



BOARD OF REVIEW MINUTES

November 18, 2009

10:30 a.m.

MEMBERS PRESENT: Chairman Sol Chavez
Mr. Johnny (J.B.) Johnson
Mr. Rick Johnson
Mr. Johnny Garcia
Mr. Frank Watson

MEMBERS ABSENT: None

OTHERS PRESENT: Mr. Henry Yankowski, Regional Building Official
Mr. Bob Croft, Special Projects Coordinator
Mr. Jim Vernon, Chief Mechanical/Plumbing Supervisor
Mr. Jim Pepper, Chief Building Supervisor
Mr. Dean Wemmer, Chief Electrical Supervisor
Mr. Todd Welch, Regional Building Counsel
Mr. Russell Kauk, Senior Plans Examiner
Mrs. Pattie Bengner, Human Resources
Ms. Linda Gardner, Executive Administrative Assistant

PROCEEDINGS:

The meeting was called to order at 10:33 a.m.

1. **CONSIDERATION OF OCTOBER 21, 2009 MINUTES**

A motion was made by Frank Watson to **APPROVE** the October 21, 2009, Board of Review Minutes as written, seconded by Johnny Johnson; the motion carried unanimously.

2. **CONSIDERATION OF LICENSING AND MINUTES**

a) Building Committee Minutes of November 4, 2009.

A motion was made by Johnny Johnson to **APPROVE** the November 4, 2009, Building Committee Minutes as written, seconded by Johnny Garcia; the motion carried unanimously.

- b) Electrical Committee of November 10, 2009, was cancelled due to lack of Agenda items.
- c) Mechanical Committee Minutes of November 10, 2009.

A motion was made by Rick Johnson to **APPROVE** the November 10, 2009, Mechanical Committee Minutes as written, seconded by Johnny Johnson; the motion carried unanimously.

3. **DECISION APPEALS**

- a) 115 North Tejon Street, Suite 117 A – Jason Brungardt, Comstock & Associates, requests a variance to Section 704.8, 2003 International Building Code, to allow unprotected openings in excess of what is permitted. *REHEARING – Variance impractical.*

Henry Yankowski appeared, was sworn, and stated after the October Board of Review meeting, RBD had a meeting with the Colorado Springs Fire Marshall and Danny Mientka where it was determined that a UL listed water wash system was not available; therefore, the matter was reheard. Danny Mientka, The Equity Group, appeared, was sworn in, and stated after the October Board of Review meeting, he met with his fire protection contractor and the Fire Marshall, and concluded the UL window wash fire protection system would not be appropriate for this project. He said this building was remodeled into residential condominiums on the second floor and three retail units on the first floor; two side by side facing Tejon Street, and one in the rear of the building, which required the door into the alley. Mr. Mientka stated he has suffered a sufficient financial hardship with this building, and requested that he be allowed to have the building completed pursuant to the provisions of the 1997 Uniform Building Code, which was the Code under which it was originally constructed.

Jim Pepper appeared, was sworn in, and stated Sections RBC104.7 (alternate methods of materials), RBC104.8 (modifications), and RBC111.2.3 (interpretation of the Code), 2005 Pikes Peak Regional Building Code, state the Board of Review may grant a variance to the Code as long as it is an equally good or better form of construction. He said the 1997 UBC does not give that in itself, and RBD staff would like some form of added fire protection, i.e. an access door off of the north side of the building, that was not installed on the previously permitted plan, protection of the egress pathway with 5/8" fire rock, and covering any combustible materials in the carport overhangs with 5/8" fire rock. A motion was made by Rick Johnson to **APPROVE** the variance request, with the stipulation that the combustible materials in the garage canopy are covered with 5/8" fire rock, and all of the construction meet the 1997 UBC, seconded by Frank Watson; the motion carried unanimously.

- b) 715 Aspen Drive – Kevin Dessureault, D.W. Construction, requests a variance to Section RBC203.1, 2005 Pikes Peak Regional Building Code, to allow an “E” licensed contractor to obtain a permit requiring an “A” license. *This variance request was heard at the October 7, 2009, Building Committee meeting, and the Committee recommended that the variance request be APPROVED. RBD staff is appealing this decision.*

Kevin Dessureault did not appear. Jim Pepper appeared, was sworn in, and stated RBD staff opposes this variance request because it is not appropriate to authorize an “E” licensee to pull an “A” permit, because there are many “A” licensees looking for work. A motion was made by Frank Watson to **OVERTURN** the decision of the Building Committee and **DENY** the variance request, seconded by Johnny Johnson; the motion carried unanimously.

4. COMPLAINT UPDATES

There were no Complaints to discuss.

5. UNFINISHED BUSINESS

There was no Unfinished Business to discuss.

6. NEW BUSINESS

- a) Adoption of the 2008 National Electrical Code.

Dean Wemmer appeared and stated the Electrical Committee had moved to request that the Board of Review adopt the 2008 National Electrical Code (“NEC”). The 2008 NEC relaxed some of the requirements for solar panels, changed the number of circuit breakers, i.e. there is no limit now to the number allowed in the panel, and there is relaxation on the requirements for both residential and commercial swimming pools. The main focus is on the residential portion of the Code.

David Keller, Keller Homes and representing the HBA Code Review Committee, said they would like the Board of Review to delay action on adoption of the 2008 NEC until January 1, 2011, or at a minimum delay the implementation of the arc fault protection, the tamper resistant receptacles, and the provisions regarding GFCI protection portions of the Code until January of 2011. He said there is not sufficient data to require the use of tamper resistant receptacles and arc fault circuit interrupters at this time, and more testing needs to be performed before implementation. He stated that arc fault circuit interrupters in bedrooms are a nuisance because they trip with the use of many vacuum cleaners. He said the

increased expense for a starter home for these two items would be between \$1,200.00 to \$4,000.00.

Joan Hathcock, D & J Quality Electric, appeared and stated the tamper resistant receptacles and arc fault interrupters are not readily available in Colorado Springs at the present time. She stated she did not feel the receptacles are as safe as they are claimed to be. She stated her concern is with requiring GFI receptacles, particularly on sump pumps or freezers, which most times are on a dedicated circuit. Mr. Keller stated the problem with the sump pump can lead to larger problems with the house.

A motion was made by Rick Johnson to move into an Executive Session to seek legal advice, seconded by Frank Watson, the motion carried unanimously. A motion was made by Rick Johnson to move out of Executive Session, seconded by Frank Watson; the motion carried unanimously. The Executive Session was held from 11:35 a.m. to 11:48 a.m. and no decisions were made during that session.

Dean Wemmer stated arc fault circuit breakers became part of the NEC in 1999, and have to meet very strict UL requirements. He said the average size home in El Paso County would require seven to nine arc fault breakers. He said the tamper resistant devices are \$1.00 and would add \$26.00 to the costs of the home. Mr. Wemmer stated the additional costs for an average size home in El Paso County for the arc fault circuit breakers and the tamper resistant devices would be approximately \$400.00.

A motion was made by Rick Johnson to **APPROVE** the adoption of the 2008 National Electrical Code and delay implementation of the arc fault circuit breakers and tamper resistant receptacles until at least January 15, 2011; and maintain the exception for the GFCI receptacles, seconded by Johnny Garcia; the motion carried 4:1.

b) Code Change Regarding Plumbing Contractor A – Section RBC205.1, 2005 Pikes Peak Regional Building Code.

Jim Vernon appeared and stated we have had numerous variance requests to waive test requirements regarding gas piping licenses. He said typically those variance requests were granted upon recommendations from RBD staff, and staff understands that the State of Colorado is testing for that type of work. He said since the International Codes have been adopted, the fuel gas portion of the “I” Codes has been set apart and is not included in the International Plumbing Code. We now have an International Plumbing Code and an International Fuel Gas Code. Mr. Vernon stated the State includes five or six questions regarding gas piping, but no questions on combustion air or venting, on the Plumbing Code test. He said RBD’s Mechanical “C-1” license includes venting, combustion air, gas piping, the installation of water heaters, boilers, and stand alone heaters, i.e., unit heaters, and

radiant heat systems. He said the State's testing requirements on gas piping are not comprehensive. Furthermore, no variances to the testing requirements would be allowed. RBD will change the requirements for the plumbing license that would allow water heater installations by that trade. RBD wants to be consistent with the State and allow plumbers to install water heaters. RBD will not allow waiver of the test requirements for our "C-1" licenses because our test is more comprehensive than the State's test for mechanical issues. RBD will change the language of the Plumbing "A" Contractor License to include water heaters, repairs and replacements for plumbers as part of the RBC. RBD is then consistent with the State's requirements. Plumbing contractors would then be required to pass the "C-1" test to perform gas piping and installations of gas fired equipment. A motion was made by Rick Johnson to **APPROVE** the adoption of the new language for plumbing "A" contractors to include installation, repairs, and replacements for water heaters, seconded by Johnny Johnson; the motion carried unanimously.

The meeting adjourned at 12:12 p.m.