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**Board of Building Regulations and Standards (BBRS)**  
**Department of Public Safety, One Ashburton Place, Boston, MA 02108**  
**July 19, 2016 at 1:15 p.m.**

**RC opened the meeting and roll call was taken.**

Richard Crowley Chair (RC)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	Kerry Dietz (KD)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent
Thomas Perry, V.C. (TP)	<input type="checkbox"/> present	<input checked="" type="checkbox"/> absent	Peter Ostroskey (PO) or designee	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent
Felix Zemel (FZ)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	Michael McDowell (MM)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent
John Couture (JC)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	<i>Structural Engineer, open</i>	<input type="checkbox"/> present	<input type="checkbox"/> absent
Kevin Gallagher (KG)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	Christopher Pennie (CP)	<input type="checkbox"/> present	<input checked="" type="checkbox"/> absent
Cheryl Lavalley (CL)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent			

\* Jennifer Hoyt (JH) participated as designee for PO.

ALSO IN ATTENDANCE Steve Carley (SC), Counsel, Elizangela Barros (EB), Tom Riley (TR). Others in attendance listed in attached Audience Sign-In Sheet (**EXHIBIT T**):

**General notes on format:**

- 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).
- The July 19, 2016 Agenda is listed as **Exhibit A**; other EXHIBITS are listed sequentially as addressed during the meeting.

## **BBRS MEETING**

### **1. The Draft June 14, 2016 meeting minutes (Exhibit B) were reviewed.**

MOTION by FZ to accept the minutes of the June 14, 2016 BBRS meeting as drafted, SECOND by MM; VOTE Unanimous.

### **2. Review and discuss oral and written comments in connection with June 14, 2016, public hearing considering adoption of amendments to energy provisions of the building code.**

RC noted that energy code proposals addressing rooftop solar readiness and electric vehicle service equipment capability will be further studied by the BBRS but otherwise the energy code proposals presented at public hearing in June, 2016 would be addressed, thus RC then TABLED these topics in his position as Chairman.

It was additionally noted that a summary of comments was developed for BBRS usage (such summary was part of the BBRS July 19, 2016 Agenda exhibits (the Summary is **Exhibit C**)

### **3. Consider and discuss proposed technical amendments to said energy provisions.**

FZ provided recommendations for BBRS affirmative vote and such recommendations included:

Recommendation to adopt most of the proposed Chapter 13 energy provisions as further modified by DOER in their effort to reflect public comment.

Recommendation to adopt most of the proposed Chapter 51 energy provisions as further modified by DOER in their effort to reflect public comment.

Recommendation to adopt the proposed Stretch Energy Code as initially presented.

Much dialogue among the BBRS membership and the audience present, then followed, including concern about energy efficiency impacts on agricultural buildings with a decision that agricultural buildings will be looked at in great detail at the time of 9<sup>th</sup> Edition Public Hearing which is expected shortly.

### **4. Consider and vote final language of amendments to said energy provisions.**

The following Votes of the BBRS relate to energy code proposals 780 CMR - "Chapter 13: Energy Efficiency" (**Exhibit D**); 780 CMR - International Residential Code, "Chapter 11: "Energy Efficiency" (**Exhibit E**); and 780 CMR, Appendix AA "Stretch Energy Code" (**Exhibit F**).

FZ guided the BBRS membership through the various energy code proposals as refined by DOER and additional staff-recommended changes and after extensive discussions among BBRS members and members of the audience, the following energy code provisions were adopted:

Chapter 13 Energy Efficiency Regulations (**Exhibit D**):

Sections 1300.1, 1301.1.1, C401.2, C401.2.2 – C401.2.2.2, C402.6, C405.1, C406.1, C406.5, C407.6.1.2, C407.6.1.3, C407.6.1.4.

Additionally, and still referring to Exhibit D, the following sections were adopted with staff-recommended amending as follows:

C407.6.1.1 but w/Item 4. modified to read; “4. Any other software or rating standard approved by the Board of Building Regulations and Standards.”

C407.6.1.4.1 but with Items 1. and 2. addressing HERS offset numbers reset from “4” to “5” (returning such values to those originally drafted).

Table C407.6.1.4 but with the Maximum HERS Index Score values reset from 59 to 60, 69 to 70, 61 to 62, 71 to 72, 65 to 67 and 75 to 77, as applicable (returning such values to those originally drafted).

C503.1, Exception – adopted but with Exception 4. retained (returning such language to that originally drafted).

As noted in Minutes, Item 2 above, Sections C402.3 through C402.3.6 (Rooftop solar readiness) and C405.10 (Electric vehicle service equipment capable-Mandatory) were not included for BBRS Vote as these matters are still being studied.

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For 780 CMR - International Residential Code, “Chapter 11: “Energy Efficiency” (**Exhibit E**), the following Sections, as refined by DOER, were adopted:

N1100.1, N1101.1, N1101.6 (R202), N1101.13 (R401.2), N1101.14 (R401.3), Table N1102.1.2 (R402.1.2), Table 1102.1.4 (R402.1.4), N1102.1.5.1, N1103.3.3 (R403.3.3), N1103.6 (R403.6), N1103.6.2 (R403.6.2), N1103.6.3 (R403.6.3), N1103.6.4 (R403.6.4), N1103.6.5 (R403.6.5), N1103.6.6 (R403.6.6), N1106.1 (R406.1), N1106.1.2 (R406.1.2), N1106.3 (R406.3), N1106.4 (R406.4), N1106.5 (R406.5), N1108.1.2 (R502.1.2).

Additionally, and still referring to Exhibit E, the following sections were adopted with staff-recommended amending as follows:

N1106.1.1 (R406.1.1) but w/Item 3. modified to read; “4. Any other software or rating standard approved by the Board of Building Regulations and Standards.”

N1106.4.1 (R406.4.1) but with Items 1. and 2. addressing HERS offset numbers reset from “4” to “5” (returning such values to those originally drafted).

Table N1106.4.1 (R406.4.1) but with the Maximum HERS Index Score values reset from 59 to 60, 69 to 70, 61 to 62, 71 to 72, 65 to 67 and 75 to 77, as applicable (returning such values to those originally drafted).

As noted in Minutes, Item 2 above, Section N1104.3 (R404.2) Electric vehicle service equipment Ready-Mandatory) was not included for BBRS Vote as these matters are still being studied.

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The Stretch Energy Code as initially drafted (**Exhibit F**), was adopted without further amendment.

Following extensive discussion related to the commercial energy efficiency code, the one- and two-family energy efficiency provisions and the Stretch Energy Code, the draft regulations, as described in **Exhibits D, E, and F** were adopted with the amendments noted above as further amendments to the current 8<sup>th</sup> Edition of 780 CMR / such adopted amendments, along with rooftop solar readiness and electric vehicle service equipment capability will also be presented, as part of the DRAFT 9<sup>th</sup> Edition of 780 CMR at such time as public hearing on the DRAFT 9<sup>th</sup> Edition Building Code is held.

MOTION by FZ, SECOND by MM VOTE Unanimous (note original Motions were amended and after much discussion, the final Motions captured reflect the adopted regulatory language identified above).

**ACTION** – Promulgate the adopted energy efficiency regulations as amendments to the present 8<sup>th</sup> Edition of 780 CMR.

**5. Review and approval of the minutes of the Building Official Certification Committee (BOCC) for the following dates:**

- a. April 6, 2016 (**Exhibit G**)
- b. May 12, 2016 (**Exhibit H**)

FZ provided overview, noting the BOCC did not meet in July. FZ recommended approval of the BOCC minutes.

MOTION by MM, SECOND by FZ VOTE Unanimous

**6. Review and approval of the updated Building Official New Employee Report Form (Exhibit I).**

FZ provided overview and recommended the new Form be approved.

MOTION by MM, SECOND by JC VOTE Unanimous

**7. Review correspondence (Exhibit J) from the BFPR relative to updating the Electrical Code.**

FZ provided overview and recommended that the BBRS direct a staff person to participate with the BFPR as the BFPR moves forward w/development and adoption of the 2017 variant of the NEC / RC noted that this is a great example of the BBRS and the BFPR working together to assure that the adoption of one Code (NEC) does not create conflict or duplication with another Code (780 CMR).

MOTION by FZ, SECOND by MM VOTE Unanimous

**ACTION:** Assign a staff person to participate w/the BFPR in 527 CMR 12 development.

**8. Consider approval of 140 new CSLs issued in the month of June, 2016.**

MOTION by FZ, SECOND by MM VOTE Unanimous

**a. CSL qualifications to sit for exam (variance request)**

**Bruce Cleare**

FZ provided overview and the BBRS determined, based on the information provided (**Exhibit K**), that Mr. Cleare had more than adequate construction background, even though many years of such experience were outside the so-called “3 years of experience within the last 10 years” rule and therefore voted to allow Mr. Cleare to take the CSL examination based on his lifelong extensive construction experience.

MOTION by MM, SECOND by MM VOTE Unanimous

**b. CSL military and/or medical reinstatement**

- **Steven J. Antonellis (CS-084796)**
- **Neil T. Melker (CS-074824)**
- **Scott Bannister (CS-103276)**

Steven J. Antonellis (CS-084796) was present at the July 19, 2016 meeting of the BBRS - RC invited Steven J. Antonellis to explain his situation to the full Board in order that the BBRS could decide if Mr. Antonellis should be allowed reinstated as a CSL-holder.

Based on Mr. Antonellis’s compelling testimony and medical history (**Exhibit L**), the Board reinstated Mr. Antonellis’s CSL.

MOTION by FZ, SECOND by MM VOTE Unanimous

Neil T. Melker (CS-074824) was not present at the July 19, 2016 meeting of the BBRS but is expected at the Board’s next meeting to present his reasons as to why the BBRS should reinstate his CSL.

Scott Bannister (CS-103276) was present at the July 19, 2016 meeting of the BBRS - RC invited Scott Bannister to explain his situation to the full Board in order that the BBRS could decide if Mr. Bannister should be allowed reinstated as a CSL-holder.

Based on Mr. Bannister’s testimony (**Exhibit M**) and given that Mr. Bannister’s CSL expiration was within the past three years, the Board reinstated Mr. Bannister’s CSL.

MOTION by MM, SECOND by FZ VOTE Unanimous

**ACTIONS** – Reinstate CSL Licenses to Steven J. Antonellis (CS-084796) and Scott Bannister (CS-103276).

- c. **Review of the CSL Hearing Officer decision in the following matter:**  
*Patricia Whelen v. Barry L. Bloomstein*, Docket No. 2015-509

S Carley and FZ provided overview and after much Board discussion, it was determined to remand the Case (**Exhibits N, O and P**) back to the Hearings Officer with instruction to increase the CSL suspension to one (1) year and require retesting (the original penalty was suspension for three (3) months and a required retesting).

MOTION by FZ, SECOND by MM VOTE Unanimous

**ACTION:** Remand Decision *Patricia Whelen v. Barry L. Bloomstein*, Docket No. 2015-509 to the Hearings Officer to increase the CSL suspension to one (1) year and require retesting and then issue Decision.

**9. Discuss DRAFT Pool Enclosure Interpretation.**

FZ provided overview of the Draft BBRS Official Interpretation No. 2016\_01 (**Exhibit Q**) addressing barriers and guards around public and semi-public swimming pools in MA.

Based on FZ's presentation the Board voted to approve and issue the Interpretation as drafted.

MOTION by FZ, SECOND by MM VOTE Unanimous

**ACTION:** Issue Official Interpretation No. 2016\_01 to all Building Departments and post to the DPS/BBRS web in the appropriate place for Official Interpretations.

**10. Discuss board member relative to single family structures over 14,400 square feet.**

FZ and MM provided overview of the "argument" of whether single family and two-family dwellings of 14,400 square feet or greater should possibly be regulated by the MA-amended IBC rather than the MA-amended IRC.

FZ read excerpts from a email guidance from the ICC (**Exhibit R**) on some of the possible impacts should such one- and two-family dwellings be regulated by IBC rather than IRC design and construction requirements.

It was decided to Table this matter and consider such as comments to the DRAFT 9<sup>th</sup> Edition of 780 CMR at the time of Public Hearing.

**11. Discuss appointing authority for Building Officials.**

FZ provided overview but recommended this matter be TABLED until the Board's next monthly meeting (expected for September, 2016).

**12. Discuss and decide appropriate course of action relative to a complaint by William Solfisburg relative to the Manufactured Building located at 124 Mount Blue Street (AKA Lot #3 Mount Blue Street), Norwell, MA.**

RC invited Tim Fitzgerald (former Building Commissioner of the Town of Norwell), Steve Kennealy (DPS Modular Building Program Manager), Steve Carley (SC - DPS Deputy Counsel), and William Solfisburg (Homeowner of 124 Mount Blue Street property) to provide overview of the Code noncompliances at the subject property and to also discuss complaint matters associated w/the Modular Building Manufacturer, Third Party Inspection Agency and other associated entities.

The combined presentations painted a picture of both property-specific, in-field Code administrative and construction non compliances as well as potential fundamental issues with the current regulations addressing Modular Building requirements (780 CMR, Regulation 110.R3) / Note these combined Presentations were detailed and in order to fully understand the spectrum of issues identified, one must also review the DPM recordings of this portion of the BBRS meeting as well as review Exhibit P of these Minutes.

Following the various presentations, FZ, w/guidance from SC, made a motion requiring a full “30A” Hearing be held and any and all parties legally subject to such Hearing be included in said hearing (SC and the DPS Legal Department will need to determine, based on the regulatory language of 780 CMR 110.R3, the “legal reach” available to the BBRS and DPS in this matter relative to the Third Party Inspection Agency, the Modular Building Company and other parties associated with this building project).

See **Exhibit S** but note a supporting 53 MB flashdrive file is also available upon request.

MOTION by FZ, SECOND by MM VOTE Unanimous

**ACTION:** Prepare and hold the necessary “30A” Hearing

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Given the clear concerns regarding the current language and requirements of 780 CMR 110.R3, FZ made a motion to create a Working Group to review the current language and requirements of 110.R3 w/the requirement that the Working Group report out Findings and Recommendations to the BBRS.

This Working Group, as a minimum to consist of FZ, Steve Kennealy, KG, a member of the Modular Building Industry and William Solfisburg.

MOTION by FZ, SECOND by MM VOTE Unanimous

**ACTION:** Assemble the Modular Building Working Group and identify initial Tasks.

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

- a. FZ explained that several members of the current SBOCC are up for reappointment and recommended reappointment of Michael Clancy, Jeffery Richards, Donald R. Torrico, Andrew Bobbola and Bonita Weeks.

MOTION by KG SECOND by JC VOTE Unanimous

**ACTION** – Notify parties of voted reappointment.

- b. FZ explained there is a Working Group for the Convention Center (such Group has yet to meet) but there was need to assign a FPE who would be able to make the necessary meetings and to that end FPE Mike DiMascio replaced the original FPE who has not been available.

Additionally, FZ noted that FCAM needed to recommend a Fire Chief from a city for this Working Group so that DPS, FCAM and the SFM's Office could begin to work collaboratively.

MOTION by FZ SECOND by MM VOTE Unanimous

**Action:** Notify M. DiMascio of appointment to the Convention Center Working Group; identify the selected Fire Chief from a city and assemble the Convention Center Working Group and identify initial Tasks.

- c. KG explained a natural gas pipeline system would service the proposed largest LNG storage facility on the east coast of the country (KG's community). KG requested the Board consider establishing a Working Group to look at the present MA Code and Fire Code.

Establishment of such a Working Group was supported by the Board membership.

MOTION by KG SECOND by JH VOTE Unanimous

**Action:** Begin assembling the LNG Working Group and report status at the September 2016 BBRS monthly meeting.

- d. Bob Carasitti, Chair of the FPFPP requested clarification on FPFPP assignments, identifying:
- Possible 3 Family fire sprinkler & monitoring issues
  - Possible 3 family heat detector audibility
  - Possible issues surrounding Exception 4 to Code Section R501.3
  - Other



Note that since the BBRs 7/19/16 meeting, R Carasitti has refined identification of outstanding issues and such are more clearly captured in his DRAFT NOTICE OF MEETING, made an additional Attachment to these DRAFT Minutes for information only as such post-dates the July 19, 2016 BBRs Meeting supported by these Minutes.

**Action** – Information Only

#### **14. Approve adjourning the meeting**

MOTION by KG SECOND by MM VOTE Unanimous

#### **EXHIBITS:**

- A. BBRs Meeting agenda 07-19-2016
- B. BBRs Meeting Minutes 06-14-2016 (*Approved as amended*)
- C. Digest: Building Code Energy Amendments Public Hearing & Comments Summary
- D. Chapter 13: Energy Efficiency.
- E. 780 CMR - International Residential Code, "Chapter 11: "Energy Efficiency";
- F. 780 CMR, Appendix AA "Stretch Energy Code".
- G. BOCC Minutes of April 6, 2016
- H. BOCC Minutes of May 12, 2016
- I. Updated Building Official New Employee Report Form
- J. BFPR Letter to the BBRs
- K. Bruce Cleare email to FZ, dated June 28, 2016
- L. CSL Reinstatement Request / Steven J. Antonellis
- M. CSL Reinstatement Request / Scott Bannister
- N. Petition for full Board Review (Decision 2015-509)
- O. Decision 2015-509
- P. Popov signature (Decision 2015-509)
- Q. DRAFT BBRs Official Interpretation No. 2016\_01 (Pool Enclosures)
- R. E Mail guidance from the ICC identifying some of the technical impacts of treating large single family dwellings (14,400 Ft<sup>2</sup> and above) as commercial buildings
- S. Identification of Building Code Noncompliances and of issues associated with the Modular Building Program / 124 Mount Blue Street, Norwell / Solfisburg Family/Hard copy of PPT Presentation – note that a supporting flash drive of approximately 53 MB is available on request.
- T. Audience sign-in sheet of those in attendance at the 07-19-2016 BBRs Monthly Meeting

Attachment 1 – FPDF DRAFT NOTICE OF MEETING clarifying BBRs assignments to the FPDF (provided as information only as such DRAFT postdates the July 19, 2016 BBRs Meeting)