



BROWARD COUNTY

Board of Rules & Appeals

955 S. Federal Highway, Suite 401, Fort Lauderdale, Florida 33316

Phone (954) 765-4500 Fax: (954) 765-4504

<http://www.broward.org/codeappeals.htm>

BOARD OF RULES AND APPEALS

October 2, 2008

Meeting Minutes

Call to order.

A published meeting of the Board of Rules and Appeals was called to order by Chair John R. Smith at 7:05 P.M.

Roll Call

John R. Smith – Chairman
Marc Celetti
John Famularo
Steve Kastner
Albert Korelishn
Allan Kozich
Dan Lavrich
Shalanda Giles Nelson
Dave Rice
John Sims
Don Zimmer

The presence of a quorum was established.

Approval of Minutes

The Chairman asked for a Motion. Mr. Kozich moved to approve the September 11, 2008 Board meeting minutes. This Motion was duly seconded by Mr. Korelishn. **THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.**

CONSENT AGENDA

1. Certifications.

Administrative Director, Mr. DiPietro requested that staff approve Certifications of Mr. Johnnie Riles, Structural Building Inspector for the city of Weston, and Michael R. Lange, Chief Plumbing Inspector for the city of Sunrise.

The Chairman asked for a Motion. Mr. Korelishn moved to approve and was seconded by Mr. Kastner.

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.

- 2. Appeal #08-05 2772 S.E. 13th Court, Pompano Beach, FL**
 - a. Staff Report
 - b. Appellant Request
 - c. City Response to Appeal

The staff report was presented by Robert Andrews, Chief Mechanical Code Compliance Officer. Mr. Andrews explained that this appeal involves a single family residence, two stories with a factory built solid fuel burning (wood) fire place, and the termination of the vent for the fireplace which was enclosed by a decorated shroud or a cupola.

Mr. Andrews discussed manufacturer’s recommendations, and referred to NFPA 211, the Florida Residential Code and the Florida Mechanical Code. He went on to discuss the requirements that a termination cap has to be listed and labeled and installed in accordance with manufacturer’s installation instructions.

Mr. Andrews noted that the appeal was turned down by Bruce Mest, Chief Mechanical Inspector for Pompano Beach, and further referred to Code Section - Residential Code is R102.1 through R102 .3.

The Appellant, James Gilgenbach, architect for the project addressed the Board. Mr. Gilgenbach reiterated their initial argument from last month, noting that this structure has been wrongly labeled as a shroud, it is commonly called a cupola. He stated that his second argument was precedence. Mr. Gilgenbach pointed out that if you go to any upper class neighborhood you will see these cupolas in many of these neighborhoods. Palm Beach County, Broward County and Dade County.

Mr. Gilgenbach informed the Board that he had a letter from a mechanical engineer and a product approval owner’s manual. He offered to pass out copies of the mechanical engineer’s statements, concluding his argument.

The Chairman informed the Appellant that we’re not allowed to take hand-outs at this point.

Board Member, Mrs. Giles Nelson asked the Appellant for clarification that if during his plan review it was questioned whether the cupola was shown on the plans. More discussion took place, and the contractor, Mr. Barron produced documents that were submitted in 2007 and, 2008, and offered to show these plans to the Board. Mrs. Giles Nelson told him that we were unable to accept the documents. Mr. Barron went on to offer sealed truss drawings that he tried to resubmit to the city, and was told it had already been denied.

Mr. DiPietro affirmed that the package was new from the last packet. He noted that pages 39 -45 are new in this packet as opposed to the latest package. Mr. Di Pietro continued to tell the Board that everyone quoted the rules correctly, but the Board, by motion, can waive the rules, and can accept the materials. The Attorney confirmed the presence of new pages in the Agenda.

The Chairman suggested we hear from the city and then we would entertain additional information.

Bruce Mest rejoined the discussion explaining that he cannot override the decision, and informed the board that his Plan Reviewer, Wayne Cherry, who has been there for seventeen years, turned it down. Mr. Mest went on to say it was not constructed of non-combustible sheet metal like the UL system is, and there is no way to judge what kind of fire rating it has. He explained to the board that he doesn't have the authority to override UL or NFPA, and cannot approve.

Mr. Zimmer and Mr. Korelishn also contributed to the discussion.

The Chairman asked for a Motion. There was a motion to deny by Mr. Kozich and seconded by Mrs. Giles Nelson. **THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.**

3. **Appeal #08-06** 4606 NW 45th Court, Tamarac FL
 - a. Staff Report
 - b. Appellant Request
 - c. City Response to Appeal

Mr. White addressed the board – stating that it is the position of counsel, and has been historically, that when an appeal comes to the board and there is a lawsuit pending, as in this matter, that counsel recommends that the Board take a position of dismissal of the appeal without prejudice to the appellant's case. The complaint in the Court seeks judicial relief and should the board go forward with a decision on the merits of tonight's appeal, there is the potential that its ruling could ultimately be in conflict with the Final Judgment that would issue from the Circuit Court of Broward County. Counsel recommends that the board dismiss the appeal without prejudice, which means the appellant is free to come back and file again with the board once the Court case is finalized or dismissed. The filing of the lawsuit pre-empts the authority of the board, as the board is merely a quasi-judicial entity whereas the Court is a judicial entity from which tonight's appellant seeks full judicial relief.

Mr. Kozich moved to dismiss without prejudice, and was seconded by Mr. Zimmer. **THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.**

NOTE: Rusty Carroll asked permission to address the Board on behalf of the city of Tamarac regarding their hold on J&K Roofing permit. Claudio Grande has released that hold.

4. **State Legislative Lobbyist Services – One year extension of current agreement including a voluntary 10% cost reduction**

Dan Lavrich made a Motion to approve and was seconded by Mr. Kozich. **THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.**

5. **RFP No. 08-01, Classes Relating to the 2007 Florida Building Code For 10/01/08 – 9/30/09**

Recommendation of Administrative Director

- a. Contract with BRB Code Educator, Inc. Lake Mary, Florida

Motion to approve made by Mr. Kozich, and was seconded by Mr. Zimmer. THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.

6. **Observations on Structural Engineering Plan Review**

Report of Mark Scala, P.E.

Staff Member, A. Mark Scala submitted his report. There were no questions or comments by the Board.

7. **Repeal of Broward County Board of Rules and Appeals policy #07-01, Hurricane Mitigation Retrofits for Existing Site Built Single Family Residential Structures**

Recommendation of Administrative Director

Both Bill Dumbaugh and Rusty Carroll. Mr. Dumbaugh sponsored a meeting of all the Building Officials when this issue was introduced. The state has completed their work, and they have a policy that does supercede ours, and accordingly, we ask that you repeal Policy #07-01 at this time.

Motion to approve was made by Mr. Kozich, and seconded by Mr. Korelishn. THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.

8. **Pay Plan for Board of Rules and Appeals Employees for Fiscal year 2008-09**

Recommendation of the Administrative Director

Mr. DiPietro addressed the board and explained we have a number of employees who have topped out of the plan. He further stated that the most of the rationale for the pay range changes can be found on page 172 of the agenda packet. The Director noted that a lot of weight is given to our relationship to the Building Officials of Broward County - another benchmark being Dade County whose Code Compliance Specialists will be approximately 1¼ % higher. Mr. DiPietro gave an analysis of our reserves, noting they have declined from \$2,405,000. to \$1,046,000 in two years.

A MOTION was made to approve by Mr. Kozich, and seconded by Mr. Korelishn.

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.

9. **Pay Adjustment and Contract Renewal for Administrative Director**

Recommendation of Board Chair John Smith

- a. Salary change effective October 1, 2008
- b. Contract Renewal effective January 3, 2009

A Motion to approve Item 9a was made by Mr. Lavrich, and seconded by Mr. Kozich.

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.

A Motion to approve Item 9b was made by Mr. Lavrich, and seconded by Mr. Kozich. Before the Motion was approved. *Mr. Lavrich asked permission to address the Board, saying what a pleasure it has been working with Mr. DiPietro. Mr. DiPietro thanked the Board and Dan for his generous comments.*

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 11 – 0.

10. Director's Report

No report.

Adjournment

There being no further business to go before the Board; Mr. Kozich moved to adjourn, and was seconded by Mrs. Giles Nelson. The meeting adjourned at 8:01 P.M.



Board Chairman