

Broward County Board of Rules and Appeals Meeting Minutes

July 13, 2023

Time: 7:00 PM

Zoom Meeting Information

<https://broward-org.zoomgov.com/j/1607131959>

Meeting ID: 160 713 1959

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
Shalanda Giles-Nelson
R. Art Kamm
Sergio Pellecer
Daniel Rourke
David Tringo
Dennis Ulmer
Lynn E. Wolfson (arrived at 7:45 p.m.)

III. Approval of Agenda

Mr. Bailey made a motion, and Mr. D'Attile seconded the motion to approve the agenda with the deletion of Item 1, as requested by the Administrative Director. The motion was carried out by a unanimous vote of 12-0.

IV. Approval of Minutes – June 8, 2023, Regular Meeting

Mr. Famularo made a motion, and Mr. Tringo seconded the motion to approve the June 8, 2023, minutes as submitted. The motion was carried out by a unanimous vote of 12-0.

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

BROWARD COUNTY, UNINCORPORATED

Harder, Benjamin Leigh, Plumbing Inspector – Provisional

CITY OF CORAL SPRINGS-PARKLAND

Fernandez, Steven, Fire Inspector

Harvey, Martin, Fire Inspector

CITY OF DEERFIELD BEACH

Borisov, Denis, Structural Inspector (Limited) – 120-Day Temporary

CITY OF HOLLYWOOD

Buhagiar, Destiny Shelik, Fire Inspector
Jones, Timothy S., Chief Structural Inspector
Paiva, Luiz A., Structural Inspector – 120-Day Temporary
Suastegui, Christopher, Roofing Inspector – 120-Day Temporary

CITY OF MIRAMAR

Perez, Jose M., Mechanical Inspector – 120-Day Temporary

CITY OF PEMBROKE PINES

Rodriguez, Alexander, Electrical Inspector – 120-Day Temporary
Rourke, Timothy John, Plumbing Inspector – 120-Day Temporary

CITY OF POMPANO BEACH

Olsen, Jay, Electrical Inspector – 120-Day Temporary

CITY OF WILTON MANORS

Guendjoian, Armen, Chief Plumbing Inspector

COUNTYWIDE

Sera, Ralph, Structural Plans Examiner

Mr. Pellecer made a motion, and Mr. Kamm seconded the motion to approve the certifications as recommended. The motion was carried out by a unanimous vote of 12-0.

VII. REGULAR AGENDA

- 1. **Guidance of the Fire Code Committee as it relates to Building Appeal #23-01** - withdrawn
- 2. **Appeal #23-02 – Antonio Gonzalez (2030 S. Ocean Dr. Hallandale Beach)**

All individuals testifying were sworn in.

a. Staff Report

Mr. Timothy de Carion, Chief Energy Code Compliance Officer, advised that he is recommending the appeal be approved to require that the roof insulation be reinstalled back to the building’s original design. The Appellant cited Building Code Section 701.2. The history of Section 701.2 is included in the information provided to the Board. It is a Florida-specific code section added in 2004 to prevent the removal of insulation on re-roofs and placed into the overall Building Code. Mr. Philip Sauer, Chief Structural Code Compliance Office, City of Hallandale Beach, has advised that the building does not have the 1 1/2-inch insulation that the Appellant is saying should be there. The question is does existing mean what is present at the time, or should existing include previous work performed that violated the code?

b. Appeal Presentation

Mr. Antonio Gonzalez, Appellant, advised that his appeal is based on Building Code Section 701.2. His Exhibits B and C show the incorporation of 1 ½ inch fiberglass insulation on the original plans dated 1968, around the time the contractor filed for permitting. The roof was subsequently replaced in 1990 and 1995. During the recent tear-off, the existing roof was found to have only ½ inch wood fiberboard insulation. Section 701.2 prevents an existing building undergoing an alteration from becoming less energy efficient than its existing condition. The original roof under load consisted of an insulated assembly on which the air conditioning equipment was placed. Although the insulation of today is of lesser value, he believed that the intent of the code is to keep the energy efficiency at the level in which it was

designed and constructed. The roofing system is considered the main source of heat penetrating inside the building. If not insulated properly, the roof will probably result in a higher load of heat than the walls combined. He believed that the roofing permit was issued without any insulation, which would make the building less energy efficient.

Mr. Gonzalez referred to Mr. Bret Taylor, the engineer of record's challenge to his appeal. Mr. Taylor contends that the building falls into an Alteration Level 1 category. It is not considered renovated and, therefore, exempt. Gonzalez advised that a roof replacement falls within the definition of a renovated building. Because the roof does not exceed 30%, therefore, it simply does not apply. However, it does not exempt the building totally, and it does not preclude Section 701.2 from being applied. As to the results desired, he requested deeming the conditions shown on the construction documents of the original building as an existing condition. Plans show sloping on the roof will be $\frac{1}{4}$ inch which is not required by the existing Building Code. It can be less. However, it cannot be achieved with no insulation or regular flat insulation.

Mr. Philip Sauer, Chief Structural Inspector, City of Hallandale Beach, advised that the key to Section 701.2 is the phrase, "existing condition". The word, "existing" is an adjective meaning at the present time. The Building Department believes the present time would be at the time of the building permit application. The current building permit application for the roof replacement identifies the existing build-up of only $\frac{1}{2}$ inch recovery board. A forensic analysis performed in 2009 and provided by Mr. Taylor indicated that the roofing system was only $\frac{1}{2}$ inch recovery board. He just received 1995 documentation today indicating that the 1995 building permit application also was $\frac{1}{2}$ inch recovery board.

Chairman Lavrich asked who approved the 1995 building permit application. Mr. Sauer indicated that although he has possession of the permit application approval, it does not indicate who approved it. The system in 1995 was such that it needed the $\frac{1}{2}$ inch recovery board.

Mr. Sauer indicated that the proposed system would meet or exceed the system that has been in existence for at least half of the building's existence.

In response to Chairman Lavrich, Mr. Sauer described the purpose of $\frac{1}{2}$ inch recovery board. Wood recovery board has insulating value, but that is not its purpose.

Mr. Bret Taylor of Taylor Forensics Engineering, LLC, advised that his report provides a complete history of the building showing in the 2009–2010 time frame, moisture testing was performed and showed wetness. Unsuccessful repair attempts were made. Replacement of the roof was overlooked in the 40-year Building Safety Inspection. The existing conditions were different from what was shown in the plans.

Mr. Alfredo Carbonell advised that he reviewed his calculations contained in the Taylor report provided to the Board and indicated that the categories in Section 101.4.2 do not apply. Nothing is being changed beyond Alteration Level 1. The building is exempt under this section. The wood fiber used was not for insulation. Application (of the roofing membrane) to the roof deck would take a lot of work to remove. He concluded that the difference between the original roof assembly and what is being installed now is minimal.

c. Board Action

In response to Chairman Lavrich and Mr. D'Attila, Mr. Gonzalez advised that he is a resident and unit owner at the subject building, Parker Plaza. He is also a licensed architect and former building official for the City of Hallandale Beach. He was not the building official when the last roof was installed on the building. He believed it was Mr. Sergio Ascunde.

In response to Chairman Lavrich, Mr. de Carion indicated that he reviewed all the reports presented in this matter. The exemption of the Energy Code goes back to when that code was introduced in Florida that exempts existing buildings and work that did not exceed 30% of the building value. The code language was changed so that existing buildings in the 0-30% range would not be altered to be less efficient. In the event of a hurricane, as an example,

because a re-roof does not ever exceed 30% of the structure's value, the insulation could be removed weeks later. This is why it was placed into the Building Code and not the Energy Code. Mr. Carbonell is quoting the Energy Code and not the Building Code.

Chairman Lavrich indicated that the existing Building Codes speaks to the current conditions prior to the work. It is only a Level 1 Alteration and strictly recovering the roof. Mr. de Carion commented that there is a chapter in the ICC Energy Code that indicates if the insulation is removed it must be replaced in accordance with the current code. Chairman Lavrich pointed out that the ICC Code is not used. Mr. de Carion indicated that is why the provision was placed in the Building Code. Chairman Lavrich asked if Mr. de Carion knows if there ever was 1 ½ inch insulation on the building roof. Mr. de Carion indicated he does not know if the original plans were followed or if the subsequent removal was followed.

Mr. Bailey asked Mr. Taylor if the new roof is the equivalent or better than the existing roof. Mr. Taylor advised that the new roof is .6 R-value less, but it does not take into consideration the evaporation or reflective value of the stone. Mr. Sauer indicated that if the Board's recommendation is that it is not consistent, he would task the engineer to develop something that will comply with the code. Mr. Taylor indicated that the system chosen does accommodate insulation but there are issues that restrict what can be done. Because concrete restoration work had to be done, a new roof membrane installation was needed quickly. The system chosen allowed a quick installation. The minimum amount of insulation pursuant to the manufacturer was 1 ½ inches. There was only ½ inch recovery board. It was not possible to install ½ inch polyiso because it would not comply with the Notice of Acceptance. The building was told a new roof was required within a year. The system is essentially equivalent to the previous one.

Mr. D'Attile asked what would be the percentage difference between the new and old roofing systems. Mr. Carbonell advised it is .65 R-value but the fiberboard (recovery board) was wet and provided no insulation. Mr. Taylor advised that the fiberboard was wet since 2009. In response to Chairman Lavrich, Mr. Carbonell clarified that although fiberboard has an insulating value, it is not considered insulation.

Ms. Wolfson arrived at approximately 7:45 p.m. during this point in the meeting.

Chairman Lavrich concluded that the insulation has stayed the same. Mr. Taylor estimated a difference of perhaps 30% less insulating value. Chairman Lavrich pointed out that there was no insulation except the roofing material itself. In further response to Mr. D'Attile, Mr. Taylor advised that 1 ½ inches of insulation could be installed but it would improve the system beyond how it existed. From this evening's testimony, Ms. Giles-Nelson concluded that there was never any insulation, only the ½-inch recovery board. Mr. Carbonell indicated that the current assembly plan would improve the R-value.

Mr. Bailey made a motion, and Mr. D'Attile seconded the motion to approve the appeal. The motion was carried out by a vote of 10-3. Chairman Lavrich, Ms. Giles-Nelson, and Mr. Kamm voted no.

 Note: see additional note below.

3. First reading of proposed revisions to the Florida Fire Prevention Code, Section F-103.3.7

a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, advised the Fire Code Committee voted unanimously 13-0 in favor of this new code section. The Broward County Fire Chiefs Association is sponsoring this new code section that will create a certification category for Assistant Fire Marshals. He summarized the reasons for the new language as outlined in his memorandum provided to the Board. It is like what is found under Assistant Building Official in Chapter 1 of the Florida Building Code.

b. Board Questions

In response to Chairman Lavrich, Mr. Parks clarified Section F-103.7.1, indicating that being an engineer or possessing a degree in fire science or fire prevention would be required. More punctuation is needed.

c. Board Action

Mr. Pellecer made a motion, and Mr. D'Attile seconded the motion to approve the code amendment on the first reading. The motion was carried out by a unanimous vote of 13-0.

4. **Fiscal Year 2024 Budget (October 1, 2023 – September 30, 2024)**

Dr. Ana Barbosa, Administrative Director, summarized information in her memorandum to the Board. She noted that there is over \$12 million in the reserve. Broward County requires replacement vehicles to be electric. However, there has been a 2-year backlog with purchases. The budget contains funds for hybrid vehicles. Employees will be granted a 4% cost-of-living increase separate from performance-based increase consideration. Hiring of an operations manager is also included. Also, performance measures have been changed to actually measure work done.

Ms. Wolfson made a motion, and Ms. Giles-Nelson seconded the motion to accept the budget as presented. The motion was carried out by a unanimous vote of 13-0.

Item 2 – Appeal #23-02

Chairman Lavrich wanted to clarify the motion on the appeal this evening. Mr. Bailey indicated that the motion was to approve the appeal as submitted.

5. **Director's Report** - none

6. **Attorney's Report**

Mr. Charles Kramer, Board Attorney, advised that he has yet to hear from the 17th Circuit Court on the appeal filed with respect to the Plantation Inn case. With respect to the My Amelia case concerning virtual inspections filed with the Fourth District Court of Appeals, the Appellant requested a 30-day extension to file their answer brief, and the Court denied the request. He felt it was a good indicator.

7. **Committee Reports** - none

8. **General Board Member Discussion**

Mr. Burr pointed out that the Board was charged many years ago by the League of Cities to help make permitting easier. He went on to comment about how difficult it is to obtain the contact information of employees involved in the process. He felt cities should be required to have a contact button on their website to take individuals to a phone and email list of all inspectors and other involved employees in the building department. Planning and zoning, engineering, and landscaping departments are part of the permit review. He wanted the Board to look into requiring cities to have a contact list of the plan reviewers and their supervisors that can be easily found. Dr. Barbosa indicated that along those lines a staff member is currently calling each city because she is interested in looking at best practices. With respect to having a list of contact phone numbers on the city websites, city managers would likely have a protocol in place. Mr. Burr indicated that is not what he is speaking about. It is only fair to have contact information for plan reviewers readily available. The Board of Rules and Appeals should work with the building departments to make this happen. Mr. D'Attile commented that the City of Fort Lauderdale has an

excellent model. Chairman Lavrich agreed that the Board should work with the cities to accomplish this. He said this would be a good topic for an open discussion meeting.

9. Adjournment

There being no further business, a motion was adopted to adjourn the meeting at 8:13 p.m.

A handwritten signature in black ink, appearing to read "D. L. Lavrich". The signature is written in a cursive style with large, rounded letters.

Daniel Lavrich, P.E., Chairman