

**NC Department of Insurance
Office of State Fire Marshal, Engineering Division**

RE: Appeal of the September 27,)
 2021 Decision by the Town of)
 Apex Code Enforcement)
 Department to Restrict Egress)
 of Group B Through Group S-1)

NCDOI DECISION

In accordance with GS 160D-1127, Craig Fleming, has appealed the Town of Apex Code Enforcement Department decision regarding partial egress of a Group B area through an associated Group S-1 storage area.

GS 160D-1127 allows appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws to the Commissioner of Insurance or his designee.

PARTIES

Appellant: Craig Fleming, Principle
 Merriman-Schmitt Architects, Inc.
 605 Lexington Ave.
 Suite 300
 Charlotte, NC 28203

Appellee: Town of Apex
 Apex Town Hall
 73 Hunter Street
 P.O. Box 250
 Apex, NC 27502

BACKGROUND

The subject of the appeal is a Build To Suit Building for Empire Distributers located at: 1201 Burma Drive, Apex, NC and will be referred to as “the building” in the remainder of this document.

On September 27, 2021 the appellant appealed to the appellee to allow partial egress of a Group B occupancy area through a Group S-1 warehouse. The appellant denied allowing the Group B office area to egress through the Group S-1 warehouse because of possible day to day deliveries restricting the egress path at the loading dock and because of 2018 edition, NC Building Code (NCBC), Section 1016.2, item #5 disallows an adjacent space from egressing through a storage room. The appellant then sent an

informal appeal to NC Department of Insurance, Engineering Division (DOI) where DOI then supported the appellants viewpoint. The appellant sent that information to the Town of Apex. The town of Apex then again denied the proposed design indicating that DOI's response to the appellant was generic in nature and not specific to the proposed project plan. The appellant has now requested a formal appeal of this matter to which this document responds.

ISSUE RAISED IN APPEAL

The 2015 edition of the International Building Code (IBC) Commentary indicates that the purpose of 2015 IBC, Section 1016.2, item #5 is not to restrict office areas related to a warehouse area from egressing through the warehouse area.

The appellant contends that the office area is an equal hazard to the warehouse area with regards to egress based on Table 1012.4 of the 2018 edition of the NC Existing Building Code (NCEBC). This DOI decision assumes that the appellant's intent for making this point was to justify the use of the 2018 edition of the NC Building Code (NCBC), Section 1016.2, Item #2, exception.

Based on:

- IBC Commentary for Section 1016.2 Item #5,
- NCBC, Section 1016.2. Item #2, exception, and
- NCEBC, Table 1012.4

partial egress of the proposed office area containing Group B, A-2, and A-3 occupancies should be allowed to egress through the associated Group S-1 warehouse because the building is a single tenant and the occupants of the Group B, A-2, and A-3 occupancies are associated with the S-1 occupancy. The S-1 occupancy is also an equal egress hazard to the Group B.

FINDINGS

Based on information submitted by the appellant, the following findings are made:

1. The appellee has denied approval of the proposed plans because egress from the warehouse could be restricted by "day to day deliveries that could be stacked up around the loading dock doors."
2. The building will be occupied by a single tenant named "Empire Distributer".
3. The building contains Group S-1 (warehouse), Group B (offices), Group A-2 (training rooms) and Group A-3 Assembly (breakroom) occupancy rooms.
4. An excerpt in a September 27, 2021 email between Craig Flemming and Carl Martin includes a copy of comments by the appellee. The excerpt indicates that the appellee believes that NCBC, Section 1016.2, Item #5 does not allow the Group B office area to egress through the associated Group S-1 warehouse area because the occupants in the office and conference room areas are not aware of the day to day deliveries that could be stacked up around the loading dock doors and possibly prevent them (the occupants) from being able to exit.

5. NCBC, Section 1016.2 reads as follows:

1016.2 Egress through intervening spaces.

Egress through intervening spaces shall comply with this section.

1. *Exit access* through an enclosed elevator lobby is permitted. Access to not less than one of the required *exits* shall be provided without travel through the enclosed elevator lobbies required by Section 3006. Where the path of exit access travel passes through an enclosed elevator lobby, the level of protection required for the enclosed elevator lobby is not required to be extended to the *exit* unless direct access to an *exit* is required by other sections of this code.
2. Egress from a room or space shall not pass through adjoining or intervening rooms or areas, except where such adjoining rooms or areas and the area served are accessory to one or the other, are not a Group H occupancy and provide a discernible path of egress travel to an *exit*.
Exception: *Means of egress* are not prohibited through adjoining or intervening rooms or spaces in a Group H, S or F occupancy where the adjoining or intervening rooms or spaces are the same or a lesser hazard occupancy group.
3. An *exit access* shall not pass through a room that can be locked to prevent egress.
4. *Means of egress* from *dwelling units* or sleeping areas shall not lead through other sleeping areas, toilet rooms or bathrooms.
5. Egress shall not pass through kitchens, storage rooms, closets or spaces used for similar purposes.

Exceptions:

1. *Means of egress* are not prohibited through a kitchen area serving adjoining rooms constituting part of the same *dwelling unit* or *sleeping unit*.
2. *Means of egress* are not prohibited through stockrooms in Group M occupancies where all of the following are met:
 - 2.1. The stock is of the same hazard classification as that found in the main retail area.
 - 2.2. Not more than 50 percent of the *exit access* is through the stockroom.
 - 2.3. The stockroom is not subject to locking from the egress side.
 - 2.4. There is a demarcated, minimum 44-inch-wide (1118 mm) *aisle* defined by full- or partial-height fixed walls or similar barrier that will maintain the required width and lead directly from the retail area to the *exit* without obstructions.

6. NC Existing Building Code (NCEBC), Table 1012.4 lists Group B as an equal hazard to Group S-1 reads as follows:

**TABLE 1012.4
MEANS OF EGRESS HAZARD CATEGORIES**

RELATIVE HAZARD	OCCUPANCY CLASSIFICATIONS
1 (Highest Hazard)	H
2	I-1, I-3, I-4
3	A, E, I-1, M, R-1, R-2, R-4
4	B, F-1, R-3a, S-1
5 (Lowest Hazard)	F-2, S-2, U

- a. Detached one- and two-family dwellings and townhouses are relative hazard 5.

7. The 2018 NC Building Code is based on the 2015 IBC.
8. The 2015 IBC Commentary, Section 1016.2 states in part:

"This is not a general provision for all Group S occupancies; therefore, it is not the intent of this provision to address the situation of egress for offices through an associated warehouse space."

CONCLUSIONS

Based on the forgoing findings of fact, the following conclusions are made:

The intent of NCBC, Section 1016.2, item #5 was to disallow egress from one area though another area where the possibility of a blocked means of egress path is probable either by hazard or locked doorways. It appears that "storage rooms" are listed because of the possibility of locked doors in the path of egress and because of uncertain egress path through such rooms.

The IBC Commentary for Section 1016.2, item #5 is quite clear that the intent is not to apply this restriction to office areas that are associated with a warehouse area.

There is nothing provided to substantiate the comment that warehouse loading dock egress doors will be blocked by "day to day deliveries". If this were an issue it seems plausible for this project to mark the required egress path and placard the area to "keep clear" and the purpose for the required clearance.

NCBC, Section 1016.2, item #2, exception does not provide a direct indication of what is considered a "same or lesser hazard". It is, therefore, appropriate to look to other codes for information regarding "same or lesser" hazard occupancies. In the case of this appeal it seems appropriate to use NCEBC, Table 1012.4, Means of Egress Hazard Categories to compare hazards with regards to NCBC, Section 1016.2, Item #2, exception.

APPEAL DECISION

Based on the above findings and conclusions:

The decision to provide partial egress from the proposed office area containing Group B, A-2, and A-3 occupancy classifications through the proposed associated Group S-1 warehouse area by the appellant is upheld.

This 26th day of October 2021.



Carl Martin, RA
Deputy Commissioner
Division Chief of Engineering
North Carolina Department of Insurance

FURTHER APPEAL RIGHTS

You have the right to appeal this decision to the NC Building Code Council. Please refer to GS 160D-1114 and the NC Administrative Code and Policies, Section 202.9.2 for further appeal rights. In accordance with GS 143-141 you have 30 days in which to appeal this decision to the NC Building Code Council.

Cc:

Rudy Baker, Division Director, Town of Apex Code Enforcement

Nathan Childs, Special Deputy Attorney General – NCBC

Dan Johnson, Special Deputy Attorney General, NCDOI