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COMMISSIONER, DIVISION OF  
PROFESSIONAL LICENSURE

## Board of Building Regulations and Standards (BBRS)

May 11, 2021 Meeting

The Division of Professional Licensure Office  
1000 Washington Street - Boston, MA 02118

*This was a virtual Microsoft Teams meeting.*

Chairman Crowley opened the meeting @ approximately 10:10 a.m. and took roll call as follows.

Richard Crowley, Chair	✓ present <input type="checkbox"/> absent	Kerry Dietz	✓ present <input type="checkbox"/> absent
John Couture, Vice Chair	✓ present <input type="checkbox"/> absent	Steve Frederickson	✓ present <input type="checkbox"/> absent
Lisa Davey	<input type="checkbox"/> present ✓ absent	Peter Ostroskey*	✓ present <input type="checkbox"/> absent
Cheryl Lavalley	<input type="checkbox"/> present ✓ absent	Layla D'Emilia**	✓ present <input type="checkbox"/> absent
Michael McDowell	<input type="checkbox"/> present ✓ absent	Kent Vinson	✓ present <input type="checkbox"/> absent
Susan Gleason	✓ present <input type="checkbox"/> absent		

\* Jen Hoyt participated as the designee for State Fire Marshal, Peter Ostroskey.

\*\* David Sullivan participated as the designee for Division of Professional Licensure Commissioner, Layla D'Emilia.

\*\*\* Steve Frederickson left the meeting about 1:15 p.m.

### General notes on format of these minutes

- These minutes represent general points discussed by Board members and/or attendees. The minutes are not intended to be a verbatim account of discussions.
- Votes are noted as **MOTION** by, seconded by, and whether it was a unanimous or split vote.
- Agenda topics, as numbered, may/may not be in the same order as they appear on the meeting agenda.
- The meeting agenda is listed as **EXHIBIT A**; others are listed sequentially as addresses during the meeting.

### Public Hearing Portion

*The following is meant to provide a synopsis of proposals reviewed and related discussions. It is not meant to be a verbatim account.*

**Public Hearing.** In keeping with tradition, Chairman Crowley opened the public hearing by inviting any member of the legislature or representative of another governmental body to testify out-of-order on any code change proposal. No one asked to be recognized.

Chairman Crowley called for testimony on the following proposals:

Kerry Sutton, ACI New England Chapter, spoke about **Proposal 05-01-2021** – Consider adding Section 104.11.1 Structural Concrete to Chapter 34, (**EXHIBIT B**) and **Proposal Number 05-02-2021**– Consider adding Section 405.1.1 Repairs to structural concrete to Chapter 34 together (**EXHIBIT C**). Ms. Sutton talked about both proposals being identical except 05- 01-2021 adds ACI 562 Code Requirements for Assessment, Repair, and Rehabilitation of Existing Concrete Structures to the IBC, and proposal 05-02-2021 add ACI 562 to the IEBC. The proposed language is not exclusive as Section 104.11 Compliance

Kerry Sutton, ACI New England Chapter then spoke about **Proposal Number 05-03-2021** – Consider adding Sections 1703.1.3, 17.4.2.1 Concrete Testing Personnel to Chapter 34. The proposal adds Section 1704.2.1 Special inspector qualifications to the 2021 IBC and includes a table of minimum qualifications for certified inspectors (**EXHIBIT D**). The proposal addresses the need to better ensure proper sampling, testing, and inspection of structural elements, by adding personnel qualifications, which will assist the building official in determining qualifications of individuals conducting sampling, testing, and inspection of construction materials, including structural concrete. Keith Kesner spoke about ACI 562, explaining when it would be used. He believes building officials have many questions about evaluating buildings that involve structural concrete repair. Curtis Meskus asked how this proposal would tie into the concrete testing provisions currently in 780 CMR. Kerry Sutton thought the requirements could be coordinated.

Gregg Levins spoke about **Proposal Number 05-04-2021** – Consider adding Section 105.3.1 #8, Asbestos Survey (**EXHIBIT E**). He spoke about Asbestos, known as a human carcinogen. Lung cancer and mesothelioma are diseases caused by exposure to Asbestos. Performing an asbestos survey before demolition/renovation activities identify asbestos-containing material, enabling proper management compliance with asbestos requirements at 310 CMR 7.15. The proposed provision does not mandate that local building officials review or evaluate the asbestos survey but merely requires that a survey has been completed before issuing the local building/demolition permit. MassDEP is always available to work with local officials, answer any questions about a given survey or project, and respond to all complaints and referrals from building officials. John Couture asked whether DEP has resolved that anyone can currently purchase building materials with asbestos elements. Gregg Levins conformed that interstate commerce does not ban Asbestos, some new building materials include Asbestos, and that DEP’s authority is limited to only the removal of Asbestos. Curtis Meskus asked if the requirement proposal requirement would hold up the issuance of a building permit. Gregg Levins indicated it would. Curtis Meskus talked about the requirement being too burdensome to be added to the building permit process.

Robert de Sousa, from Performance Systems Development spoke on **Proposal Number 05-05-2021** – Consider adding Section AA104.1 Stretch Energy Code, Commercial (**EXHIBIT F**), and **Proposal Number 05-06-2021** – Consider adding Section AA104.1 Stretch Energy Code, Residential (**EXHIBIT G**). He explained that the efficiency requirements for additions and alterations in stretch code communities are not a stretch. The stretch code does not apply to additions or alterations as Section AA refers to the Existing Buildings chapter, just like non-stretch communities. To address this, 05-05-2021 provides stretch energy code requirements for a commercial building being expanded with addition and/or an alteration, and 05-06-2021 provides stretch code requirements for residential buildings.

Kerry Dietz spoke about the BBRS not having the authority to promulgate a stretch energy code after July 1, 2021.

Chris Riddle expressed his views about the stretch energy code and his interest with it including Net-Zero.

Matt Hunter spoke about encouraging the BBRS to adopt the Tall Mass Timber provisions in the 2021 IBC.

Wellesley Sustainable Energy Committee member Fred Bunger spoke about his town has net-zero energy guidelines for municipal buildings that include renewable energy sources and electrification. He supports adopting Net-Zero energy code requirements.

Lisa Cunningham spoke about her supporting Net-Zero buildings and fossil-fuel-free buildings.

Andee Krasner, MPH, GBPSR Manager of our Climate and Health program, a public health specialist, spoke about the health impacts of air and carbon pollution from buildings and supported a Net-Zero energy code.

John Couture spoke about the state building code allows anyone to construct a building to a Net-Zero standard. He suggested a study about achieving a net-zero building with today's technologies and occupant expectations is complex. Michael McDowell spoke about the state building code provides the minimum construction standards. Anyone can choose to construct to a higher standard.

Margarethe Eckhardt spoke about supporting Net-Zero, and the EZ Code provides a pathway.

Hank Keating, President at Passive House Massachusetts, supports a Net-Zero energy code to meet global warming solutions initiatives.

Ellen Watts, an architect with Architerra's and a BSA member, supports the proposal, and it provides optimal requirements such as heat pumps and solar supports.

Brenda Pike, Climate Advisor for Boston's Environment Department, spoke about supporting a Net-Zero energy code.

Jonathan Krieger is a member of Newton's Energy Commission, spoke about supporting a Net-Zero standard.

Jeanne Krieger spoke about Lexington's goal is to reduce greenhouse gas emissions from residential, commercial, and municipal buildings.

Mothers Out Front representative Kathleen Scanlon spoke about supporting adopting a Net-Zero standard. Grace Hall spoke about supporting a Net-Zero energy code.

Adele Franks, a retired public health physician, spoke about the need for Massachusetts to adopt Net-Zero energy provisions that would apply to all new buildings.

Representing the Massachusetts Farm Bureau Federation, Jason Wentworth spoke about sending a letter in April 2021 expressing concerns with the Indoor Agriculture provisions the BBRS has moved into the code promulgation process. Although the requirements intended to focus on the cannabis industry, we did express opposition to creating a section of the state building code entitled Indoor Agriculture. The Farm Bureau Federation remains opposed to the section name and asks that the BBRS reconsider the title, including cannabis production. All of the sections are intended to deal with carbon dioxide generators specific to operations during cannabis operations. Still, the title suggests the provisions, if fully adopted by the BBRS, will apply to all indoor agriculture growing farms. Carbon dioxide generators are used at a small number of greenhouses not associated with cannabis but are not limited to greenhouse use or agriculture. Some include breweries and controlled atmosphere storage facilities for farms, terminal markets, and warehouses. Our objection is farming utilizing carbon dioxide generators for produce storage would not fall under the category of indoor agriculture, given that produce is stored.

Sally Pick, SJP Environmental Consulting, spoke about supporting developing a Net Zero Stretch Energy Code.

Claus Becker spoke about the economic benefits of requiring buildings conforming to a Net-Zero standard. Mandating new technologies that require moving away from fossil fuels will create jobs in

technologies and training.

Patty Sheehan, President of the Massachusetts Federation of Building Officials, spoke about the need for the BBRS to distribute guidance to municipal building officials on the building code requirements for battery storage systems in single homes. New applications are being introduced to building officials and some advice about building permit requirements, highlighting the key aspects of these systems that would help foster consistency.

Executive Director of Massachusetts Climate Action Network, Sarah Dooling, spoke about Net-Zero building code requirements to provide environmental justice by minimizing health risks from fossil fuels.

On a **MOTION** by John Couture seconded by Michael McDowell it was unanimous to close the public hearing portion of the meeting @ approximately 1:15 p.m. Roll call: Susan Gleason, David Sullivan, Jen Hoyt, Ken Vinson, Steve Frederickson, Kerry Dietz, Michael McDowell, John Couture, and Richard Crowley all voted in the affirmative.

### Regular Meeting Portion

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Chairman Crowley opened the regular meeting portion about 1:17p.m. by taking roll call: John Couture, Michael McDowell, Kerry Dietz, Ken Vinson, Jen Hoyt, David Sullivan, Susan Gleason, and Chairman Richard Crowley all responded in the affirmative.

1. On a **MOTION** by John Couture, seconded by Michael McDowell, it was unanimously **VOTED** by **ROLL CALL** to approve the draft meeting minutes for the April 13, 2021 Board of Building and Regulations and Standards (BBRS) meeting as amended (**EXHIBIT H**). Kerry Dietz and Board Counsel Kristina Gasson offered some edits to the draft version.
2. On a **MOTION** by Kerry Dietz, seconded by Michael McDowell, it was unanimously **VOTED** by **ROLL CALL** to approve the April 6, 2021 Building Official Certification Committee (BOCC) minutes as submitted (**EXHIBIT I**).
3. On a **MOTION** by, Michael McDowell seconded by Kerry Dietz, it was unanimously **VOTED**, by **ROLL CALL** to approve the February 18, 2021, March 3, 4, and 23, 2021 Building Code Appeals Board (BCAB) minutes as submitted, (**EXHIBIT J**).
4. The Town of Barnstable requests that the BBRS allows it to impose more restrictive energy code construction requirements. The Board reviewed Section 98 in M.G.L. 143. Chairman Crowley recognized Brian Florence, Building Commissioner for the Town of Barnstable. He explained their request is to replace the 2018 IECC requirements in sections 401 and 402 in the base code and the One- and Two-family Dwelling Code with the 2021 IECC Section 401 and 402 (**EXHIBIT K**). The Town intends to use these changes to qualify for certification as a Green Community. The statute, in part, requires that the Town identify special conditions prevailing within the community, and Commissioner Florence explained the request to impose more restrictive standards are reasonably necessary because of special conditions prevailing within the Town of Barnstable. The Town, on two occasions, attempted to get its Town Meeting to adopt the Stretch Energy Code as a way to seek designation as a Green Community. However, both attempts failed. Since the Town has consistently demonstrated that it is a leader in the Commonwealth for implementing energy conservation measures and has won awards for being a leader in energy conservation,

Town Meeting not allowing the adoption of the Stretch Energy Code has created hardship. It presents special conditions prevailing within the community.

Board members discussed the request. Dan Walsh explained the building code provides safety to the public in the built environment. The statute allows the Board to address something unique to a specific community that no other community is confronted with, affecting public safety.

On a **MOTION** by, John Couture seconded by Kerry Dietz, it was a majority **VOTE**, by **ROLL CALL** to deny the unique regulations by way of Section 98 of G.L. 143. John Couture, Michael McDowell, Kerry Dietz, Ken Vinson, David Sullivan, Susan Gleason, and Chairman Richard Crowley all responded in the affirmative. Jen Hoyt responded in the negative. Discussion on the motion included getting a legal opinion about applying the statute and suggested to table. Some understand the request does not address a public safety matter, and allowing it will open the door to other communities using Section 98 to deal with land use interest. Some members pointed out the BCAB process is available to deal with any unique circumstances related to the community.

5. Tenth Edition 780 CMR Progress. Each board member received IBC Chapters 3, 5, 6, 8, 10, 26, and 28. With Chapter 3 displayed (EXHIBIT L), Rob Anderson talked about each IBC chapter that the board has been provided includes the 2018 and the 2021 changes along with the Mass amendments. He described the highlighting difference used to distinguish differences between the IBC versions and the Mass amendments. Rob Anderson also talked about receiving changes from Jen Hoyt on behalf of DFS, and these are identified by gray colored highlight with red font. Comments from Kerry Dietz include some editorial suggestions and some definitions that describe how people use buildings. These will be added into the draft and the board can decide how best to proceed. The board had a general discussion about the amount of time it is taking to review the IBC, and some members expressed interest in tabling the IBC for the next meeting because some members need to leave today's meeting soon. Rob Anderson spoke about Chapter 3, and it does require some more work based on comments from DFS. Jen Hoyt spoke about Air B&B is going to be a long discussion, and some other chapters will have some contentious discussions, which will need more time. Kerry Dietz talked about having discussions on the code in public forums. She thinks the Air B&B is a policy issue for the board to decide. Chairman Crowley asked staff to identify two additional dates that all the board members can meet between May and June to review the 2021 I-Codes. Ken Vinson agreed to have a couple of additional meetings to discuss the code.

Discuss 207 new CSLs issued in the month of April 2021. Board members acknowledged approval of the new Construction Supervisor Licenses CSLs issued. No action necessary.

CSL Requests for Reinstatement. On a MOTION by John Couture seconded by Dave Sullivan it was unanimously voted to approve the following request: Motion, 2nd to approve Edward Slaman CS-091167 (medical) and Michael Harr CS-090964 (medical).

Discuss other matters not reasonably anticipated 48 hours in advance of meeting. Chairman Crowley talked about having staff create guidance to building officials about how the building code handles energy storage systems. Jen Hoyt indicated a guidance is in the works and believed

it is in the final form. Kerry Dietz made a Motion to have staff create guidance for building officials.

**Adjourn Session.** On a **MOTION** by Kerry Dietz, seconded by John Couture, it was unanimously **VOTED** by **ROLL CALL** to adjourn the meeting @ approximately 2:20 p.m.

**EXHIBITS:**

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- A. Meeting Agenda.
- B. Proposal 05-01-2021.
- C. Proposal 05-02-2021.
- D. Proposal 05-03-2021.
- E. Proposal 05-04-2021.
  
- F. Proposal 05-05-2021.
- G. Proposal 05-06-2021.
- H. April 13, 2021 Board of Building and Regulations and Standards (BBRS) draft amended meeting minutes.
- I. April 6, 2021 Building Official Certification Committee (BOCC) meeting minutes.
- J. February 18, 2021, March 3, 4, and 23, 2021 Building Code Appeals Board (BCAB) meetings minutes.
- K. Town of Barnstable request the BBRS grant a unique code Section 98 of G.L. 143. L.
- L. 2021 CHAPTER 3 5 11 2021 DRAFT (2).