

New York State Building Standards and Codes Application for Appeal
of Determinations Concerning the Rand Hall Fine Arts Library
at Cornell University

Petitioner: Jonathan Ochshorn

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Building Standards and Codes

New York State
Department of State
Division of Building Standards and Codes
One Commerce Plaza
99 Washington Avenue, Suite 1160
Albany, NY 12231-0001
(518) 474-4073
Fax: (518) 474-5788
www.dos.ny.gov

Application for Variance or Appeal

USE THIS FORM TO APPLY FOR A VARIANCE FROM SPECIFIC REQUIREMENTS OF THE NY STATE UNIFORM FIRE PREVENTION AND BUILDING CODE, OR TO APPEAL A LOCAL DETERMINATION OF SAME. FILING INITIATES A LEGAL PROCESS REGULATED BY 19 NYCRR 1205.

All fields marked with * must be completed in order for this form to be submitted.

All Completed Applications must:

- Be mailed/e-mailed to the appropriate Regional Office, not Albany Central Office
- Be signed. Unsigned applications will be returned
- Include any additional plans or documentation needed to support your request (checklist enclosed)
- Include (2) copies of the application and any additional documentation.

PETITION NO:
ROUTINE VARIANCE <input type="checkbox"/>
BOARD VARIANCE <input type="checkbox"/>
BOARD APPEAL <input type="checkbox"/>
(FOR OFFICE USE ONLY)

PART 1 – GENERAL INFORMATION

PART 2 – ADDITIONAL REQUIRED CONTACT INFORMATION

PART 3 – MINIMUM BUILDING INFORMATION

PART 4 – APPLICABLE BUILDING CODE RELIEF REQUESTED

PART 5 – SUBJECT OF THE PETITION

PART 6 – DOCUMENTS

PART 7 – FILING AND SIGNATURE

PART 1 - GENERAL INFORMATION

PETITIONER Name: * Jonathan Ochshorn
 (Check one) Owner Agent Architect or Engineer Attorney Other (specify)
 Company Name / Title: * Architect

Mailing Address (number and street, city, state, zip code): * 207 Water Street, Ithaca, NY 14850

Telephone: * 607-379-3932 Email Address: * jo24@cornell.edu

PROPERTY City Town Village of Ithaca County of Tompkins

Street Address: * 947 University Ave., Ithaca, NY 14850 Tax Map No.: _____

Property Name: (if applicable) Cornell University Rand Hall Fine Arts Library

<u>OWNER (if other than Petitioner) *</u>	<u>CODE ENFORCEMENT OFFICIAL *</u>
Name: _____	Name: <u>Robert M. Fell-DeWalt</u>
Street Address: _____	Street Address: <u>108 E. Green St.</u>
City: _____ State: _____ Zip: _____	City: <u>Ithaca</u> State: <u>NY</u> Zip: <u>14850</u>
Telephone: () _____	Telephone: (<u>607</u>) <u>264-6402</u>
Email: _____	Email: <u>RFell-deWalt@cityofithaca.org</u>

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PART 2 – ADDITIONAL CONTACT INFORMATION *(attach additional pages as necessary)*

<u>ARCHITECT OR ENGINEER</u> Name: _____ Street Address: _____ City: _____ State: _____ Zip: _____ Telephone: () _____ Email: _____	<u>FIRE MARSHAL OR INSPECTOR</u> Name: _____ Street Address: _____ City: _____ State: NY Zip: 14850 Telephone: (254-1627) _____ Email: _____
<u>FIRE DEPARTMENT CONTACT PERSON</u> Name: <u>C. Thomas Parsons, Fire Chief</u> Street Address: <u>310 W. Green St.</u> City: <u>Ithaca</u> State: <u>NY</u> Zip: <u>14850</u> Telephone: (<u>607</u>) <u>272-1234</u> Email: <u>ithacafire@cityofithaca.org</u>	<u>OTHER INTERESTED PERSON OR ORGANIZATION</u> Name: _____ Street Address: _____ City: _____ State: _____ Zip: _____ Telephone: () _____ Email: _____

PART 3 – MINIMUM BUILDING INFORMATION*

Occupancy Classification: *(check all that apply for mixed use buildings)*

- | | | | | | |
|---------------|--|------------------------------|------------------------------|---|--|
| Assembly | <input type="checkbox"/> A-1 | <input type="checkbox"/> A-2 | <input type="checkbox"/> A-3 | <input type="checkbox"/> A-4 | <input type="checkbox"/> A-5 |
| Business | <input type="checkbox"/> B | | | | |
| Educational | <input type="checkbox"/> E | | | | |
| Factory | <input type="checkbox"/> F-1 Moderate Hazard | | | <input type="checkbox"/> F-2 Low Hazard | |
| Hazardous | <input type="checkbox"/> H-1 | <input type="checkbox"/> H-2 | <input type="checkbox"/> H-3 | <input type="checkbox"/> H-4 | <input type="checkbox"/> H-5 |
| Institutional | <input type="checkbox"/> I-1 | <input type="checkbox"/> I-2 | <input type="checkbox"/> I-3 | <input type="checkbox"/> I-4 | |
| Mercantile | <input type="checkbox"/> M | | | | |
| Residential | <input type="checkbox"/> R-1 | <input type="checkbox"/> R-2 | <input type="checkbox"/> R-3 | <input type="checkbox"/> R-4 | <input type="checkbox"/> One or Two-Family Dwelling <input type="checkbox"/> Townhouse |
| Storage | <input type="checkbox"/> S-1 Moderate Hazard | | | <input type="checkbox"/> S-2 Low Hazard | |
| Utility | <input type="checkbox"/> U | | | | |
| Other | <input type="checkbox"/> (specify): _____ | | | | |

Construction type: (If more than one is applicable, specify where each occurs in the building.
Consult the building code or your local Code Enforcement Official for assistance)

- | | |
|---|---|
| <input type="checkbox"/> <u>Type IA - Fire resistive</u> | <input type="checkbox"/> <u>Type IIIA - Ordinary - Protected</u> |
| <input type="checkbox"/> <u>Type IB - Fire resistive</u> | <input type="checkbox"/> <u>Type IIIB - Ordinary – Unprotected</u> |
| <input type="checkbox"/> <u>Type IIA - Non-combustible – Protected</u> (1st floor) | <input type="checkbox"/> <u>Type IV - Heavy timber</u> |
| <input type="checkbox"/> <u>Type IIB - Non-combustible – Unprotected</u> (2-5 floor) | <input type="checkbox"/> <u>Type VA - Wood Frame – Protected</u> |
| | <input type="checkbox"/> <u>Type VB - Wood Frame - Unprotected</u> |

Height/Stories & Area:

Height in Feet: 55 feet

Number of stories above a Basement: 5 stories, but filed as 4 stories per Architect's plans
(include any attic spaces)

Total Floor Area of Largest Story (gross square feet): 8,751 sq. ft. (2nd floor)

Floor area of entire building (gross square feet; include any basement areas): 26,451 sq. ft. (total)

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PART 3 – MINIMUM BUILDING INFORMATION (continued):*

Project Type:

- New Building
- Addition to Existing Building
- Repair
- Alteration Level 1
- Alteration Level 2
- Alteration Level 3
- Change of Occupancy
- Other _____

Permit/Compliance Status:

- Building Permit Application Date: _____ / _____ / _____
- Building Permit Date: _____ / _____ / _____
- Certificate of Occupancy Date: _____ / _____ / _____
- Orders or Denials
- Inspection Report

Project Status:

- In-Planning
- Work in Progress Start Date: _____ / _____ / _____
- Work Completed

PART 4 – APPLICABLE BUILDING CODE RELIEF REQUESTED * (check any 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
- 2016 Uniform Code Supplement – Applicable 10/03/2016 to present
- Multiple Residence Law (MRL) No. of Stories _____ No. of Dwelling Units _____ Year Built _____.

PART 5 – SUBJECT OF THE PETITION (appeal and/or variance, both may be requested)

- Check One *** Variance Appeal Appeal/Variance

On the chart below, list the specific code sections which are the subject of your application. Use a separate sheet if necessary.

CODE SECTION(S)	TOPIC	RELIEF SOUGHT

See separate sheet inserted as page 3b immediately following this page.

Part 5 – SUBJECT OF THE PETITION (Appeal)

On the chart below, list the specific code sections which are the subject of your application.

All section numbers refer to the 2015 New York State Building Code, except as noted.

CODE SECTION(S)	TOPIC	RELIEF SOUGHT
1006.3; 1019.3; 1022; 1023.2; 1023.1; and 1023.3	1. Unenclosed egress stair in the atrium	Provide enclosed egress stair, per Code.
Table 1004.1.2, Table 2902.1, and Section 2902.2.2 (also Section 419.2 of the NYS Plumbing Code)	2. Inadequate number of plumbing fixtures in the roof-top bathrooms	Provide proper number of plumbing fixtures in roof-top bathrooms, per Code.
404.6; 505.2; 712; 1510.2, 1510.8, and Chapter 2 definitions of mezzanine and atrium	3. Fifth floor incorrectly labeled as mezzanine within the atrium	Correctly identify mezzanines, stories, and atrium boundaries; design for Type I construction, per Code.
404.6	4. Lack of 1-hour fire-rated construction between the atrium and roof-top spaces	Provide 1-hour horizontal assembly to separate the atrium from occupied roof-top spaces, per Code.
909	5. Smoke control system does not protect building occupants	Revoke occupancy permit until smoke exhaust system complies with Code.
3002.4	6. Elevator too small for ambulance stretcher	Provide adequately sized elevator for building, per Code.
504.4, Table 601	7. Allowable story height exceeded for library occupancy without Type I construction	Provide Type I construction consistent with A-3 occupancy and 5-story building height, per Code.
506.2; 506.3	8. Allowable floor area is exceeded at the second story	Provide fire wall between Rand and Milstein Halls in order to comply with area limits, per Code
712	9. Vertical openings in bookstack floors	Provide required compartmentation by eliminating noncompliant openings in floor-ceiling assemblies.

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VARIANCE*

To be eligible for a variance you must document which of the following apply:

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

- | | |
|---|---------------------------------------|
| <input type="checkbox"/> 1. would create an excessive and unreasonable economic burden; | Reasons are attached in EXHIBIT _____ |
| <input type="checkbox"/> 2. would not achieve its intended objective; | Reasons are attached in EXHIBIT _____ |
| <input type="checkbox"/> 3. would inhibit achievement of some other important public policy; | Reasons are attached in EXHIBIT _____ |
| <input type="checkbox"/> 4. would be physically or legally impracticable; | Reasons are attached in EXHIBIT _____ |
| <input type="checkbox"/> 5. would be unnecessary in light of alternatives which, without a loss in the level of safety, achieve the intended objective of the code; | Reasons are attached in EXHIBIT _____ |
| <input type="checkbox"/> 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 _____ |

APPEAL

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.

- 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** 1
Briefly describe the order or determination (*additional sheets may be used if necessary*)

I am appealing two determinations related to the same alleged Building Code violations: first, that of the City of Ithaca Building Division; and second, that of the New York State DBSC Oversight Unit. Copies of both determinations, as well as a clarification email from DBSC's Brian Tollisen, can be found in Exhibit 1.

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- B.** Attached as **EXHIBIT** 2 are 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.
-

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PART 6 – DOCUMENTS See Exhibit 2 for project description, history, site plan, and other pertinent information.

Required Documents: (supplemental to the petition form)

Summary: Describe the project, present conditions, proposed work, details of the appeal and/or variance requests along with 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

PART 7 – FILING AND SIGNATURE

NON-REFUNDABLE FILING FEES (Checks must be made payable to **New York State Department of State**)

Your Regional Representative will contact you to verify fee requirements and additional documentation requirements. Board of Review cases require 8 sets of documents. For appeals and Board of Review variances, a hearing will be scheduled once all required materials are received by the Albany Central Office AND the Regional Representative has confirmed the application is otherwise complete.

- 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

Previous Action

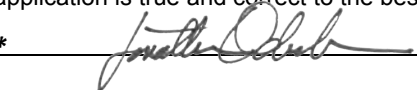
Has any previous action related to the subject property been taken by the Department of State or another administrative agency or a court? (Include any formal interpretations, decisions, orders or informal advisories issued by the Department of State, Division of Housing and Community Renewal or the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

- No
- Yes (describe below and provide relevant documents)

See Exhibit 2 (Introductory comments) for summaries and Exhibits 6–9 for copies of original decisions:

- Petition No. 2013-0250: Capital Region–Syracuse Board of Review found Rand Hall in violation of Code.
- Petition No. 2013-0456: Capital Region–Syracuse Board of Review granted variance for temporary 3-story library renovation.
- Petition No. 2015-0432: Capital Region–Syracuse Board of Review granted variance for Type IIB building.
- Petition No. 2016-0269: Capital Region–Syracuse Board of Review granted variance for 4-story building & noncompliant elevator..

I make this application pursuant to 19NYCRR Part 1205 and I assert under the penalties of perjury that the information provided in support of this application is true and correct to the best of my knowledge.

SIGNATURE: *  **DATE:** *

Part 6 – Supplementary Documents

List any such supplementary materials by Exhibit number,

EXHIBIT NUMBER	DESCRIPTION
1	Determinations
2	Reasons Why the Determinations Should Be Reversed
3	Emails from ICC and DBSC Supporting Petitioner on Violation #1 and #4
4	Code Analysis Drawings LSP 100–103
5	GHD Atrium Smoke Control Report, Excluding Appendices
6	Capital Region-Syracuse Board of Review Decision: Petition 2013-0250
7	Capital Region-Syracuse Board of Review Decision: Petition 2013-0456
8	Capital Region-Syracuse Board of Review Decision: Petition 2015-0432
9	Capital Region-Syracuse Board of Review Decision: Petition 2016-0269