



Philip Sherman
Chair
**Designee of the
 Commissioner of
 Safety**

MEMBERS

Arthur Guadano
 Board of Architects

Jeffrey Trexler, PE
 Board of Engineers

Beverly Kowalik, PE
 Board of Engineers

Lee F. Carroll, PE
 Board of Engineers

Med Koczynski
 NH Municipal Association

Michael Hagan, CFM
 NH Building Officials
 Association

Matthew Conley, Chief
 NH Assoc. of Fire Chiefs

**Peter Lennon, Fire Marshal,
 Manchester**
 NH Assoc. of Fire Chiefs

Arthur Rose
 Associated General Contractors

**Vice-Chair
 John Tuttle**
 NH Home Builders Assoc.

Michael Soucy
 NH Energy Department

Tedd Evans
 Mechanical Licensing Board

Roger Maynard
 P•FGF•HVAC of NH

James Grant
 Bureau of Electrical Safety and
 Licensing

Vacant
 Governor's Commission on
 Disability

Dean Sotirakopoulos
 NH Electrical Contractors
 Business Assoc.

**NEW HAMPSHIRE
 STATE BUILDING CODE REVIEW BOARD**

Office: 110 Smokey Bear Blvd, Concord, NH 03301

Mailing: 33 Hazen Drive, Concord, NH 03305

(603) 223-4315 Email: Bldgcodebrd@dos.nh.gov

AGENDA

Regular Meeting

Friday, December 9, 2022

10:00am – 12:00pm

Second floor, Conference Room

33 Hazen Drive

Concord, NH 03301

CALL to ORDER/QUORUM

- 1) Roll Call and declaration of quorum (1 vacant = 16 members, 8 for quorum)
- 2) Board membership status
 - (a) Jeff Trexler – reappointed
 - (b) Matthew Conley - NH Association of Fire Chiefs (Municipal Fire Chief)
 - (c) Vacant - Governor’s Commission on Disability
 - (d) Alternate, vacant – Bureau of Electrical Safety & Licensing
 - (e) Alternate, David Mendzela, NH Electrical Contractor Business Assoc.
 - (f) Alternate, vacant - Department of Energy
 - (g) Alternate, Rob Chebook, - Mechanical Licensing Board
- 3) Acceptance of minutes of meeting November 4, 2022

LEGISLATIVE STATUS

- 4) Chair report

OLD BUSINESS

- 5) Website status
- 6) Administrative Rule review, BCR100, BCR200
- 7) 2018 Code amendment status
- 8) Municipal amendment review
 - (a) Provisions exempt from BCRB review document

- b) Interim approach
- 9) IBC/IFC references, Peter Lennon
- 10) 2021 Code cycle
 - a) Schedule
 - b) Reference document amendments

NEW BUSINESS

- 11) Appendix G committee appointment

OTHER BUSINESS

- 12) RSA 155-A revisions

NEXT MEETING

- 13) January 13, 2023

ATTACHMENTS

- 1) November 4, 2022 meeting minutes
- 2) Municipal amendments exempt from BCRB review document
- 3) Interim Municipal amendment review approach document
- 4) Proposed 2021 codes - schedule

Draft – MINUTES

These minutes are DRAFT minutes and are posted to comply with RSA 91-A: 2 The Board has not voted to accept them. Changes may/may not be made prior to their adoption at the next Board meeting.

NEW HAMPSHIRE STATE BUILDING CODE REVIEW BOARD

In-person regular/public hearing meeting November 4, 2022

Members Present:

Philip Sherman, P.E., Chair
Med Koczynski, NH Municipal Association
Jeffrey Trexler, Board of Engineers (Structural Engineer) (term currently expired, nonvoting at this time)
Art Guadano, Board of Architects
Michael Hagan, CFM, NH Building Officials Association
Lee F. Carroll, PE, NH Board of Engineers (Electrical Engineer)
Michael Soucy, NH Department of Energy
Peter Lennon, Fire Marshal - Manchester, NH Association of Fire Chiefs
Arthur Rose, Associated General Contractors of NH, Inc.
Tedd Evans, Mechanical Licensing Board
Beverly Kowalik, P.E. Mechanical Engineer
Roger Maynard, P•FGF•HVAC of NH

Absent:

Robert Wentworth (Michael Hagan Alternate), NH Building Officials Association
Michael Hasbrouck, (Roger Maynard Alternate) P•FGF•HVAC of NH
James Grant, Electricians Board
David Mendzela, NH Electrical Contractors Business Ass. Alternate
Dean Sotirakopoulos NH Electrical Contractors Business Association
John Tuttle, Vice-Chair, NH Home Builders Association

Also Present:

Erica Webb, Administrative Supervisor, NH State Fire Marshal's Office
Michael Grandy, Assistant Attorney General

Guests:

Jerry Tepe
William McKinney
Jennifer Gilbert
Zachary Haithcock

The meeting, held in-person, was called to order at 10:00am by the Chair. The Chair proceeded with roll call. A quorum was declared.

The Chair gave a board member update; Jeffery Trexler is still awaiting his appointment letter from the Engineering Board, which met Oct 28th. The Board of Fire Chiefs is working on filling their position on the board. The Governor's Commission on Disability is also working on appointing a member. Michael Soucy indicated that his appointing authority has designated an alternate for his board position and will work on getting the letter to Erica with his information. Rob Chebook has been appointed as the alternate to Roger Maynard for the PFGFHVAC position. Tedd Evans inquired as to whether or not the board was aware Rob Roy, who is supposed to be the alternate for his board position and will check with his appointing authority to verify if Mr. Roy is still a participating alternate.

The Chair opened the floor for the acceptance of the October 14, 2022 meeting minutes.

Motion to Accept 10/14 Meeting Minutes; Art Guadano

Seconded: Lee Carroll

Abstained: Tedd Evans

All in favor, none opposed. Motion carried, minutes accepted.

The Chair opened the meeting for Public Hearing regarding the 2018 Building Code Amendments at 10:05am.

BD-18-14-22 Related to Appendix G in the IBC

The Chair opened the hearing by asking whether he should step aside to offer a personal opinion, and hearing no objection, indicated that he thought that Appendix G may tread into issues that should be addressed by land use and zoning regulations, not the Building Code. He hoped that it would be brought up when the BCRB handles the 2021 Code cycle, however; did not feel it was something that should be handled in regard to the 2018 codes without the chance for detailed discussions with other interested parties. The Chair listed 9 sections already in the building codes addressing flood plains; IBC 1612, IBC 1612.3, IBC 1612.4, and the following sections which would regulate more than what the current state building code is currently authorized to hold jurisdiction over; G103.3, G102.1, G1303.6, G103.7. RSA 674:56 designated the zoning board as the appeals route for zoning issues, whereas Appendix G requires that these issues be brought before the building code board of appeals, which in smaller towns may be the same group, however in larger municipalities it is not. The Chair expressed that his concern comes from the view that as of right now flood plains are presently regulated by zoning, not the building code.

Michael Hagan, who sponsored this amendment, defended the amendment stating that the Appendix G does not create new implementations, but an administrative process by which individual municipalities would be able to create plans to address flood plain issues that conform to FEMA standards. According to Hagan, the Appendix does not give any additional

authority other than to require a permit for activities pertaining to a flood plain by local ordinance.

Several board members inquired about the differences between how the flood plain appendix impacts building codes vs zoning codes and whether or not it is appropriate for the BCRB to take.

Michael Hagan continued that the adoption of this Appendix would allow municipalities the ability to show that they have adopted some kind of flood plain regulations when they otherwise may not have had anything on the books.

Phil LaMoreaux of NH DES asked if this would allow towns without zoning to have some level of enforcement.

Hagan replied that this would give no path for zoning, only for permitting of structure in the flood plain.

LaMoreaux pointed out that in communities without zoning boards the permitting process would fall upon the select boards to issue, so there would be an impact on town procedures in municipalities that did not have a zoning board in place.

Jennifer Gilbert, NH State Flood Plain Management Coordinator gave her testimony on the amendment;

Ms. Gilbert testified that there are zoning ordinances which deal with land use and building codes which deal with buildings. Appendix G does dip into the zoning aspect a little but the number one disaster is flooding. Right now the flood plain requirements in the state are haphazard. Ms. Gilbert indicated that 219 municipalities in NH have already adopted regulations similar to Appendix G, as permitted, but not required. The current NH State Building Code already includes about 75% of FEMA National Flood Insurance Requirement Program. Appendix G would cover the remaining 25%. Ms. Gilbert stated that without a building inspector there is no requirement to follow the state building code and there are many small communities that do not have enforcement or another permitting process requirements. When building designers want to build in the flood plain people are able to point them to the state building code for most of the regulation, but not to Appendix G. Not only are municipalities missing out on necessary components, but also the University System, for example, has no requirements. There is also a government exemption which allows government projects to exempt themselves from local zoning regulations, however; they are still subject to the State Building Code. There have been instances where towns have built a fire station in a flood plain, which in some cases may be ok, but in other cases not and use government exemption to do so.

The Chair made one correction to Ms. Gilbert's statement regarding the requirement to following the State Building Code; towns without a building inspector are required to following the State Building Code, they do not lack a code, but lack an enforcement mechanism.

The Chair continued to add a personal comment that the zoning RSA at the moment makes flood plain management optional and this seems like a back door way to make the

requirements state wide without going through the process of revising the RSA and this is a dangerous road to take as we will be picking fights with other entities that it impacts. The Chair reiterated that this is his personal view.

Tedd Evans read an excerpt from Appendix G that states that the adoption of the IBC building code along with Appendix G would ensure that the requirements of the National Flood Insurance Plan are met, which is in line with what Hagan and the public testimony of Ms. Gilbert are claiming.

Bill McKinney, speaking as the building official from Nashua, NH, not as the NHBOA, brought up concerns regarding the verbiage and definitions such as “development,” and would dictate what building officials would be allowed or disallowed to do with land. McKinney listed four more points of Appendix G which would regulate items not currently regulated by Building Officials or the Building Code; G106.1, G104.2, G105, and G801.6. McKinney is concerned that Appendix G would extend the building code official into the area of land use, which is reserved for zoning and would be better suited for the zoning boards. McKinney concurred with the Chair that the adoption of Appendix G would conflict with the current zoning RSA and become a real issue is the amendment should make it to the legislature. McKinney continued to caution the board to consider and review the appendix and whether or not the board is ready to recommend that building officials should be engaging in land use issues, where they have never engaged before.

Med Kopczynski stated that there is a need to do something with the flood plain concerns, but he is not sure what should be done. He went on to say that in Keene, they did not include flood plain processes in the zoning rules intentionally so there is no appeals process unless an individual wants to go to court. Furthermore, Keene has used their local ordinances to require state agencies follow the flood plain ordinances. He stated he is not sure how to piece this all together.

Roger Maynard suggested a committee because there are too many points to discuss right now.

Art Rose agrees with Maynard, but at the end of the day this is a land use issues and we would be amending land use, not the building code.

Motion to not approve this amendment; Art Rose

2nd: Mike Soucy

Discussion on the motion:

Hagan repeated for the record that this appendix does not get into land use regulations, its administrative for things that get built on a flood plain. The building code does get into things like patios or swimming pools already.

McKinney responded that from a Nashua stand point G101.3 states “all development” brings it into land use and this is something that planning boards should look at and discuss adopting Appendix G in addition to the building code so that it could be a land use ordinance or at least an amendment to their own local building code.

Ms. Gilbert asked to clarify that the permits required in special areas and the word “development” is defined in Appendix G and is in all the flood plain ordinances adopted by the 219 communities in the state including Nashua and Keene, so the building inspectors should already be enforcing these regulations due to their local building code/municipal flood plain ordinances.. This is not something new and is already going on.

The Chair asked for a vote on the motion of the floor; to not approve this amendment.

7 votes in favor of the motion to not approve the amendment

3 votes against the motion to not approve the amendment.

The motion carried, the amendment will not be approved or carried forward.

The Chair advised that he would like to see this amendment back in the 2021 Amendments cycle in order to give the board more time to talk about it in depth.

Med Kopczynski requested that at some point the BCRB appoint a committee to dive into the Flood Plain Appendix prior to the 2021 amendment cycle. The Chair agreed this would be a good idea.

EN-18-07-22

No Public Comment

Motion to Approve; Med Kopczynski

2nd: Lee Carroll

No one opposed. Motion carries.

EN-18-08-22

No Public Comment

Motion to Approve; Lee Carroll

2nd: Med Kopczynski

No one opposed. Motion carries.

PL-18-16-22

No Public Comment

Motion to Approve; Lee Carroll

2nd: Art Guadano

No one opposed. Motion carries.

The Chair paused the meeting to allow Tedd Evans to discuss some additional wording to the previous amendment, PL-18-16-55. Evans received a comment at some point that it may be difficult enforcing an amendment that amend definitions. In order to circumvent any conflicts,

Evans updated the amendment language so that 701.2 building drain and building sewer definition do not conflict with DES language, and thereby more easily enforceable.

PL-18-16-22 REVISED

Motion to Approve as amended; Tedd Evans

2nd: Art Guadano

No one opposed. Motion carries.

PL-18-17-22

No Public Comment

Motion to Approve; Tedd Evans

2nd: Roger Maynard

No one opposed. Motion carries.

After vote Hagan inquired whether the Food Code requires indirect drains for food washing? Evans responded that a member of the DHHS was consulted on this amendment. The current plumbing code requires that the sanitize bay be an indirect drain. The food service people advised Evans that in circumstances due to space shortage they do allow the sanitize bay to be used for food prep so this amendment is not inconsistent with that the food service inspectors would be allowing. The goal is to minimize the issues when a flow restrictor on the wash and rinse bays, but the sanitize bay has an indirect drain. The Amendment is going back to language in the 2009 code. During the amendment process no one could discern or recall any reason why the change was made to go to strictly indirect as opposed to direct or indirect.

PL-18-18-22

No Public Comment

Motion to Approve; Tedd Evans

2nd: Roger Maynard

No one opposed. Motion carries.

RE-18-24-22

The Chair gave a brief overview. In the commercial code the solar regulations are in the International Fire Code, amended to reference the State Fire Code. In the residential code the IRC has brought IFC solar requirements into the IRC. This amendment references the State Fire Code for solar requirements, as the industry has worked with the Board of Fire Control to determine acceptable setbacks for roof top solar arrays.

The Chair invited Zach Haithcock of 603 Solar to add anything to the amendment as he is the one who submitted the amendment. Mr. Haithcock introduced himself and indicated that they

are only intending on addressing the conflict between the state fire code and the building code so that there would be less confusion between the two codes.

Bill McKinney stated that the NHBOA worked with the solar industry and the Board of Fire Control during their amendment process and would continue to support this amendment.

Motion to Approve; Mike Hagan

2nd: Art Guadano

No one opposed. Motion carries.

RE-18-25-22

No Public Comment

Motion to Approve; Med Kopczynski

2nd: Tedd Evans

No one opposed. Motion carries.

RE-18-26-22

No Public Comment

Motion to Approve as amended; Tedd Evans

2nd: Mike Hagan

No one opposed. Motion carries.

This is the Residential code amendment equal to the Plumbing code amendment PL-18-16-22.

The Chair advised that this was the conclusion of the proposed amendments. If the amendment was approved to move forward they would be packaged up and submitted to the legislature for ratification sometime around June of 2023.

LEGISLATIVE STATUS

The Chair updated the board on 4 LSR (Legislative Service Request) which means that someone is submitting a Bill. The NHBOA and NHMA do a good job scanning upcoming legislation for pertinent bills. These will be coming up in 2023;

0003 Electrical charging provisions for renters.

0081 Towns and Schools cannot spend money to influence legislature.

0183 Religious use of land and structures.

0207 Electro microgrids.

Bills need to be submitted by November 22, 2022, so once that is done the board can start to see language on whether or not these are things that need to be address by the BCRB.

WEBSITE UPDATE

No real changes to report. Even the general court website has not been updated since last June.

BCRs

The Chair asked the board to consider how the board assess “cost.” The language over all is fuzzy and does not match in either the RSA or BCR. The Chair is of the opinion that it would be best to use the language out of the RSA in updating the BCRs in order to obtain some sense of consistency. Jeff Trexler asked if it would be possible to add the work “impact” to the BCR as that is essentially what the board is attempting to do. Evans supported this addition. The Chair has had no input from the board, except for reviews by Jerry Tepe, Mike Hagan and Michael Grandy. The board agreed that the Chair should finalize the outstanding issues and Michael Grandy will begin the approval process.

Municipal Amendments

The Chair led an exercise in courtesy reviews the municipal amendments for both Nashua and Newbury for the board to prepare and discuss what they may be asked to review come January 1, 2023. Jerry Tepe asked what happens when municipal amendments are technically null and void as of January 1, 2023 due to the new legislation. There is nothing for the board to do as far as that is concerned other than start working on the municipal amendments as they are submitted to the board for review.

IRC Report

Mike Hagan gave an update on the IRC Report that John Tuttle had completed last month following the committee’s brief meeting to vote to adopt the appendixes Q and J.

The Chair closed the public hearing/regular meeting at 11:30.

MEETING ADJOURNED

The next meeting is scheduled for **December 9** and is expected to be held at 33 Hazen Drive, Concord NH 03305 in the second floor conference room.

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Date: December 9, 2022

Subject: Municipal Amendments to the State Codes that do not Require BCRB Review and Confirmation

As of 1/1/23, RSA 155-A:3 states: “...The issuance of permits and the collection of fees pursuant to RSA 155-A:2,III and issuance of permits and certificates of occupancy pursuant to RSA 155-A:2,IV shall not be considered amendments to the building code and shall not be subject to RSA 674:51,II.”

Therefore, other items required of the local jurisdiction, such as creating the position of building inspector, inspections and creating a board of appeal require BCRB review and confirmation. Only the issuance of permits, fees and certificates of occupancy are exempt from the BCRB review and confirmation process, as they are not considered amendments.

The following sections of the 2018 ICC codes and 2020 NEC are therefore exempt from BCRB review and confirmation:

| | IBC | IEBC | IECC-C | IECC-R | IMC | IPC | IRC | NEC | SPSC |
|---------------------------|---------|---------|--------|--------|-----------------------------|----------------------------|----------|-----|-----------------------------|
| Permit required | 105.1 | 105.1 | | | 106.1 | 106.1 | R105.1 | | 105.1 |
| Emergency repairs | 105.2.1 | 105.2.1 | | | | | R105.2.1 | | |
| Application for permit | 105.3 | 105.3 | | | 106.3, 106.3.3, 106.4 | 106.3, 106.3.3 106.4 | R105.3 | | 105.2 105.5 |
| Validity of permit | 105.4 | 105.4 | C106 | R106 | 106.4.2 106.4.4 | 106.5.2 106.5.4 | R105.4 | | 105.4 105.5.2 105.5.4 |
| Expiration | 105.5 | 105.5 | | | 106.4.3 | 106.5.3 | R105.5 | | 105.5.3 |
| Suspension or revocation | 105.6 | 105.6 | | | 106.4.5 | 106.5.5 | R105.6 | | 105.5.5 |
| Fees | 109 | 108 | C104 | R104 | 106.5 | 106.6 | R108 | | 105.6 |
| Certificates of Occupancy | 111 | 110 | | | | | R110 | | |
| Violations | 114 | 113 | | | 108 | 108 | R113 | | 107 |
| Stop work order | 115 | 114 | C108 | R108 | | | R114 | | |

Municipal amendments to all other sections of the codes require BCRB review and confirmation.

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December 9, 2022

Interim Procedure for BCRB Review and Confirmation of Municipal Amendments

This procedure will set forth the approach to be used for review and confirmation of municipal amendments until such a time as the State Fire Marshal's Office is staffed with appropriate technical support to perform initial review functions.

1. When municipal amendments are received by SFM, they will be forwarded to the Chair.
2. The Chair will review, and if, in his opinion, the amendment is compliant, will forward to Mitchel Cady in SFM office, to review for conflict with fire code. Mr. Cady's opinion will be returned to the chair.
3. If the amendment is found compliant, it will become part of a "consent package".
4. If the chair does not believe amendment is adequate, he will contact the local authority and try and reach agreement resulting in a compliant resubmittal. If this effort is successful, it will proceed per #2 and #3 above.
5. If contacting the local authority does not resolve the issue, the amendment will be brought to the BCRB for board discussion and review.
6. The "consent package" consisting of those amendments thought to be compliant, will be brought to the board for confirmation. Any board member, having reviewed the package prior to the meeting, may open a given amendment for discussion and subsequent decision by the board.

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December 9, 2022

Tentative 2021 Code Update Schedule

- | | |
|--|---|
| <ol style="list-style-type: none">1. December 2022<ol style="list-style-type: none">a. Confirm schedule2. January 2023<ol style="list-style-type: none">a. IBC/IEBC with amendments, discussion and vote to send to hearing3. February 2023<ol style="list-style-type: none">a. IBC/IEBC with amendments, public hearing and board voteb. IECC with amendments, discussion and vote to send to hearing4. March 2023<ol style="list-style-type: none">a. IECC with amendments, public hearing and board voteb. IPC/IMC/ISPSC with amendments, discussion and vote to send to hearing5. April 2023<ol style="list-style-type: none">a. IPC/IMC/ISPSC with amendments, public hearing and board voteb. IRC with amendments, discussion and vote to send to hearing | <ol style="list-style-type: none">6. May 2023<ol style="list-style-type: none">a. IRC with amendments, public hearing and board voteb. Reference and appendix amendment, discussion and vote to send to hearing7. June 2023<ol style="list-style-type: none">a. Public hearing on reference and appendix amendmentb. Slack month8. September 2023<ol style="list-style-type: none">a. Deadline for amendments to be considered this cycleb. Discuss late amendments and vote to send to hearing9. October 2023<ol style="list-style-type: none">a. Public hearing for late amendmentsb. Send to legislative committee for ratification |
|--|---|