

**MARION TOWNSHIP  
ZONING BOARD OF APPEALS**

**The Township Zoning Board of Appeals will meet in person  
January 3, 2022 at 7:30 pm**

However, there will be virtual access.

Instructions to participate in the meeting are posted on [www.mariontownship.com](http://www.mariontownship.com)

**AGENDA**

CALL TO ORDER

PLEDGE OF ALLEGIENCE

INTRODUCTION OF MEMBERS

APPROVAL OF AGENDA January 3, 2022

APPROVAL OF MINUTES FOR: December 6, 2021 Regular Meeting

CALL TO PUBLIC

UNFINISHED BUSINESS:

- 1) ZBA Case #02-21 Joseph Hamway 2865 Rubbins  
Seeking variance for Section 8.04.E.3.a2 side yard setback  
And Section 6.07.1 maximum square foot of accessory structure  
4710-27-301-013.

NEW BUSINESS:

SPECIAL ORDERS:

CALL TO PUBLIC:

ADJOURNMENT:

Submitted by: S. Longstreet

Approved: \_\_\_\_\_

MARION TOWNSHIP  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
December 6, 2021

**MEMBERS PRESENT:** Larry Fillinger, Larry Grunn, Dan Lowe, Linda Manson-Dempsey, and Diane Bockhausen

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Dave Hamann, Zoning Administrator

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**CALL TO ORDER**

Larry Fillinger called the meeting to order at 7:30 p.m. The meeting is also available online.

**MEMBERS PRESENT**

The members of the Zoning Board of Appeals introduced themselves.

**APPROVAL OF AGENDA**

Linda Manson-Dempsey motioned to approve the agenda. Diane Bockhausen seconded. **Motion carried.**

**CALL TO THE PUBLIC**

No response.

**APPROVAL OF MINUTES**

**October 4, 2021 Regular Meeting:** Linda Manson-Dempsey motioned to approve the minutes as presented. Diane Bockhausen seconded. **Motion carried.**

**UNFINISHED BUSINESS**

**ZBA Case #05-20—Keith & Kelly O’Hara, 4601 Sierra Dr., Howell, MI 48843, #4710-026-100-012**

A letter dated November 15, 2021 was received from the applicant requesting an extension for the variance. Dave Hamann said the ordinance states that up to a one-year extension can be granted.

Diane Bockhausen motioned to extend ZBA Case #05-20 to allow the applicant to apply for a land division within one year. Dan Lowe seconded. **Motion carried 5-0.**

**NEW BUSINESS**

**ZBA Case #02-21—Joseph Hamway, 2865 Rubbins, Howell, MI 48843, #4710-27-301-013, seeking variance for Section 8.04 E 3 a 2 Side Yard Setback**

Dave Hamann said that while reviewing this application, it was found that an additional variance is required because the size of the proposed building exceeds what is allowed on a lot that's one acre or less. The applicant will need to revised the application and resubmit. This will require that the mailing to property owners within 300' and the newspaper publication will have to be done again.

Linda Manson-Dempsey motioned for ZBA Case #02-21 to postpone action until the January 3, 2022 meeting. Larry Grunn seconded. Roll call vote: Lowe, Bockhausen, Grunn, Fillinger, Manson-Dempsey—all yes. **Motion carried 5-0.**

### **ELECTION OF OFFICERS**

Linda Manson-Dempsey motioned to nominate Larry Fillinger as chairman. Dan Lowe seconded. **Motion carried.**

Linda Manson-Dempsey motioned to nominate Dan Lowe as secretary. Larry Fillinger seconded. **Motion carried.**

Larry Fillinger motioned to nominate Linda Manson-Dempsey as vice chair. Diane Bockhausen seconded. **Motion carried.**

### **CALL TO THE PUBLIC**

No response.

### **ADJOURNMENT**

Diane Bockhausen motioned to adjourn at 8:09 pm. Larry Fillinger seconded. **Motion carried.**

**APPLICATION TO ZONING BOARD OF APPEALS**

ZBA Case # 02-21  
Tax Code 4710-27-301-013  
Current Zoning ER31  
Fee Paid 400  
Date Received 11-15-2021  
Received by [Signature]

Applicant JOSEPH HAMWAY  
Address 2865 RABBINS HOWARD MD 48843  
Telephone 248-248-568-4640 248-948-0113  
(Home) (Work)

Applicant is (check one):  Owner  Purchaser  Representative

*Purchaser or Representative needs a letter of permission from owner*

**Nature of Request** (check applicable one)

- Administrative Review (per Section 5.05 A)
- Interpretation of Ordinance (per Section 5.05 B 1, 2, 3 or 4)
- Variance Request (see below)

1. Zoning Ordinance Section

SECTION 8.04.E.3.92 SIDE YARD MINIMUM SETBACK  
OF 10 FEET. AND 6.07.1 ACCESSORY STRUCTURE MAXIMUM SIZE.

- 2. Letter stating reason request should be granted (per Section 5.05 C)
- 3. Plot Plan—example and checklist attached (requirement per Section 4.03 D)
- 4. Required Livingston County Health Department evaluation

**Refer to checklist on last page for additional instructions**

**By signing this application, permission is granted for official representative(s) of Marion Township to do onsite inspections.**

[Signature]  
Signature

12/12/2021  
Date

<b>Office Use Only</b>	
Meeting Date <u>12-6-2021 / 1-3-2021</u>	Action Taken _____
Conditions (if applicable) _____	
Signed _____	

SAMPLE DOCUMENT ADDRESSING SECTION 5.05 C, ITEMS 1 THROUGH 5

1. How the restrictions of the Township Zoning Ordinance would unreasonably prevent the owner from using the property for a permitted use.

To rebuild the garage at the same distance (2.8 ft.) from the lot line as the existing garage, and increase the width by 4 feet. This will allow my family of 4 adults to house at least 3 cars and put 2 boats indoor for the winter.

2. How the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give substantial relief to the owner of the property.

The side yard variance will allow the utilization of existing walkways and driveway, otherwise a complete new approach to enter would need to be created. The relaxation of the maximum square footage allows for winter storage of 2 boats on trailers, 26 foot in length.

3. How the unique circumstances of the property create the need for a variance.

The existing concrete driveway is designed to be a side loading garage. My well would have to be moved due to its location between the garage and Rubbins. The turn radius for large trucks/sedans to the side benefits with this relief.

4. How the alleged hardship was not created by the property owner

The garage and additions were constructed prior to 1978 with 3 different floor elevations, and 4 different roof lines. It is extremely inefficient to utilize "as is".

5. The difficulty shall not be deemed solely economic.

The depth of the garage (24') will not house my boats in the winter. Boat plus trailer tongue is 26 feet. This will remove the eyesore for my neighbors of sitting outside all winter. I am demolishing a storage shed and need to store a 4 wheel utility vehicle, riding lawnmower, winter boat storage and vehicles.

Signature

Date

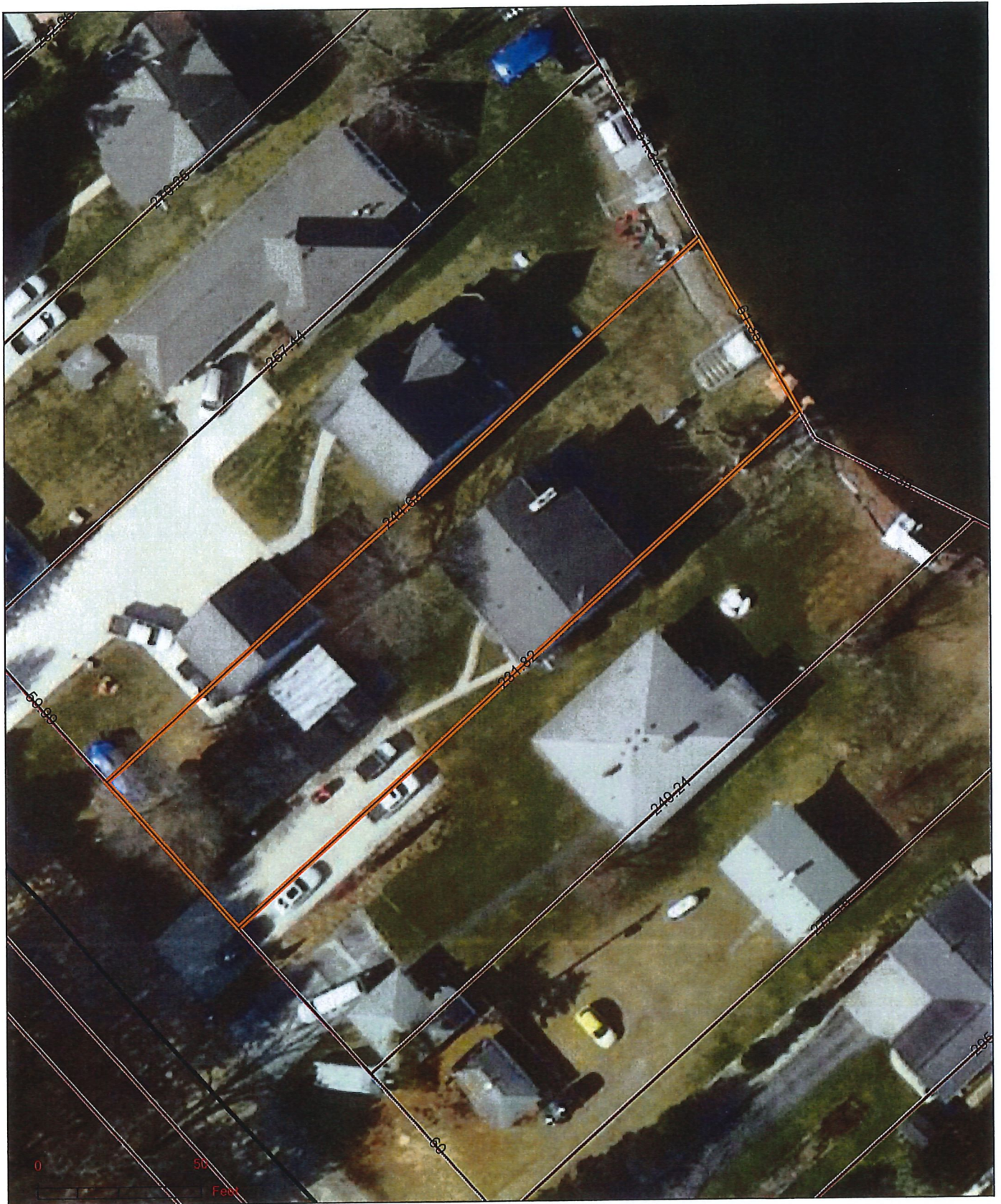
Joe Hamway  
2865 Rubbins  
Howell, MI. 48843

I am a full time resident at 2865 Rubbins and the house has been owned by my family since the mid 1970's.

I am asking for permission to demo my exiting garage and rebuild it in the same location with a 4 foot expansion toward the center of my property. It currently resides 2 feet 8 inches from the property line and I am asking for a variance from the 10 foot side yard set back, as well as a variance on the maximum square footage requirement. There are several examples of what I am requesting with neighbors along Rubbins Road, including my adjoining neighbor. The lots on Rubbins are 60 feet wide and with this variance the property can be best utilized due to the minimal width. The relaxation of the 10 foot side yard set back gives the proper turn radius for side entry vehicles. The garage was constructed prior to 1974 and with the location of my driveway, it gives the most efficient use of the area and does not negatively affect the neighbors. The variance for the maximum square footage will allow my family of 4 adults to house cars indoors in the summer and 2 cars and 2 boats (with trailers) in the winter. Feel free to call me with any question on my cell.

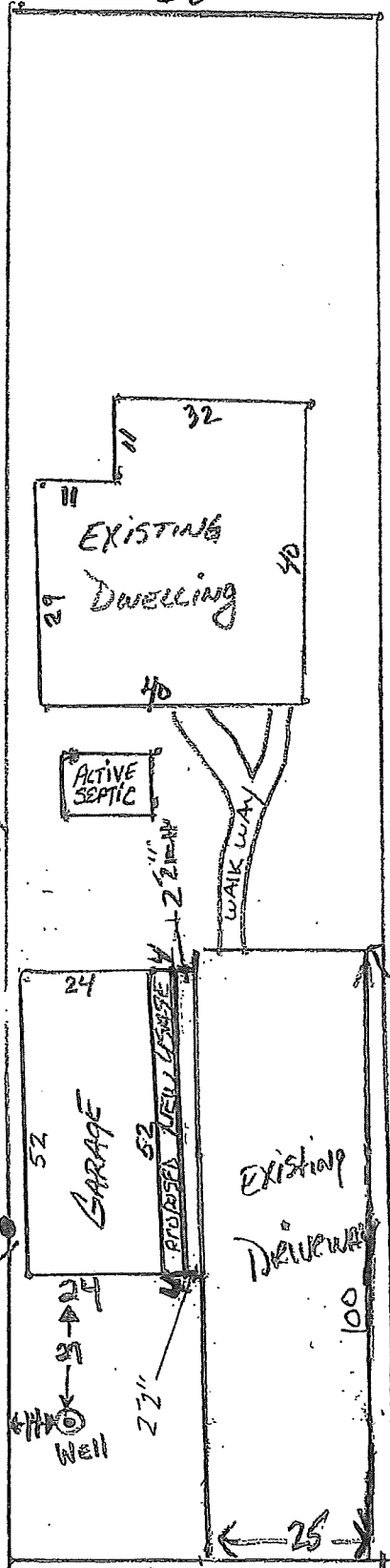
Joe Hamway  
248-568-4640

# MARION FEB2021



TRIANGLE LAKE

60



BENCHMARK SET NAIL W/TAG POWER POLE

2 FEET

232

2 FEET

DRAINAGE FLOW

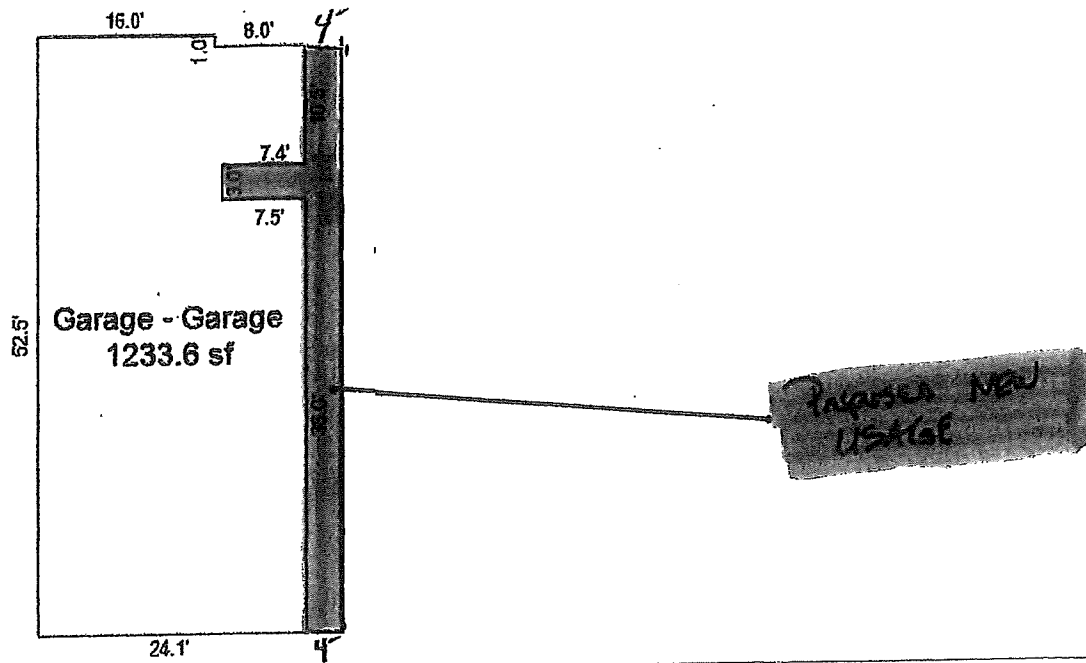
JOSEPH HAMWAY  
2865 RUBBINS  
HOWELL MI 48843  
248-568-4640

60  
RUBBINS ROAD

2 FEET



Image/Sketch for Parcel: 4710-27-301-013



Existing: 1233 Square Feet  
New Proposed: 1470 Square Feet.

## Plot Plan Checklist

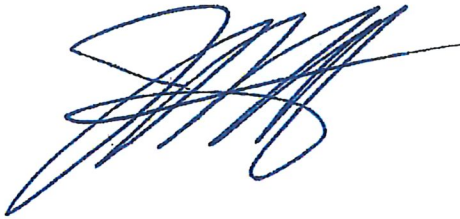
- Street name(s) ✓
- Street address ✓
- Drawing scale (optional) ✓
- North arrow ✓
- Location of driveway and sidewalks ✓
- Label existing buildings & structures and indicate usage ✓
- Label proposed buildings/structures and indicate usage ✓
- Dimensions from existing buildings and structures to property lines ✓
- Dimensions from proposed buildings/structures to property lines ✓
- Dimensions of existing buildings and structures ✓
- Dimensions of proposed buildings/structures ✓
- Dimensions of property lines ✓
- Location of well and septic ✓
- Confirmation of lot lines with survey or location of irons ✓

December 13, 2021

Dear ZBA Board,

Unfortunately I will be out of town and be unable to attend the January 2022 ZBA Board meeting. I do plan on attending remotely via the internet link. I authorize both Mark Benedetti and/or Scot Runyan to speak and answer questions on my behalf.

Sincerely, Joseph Hamway

A handwritten signature in blue ink, appearing to be 'J. Hamway', written in a cursive style.

## Dave Hamann

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**From:** Rick Swanson <RSwanson@livgov.com>  
**Sent:** Thursday, December 9, 2021 12:12 PM  
**To:** Dave Hamann  
**Subject:** RE: [EXT] Gable end within 8

Hi Dave,

The fire ratings & fire separation distance provisions fall under the MI 2015 Residential Building Code. Exterior walls (including gable end wall) of dwelling units and accessory buildings located less than 5 feet from the lot line requires a (1) hour fire-rated design.

This is typically exterior 5/8 gypsum (DensGlass) board & regular 5/8" gypsum board on the interior side.

If the setback to the lot line is less than 3 feet than windows or openings are prohibited.

Hope this helps.

Rick Swanson  
Deputy Building Official  
Livingston County  
T: (517) 552-6726  
E: [rswanson@livgov.com](mailto:rswanson@livgov.com)

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**From:** Dave Hamann <[za@mariontownship.com](mailto:za@mariontownship.com)>  
**Sent:** Thursday, December 9, 2021 9:56 AM  
**To:** Rick Swanson <RSwanson@livgov.com>  
**Subject:** [EXT] Gable end within 8

"The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin."

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Hi Rick, question came up on a ZBA case Monday night and it had to do with gable end fire code requirements when a house is within 8 feet of another house. The person did not know if it was international fire code and any details just that the building department enforces something with gable ends and fire stop. We have a case that is asking for a variance to 2 foot 8 inches for a garage which will be about 6 feet from the neighbors garage. My understanding is the fire issue with gable ends within 8 feet is for safety with a fire jumping and creating a longer time to penetrate then with normal situation. What exactly is the code and does it apply to accessory structures! Thanks!

Dave Hamann  
Zoning Administrator  
Marion Township  
2877 W. Coon Lake Road  
Howell, MI 48843  
Phone (517) 546-1588  
[za@mariontownship.com](mailto:za@mariontownship.com)

**603.1.2 Piping.** The use of combustible piping materials shall be permitted when installed in accordance with the limitations of the *International Mechanical Code* and the *International Plumbing Code*.

**603.1.3 Electrical.** The use of electrical wiring methods with combustible insulation, tubing, raceways and related components shall be permitted when installed in accordance with the limitations of the *ICC Electrical Code*.

**TABLE 601  
FIRE-RESISTANCE RATING REQUIREMENTS FOR BUILDING ELEMENTS (hours)**

BUILDING ELEMENT	TYPE I		TYPE II		TYPE III		TYPE IV	TYPE V	
	A	B	A <sup>o</sup>	B	A <sup>o</sup>	B	HT	A <sup>e</sup>	B
Structural frame <sup>a</sup>	3 <sup>b</sup>	2 <sup>b</sup>	1	0	1	0	HT	1	0
Bearing walls									
Exterior <sup>b</sup>	3	2	1	0	2	2	2	1	0
Interior	3 <sup>b</sup>	2 <sup>b</sup>	1	0	1	0	1/HT	1	0
Nonbearing walls and partitions	See Table 602								
Exterior									
Nonbearing walls and partitions	0	0	0	0	0	0	See Section 602.4.6	0	0
Interior <sup>f</sup>									
Floor construction Including supporting beams and joists	2	2	1	0	1	0	HT	1	0
Roof construction Including supporting beams and joists	1½ <sup>c</sup>	1 <sup>c,d</sup>	1 <sup>c,d</sup>	0 <sup>c,d</sup>	1 <sup>c,d</sup>	0 <sup>c,d</sup>	HT	1 <sup>c,d</sup>	0

For SI: 1 foot = 304.8 mm.

- a. The structural frame shall be considered to be the columns and the girders, beams, trusses and spandrels having direct connections to the columns and bracing members designed to carry gravity loads. The members of floor or roof panels which have no connection to the columns shall be considered secondary members and not a part of the structural frame.
- b. Roof supports: Fire-resistance ratings of structural frame and bearing walls are permitted to be reduced by 1 hour where supporting a roof only.
- c. Except in Group F-1, H, M and S-1 occupancies, fire protection of structural members shall not be required, including protection of roof framing and decking where every part of the roof construction is 20 feet or more above any floor immediately below. Fire-retardant-treated wood members shall be allowed to be used for such unprotected members.
- d. In all occupancies, heavy timber shall be allowed where a 1-hour or less fire-resistance rating is required.
- e. An approved automatic sprinkler system in accordance with Section 903.3.1.1 shall be allowed to be substituted for 1-hour fire-resistance-rated construction, provided such system is not otherwise required by other provisions of the code or used for an allowable area increase in accordance with Section 506.3 or an allowable height increase in accordance with Section 504.2. The 1-hour substitution for the fire resistance of exterior walls shall not be permitted.
- f. Not less than the fire-resistance rating required by other sections of this code.
- g. Not less than the fire-resistance rating based on fire separation distance (see Table 602).

**TYPES OF CONSTRUCTION**

**TABLE 602  
FIRE-RESISTANCE RATING REQUIREMENTS FOR EXTERIOR WALLS BASED ON FIRE SEPARATION DISTANCE<sup>a, c</sup>**

FIRE SEPARATION DISTANCE = X (feet)	TYPE OF CONSTRUCTION	OCCUPANCY GROUP H	OCCUPANCY GROUP F-1, M, S-1	OCCUPANCY GROUP A, B, E, F-2, I, R, S-2, U <sup>b</sup>
X < 5 <sup>c</sup>	All	3	2	1
5 ≤ X < 10	IA	3	2	1
	Others	2	1	1
10 ≤ X < 30	IA, IB	2	1	1 <sup>d</sup>
	IIB, VB	1	0	0
	Others	1	1	1 <sup>d</sup>
X ≥ 30	All	0	0	0

For SI: 1 foot = 304.8 mm.

- a. Load-bearing exterior walls shall also comply with the fire-resistance rating requirements of Table 601.
- b. For special requirements for Group U occupancies see Section 406.1.2
- c. See Section 705.1.1 for party walls.
- d. Open parking garages complying with Section 406 shall not be required to have a fire-resistance rating.
- e. The fire-resistance rating of an exterior wall is determined based upon the fire separation distance of the exterior wall and the story in which the wall is located.

**TABLE 602.4  
WOOD MEMBER SIZE**

MINIMUM NOMINAL SOLID SAWN SIZE		MINIMUM GLUED-LAMINATED NET SIZE	
Width, Inch	Depth, Inch	Width, Inch	Depth, Inch
8	8	6 3/4	8 1/4
6	10	5	10 1/2
6	8	5	8 1/4
6	6	5	6
4	6	3	6 7/8

For SI: 1 inch = 25.4 mm.

section shall be based on the fire exposure and acceptance criteria specified in ASTM E 119. The required fire resistance of a building element shall be permitted to be established by any of the following methods or procedures:

1. Fire-resistance designs documented in approved sources.
2. Prescriptive designs of fire-resistance-rated building elements as prescribed in Section 720.
3. Calculations in accordance with Section 721.
4. Engineering analysis based on a comparison of building element designs having fire-resistance ratings as determined by the test procedures set forth in ASTM E 119.
5. Alternative protection methods as allowed by Section 104.11.

**703.4 Noncombustibility tests.** The tests indicated in Sections 703.4.1 and 703.4.2 shall serve as criteria for acceptance of building materials as set forth in Sections 602.2, 602.3 and 602.4 in Type I, II, III and IV construction. The term "noncombustible" does not apply to the flame spread characteristics of interior finish or trim materials. A material shall not be classified as a noncombustible building construction material if it is subject to an increase in combustibility or flame spread beyond the limitations herein established through the effects of age, moisture or other atmospheric conditions.

**703.4.1 Elementary materials.** Materials required to be noncombustible shall be tested in accordance with ASTM E 136.

**703.4.2 Composite materials.** Materials having a structural base of noncombustible material as determined in accordance with Section 703.4.1 with a surfacing not more than 0.125 inch (3.18 mm) thick that has a flame spread index not greater than 50 when tested in accordance with ASTM E 84 shall be acceptable as noncombustible materials.

## SECTION 704 EXTERIOR WALLS

**704.1 General.** Exterior walls shall comply with this section.

**704.2 Projections.** Cornices, eave overhangs, exterior balconies and similar projections extending beyond the floor area shall conform to the requirements of this section and Section 1406. Exterior egress balconies and exterior exit stairways shall also comply with Sections 1014.5 and 1023.1, respectively. Projections shall not extend beyond the distance determined by the following two methods, whichever results in the lesser projection:

1. A point one-third the distance to the lot line from an assumed vertical plane located where protected openings are required in accordance with Section 704.8.
2. More than 12 inches (305 mm) into areas where openings are prohibited.

**704.2.1 Type I and II construction.** Projections from walls of Type I or II construction shall be of noncombustible

materials or combustible materials as allowed by Sections 1406.3 and 1406.4.

**704.2.2 Type III, IV or V construction.** Projections from walls of Type III, IV or V construction shall be of any approved material.

**704.2.3 Combustible projections.** Combustible projections located where openings are not permitted or where protection of openings is required shall be of at least 1-hour fire-resistance-rated construction, Type IV construction, fire-retardant-treated wood or as required by Section 1406.3.

**Exception:** Type V construction shall be allowed for R-3 occupancies.

**704.3 Buildings on the same lot.** For the purposes of determining the required wall and opening protection and roof-covering requirements, buildings on the same lot shall be assumed to have an imaginary line between them.

Where a new building is to be erected on the same lot as an existing building, the location of the assumed imaginary line with relation to the existing building shall be such that the exterior wall and opening protection of the existing building meet the criteria as set forth in Sections 704.5 and 704.8.

**Exception:** Two or more buildings on the same lot shall either be regulated as separate buildings or shall be considered as portions of one building if the aggregate area of such buildings is within the limits specified in Chapter 5 for a single building. Where the buildings contain different occupancy groups or are of different types of construction, the area shall be that allowed for the most restrictive occupancy or construction.

**704.4 Materials.** Exterior walls shall be of materials permitted by the building type of construction.

**704.5 Fire-resistance ratings.** Exterior walls shall be fire-resistance rated in accordance with Tables 601 and 602. The fire-resistance rating of exterior walls with a fire separation distance of greater than 5 feet (1524 mm) shall be rated for exposure to fire from the inside. The fire-resistance rating of exterior walls with a fire separation distance of 5 feet (1524 mm) or less shall be rated for exposure to fire from both sides.

**704.6 Structural stability.** The wall shall extend to the height required by Section 704.11 and shall have sufficient structural stability such that it will remain in place for the duration of time indicated by the required fire-resistance rating.

**704.7 Unexposed surface temperature.** Where protected openings are not limited by Section 704.8, the limitation on the rise of temperature on the unexposed surface of exterior walls as required by ASTM E 119 shall not apply. Where protected openings are limited by Section 704.8, the limitation on the rise of temperature on the unexposed surface of exterior walls as required by ASTM E 119 shall not apply provided that a correction is made for radiation from the unexposed exterior wall surface in accordance with the following formula:

$$A_e = A + (A_f \times F_{eo}) \quad (\text{Equation 7-1})$$

**FIRE-RESISTANCE-RATED CONSTRUCTION**

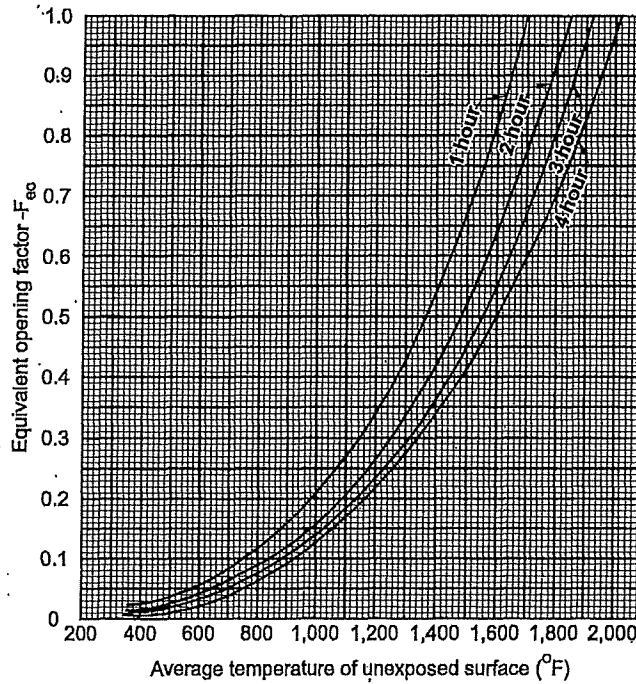
where:

- $A_e$  = Equivalent area of protected openings.
- $A$  = Actual area of protected openings.
- $A_f$  = Area of exterior wall surface in the story under consideration exclusive of openings, on which the temperature limitations of ASTM E 119 for walls are exceeded.
- $F_{eo}$  = An "equivalent opening factor" derived from Figure 704.7 based on the average temperature of the unex-

posed wall surface and the fire-resistance rating of the wall.

**704.8 Allowable area of openings.** The maximum area of unprotected or protected openings permitted in an exterior wall in any story shall not exceed the values set forth in Table 704.8. Where both unprotected and protected openings are located in the exterior wall in any story, the total area of the openings shall comply with the following formula:

$$\frac{A}{a} + \frac{A_u}{a_u} \leq 1.0 \quad \text{(Equation 7-2)}$$



For SI:  $^{\circ}\text{C} = [(^{\circ}\text{F}) - 32] / 1.8$ .

**FIGURE 704.7**  
**EQUIVALENT OPENING FACTOR**

**TABLE 704.8**  
**MAXIMUM AREA OF EXTERIOR WALL OPENINGS<sup>a</sup>**

CLASSIFICATION OF OPENING	FIRE SEPARATION DISTANCE (feet)							
	0 to 3 <sup>d,j</sup>	Greater than 3 to 5 <sup>c,g</sup>	Greater than 5 to 10 <sup>c,e,g,h</sup>	Greater than 10 to 15 <sup>d,e,g</sup>	Greater than 15 to 20 <sup>d,g</sup>	Greater than 20 to 25 <sup>d,g</sup>	Greater than 25 to 30 <sup>d,g</sup>	Greater than 30
Unprotected	Not Permitted	Not Permitted <sup>c</sup>	10% <sup>i</sup>	15% <sup>i</sup>	25% <sup>i</sup>	45% <sup>i</sup>	70% <sup>i</sup>	No Limit <sup>b</sup>
Protected	Not Permitted	15%	25%	45%	75%	No Limit <sup>b</sup>	No Limit <sup>b</sup>	No Limit <sup>b</sup>

For SI: 1 foot = 304.8 mm.

- a. Values given are percentage of the area of the exterior wall.
- b. See Section 704.7 for unexposed surface temperature.
- c. For occupancies in Group R-3, the maximum percentage of unprotected and protected exterior wall openings shall be 25 percent.
- d. The area of openings in an open parking structure with a fire separation distance of greater than 10 feet shall not be limited.
- e. For occupancies in Group H-2 or H-3, unprotected openings shall not be permitted for openings with a fire separation distance of 15 feet or less.
- f. For requirements for fire walls for buildings with differing roof heights, see Section 705.6.1.
- g. The area of unprotected and protected openings is not limited for occupancies in Group R-3, with a fire separation distance greater than 5 feet.
- h. For special requirements for Group U occupancies, see Section 406.1.2.
- i. Buildings whose exterior bearing wall, exterior nonbearing wall and exterior structural frame are not required to be fire-resistance rated by Table 601 or 602 shall be permitted to have unlimited unprotected openings.
- j. Includes accessory buildings to Group R-3.