

Fire Code Board of Appeals Minutes October 27, 2021

- A. Call to Order at 2:00 pm.
- B. Roll Call:
 - a. Steve Hay – Present
 - b. Heidi Hogan – Present
 - c. Phyllis Mazour – Present
 - d. Wayne Waltermire Jr. – Present
- C. In Attendance:
 - a. Dan Oswald
 - b. Fire Marshal Josh Warnell
 - c. Fire Chief David Rierson
- D. Mr. Oswald presented his appeal to the Board.
 - a. Mr. Oswald feels his building/residence does not fall under the jurisdiction of the City Fire Code, as it is currently a single-family residence.
 - b. Mr. Oswald feels it is not the intent of the fire code to completely remove it.
 - c. Mr. Oswald presented an alternative method of dismantling the sprinkler system that he feels meets the intent of the code.
 - d. Mr. Oswald advised the Board that it is his intent to keep the property in question a single-family residence while the additional land on this parcel is developed, which is approximately 3 – 4 years.
- E. Fire Chief David Rierson explained the reason for denial of a request for variance.
 - a. There is no dispute that the current use of the building does not require a sprinkler system.
 - b. The sprinkler system was installed when the property became a 24-hour group home.
 - c. The City Fire Code states that “non-required that has been taken out of service or cannot function as intended must be dismantled and removed to prevent creating a false impression of protection”.
 - d. Chief Rierson explained to the Board they cannot waive code requirements, however, they can accept alternative methods if they believe the alternative meets the requirement of the code.

- F. A vote of the Appeals Board was taken to determine if the alternative method was acceptable and meets the intent of the code. The vote is as follows:
- a. Hay: Yes
 - b. Hogan: No
 - c. Mazour: No
 - d. Waltermire: No
- G. The meeting adjourned at 2:42pm.



Marshalltown Fire Department

909 S. 2nd Street
Marshalltown, IA 50158
marshalltown-ia.gov
641.754.5751 (Office)
641.754-5722 (Fax)

September 27, 2021

Dan Oswald
Oswald Properties
1909B Summit Street
Marshalltown, IA. 50158

Dear Mr. Oswald,

This letter is provided in response to your request to disable the sprinkler system in the property located at 1909B Summit Street. In our discussion, you questioned whether the City Fire Code (International Fire Code (IFC) – 2015) applied to your property since it was residential property and regulated by the International Residential Code (IRC). Your current plan, as I understand it, is to live in part of the structure and to have at least one and possibly two, additional living units. You do not want to completely remove the system, as your future development plans would require a sprinkler system. Additionally, you requested permission to disable the system but leave the piping as installed, defeat the outdoor alarm indicator, and to hide through construction the fire department connection.

You are correct in that the property in question is regulated by the International Residential Code. The City Fire Code states in Chapter 2, Definitions, Residential Group R-3, in the discussion section on page 2-93 that:

Group R-3 facilities include all detached one and two-family dwellings and multiple (three or more) single-family dwellings (townhouses) more than three stories in height. Those buildings three or less stories in height are not classified as Group R-3 and are regulated by the IRC.

From our records, we find a Residential 13R sprinkler system was installed in 2013. At the time of installation, the structure was classified as a Residential R-4 occupancy as defined by the City Fire Code at the time (IFC – 2006) thus requiring the sprinkler system. Chapter 9, Section 901.6 states, "fire detection, alarm and extinguishing systems shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective". This section goes on to address nonrequired protection systems, which applies to your property. It states, "nonrequired fire protection systems and equipment shall be inspected, tested, and maintained or removed".

Your request was to allow a variance to the City Fire Code and allow the sprinkler system to be partially dismantled. The heads would be removed, however, the branch lines would remain. The outside indicator would be defeated and the fire department connection would be covered and no longer visible.

In 2019, the City of Marshalltown adopted the IFC 2015 as the City Fire Code. Chapter 9, Section 901.4.5 deals with the appearance of equipment. In the comment section, it states:

All required or provided life safety or fire protection-related equipment must be continued in use and be maintained to meet the requirements in effect at the time of the original installation. Nonrequired equipment that has been taken out of service or cannot function as intended must be dismantled and removed to prevent creating a false impression of protection.

Based on my interpretation of the City Fire Code your request to partially dismantle and disable the system is denied. The sprinkler system, therefore, must be maintained in working order or dismantled and removed.

The City Fire Code affords you the opportunity to appeal this decision to the City International Fire Code Appeals Board. Section 108.2 states "an application for appeal shall be based on a claim that the intent of the code or rules legally adopted have been incorrectly interpreted, the provisions of the code do not fully apply, or an equivalent method of protection or safety is proposed". Please note the board does not have the authority to waive code requirements, however, the board has the authority to accept an alternative method of protection or safety if, in its view, is equivalent to the specific requirement in the code. Should you decide to appeal this decision, please submit a written request to the Marshalltown City Clerk.

Sincerely,

A handwritten signature in black ink that reads "David Rierson". The signature is written in a cursive, flowing style.

David Rierson
Fire Chief

Appeal of decision dated 9/27/21

From : Dan Oswald <d.oswald31@gmail.com>

Mon, Oct 18, 2021 07:10 PM

Subject : Appeal of decision dated 9/27/21**To :** drierson@marshalltown-ia.gov, Alicia Hunter
<ahunter@marshalltown-ia.gov>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Chief Rierson and Clerk Hunter,

This is my formal appeal to the city's Fire Code Board of Appeals pertaining to my property at 1909B Summit Street, Marshalltown. My appeal to the board is that:

1. The code does not apply to my residence and that
2. it is not the true intent of the meaning of the code that my sprinkler system needs to be completely removed.

1. I believe that my residence does not fall under the jurisdiction of the codes pertaining to the system needing to be completely removed. I am no longer zoned institutional nor am I a multi-family dwelling. I am a single family private residence, therefore I should fall under residential codes that do not have this requirement, IFC 901.4.5.

2. It is not the true intent and meaning of the code/misconstrued:

According to the local authority I am to completely disassemble my fire protection system. We are not misleading the fire department nor the tenants (my family) by not using the sprinkler system; we are simply delaying its changes and its use until we are in a position that the zoning we fall into requires its use. I believe I should be able to disassemble parts of the system and conceal other parts in order to make the system appear inactive and inoperable. I plan on removing the strobe alarm on the exterior of the building and either removing the FDC or covering it with a permanently affixed box so fire department personnel would not have the assumption of a sprinkler system. On the inside of the building, I wish to cap the sprinkler heads so as to not have an appearance of an active system. I have temporarily covered the strobe light and FDC since I was initially given the ok to live in the home as a primary residence without adjusting our fire protection system by the city's Fire Marshall on July 14, 2021, please see attachment.

I do not fall under any other codes pertaining to being multifamily or institutional with the city as I am a private residence. I do not understand why as a personal residence I am being forced on this issue to follow codes in which my property doesn't belong. Other city departments have worked with us on issues that have arisen due to this being a unique property and it being transformed from this

institutional setting to residential with an example in the form of our being on a septic system. The city has granted us use of our septic system up until the point that we add more than 4 units to our location or build one extra dwelling unit on our land. Our intentions of developing the land and adding rental units will have us placing a lift station in service upon the commencement of construction. I believe this sprinkler issue should fall in the same category.

Thank you for your time and consideration. I would be happy to get pictures or show the property for better understanding of the situation.

Dan and Anna Oswald
563-568-1010 and 563-513-7330

Attachment

1909 b summit street.

1909 Summit St



Wed, Jul 14, 8:43
AM

Dan Oswald
<d.oswald31@gmail.com>

to Scott

Hi Scott,

I wanted to check in with you to see if there is anything else you need from me before I could move into 1909 b summit street. We are wanting to get moved in just as a residential house for now with the understanding that we will need to resubmit our plans to you before making it a duplex.

I have gotten the ok from the fire department through Fire Marshall Warnell for this approach.

Thanks. Dan Oswald.



Scott
Riemenschneider

Wed, Jul 14, 8:45 AM

Dan, Your good
with me. Scott

From: "Dan
Oswald"

<[d.oswald31
@gmail.com](mailto:d.oswald31@gmail.com)>

To: "Scott
Riemenschneid
er"

<[sriemenschn
eider@marsh
alltown-
ia.gov](mailto:sriemenschn
eider@marsh
alltown-
ia.gov)> Sent:

Wednesday,
July



Wed, Jul 14, 8:52
AM

Dan Oswald
<d.oswald31@gmail.com>

to Scott

Great, thanks!

Mail Contacts Calendar Tasks Briefcase Preferences RE: 17 N 1st St Search

Close Reply Reply to All Forward Archive Delete Spam Actions



1909B summit street

From: Dan Oswald

To: Josh Warnell

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender.

Hi Josh,

I just got a call from pro shield saying that I either need to get my entire sprinkler/alarm system activated or torn out. outside fax and strobe were to be covered so as to not appear to have a system.

Let me know what's going on please.

Dan

563-568-1010

International Building code (1 and 2 family dwellings)

Appendix J- Existing Buildings and Structures - p 829

Section AJ101 - Purpose and *Intent*

AJ101.1 General

The purpose of these provisions is to **ENCOURAGE** the continued use of **REUSE** of legally existing buildings and structures. These provisions are intended to permit work in existing buildings that is consistent with the purpose of this code. Compliance with these provisions shall be deemed to meet the requirements of this code.

AJ101.2 Classification of work

4 categories

1. *Repair - AJ301 pg 831 patching restoring, minor replacement
Cracked drywall from tornado and derecho-flooring
2. Renovation - AJ401 pg 831 - change, strengthening, or addition of load bearing elements. Upgrading, extensive repairs.
3. *Alteration- AJ501 pg 831 - addition/removal of any door or window
Laundry room door removed and closet removed
4. Reconstruction- AJ601 pg 832 - not permissible to be in due to extensive work

Our property is majority *Repair with flooring being altered and drywall cracked being retaped and textured due to tornado and derecho damage. We also *Altered our laundry room by removing a closet and a door to make the room larger. We have not had a need to get a building permit for any work that has been done on the property.

AJ 102 Compliance

Regardless of the category of work being performed, the work shall not cause the structure to become unsafe or adversely affect the performance of the building; shall not cause an existing mechanical or plumbing system to become unsafe, hazardous, insanitary, or overloaded; and unless expressly permitted by these provisions, shall not make the building any less compliant with this code or to any **PREVIOUSLY APPROVED** alternative arrangements that it was before the work was undertaken.

We had prior approval to live in the home as it stands from Fire Marshall Warnell and Building Inspector Riemenshneider as seen in the email from June 14, 2021.

AJ 102.3 Smoke Detectors

Smoke detectors will be provided as required per Section R314.3.1

We are utilizing battery operated alarms at this time while we are dealing with this issue. We will utilize our interconnected system once we know how in depth we will have to go with it, i.e. hooking up to the alarm panel, cell dialer for monitoring and alerting or just using it as a basic interconnected system.

AJ102.8 More Restrictive Requirements

Buildings or systems in compliance with the requirements of this code for new construction **SHALL NOT BE REQUIRED TO COMPLY** with any more restrictive requirement of these provisions.

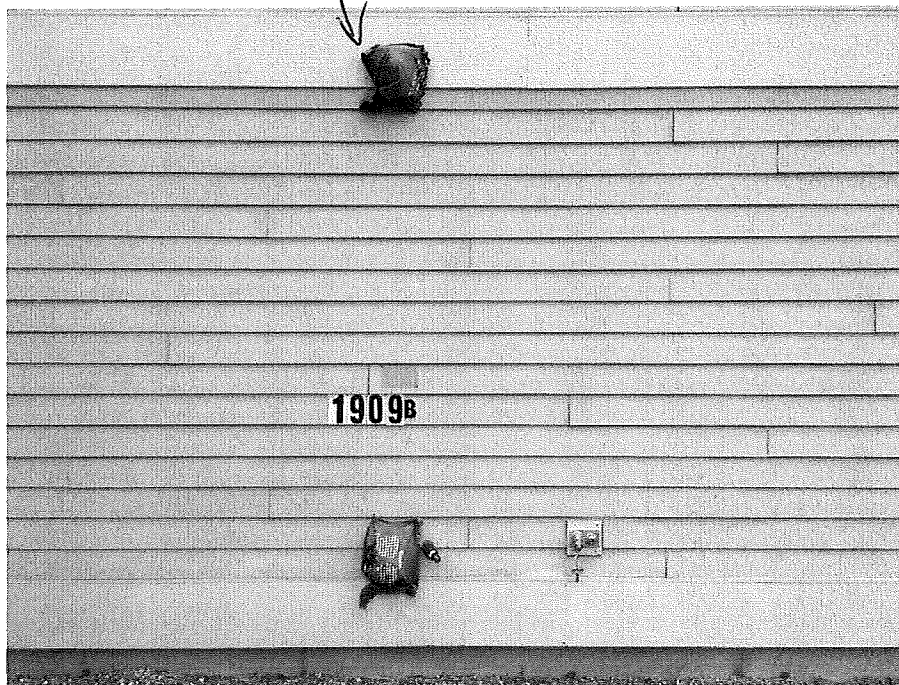
If this building were built as it sits today, (an Occupancy 2 single family or duplex residence), we would not have to have the sprinkler system. Removing and or upgrading our system is a more restrictive requirement than if we built new.

Summary

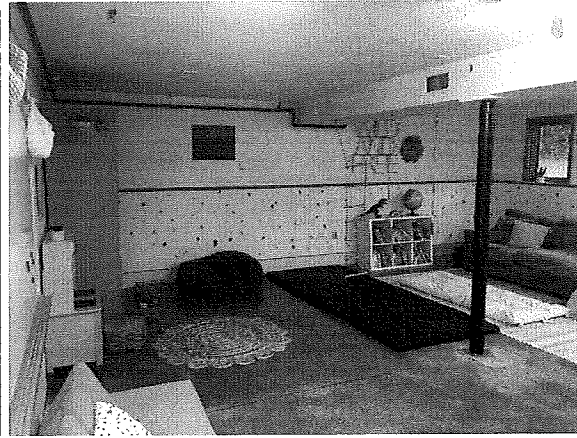
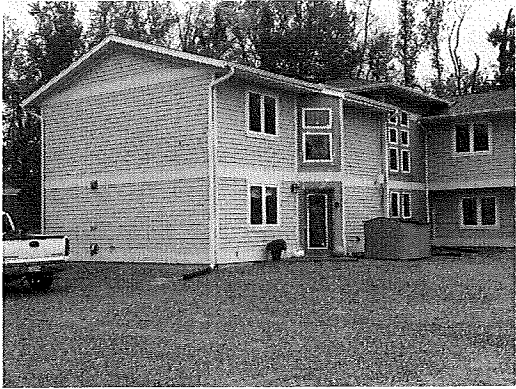
I believe I have demonstrated how my property belongs as a group 2 residential unit as a single family home. I do not believe that the fire code at issue is applicable to my property nor do I believe that its intent is that I have the system operational or removed in my setting. The intent of the code is that when a sprinkler system is installed, it provides people with a sense of knowledge that they have a form of protection. We are not eluding, misleading, or tricking ourselves, visitors, or the fire department into believing the system is active and operational. It will give no signs of being operational upon the completion of what we want to do.

Our proposal to eliminate the exterior strobe light and FDC from viewing means that an arriving fire department will not have the assumption that we have a working system. By removing the exit signs, emergency lights, and pull stations on the inside we will eliminate a presumption that we have an alarm system. By capping the heads of the sprinkler system we will eliminate the appearance of a sprinkler system. By disconnecting and capping these services we will be able to tap right back in when needed. It is going to be difficult and an undue financial burden to open walls to expose the sprinkler system for removal only to do so again to install the same system if and when we convert the property to an occupancy classification that meets those needs, i.e. multi family dwelling.

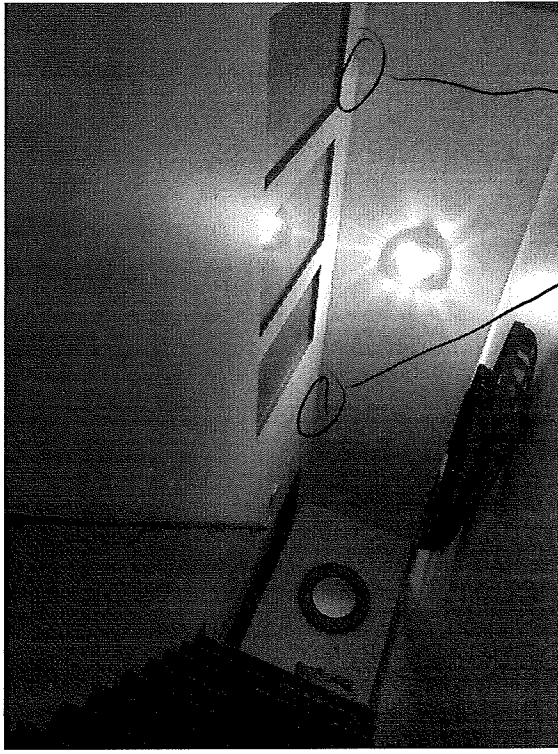
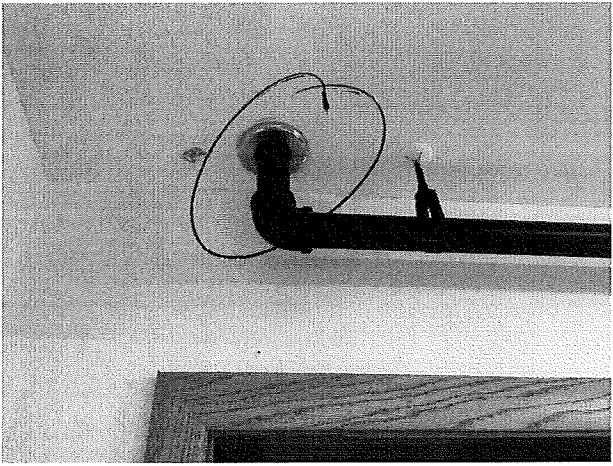
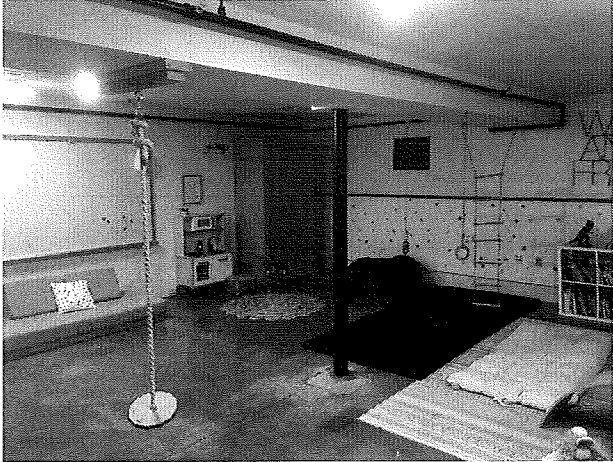
In speaking with others who have dealt with this issue or similar issues, I believe it is also not a good practice for the City of Marshalltown to allow certain systems to pass and others to fail. An example of this would be Jim Johnson's previous Anytime fitness/Auto Detailing building that was located on North Center Street in town. He said that all he had to do to deactivate his system was to remove the water source feeding the sprinkler system. He did not remove his sprinkler heads. This was a commercial type setting where the fire code is more strict than residential owner occupied housing. Other property owners in the downtown district have been given leeway in their systems as well.



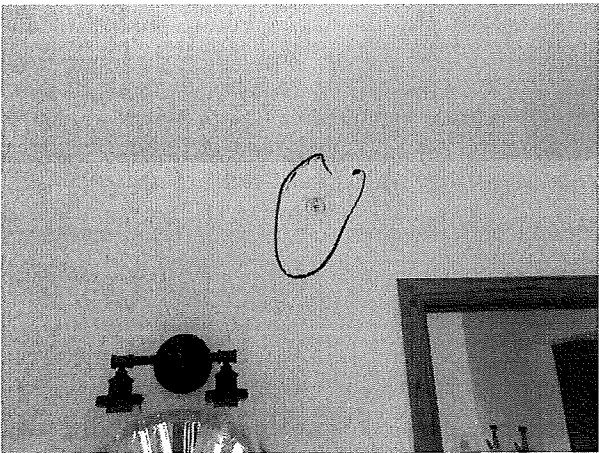
* only exterior visual cues

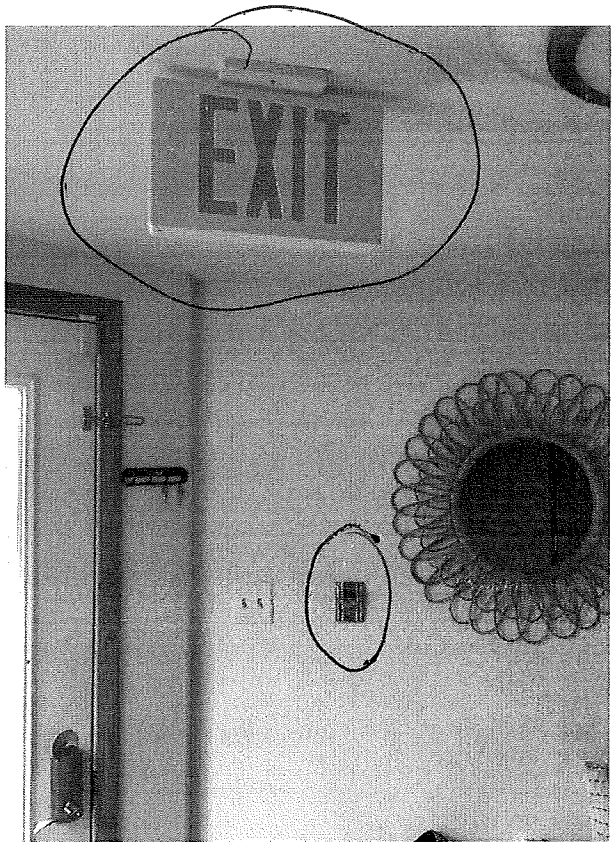


exposed
sprinkler
pipe

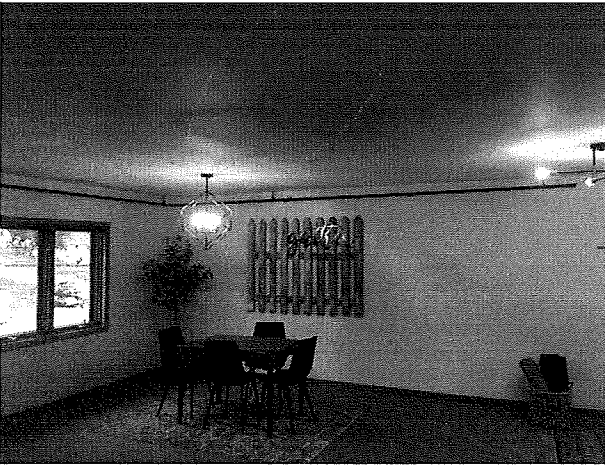


hidden
pipe/
needs





*Proposed
Removal*



Dan Oswald
563-568-1010
1909B Summit Street
Marshalltown, IA 50158
Board of Appeals - Fire - 10/27/2021



Dan Oswald <d.oswald31@gmail.com>

1909 b summit street.

3 messages

Dan Oswald <d.oswald31@gmail.com>

Wed, Jul 14, 2021 at 8:43 AM

To: Scott Riemenschneider <sriemenschneider@marshalltown-ia.gov>

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To: Dan Oswald <d.oswald31@gmail.com>

Dan,

Your good with me.

Scott

From: "Dan Oswald" <d.oswald31@gmail.com>**To:** "Scott Riemenschneider" <sriemenschneider@marshalltown-ia.gov>**Sent:** Wednesday, July 14, 2021 8:43:34 AM**Subject:** 1909 b summit street.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[Quoted text hidden]

Dan Oswald <d.oswald31@gmail.com>

Wed, Jul 14, 2021 at 8:52 AM

To: Scott Riemenschneider <sriemenschneider@marshalltown-ia.gov>

Great, thanks!

[Quoted text hidden]

Appeal of decision dated 9/27/21

Dan Oswald <d.oswald31@gmail.com>

Mon, Oct 18, 7:10 PM

To: <drierson@marshalltown-ia.gov>, Alicia Hunter <ahunter@marshalltown-ia.gov>

Bcc: Dan Oswald <d.oswald31@gmail.com>

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