



The Commonwealth of Massachusetts Department of Public Safety

Board of Building Regulations and Standards

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Approved Minutes

Board of Building Regulations and Standards (BBRS) Department of Public Safety, 1 Ashburton Place, Boston, MA 02108 January 12, 2016 at 1:00 p.m.

1. RC opened the meeting at 1:09 PM, and roll call was taken.

Richard Crowley V-Chair ("RC")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent
Robert Anderson ("RA")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent
John Couture ("JC")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent
Kevin Gallagher ("KG")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent
Jerry Ludwig ("JL")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent
Alexander MacLeod ("SM")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent

Thomas Perry ("TP")	<input type="checkbox"/>	present	<input checked="" type="checkbox"/>	absent
Stephen Coan ("SC1"), or designee*	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent
Michael McDowell ("MM")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent
Monica Simmons ("MS")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent
Chris Pennie ("CP")	<input checked="" type="checkbox"/>	present	<input type="checkbox"/>	absent

* Jacob Nunnemacher ("JN") participated as designee for SC.

ALSO IN ATTENDANCE (DPS staff and committee members). Others in attendance listed in attached Audience Sign-In Sheet (**Exhibit A**):

- o Matt Carlin ("MC"), DPS Commissioner;
- o Beth McLaughlin ("BM"), DPS General Counsel/Chief-of-Staff;
- o Deirdre Hosler ("DH"), DPS Deputy General Counsel;
- o Stephen Carley ("SC2"), DPS Assistant General Counsel;
- o Felix Zemel ("FZ"), DPS, Building Division, Technical Director;
- o Gordon Bailey ("GB"), State Building Inspector;
- o William Horrocks ("WH"), State Building Inspector;
- o Paul Dichiara ("PD"), State Building Inspector;
- o Jeffrey Putnam ("JP"), State Building Inspector;

General notes on format:

- o Votes are noted as **Motion** by, Second by, and whether the vote was unanimous or split (if split, will list the vote in the order of: yea, nay, and abstain).
- o The January 12, 2016 Agenda is listed as **Exhibit A**; others are listed sequentially as addressed during the meeting

2. RC introduced CP as the newest member of the BBRS, and asked CP to introduce himself. CP briefly went over his background with the all people in attendance.

3. Election of Chair and Vice-Chair.

Chair: **MOTION** by SM to elect RC as Chair; **SECOND** by MM.
VOTE Unanimous (1 abstained: RC)

Vice-Chair: **MOTION** by SM to elect TP as Vice-Chair; **SECOND** by RA/
VOTE Unanimous

4. Review BBRS History and Procedures Manual. RC postponed until the February, 2016 BBRS meeting.

5. The Draft December 8, 2015 meeting minutes (**Exhibit C**) were reviewed. FZ also noted that JN handed him the DFS comments on the October 13, 2015 meeting minutes (**Exhibit D**) and December 8, 2015 meeting minutes (**Exhibit E**).

MOTION by MM to accept the minutes of the October 13, 2015 BBRS meeting, following any edits submitted by JN. **SECOND** by RA.

DISCUSSION: FZ noted that JN had previously noted that DFS would be submitting revisions prior to a final draft, between the November and December meetings. JN responded that those were just editorial and spelling corrections, not substantive changes, and that he would submit them to DPS staff for correction.

VOTE Unanimous

6. **Review of 780 CMR 9th Edition topics.** NOTE: This item was taken out of order in order to accommodate a request from WH, due to timing concerns, to present earlier on in the agenda. WH, as the BBRS designee to the Building Official Certification Committee (“BOCC”), presented a proposal from the BOCC with regard to proposed changes to 110.R7 of the draft 9th Edition. Specifically discussed were the following items:

- a. **110.R7.1.5.2 Make-up of the Committee.** WH noted that the BOCC would like to propose changing the number of members on the BOCC to a total of eleven, with four (4) at-large members (all of whom to be upon the recommendation of the MFBO Board of Directors), and addition of a designee from the Metro West Building Officials Association.

MOTION by MM to approve the recommended changes to 110.R7.1.5.2, as presented by WH.
SECOND by SM
VOTE Unanimous

- b. **110.R7.2.2.2 Successful Examination.** WH noted that the BOCC would like to discuss the possibility, and implications, of elimination of the NCPCCI exams for the Local Inspector certification, and only permitting examination through the International Code Council (“ICC”). FZ noted that the two exams are very similar, in topics, and that he would not mind discussing this with the BOCC.

MOTION by SM to approve FZ to meet with the BOCC to discuss the potential implications of elimination of the NCPCCI option for certification as a Local Inspector.
SECOND by MM.
VOTE Unanimous

- c. **110.R7.2.3.2 Successful Examination.** WH explained that the BOCC would like to look into elimination of the successfully passing ICC Technology module as a prerequisite for certification as an Inspector of Buildings / Building Commissioner. FZ and RA explained that this examination is historically not as significant for Building Officials, because it covers primarily electrical, plumbing and gas – all of which are not included in the jurisdiction of the Build Official. RA recommended replacing the Technology Module with a BBRS-approved Inspector of Buildings / Building Commissioner class and/or exam. JC was concerned that the class would not be prepared in time for the effective date of the 9th Edition. FZ explained that the board may want to permit either conditional certification (pending successful completion of the class, one it is available). RA explained that the class should be substantially ready before July, 2016.

MOTION by MM to approve the removal of the Technology Module as a requirement for certification of an Inspector of Buildings / Building Official, and replacing it with a BBRS-approved Inspector of Buildings / Building

Commissioner class and / or exam with conditional certification for those who pass the remaining exams prior to the launch of the BBRS-approved class.

SECOND by SM.

VOTE Unanimous

- d. **110.R7.2.2.2 Successful Examination.** FZ requested that the BBRS permit him to meet with the BOCC regarding potential realignment of the examinations for the Local Inspector certification; specifically to look into fitting in a Building Plans Examiner exam either in place of, or in addition to, one or more of the current exams.

MOTION by SM to approve the request of FZ.

SECOND by MM

VOTE Unanimous

7. **Matters not reasonably anticipated two (2) business days in advance of the meeting.** RC explained that he had been approached less than two business days in advance of the BBRS meeting to permit a presentation regarding concerns regarding Flood Zone requirements in the Building Code, by Paul Moriarty (“PM”). RC also said that this item would be taken out-of-order because staff from DCR were present to provide responses to concerns raised, but had time constraints.

PM introduced John E. Twohig (“JT”), and attorney from Goulston & Storrs, to present on his behalf. JT provided the BBRS members, and DPS staff with a summary of his concerns, entitled Summary of Concerns Regarding Proposed Changes to Flood Zone Standards (Exhibit F). JT explained that he represents multiple real estate developers who would be unduly burdened due to the proposed changes, because it would eliminate ground-level commercial uses and prohibit underground parking. He noted that the inability to provide underground parking would cause the developers to not be in compliance with M.G.L. c. 91. JT also stated that the FEMA Coastal A Zones significantly expand the area of applicability of the new regulations.

Rebecca Haney (“RH”) from Coastal Zone Management (“CZM”) explained that the Coastal A Zone maps were significantly revised from the initial FEMA maps, due to a variety of reasons. RH also handed out a fact sheet, entitled Massachusetts Coastal A Zone Maps (Exhibit G). She also stated that the maps are ready, and will be posted online before the public hearing for 780 CMR. JC asked how people access these maps, currently. RH also said that people can call CZM and ask about specific parcels or areas, and they would gladly provide them with the relevant information.

FZ explained that the provisions, if passed, are still subject to potential variances from the Building Code Appeals Board. FZ also noted that if people decide to obtain a variance, the only restriction appears to be that the site would not be eligible for coverage through the NFIP program. Eric Carlson (“EC”), NFIP Coordinator for the MA Department of Conservation and Recreation, affirmed this case. He also explained that these regulations were developed in collaboration between DCR, CZM, DPS, and MassDEP. JT said that even if a variance were possible, how can developers begin to plan for a large construction project, and bid it out, if they do not know if a variance will in-fact be granted. FZ asked the Board if they would like staff to draft some guidance for variances of this type. RC asked staff to look into this option.

MOTION by MM to direct staff to look into variance guidance for applicants looking to request variances from the flood provisions of the 9th Edition.

SECOND by SM

VOTE Unanimous.

8. **Presentation by DOER and EEA staff regarding energy provisions to draft 9th Edition of 780 CMR.** Ian Finlayson (“IF”), from DOER, and Linda Benevides (“LB”), from EEA, presented the BBRS members and DPS staff with a handout regarding the energy provisions in the draft Base and Residential volumes of the 9th Edition of 780 CMR. This included solar-ready provisions; eV charging availability; and updates to the stretch code (**Exhibit H**). IF explained that he feels the solar-ready provisions of the Base volume does not add any additional cost to design and/or construction. JC felt that this was incorrect, and that it would require significant changes in order to meet the shading requirements. **JC indicated that certain A-2 (assembly uses) with less than 50 occupants are considered to be business operations (small mom and pop style operations) that may be adversely affected by the change.** JN noted that he feels the eV provisions should be addressed in the Electrical Code, not the Building Code. **JN is concerned that we are including electrical provisions in the building code. JN emphasized that electrical provisions belong in the electrical code.** RC directed FZ to work with Counsel and DFS to discuss, and provide guidance to the Board (regarding jurisdiction) at or prior to public

hearing. Emily Norton (“EN”) from the Sierra Club briefly discussed the need to include the eV charging in the code, and handed out a document called Charging Up (Exhibit I).

9. **Review of 780 CMR 9th Edition topics and schedule.** FZ noted that he does not have a formal presentation for today’s review, but did present the Board with a summary that included errata and proposed updates to the Draft 9th Edition (**Exhibit J**), as well as the proposed BBRB Technical Advisory Committee composition (**Exhibit K**), and comments GB (**Exhibit L**). DH noted that she will be out for a few months, and that BM and SC2 would be filling in for her during that period. DH also provided an update to the EO562 process, and provided an overview of the process for the public and new board members.

- a. **Review and Vote errata submitted to DPS/BBRB staff by DFS staff.** FZ indicated that the list of errata were provided on the summary sheet (**Exhibit J**), and were numbered 1-29. JN noted that item 8 should be a period, and not a comma.

MOTION by KG to approve all of the submitted errata as an entire group, with the correction noted by JN.

SECOND by SM.

VOTE Unanimous.

- b. **101.5 BBRB Technical Advisory Committees.** FZ presented the proposed composition changes to the BBRB Technical Advisory Committees to the board members (**Exhibit K**) for discussion. He explained that one of the code consultant positions will be replaced by a fire prevention officer. He also explained that a definition was derived for code consultants to be used for the membership of the Chapter 34 Committee. MM asked if a CSL holder could be added to the list of licensed individuals eligible to be considered a Code Consultant. JN asked to change “duly licensed” to “duly licensed and/or certified” **because fire prevention officers and building officials are licensed not certified**. FZ noted that the Property Maintenance Advisory Committee will be charged with defining property maintenance standards, but will defer to the FPPF Committee for guidance in maintenance of Fire Protection Systems. DH explained that this is being recommended for inclusion in the text of the code in order to minimize risk of Conflict-of-Interest Law violations.

MOTION by MM to approve the BBRB Technical Advisory Committee composition, as proposed and amended.

SECOND by SM.

VOTE Unanimous

- c. **104.6 Right of Entry.** FZ explained that this just provides elucidation that this topic is covered by MGL.

MOTION by JN to approve the change, as proposed. **SECOND** by RA.

VOTE Unanimous.

- d. **113.2 Limitations on Authority and 113.3 Qualifications.** FZ explained that this was removing an extraneous hyphen.

MOTION by JN to approve the change, as proposed. **SECOND** by RA.

VOTE Unanimous.

- e. **1301.1.1 Criteria.** FZ explained that this was just rewording the sentence, in order for it to be clearer to the reader.

MOTION by MM to approve the change, as proposed. **SECOND** by RA.

VOTE Unanimous.

- f. **1301.1.1 Criteria.** FZ explained that this stems from an issue arising due to an inquiry by State Building Inspector Gene Novak. FZ explained that his understanding is that retrofitting temporary structures to comply with the building envelope requirements of the code may violate its fire safety listing, and is thus recommending exempting temporary structures from the building envelope requirements of the energy code. FZ noted that he and IF developed this wording, which includes the term “which are not used for sleeping or living purposes”. MM was concerned with this wording, and recommended its removal. IF said that his concern was temporary shelters, and JN noted that this was addressed elsewhere in the code.

FZ also commented that, if approved, temporary structures will still need to comply with all of the other provisions of the energy code, and would just be exempt from the building envelope (and other provisions, as listed in the code).

MOTION by JN to approve the change, as proposed, with the removal of “which are note used for sleeping or living purposes.

SECOND by RA.

VOTE Unanimous.

- g. **1608.2 Ground snow loads.** FZ explained that this is just to clarify that this is a MA-specific code.

MOTION by MM to approve the change, as proposed. **SECOND** by SM.

VOTE Unanimous.

- h. **2901.1 Scope.** FZ explained that this is just correcting a typo.

MOTION by KG to approve the change, as proposed. **SECOND** by JN.

VOTE Unanimous.

- i. **34:301.4.1 and 34:301.4.2.** FZ explained that this is a SAC recommendation to remove these front-end amendments.

MOTION by MM to approve the change, as proposed. **SECOND** by SM.

VOTE Unanimous.

- j. **34: 302.6 Masonry Parapets.** FZ explained that this is just rewording for clarity.

MOTION by KG to approve the change, as proposed. **SECOND** by JN.

VOTE Unanimous.

- k. **34:302.10 Fire detection systems in R-2 Uses permitted under 780 CMR 5th edition or earlier.** FZ explained that this was rewording the title to be more clear that it was referring to existing R-2 buildings without sprinklers, and also to clarify applicable subsections.

MOTION by MM to approve the change, as proposed. **SECOND** by SM.

VOTE Unanimous.

- l. **34:804.2 Exception** FZ explained that this is for ease of reading.

MOTION by MM to approve the change, as proposed. **SECOND** by JN.

VOTE Unanimous.

- m. **54: Chapter 2.** FZ explained that the proposed change is for the definition of Windborne Debris Region to use V_{asd} instead of V_{ult} . MS explained the differences between the two wind speeds.

MOTION by MM to approve the change, as proposed. **SECOND** by SM.

VOTE Unanimous.

- n. **54:R301.2.1.1 Wind limitations and wind design required.** FZ explained that this eliminates possible confusion in the current amendment wording.

MOTION by MM to approve the change, as proposed. **SECOND** by SM.

VOTE Unanimous.

- o. **54:R302.2 Townhouses.** FZ explained that the recommended wording has changed, slightly, since the section was printed. First, Item 1 will be a one (1) hours fire-rated assembly between sprinkler-protected townhouses. For Item 2, the recommendation is to require a 2-hour fire wall, in accordance with the proper section of the *International Building Code*, which extends through the roof. FZ noted that the code would then require sprinklers in townhouses unless they complied with item 2. RC said that this addition adds to the argument for compartmentalization of fire areas (passive fire protection), instead of active fire protection methods. MM began discussing frequency of fire walls (between each townhouse unit, or every-other unit). RC said that this can be figured out at public hearing. **JN state that it is the fire service position that all townhouses should be required to be sprinklered as required by the virgin International Residential Code (IRC).**

MOTION by KG to approve the proposal, as amended. **SECOND** by SM.
VOTE: 8 in favor (RC, KG, MS, JL, SM, RA, JC, CP); 2 opposed (MM, JN)

- p. **110.R7.1.6 Categories of Certification.** FZ asked if the board would like him to discuss with the BOCC moving the items in this section into the definitions in 110.R7.

MOTION by MM to ask FZ to meet with the BOCC regarding moving the categories of certification into the definitions section of 110.R7.
SECOND by JN.
VOTE Unanimous

- q. **110.R6.3.1.1 Requirements for Energy Code Training.** DH noted that the law referenced in the current version is the Session Law for the Green Communities Act, and that the code should be referencing the proper section in MGL c. 143. The board discussed inclusion of both laws, but decided that the Session Law was not applicable in this case.

MOTION by JN to approve the change, as proposed, with the removal of the reference to the Session Law.
SECOND by MM.
VOTE Unanimous.

- r. **R313.2 One- and two-family dwellings automatic fire systems.** GB explained that he is proposing adding all one- and two-family dwellings used as a Lodging House to require an NFPA 13D system, in addition to other one- and two-family dwellings with greater than 14,400 square feet. DH explained that this was extensively debated at previous meetings of the BBRS, and voted down.

MOTION by JN to approve the change, as proposed. **SECOND** by KG.
VOTE 7 in favor (JN, KG, SM, JC, MS, CP, RA). 3 opposed (MM, JL, RC)

- s. **101.5.3.1 and 101.5.3.1.** GB explained that he feels an HIC registration should not be a prerequisite for a permit, but just one of the items that should be included in an application for a permit. FZ and DH noted that MGL c. 142A opens the pathway for it to be a prerequisite for approval.

MOTION by MM to move the HIC language from 101.5.3.1.1 to 101.5.3.1.
SECOND by CP
VOTE Unanimous

- t. JC noted that he is rescinding his proposals to remove Rooftop solar readiness, eV equipment capable, and stretch code requirements, and agreed to move it forward for debate and discussion at public hearing.

10. **Status** update or review and/or approval of action items from previous meetings:

- a. RC noted that he will be tabling edits to the May 13, 2014 White Paper on the cost effectiveness of building code requirements in 3- to 6-unit residential buildings until after January, 2016.
- b. Discussion of the DPS training on window replacement in commercial buildings was placed on hold.
- c. Review of enforcement of M.G.L. c. 148, Sec. 26G was placed on hold.

11. **Considerations** by the Board.

- a. **MOTION** by SM to approve 120 new CSLs issued during the month of November, 2015. **SECOND** by MM.
VOTE Unanimous
- b. **MOTION** by SM to approve one (1) new CSL resulting from an *averaged* passing score. **SECOND** by MM.
VOTE Unanimous
- c. **MOTION** by KG to approve the reinstatement of one (1) CSL for medical reasons. **SECOND** by JC
VOTE: Unanimous.

12. **Review** and approval of actions contained in the BOCC meeting minutes from December 6, 2015 (**EXHIBIT M**).

MOTION by RA to approve minutes of the BOCC from their December 6, 2015 meeting, with the correction of one typo.

SECOND by SM.

VOTE: Unanimous

13. **Discuss** window air conditioners and Emergency Escape requirements (*TABLED*)

14. **Discuss** identification of skylights on residential and commercial roof structures (*TABLED*)

15. **Discuss** fire protection concerns in exhibition / conference exhibit booths. FZ explained that the MCCA requested that the BBRS look into fire protection concerns in covered exhibit booths. Currently, these are treated as kiosks, administratively. FZ proposed developing a working group, comprised of: FZ, State Building Inspectors Majuri and Wojciechowicz, DFS staff, MCCA staff, FFPF Chair Robert Carasitti, Maurice Pilette, BFD, and another fire protection engineer. RC directed FZ to initiate this working group to then present their findings to the FFPF for review prior to presentation to the BBRS. **JN suggested that the issue should be sent to the FFPF committee, and KG requested that another fire chief (outside Boston) be added to the task force.**

16. **Discuss and review** Local Building Code Appeals Board hearing and documentation / approval process. FZ reported that the MFBO provided a list of communities that have local appeals boards, but that he hasn't had the opportunity to develop guidance yet. RC tabled discussion until next month.

17. **Discuss** other matters not reasonably anticipated 2 business days in advance of the meeting.

- a. John Nunnari, from AIA MA, asked the Board about concurrency. DH explained that there are two models, the future effective date and the built-in blanket variance. After the explanation, the board quickly discussed the topic, where the consensus was that the board favors the built-in blanket variance, but that they will not make a final decision until after the Public Hearing.

18. **Approve** adjourning the meeting. **MOTION** by SM to adjourn the meeting. **SECOND** by MM. **VOTE:** Unanimous

Meeting adjourned at 4:20 PM.

EXHIBITS:

- A. BBRS Meeting agenda 01-12-2016
- B. Audience sign-in sheet of those in attendance at the 01-12-2016 BBRS monthly meeting
- C. BBRS Meeting Minutes 12-08-2015
- D. DFS Comments on the 10-13-2015 BBRS Meeting Minutes
- E. DFS Comments on the 12-08-2015 BBRS Meeting Minutes
- F. Memorandum submitted by John E. Twohig, and Goulston & Storrs professional profile for John E. Twohig
- G. CZM Fact Sheet about Coastal A Zone maps
- H. DOER presentation about energy provisions in the draft 9th Edition of 780 CMR
- I. Sierra Club booklet regarding electric vehicle capacity in MA
- J. Summary sheet of proposed changes and errata to the draft 9th Edition of 780 CMR
- K. Proposed Technical Advisory Committee composition
- L. Letter from Gordon Bailey regarding proposed changes to the draft 9th Edition of 780 CMR
- M. BOCC Meeting Minutes 12-06-2015