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BOARD OF BUILDING REGULATIONS AND STANDARDS

In accordance with the provisions of G.L. c. 30A § 20, notice is hereby given that the Board of Building Regulations and Standards (BBRS) convened a regular monthly meeting and public hearing in accordance with G.L. c143 § 97 on:

May 13, 2025 10 am – 2 pm

Virtual Meeting Minutes

Meeting called into order at 10:02 a.m.

Lisa Davey	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent	Tarica Leskiw	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent
David Riquinha	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent	Luke McKneally	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent
Michael McDowell	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent	Atiya Rahim	<input type="checkbox"/> Present <input checked="" type="checkbox"/> Absent
John Couture	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent	Sy Nguyen	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent
Jeffrey Clemons	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent	Sarah Wilkinson or designee (Ross Seavey)	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent
Jason Ferschke	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent	Jon Davine or designee (Jake Nunnemacher)	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent
Darien Crimmin	<input type="checkbox"/> Present <input checked="" type="checkbox"/> Absent	Elizabeth Mahony or designee (Ian Finlayson)	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent

1) **Vote** Chair and vice Chair positions

- David Riquinha nominated Lisa Davey for Chair, seconded by Luke McKneally. No other nominations. A roll call vote conducted; the motion passed unanimously.
- John Couture nominated David Riquinha for Vice Chair, seconded by Sy Nguyen. No other nominations. A roll call vote conducted; the motion passed unanimously.

2) **Review / Vote** BBRS Minutes from 3/11/2025, BBRS minutes from 4/8/2025, BOCC minutes from 4/1/2025, and BCAB minutes from 1/9/25, 1/21/25, 2/6/25, 2/18/25, 3/6/25, 3/18/25, 4/3/25, 4/22/25

- John Couture made a motion to approve the BBRS meeting minutes from 3/11/25 and 4/8/25; seconded by Ian Finlayson. No discussion. A roll call vote was conducted. The motion passed with one abstention - Ross Seavey.



- b) Jeff Clemons made a motion to approve the BOCC meeting minutes from 4/1/2025, seconded by John Couture. No discussion. A roll call vote was conducted; the motion passed unanimously.
- c) Jeff Clemons made a motion to approve the BCAB meeting minutes for the dates mentioned (1/9/25, 1/21/25, 2/6/25, 2/18/25, 3/6/25, 3/18/25, 4/3/25, 4/22/25), seconded by Jason Ferschke. There was a brief discussion. Ian Finlayson noted there have been more stretch code and specialized code matters coming to the building code appeals board. He suggested it might be helpful to have somebody from DOER invited to participate at the Appeals Board although historically it has been building officials and fire officials invited. Members noted that several of the BBRS positions are related to energy. Board Counsel Kilb responded in kind that every single member of the BBRS is eligible and encouraged to participate in the BCAB as they do want participation in these BCAB panels.
No further discussion. A roll call vote was conducted, the motion passed unanimously.

3) Review / Discuss Board Counsel Report

Board Counsel Charles Kilb noted there is a set of regulations that may be moved forward at today's meeting and that they will be added to other pending regulations if approved.

He also stated that legally BBRS members are considered members of the Building Code Appeals Board. Members should be involved in the panels and encouraged those who had not to try and become more involved. Board Counsel Kilb commended members of the BBRS who regularly attend BCAB - John Couture, Mike MacDowell, Jeff Clemons, noting their time and effort is appreciated.

Comments made on the types of cases appealed and the variety of the issues heard and whether members should just attend hearings particular to their background. Board counsel Kilb reiterated that by statute, any member of the BBRS is eligible to serve on BCAB and should be listening and participating in all cases, not just those in their area of expertise.

Question from Jake Nunnemacher if it is possible to have DOER brought in to testify and explain the energy code, like an expert witness. Board Counsel Kilb answered that, similar to other matters, a member of DOER could attend hearings as a witness, however, they would be subject to cross examination.

Further comments on participation and importance of involvement in all matters of appeals board.

4) Review / Discuss Report from BOCC Designee

Andrew Bobola provided a report of the BOCC meeting held May 6, 2025, in Tewksbury MA. He reported that the BOCC approved the meeting minutes from April 1, 2025 with one slight amendment and the revised NERF. He also reported on document reviews and Building Officials who made no attempt to renew/didn't finish their continuing education are now null and void in the system.

5) Review / Discuss Executive Director Report

Executive Director Tammy Gropman reported Construction Supervisor License totals for the month of April 2025 were 143 Issued and 1209 renewed. No reinstatements were

received. She also noted the progress of the work to form the subcommittees for the 11th is ongoing and to be completed in the next couple of weeks.

Ian Finlayson asked a question about the vacant position on the BBRS for the mechanical engineer. Executive Director Gropman answered as names are submitted, they are passed on, with hopes of knowing more in the next month or two.

6) Discuss Public Hearing Pursuant to Ch. 143 s. 97

John Couture made a motion to close the regular meeting and move into the public hearing pursuant to Chapter 143, section 97, seconded by Jeff Clemons. The motion was passed unanimously.

a) Carbon Monoxide Detectors Code Change Proposal

- i) Travis Gray presented the following code change proposal: 780 CMR, section 915.5.1 and section 915. 5.2 both make references to NFPA 720. However, NFPA 720 has been discontinued by NFPA, and those requirements have been incorporated within NFPA 72 which is otherwise incorporated kind of throughout several different codes that are adopted in Massachusetts. Recommendation is to update the references within 780 CMR. 915.5.1 and 915.5.2 to remove the NFPA 720 references and instead refer them back to 527CMR section 13.7, which is the carbon monoxide portion of the Fire Safety Code.

Members focused their questions and comments about why the proposal would not instead change the NFPA 720 reference to NFPA 72. Comments were made about multiple references to NFPA 72 in Chapter 9 including statements about multiple potential mistakes in chapter 9 with smoke alarms and carbon monoxide. The board discussed this should be addressed in the 11th but there were questions on if the change could or should be made now. Board counsel Kilb was asked if this could be changed now and he responded that would require a regulation change. Further comments made that MA amendments are correct and indicated any error would in the IBC. Board Counsel Kilb was also asked if the board could decide to accept 527 CMR or go to NFPA 72. His answer included a lesson on protocol. This BBRS meeting is the public hearing in which Board asks questions and opens up the floor to the public. At the next meeting is when a vote would be taken. Board counsel Kilb provided guidance that options are open, including board voting on new language, doing something different, etc. The vote would take place at the next meeting though as today's agenda states discuss.

Further comments clarifying what the intent of the proposal is; not to necessarily send to the fire code but to clarify going to NFPA 72 not NFPA 720. Board members Jeff Clemons and Jake Nunnemacher voiced agreement of changing NFPA 720 references to NFPA 72. Board Counsel Kilb was asked a procedural question about if the code change proposal had to be approved as drafted, he indicated that the Board could change whatever they wished. He further indicated that it appeared the NFPA 720 reference was not an error, but is citing an older code, thus suggested to approve the proposal, the BBRS should be aware of what would be substantively different. Luke McKneally made a recommendation to the board to amend the IRC wherever NFPA 720 is found to reference NFPA 72 because Chapter 35 specifically calls out certain chapters of sections of NFPA 720 2015. If some of the sections

have migrated into different locations, then they should be correctly identified in NFPA 72 and he encouraged upgrading to the 2019 version, if feasible. He also supported the board making that decision regardless of whether Mr. Gray makes corrections. Noted he would certainly encourage Mr. Gray to submit a correction to that effect.

Jake Nunnemacher commented that he does not believe there's any issues with the IRC and the only issues is with the IBC because the IRC has been mended. Prior to next BBRS meeting, he will review and report back what substantive changes were made between NFPA 720 and NFPA 72.

Mr. Gray commented in the comparison of NFPA 72 2019 to NFPA 720 2015, he is not aware of any major/substantiative changes to the carbon monoxide requirements. He noted that NFPA 720 is now NFPA 72 as of 2018 and as noted on that website. Furthermore, NFPA 720 was withdrawn at the annual 2018 revision cycle in NFPA 720 requirements have been incorporated into NFPA 72. The Council voted to approve the withdrawal of NFPA 720, August 14th 2018.

He stated it seems it is a reference to an old and old version of an NFPA standard that will no longer be updated, whereas the requirements it is dictating are potentially going to be updated within NFPA 72, which is what the mass building code is currently referencing.

Ross Seavey noted 720 does appear in the residential code as well and R 315.7.1 and 7.2.

Further comments on the importance of making it technically correct for building officials and the enforcement community.

Jake Nunnemacher offered to go through the IBC, IRC and IEBC to look for where there is an issue with the 2019 NFPA 72 versus the 2015 NFPA 720. He stated he would bring his findings to the board next month, with a solution on how to solve it. Board Counsel Kilb recommended adding to this work how NFPA 72 compares to chapter 35, sections 915.51 and 915.52.

No further discussion from the board. Vice Chair Riquinha opened the meeting up to the public for comment. No comment from public members.

7) Discuss/Vote Items tabled from last meeting

a) Solar Setback Subcommittee - Proposed code changes

- i) Luke McKneally provided a recap to the board. Last month, a code change proposal was submitted to the BBRS for three different sections, specifically R324.6, AJ108.5, and AT103, also known as RB103. He noted that in that discussion, it was brought forward that the board might consider a code change to R107.3.1. that brings the fire department review into the permit process. He reviewed the code change proposed language shared draft with items in red added that are the subject of the vote. He reported out on the hot topics discussed at the Solar Setbacks Meeting which included roof access in exception, whether or not both the building official and fire

official should be making that determination or the building official in consultation with the fire official. He also noted a couple of other minor changes to the horizontal area below an excess pathway to extend 36 inches to the left or right of the center line of the access pathway and that emergency escape and rescue openings shall go down to that roof's bottom edge as opposed to what was previously noted as gutter line. He commented on the discussion of the percentages, and some of the vague language related to Appendix AJ. He did state there was not a specific recommendation at the moment but subcommittee is open to some suggestions. He also reviewed the Solar Subcommittee proposal for Solar Permits under the 780 CMR 10th edition. The document is a reference to the building permit process and to address Fire Department review in the 10th edition MA amendment. He presented the original language with proposed updates in red. The red wording read – For permits that include solar PV installation work, construction documents are filed with the building official, who may cause them to be filed with the head of the local fire department for review under 324.6 Roof Access and Pathways. He noted that this is encouraged, and that while may, as opposed to should, is a looser wording, it is in the code language quite a few other instances using that flexible language.

Ian Finlayson added that the reason why this latest code change was added, was to respond to the second task that BBRS gave to the subcommittee. The first task was to review the language and make a proposal for how to move the language forwards. The second part was to advise on what to do in the meantime because the code change process takes some time.

Luke McKneally then shared his screen again and reviewed the Solar Subcommittees Guideline Recommendations for Solar Permits under 780 CMR 10th edition document which could be used as simple guidance in the interim before a code change. The guidance uses the current language and recommends that once a building permit is submitted for solar PV, that that is shared with the fire department. While it's not a requirement, yet is also in 527 CMR 1.0, for this timeframe prior to code change, the subcommittee is recommending this as a best practice for the Building Official and Fire Department to work together for a safe installation and to allow the fire department to know PV system locations. Mr. McKneally highlighted the note stating a determination by the Building Official may be appealed through the Building Code Appeals Board, and determinations by the Fire Official may be appealed through the Fire Code Appeals.

Vice Chair Riquinha asked the board to consider what it's like for an applicant who has to go in and pull a building permit recognizing the process is time consuming, inefficient, and painful for the applicants who don't know which way to turn, regulation to follow, who to go to, etc. He tasked the board with fixing this process.

John Couture commended the Solar Subcommittee for their efforts. He did voice concern about the guidance document and appealing to two boards stating you cannot appeal to two boards and this is a building component that is in compliance with the State Building code and the appeal would be to the Building Code Appeals Board. He voiced concern over the recommended process of including the Fire department. He stated that the purpose of upgrading these documents was for the building official to review, know what to do and to make a decision.

Concerns expressed that this process suggests the Building Official is not capable of making a decision. However, if there is a question, then yes, the Building Official may consult with the Fire Chief. There was also a question that if the Building Official needs to consult the Fire Department, will Fire be issuing a permit for this and by what authority.

Luke McKneally responded, sharing the importance of bringing this forward to the BBRS in its current form for this discussion. He highlighted the changes that are proposed to R324.6 and R107.3.1 provide the building official with the information they need and the authority to specifically control that process. R107.3.1 is where the Solar Subcommittee proposes the Building Officials may consult with the Fire Department and are encouraged to for communication and feedback. He noted the Building Official still controls the permit process and the appeals process.

Jeff Clemons spoke, reiterating the need for one path and if a Building Permit is needed you would go to the Building Official. He stated some of the language is vague and makes it even more difficult than it is today.

Board Counsel Kilb provided legal advice and advocated for the in consultation language. After reviewing case law and statutes, he indicated it was his opinion that the building code cannot grant authority to non-building officials, if those other officials have authority it needs to come from their own laws and regulations, he indicated any existing language in the code to the contrary should be reviewed to correct this. He specifically addressed the may verbiage that was presented.

As a second matter, he said the Board may want to be careful with the use of the term “may”. Board Counsel Kilb noted that one of the requirements that this board is required to do when writing code is adhere to MGL, Chapter 143, section 95. which requires us to exercise the authority to affect some objectives. He noted the very first one is uniform standards and requirements for construction and construction materials. He expressed his concern that when you put a may, without any kind of context about why it's imposed, you are not creating uniformity but something that can vary over each city and town in Massachusetts. He is concerned that as a result this does not comply with the mandate under the general laws. He stated that using a shall, may not be better policy wise, as well. However, he said it was up to the Board when to use “may”, however, those uses should be sparing.

Vice Chair Riquinha asked a question about approvals and if it were to get to the BCAB, would it move forward. There were further questions about where this lies and who is enforcing it and if BFPR wanted to speak to Board.

Mark Durrenberger, member of the Solar Subcommittee, gave a short presentation to the BBRS. Included in that presentation, he noted that as a representative of the solar industry in Massachusetts for 18 years, he is generally in favor of the language that the Solar Subcommittee produced, yet does have some reservations with this language. His specific reservation is that there have been debates about the need for working paths and setbacks etc. on the assumption that roof ventilation is an important part of fire services actions during firefighting. He shared his data from National Fire Institute Reporting System on this. His analysis showed that the frequency of roof venting on one- and two-family homes in Massachusetts is miniscule. He presented slides showing his data analysis and concluded with, in

2024, venting and solar would have been on 20 homes in MA, roof ventilation on 5 homes. Therefore, given the infrequency, working paths, and ridgeline, setbacks appear unnecessary. He stated he feels that the whole section of this code is unnecessary given the data that fire has recorded on their own actions. This presentation was submitted to the Board for minutes.

Ian Finlayson addressed the board and recapped how the Solar Subcommittee ended up where it is on this topic. He noted how the BBRS did not act on solar setbacks, the Fire Board adopted language on solar setbacks before the BBRS, the BBRS adopted set back language in the 10th edition, and presently there is a conflict. He indicated his opinion that there is a situation which is difficult for solar installers, building officials and fire officials. He stated his belief the goal here is to meet the fire code in the middle with the hope that Fire will update their code to either adopt the same language, or Ian's preference would be to just reference the building code going forwards. It is important to acknowledge where we are right now with it in both codes and in a messy situation now. He put forth that the board should consider supporting this as a first step towards clarifying this for everybody and then the guidance is really guidance, just specific to the current messy situation. In the interest of progress, he hoped the BBRS can take a vote on this and move it forward.

Luke McKneally proposed minor amendments to what was submitted in reference to Jeff's and Counsel's concerns. In reference to Jeff's concerns, he noted regarding R324.6 that exception 2 where this consultation comes up, is a very specific case. He stated this is a case where the building official may appreciate fire officials assistance in making a decision that no access pathways or setbacks will be required for this particular roof. To this point, he recommended verbiage stating the building official in consultation with the fire official determining that rooftop operations will not be employed. In addressing Counsel's concern, this is more specifically related to R107.3.1 Fire Department review, the Solar Setback Committee specifically added may only with regards to solar PV installation work to limit its use. Ross Seavey commented further on the language of making an application or shall apply and the code does not usually deal with exceptions this way. He noted he is fine with the consultation language code change.

Luke McKneally made the point to the public, it would require some additional documentation and it would require some strong argument for that to be a valid exception.

Further comments that not everything needs to be regulated and that if there is a may, or in consultation statement, someone still needs to make a final decision and that should be with the building code.

Further comments added that this is not about building officials doing their jobs better than the fire service. It is about what is more efficient and trying to make the process a little less convoluted for the applicants and end users of the code. Noted that putting the criteria in the building code is where it belongs.

Jake Nunnemacher comments included the BBRS should give clear instructions back to the Solar Setback Committee for them to address, there must be something given to the fire department to ensure that the scope of the building code is to protect

firefighters while they are operating and his concern about homeowner hardship when a fire official appeals.

Luke McKneally shared his screen and noted that the Solar Setback Subcommittee has done a reasonable job of incorporating Fire's concerns into this language. In the case where an exception might be made where no access pathways or setbacks would be provided, it is beneficial that it is done in agreement between the two parties. He strongly encouraged that the wording be kept. He removed the applicant shall apply with the understanding that the applicant is going to need to apply. He made some proposal changes to Appendix AJ and the vague language; specifically, instead of the 12 months it suggests 180 days.

Further discussion ensued on the issue of two codes and having the BFPR to speak with BBRS. It was noted that the BBRS did invite the BFPR to attend and have discussions regarding the codes.

Ian Finlayson made a motion to adopt the code change proposals as presented and amended by Luke McKneally during the meeting, seconded by Luke McKneally. There was a friendly amendment by Jeff Clemons after the changes made were reviewed, seconded by Luke McKneally. Luke noted the changes made, and will provide the document with the tracked changes to Executive Director Gropman so that it is shared with the board. The motion included these updates:

He removed the line specifically requesting an application for the exception roof access pathways and setbacks. It now reads roof access, pathways, and setbacks need not be provided where the building official, in consultation with the fire official, has determined that rooftop operations will not be employed.

Is the horizontal area below an access pathway to extend 36 inches to the left or right of the center line of the access pathway and in addition, all emergency escape and rescue openings to that roof's bottom edge was added.

And then lastly, the points to Jeff's comments regarding Appendix AJ. These now read - Existing photovoltaic systems are permitted to be temporarily removed and reinstalled within 180 days in the same location A permit is required. Existing photovoltaic systems are permitted to be temporarily removed and replaced with no change to electrical or physical parameters of the array without having to comply with Section R324.6. A permit is required. Removed existing photovoltaic systems that are replaced with changes to electrical or physical parameters of the array or systems shall comply with section R324.6. A permit is required.

It was noted that the guidance document provided is not a part of the code change proposal voted on. It is a separate item.

A roll call vote was conducted, the motion passed by majority vote:

Yes: Dave Riquinha, Mike McDowell, John Couture, Tarica Leskiw, Luke McKneally, Atiya Rahim, Sy Nguyen, Ross Seavey, Ian Finlayson

Abstention: none

No: Jeff Clemons, Jason Ferschke, Jake Nunnemacher

Jake Nunnemacher made a second motion to instruct BBRS staff to reach out to the BFPR to schedule a meeting to discuss the solar photovoltaic requirements between

527 CMR 11.12 and the one just voted to open formally the discussion between the two boards. There was no second, though it was noted the BFPR representatives had been invited to attend this meeting but none appeared. The motion was rescinded.

8) Discuss other matters not reasonably anticipated 48 hours in advance of meeting

Board members – no discussion

Non-Board members - John Nunnari asked a question about the progress of appointments to the various technical advisory committees, the schedule, and if organizations should be reaching out to enlist their service. Executive Director Gropman provided that Chair Davey is just finishing up the appointments to the subcommittees. She also noted that the TACs that were part of the 10th were sunsetted and new TACs will be created for the 11th beginning. The plan is to begin in June. She will add to next month's agenda an updated timeline for the 11th.

9) Quasi-judicial session per M.G.L. c 30A, s. 18 (closed to the public)

Jake Nunnemacher made a motion to close the public hearing and enter quasi-judicial session for M.G.L. c 30A, s. 18, seconded by Jeff Clemons.

A roll call vote was conducted, the motion passed unanimously.

a) Reconsideration of sanctions in Docket No. C24-00059

After the quasi judicial session, it was reported for the record that the Board has proposed a consent agreement to resolve the matter.

Adjournment

At 1:08 p.m., a motion to adjourn was made by Jake Nunnemacher, this motion was seconded by Jeffrey Clemons and was approved unanimously by roll call vote with each member voting yet.

Items Relied Upon

Agenda

Draft Minutes

Carbon Monoxide proposal

Solar Setbacks Subcommittee proposals