

CAB Minutes
June 9, 2017

UNIFORM CONSTRUCTION CODE ADVISORY BOARD
Minutes of Meeting, June 9, 2017

Location
101 South Broad Street
Trenton, New Jersey 08625

Attendance

Board Members

Beth Pochtar, Chair
John Scialla, Vice Chair
John Fritzen
Gregory Moten
Tony Neibert
Michael Seeve
Valerie Waricka

DCA Staff

Edward M. Smith, Director, Division of Codes and Standards
Michael Baier, Bureau of Code Services
Lou Mraw, Office of Regulatory Affairs
Marie Daniels, Code Assistance and Code Development
Jose Paulino, Code Assistance and Code Development
Tom Pitcherello, Code Assistance Unit
Emily Templeton, Code Development Unit

Guests

Stephen Rodzinak, Acting Chair, Plumbing Subcode Committee
Dominic Cardarelli, West Windsor Township
Bob La Costa, Scotch Plains
Tom Polino, West Windsor Township
Joe Valieri, West Windsor Township

Ms. Beth Pochtar, Chair of the Uniform Construction Code Advisory Board (CAB), called the meeting to order at 9:35 a.m.

A. Approval of Minutes of the Code Advisory Board Meeting of February 10, 2017

Mr. Michael Seeve made a motion, which was seconded by Mr. Greg Moten, to approve the minutes without change. The motion carried unanimously.

B. Subcode Committee Reports

Barrier Free Subcode Committee: In the absence of Mr. John Del Colle, Chair, Ms. Emily Templeton reported that the Barrier Free Subcode Committee met on June 2, 2017; agenda items were discussed.

Building Subcode Committee: Mr. John Scialla, Chair, reported that the Building Subcode Committee met on May 19, 2017; agenda items were discussed.

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Electrical Subcode Committee: Mr. Tony Neibert, Chair, reported that the Electrical Subcode Committee met on May 25, 2017; agenda items were discussed.

Elevator Subcode Committee: Mr. George Hrin, Chair, reported that the Elevator Subcode Committee met on May 11, 2017; agenda items and the Department's rule proposal concerning ordinary maintenance and minor work were discussed.

Fire Protection Subcode Committee: Mr. Arthur Londensky, Chair, reported that the Fire Protection Subcode Committee met on May 11, 2017; agenda items were discussed.

Mechanical/Energy Subcodes Committee: Mr. John Fritzen, Chair, reported that the Mechanical/Energy Subcodes Committee met; agenda items were discussed.

Plumbing Subcode Committee: Mr. Stephen Rodzinak, Vice Chair and Acting Chair, reported that the Plumbing Subcode Committee met on May 19, 2017; agenda items were discussed. In addition, the Plumbing Subcode Committee had questions on the use of the mechanical tech section for the replacement of a water heater. The Committee recommended that either the mechanical or the plumbing tech section should be acceptable.

C. Old Business

D. New Business

1. Draft Rule: N.J.A.C. 5:23-3.2 -- Health Care Facilities

Mr. Michael Baier summarized the issue for the Board. The draft rule would include a direct reference to the National Fire Prevention Association (NFPA) Life Safety Code 101 because the reference in the International Building Code (IBC), which is adopted as the building subcode, is no longer clear and compliance with NFPA 101 is required for health care facilities to receive Medicare reimbursement.

Mr. Michael Seeve made a motion, which was seconded by Mr. John Scialla, to approve the draft rule. The motion carried unanimously.

2. Draft Rule: N.J.A.C. 5:23-3.4(d)—Mechanical Inspector, Group R-4 Elimination

When Group R-4 was added to the R-3 and R-5 building designations regarding mechanical inspections, there were a few missed...and probably for good reason. Upon further application of mechanical inspections, it became apparent that the limitation should remain with one- and two-family dwellings, Groups R-3 and R-5. As defined in Chapter 3 of the IBC/2015, Group R-4 is a therapeutic residence not a one- or two-family dwelling. In the draft rule, several sections of N.J.A.C. 5:23 have been revised to delete Group R-4 to ensure that all sections consistent.

Mr. John Scialla made a motion, which was seconded by Mr. Greg Moten, to approve the draft rule. The motion carried unanimously.

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3. Draft Rule: N.J.A.C. 5:23-3.2(d) -- Commercial Farm Buildings

Mr. Michael Baier summarized the three amendments in this draft rule. The first amendment would allow commercial farm buildings that are close to a building that has a restroom available for use to forego the requirement for additional fixtures. The second makes it clear that buildings operated on a seasonal basis to be served by portable toilets. The draft rule would also remove the requirement for lightning protection. At this time, commercial farm buildings are the only buildings required to have lightning protection. Removing the requirement would leave the decision as to whether to have this additional protection to the farmer. The draft rule was provided to the Board and to all subcode committees.

Mr. Tony Neibert made a motion, which was seconded by Mr. Michael Seeve, to approve the draft rule. The motion carried unanimously.

4. Draft Rule: N.J.A.C. 5:23-4.12 --Third Party Inspection and Plan Review Agencies

Mr. Michael Baier explained that these draft amendments would modify the scope of work that may be performed by private on-site inspection agencies. The Uniform Construction Code currently allows these private contractors to act on behalf of the subcode official whose work encompasses both plan review and inspection. The amendments would provide an option to on-site inspection agencies by allowing them to contract with municipalities to act exclusively in the place of inspectors. The amendment would also relax the conflict of interest implications for those working for third party agencies. Currently, third party agency employees are subject to the same restrictions as State employees working in code enforcement and are prohibited from working in the construction trades statewide. The proposed amendments would change this prohibition to adjacent municipalities, thereby using the same restriction that applies to those employed in municipal code enforcement.

A brief discussion ensued. Mr. John Scialla reported that the Building Subcode Committee identified several problems. One Committee member stated that contracts with third party agencies should be required to be more specific. For example, the third party inspectors could be allowed to serve as inspectors to maintain timeliness when there is a surge in required inspections, but should not be able to replace municipally employed inspectors. One Committee member commented that third party agencies have not been reliable at completing inspections; in some municipalities, there have been third party permits that have remained open for years because the third party agencies do not answer to anybody. One Committee member addressed the decline in available licensed code officials by recommending that classes offered at community colleges should be consolidated to avoid cancelling a class due to insufficient enrollment when it would be possible to hold a single class by combining the enrollment for two—or more—community colleges. One Board member recommended that the third party agency should be able to be paid on a per-inspection basis. One Board member asked whether the underlying problem is really that code enforcement as a profession is not attracting inspectors. Referring to the decline in available full-time jobs with benefits in municipal code enforcement, it could be that the municipal jobs no longer attract candidates who are seeking a career rather than a job. One Board member asked how many third party agencies there are. Mr. Lou Mraw replied that there are three or four that offer every discipline and there are four to six that offer elevator subcode enforcement only. One Board member asked whether the inspectors working for third party agencies would be required to be licensed in a technical discipline; the answer was yes.

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One Board member recommended that the rule be amended to clarify whether the conflict of interest provision would apply to the individual inspectors or to the third party agency.

One Board member commented that for code enforcement to work, the Office of Regulatory Affairs must be strengthened. The State must have the ability to investigate and take action, where warranted.

There was a brief discussion about shared services. One Board member pointed out that even municipalities with shared services often do not staff their code enforcement offices properly. One Board member asked whether the use of third party inspectors could be done project-by-project or use of a third party agency for inspections only would have to be outsourced. One Board member recommended that the draft rule be approved with an amendment to specify that the third party inspection services be used to augment, not replace, municipally employed inspectors.

Mr. Tony Neibert made a motion, which was seconded by Mr. Michael Seeve, to approve the draft rule with the amendment to require that third party inspections subsidize, but not replace, current code enforcement employees.

5. Draft Rule: N.J.A.C. 5:23-2.20--Chimney Verification

The draft amendment would require that chimney verification be accepted in lieu of the removal and reinstallation of the chimney vent connector.

A brief discussion ensued. Several Board members expressed support for the draft rule change. One Board member reported that one Committee member had expressed concern that some chimney verification forms have been submitted for work that did not comply. One Board member recommended that inspections be required of new chimney liners. One Board member commented that the Form 370 should be revised to eliminate the “opt out” option for contractors, who should be required to complete the form and deleting “all other work” from the form because the form would not be needed when other work is being done.

Ms. Valerie Waricka made a motion, which was seconded by Mr. Michael Seeve, to approve the rule as drafted. The motion carried unanimously.

6. Draft Rule: N.J.A.C. 5:23-3.14—Barrier Free Subcode

Ms. Emily Templeton summarized the changes in the draft rule as required to correct several items from the adoption of Chapter 11 as the accessibility standards.

a. At N.J.A.C. 5:23-3.14(b)13, Section 1003.9, Operable parts, of ICC/ANSI A117.1-2009 would be amended to eliminate the requirement that the outlets above kitchen counters must meet the reach ranges for a reach over an obstruction. The Barrier Free Subcode had this same exception. It is an important exception because the reach range over an obstruction requires custom counters since the standard kitchen counter is just a little too deep to reach the outlet. Some builders have applied for a variation from this requirement and some have “bumped out” the outlet. Neither is a reasonable solution.

b. At N.J.A.C. 5:23-3.14(b)10vi, the current reference to Section 1104.1 would be corrected and Section 1104.4 would be inserted. At Subsection 1104.4.1.1, a new provision would be added to allow the use of a limited use/limited application (LULA) elevator in a small building (less than 10,000 square feet total gross enclosed floor area) as long as the floor served is not larger than 3,000 square feet and travel distance does not exceed 25 vertical feet. This same change was made to the section on large buildings (10,000 square feet or more total gross enclosed floor area) and is currently published in the *New Jersey Register* as a proposal. This

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companion change would ensure that a LULA could be used to provide a vertical accessible route in small building, as well as in a large one.

c. At N.J.A.C. 5:23-3.14(b)10xxxvi, the scoping for accessibility requirements for multistory dwelling units would be corrected to ensure that where there are four or more dwelling units in a single structure, multistory dwelling units would be required to have an accessible entry level. The codification of this requirement has created confusion. It is being corrected for clarity. The amendment is taken directly from the “old” Barrier Free Subcode, N.J.A.C. 5:23-7.5.

d. At Section 1110.4.13, Swimming pools, wading pools, hot tubs, and spas, Exception 3, exempts swimming pools and similar facilities at multifamily from providing access into the swimming pool. This rule amendment would delete that exception.

A brief discussion was held. In the absence of Mr. George Hrin, Ms. Paulina Caploon recommended that a cross reference to the section stating where a LULA may be installed be included in the rule upon proposal. One Board member recommended that direction to Chapter 11 be included at N.J.A.C. 5:23-7.1 to ensure that code users know that accessibility requirements were moved, not removed.

Mr. Greg Moten made a motion, which was seconded by Mr. Michael Seeve, to approve the draft rule amended by adding the cross reference to where LULAs may be installed and a cross reference in Subchapter 7 to Chapter 11/IBC.

7. Draft Revision-Bulletin No. 95-1B: Removal/Abandonment Requirements for Residential Heating Oil Tank (no limit) and Commercial Heating Oil Tanks (Under 2001 Gallons)

Mr. Michael Baier informed the Board that this draft revised bulletin addresses the removal or abandonment of oil tanks, including who is responsible for inspection and how tanks are to be abandoned or removed. This revision reflects current regulations and incorporate comments from the Department of Environmental Protection (DEP).

One Board member commented that the reference to “sand” should be changed to “inert material” in case another, equally effective, material were to be used. One Board member recommended that a simple sketch showing the location of the abandonment should be required. One Board member commented that the fire protection subcode official should be notified when an oil tank is being abandoned or removed as a result of a conversion to liquefied petroleum (LP) gas or natural gas. Finally, one Board member recommended that a *Construction Code Communicator* article be written to clarify that the bulletin was being modified to be consistent with the responsibilities already assigned. One Board member commented that a permit should be required for tank removal.

Mr. Michael Seeve made a motion, which was seconded by Mr. Greg Moten, to approve the draft bulletin as amended by discussion. The motion carried unanimously.

8. Draft Rule: N.J.A.C. 5:23-4.5 -- Annual Permit Form

Mr. Michael Baier explained that this amendment lists a new standard application form for annual permits. The Department has determined that a standard form for this purpose would be helpful for applicants and enforcing agencies. (The current application form for annual permits is a non-standard version used by the Bureau of Construction Project Review.)

Several Board members commented on the value and efficiency of standardization.

Mr. Tony Neibert made a motion, which was seconded by Mr. Michael Seeve, to approve the draft form and the draft rule. The motion carried unanimously.

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9. Rule: N.J.A.C. 5:27 and N.J.A.C. 5:23-3.11, 3.14, 6.31-- Cooperative Sober Living Residences

Mr. Michael Baier explained the framework of the Cooperative Sober Living Residences (CSLR). These residences are part of the Governor's initiative to provide additional supportive living options for people who are in substance abuse recovery. These residences would be licensed as boarding houses; they would be Group R-3 or R-5, and would have basic fire safety requirements, including fire and carbon monoxide detection and egress windows.

A brief discussion ensued. One Board member asked whether these residences should be required to have a limited fire suppression system. One staff member responded that these residences are required to have some fire safety upgrades and an on-site manager, so they are the threshold level at which licensure is required. One Board member was in favor of the Department asserting enforcement authority for these residences; another Board member commented that prior approvals of municipal ordinances should be required. One Board member asked whether these residences are one- or two-family dwellings only.

Mr. Tony Neibert made a motion, which was seconded by Mr. Greg Moten, to approve the rule without change. The motion carried unanimously.

E. Information

1. CAB Meeting Dates 2017

2. CAB Log: The updated Code Advisory Board activity log was included in the meeting packets.

3. List of Pending Legislation: A list of pending legislation on issues that impact construction and the Uniform Construction Code has been emailed to the Board as a .pdf.

F. Public Comments

Mr. Thomas Polino, West Windsor Township, commented that because the hot water heater is a plumbing appliance, not a mechanical system, a direct replacement should be assigned to plumbing. When other work is involved, enforcement by a mechanical inspector is reasonable. At his time, when a plumbing contractor submits a plumbing tech section, some municipalities are turning it town for mechanical only. This needs to be fixed. One Board member recommended that the Department prepare a matrix for HVACR/Mechanical/Plumbing saying which forms are required and who can do what. HVACR (Heating, Ventilation, Air-conditioning, Refrigeration) is particularly confusing.

G. Adjourn

The meeting was adjourned at 11:15 p.m.

H. Executive Session

The Executive Session was opened at 11:20 p.m. and adjourned at 11:25 p.m.