

# Pikes Peak Regional Building Department

2880 International Circle  
Colorado Springs, Colorado 80910

## TECHNICAL COMMITTEE MINUTES

August 2, 2023 – Wednesday - 9:00 a.m.

**MEMBERS PRESENT:** Chair Micah Langness, Master Plumber  
Vice Chair Philip Lasarre, Building A or B Contractor  
Jason Leimkuhl, Mechanical Contractor  
Andrew Baturevich, Structural Engineer  
Michael Finkbiner, Building Contractor C or D

**MEMBERS ABSENT:** Thomas Lysne, Architect  
Brian Braaten, Electrical Contractor

**RBD STAFF:** Roger Lovell, Regional Building Official  
Virginia Koulchitzka, Regional Building Attorney  
Jay Eenhuis, Deputy Building Official – Plans  
John Welton, Deputy Building Official – Inspections  
Gina LaCascia, Executive Administrative Assistant

### PROCEEDINGS:

The meeting was conducted in a hybrid form, allowing Committee members, Department staff, and the public to attend in person at the Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, Colorado 80910, Hearing Room on the Upper Level, or virtually via Microsoft Teams live events, as accessible via Pikes Peak Regional Building Department's website Boards & Committees' page at: <https://www.pprbd.org/Information/Boards>.

The Colorado Springs Fire Department (CSFD) appeared virtually to discuss certain variance requests as listed on the Agenda.

#### 1. **CALL TO ORDER: DETERMINATION OF A QUORUM**

Chair Micah Langness called the meeting to order at 9:01 a.m.

#### 2. **CONSIDERATION OF THE JULY 5, 2023 TECHNICAL COMMITTEE MINUTES**

A motion was made by Andrew Baturevich to **APPROVE** the July 5, 2023 Technical Committee Minutes, as written; seconded by Jason Leimkuhl; the motion carried unanimously.

3. **CONSENT CALENDAR**

There were no Consent Calendar items.

4. **ITEMS CALLED OFF CONSENT CALENDAR**

There were no items called off the Consent Calendar.

5. **VARIANCE REQUESTS**

- a) 19160 Birdseye View, Peyton, Permit O34588 – Stephen Schroeder, Builds by Steve LLC, requests a variance to Section RBC303.4.13, Pikes Peak Regional Building Code, 2017 Edition, as amended (the “Code”), based on Item 3 of Section RBC111.2.3, of the Code, to allow an existing window well depth of 24 inches to be used as an emergency escape and rescue opening for a dwelling issued a building permit prior to January 1, 2000, where a minimum of a 30-inch depth is required.

A motion was made by Michael Finkbiner to postpone this variance until later in the Technical Committee meeting when the applicant was able to connect online; seconded by Philip Lasarre; the motion carried unanimously.

*This variance was heard out of order due to technical difficulties.*

Stephen Schroeder appeared virtually and stated that he is working on a large basement refinish where two window wells, when originally installed, were 24 inches deep. Since that time, the homeowner built a deck over one of the window wells. Mr. Schroeder has cut a hole through the deck to clear the egress area of the window well. To bring the egress area up to Code, he would need to reconstruct the deck once the window wells were brought Code compliant.

A motion was made by Jason Leimkuhl to recommend to the Board of Review **DENIAL** of the variance as the egress for the window well(s) is too narrow and causes a life safety issue; seconded by Philip Lasarre; the motion carried unanimously.

Virginia Koulchitzka advised the applicant of his appeal rights as follows: If any party is not satisfied with a decision of the Committee, that party shall have thirty (30) calendar days from the decision of the Committee to file a written notice of appeal with the Department in accordance with Section RBC101.7 of the Code.

- b) 3750 Cottage Drive, Permit O53866 – Michael D. Thompson, property owner, requests a variance to Section RBC303.4.13, Pikes Peak Regional Building Code, 2017 Edition, as amended (the “Code”), based on Item 2 of Section RBC111.2.3 of the Code, to allow an existing window well depth of 23-inches to be used as an emergency escape and rescue opening for a dwelling issued a building permit prior to January 1, 2000, where a minimum of a 30-inch depth is required.

Michael D. Thompson appeared virtually stating that his home was built by Keller Homes in 1997, which was permitted with a bedroom in the basement and with a window well measured at 1-foot, 6 inches deep, by 5 feet wide. He stated however, the window installed at that time actually measures at 23 inches deep. Mr. Thompson proposes to add a partition to create an additional bedroom. He further stated that there are two more egress window wells on the opposite walls.

After a discussion between the Committee members and the Mr. Thompson, it was ascertained that the landscape around the window well includes a nearby backyard shed and an aspen tree with many roots surrounding the window well. Mr. Thompson said it would be very laborious to dig out and remove the aspen roots to make the window well larger for emergency escape and rescue.

A motion was made by Philip Lasarre to recommend to the Board of Review **DENIAL** of the variance as 23 inches of space in a window well is a life safety issue; seconded by Michael Finkbiner; the motion carried unanimously.

Virginia Koulchitzka advised the applicant of his appeal rights as follows: If any party is not satisfied with a decision of the Committee, that party shall have thirty (30) calendar days from the decision of the Committee to file a written notice of appeal with the Department in accordance with Section RBC101.7 of the Code.

- c) 379 Millstream Terrace – Kylie Gerstein, property owner, requests a variance prior to plan submittal, to Section 310.4.1, 2021 International Building Code, based on Item 1 of Section RBC111.2.3, Pikes Peak Regional Building Code, 2023 Edition (the “Code”), to allow an 8-person care facility within a dwelling, where care for a maximum of 5 persons is allowed.

Kylie Gerstein appeared in person and stated that as the homeowner, she and her partners are opening a residential assisted living facility for elder adults. The variance request is to allow an increase in the number of residents from five to eight with the addition of an NFPA 13D sprinkler system. She and her husband are both nurses and currently live in the home. Once they have eight residents, she and her husband will move out. She said that they have run into a zoning issue with the City of Colorado Springs because although it is a residential use, having more than five residents pay to live and receive onsite nursing, makes the home a commercial use, which requires a commercial sprinkler system.

Jay Eenhuis stated that the Department has dealt with this issue before where the State licensing allows up to eight residents, and the Building Code allows up to five within a residence. He said the only option would be a change of occupancy from an R-3 to an R-4, Condition-1, which would allow over five residents, but not more than sixteen. He stated, however, this would require a sprinkler system to be installed and the applicant wishes to retain the residential classification of the property.

Eric Stegale, co-applicant, appeared virtually and stated the desire is to follow the International Residential Code (“IRC”) with regard to egress, fire safety, and accessibility in line with the Code. He further stated according to his research, there are about sixteen other senior-care residential homes in the Springs area that have six to eight residents.

Upon further discussion, Ms. Gerstein stated that the State of Colorado frequently has inspections of the residence as well as the Colorado Springs Fire Department to make sure they are following State and/or local regulations. After reviewing the variance application documents, Philip Lasarre asked what the difference is between an NFPA 13R sprinkler system and an NFPA 13D system. Dee Withee, with CSFD, appeared virtually and stated that the basic difference between the two is the duration of water supply, which increases from ten minutes to thirty minutes between 13D and 13R, wherein 13D is intended for a one and two-family dwelling and 13R is intended for apartment buildings up to and including four stories; as far as the coverage within the building(s), they are the same. Ms. Withee stated further that she does not take any exception to this variance request from a Fire Code perspective.

Chair Langness then asked the applicant if the City has approved this project for zoning purposes. It was determined that City approval or disapproval was lacking from the document, as introduced by the applicant. Further, the applicant confirmed lack of State licensing yet. The applicant represented that the intended use / establishment is for a group home for the aged for the exclusive use of not more than eight persons sixty years of age or older, who do not need nursing facilities, and who so elect, to live in normal residential surroundings, including single-family residential units, C.R.S. § 31-23-303(2)(b)(II). Ms. Koulchitzka advised on the record that nothing in the herein referenced statutory section shall be construed to exempt the group homes from compliance with any state, county, or municipal health, safety, and fire codes.

Mr. Eenhuis provided the Committee with the definition of a dwelling unit from the IRC, which is: A single-unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. There is no requirement in the IRC for the owner of the structure to live within the dwelling unit. In accordance with the Code, if the owner(s) would perform himself/herself any type of construction/remodeling work, which requires permit(s), the owner(s) would need to reside in the dwelling. Otherwise, permit(s) would need to be obtained by licensed/registered contractor(s).

A motion was made by Michael Finkbinder to recommend to the Board of Review **APPROVAL** of the variance to allow for eight residents with the addition of an NFPA 13D sprinkler system where Code allows a maximum of five residents on the condition that the Department receives the approval from the City of Colorado Springs Zoning Department; seconded by Philip Lasarre; the motion carried unanimously.

- d) 3150 Chestnut Street – Adam Thesing, YOW Architects, requests a variance prior to plan submittal, to Section 903.2.1.2, 2021 International Building Code, based on Item 3 of Section RBC111.2.3, Pikes Peak Regional Building Code, 2023 Edition (the “Code”), to omit an automatic sprinkler system within an A-2 Occupancy with 116 occupants, where required for an occupant load exceeding 100 occupants.

Adam Thesing appeared in person stating that YOW Architects is designing an outdoor covered patio structure with a calculated occupancy load of 116 guests at the Best Western Hotel for the purpose of allowing customers to schedule group events and gatherings such as a wedding reception, graduation or birthday party, etc. Mr. Thesing said the structure is detached from the main hotel, and any food or drinks will be brought to the covered patio by a third-party vendor or the hotel itself. He stated that such a structure would require a sprinkler system, however, the structure is built with open-air fencing that does not reach the roof, leaving room for air flow, and he has included four exit doors with panic hardware, one on each side. The variance is requesting to omit the required sprinkler system for the covered patio structure.

Ms. Koulchitzka asked Mr. Thesing to refer to Section RBC111.2.3 of the Code and speak to how the proposed alternative of the variance requested would be an equally good or better form of construction. Mr. Thesing advised that by having four exits with panic hardware and the open-air area between the roof and the top of the walls adds safety as well as having the structure separate from the hotel.

Dee Withee, with CSFD, indicated that CSFD takes no exception to the variance request from a Fire Code perspective. She added that the proposed structure is being built with heavy timber and is beneficial because heavy timber is more resistant to fire because of the mass-to-surface area ratio, which is a better form of construction for an outdoor patio in relation to smaller wood beams. Notwithstanding, she commented on two available alternatives: (i) egress modeling; and (ii) attendees bringing their own food to the venue.

A motion was made by Jason Leimkuhl to recommend to the Board of Review **APPROVAL** of the variance as submitted; seconded by Philip Lasarre; the motion carried unanimously.

- e) 8074 Grey Bark Way, Plan R171539 – Scott Konnath, View Homes, Inc., requests a variance to CRS 9-5-101, Colorado Revised Statutes Title 9, as referenced by Section RBC303.4.27, Pikes Peak Regional Building Code, 2017 Edition, as amended (the “Code”), to allow a “Type B visible ground floor” unit to be constructed per the originally referenced 1998 ICC/ANSI A117.1 document and omit the statement “or any successor section with ICC/ANSI A117.1.”

Virginia Koulchitzka made a correction on the record: “visible” is replaced with “visitable”.

Scott Konnath appeared in person stating that View Homes, Inc. is remodeling townhomes, and the variance submitted is requesting Type B visitable units with access to the main entry doors to be in compliance with the 1998 ANSI A177.1 Standard as opposed to the 2007 ANSI A117.1 Standard. He stated that Type A has wheelchair clearance as required and Type B does not require this clearance. The 2015 IRC, which references the 2009 ANSI A117.1 Standard, contains three types of units, Type A, Type B, and Type C visitable. Unfortunately, a Type C unit does not align with C.R.S. 9-5-105 for the required point system. As such, he stated View Homes, Inc. is caught between Type-C and Type-B under the IRC. He said they want to build as to the original intent of the 1998 ANSI A177.1 Standard, where the units are not required to have an accessible main entry.

Jay Eenhuis agreed with Mr. Konnath, stating that the ICC/ANSI Standard has gone through multiple editions whereas the C.R.S. requirements have not caught up. He stated that C.R.S. addresses this by stating "...or any successor standard" within the definitions of ICC/ANSI A117.1. However, there has never been a path to the Type C visitable unit(s) within the latest ICC/ANSI Standard. Mr. Eenhuis further stated that he believes the applicant in this case is on a good path to utilize the 1998 ANSI A117.1 Standard as it was originally written and intended.

Ms. Koulchitzka advised the Committee that the law is clear, and the meaning of the wording "any successor standard" is also black and white for purposes of reading and interpretation in compliance thereto. She read on record the definition of ICC/ANSI A117.1 "ICC/ANSI A117.1" means the "Accessible and Usable Buildings and Facilities" standard, or any successor standard, promulgated and amended from time to time by the international code council. C.R.S. § 9-5-101(5.5) In the law, when there are successor standards, the successor standards take precedent. She further stated it is common within the law to see the general language "as amended", which means if there are later amendments, those amendments control, and it is up to the contractor to stay current to what the legal requirements are.

Mr. Konnath explained to the Committee that the 1998 reference did not require the wheelchair clearances to enable someone in a wheelchair to open the door on their own when visiting one of the resident units. However, he stated that the primary entrance to the building(s) has the required clearance for a wheelchair of 3-feet.

Ms. Koulchitzka advised the applicant that the Committee has the authority to make recommendations on minor variances in accordance with the Pikes Peak Regional Building Code, 2017 Edition, Section RBC111.2.3, Interpretation Code, which states that the Board of Review is charged with reasonable interpretation of this Code. The Board of Review may grant minor variances from the provisions of this Code, provided the Board finds that at least one of the following conditions exist:

1. The true intent of the applicable code has been incorrectly interpreted.

2. The provisions of the applicable code do not fully apply.
3. An equally good or better form of construction is proposed.

Mr. Konnath stated that he would refer the Committee to number three, “an equally good or better form of construction is proposed.”

Roger Lovell commented that the C.R.S. § 9-5-101(5.5) clearly states “...or any successor standard...” and added that although the 1998 standard did not include Type C dwelling units, it is included in successor standards to include the 2009 ANSI Standard; notwithstanding the fact that the legislation at the State level does not speak to Type C, the C.R.S. speak to “...or any successor standard...” He said it is clear that the intent is to increase accessibility.

Mr. Konnath advised the Committee that View Homes, Inc. is not attempting to reduce accessibility, however, he is trying to match the point system required per C.R.S. 9-5-105 to the current accessibility code. He said that the ANSI Standard has improved, but the state statute has not caught up. He further stated that they are building up to the 1-point system on multiple units to maximize accessibility under the accessibility code.

Mr. Eenhuis asked the applicant if the units would meet the definition of Type C visitable in the currently adopted ANSI A117.1 Standard, to which Mr. Konnath answered in the affirmative.

Ms. Koulchitzka suggested that the applicant seek legal counsel regarding a legal opinion and interpretation that includes the code path to compliance with the statutory language, the 2009 ANSI A117.1, and Type C visitable units. Once Department staff reviews such legal opinion, further discussions may be had regarding whether the applicant requires a variance to move forward with the project, and if so, the variance will be administratively added to the September agenda for the next Technical Committee meeting.

A motion was made by Michael Finkbiner to recommend to the Board of Review **CONTINUANCE** of the variance to allow the applicant to obtain a legal opinion and interpretation that includes what Code path to take with regard to C.R.S. 9-5-101(5.5) and -105 and the 2009 ANSI Standard, to be reviewed by Department staff; seconded by Philip Lasarre; the motion carried unanimously.

- f) 7810 Keebler Drive, Plan R170521 – Scott Konnath, View Homes, Inc., requests a variance to CRS 9-5-101, Colorado Revised Statutes Title 9, as referenced by Section RBC303.4.27, Pikes Peak Regional Building Code, 2017 Edition, as amended (the “Code”), to allow a “Type B visible ground floor” unit to be constructed per the originally referenced 1998 ICC/ANSI A117.1 document and omit the statement “or any successor section with ICC/ANSI A117.1.”

Virginia Koultchitzka made a correction on the record: “visible” is replaced with “visitable”.

Scott Konnath was again personally present for this variance and indicated that it is similar to the previous variance which proposed compliance to the 1998 ICC/ANSI A117.1. He stated that he will follow the Committee’s previous suggestion with reference to 8074 Grey Bark Way and obtain a legal opinion and interpretation as to which path to take with the current variance.

A motion was made by Philip Lasarre to recommend to the Board of Review **CONTINUANCE** of the variance to allow the applicant to obtain a legal opinion and interpretation that includes what Code path to take with regard to C.R.S. 9-5-101(5.5) AND -105 and the 2009 ANSI Standard, to be reviewed by Department staff; seconded by Michael Finkbiner; the motion carried unanimously.

- g) 6533 N. Academy Blvd. – Alex Stockton, Summit Painting & Remodeling, requests a variance, prior to plan submittal, to Section RBC105.1, Pikes Peak Regional Building Code, 2023 Edition (the “Code”), based on Item 2 of Section RBC111.2.3 of the Code, to allow for construction of a humidor without permit, where a permit is required.

Alex Stockton appeared in person and stated that he has a company that paints and remodels, however, he does mostly wood working such as custom cabinetry and furniture; work that does not require a permit. He said that he does not have a license with the Department. He stated that since he was given a “Stop Work Order” by the Department dated May 3, 2023, he has not been able to locate and hire a licensed contractor who would apply for a permit in order to proceed with the current project.

Mr. Stockton said that his client at 6533 N. Academy Blvd. purchased a walk-in cigar humidor from him, which is basically a storage for cigars and is customizable. He indicated he does not perform any electrical or plumbing work, he just builds the walk-in humidor, as delivered. He said that he sells the walk-in humidor as a box of shelves and cabinets, including instructions, and once constructed, it measures about 26 feet by 8 feet including an extra storage area, which is also customizable. Mr. Stockton further stated under Section RBC105.2.1, he believes that permits are not required for this type of project. He further stated that the humidor is not a modular building, it is not attached to any permanent walls and can be deconstructed and taken apart in order to be moved to another location or building.

After discussions between the Committee, Department staff, and the applicant, it was determined the project was built utilizing conventional light frame construction, drywall/plywood walls and drywall ceiling, and swing-out tempered glass doors, all of which will require lighting, ventilation, and an egress for safety concerns.



Shelly Dicker from the Department's plan review department, appeared virtually, stating that she has worked with the applicant since the issuance of the Stop Work Order. She said that during her conversations with the applicant, she was very clear in advising that this project is considered an interior remodel, and that a permit would be required. She said that they discussed the project and after reviewing the pictures, she affirmed several times with the applicant that this project requires a permit, and a permit requires a licensed contractor.

A motion was made by Philip Lasarre to recommend to the Board of Review **DENIAL** of the variance as the work being done requires a contractor with a minimum B-2 license; seconded by Michael Finkbiner; the motion carried unanimously.

Virginia Koulchitzka advised the applicant of his appeal rights as follows: If any party is not satisfied with a decision of the Committee, that party shall have thirty (30) calendar days from the decision of the Committee to file a written notice of appeal with the Department in accordance with Section RBC101.7 of the Pikes Peak Regional Building Code, 2023 Edition (the "Code"). The applicant was also provided with a copy of the Notice of Right to Appeal.

6. **UNFINISHED BUSINESS**

There was no unfinished business to discuss.

7. **NEW BUSINESS**

There was no new business discussed.

8. **ADJOURN**

The meeting adjourned at 12:26 p.m.

Respectfully submitted,



Roger N. Lovell  
Regional Building Official

RNL/gml

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Accommodations for the hearing impaired can be made upon request with forty-eight (48) hours' notice. Please call (719) 327-2989.

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