect or Engineer (if any): Name <u>HOLT Architects, P.C.</u> Street Address <u>217 North Aurora Street</u> Post Office <u>Ithaca, New York</u> Zip <u>14850</u> Telephone: (<u>607</u>) <u>273-7600</u> Fax: (<u>607</u>) <u>273-0475</u> e-mail: <u>tdh@holt.com</u></p> | <p>Fire Marshal or Inspector Name <u>Ron Flynn</u> Street Address <u>201 Palm Road</u> Post Office <u>Ithaca, New York</u> Zip <u>14850</u> Telephone: (<u>607</u>) <u>254-1629</u> Fax: (<u>607</u>) <u>254-1642</u> e-mail: <u>rmf@cornell.edu</u></p> |
| <p>Fire Department Contact Person Name <u>Chief C. Thomas Parsons</u> Street Address <u>310 West Green Street</u> Post Office <u>Ithaca, NY</u> Zip <u>14850</u> Telephone: (<u>607</u>) <u>277-7354</u> Fax: (<u>607</u>) <u>272-2793</u> e-mail: <u>parsons@cityofithaca.org</u></p> | <p>Other interested person or organization Name <u>Shirley K. Egan, Associate University Counsel</u> Street Address <u>Computing and Communications Center</u> Post Office <u>Cornell University</u> Zip <u>14850</u> Telephone: (<u>607</u>) <u>255-4128</u> Fax: (<u>607</u>) <u>254-3556</u> e-mail: <u>skel@cornell.edu</u></p> |

(Attach additional pages, if necessary)

PART 6 - BUILDING STATUS AND PROJECT INFORMATION

A. OCCUPANCY CLASSIFICATION (check all that apply for mixed use buildings)

1. Residential Code of New York State [effective 1/1/2003] (See Section 101.2)

- One-family Dwelling Two-family Dwelling Townhouse

2. Building, Fire, Plumbing, Mechanical, Fuel Gas or Property Maintenance Code of New York State [effective 1/1/2003] (See Section 303 of the Building Code of New York State)

- Assembly A-1 A-2 A-3 A-4 A-5
 Business B Education above the 12th Grade
 Educational E
 Factory F-1 Moderate Hazard F-2 Low Hazard
 Hazardous H-1 H-2 H-3 H-4 H-5
 Institutional I-1 I-2 I-3 I-4
 Mercantile M
 Residential R-1 R-2 R-3 R-4 One- or Two-Family Dwelling Townhouse
 Storage S-1 Moderate Hazard S-2 Low Hazard
 Utility U

Uniform Fire Prevention and Building Code - Title 9B [effective 1/1/1984 - 12/31/2002]

Residential

- A1 One-family Dwelling A2 Two-family Dwelling
 Multiple Dwelling B1 B2 B3 B4

Commercial

- C1 Business C2 Mercantile
 C3 Industrial C3.1 Low hazard C3.2 Moderate Hazard C3.3 High Hazard
 C3 Storage C4.1 Low Hazard C4.2 Moderate Hazard C4.3 High Hazard
 C5 Assembly C5.1 C5.2 C5.3 C5.4 (religious) C5.5 Educational
 C6 Miscellaneous (Describe) _____

3. Multiple Residence Law No. of Stories _____ No. of Dwelling units _____ Approximate Age _____ Yrs.

B. BUILDING DESCRIPTION AND PROJECT INFORMATION

Construction type: If more than one is applicable, specify where each occurs in the building. Consult the building code or your building official for assistance.

- Residential Code of New York State - Wood Frame Other _____
 Building Code of New York State [section 602] IIB and VB
 Uniform Fire Prevention and Building Code [section 704] 2b and 5b

Statistics: Number of stories above a basement: 3 (Do not count unfinished attic)
 Total floor area of largest story (square feet) Rand Hall 9,826 SF; Milstein 25,000, East Sibley 7,600
 Gross floor area of entire building (square feet) 172,486

Date of last Certificate of Occupancy (if available) _____

Project type / status

- New building
 Addition to existing building
 Repair
 Alteration level 1
 Alteration level 2
 Alteration level 3
 Change of Occupancy
 Other Use of existing building
 In planning
 No official allegation of non-compliance
 Work in progress started ___/___/___
 Work completed

Permit/Compliance Status

- Building Permit Application 9/13/2011 (Date)
 Building Permit 9/23/2011 (Date)
 Certificate of Occupancy ___/___/___ (Date)
 Orders or Denials
 Inspection Report

Note: Attach all pertinent documents

PART 7 - SUBJECT OF THE PETITION (appeal and/or variance, both may be requested)

APPEAL (Check if appealing a code official's determination)

An appeal is a request for a Board of Review to review any order or determination, or the failure within a reasonable time to make any such order or determination by a Code Enforcement Official. Describe the order or determination and explain specifically why you believe the order or determination, or failure to act is incorrect, improper or otherwise unwarranted. This should include specific explanations relative to code sections cited.

Specific code and section(s) in question : _____

- A. An order or determination, or the failure to make said order or determination in a timely fashion, or the failure to issue a permit or other document in a timely fashion is appealed. A copy of the order or determination is attached as **Exhibit** ____.
- Briefly describe the order or determination (additional sheets may be used to do so) _____
- _____
- _____
- _____
- _____

- B. Attached as **Exhibit** ____ are the reasons why the order or determination should be reversed or modified or why other relief should be fashioned so as to do justice among the parties.

VARIANCE (Check if requesting a variance)

REQUIRED ARGUMENTS FOR A VARIANCE

The Board of Review may only grant a variance or modification on the basis of one or more of the following six reasons. To be eligible for a variance, you must document that at least one applies to the requested variance or modification.

Strict compliance with the sections described above would entail practical difficulties, unnecessary hardship, or would otherwise be unwarranted because such (check the statements that apply and provide appropriate documentation):

- 1. would create an excessive and unreasonable economic burden.
Reasons are attached in Exhibit 2
- 2. would not achieve its intended objective.
Reasons are attached in Exhibit 2
- 3. would inhibit achievement of some other important public policy.
Reasons are attached in Exhibit 2
- 4. would be physically or legally impracticable.
Reasons are attached in Exhibit 2
- 5. would be unnecessary in light of alternatives which, without a loss in the level of safety, achieve the intended objective of the code.
List alternatives and describe in Exhibit 2
- 6. would entail a change so slight as to produce a negligible additional benefit consonant with the purpose of the code.
Reasons are attached in Exhibit 2

PART 8 – DOCUMENTS (For Board cases, provide at least 8 copies)

Required Documents (Supplemental to the petition form)

Summary: Describe the project, the present conditions, the proposed work, the details of the appeal and/or variance requests, and support of the grounds for relief you checked above.

Site Plan: Indicate size and location of all structures on the premises, if applicable.

Building Plans: Drawings in sufficient quantity and quality to clearly describe the requested variance or modification. Such drawings may include dimensioned floor plans, elevations, sections and construction details. Any drawings submitted should be identical to those submitted to the code enforcement official or be noted otherwise.

Supplementary Documents Submit such materials as photographs, charts, reports, detailed descriptions or any other information that can be used to more fully describe the nature of the request. List any such supplementary materials by Exhibit number.

| EXHIBIT NUMBER | DESCRIPTION |
|----------------|---------------------------------------------------------------------------|
| 1 | Petition Narrative |
| 2 | Responses to Part 7- Arguments for Variance |
| 3 | Copy of Decision in Petition No. 2013-0250 |
| 4 | Copies of Ithaca Fire Department Operating Permits |
| 5 | Copies of College of Architecture, Art, and Planning Space Planning Plans |
| 6 | Copies of Plans at Rand/Milstein adjacencies |
| 7 | Photographs |
| 8 | Diagram showing closest distance between Rand Hall and East Sibley |

A hearing will not be scheduled until all required materials are received by the Division of Code Enforcement and Administration and the appropriate Regional Office has confirmed that the application is complete. All materials must be received at least three (3) weeks prior to a hearing date.

Rand Hall, Cornell University – Variance Petition

Exhibit 1: Petition Narrative

Executive Summary:

Determination Sought: The second and third floors of Rand Hall may be used for A-3 college library use because in light of the alternatives, the intended objectives of the code will be achieved and will not result in a loss in the level of safety.

Explanation: Rand Hall is fully sprinklered and is separated by two sets of fire barriers in lieu of a fire wall, and by a distance of 60 feet from a Type VB building (East Sibley Hall) , which is also fully sprinklered.

The need for a variance arose because Milstein Hall (2007, Type IIB) lies between and connects East Sibley and Rand Halls; therefore all three buildings are classified as Type IIB in accordance with Section 1002 of the 2010 *Existing Building Code of New York State*. The resulting Type VB classification would not otherwise permit use of the third floor for A-3 college library purposes without a variance.

All other Life Safety aspects (means of egress, fire protection, etc.) are in compliance with the applicable codes.

Narrative:

This petition is for a variance from Section 912 of the 2010 *Existing Building Code of New York State (EBCNYS)*, and Section 503 of the 2010 *Building Code of New York State (BCNYS)*, to permit the use of the second and third floors of Rand Hall for a college library. The third floor is being used for a conventional library with books and other printed matter, the second floor is also to be used for the library. The applicable code sections are:

2010 *Existing Building Code of New York State (EBCNYS)*: Section 912: Change of Occupancy Classification

2012 *Building Code of New York State(BCNYS)*: Table 503, Allowable Height and Building Areas

Background:

Rand Hall was built as a three-story “fireproof” building for college-level instruction in the early 1900s (it was dedicated in 1911), on the Cornell University Campus. The construction classification under the 2010 *BCNYS* was Type IIB. It was used for various engineering college classroom and (dry) laboratory purposes, including computer programming, until roughly 1970, when it was assigned to the College of Art, Architecture and Planning. According to the documentation submitted as Exhibits 4 and 5, for at least the past four decades the second and third floors of Rand Hall were used for open-plan design studios for the college’s architecture students. Under the NYS Building Construction Code (NYSBCC) and its successor NYS Uniform Fire Prevention and Building Code (NYSUFP&BC) Rand was classified as C5, Assembly, Group C5.5 for schools, colleges and similar places of assembly, which would also allow college library use in the building,

On May 18,2007 a building permit application was filed and a permit subsequently issued by the City of Ithaca for a new addition of Type IIB construction, now known as Milstein Hall. Two story Milstein Hall connects Rand Hall to East Sibley Hall, a Type VB building (Please see diagram, Exhibit 8). No fire walls were provided to separate the Type VB structure (East Sibley Hall) from the two Type IIB structures (Milstein and Rand Halls), which, under the 2010 Code meant that the aggregate building was downgraded to Type VB construction. East Sibley, three stories and built in 1894, is a member of the Arts Quad historic district. Adding a fire barrier between it and the new two-story addition, Milstein Hall, was rejected because of concerns for the historic character of East Sibley.

On September 23, 2011 a building permit was issued for work to permit portions of the Fine Arts Library to be moved from Sibley Hall to the third floor of Rand Hall, based in part on the same rationale as found in the code review prepared by the Petitioner. The issuance of that building permit was challenged by a private individual, Jonathan Ochshorn, “as a registered architect and user of Milstein-Sibley-Rand Halls”. Mr. Ochshorn cited 2010 *EBCNYS* Section 912.5.1, and 2010 *BCNYS* Section 503.1, as not permitting this move, arguing that a library could not be located on the third floor of a Type VB building. For “relief sought” in Part 3 of his petition he listed: “[P]rovide a fire wall, or reconstruct Sibley Hall as Type III-A construction, or move the library to the 2nd floor while providing a 2-hr fire barrier.”

Mr. Ochshorn's Petition, No. 2013-0250, was heard by the Capital Region – Syracuse Board of Review at its July 18, 2013 hearing in Syracuse, New York. The Board ruled on this issue (Number 8 in a list of 8 items in the petition) as follows:

"The Board sustains the appeal for the petitioner and, therefore, reverses the determination of the code enforcement official for Number 8."

This petition is to apply for a variance from the listed code sections to permit the use of both the second and third floor of Rand Hall for a library. The 2011 building permit, now reversed, was for just the 3rd floor. Because the college's plans call for eventually having its library occupy both the second and third floors of Rand Hall, this variance application is for both floors.

In an abundance of caution, the petition is for A-3 approval for both floors, although an A-3 occupancy is permitted on the second floor of even a sprinklered Type VB building, per 2010 *BCNYS* Chapter 5, and Table 503.

1. Building Construction:

- a. Although the third story of East Sibley is of Type VB construction and is the technical reason for downgrading the Type IIB construction classification of Milstein and Rand Halls, it is only because the Milstein Hall addition links East Sibley and Rand that Rand Hall's construction classification is affected (Please see Exhibit 8). Section 1001 of the *EBCNYS* mitigates that issue by stating in part that "[a]n addition to a building or structure shall comply with the Codes of New York State without requiring the existing building or structure to comply with any requirements of those codes or of those provisions, except as required by this chapter." The only provision of Chapter 10 that is of issue is Section 1002.2, Area Limitations, which does not permit an increase in area of an existing building beyond that allowed by Chapter 5 of the *BCNYS*. That issue was resolved by the Board of Review in its decision on Petition No. 2013-0250, when it upheld the Authority Having Jurisdiction's issuing of a building permit to allow the Milstein Hall addition to Rand Hall and East Sibley Hall, separated by fire barriers in lieu of fire walls under provisions of Section 902.2 of *Appendix K* of the 2002 *BCNYS*.
- b. No part of Rand Hall is directly connected to East Sibley Hall. As stated above, the link to East Sibley is the Milstein Hall addition, a fully sprinklered Type IIB building. Rand Hall and East Sibley are 60 feet apart at their closest point, from the southwest corner of Rand Hall to the Northeast corner of East Sibley. It is very unlikely that a fire originating in East Sibley, a fully sprinklered building, would travel through Milstein Hall, a fully sprinklered building, to Rand Hall, also a fully sprinklered building.
- c. The fire barrier between Rand Hall and Milstein has a 1 hour fire resistance rating. This separates A-3 uses between the two buildings per the 2002 *BCNYS*. Section 706.3.5 of the 2002 *BCNYS* required a 2 hour separation between adjacent A-3 occupancies (Table 302.3.3), but this was reduced by 1 hour to a 1 hour requirement by Exception 1 to Section 302.3.3, and reduced further to require no fire separation requirement by Table 508.3.3 of the 2010 *BCNYS*.
- d. Area and Height: The addition of Milstein Hall, which is two stories in height, to two three-story buildings does not violate *EBCNYS* Section 1002.1, which states: "[n]o addition shall increase the height of an existing building beyond that permitted under the applicable provision of Chapter 5 of the building code for new buildings". As built, (a) Milstein is the addition, and is only two stories in height, (b) Rand Hall and Sibley Hall are three stories in height, but they are existing buildings and their heights were not changed when Milstein was added. All three stories of Rand Hall were of A-3 occupancy, so an A-3 occupancy did **not** end up on a higher floor than was the case before the move. There was no change with respect to the requirements of Table 503 of the 2010 *BCNYS*.

2. Use/Occupancy:

- a. Rand Hall has been used primarily as a design studio building at least since the mid-1970s, and was established as such when the *New York State Building Construction Code (NYSBCC)* and its successor, the *New York State Uniform Fire Prevention and Building Code (NYSUFP&BC)* were in effect. Both of these codes classified the building as C5, Assembly, Group C5.5, for schools, colleges and similar places of assembly. The 2010 *BCNYS* 304.1 now classifies College buildings under the Business Group B classification, for education above the 12th grade, but 302.1 requires that "[S]tructures or portions of structures shall be classified with respect to occupancy in one or more of the groups listed below.

A room or space that is intended to be occupied at different times for different purposes shall comply with all of the requirements that are applicable to each of the purposes for which the room or space will be occupied.”

- b. The library use is listed in 303.1 as an A-3 occupancy. The previous use of the third floor, and the existing uses of the first and second floors had or have occupant loads exceeding 49 occupants and are clearly assembly uses, and fall under the “and other uses not classified elsewhere in Group A...” clause of 303.1, under A-3. None of the floors would meet any of the exceptions in 303.1, which would otherwise permit a Group B occupancy classification.

The Petitioner is requesting that the Board of Review grant a variance to permit the occupancy of the second and third floors of Rand Hall based on the facts stated above and for the following reasons:

1. Established Uses:

- a. The building has been used for architectural studios at least since the mid-1970s. Each of the second and third floors has had large open areas for collaborative study with some low partitions creating studio clusters, with a total actual occupant load per floor of up to 180 students. These spaces are not to be construed as classrooms; *BCNYS* Section 303.1 does not permit classifying classrooms with 50 or more occupants as a B occupancy; they fall under Use Subgroup A-3, Assembly.
- b. The Ithaca Fire Department has periodically inspected the building and issued an Operating Permit for Assembly Occupancy when the inspection determined that the building was in compliance with the *Fire Code of New York State (FCNYS)*. Attached are Operating Permits dated 5/13/10, 5/27/2011, 4/24/12, and 5/2/13, indicating that the Department classified the use as an assembly occupancy before, during, and after the library use was moved to the third floor.
- c. College of Architecture, Art and Planning Records are attached which show the continuous assembly uses on the second and third floors in 1977, 1987, 1992 and 2006-2007, years that fell under the *NYSBCC* (1977), the *NYSUFP&BC* (1987 and 1992), and the *BCNYS* (2006-2007).

2. Occupancy Classification:

Section 912 of the *EBCNYS* regulates changes of occupancy classification. As indicated above, there was a change in name only because of differences in code language, but no actual change in occupancy. There was also no change to a higher hazard category as described in Section 912. Moving the A-3 library into space previously used for A-3 studio use is in harmony with Section 912, and does not involve a change of occupancy group.

3. Life Safety Matters:

- a. Occupant Loads: Table 1004.1.1 of the 2010 *BCNYS* indicates that the calculated occupant loads of a library (100 gsf per occupant for stack areas and 50 nsf per occupant for reading areas) are less than that of the architectural studio/laboratory spaces with unconcentrated areas with tables and chairs (15 nsf/occupant). This results in a lower load on the egress system (which meets code requirements for either use).
- b. Means of Egress: The means of egress for Rand Hall are more than adequate for the A-3 uses. There are two enclosed stairways: the south stairway is 42 inches wide, and the east stairway is 44 inches wide, for egress capacities in a sprinklered building of 210 and 220 persons, respectively. The east stairway discharges directly to the exterior at grade, the main stairway egresses through a lobby to the exterior at grade.

Rand Hall, Cornell University – Variance Petition

Exhibit 2: Responses to Part 7 Arguments for Variance

Rand Hall, Cornell University - Variance Petition
Exhibit 2: Responses to Part 7 – Arguments for Variance

Variance Requested: Responses to Part 7, “Variance”, of the Application:

1. Would create an excessive and unreasonable economic burden.
Constructing a fire wall, or the equivalent of a fire wall (adding a 2 HR exterior wall to Milstein Hall at Rand Hall) would be extremely costly and disruptive. Rebuilding Sibley Hall, a “contributing historic structure”, to III-A construction is not sensitive to its historic character and prominence and therefore not likely to gain approval from the Ithaca Landmarks Preservation Commission and Cornell’s own guidelines for treating its historic buildings. Additionally, the cost of demolishing the third floor structure and replacing it with noncombustible construction is excessive and unreasonable, given that the building and the adjacent buildings are protected throughout with automatic fire-sprinklers.
2. Would not achieve its intended objective.
The intended objectives of the sections of the EBCNYS and BCNYS from which a variance is sought are to promote fire safety. The Petitioner’s position is that keeping a college library use (A-3 use) in a Type VB building (East Sibley Hall) (as would be the result if the code were literally followed), does not promote fire safety as much as moving the library into a Type IIB building (Rand Hall). It is the Petitioner’s position that housing a library in a Type IIB building tends to meet the objectives of the code better than keeping it in a Type VB building, despite the fact that the joining (but without touching and at a distance of 60 feet) of Rand Hall and East Sibley Hall through the recent addition of Milstein Hall (Type IIB) between the two buildings technically downgrades all three buildings to East Sibley’s Type VB classification.
3. Would inhibit achievement of some other important public policy.
Sibley Hall is a “contributing” building in the Arts Quadrangle Historic District. Part of the design objective of the Milstein Hall addition was to limit the disturbance of the historic exterior features of Sibley Hall,. The design for the addition was subject to review and a determination of appropriateness by the Ithaca Landmarks Preservation Commission. Creating a fire wall at the Sibley - Milstein interface would have required substantial disturbance to Sibley’s exterior walls, and would have inhibited the achievement of the Commission’s objectives for treatment of historic buildings and districts.
4. Would be physically or legally impracticable.
Construction of a fire wall between Rand Hall and Milstein Hall would require demolition of either Rand Hall’s west exterior wall, or parts of Milstein Hall’s structure where it abuts Rand Hall. This would be physically impracticable. Both buildings are of Type IIB construction, and equipped with fire-sprinkler protection throughout. The opening in the wall of Rand Hall that permits traffic between the two buildings is protected by 1 hour rated “Fireframe” glazed door/glazed wall assembly, and the adjacent window is protected by a 1 hour, automatic closing, fire curtain. There is full sprinkler protection on both sides of this separation. The exterior wall of Rand Hall that abuts Milstein is a 2 hour masonry wall. These fire protection systems were far more practicable and just as effective as construction of a fire wall between Rand Hall and Milstein Hall.
Appendix K of the 2002 BCNYS allowed the buildings to be combined, but be separately regulated with fire barriers with respect to allowable fire areas, rather than fire walls.
East Sibley Hall is of type VB construction. Milstein Hall, a type IIB addition, connects East Sibley to Rand Hall, an existing type IIB building.
5. Would be unnecessary in light of alternatives which, without a loss in the level of safety, achieve the intended objective of the code.
Because of alternatives described above (glazed one-hour fireframe, one-hour automatic window fire curtain, and 2-hour masonry wall in Rand-Milstein connection, full sprinkler protection in all three buildings) achieve safety and intended objectives of the Code.
6. Would entail a change so slight as to produce a negligible additional benefit consonant with the purpose of the code.

Rand Hall, Cornell University - Variance Petition
Exhibit 2: Responses to Part 7 – Arguments for Variance

The Petitioner's position is that space in Rand Hall is the equivalent of Type IIB construction separated from adjacent areas as required by the 2010 *BCNYS*, as described above. Rand Hall has historically had open plan student studio uses on the second and third floors since the mid 1970s. The building use at that time would be under Group C, Assembly as C5.5, schools, colleges and similar places of education, under the *NYSBCC* and the successor *NYSUFP&BC*. The equivalent classification in the 2010 *BCNYS* for a college building is Group B, for education above the 12th grade. This creates some confusion regarding the actual use and classification of college studio spaces. It is clear, however, that spaces with more than 50 persons need to be categorized as assembly spaces. Therefore the change is slight, being more in name than in actual function or occupant load. To follow the Code sections from which a variance is now sought does not confer any material additional benefit (and may be slightly less so, see response to #2 above) when compared with the alternative protections, described above.. The variances sought are slight, continue to meet the purposes of the code, and are consonant with purposes of the code.

Rand Hall, Cornell University – Variance Petition

Exhibit 3: Copy of Decision in Petition No. 2013-0250



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

CAPITAL REGION – SYRACUSE BOARD OF REVIEW

In the Matter of the Petition of:
CORNELL UNIVERSITY
Appealing a determination made by an official
charged to enforce the New York State
Uniform Fire Prevention and Building Code

DECISION

PETITION NO. 2013-0250

Upon the application of Cornell University, filed pursuant to 19 NYCRR 1205 on June 19, 2013, and upon taking testimony and hearing argument thereon at a duly noticed hearing before the Capital Region – Syracuse Board of Review held at the Hughes State Office Building, 333 East Washington Street, Syracuse, New York, on July 18, 2013, and upon all other papers in this matter, the Board makes the following determination.

NATURE OF GRIEVANCE AND RELIEF SOUGHT

The petition pertains to a B occupancy and an A-3 occupancy, mixed occupancy, three stories in height of square footage numbers as noted in the submittal of Type VB construction located at 943 University Avenue, City of Ithaca, County of Tompkins, State of New York.

The petitioner is seeking an appeal to decisions of the code official regarding many fire safety issues. This appeal is based upon 2002 Code of New York State regarding the following sections:

19 NYCRR 1221, The Building Code of New York State, Section 1004.2.2.1, 1008.2, 1004.2.5, 303.1 and Table 1003.2.2.2, 1005.2.1 and Table 503 Appendix K.

FINDINGS OF FACT

1. Inadequate exits from Crit room assembly space, there is testimony and submittals that the hall has two exits, and the exits may not be remote, in addition to other comments from the Petitioner in the submittal.
2. Noncompliant protruding objects in egress path pertain to numerous instances in Milstein Hall where sloping structural elements and sloping guards may create protruding objects within the path of egress and on walking surfaces.
3. Inadequate fire barrier between Milstein and East Sibley Hall, the fire area or the fire barrier is more than 25 percent of openings in the wall, and there is a question regarding adequacy of installed equipment to meet the requirements of the Code

4. Improper mezzanine designation, the argument is that the mezzanine interpretation is flawed because of a calculation and location of the noted mezzanine.
5. Milstein/Sibley/Rand Hall exceeds Table 503 floor area limits based on Appendix K. In Appendix K, there is a statement that additions are allowed to exceed values greater than noted in Chapter 5 if a fire barrier is constructed.
6. Improper occupancy class designation at the second floor of Milstein Hall classifying the area as an A-3 and B Occupancy.
7. Inadequate exits from 261 East Sibley Hall in drawings submitted seem to indicate that there is only one exit from the Sibley Hall Room Number 261, and the existing posting of the room is greater than allowed under the Code.
8. Noncompliant A-3 library occupancy of Rand Hall at the third floor, this appeal concerns the construction type of Rand, Sibley, and Milstein Halls and the Table noted, 503, in allowing or disallowing a Type VB constructed building to have an assembly space on the third floor.
9. The details of these specific issues are noted in the submittals and clarified in testimony and in other submittals from Cornell University as of today.

CONCLUSIONS OF LAW

In accordance with the above findings, testimony and submitted information regarding appealing the determination made by a Code Official which includes items in favor of the Petitioner and items in favor of the Code Official. The granting or denial of this appeal will not substantially adversely affect the Uniform Code's provisions for health, safety and security.

DETERMINATION

WHEREFORE IT IS DETERMINED that the application for an appeal from 19 NYCRR Part 1221, Section 1004.2.2.1, 1008.2, 1004.2.5, 303.1 and Table 1003.2.2.2, 1005.2.1 and 503 Appendix K, be and is hereby PROPOSED TO BE GRANTED OR DENIED as follows:

1. Inadequate exits from Crit room assembly space, the Board sustains the appeal for the Petitioner and, therefore, reverses the determination of the Code Enforcement Official.
2. Noncompliant protruding objects in egress path, the Board sustains the appeal for the Petitioner and, therefore, reverses the determination of the Code Enforcement Official, however, it has been testified today and submitted with information from an expert in the field of handicapped accessibility that these

Variance Attest List

AUG 28 2013

Petition No: 2013-0250

The persons below are advised to TAKE NOTICE of the attached document. The attached document pertains to a petition for relief related to code requirements. If there are any questions, call (518) 474-4073 and ask for the Variance Unit. Please refer to the petition number in all related conversations or correspondence with us.

JONATHAN OCHSHORN
207 WATER STREET
ITHACA, NY 14850

THOMAS D HOARD ✓
HOLT ARCHITECTS
217 N. AURORA STREET
ITHACA, NY 14850

Variance Attest List

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Rand Hall, Cornell University – Variance Petition

Exhibit 4: Copies of Ithaca Fire Department Operating Permits

Ithaca Fire Department
310 W. Green St.
Ithaca, NY 14850
607-272-1234

Fire prevention Bureau
Office of the Fire Marshal
Phone 607-277-7354
Fax 607-272-2793

ITHACA FIRE DEPARTMENT OPERATING PERMIT

for

Academic Building

Issued to:

Cornell University

David J. Skorton, President

300 Day Hall

Ithaca

NY

14853

To operate:

Rand Hall

at

947 University Ave

ISSUE DATE 6/28/2006

REFERENCE NUMBER 2006-October5.674

ISSUED BY C. Thomas Parsons
Fire Marshal - City of Ithaca

A valid operating permit is required by the City of Ithaca Municipal Code §181-9 for specific occupancies which include: Assembly Occupancies, Facilities using or storing Hazardous Materials, Lumberyards, and Automobile Service/Repair Facilities.

Permits are revocable for cause.

This Operating Permit is non-transferable
and expires on **3/9/2007**.



City of Ithaca Fire Department

310 W. Green St.
Ithaca, NY 14850
Phone: 607-272-1234
Fax: 607-272-2793

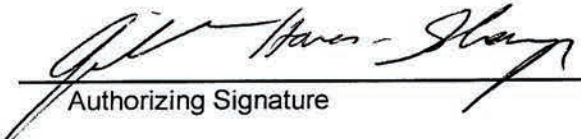
Operating Permit - Assembly Occupancy

Permit Number: P-145-10-0033
Expiration Date: 02/24/2011

Rand Hall
947 University Rand Hall - 2017(CU 2017)
Ithaca, NY 14853

Description:

A valid operating permit is required by the City of Ithaca Municipal Code §181-9 for specific occupancies which include: Assembly Occupancies. Operating Permits are revocable for cause. This Operating Permit is non-transferable and expires on the date indicated above.



Authorizing Signature



Date



City of Ithaca Fire Department

310 West Green Street
Ithaca, NY 14850
Phone: 607-272-1234
Fax: 607-272-2793
Email: firemarshal@cityofithaca.org

Operating Permit for Assembly Occupancy

Permit Number: P-145-2012-0033-OP-AO
Expiration Date: 03/31/2013

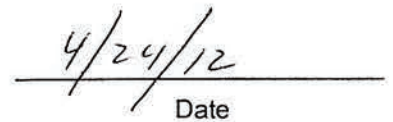
Rand Hall - 2017
947 University Ave
Ithaca, NY 14853

Description:

A valid operating permit is required by the City of Ithaca Municipal Code §181-9 for specific occupancies which include: Assembly Occupancies. Operating Permits are revocable for cause. This Operating Permit is non-transferable and expires on the date indicated above.



Authorizing Signature



Date



City of Ithaca Fire Department

310 West Green Street
Ithaca, NY 14850
Phone: 607-272-1234
Fax: 607-272-2793
Email: firemarshal@cityofithaca.org

Operating Permit for Assembly Occupancy

Permit Number: P-145-2012-0033-OP-AO
Expiration Date: 03/31/2013

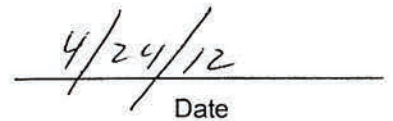
Rand Hall - 2017
947 University Ave
Ithaca, NY 14853

Description:

A valid operating permit is required by the City of Ithaca Municipal Code §181-9 for specific occupancies which include: Assembly Occupancies. Operating Permits are revocable for cause. This Operating Permit is non-transferable and expires on the date indicated above.



Authorizing Signature



Date



City of Ithaca Fire Department

310 W Green St
Ithaca, NY 14850
Phone: 607-272-1234
Fax: 607-272-2793
Email: firemarshal@cityofithaca.org

RAND
HALL

Operating Permit for A

Permit Number: P-145-2013-0031-OP-AO
Expiration Date: 03/31/2014

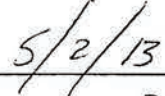
Rand Hall - 2017
947 University Ave Rand Hall
Rand Hall
Ithaca, NY 14853

Description:
\$50.00 Operating Permit

A valid operating permit is required by the City of Ithaca Municipal Code §181-9 for specific occupancies which include: Assembly Occupancies. Operating Permits are revocable for cause. This Operating Permit is non-transferable and expires on the date indicated above.



Authorizing Signature



Date

Rand Hall, Cornell University – Variance Petition

Exhibit 5: Copies of Architecture, Art and Planning Documents

Only a sample of
Exhibit 5 is
copied herein, as
the documents are
not relevant...
J-Q.

PHYSICAL RESOURCES

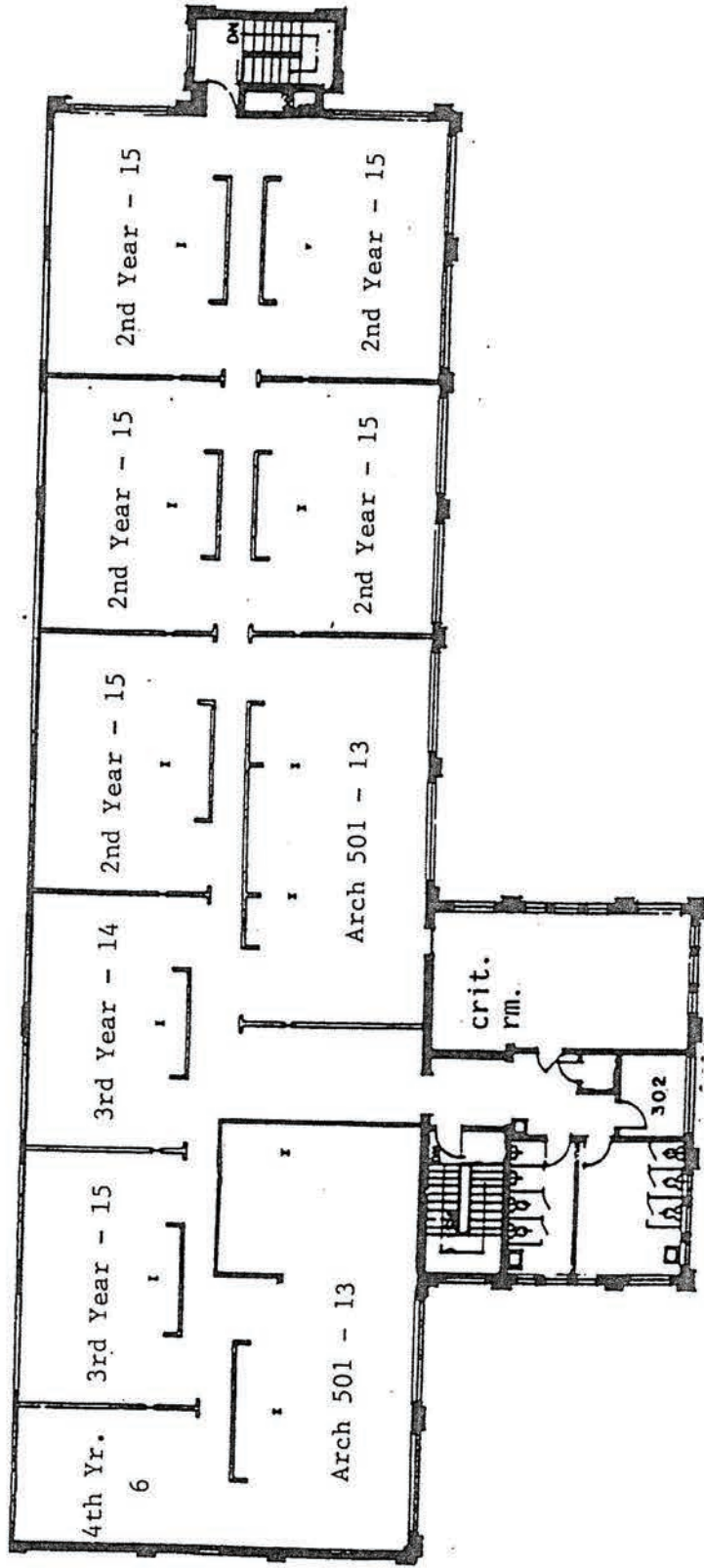
The College of Architecture, Art and Planning occupies Sibley Hall, Franklin Hall, Rand Hall, and the Foundry. Currently the facilities for City and Regional Planning, administrative offices, the Fine Arts Library, the Slide Library, and graduate programs in Architecture and Landscape Architecture are all located in Sibley Hall. The Department of Art is housed in Franklin Hall while the sculpture and shop facilities are in the Foundry. Undergraduate architecture studios and architecture faculty offices are located in Rand Hall. (Site Plans)

Undergraduate Studio Areas

The studio spaces are located on the second and third floor of Rand Hall. Generally the second, fourth and fifth year students (except thesis students) occupy the third floor and first and third year students occupy the second floor. Each student has a drafting table and attempts are made to divide each year with movable tack board dividers. The total floor area on each floor is approximately 7,400 square feet for 150 to 180 students. (Rand Hall Plans)

Evaluation

The location of the design studios in Rand Hall is the result of a decision reached in 1975, after many proposals and counterproposals, to expand the Fine Arts Library eastward in Sibley Hall, onto two adjoining floors previously used for the architectural studios. Until the enrollment in the undergraduate program is reduced, the Rand Hall studios will continue to be overcrowded. The readaptive use of this building from smaller office suites to open studio spaces was accomplished without sufficient financial support to provide appropriate environmental controls relative to lighting, acoustics, and ventilation. Further expenditures are sorely needed to bring these spaces to a desirable standard.



RAND HALL THIRD FLOOR
 Fall Term 1994

136 Students (54SF/Student)
 Typical Studio 44-48SF/Student

Rand Hall, Cornell University – Variance Petition

Exhibit 6: Copies of Plans at Rand/Milstein Adjacencies

None of these "Issued
for Construction"
drawings are copied
herein, as they are
too reduced and
incomplete to be
useful. J.O.

Rand Hall, Cornell University – Variance Petition

Exhibit 7: Photographs



East End of Rand Hall



Exit at Grade



East Stairway



Main Entrance/Exit at south wing



Interior exit door to exit stairway



South (main stairway) - exit discharge at Main Entrance



Looking west along south side of Rand Hall; parts of Millstein and Sibley visible at left



East faces of Millstein (glazed) and Sibley (brick)



NW corner of Rand Hall (left) and Milstein Hall (right)



East entrance (sliding doors) to Milstein Hall. SW corner of Rand Hall at right)



South face of Rand Hall where it abuts Milstein Hall



University Avenue, looking west; Rand Hall on left, Milstein Hall in distance. Foundry building across street from Milstein



Sibley Hall from SE; Milstein Hall abutting at right.



Looking east above Milstein "green" roof; Rand Hall visible beyond.



Looking west from third floor of Rand Hall across Milstein Roof; Sibley Hall at left.



West of Rand Hall from Second Floor Interior of Milstein Hall, looking NE.



Third Floor Library, north side, looking east.



Second Floor Studio space, looking east.



70 student lockers, Second Floor



Second Floor studio spaces



Second Floor Ceiling



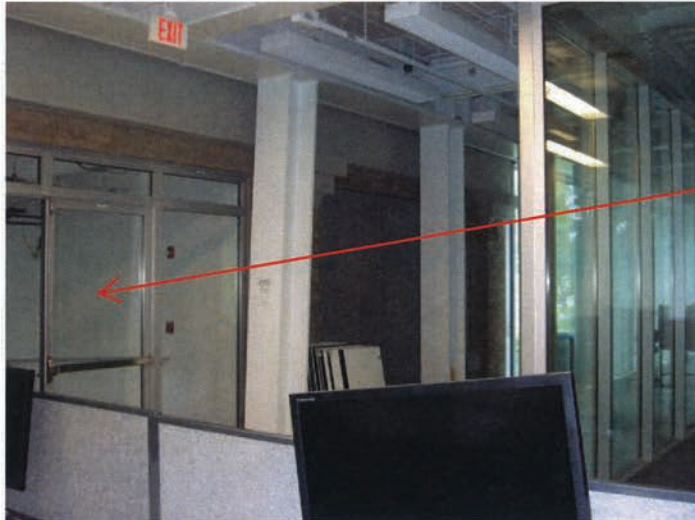
Studio areas, north side, Second Floor



Looking west from Second Floor of Rand Hall to Second Floor of Milstein Hall. 1 HR rated door/ glazing assembly.



Looking east from Rand/Milstein connection at Second Floor



1 HR Fire Barrier at communicating opening between Rand and Milstein Halls at Second Floor (Looking SW from Milstein).



Rolling Fire curtain on other (Rand Hall) side of window- 1 HR fire barrier.

Rand Hall, Cornell University – Variance Petition

Exhibit 8: Diagram Showing Closest Distance Between Rand and East Sibley Halls



EXHIBIT 8: Diagram Showing Closest Distance Between Rand Hall and Sibley Hall

SIBLEY, MILSTEIN, AND RAND
THIRD FLOOR PLANS

