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June 2, 2010

By Messenger

Richard S. Nero, Jr.
Deputy Director, Office of Zoning
441 4th St., NW, Suite 200/210-S
Washington, DC 20001

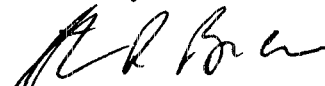
Re: BZA Appeal No. 17966 (2709 31st St., NW) Stephen Bruce

Dear Mr. Nero:

Enclosed are the original and 20 copies of Appellant's Reply In Support of Motion for Reconsideration or Rehearing of the Decision and Order of the Board of Zoning Adjustment, with New Exhibit G, and the Certificate of Service.

Please call if you have any questions. Thank you.

Sincerely,


Stephen R. Bruce

Enclosures

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17966

EXHIBIT NO. 31

Board of Zoning Adjustment
District of Columbia
CASE NO. 17966
EXHIBIT NO. 31

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**DISTRICT OF COLUMBIA
Board of Zoning Adjustment**

Stephen Bruce,)
Appellant,)
)
v.)
)
District of Columbia Department of)
Consumer and Regulatory Affairs,)
Appellee,)
)
Maryam Mashayekhi Trust,)
Owner/Intervenor,)
)
Advisory Neighborhood)
Commission 3C,)
Interested Party.)
_____)

BZA Appeal No. 17966

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**Appellant's Reply In Support of Motion for Reconsideration or Rehearing
of Decision and Order of the Board of Zoning Adjustment**

DCRA's opposition does not explain why it did not produce the revised March 18, 2009 building permit so the Board of Zoning Adjustment could make a determination on a complete record. DCRA has still not produced the related application or plans for the BZA to review. Instead, DCRA simply asserts through its counsel that the revised March 18th permit was not a "new" decision on zoning. Opp. at 2. However, the revised permit was issued after Appellant complained about zoning violations and after the Zoning Administrator on March 11th directed his "enforcement staff" to conduct "another inspection." Ex. 2, Attachment 3. Unlike the February 11, 2009 permit, the March 18th permit included the zoning district ("TSP/R-1-A"), it used different terminology to describe the "existing" and the "proposed" uses, and it set new issuance and expiration dates for the construction. Compare Ex. 11, Attachment 1, with New Ex. B.

DCRA further maintains that Appellant is "simply uninformed" about the "R-3" classifications on both the February 11, 2009 and March 18, 2009 building permits and asserts that the permits "correctly classified" the construction. Opp. at 2-3. The first response to this is that the congruence of the classifications on the February 11, 2009 permit with the Zoning District classifications, combined with the references to a "single family dwelling" and the omission of the zoning district from the permit, makes the permit ambiguous. DCRA's position is also inconsistent with the terminology actually

used in the International Building Code. Although the February 11th permit states that the “existing use” and the “proposed use” is a “single family dwelling - R-3,” the International Building Code does not use the term “single family dwelling.” This is zoning terminology, which when used in connection with “R-3” describes a district zoned for single family row dwellings, which are subject to no side yard requirements.¹

The second response to DCRA’s position is that even assuming the information in the February 11th permit on the existing and proposed uses is based on the International Building Code, and even setting aside the use of the zoning terminology “single family dwelling,” the February 11th permit is still flawed and ambiguous. Under the International Building Code, an “existing use” as an accessory garage is not classified as “R-3” but is classified under “Group U” as a “utility building or structure.” New Ex. G, Section 312.1 (“Utility and Miscellaneous Group U”: “Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following: ... Private garages ...”).

In an April 7, 2009 email, the Zoning Administrator offered his “opinion” that the garage was, for zoning purposes, already “part of the house and therefore it is not a change in use.” Ex. 2, Attachment 5. Whether or not this is correct, or was a decision or refusal to enforce the Zoning Regulations, goes to the merits of the appeal. The point here is that if the February 11th permit is using classifications from the International Building Code, that Code unequivocally provides that a garage is not classified as part of the residence. Sharing a portion of a wall with the residence does not change this. See Ex. G, Section 508.1 (“Where a building or portion thereof contains two or more occupancies or uses, the building or portion thereof shall comply with the applicable provisions of this section”), Section 508.2.1 (“An incidental use area shall be classified in accordance with the occupancy of that portion of the building in which it is located or the building shall be classified as a mixed occupancy”), Section 508.3 (“Each portion of a building shall be individually classified in accordance with Section 302.1”).

Thus, if the existing and proposed uses in the February 11th permit were referring to building codes, as DCRA contends, the permit would have said that the “existing use” was as a utility building or structure classified under “Group U”. This would indicate that practically the entire set of building codes applicable to the structure were being changed

¹ By contrast, the March 18th permit uses terminology (“Residential 5 or less for less than 24 Hr”) which is used in the International Building Code. See Ex. G at 34.

to residential. DCRA's representation that the permit was "correctly classified" suffers further from having no attestation from any person with knowledge. Most critically, DCRA's explanation suffers from failing to explain why the BZA would accept counsel's representation that the construction was correctly classified when the relevant portions of the International Building Code, which the DCRA did not include in its "Exhibit A," show that a garage is classified as a utility building or structure ("U"). In that way, a change in use to "R-3" would indicate that multiple changes are being permitted to bring the structure into compliance with residential building codes.

DCRA's submission also neglects to address the impeachment of Mr. Alavi's testimony on the start of exterior demolition. The sole exception is DCRA's effort simply to re-characterize the inconsistency between Mr. Alavi's answer to Appellant's question about when the garage door was removed with his later testimony in response to Chairman Loud. DCRA now says his response to Chairman Loud was "clarifying testimony"—even though Mr. Alavi did not indicate that he was changing or clarifying any testimony, nor did he attach a date to his representation about the removal of the garage door (which Appellant concedes was removed in early March). Mr. Alavi's testimony about the beginning of exterior demolition is not only inconsistent with his initial testimony that he did not know when the garage door was removed and with Appellant's testimony, but it is unsupported by any business record or document, and it is affirmatively contradicted by:

- (a) the permit application and lead hazard permit questionnaire that Mr. Alavi signed, both of which state that the work will start in "March '09",
- (b) the March 3, 2009 date of the issuance of the plumbing permit to Joseph Colish, which Mr. Alavi testified began in mid-February, and
- (c) the statement in Mr. Alavi's permit application that debris will be hauled away by "pick-up truck," rather than a dumpster as Mr. Alavi swore at the hearing was placed on the site on February 19th.

Mr. Alavi's testimony about his company's posting practices, which he admits he did not oversee, is also contradicted by the March 17, 2009 photograph of a dumpster blocking access to a notice barely visible behind it. Simply put, Mr. Alavi's testimony about posting and his testimony about a dumpster in the driveway on February 19th cannot both be true: If there was a dumpster in the driveway on February 19th, the photograph shows that access to any notice would have been blocked. On the other hand, if a dumpster was not in the driveway on February 19th, Mr. Alavi's testimony about the start of exterior demolition would be further shown to be a conflation of events.

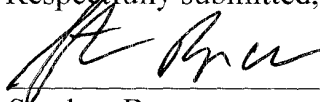
The owner/intervenor tries to save a portion of Mr. Alavi's testimony by choosing the first option, conceding that the dumpster would have "blocked any view of the permit," but contending that "the obvious conclusion if one sees a dumpster next door [is] that construction is or soon will be under way." Mashayekhi Ltr. at 2. The problem with this is twofold: First, as Mr. Alavi's permit application and the Appellant's testimony show, there was no dumpster was in the driveway on February 19th. Second, even if there had been, *Economides* shows that the standard is not whether "construction is or soon will be under way" but whether there is notice of the "specific problems" with the construction activities. The presence of a dumpster may indicate that "something is afoot," but neither indicates the nature of the construction activities. In *Economides*, the construction began in June 2004, but the "specific problems" with the construction in the back yard were not apparent until October 2004. 954 A.2d at 438.

The owner/intervenor, but conspicuously not DCRA, points to the BZA's 2005 *Herron* decision (52 DCR 3904), which "overruled" the BZA's previous decision in *Grinstead* (49 DCR 5227). It is undisputable, however, that the controlling precedents are the April and August 2008 decisions by the District of Columbia Court of Appeals in *Basken* and *Economides*. Nothing in *Herron* can limit or supersede the holding in *Economides* that the "specific problems" with the construction must be reasonably known more than 60 days before the appeal. 954 A.2d at 438. And, only four months earlier, *Basken* rejected the position that the time for appealing to the BZA can be tied to "the issuance of a specified type of notice" given the range of decisions covered by DCMR 11-3112.2 (including "any ... decision, determination, or refusal" by the Zoning Administrator "in the administration or enforcement of the Zoning Regulations"). *Basken* specifically recognizes that "a letter from DCRA or the Zoning Administrator conveying a zoning decision may be an appealable order." 946 A.2d at 366. In this instance, the Zoning Administrator promised "another inspection" and review in response to the Appellants' complaints of zoning violations for single family detached dwellings, but later conveyed his "opinion" through his Deputy that the zoning regulations were not violated. Ex. 2, Attachments 4-6.

For these reasons and the reasons stated in the Motion for Reconsideration or Rehearing, Appellant respectfully requests that the Board reconsider or reopen its Decision and Order.

Dated: June 2, 2010

Respectfully submitted,



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New Exhibit:

G. Excerpts from the 2006 International Building Code.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 2010, a copy of the foregoing Reply In Support of Motion for Reconsideration or Rehearing of Decision and Order of the Board of Zoning Adjustment, with Exhibit G, was sent by first-class mail, postage prepaid, to:

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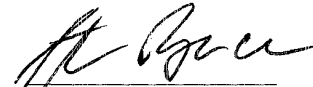
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Stephen Bruce

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Exhibit G

2006

CHAPTER 3

USE AND OCCUPANCY CLASSIFICATION

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall control the classification of all buildings and structures as to use and occupancy.

SECTION 302 CLASSIFICATION

302.1 General. Structures 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. Structures with multiple occupancies or uses shall comply with Section 508. Where a structure is proposed for a purpose that is not specifically provided for in this code, such structure shall be classified in the group that the occupancy most nearly resembles, according to the fire safety and relative hazard involved.

1. Assembly (see Section 303): Groups A-1, A-2, A-3, A-4 and A-5
2. Business (see Section 304): Group B
3. Educational (see Section 305): Group E
4. Factory and Industrial (see Section 306): Groups F-1 and F-2
5. High Hazard (see Section 307): Groups H-1, H-2, H-3, H-4 and H-5
6. Institutional (see Section 308): Groups I-1, I-2, I-3 and I-4
7. Mercantile (see Section 309): Group M
8. Residential (see Section 310): Groups R-1, R-2, R-3 and R-4
9. Storage (see Section 311): Groups S-1 and S-2
10. Utility and Miscellaneous (see Section 312): Group U

SECTION 303 ASSEMBLY GROUP A

303.1 Assembly Group A. Assembly Group A occupancy includes, among others, the use of a building or structure, or a portion thereof, for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption; or awaiting transportation.

Exceptions:

1. A building used for assembly purposes with an occupant load of less than 50 persons shall be classified as a Group B occupancy.

2. A room or space used for assembly purposes with an occupant load of less than 50 persons and accessory to another occupancy shall be classified as a Group B occupancy or as part of that occupancy.
3. A room or space used for assembly purposes that is less than 750 square feet (70 m²) in area and is accessory to another occupancy shall be classified as a Group B occupancy or as part of that occupancy.

Assembly occupancies shall include the following:

A-1 Assembly uses, usually with fixed seating, intended for the production and viewing of the performing arts or motion pictures including, but not limited to:

Motion picture theaters
Symphony and concert halls
Television and radio studios admitting an audience
Theaters

A-2 Assembly uses intended for food and/or drink consumption including, but not limited to:

Banquet halls
Night clubs
Restaurants
Taverns and bars

A-3 Assembly uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A including, but not limited to:

Amusement arcades
Art galleries
Bowling alleys
Places of religious worship
Community halls
Courtrooms
Dance halls (not including food or drink consumption)
Exhibition halls
Funeral parlors
Gymnasiums (without spectator seating)
Indoor swimming pools (without spectator seating)
Indoor tennis courts (without spectator seating)
Lecture halls
Libraries
Museums
Waiting areas in transportation terminals
Pool and billiard parlors

A-4 Assembly uses intended for viewing of indoor sporting events and activities with spectator seating including, but not limited to:

Arenas
Skating rinks
Swimming pools
Tennis courts

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. Places of worship during religious functions are not included.

308.5.1 Adult care facility. A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

Exception: A facility where occupants are capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group A-3.

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24-hour basis for more than five children 2½ years of age or less shall be classified as Group I-4.

Exception: A child day care facility that provides care for more than five but no more than 100 children 2½ years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

SECTION 309 MERCANTILE GROUP M

309.1 Mercantile Group M. Mercantile Group M occupancy includes, among others, buildings and structures or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, wares or merchandise incidental to such purposes and accessible to the public. Mercantile occupancies shall include, but not be limited to, the following:

- Department stores
- Drug stores
- Markets
- Motor fuel-dispensing facilities
- Retail or wholesale stores
- Sales rooms

309.2 Quantity of hazardous materials. The aggregate quantity of nonflammable solid and nonflammable or noncombustible liquid hazardous materials stored or displayed in a single control area of a Group M occupancy shall not exceed the quantities in Table 414.2.4(1).

SECTION 310 RESIDENTIAL GROUP R

310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code* in accordance with Section 101.2. Residential occupancies shall include the following:

dential Code in accordance with Section 101.2. Residential occupancies shall include the following:

R-1 Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including:

- Boarding houses (transient)
- Hotels (transient)
- Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- Boarding houses (not transient)
- Convents
- Dormitories
- Fraternities and sororities
- Hotels (nontransient)
- Monasteries
- Motels (nontransient)
- Vacation timeshare properties

Congregate living facilities with 16 or fewer occupants are permitted to comply with the construction requirements for Group R-3.

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

- Buildings that do not contain more than two dwelling units.
- Adult facilities that provide accommodations for five or fewer persons of any age for less than 24 hours.
- Child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours.
- Congregate living facilities with 16 or fewer persons.

Adult and child care facilities that are within a single-family home are permitted to comply with the *International Residential Code*.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code, or shall comply with the *International Residential Code*.

310.2 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

BOARDING HOUSE. A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

CONGREGATE LIVING FACILITIES. A building or part thereof that contains sleeping units where residents share bathroom and/or kitchen facilities.

DORMITORY. A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.

PERSONAL CARE SERVICE. The care of residents who do not require chronic or convalescent medical or nursing care. Personal care involves responsibility for the safety of the resident while inside the building.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. A building or part thereof housing persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following: residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers and convalescent facilities.

TRANSIENT. Occupancy of a dwelling unit or sleeping unit for not more than 30 days.

SECTION 311 STORAGE GROUP S

311.1 Storage Group S. Storage Group S occupancy includes, among others, the use of a building or structure, or a portion thereof, for storage that is not classified as a hazardous occupancy.

311.2 Moderate-hazard storage, Group S-1. Buildings occupied for storage uses that are not classified as Group S-2, including, but not limited to, storage of the following:

- Aerosols, Levels 2 and 3
- Aircraft repair hangar
- Bags: cloth, burlap and paper
- Bamboos and rattan
- Baskets
- Belting: canvas and leather
- Books and paper in rolls or packs
- Boots and shoes
- Buttons, including cloth covered, pearl or bone
- Cardboard and cardboard boxes
- Clothing, woolen wearing apparel
- Cordage
- Dry boat storage (indoor)
- Furniture
- Furs
- Glues, mucilage, pastes and size
- Grains
- Horns and combs, other than celluloid
- Leather
- Linoleum
- Lumber
- Motor vehicle repair garages complying with the maximum

allowable quantities of hazardous materials listed in Table 307.1(1) (see Section 406.6)

- Photo engravings
- Resilient flooring
- Silks
- Soaps
- Sugar
- Tires, bulk storage of
- Tobacco, cigars, cigarettes and snuff
- Upholstery and mattresses
- Wax candles

311.3 Low-hazard storage, Group S-2. Includes, among others, buildings used for the storage of noncombustible materials such as products on wood pallets or in paper cartons with or without single thickness divisions; or in paper wrappings. Such products are permitted to have a negligible amount of plastic trim, such as knobs, handles or film wrapping. Storage uses shall include, but not be limited to, storage of the following:

- Aircraft hangar
- Asbestos
- Beverages up to and including 12-percent alcohol in metal, glass or ceramic containers
- Cement in bags
- Chalk and crayons
- Dairy products in nonwaxed coated paper containers
- Dry cell batteries
- Electrical coils
- Electrical motors
- Empty cans
- Food products
- Foods in noncombustible containers
- Fresh fruits and vegetables in nonplastic trays or containers
- Frozen foods
- Glass
- Glass bottles, empty or filled with noncombustible liquids
- Gypsum board
- Inert pigments
- Ivory
- Meats
- Metal cabinets
- Metal desks with plastic tops and trim
- Metal parts
- Metals
- Mirrors
- Oil-filled and other types of distribution transformers
- Parking garages, open or enclosed
- Porcelain and pottery
- Stoves
- Talc and soapstones
- Washers and dryers

SECTION 312 UTILITY AND MISCELLANEOUS GROUP U

312.1 General. Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with

the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:

- Agricultural buildings
- Aircraft hangars, accessory to a one- or two-family residence (see Section 412.3)
- Barns
- Carports
- Fences more than 6 feet (1829 mm) high
- Grain silos, accessory to a residential occupancy
- Greenhouses
- Livestock shelters
- Private garages
- Retaining walls
- Sheds
- Stables
- Tanks
- Towers

craft paint hangar complies with the provisions of Section 412.4 and is entirely surrounded by public ways or yards not less in width than one and one-half times the height of the building.

507.9 Group E buildings. The area of a one-story Group E building of Type II, IIIA or IV construction shall not be limited when the following criteria are met:

1. Each classroom shall have not less than two means of egress, with one of the means of egress being a direct exit to the outside of the building complying with Section 1018.
2. The building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.
3. The building is surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

507.10 Motion picture theaters. In buildings of Type II construction, the area of a one-story motion picture theater shall not be limited when the building is provided with an automatic sprinkler system throughout in accordance with Section 903.3.1.1 and is surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

507.11 Covered mall buildings and anchor stores. The area of covered mall buildings and anchor stores not exceeding three stories in height that comply with Section 402.6 shall not be limited.

SECTION 508 MIXED USE AND OCCUPANCY

508.1 General. Where a building or portion thereof contains two or more occupancies or uses, the building or portion hereof shall comply with the applicable provisions of this section.

508.2 Incidental uses. Incidental use areas shall comply with the provisions of this section.

Exception: Incidental use areas within and serving a dwelling unit are not required to comply with this section.

508.2.1 Occupancy classification. An incidental use area shall be classified in accordance with the occupancy of that portion of the building in which it is located or the building shall be classified as a mixed occupancy and shall comply with Section 508.3.

508.2.2 Separation. Incidental use areas shall be separated or protected, or both, in accordance with Table 508.2.

508.2.2.1 Construction. Where Table 508.2 requires a fire-resistance-rated separation, the incidental use area shall be separated from the remainder of the building by a fire barrier constructed in accordance with Section 706 or a horizontal assembly constructed in accordance with Section 711, or both. Where Table 508.2 permits an automatic fire-extinguishing system without a fire barrier, the incidental use area shall be separated from the remainder of the building by construction capable of resisting the passage of smoke. The partitions shall extend from the floor to the underside of the fire-resistance-rated floor/ceiling assembly or fire-resistance-rated roof/ceiling

ing assembly above or to the underside of the floor or roof sheathing, or sub deck above. Doors shall be self- or automatic closing upon detection of smoke. Doors shall not have air transfer openings and shall not be undercut in excess of the clearance permitted in accordance with NFPA 80.

508.2.3 Protection. Where an automatic fire-extinguishing system or an automatic sprinkler system is provided in accordance with Table 508.2, only the incidental use areas need be equipped with such a system.

**TABLE 508.2
INCIDENTAL USE AREAS**

ROOM OR AREA	SEPARATION AND/OR PROTECTION
Furnace room where any piece of equipment is over 400,000 Btu per hour input	1 hour or provide automatic fire-extinguishing system
Rooms with boilers where the largest piece of equipment is over 15 psi and 10 horsepower	1 hour or provide automatic fire-extinguishing system
Refrigerant machinery rooms	1 hour or provide automatic sprinkler system
Parking garage (Section 406.2)	2 hours; or 1 hour and provide automatic fire-extinguishing system
Hydrogen cut-off rooms, not classified as Group H	1-hour in Group B, F, M, S and U occupancies. 2-hour in Group A, E, I and R occupancies.
Incinerator rooms	2 hours and automatic sprinkler system
Paint shops, not classified as Group H, located in occupancies other than Group F	2 hours; or 1 hour and provide automatic fire-extinguishing system
Laboratories and vocational shops, not classified as Group H, located in Group E or I-2 occupancies	1 hour or provide automatic fire-extinguishing system
Laundry rooms over 100 square feet	1 hour or provide automatic fire-extinguishing system
Storage rooms over 100 square feet	1 hour or provide automatic fire-extinguishing system
Group I-3 cells equipped with padded surfaces	1 hour
Group I-2 waste and linen collection rooms	1 hour
Waste and linen collection rooms over 100 square feet	1 hour or provide automatic fire-extinguishing system
Stationary lead-acid battery systems having a liquid capacity of more than 100 gallons used for facility standby power, emergency power or uninterrupted power supplies	1-hour in Group B, F, M, S and U occupancies. 2-hour in Group A, E, I and R occupancies.

For SI: 1 square foot = 0.0929 m², 1 pound per square inch = 6.9 kPa, 1 British thermal unit per hour = 0.293 watts, 1 horsepower = 746 watts, 1 gallon = 3.785 L.

508.3 Mixed occupancies. Each portion of a building shall be individually classified in accordance with Section 302.1.

Where a building contains more than one occupancy group, the building or portion thereof shall comply with Sections 508.3.1, 508.3.2, 508.3.3 or a combination of these sections.

Exceptions:

1. Occupancies separated in accordance with Section 509.
2. Where required by Table 415.3.2, areas of Group H-1, H-2 or H-3 occupancies shall be located in a separate and detached building or structure.

508.3.1 Accessory occupancies. Accessory occupancies are those occupancies subsidiary to the main occupancy of the building or portion thereof. Aggregate accessory occupancies shall not occupy more than 10 percent of the area of the story in which they are located and shall not exceed the tabular values in Table 503, without height and area increases in accordance with Sections 504 and 506 for such accessory occupancies.

Exceptions:

1. Accessory assembly areas having a floor area less than 750 square feet (69.7 m²) are not considered separate occupancies.
2. Assembly areas that are accessory to Group E occupancies are not considered separate occupancies except when applying the assembly occupancy requirements of Chapter 11.

3. Accessory religious educational rooms and religious auditoriums with occupant loads of less than 100 are not considered separate occupancies.

508.3.1.1 Occupancy classification. Accessory occupancies shall be individually classified in accordance with Section 302.1. Code requirements shall apply to each portion of the building based on the occupancy classification of that accessory space, except that the most restrictive applicable provisions of Section 403 and Chapter 9 shall apply to the entire building or portion thereof.

508.3.1.2 Allowable area and height. The allowable area and height of the building shall be based on the allowable area and height for the main occupancy in accordance with Section 503.1. The height of any accessory occupancy shall not exceed the tabular values in Table 503, without height and area increases in accordance with Sections 504 and 506 for such accessory occupancies.

508.3.1.3 Separation. No separation is required between accessory occupancies or the main occupancy.

Exception: Group H-2, H-3, H-4 or H-5 occupancies shall be separated from all other occupancies in accordance with Section 508.3.3.

508.3.2 Nonseparated occupancies. Buildings or portions of buildings that comply with the provisions of this section shall qualify as nonseparated occupancies.

508.3.2.1 Occupancy classification. Nonseparated occupancies shall be individually classified in accordance with Section 302.1. Code requirements shall apply

**TABLE 508.3.3
REQUIRED SEPARATION OF OCCUPANCIES (HOURS)**

OCCUPANCY	A ^e , E		I		R ^d		F-2, S-2 ^{c,d} , U ^d		B ^b , F-1, M ^b , S-1		H-1		H-2		H-3, H-4, H-5	
	S	NS	S	NS	S	NS	S	NS	S	NS	S	NS	S	NS	S	NS
A ^e , E ^e	N	N	1	2	1	2	N	1	1	2	NP	NP	3	4	2	3 ^a
I	—	—	N	N	1	NP	1	2	1	2	NP	NP	3	NP	2	NP
R ^d	—	—	—	—	N	N	1	2	1	2	NP	NP	3	NP	2	NP
F-2, S-2 ^{c,d} , U ^d	—	—	—	—	—	—	N	N	1	2	NP	NP	3	4	2	3 ^a
B ^b , F-1, M ^b , S-1	—	—	—	—	—	—	—	—	N	N	NP	NP	2	3	1	2 ^a
H-1	—	—	—	—	—	—	—	—	—	—	N	NP	NP	NP	NP	NP
H-2	—	—	—	—	—	—	—	—	—	—	—	—	N	NP	1	NP
H-3, H-4, H-5	—	—	—	—	—	—	—	—	—	—	—	—	—	—	N	NP

For SI: 1 square foot = 0.0929 m².

S = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

NS = Buildings not equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

N = No separation requirement.

NP = Not permitted.

a. For Group H-5 occupancies, see Section 903.2.4.2.

b. Occupancy separation need not be provided for storage areas within Groups B and M if the:

1. Area is less than 10 percent of the floor area;
2. Area is equipped with an automatic fire-extinguishing system and is less than 3,000 square feet; or
3. Area is less than 1,000 square feet.

c. Areas used only for private or pleasure vehicles shall be allowed to reduce separation by 1 hour.

d. See Section 406.1.4.

e. Commercial kitchens need not be separated from the restaurant seating areas that they serve.