

BROWARD COUNTY

Board of Rules & Appeals

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BOARD OF RULES AND APPEALS

September 11, 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. The Chairman requested and the Board approved a moment of silence for the seventh anniversary of September 11, 2001.

Roll Call

John R. Smith – Chairman
Gregg D’Attile
Gary Elzweig
John Famularo
Steve Kastner
Albert Korelishn
Allan Kozich
Dan Lavrich
Dave Rice
John Sims
Henry Zibman

The presence of a quorum was established.

Approval of Minutes

The Chairman asked for a Motion. Mr. Kozich moved to approve the July 10, 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 listed in the agenda packet, with the addition of Mr. James M. Collins, City of Lauderhill, Chief Plumbing Inspector.

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. This appeal involves a single family residence, two stories with a factory built solid fuel burning (wood) fire place, the appeal involves the termination of the vent for the fireplace which was enclosed by a decorated shroud or a cupola. The city maintains it is a decorated shroud rather than a cupola. Mr. Andrews informed the Board that NFPA 211, the Florida Residential Code and the Florida Mechanical Code have the same requirements that the decorated shroud or anything that encloses that termination cap has to be listed and labeled and installed in accordance with manufacturer’s installation instructions.

Mr. Lavrich noted that there are still a lot of these [fireplaces] around, and whether it’s a cupola or a decorative shroud; it has to be approved by the manufacturer. The issue is that you don’t want to restrict airflow. The manufacturer has to approve, which is unlikely since it’s not something they manufacture. Mr. Lavrich went on to say that perhaps a rational analysis could be performed and a cap could be approved as an alternate method.

At this time the Chairman asked to hear from the appellant.

Representing the appellant was James Gilgenbach, who is the architect of record. Mr. Gilgenbach stated that he has been here since 1975, and has had his own practice since 1983. He is here on behalf of Mr. and Mrs. Saschenko, the owners, and requests that they be allowed to maintain the enclosure.

Mr. Barron, the General Contractor noted that his contention is that the shroud is a decorative piece that the manufacturer makes that replaces the termination cap. Mr. Barron considers the structure a cupola rather than decorated shroud.

Board member Hank Zibman contributed to the discussion by stating that an alternative method could be submitted to the city for their approval.

After more discussion Mr. Barron, the builder, stated that they can’t make a UL listed part. He went on to say that the code requirements for a decorated shroud did not pertain to this installation.

Board vice Chair, Gary Elzweig asked the appellant if he would be inclined to table the appeal and get these clearances and memorialize in a letter, or work with the city alternate means and methods. He recommended that Mr. Barron come back and present to us with an

alternate means and methods and work with the city and staff.

Bruce Mest, Chief Mechanical Inspector for Pompano Beach addressed the board commenting on the fact that the installation of the decorated shroud was caught during the Plan Review stage and noted they did not submit the UL listings for the factory built wood burning fireplace. At that point he turned it down and referred the contractor to the manufacturer. They resubmitted and corrected the plans by removing the cupola. Mr. Mest went on to discuss the reasons. During the inspection process the Mechanical Inspector noticed that the cupola had been installed. The inspection was rejected and the contractor was referred to the manufacturer's recommendations. Manufacturer would not approve an enclosure over the vent termination.

Mr. Elzweig posed the question - how do we reconcile the fact that these cupolas are all over the state. There are many in the cities of Weston and Southwest Ranches. Mr. Elzweig asked Mr. Mest if an alternate method could be acceptable. Mr. Mest commented that I don't have the ability to override the UL listing. They can come up with an alternate method, and if it is acceptable to the board, it's acceptable to me.

Motion was proposed by Mr. Elzweig to table the matter until the next board meeting on October 2, 2008. Motion was seconded by Mr. Zibman.

THE MOTION PASSED UNANIMOUSLY.

3. 2004 Florida Mechanical Code Interpretation, 602.2.1, Materials Exposed within Plenums

Staff member, Robert Andrews addressed the Board and the recommendation of the Joint Mechanical-Plumbing committee. Mr. Zibman observed that whether round or flat this is the same material to be tested. If the product is OK in flat, it should be OK in any state for pipe. Discussion continued between Mr. Elzweig and Mr. Andrews regarding staff analysis and manufacturer's alternate method.

Staff member, Kevin Fennell noted that Section 602 of the Florida Building Code, mechanical requires product manufactures to test their product to ASTM standard E-84. They bring that product to a testing agency, the testing agency informs them that E-84 is a test for flat board material and your product is in pipe and fitting form but we will test it anyway although in the test results we will state that it was tested in general accordance with E-84 due to that material form difference.

Mechanical inspectors statewide have been accepting these test results for a minimum of six years, but now there are a few local inspectors who are questioning this practice and are asking for assistance from the board for this practice to continue.

The Joint Committee in a 16 – 4 vote has motioned that the board say yes and give this assistance.

Mr. DiPietro joined the discussion to bring to attention this point, what you're voting on is on page 43, which was the interpretation of July 11th as amended on page 44. It took more than three

weeks for the staff to agree on what the committee recommended. The interpretation proposed accurately reflects the intent of the joint committee in the opinion of Steve Feller, myself, Kevin Fennell and Bob Andrews.

Mr. Elzweig proposed a Motion that we uphold the joint committee's recommendation and accept the language as presented on page 44. Mr. Zibman duly seconded the Motion.

THE MOTION PASSED WITH A VOTE OF 11 – 0.

4. Establishment of 2007 Florida Fire Prevention Code Pricing (tentative code effective date is 12/31/08)

Mr. DiPietro addressed the Board and explained that this is similar pricing formula to the Board's previously approving Building Code book sales, but that we do not yet know our shipping price. With the Building Codes shipping is built in, so we're asking you to approve a formula - we buy the books, add 2% for administrative charges and actual shipping costs. For the first order of 50 books the selling price is \$136.21. We're asking for authorization for the described pricing formula.

Mr. Lavrich proposed a motion, and was duly seconded by Mr. Korelishn.

THE MOTION PASSED WITH A VOTE OF 11 – 0.

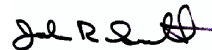
5. Director's Report

Tropical Storm Fay delayed the glitch changes to the Florida Building Code. The Florida Building Commission may decide next week to postpone the effective date of the code, possibly to March 1, 2009. The building we're in right now is operating under a partial C.O. I may want to bring back to the Board this issue. We will probably have to work with the County Administrator, and try and sell the books out of downtown Fort Lauderdale. The other alternative is to not offer the service and the savings that we've always given to the public. I'm not recommending that, but our building has restricted public access.

Mr. DiPietro noted that we're providing code books to the cities, those are the only sales that we're conducting at this time. We are selling the Florida Fire Prevention Code books to the city fire departments. Other than Board members and the cities, there are no public sales at this time.

6. Adjournment

There being no further business to go before the Board; Mr. Lavrich moved to adjourn, and was seconded by Mr. Kozich. The meeting adjourned at 7:58 p.m.



Board Chairman