



**NEW YORK STATE DEPARTMENT OF STATE
Division of Code Enforcement and Administration
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**UNIFORM FIRE PREVENTION AND BUILDING CODE &
ENERGY CONSERVATION CONSTRUCTION CODE**

**REQUEST FOR A CODE INTERPRETATION
BY THE SECRETARY OF STATE**

1. Requesting Party :

___ Permit Applicant, ___ Applicants Representative, OR ___ Code Enforcement Official
Name: Jonathan Ochshorn Telephone: (607) 255-1194
Address: 207 Water Street Fax: 607 255-0291
Ithaca, NY 14850 email: jo24@cornell.edu

2. Authority Having Jurisdiction:

Name of Local Government City of Ithaca County: Tompkins
 City, ___ Town, ___ Village, OR ___ County ___ State Agency
Code Enforcement Official: Mike Niechwiadowicz Telephone: (607) 274-6508
Address: 108 E. Green Street Fax: 607 274-6521
Ithaca, NY 14850

3. Code Section in Question:

19 NYCRR 1220; Residential Code of NYS Section _____
19 NYCRR 1221; Building Code of NYS Section 2002 Code: Section K902.2
19 NYCRR 1222; Existing Building Code of NYS Section _____
19 NYCRR 1222; Plumbing Code of NYS Section _____
19 NYCRR 1223; Mechanical Code of NYS Section _____
19 NYCRR 1224; Fuel Gas Code of NYS Section _____
19 NYCRR 1225; Fire Code of NYS Section _____
19 NYCRR 1226; Property Maintenance Code of NYS Section _____
19 NYCRR 1240; Energy Conservation Construction Code of NYS Section _____
Code Enforcement Official has been contacted? YES, or ___ NO

4. Other Interested Parties:

Another State Agency: _____ Other outside party: Cornell University
Contact Person: Gary Wilhelm Telephone: 607 254-8022
DOS Regional Staff Person has been contacted? YES, or ___ NO
DOS Regional Staff Person NAME: Brian Tollisen

5. Details of Request: The question is this: Does Section K902.2 of the 2002 Building Code of NYS permit unlimited floor area in an addition if a fire barrier is provided?
(attach additional sheets if necessary) see attached

Requestor's Signature: Jonathan Ochshorn Date: 19 Sept. 2013

Attachment.

Question: Does Section K902.2 of the 2002 Building Code of NYS permit unlimited floor area in an addition if a fire barrier is provided?

I am raising this question in connection with Petition No. 2013-0250, heard by the Capital Region-Syracuse Board of Review in July, 2013. That case involves an addition which exceeds the floor area permitted under the applicable provisions of Chapter 5.

Section K902.2 of the 2002 Building Code of NYS states that: “No addition shall increase the area of an existing building beyond that permitted under the applicable provisions of Chapter 5 of the Building Code for new buildings, unless a fire barrier in accordance with Section 706 of the Building Code is provided.”

Missing from this section is an unambiguous statement about how the allowable area of such an addition is determined. The suggestion that the area of such an addition is therefore *unlimited* is not supported by any text in the Building Code, and clearly contradicts one of the most fundamental tenets of the Building Code: that the floor area of buildings must be limited in a manner consistent with occupancy and construction type (unless specifically meeting the stringent criteria for unlimited area buildings).

There are several interpretations that would satisfy the wording of Section K902.2 while still placing limits on the area of an addition. Two possibilities are as follows:

1. One could invoke the provision in Chapter 3 of the 2002 Building Code, Article 302.3.3, which permits area increases based on separated uses when a fire barrier is used. Basically, this section permits an increased total area that is limited only by the stipulation that the sum of the ratios of existing to allowable areas not exceed 1. This constitutes a potential increase over the areas allowed per Chapter 5, and therefore is consistent with the provisions of Section K902.2.
2. One could assume instead (as was assumed by the architects for Cornell University in making their case that an addition *could* exceed the limits of Chapter 5) that the allowable area of an addition can be computed separately, although still limited by the provisions of Chapter 5. The increased area permitted by Appendix K comes about by not having to include the **combined area** of the addition and the existing building to which it is attached. This also constitutes a potential increase over the area allowed per Chapter 5, and therefore is consistent with the provisions of Section K902.2.

Finally, it is easy to see the absurd ramifications of an interpretation allowing unlimited area for additions based on Section K902.2 of the 2002 Code. If it is accepted that unlimited areas of additions are permitted, then the following scenario would be legal under the 2002 Code:

- I want to build a 1-story wood-framed unsprinklered dance hall (A-3 occupancy) with 1,000,000 square feet of floor area on a large site, even though the tabular area limit in Chapter 5 is only 6,000 square feet. No problem. All I need to do is find (or build) a tiny one-room building on the site – for example, a 10' x 10' office building (Group B occupancy). Then, I simply get a new building permit to build the 1,000,000 square foot addition, which is connected to one side of the 10' x 10' existing building, and separated by a 10'-wide fire barrier. Since such additions have no floor area limits under Appendix K, this unsprinklered, wood-frame, 1,000,000 square foot A-3 dance hall would be perfectly legal.

Clearly, such a scenario – based on unlimited areas for additions separated by fire barriers – could not have been intended by the writers of Appendix K.

Requesting party: Jonathan Ochshorn

Date: 19 September 2013