

**VARIANCE FEES**

MGO \$50.00  
COMM \$490.00  
Priority – Double above

**PETITION FOR VARIANCE  
APPLICATION**

**City of Madison  
Building Inspection**  
215 Martin Luther King Jr Blvd  
Suite 017 Madison, WI 53703  
(608) 266-4551, ext. 2  
biplans@cityofmadison.com

Amount Paid

|  |  |   |
|--|--|---|
| Name of Owner<br><b>Joe Krupp</b>                    | Project Description<br><b>Cafe build-out in commercial tenant space.</b> | Agent, architect, or engineering firm<br><b>Aro Eberle Architects</b> |
| Company (if applies)<br><b>3900 LLC</b>              |  | No. & Street<br><b>433 W Washington Ave</b>                           |
| No. & Street<br><b>1954 Atwood Avenue</b>            | Tenant name (if any)<br><b>Ancora Cafe</b>                               | City, State, Zip Code<br><b>Madison, WI 53703</b>                     |
| City, State, Zip Code<br><b>Madison, WI 53703</b>    | Building Address   | Phone<br><b>608-204-7464</b>  |
| Phone  |  | Name of Contact Person<br><b>Doug Pahl</b>                            |
| e-mail<br><b>Tyler@thresholddevelopmentgroup.com</b> |  | e-mail<br><b>Pahl@aroeberle.com</b>                                   |

1. The rule being petitioned reads as follows: (Cite the specific rule number and language. Also, indicate the nonconforming conditions for your project.)  
IBC 2015 - 2902.1 - Plumbing fixtures shall be provided in the minimum number as shown in Table 2902.1 based on the actual use of the building or space. Uses not shown in Table 2902.1 shall be considered individually by the code official.  
Please see Appended Code Summary / position statement.
2. The rule being petitioned cannot be entirely satisfied because:  
Providing two toilet rooms over constrains the space and causes operational challenges and lost revenue.
3. The following alternatives and supporting information are proposed as a means of providing an equivalent degree of health, safety, and welfare as addressed by the rule:  
Because the WC ratio in the code is 1 per 75 people, A single fixture provides adequate plumbing system capacity for the maximum of 47 users of the space. In an effort to provide added performance, we will also comply with ANSI 117.1 2017; which improves accessibility in toilet rooms with larger clearances around fixtures and for turning movements.

Note: Please attach any pictures, plans, or required position statements.

**VERIFICATION BY OWNER – PETITION IS VALID ONLY IF NOTARIZED AND ACCOMPANIED BY A REVIEW FEE AND ANY REQUIRED POSITION STATEMENTS.**

Note: Petitioner must be the owner of the building. Tenants, agents, contractors, attorneys, etc. may not sign the petition unless a Power of Attorney is submitted with the Petition for Variance Application.

\_\_\_\_\_, being duly sworn, I state as petitioner that I have read the foregoing  
Print name of owner  
petition, that I believe it to be true, and I have significant ownership rights in the subject building or project.

|                    |  |
|--------------------|--|
| Signature of owner | Subscribed and sworn to before me this date: |
| Notary public      | My commission expires:                       |

**NOTE: ONLY VARIANCES FOR COMMERCIAL CODES ARE REQUIRED TO BE NOTARIZED.**

## CODE POSITION STATEMENT FOR 3926 MONONA DRIVE

Below is a complete explanation of the logic that we employ to justify our variance request. We have included each pertinent section of the code, pertinent sections of commentary, and a description of the hardship to the building owner/tenant to consider.

We wish to seek a variance from the 2015 IBC, Chapter 29; section 2902.1 for the requirement for 1 WC for men and 1 WC for women. Because it is commonplace to no longer designate facilities per gender, we believe that one, single-user, non designated toilet room will provide the adequate capacity. We will reference the code language from the new model code, IBC 2021 to understand the direction that the ICC is heading with regard to designation of separate facilities:

Under the 2021 code, there are several changes and new exceptions added to Chapter 29 with regard to calculating plumbing fixtures.

2902.1.2 Reads the following way:

2902.1.2 Single-user toilet and bathing room fixtures.

The plumbing fixtures located in single-user toilet and bathing rooms, including family or assisted-use toilet and bathing rooms that are required by Section 1110.2.1, shall contribute toward the total number of required plumbing fixtures for a building or tenant space. Single-user toilet and bathing rooms, and family or assisted-use toilet rooms and bathing rooms shall be identified as being available for use by all persons regardless of their sex.

The total number of fixtures shall be permitted to be based on the required number of separate facilities or based on the aggregate of any combination of single-user or separate facilities.

Sample problems within the commentary demonstrate a process that adds the ratios of men and women together prior to rounding up to the nearest whole number of fixtures. In the case of our example, our ratio of user to fixture is .31 Men's WCs and .31 Women's WCs. Combining the ratios gives us .62 WCs, which rounds up to one, justifying the provision for one single-user toilet room.

2902.2 has added exception 5:

2902.2 Separate facilities. Where plumbing fixtures are required, separate facilities shall be provided for each sex. Exceptions:

5. Separate facilities shall not be required to be designated by sex where single-user toilets rooms are provided in accordance with Section 2902.1.2.

Code authorities have interpreted this to mean that where single-user toilet rooms are provided, they do not require a specific gender designation, but they do not interpret this exception to allow "non-separate" facilities. This of course renders the exception meaningless, relevant only to signage.

We are seeking a variance based on the logic that if you do not need to designate facilities for gender, then providing separate facilities no longer makes sense. You can treat your occupant load as one body of individuals. And because the Water Closet ratio is 1 per 75 men or women in table 2902.1, providing two water closets for occupant loads less than 75 is providing more than the required capacity. Requiring "separate" but non-designated toilet rooms is a vestige of the old code requiring distinct restroom gendering. Also, the below commentary describes the purpose for requiring separate facilities as privacy and safety. If the variance is approved, the project will still meet this intention without compromise.

*The separate facilities requirement for males and females addresses two main concerns: privacy and safety. Users of toilet facilities often experience embarrassment if members of the opposite sex are in the same room. This increased embarrassment can lead to difficulty or prevention of waste elimination for many users. While some of these inhibitions are often temporarily "given up" under special conditions such as in co-ed college dormitories or where one gender's facilities are inadequate under high demand situations, these inhibitions quickly return for most people as it is innate to the human species to desire privacy during waste elimination. In a public environment, safety for female users of toilet facilities is of paramount concern. While a female restroom placard is no barrier to those intent on harming female occupants, a female user confronted by (or even hearing) a male in the female-only toilet facility will immediately recognize the potential threat and take action. A toilet facility intended to be used by both sexes simultaneously does not offer the same level of immediate situational awareness for females and there-fore, it is not perceived as to be as safe as a facility intended for one gender only.*

#### Hardship Justification:

Small food and beverage businesses make their money from people coming in and buying food and beverage. The Tenant, Ancora Coffee, (Owner Tori Gerding) owns and operates three cafés and one restaurant. Their data show that each seat in their establishment provides a revenue stream of \$19,230 dollars per year. Additionally, maintenance of restroom facilities accounts for \$2,281 dollars in wages per year per restroom. Finally, the additional cost of construction a restroom is broken down in this cost estimate provided by RG Harriman Construction:

|                           |          |
|---------------------------|----------|
| Cutting Patching concrete | 2,500.00 |
| Steel Studs and drywall   | 5,200.00 |
| Painting                  | 400.00   |



433 West Washington Avenue, Suite 400  
Madison, WI 53703  
(608) 204-7464

|                               |               |
|-------------------------------|---------------|
| Acoustical Ceiling            | 900.00        |
| HM Frame and door             | 750.00        |
| Hardware : with Hand dryer    | 900.00        |
| Flooring, LVT, vinyl base     | 900.00        |
| Plumbing including fixtures   | 5,500.00      |
| HVAC                          | 450.00        |
| Electrical including Fixtures | 1,800.00      |
| General Conditions            | 700.00        |
| P&O                           | 2,400.00      |
| <br>Total                     | <br>22,400.00 |

Providing the additional restroom in this particularly small tenant space will eliminate a minimum of 5 seats within the café seating area. Considering the loss in revenue, maintenance cost and construction cost over the course of a ten-year lease, equates to a total financial burden of \$1,006,710. This is a very substantial amount of money. Requiring "separate facilities", tripling the necessary capacity for toilet fixtures, because of the technical wording of the code is an undue hardship on small establishments.

We propose using the new ANSU 117.1. It provides added accessibility to the restroom space with larger circulation for turning radii and at fixtures.

Thank you for your consideration,

Douglas Pahl Jr, AIA

A handwritten signature in black ink, appearing to read "DPahl", written over the typed name.