



## BOARD OF REVIEW MINUTES

June 20, 2007

10:30 a.m.

**MEMBERS PRESENT:** Chairman Jeff Johnson  
Vice Chairman Ken Murphy  
Mr. J. B. Johnson  
Mr. Frank Watson  
Mr. Sol Chavez

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Mr. Henry Yankowski, Regional Building Official  
Mr. Curtis Martinell, Assistant Building Official  
Mr. Bob Croft, Operations Manager  
Mr. Jim Vernon, Mechanical Field Supervisor  
Mr. Jim Pepper, Building Field Supervisor  
Mr. Todd Welch, Regional Senior Attorney  
Ms. Pattie Starling, Board Secretary

### PROCEEDINGS:

Chairman Jeff Johnson called the meeting to order at 10:35 a.m.

#### 1. CONSIDERATION OF MAY 16, 2007 MINUTES

A motion was made by Ken Murphy to **APPROVE** the minutes as written, seconded by J.B. Johnson; the motion carried unanimously.

#### 2. CONSIDERATION OF LICENSING AND MINUTES

##### a) Building Committee minutes of June 6, 2007

Sol Chavez requested further information regarding items 4h and item 20 of the Building Committee Minutes. Pattie Starling said that item 4h was a permit that was issued under the old, 1997 Uniform Building Code, where a 36" well is required even though the home was built prior to January 1, 2000. She said that item 4 variance

request was a consent calendar item. Ms. Starling said that item 20 is a permit that was issued under the new, 2003 International Residential Code.

Sol Chavez requested further information regarding item 14 of the Building Committee minutes. Mr. Chavez said that a 5'9" clearance was pretty short. Chairman Johnson said that he understood that there was a secondary access on the balcony.

Chairman Johnson requested information on the Complaint Update for Lennar Homes. Jim Pepper said that Lennar has been working to clear their "A" status permits and are doing better, but are still not in complete compliance and have not made enough progress.

Frank Watson requested further information regarding item 19, 1540 Napoli Way, of the Building Committee minutes. Brian Olson said that there were some mixed views on this variance request and that he believed this was too great a difference in code. Jim Pepper said that the stairs in question are exterior stairs that lead to the patio. He said that this is a secondary entrance and the first rise from the door down, is the largest rise. Brian Olson said that the homeowner did not want to replace the stairs because of the cost.

Frank Watson requested further information regarding item 26 of the Building Committee minutes. Cory Monroe, homeowner, appeared. Mr. Monroe said that the landing in question is the landing into the basement stairs. He said that there is 19" on the drywall (right) side and there is concrete on the other side.

Gene Zimmer, former Committee member, said that item 19 of the Building Committee minutes is concerning him. He said that the differential in stair risers has been a main safety concern of previous Committee members. Mr. Zimmer said that the change in risers could cause injuries. J.B. Johnson said that these only two risers and are on exterior stairs. Chairman Johnson said that the safety must be the concern, not cost.

A motion was made by J.B. Johnson to **APPROVE** the June 6, 2007, Building Committee Minutes, with the exception of item 19, 1540 Napoli Way, seconded by Sol Chavez; the motion carried unanimously.

A motion was made by Frank Watson to **DENY** the variance request for 1540 Napoli Way, permit G07515, because of the life safety issue, seconded by J.B. Johnson; the motion carried unanimously. There was a question why the contractor was not present to hear the reversal from approved to denied. Curtis Martinell said that the contractor that requested this variance was most likely informed that that this item would

probably be discussed and possibly be denied.

b) Mechanical Committee minutes of June 13, 2007

A motion was made by Ken Murphy to **APPROVE** the June 13, 2007, Mechanical Committee minutes as written, seconded by J.B. Johnson; the motion carried unanimously.

c) Electrical Committee minutes of May 15, 2007

A motion was made by Ken Murphy to **APPROVE** the May 15, 2007, Electrical Committee minutes as written, seconded by J.B. Johnson; the motion carried unanimously.

### 3. **TASK FORCE/FEE COMMITTEE REPORT**

Gene Zimmer presented the Fee Committee Report. Mr. Zimmer said that the future of the old building was discussed and that the Committee felt that in the future, the building should be leased at market value, instead of the current \$5 per square foot. He said that the lease rate affects the value of the building. Mr. Zimmer said that the Committee feels that the Capital Reserve Fund should be used for this building only, and that Regional Building Staff should recommend the levels that should be maintained. He said that the Cash Reserve Fund should be maintained at 25-50 percent of the operating balance, with the addition of building operating cost (rent, CAM, utilities, etc.) for one year. Mr. Zimmer said that as the fund increases, excess should be transferred to the Capital Reserve Fund. He said that the industry is willing to pay increased fees, but still want to receive quality service. Bob Croft said that some fees are collected for the Development Review Enterprise, special funds for Meridian Ranch, and the Fire Department when permits are purchased. Mr. Croft said that credit card fees are 3-3.5 percent of the transaction. Mr. Zimmer said that the fee is reimbursed at two percent, but that this is not enough.

### **DECISION APPEALS**

4. 2960 South Academy Boulevard, Suite 110, permit G21424 – Michael MacDonald, architect, requests a variance to Sections 706.3.6 and 1004.1, 2003 International Building Code, to waive the requirement for a two-hour fire resistance separation between mixed occupancy structures by using the lowest number of occupants per Section 1004.1, 2003 International Building Code. (*This variance request was heard on June 7, 2007, and the Building Committee recommended DENIAL of the variance request because it is a life safety issue.*)

David Brinker, Peak Professional Contractors, appeared. Mr. Brinker said that the shell plan showed “A-2” and “M” occupancies, with a one-hour firewall and was approved under the 1997 Uniform Building Code. He said that Team Mobile is an “M” occupancy and Panda Express is an “A-2” occupancy. He said that the tenant finish plans for Panda Express showed the demising wall as existing, and was originally submitted erroneously as a “sprinklered” building. He said that the plans were re-submitted, but that it may not have been revisited as a non-sprinklered building. Mr. Brinker said this is type IV, non-rated construction. He said that total square footage of Panda Express is 2340 and 976 of that is for seating. Roger Lovell said that when this project was brought in with the shell, it showed demising walls with one side dry wall. He said that the tenant finish plans showed the demising wall as existing. Mr. Lovell said that he has spoken the CSFD and that they oppose this variance because if an occupancy load is reduced, there is no way to enforce it. He said that code requires the largest number of either the actual number of seats or square footage divided by 15 to determine occupancy load, and that the square footage method is larger and must be used.

A motion was made by Ken Murphy to **DENY** this variance request because of life safety issues, the type of equipment used, and to protect Panda Express and it’s neighbors, seconded by J.B. Johnson; the motion carried unanimously. Bob Croft said that it should be noted that a different design professional is being used for Panda Express than was used for the shell. J.B. Johnson said that occupant loads can change with tenants and that we cannot be the “Police” to ensure compliance. He said that if it was sold and then operated under the same occupancy, notification would not be given. David Brinker said that this would have been allowed under the old code and that it does have a one-hour firewall. Chairman Jeff Johnson said that codes are improved for safety as more information is learned. Curtis Martinell said that the new code was adopted November 1, 2005, and that the shell was built under the new code.

5. 1849 Austin Bluffs Parkway, permit F98349 – Mark Long, S&S Homes, LLC, requests a variance to Section 1009.3, 2003 International Building Code, to allow a 7½” rise where a maximum of 7” is allowed. (*This variance request was heard on June 7, 2007, and the Building Committee recommended DENIAL of the variance request because it is a life safety issue.*)

Mark Long appeared. Mr. Long said that the reason for the variance request is because it is only two steps and is not a significant amount over code allowance. He said that this was recommended for denial with a split vote. He said that both steps are 7 ½”. A motion was made by Frank Watson to **APPROVE** this variance request because the steps are equal in size, there are only two steps, and it is not a safety issue, seconded by Sol Chavez; the motion carried unanimously. J.B. Johnson said that there is a handicap ramp installed and that this could be considered a secondary entrance.

6. 5520 & 5560 Barnes Road – Mohsen Bagherian, The Custom Villas II, requests a variance to Section RBC203.1, 2005 Pikes Peak Regional Building Code, to allow a B-1 licensed contractor to obtain 2 permits requiring an A-1 license. *(This variance request was heard on June 7, 2007, and the Building Committee recommended DENIAL of the variance request because of the testing requirement.)*

No one appeared. Pattie Starling said that Mr. Bagherian was aware of the date and time of this meeting, and that he was notified of this when he appealed. Brian Olson, Vice Chairman of the Building Committee, said that the Committee felt that he did not have enough experience, and that Mr. Bagherian said that his medical condition does not allow him to take the test. He said that the size of the project, and occupancy were also factors. A motion was made by Frank Watson to **UPHOLD** the recommendation of the Building Committee to **DENY** this variance request because there is not enough experience demonstrated, seconded by J.B. Johnson; the motion carried unanimously.

7. J.L. Cole Inc. dba Wright Total Indoor Comfort, Weldon Long, requests a name change to consolidate Wright Plbg. & Htg. Co. Inc., JDS Mechanical, and A Best Value under the umbrella of J.L. Cole Inc. dba Wright Total Indoor Comfort. *(This name change request was heard on May 9, 2007, and the Mechanical Committee recommended DENIAL of the name change request because the name is still in dispute and it has not been established that there is a clear right to advertise and do business under this name.)*

Todd Welch said that J.L. Cole has an examinee that was approved by the Mechanical Committee for a Mechanical Contractor A License with the name, J.L. Cole dba Wright Total Indoor Comfort, and that this License was granted when the June 13, 2007, Mechanical Committee minutes were approved. Mr. Welch said that this item is now irrelevant.

## 8. **COMPLAINTS**

There were no complaints to discuss.

## 9. **UNFINISHED BUSINESS**

### a) Stucco License Testing

Jim Pepper said that licenses are currently being issued for stucco contractors but there is no testing requirement. Mr. Pepper said that there is an association of stucco contractors that would like a test created. Chairman Johnson said that the Association sees a need for testing in the industry because of lawsuits due to improper

installation. He said that Pueblo Building Department and other jurisdictions require testing for their contractors. Mr. Pepper said that there are a lot of other license types that should be tested and are not, and that stucco is just one of many. He said that he does not receive complaints about improper stucco. Chairman Johnson said that our jurisdiction is very proactive and has very competent inspectors. Sol Chavez said that there should not be too much regulation. J.B. Johnson said that this is a cosmetic issue and not a safety issue. Brian Olson said that some of the concerns were mold issues between the stucco and the wall. A motion was made by Frank Watson to **DENY** the request to implement a testing requirement for stucco-licensed contractors because of discussion and staff opinion, seconded by Sol Chavez; the motion carried unanimously.

b) Investigation of Contractors

Chairman Johnson said that a list of “problem” contractors should be created and competency levels evaluated. He said that framers should be licensed. Jim Pepper said that he believes there are about 30-40 percent of framing contractors that do not speak English and may have difficulty passing a test. He said that ultimately, the General Contractor is responsible. Frank Watson said that as a homebuilder, he chooses the sub contractors, and that it is his responsibility to ensure quality. Mr. Pepper said that perhaps superintendents should be licensed, as inspectors are constantly educating them and framers in the field. He said that engineer reports are accepted, although more often than not, the actual engineer did not inspect, but a technician did. Ken Murphy said that we have duty to protect the public. Sol Chavez said that using the logic of the General Contractors being the only one responsible, then General Contractors would be the only person licensed. Mr. Chavez said a compromise between responsibilities should be made. Jim Vernon said that Mechanical Technicians are licensed, not just the contractor. He said that technician is the person who actually works on site. He said that this same scenario could be used for framers.

10. **NEW BUSINESS**

There was no new business to discuss.

11. **OTHER ITEMS OF CONCERN**

a) License Committee

Jim Vernon said that there has been some discussion on creating a new Committee to process Licensing. Chairman Jeff Johnson said that Building and Mechanical Committee agendas are very long, and licensing could be processed through another Committee. Brian Olson said that when the Building Committee hears complaints and license requests, often a member would recognize a former problem. Todd Welch said that code dictates that Technical Committees and the Board of Review must review licensing issues. He said that there could be a preliminary review by a Committee, and could make recommendations to the Building and Mechanical Committees. J.B. Johnson said that not all license requests are heard before the Committee if certain criteria are met.

b) Thomas Phillips, Phillips Heating and Air

Jim Vernon said that this item was not on the Agenda or Minutes but was heard before the Mechanical Committee on June 13, 2007. He said that there was a complaint against Mr. Phillips previously and that he has requested that the restriction that was placed on his license be lifted. He said that the Darrell Lackey made a motion to recommend to the Board of Review that the restriction on the contractor's license of Thomas Phillips, licensee for Phillips Heating and Air, be removed, seconded by Mark Pelletier; the motion carried unanimously.

A motion was made by J.B. Johnson that the Mechanical Committee Minutes be **AMENDED** to include this omitted motion, seconded by Sol Chavez; the motion carried unanimously.

c) Newspaper Articles

Curtis Martinell said that there have recently been an article in the Rocky Mountain News and the Gazette regarding blatant code violations in State funded public schools. Mr. Martinell reminded the Committee that Regional Building Department does not inspect or ensure code compliance on State or Federally owned property.

The meeting adjourned at 12:29 p.m.