

Broward County Board of Rules and Appeals Meeting Minutes

August 10, 2023

Time: 7:00 PM

Zoom Meeting Information

<https://broward-org.zoomgov.com/j/1615595881>

Meeting ID: 161 559 5881

I. Call Meeting to Order

Chairman Lavrich called a published virtual meeting of the Broward County Board of Rules and Appeals to order at 7 p.m.

II. Roll Call

Daniel Lavrich, Chairman
Gregg D'Attile, Vice Chairman
Stephen Bailey
Ron Burr
Jeff Falkanger
John Famularo
Steven M. Feller
Sergio Pellecer
David Rice
Daniel Rourke
David Tringo
Dennis Ulmer
Derek A. Wassink

III. Approval of Agenda

Dr. Ana Barbosa, Administrative Director, requested that Item 4 be removed from the agenda as all permits are closed, and an extension is not needed. Mr. Tringo made a motion, and Mr. Pellecer seconded the motion to approve the agenda with the deletion of Item 4, as requested by the Administrative Director. The motion was carried out by a unanimous vote of 13-0.

IV. Approval of Minutes – July 13, 2023, Regular Meeting

Mr. Famularo made a motion, and Mr. Feller seconded the motion to approve the July 13, 2023, minutes as submitted. The motion was carried out by a unanimous vote of 13-0.

V. Public Comment (Except public hearing items on this agenda) - none

Public comments are limited to 3 minutes.

VI. CONSENT AGENDA

1. Certifications – Staff Recommended

CITY OF DEERFIELD BEACH

Correa, Donald R., Electrical Plans Examiner
Deveaugh, Peter, Chief Electrical Inspector

CITY OF HALLANDALE BEACH

Agbenohevi, Emmanuel K., Assistant Building Official

TOWN OF LAUDERDALE-BY-THE-SEA

Edouard, Myriam, Fire Inspector

CITY OF PARKLAND

Chin-Sang, Dave C., Chief Mechanical Inspector

COUNTYWIDE

Bair, Travis, Plumbing Plans Examiner

Olsen, Jay, Electrical Plans Examiner

Organ, Douglas, Electrical Inspector

Organ, Douglas, Electrical Plans Examiner

Pla, Yaiquimi Alberto, Plumbing Plans Examiner

Mr. Feller made a motion, and Mr. Rourke seconded the motion to approve the certifications as recommended. The motion was carried out by a unanimous vote of 13-0.

VII. REGULAR AGENDA

1. Second reading of proposed revisions to the Florida Fire Prevention Code, Section F-103.3.7, Assistant Fire Marshal

a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, indicated the “and/or” between Fire Science and Fire Prevention was removed as requested at first reading. It was clarified that the intent of Section F-103.3.7.1 is that the individual be an engineer or possess a degree in Fire Science or a degree in Fire Prevention.

b. Public Hearing

Chairman Lavrich opened the floor for a public hearing, but no one wished to speak.

c. Board Questions

Dr. Barbosa advised that the removal of the “and, or” cleaned up the language. Chairman Lavrich did not think the second comma was appropriate.

d. Board Action

Mr. Feller made a motion, and Mr. Falkanger seconded the motion to approve the revisions on the second reading. The motion was carried out by a unanimous vote of 13-0.

2. Proposed BORA Commercial Energy Guidelines (Performance Option) for the 7th Edition (2020) of the Florida Building Code

a. Staff Report

Mr. Timothy de Carion, Chief Energy Code Compliance Officer, recommended approval of the proposed guidelines. The guidelines have been reviewed and supported by the Energy Conservation Committee. They are a helpful tool for enforcing the Energy Code.

b. Board Questions - none

c. Board Action

Mr. Feller made a motion, and Mr. D’Attile seconded the motion to approve the guidelines. The motion was carried out by a unanimous vote of 13-0.

3. Fire Code Committee Woodworking Operations Review

a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, advised that the Fire Code Committee considered this matter on July 20, 2023, and recommended by unanimous vote that Appeal #23-01 be denied and that Accent Closets was in violation of Section 13.3.2.28, woodworking operations, Florida Fire Prevention Code.

b. Board Questions

Chairman Lavrich did not understand that the commentary from the International Building Code was being ignored. Mr. Parks advised that he does not deal with the International Building Code. In further response, Mr. Parks said he does not deal with the Building Officials Association of Florida. The way it is written in the Florida Fire Prevention Code is clear. For a fire area of over 2,500 square feet, the entire space would require sprinklers. Chairman Lavrich pointed out that the language does not specify it is a fire area, but rather it says woodworking operation greater than 2,500 square feet. Mr. Parks advised that if the woodworking operation exceeds 2,500 square feet, fire sprinklers are required. In this case, the Committee determined that the woodworking operation violated the Code.

c. Board Action – See Item #5

4. First-time request by Mr. Todd Heino for an extension of time with respect to the Board of Rules and Appeals Policy #18-02 relating to closing out of open and ongoing projects – withdrawn

5. Appeal #23-01 – Accent Closets, Inc., and Pompano Beach Building Department

a. Staff Report

Dr. Ana Barbosa, Administrative Director, the appeal of Accent Closets was heard by the Board on June 8. The recommendation was to refer it to the Fire Code Committee. The Committee heard it on July 20, 2023. The Committee and staff both recommended denial. Accent Closets went to the Florida Building Commission and requested a declaratory statement with the Fire Technical Advisory Committee during the process. The Commission heard the matter yesterday and declined to act based on local jurisdiction. Once this Board acts on the appeal, their request can move forward. The Fire Technical Advisory Committee has also declined the request to interpret the Building Code. The Committee will report this to the Commission on August 15, 2023.

b. Board Questions

In response to Chairman Lavrich, Dr. Barbosa indicated that on July 12, 2023, Accent Closets also made a request to the Building Officials Association of Florida (BOAF). Chairman Lavrich noted that the Building Commission noted in their write-up that one of the things they do is to refer the matter to the BOAF for an informal interpretation before they provide their final formal interpretation. Dr. Barbosa indicated she provided the informal interpretation to the Board of Rules and Appeals. The thinking was that Accent Closets and the City of Pompano Beach could present their positions on that informal interpretation.

All individuals testifying were sworn in.

Mr. Ryan Abrams, representing Accent Closets, advised that it is undisputed that the only plans submitted to the City of Pompano Beach show the woodworking area as 1,316 feet. He displayed the Informal Interpretation Report #8804 from the Building Officials Association of Florida and pointed out that it supports the plain reading of the rule, which says that

woodworking operations over 2,500 square feet in an F-1 space require sprinklers. The City has been that the space is over 2,500 square feet, and the particles are not contained. Therefore sprinklers are required. The report says that finely divided combustible waste materials are unrestricted to 2,500 square feet or less if the fire area is larger. Accent Closets has been at this location since 2013 and was allowed by the City. The space was fire-inspected annually until 2021, when Accent Closets was notified that sprinklers were needed.

Mr. Ron Annechiarico, owner of Accent Closets, said he did his due diligence when moving into this location. He got everything approved, including the zoning use certificate that specifies the manufacture and installs closets. The fire inspector came to the location before and after he moved in. Nothing changed. He believed that the correspondence just referenced by Mr. Abrams clarifies that sprinklers are unnecessary. It would cost \$100,000 to install sprinklers in the building.

In response to Mr. Burr, Mr. Abrams indicated that the City is saying that the fire area is more than 2,500 square feet and the woodworking operation is less than 2,500 square feet in the fire area sprinklers are required. Chairman Lavrich asked about the size of the total fire area. Mr. Abrams believed it was approximately 5,000 square feet. He agreed if the office space is included, the measurement should be 7,800 square feet.

Ms. Jill Ziluck, Assistant City Attorney, City of Pompano Beach, advised that the City's position is that the woodworking operation is in excess of 2,500 square feet. The City disagrees with the measurement Mr. Abrams presented. She explained that the woodworking operation is located in a fire area with nothing separating it, and therefore the fire area becomes the woodworking operation.

Mr. Michael Rada, Building Official, City of Pompano Beach, read the definition of the fire area, "The fire area is the aggregate floor area enclosed and bounded by fire walls, fire barriers, exterior walls or horizontal assemblies of a building." Therefore 7,800 square feet is clearly in excess of 2,500 square feet. His original letter had to do with a change of use, and sprinklers would be required or partitioning to less than 2,500 square feet. Ms. Ziluck explained that drawing an imaginary line around the equipment is impossible. There are woodworking operations over 2,500 square feet. Also, it is the City's contention that there is new equipment. Things did change.

Mr. Burr commented that the tenant moved to this location in 2013, and he asked the City if everything was going to be approved. For years everything was fine. He questioned the need for sprinklers after all of this time. Mr. Charles Rizzuto, Building Safety Chief, City of Pompano Beach, advised that he inspected the property and witnessed equipment without permits for any woodcutting equipment installed at that site. The City discovered that equipment had been added sawdust in the air and dust collection systems. There are no inspections and permits on record. The dates on the equipment were years later than when they moved in.

Mr. D'Attilio understood that if an enclosure were constructed around the machinery with an air collection system and sprinklers, it would be acceptable. He questioned if a fire extinguisher would be acceptable in the alternative. Mr. Rizzuto advised that if a fire division of less than 2,500 square feet were installed, inspected, and approved, sprinklers would not be required. In response to Chairman Lavrich, Mr. Rizzuto clarified that the definition of a fire area is fire barriers, firewalls, exterior walls, or hard general assemblies. He used the term fire division to include all of these.

Chairman Lavrich questioned requiring that the woodworking operation must be within its own fire area, which is not what the Code says. Mr. Rada reiterated the definition of a fire area. There are no fire barriers other than the exterior walls, which exceed 2,500 square feet. If the tenant were to construct fire barriers to contain the woodworking operation of less than 2,500 square feet, it would be acceptable. Mr. Feller indicated that nothing is separating where all of the dust is being created. The City has suggested enclosing that area, and if it is less than 2,500 square feet, sprinklers would not be required in the woodworking area and the rest of the building.

Mr. Annechiarico indicated that Mr. Rick Hall inspected his facility twice. All equipment was already in the shop and running. He replaced a compressor and saw that it faltered with the same models. The zoning certificate indicates the manufacture and installs closets, and that is what this operation does. Mr. Feller indicated if that is the case, Accent Closets was in violation, and the City needed to do its job correctly initially. The particles are highly combustible, and they circulate throughout the entire space. Whatever happened initially was not correct. Mr. Abrams brought attention to the rule mentioned previously.

c. Board Action

Mr. Feller made a motion, and Mr. Falkanger seconded the motion to deny the appeal. The motion was carried out by a vote of 8-5. Mr. Bailey, Mr. Burr, Mr. Famularo, Mr. Wassink, and Chairman Lavrich voted no.

During a discussion of the motion, Chairman Lavrich commented that it needs to be clarified if the City says the woodworking area is different than 2,500 square feet. The Code and the Informal Interpretation of the Building Officials Association of Florida (BOAF) are clear. BOAF's interpretations are highly regarded. Mr. Feller indicated that if it is a woodworking area, it must be enclosed. Because it is not enclosed, then the walls of the building are what encloses the woodworking area, which is 7,800 square feet. If the woodworking area is enclosed with fire-rated walls, then it is separated from the rest of the building, and that would be the only area that would require sprinklers, but only if it exceeded 2,500 square feet.

Mr. Bailey understood from the information provided by Mr. Abrams from the International Building Code that the entire 7,800 square feet is not highly combustible. He questioned if the Florida Building code differs. With the woodworking area being 1,300 square feet, he needed help understanding why an area less than 2,500 square feet would need sprinklers. Chairman Lavrich advised that the Florida Building Code, Section 903.2.4, contains the same wording as the International Code. However, there is no commentary. It is also the same in the Florida Fire Prevention Code. There is also an interpretation from the Building Officials Association of Florida through the Florida Building Commission that quotes what is in the Florida Building Code and the Florida Fire Prevention Code.

Ms. Ziluck clarified that the City believes the woodworking area is in excess of 2,500 square feet. There is no way to determine the measurement.

Mr. Bailey did not believe anything outside the 1,300 square feet was involved in the woodworking activity. If the equipment covers 1,300 square feet, he needed to understand how the area could be doubled. Chairman Lavrich said he tended to agree.

6. Director's Report

Dr. Ana Barbosa responded to Mr. Burr's request at the last meeting for cities to show contact information on their website. There are just a few cities that do not have contact information on their website. The plan is to work with the Building Officials Association to encourage the cities with no contact information to update their websites. Mr. Burr did not think contractors should have to chase down contact information. He pointed out that it is not just the Building Department but also all the departments that control whether a permit approval is issued, such as Landscape, Engineering, and Zoning. He disagreed that the cities should have the final say on whether to include contact names on the websites. Dr. Barbosa said that she plans to bring up this topic at the upcoming open discussion meeting. It falls in the jurisdiction of the City Manager. The Board has been charged with making permitting easier. Mr. D'Attile concurred. Chairman Lavrich agreed with Mr. Burr. He felt the Board should move as strongly as possible in that direction.

7. Attorney's Report

Mr. Mark Mucci was in attendance for Mr. Charles Kramer, Board Attorney.

8. Committee Reports - none

9. General Board Member Discussion

Chairman Lavrich announced the Board's open discussion meeting on August 16, 2023 at 9 a.m.

10. Adjournment

There being no further business, the meeting adjourned at 8:05 p.m.

A handwritten signature in black ink, appearing to read "D. Lavrich". The signature is fluid and cursive, with the first name "D." and the last name "Lavrich" clearly visible.

Daniel Lavrich, P.E., Chairman