

Pikes Peak Regional Building Department

2880 International Circle
Colorado Springs, Colorado 80910

BOARD OF REVIEW MINUTES

April 17, 2024 – Wednesday – 11:00 a.m.

MEMBERS PRESENT: Chair Loren Moreland, Building A, B or C Contractor
(*Joined late*)
Vice Chair Jeff Finn, Citizen-at-Large (*Appeared Virtually*)
Vince Colarelli, Building A or B Contractor
Chris Freer, Engineer

RBD STAFF: Roger Lovell, Regional Building Official
Virginia Koulchitzka, Regional Building Attorney
Jay Eenhuis, Deputy Regional Building Official – Plans
John Welton, Deputy Regional Building Official – Inspections
Matt Matzen, Permit Supervisor
Gina LaCascia, Executive Administrative Assistant
DeLisa Jackson, Human Resources Assistant

PROCEEDINGS:

The Board of Review meeting was conducted in a hybrid forum, allowing Board members, Department staff, and the public to attend in person at the Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, Colorado 80910, Room 100-14, or virtually through Microsoft Teams live events. Sufficient and timely access to the public to observe the meeting was made available at: <https://www.pprbd.org/Information/Boards>.

1. CALL TO ORDER: DETERMINATION OF A QUORUM

Vince Colarelli called the Board of Review meeting to order at 11:00 a.m.

2. CONSIDERATION OF THE MARCH 20, 2024 BOARD OF REVIEW MINUTES

A motion was made by Chris Freer to **APPROVE** the March 20, 2024 Board of Review Meeting Minutes as written; seconded by Vice Chair Jeff Finn; the motion carried unanimously.

3. CONSIDERATION OF TECHNICAL AND LICENSING COMMITTEES' MINUTES

a) Technical Committee Meeting Minutes of March 6, 2024, Agenda Item 5.b) only:

3704 W. High Street, Colorado Springs, Permit O51091 – Brian Tucker, Tucco Home Improvements LLC, requests a variance to Section R403.1.4.1, 2021 International Residential Code and Section R402.2.9, 2021 International Energy Conservation Code,

based on Item 2 of Section RBC111.2.3, Pikes Peak Regional Building Code, 2023 Edition, to allow existing bottom landing at exterior stairway to remain as constructed without visual confirmation of frost protection and slab insulation for approximately five feet of the perimeter of the basement.

*Whereas, a motion was made by Micah Langness to recommend to the Board of Review **APPROVAL** of the variance to allow the existing landing at the exterior stair without the required frost protection for the foundation under the condition that the applicant provide an engineer's letter opining the slab is acceptable as is without the required frost protection; seconded by Vice Chair Baturevich; the motion carried unanimously.*

This Agenda Item was considered out of order.

A motion was made by Chris Freer to **APPROVE** Item 5.b) of the March 6, 2024 Technical Committee Meeting Minutes; seconded by Chair Loren Moreland; the motion carried unanimously.

b) Technical Committee Meeting Minutes of April 3, 2024

A motion was made by Chair Loren Moreland to **APPROVE** the April 3, 2024 Technical Committee Meeting Minutes as written; seconded by Chris Freer; the motion carried unanimously.

c) Licensing Committee Meeting Minutes of April 11, 2024

A motion was made by Chris Freer to **APPROVE** the April 11, 2024 Licensing Committee Meeting Minutes as written; seconded by Chair Loren Moreland; the motion carried unanimously.

4. DECISION APPEALS

REVISED APPEAL PROCEDURE(S), AS IMPLEMENTED BY THE BOARD OF REVIEW DURING ITS MAY 16, 2018 BOARD OF REVIEW MEETING:

The Board of Review shall conduct a public hearing on the appeal. At the conclusion of the hearing, the Board of Review shall make appropriate findings and determine whether the Technical Committee's or Licensing Committee's decision, as applicable, shall stand, be overturned or modified. The Board of Review's decision shall be considered final agency action for all purposes under Colorado Law.

Those aggrieved by the Technical Committee's or Licensing Committee's decision, as applicable, may appeal the decision provided that a notice of appeal, stating the grounds for appeal, is filed in accordance with RBC101.7. The Department, upon receiving a perfected appeal, shall forward the record of the Technical Committee or Licensing Committee to the Board of Review, and the matter shall be set for a public hearing at the next available Board of Review meeting. The Board of

Review may hear the appeal de novo or may limit the hearing to the issues identified in the notice of appeal. At the conclusion of the public hearing, the Board of Review shall determine whether there is substantial evidence in the record to support the Technical Committee's or Licensing Committee's decision, as applicable, and if so, then the decision must be affirmed. If there is not substantial evidence in the record to support the Committee's decision, the Board of Review may overturn the decision or modify it. **(Last Updated: May 16, 2018)**

- a) Appeal filed by Craig Nelson dated March 8, 2024. Appeal of Administrative Fine(s) imposed by the Department in accordance with Section RBC103.12 for work performed on 15 projects after April 2020 without having an active licensed examinee, without authority or supervision by the retired examinee, and without authority to obtain permit(s), if permit(s) were obtained.

Craig Nelson appeared in person and was sworn in. Mr. Nelson read his appeal aloud stating that he is appealing the decision of the Licensing Committee made on February 8, 2024. Mr. Nelson was fined for performing fifteen projects after April 2020 without having an active licensed examinee and without authority or supervision by the retired examinee on the subject projects. He is not asking that the decision be reversed or set aside, but he is asking for a modification or reduction of the amounts of the fines.

Vince Colarelli asked what type of license Mr. Nelson's previous examinee carried and at what point did he realize that the examinee had retired. Mr. Nelson stated that the examinee held a Contractor C license, and he did not realize he was obtaining permits using the retired person's license until he received the complaint filed by the Department last year. He said during Covid he just kept obtaining permits and renewing the license via email or electronically through the Department using the retired contractor's license. He said he always provided the appropriate insurance and most of his clients were satisfied with the work performed.

Mr. Nelson further stated that he had requested that one permit that he obtained last October, 2023, be transferred to another contractor. This transfer was made, but Mr. Nelson was still fined \$1,000 for obtaining the permit under false pretenses.

Roger Lovell also appeared in person and was sworn in. Mr. Lovell stated that the maximum administrative fine of \$1,000 was issued for each project, including the one with a transferred permit, because the acts by Mr. Nelson were willful and wanton on each and every one of these projects. It was the Department that required Mr. Nelson to transfer the open permit on the subject project. Mr. Lovell spoke in detail to the meeting minutes of record, which total three separate appearances by Mr. Nelson before the Licensing Committee and focused on the representations and admissions made by Mr. Nelson during those proceedings. Mr. Lovell stands firmly by his decision to issue the maximum administrative fines against Mr. Nelson and the company for obtaining permits using the license of a retired contractor and knowingly providing residential construction consulting and construction work without a license.

The Board members took a few minutes to review the documents and previous meeting minutes, and after further discussion, Chair Loren Moreland confirmed with Virginia Koulchitzka, Regional Building Attorney, unless Mr. Nelson holds a contractor license, he cannot solicit construction work or perform any construction work. Vince Colarelli asked Mr. Nelson if he had any new or additional information to share with the Board that he did not have during any of the Licensing Committee meetings. Mr. Nelson answered he did not – other than the hardship in having to pay the fifteen maximum administrative fines.

A motion was made by Chris Freer to **AFFIRM** the decision of the Licensing Committee to affirm the administrative fines, as assessed by the Building Official pursuant to Section RBC103.12; seconded by Chair Loren Moreland; the motion carried unanimously.

Virginia Koulchitzka advised the appellant that the decision of the Board of Review is a final, agency decision, only subject to appeal under Colorado Rules of Civil Procedure, Rule 106.

5. UNFINISHED BUSINESS

There was no Unfinished Business to discuss.

6. NEW BUSINESS

There was no New Business to discuss.

7. ADJOURNMENT

The Board of Review meeting adjourned at 11:56 a.m.

Respectfully submitted,



Roger N. Lovell
Regional Building Official
RNL/gml

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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