

7D-1

Agenda Item#

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARD APPOINTMENT SUMMARY

Meeting Date: September 15, 2009

Department: Planning, Zoning & Building

Submitted By: Building Division

Advisory Board Name: Construction Board of Adjustment and Appeals

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends a motion to approve: The reappointment of the following named individual to the Construction Board of Adjustment and Appeals (CBAA) for a one (1) year term from November 23, 2009 to November 22, 2010.

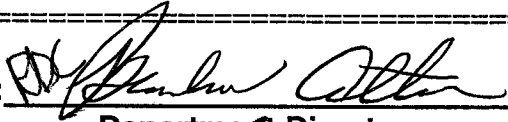
<u>Nominee</u>	<u>Seat</u>	<u>Requirement</u>	<u>Nominated By</u>
Arnold Rich	8 (Alternate)	At-Large from the Public	Comm. Karen T. Marcus


Summary: Palm Beach County Ordinance 89-31 created the Construction Board of Adjustment and Appeals. The term of office for an alternate is one year. Arnold Rich is nominated by Commissioner Karen T. Marcus. The nomination represents the member at large from the public of the Board as required by the Palm Beach County Ordinance 2002-005, as amended, Palm Beach County Amendments to the Florida Building Code, 2007 Edition. The Board is comprised of seven members consisting of one registered architect; one registered engineer; one general contractor; one electrical contractor; one HVAC contractor; one plumbing contractor and any other contractor licensed category. In addition to the seven members, there should be two alternate members, one member with the qualifications referenced above and one member at large from the public. A memorandum from the Building Division was sent to the BCC on April 9, 2009 requesting nominations for Seat 8. There were no other nominations. (Building Division) Countywide (DW)

Background and Justification: continued on page 3

Attachments:

1. Memorandum to Board of County Commissioners
2. Board Appointment Information Form
3. Attendance Record
4. Section 116 of the Palm Beach County Amendments to the Florida Building Code, 2007 Edition

Recommended By:  8/21/09
 Department Director Date

Legal Sufficiency:  8/25/09
 Assistant County Attorney Date

II. REVIEW COMMENTS

A. Other Department Review:

Department Director

REVISED 06/92
ADM FORM 03
(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

continued from page 1

Background and Justification: The Construction Board of Adjustment and Appeals shall have the power, as further defined in 116.3, to hear appeals of decisions and interpretations of the Building Official and consider variances of the technical codes.

The Board shall establish rules and regulations for its own procedure not consistent with the provisions of this code. The board shall meet on call of the chairman. The board shall meet within 30 calendar days after notice of appeal has been received.



**Department of Planning,
Zoning & Building**

2300 North Jog Road
West Palm Beach, FL 33411-2741
(561) 233-5000

Planning Division 233-5300
Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
Contractors Certification 233-5525
Administration Office 233-5005
Executive Office 233-5228
www.pbcgov.com/pzb

**Palm Beach County
Board of County
Commissioners**

Jeff Koons, Chairman

Burt Aaronson, Vice Chairman

Karen T. Marcus

Shelley Vana

Steven L. Abrams

Jess R. Santamaria

Priscilla A. Taylor

County Administrator

Robert Weisman



*"An Equal Opportunity
Affirmative Action Employer"*

INTEROFFICE MEMORANDUM

DATE: April 9, 2009
TO: Jeff Koons, Chair and Members of the
Board of County Commissioners
FROM: Rebecca D. Caldwell, Building Official
Building Division
RE: CONSTRUCTION BOARD OF ADJUSTMENTS &
APPEALS

A nomination is needed to fill Seat No. 8 on the County's Construction Board of Adjustments and Appeals. The requirement for the seat is to be a member from the public at large.

Attached is a Board Appointment Information blank form. If you have a nomination for this seat, please have the information included on the form provided. Also, attached is the list of members on this board.

Please return your nomination to me by July 1, 2009. Board staff will prepare an Agenda Item for the Board of County Commissioners' consideration, as soon as we receive your response.

If you have any questions concerning this appointment, you may contact me at 233-5103.

Attachment

c: Commissioner Burt Aaronson, Vice Chairperson
Commissioner Karen T. Marcus
Commissioner Shelley Vana
Commissioner Steven L. Abrams
Commissioner Jess R. Santamaria
Commissioner Addie L. Greene
Verdenia Baker, County Administration
Barbara Alterman, Planning, Zoning & Building
Sandra Smith, County Administration

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
ADVISORY BOARD NOMINEE INFORMATION FORM

Part I:

Board Name: Construction Board of Adjustments & Appeals

At Large Appointment or District Appointment

Term of Appointment: 1 Years. From: 11/23/09 To: 11/21/2010

Seat Requirement: Citizen At Large Seat #: 8

Reappointment or New Appointment

or to complete the term of _____ Due to: resignation other

Completion of term to expire on: _____

Part II: **APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT**

Name: Rich Arnold
 Last First Middle

Occupation/Affiliation: _____

Business Name: _____

Business Address: _____

City & State _____ Zip Code: _____

Residence Address: 6287 Long Key Lane

City & State Boynton Beach Zip Code: 33462

Home Phone: () 742-7208 Business Phone: () ext.

Cell Phone: () Fax: ()

Email Address: _____

Mailing Address preference: Business Address Residence

Minority Identification Code:

- | | |
|--|---|
| <input type="checkbox"/> IF (Native-American Female) | <input type="checkbox"/> IM (Native-American Indian Male) |
| <input type="checkbox"/> AF (Asian-American Female) | <input type="checkbox"/> AM (Asian-American Male) |
| <input type="checkbox"/> BF (African-American Female) | <input type="checkbox"/> BM (African-American Male) |
| <input type="checkbox"/> HF (Hispanic-American Female) | <input type="checkbox"/> HM (Hispanic-American Male) |
| <input type="checkbox"/> WF (Caucasian Female) | <input checked="" type="checkbox"/> WM (Caucasian Male) |

Part III: COMMISSIONER COMMENTS

Appointment to be made at BCC Meeting on: _____

*When a person is being considered for re-appointment, the number of previous disclosed voting conflicts shall be considered by the Board of County Commissioners.

Number of previously disclosed voting conflicts during the previous term

Signature: Cindy L DeFilippo for Date: 6/11/09
Comm. Karen T. Marav's

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS ATTENDANCE RECORD, 2009												
NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Bart Rasper – Seat 1	NM	NM	NM	NM	NM	NM		NM				
Duane Drawdy– Seat 2	NM	NM	NM	NM	NM	NM		NM				
Albert Godfrey – Seat 3	NM	NM	NM	NM	NM	NM		NM				
Marc Weiner – Seat 4	NM	NM	NM	NM	NM	NM		NM				
Ron Dixon – Seat 5	NM	NM	NM	NM	NM	NM	A	NM				
Michael V. Walker – Seat 6	NM	NM	NM	NM	NM	NM		NM				
VACANT – Seat 7	P'dg	P'dg	P'dg	P'dg	P'dg	P'dg	P'dg	P'dg				
Arnold Rich (Alt. 8)	NM	NM	NM	NM	NM	NM		NM				
Joseph Parent (Alt. 9)	NM	NM	NM	NM	NM	NM	N/A	NM				

Months with an **NM** indicates NO MEETING was held that month.

Months with a **blank** indicates the member DID attend that meeting.

Meeting Dates followed by ****** indicates this was a SPECIAL MEETING.

Months with an **A** indicates a member DID NOT attend that meeting.

Start indicates Newly Appointed Members

P'dg indicates that Seat is pending appointment/re-appointment

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS SITTING AS THE LOCAL CONSTRUCTION REGULATION BOARD ATTENDANCE RECORD, 2009

NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Bart Rasper	NM		NM	NM	NM	NM	NM	NM				
Duane Drawdy	NM		NM	NM	NM	NM	NM	NM				
Albert Godfrey	NM		NM	NM	NM	NM	NM	NM				
Marc Weiner	NM	A	NM	NM	NM	NM	NM	NM				
Ron Dixon	NM		NM	NM	NM	NM	NM	NM				
Michael V. Walker	NM	A	NM	NM	NM	NM	NM	NM				
VACANT	P'dg	P'dg	P'dg	P'dg	P'dg	P'dg	P'dg	P'dg				
Arnold Rich (Alt. 8)	NM		NM	NM	NM	NM	NM	NM				
Joseph Parent (Alt. 9)	NM		NM	NM	NM	NM	NM	NM				

Months with an **NM** indicates NO MEETING was held that month.

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same manner as mortgage liens are foreclosed. Such lien shall bear interest from date of abatement of nuisance at the rate of ten (10) percent per annum and shall be enforceable if unsatisfied as other liens may be enforced by the governing agency.

115.4 Appeals.

115.4.1 An aggrieved party, including the local governing body, may appeal a final administrative order of the Special Magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

SECTION 116 BUILDING BOARD OF ADJUSTMENT AND APPEALS

116.1 Appointment. There is hereby established a board to be called the Building Board of Adjustment and Appeals, which shall consist of seven members and two alternates. The applicable governing body shall appoint the Board.

116.2 Membership and Terms

116.2.1 Membership. The Building Board of Adjustment and Appeals shall consist of seven members. Such board members shall be composed of individuals with knowledge and experience in the technical codes to include, to the greatest extent possible, to an architect, engineer, general contractor, electrical contractor, HVAC contractor, plumbing contractor, and any other contractor licensed category. In addition to the regular members, there should be two alternate members, one member with the qualifications referenced above and one member at large from the public. A board member shall not act in a case in which he has a personal or financial interest.

116.2.2 Terms. The terms of office of the board members shall be staggered so no more than one-third of the board is appointed or replaced in any 12-month period. The two alternates, if appointed, shall serve one-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Three absences of any member from required meetings of the board shall in a 12 month period, at the discretion of the applicable governing body, render any such member subject to immediate removal from office.

116.2.3 Quorum and voting. A simple majority of the board shall constitute a quorum. In varying any provision of this code, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the building official, not less than four affirmative votes, but not less than a majority of the board, shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.

116.2.4 Secretary of board. The building official or his/her authorized representative shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member, and any failure of a member to vote.

116.3 Powers. The Building Board of Adjustments and Appeals shall have the power, as further defined in 116.4, to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.

116.4 Appeals

116.4.1 Decision of the building official. The owner of a building, structure or service system, or duly authorized agent, may appeal a decision of the building official to the Building Board of Adjustment and Appeals whenever any one of the following conditions are claimed to exist:

1. The building official rejected or refused to approve the mode or manner of construction proposed to be followed, or materials to be used in the installation or alteration of a building, structure, or service system.
2. The provisions of this code do not apply to this specific case.
3. That an equally good or more desirable form of installation can be employed in any specific case, which the building official has rejected or refused.
4. The true intent and meaning of this code or any of the regulations hereunder have been misconstrued or incorrectly interpreted.

116.4.2 Variances. The Building Board of Adjustments and Appeals, when upon written request, has been so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:

1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
2. That the special conditions and circumstances do not result from the action or inaction of the applicant.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system.
4. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.
5. That the grant of the variance will be in harmony with the general intent and purpose of this code and will not be detrimental to the public health, safety and general welfare.

116.4.2.1 Conditions of the variance. In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this code. Violation of the conditions of a variance shall be deemed a violation of this code.

116.4.3 Notice of appeal. Notice of appeal shall be in writing and filed within 30 calendar days after the building official renders the decision. Appeals shall be in a form acceptable to the building official.

116.4.4 Unsafe or dangerous buildings or service systems. In the case of a building, structure or service system, which in the opinion of the building official, is unsafe, unsanitary or dangerous, the building official may, in the order, limit the time for such appeals to a shorter period.

116.5 Procedures of the board.

116.5.1 Rules and regulations. The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet on call of the chairman. The board shall meet within 30 calendar days after notice of appeal has been received.

116.5.1.1 Rules of Evidence. Formal rules of evidence shall not apply, but fundamental due process should be observed and govern the proceedings. Upon determination by the Chairperson, irrelevant, immaterial, or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form. The Board may request certain evidence be provided by an architect or engineer registered in the State of Florida, in which case said evidence shall be signed, sealed, and dated.

116.5.1.2 Testimony. Any member of the Board or the attorney representing the Board may inquire of, or question, any witness before the Board. Any member of the Board, the petitioner or his/her attorney, and/or the building official shall be permitted to inquire of any witness before the Board. The Board may consider testimony presented by the building official, the petitioner, or any other witness.

116.5.2 Decisions. The Building Board of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application of any provision of this code, the building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or

otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing. Every decision of the board shall be final; subject however to such remedy as any aggrieved party might have at law or in equity.

**SECTION 117
RESERVED**

**SECTION 118
SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

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