

PALM BEACH COUNTY

BOARD OF COUNTY COMMISSIONERS

BOARD APPOINTMENT SUMMARY

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Meeting Date: June 07, 2022
Department: Planning, Zoning & Building Department
Submitted By: Building Division
Advisory Board Name: Construction Board of Adjustments and Appeals
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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Reappointment of two members to the Construction Board of Adjustments and Appeals (CBAA).

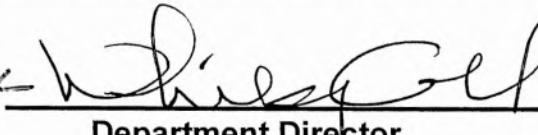
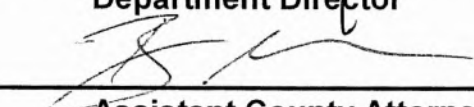
| <u>Re-appoint</u> | <u>Seat</u> | <u>Requirement</u> | <u>Term</u> | <u>Nominated by</u> |
|-------------------|-------------|-----------------------|-------------------|---|
| Bart Rasper | 1 | Plumbing Contractor | 06/07/22-06/06/25 | Plumbing Air Conditioning Contractors Industry Fund |
| Rex Kirby | 8 | Division I Contractor | 06/07/22-06/06/25 | AGC Florida East Coast Chapter |

Summary: Bart A. Rasper has been nominated by the Plumbing Air Conditioning Contractors Industry Fund (PACCIF) to serve a third three-year term as the plumbing contractor on the Construction Board of Adjustment and Appeals (Board). Rex Kirby has been nominated by the AGC Florida East Coast Chapter (AGC) to serve a third three-year term as a Division I contractor on the Board. The term of office for Board members is three years, with a limit of three consecutive three-year terms. The Board has 11 seats with 8 currently filled and a diversity count of Caucasian: 6 (75%) African American: 1 (12.5%) and Hispanic: 1 (12.5%). The gender ratio (female: male) is 1:7. The nominees are both Caucasian males. Staff will continue to address the need to increase diversity on our boards. **Countywide** (RM)

Background and Justification: Palm Beach County Ordinance 89-31, as amended in 2002, established the Construction Board of Adjustment and Appeals. Per Palm Beach County Ordinance 2020-028, Palm Beach County Amendments to the Florida Building Code, 7th Edition (2020), the Board is comprised of nine regular members: one architect; one engineer; two Division I contractors (general, building, or residential contractors); one electrical contractor; one HVAC contractor; one plumbing contractor; a member at large from the public; and any other contractor licensed category. In addition to these members, there should be two alternate members: one member with the qualifications referenced above; and one member at large from the public. As defined in Section 113.5 of the Palm Beach County Amendments to the Florida Building Code, the Board shall have the power to hear appeals of decisions and interpretations of the Building Official, and consider variances of the technical codes. The board shall meet within 30 calendar days after Notice of Appeal has been received.

Attachments:

1. Board/Committees Applications for Bart A. Rasper and Rex Kirby
2. Resume/Bio for Bart A. Rasper and Rex Kirby
3. Nomination letters from PACCIF and AGC
4. CBAA Attendance Log 2019, 2020, and 2021
5. Section 113 of the Palm Beach County Amendments to the Florida Building Code, 7th Edition (2020)

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Recommended By:  5/5/2022
 Department Director Date
Legal Sufficiency:  5/10/22
 Assistant County Attorney Date

II. REVIEW COMMENTS

A. Other Department Review:

Department Director

Date

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

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION

The information provided on this form will be used in considering your nomination. Please COMPLETE SECTION II IN FULL. Answer "none" or "not applicable" where appropriate. Please attach a biography or résumé to this form.

Section I (Department): (Please Print)

Board Name: Construction Board of Adjustment and Appeals Advisory [] Not Advisory []
[X] At Large Appointment or [] District Appointment /District #:
Term of Appointment: 3 Years. From: To:
Seat Requirement: Plumbing Contractor Seat #:
[X]*Reappointment or [] New Appointment
or [] to complete the term of Due to: [] resignation [] other
Completion of term to expire on:

*When a person is being considered for reappointment, the number of previous disclosed voting conflicts during the previous term shall be considered by the Board of County Commissioners:

Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: RASPER BART ALLEN
Last First Middle
Occupation/Affiliation: PLUMBING CONTRACTOR
Owner [] Employee [] Officer []
Business Name: ALPHA PLUMBING SERVICES INC
Business Address: 4581 CHARLOTTE STREET
City & State: WEST PALM BEACH Zip Code: 33417
Residence Address: SAME
City & State Zip Code:
Home Phone: (561) 686-0945 Business Phone: (561) 686-1007 Ext.
Cell Phone: (561) 373-9442 Fax: ()
Email Address: BART@ALPHAPLUMBINGSERVICES.COM

Mailing Address Preference: [X] Business [] Residence

Have you ever been convicted of a felony: Yes No X
If Yes, state the court, nature of offense, disposition of case and date:

Minority Identification Code: [X] Male [] Female
[] Native-American [] Hispanic-American [] Asian-American [] African-American [] Caucasian

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

| <u>Contract/Transaction No.</u> | <u>Department/Division</u> | <u>Description of Services</u> | <u>Term</u> |
|---------------------------------|-------------------------------|--------------------------------|----------------------------|
| <u>Example: (R#XX-XX/PO XX)</u> | <u>Parks & Recreation</u> | <u>General Maintenance</u> | <u>10/01/00-09/30/2100</u> |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

(Attach Additional Sheet(s), if necessary)
OR

NONE

NOT APPLICABLE/
(Governmental Entity)

ETHICS TRAINING: All board members are required to read and complete training on Article XIII, the Palm Beach County Code of Ethics, and read the State Guide to the Sunshine Amendment, **Article XIII**, and the training requirement can be found on the web at: <http://www.palmbeachcountyethics.com/training.htm>. Ethics training is on-going, and pursuant to PPM CW-P-79 is required before appointment, and upon reappointment.

By signing below I acknowledge that I have read, understand, and agree to abide by Article XIII, the Palm Beach County Code of Ethics, and I have received the required Ethics training (in the manner checked below):

- By watching the training program on the Web, DVD or VHS on 4/21 20 22
- By attending a live presentation given on _____, 20____

AND

By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature: Bart Rasper Printed Name: BART A. RASPER Date: 4/22/22

Any questions and/or concerns regarding Article XIII, the Palm Beach County Code of Ethics, please visit the Commission on Ethics website www.palmbeachcountyethics.com or contact us via email at ethics@palmbeachcountyethics.com or (561) 355-1915.

Return this FORM to:
{Insert Liaison Name Here}, {Insert Department/Division Here}
{Insert Address Here}

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on: _____

Commissioner's Signature: _____ Date: _____

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION**

The information provided on this form will be used in considering your nomination. Please **COMPLETE SECTION II IN FULL**. Answer "none" or "not applicable" where appropriate. Please attach a biography or résumé to this form.

Section I (Department): (Please Print)

Board Name: Construction Board of Adjustment and Appeals Advisory Not Advisory
 At Large Appointment or District Appointment /District #: _____
Term of Appointment: 4 Years. From: _____ To: _____
Seat Requirement: Division 1 Contractor Seat #: 8
 *Reappointment or New Appointment
or to complete the term of _____ Due to: resignation other
Completion of term to expire on: _____

*When a person is being considered for reappointment, the number of previous disclosed voting conflicts during the previous term shall be considered by the Board of County Commissioners: _____

Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: Kirby Rex Broughton
Last First Middle
Occupation/Affiliation: Construction Management
Owner Employee Officer
Business Name: Verdex Construction, LLC
Business Address: 1545 Centrepark Drive N.
City & State West Palm Beach Zip Code: 33401
Residence Address: 17211 Gulf Pine Circle
City & State Wellington, FL Zip Code: 33414
Home Phone: () Business Phone: (561) 440-1600 Ext. 101
Cell Phone: (561) 722-4390 Fax: ()
Email Address: rex.kirby@verdex.com

Mailing Address Preference: Business Residence

Have you ever been convicted of a felony: Yes _____ No

If Yes, state the court, nature of offense, disposition of case and date: _____

Minority Identification Code: Male Female
 Native-American Hispanic-American Asian-American African-American Caucasian

Section II Continued:

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

| <u>Contract/Transaction No.</u> | <u>Department/Division</u> | <u>Description of Services</u> | <u>Term</u> |
|--|-------------------------------------|--|----------------------------|
| <u>Example: (R#XX-XX/PO XX)</u> | <u>Parks & Recreation</u> | <u>General Maintenance</u> | <u>10/01/00-09/30/2100</u> |
| <u>N/A</u> | _____ | _____ | _____ |
| <u>N/A</u> | _____ | _____ | _____ |
| (Attach Additional Sheet(s), if necessary) OR | | | |
| NONE | <input checked="" type="checkbox"/> | NOT APPLICABLE/ (Governmental Entity) | <input type="checkbox"/> |

ETHICS TRAINING: All board members are required to read and complete training on Article XIII, the Palm Beach County Code of Ethics, and read the State Guide to the Sunshine Amendment, Article XIII, and the training requirement can be found on the web at: <http://www.palmbeachcountyethics.com/training.htm>. Ethics training is on-going, and pursuant to PPM CW-P-79 is required before appointment, and upon reappointment.

By signing below I acknowledge that I have read, understand, and agree to abide by Article XIII, the Palm Beach County Code of Ethics, and I have received the required Ethics training (in the manner checked below):

X By watching the training program on the Web, DVD or VHS on _____ 20____
 _____ By attending a live presentation given on _____, 20____

AND

By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature: *Rex B. Kirby* Printed Name: Rex B. Kirby Date: 4/25/2022

Any questions and/or concerns regarding Article XIII, the Palm Beach County Code of Ethics, please visit the Commission on Ethics website www.palmbeachcountyethics.com or contact us via email at ethics@palmbeachcountyethics.com or (561) 355-1915.

Return this FORM to:
 {Insert Liaison Name Here}, {Insert Department/Division Here}
 {Insert Address Here}

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on: _____

Commissioner's Signature: _____ Date: _____



Alpha Plumbing Services, Inc. is owned and operated by Bart Rasper who has a Florida State Master's License in Plumbing and has over 30 years technician service experience. He has certifications in Backflow Installation, Testing, and Repair, Brazing Continuity, and Medical Gas. His area of expertise is with pumps and frequency control drives, backflow preventers, commercial water heaters, and jetting main sewer lines.

REX B. KIRBY - BIO

As a 40+ year veteran of the construction industry, Rex founded Verdex Construction in 2014 and has built the firm into a notable contractor with projects spanning the multifamily, industrial, hospitality, commercial, and public sectors. Approaching \$225+ million in revenues, Verdex has already expanded beyond South Florida with new offices in Tampa and Gainesville. Prior to starting Verdex, he was the Southeast Region President for a large national construction firm where he grew his division to \$500,000,000 in annual revenues. As the leader of Verdex, he has attained many notable achievements both individually and on behalf of his company. He is active in many industry and civic groups and frequently serves in leadership positions:

BUSINESS ACHIEVEMENTS

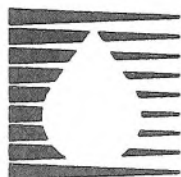
Named "Best Places to Work" in South Florida (SFBJ-2022), Builder of the Year (AIA Palm Beach Chapter - 2020); Business of the Year Finalist (SFBJ and Chamber of Commerce of the Palm Beaches -2021 and 2020); #22 on the Gator 100 List (University of Florida—2020); Top Projects of the Year, Indigo Station Apartments (ABC Florida East Coast Chapter - 2020), Excellence in Construction Eagle Awards (ABC Florida East Coast Chapter—2017-2021); among the Top 15 Largest General Contractors in South Florida (SFBJ—2018 - current); Build Florida Award (AGC—2019); #3 Fastest Growing Company in South Florida (SFBJ—2019); Excellence in Safety Awards (AGC—2017, 2019); Structures Award Finalist for Central Gardens Grand (SFBJ—2019); 2019 President/Partner Palm Beach County Apogee Award (South Florida Business and Wealth—2019); Business of the Year Finalist (Chamber of Commerce of the Palm Beaches—2018, 2019, 2020, 2021); Start Up Business of the Year (SFBJ—2017); Structures Awards for Best Industrial Development Project—Turnpike Business Park (SFBJ—2016)

ASSOCIATIONS/COMMUNITY INVOLVEMENT

Associated General Contractors Board of Directors (Vice President 2022-23, member 2016-current); Economic Council of Palm Beach County Board of Directors (2007-current); HomeSafe Board (President of the Board 2018-2019, member since 2009); Business Development Board (Corporate Investor level 2015-current, Chairman, 2012-2013); Palm Beach County Building Board of Adjustments and Appeals (2015–current); Infrastructure Surtax Independent Citizen Oversight Committee Member (2017– Current); Chamber of Commerce of the Palm Beaches, Trustee (2017– current)

PERSONAL

For 15 years, including volunteer service as President and Gala Chair, he has been most passionate about HomeSafe, an organization that provides prevention and intervention services for children and adults that are victims of abuse and domestic violence. Rex is a licensed Professional Engineer with a BS in Civil Engineering from University of Florida.



PLUMBING
AIR CONDITIONING
CONTRACTORS INDUSTRY FUND

PLUMBING AIR CONDITIONING CONTRACTORS INDUSTRY FUND
5730 Corporate Way, West Palm Beach, FL. 33407 (561-683-8833) (fax 561-683-9633) web site (www.paccif.org)

April 20, 2022

*Cynthia L. Peterson
P.B.C. Dept. of Planning, Building & Zoning
2300 North Jog Road
West Palm Beach, FL. 33411-2741*

RE: Construction Board of Adjustments and Appeals Nomination Request

Dear Cynthia;

The Plumbing and Air Conditioning Construction Industry Fund would like to re-nominate Bart Rasper, whose term has expires May 6, 2022 to the Construction Board of Adjustments and Appeals.

Sincerely,

*Dee Lewis
Comptroller*

CC: file; Trustees

TRUSTEES

➤ *Susan Stokes, Peter Fedor, Troy Norris*



AGC

FLORIDA EAST COAST

THE CONSTRUCTION ASSOCIATION

Michelle Anaya DePotter
Chief Executive Officer

April 21, 2022

2022 Board of Directors

VIA ELECTRONIC MAIL & HARD MAIL

Officers

President

John Ciabattari
Ferreira Construction Company, Inc.

Sr. Vice President

Stephen Sines
The Morganti Group

Vice President

Rex Kirby
Verdex Construction

Secretary/ Treasurer

Brian Muller
Rehmann

Past President

Brett Strassel
Hedrick Brothers Construction

Directors

Cindy Baldwin

VDCO Tech

Chuck Congdon

The Weitz Company

Jackie Cooper

Cooper Construction Management & Consulting

Dave DeMay

KAST Construction

Bryan Fulcher

Maschmeyer

Allen Gast

Gast Construction

Ken Geremia, Jr.

Gerelco Electrical Contractors, Inc.

Adam Linkhorst*

Linkhorst & Hockin, P.A.

Chris Long

Kaufman Lynn

Brett Rosenhaus

Nielson Rosenhaus & Associates

Bob Schafer

Ranger Construction

Mike Senecal

Hill York

Mr. Doug Wise
Building Division Director/Building Official
Palm Beach County
Building Administration
Planning, Zoning & Building
2300 N. Jog Road
West Palm Beach, FL 33411

Dear Doug:

It has been brought to our attention Mr. Rex Kirby's term as AGC's nomination and current representative on the Construction Board of Adjustment & Appeals will expire on May 6, 2022. I am pleased to respond as well as confirm our desire to re-nominate Mr. Kirby who should be eligible for another term.

Rex is an officer of the AGC Florida East Coast Chapter board of directors. He has been committed to this CBAA appointment and has expressed his willingness to continue to serve.

Thank you for your consideration of this request for re-nomination and as always for the continued opportunity to fill this seat and others with qualified contractors. We will look forward to your presenting this to the BOCC and kindly request you notify me as to when it is scheduled on the agenda for approval, or if I need to reach out to them directly as well.

Would you please have your team note our office location and mailing address reflected on this letterhead for hard mailing purposes. We are not receiving mail at the old address, nor is it being forwarded, and it's been challenging to say the least.

Thank you, Doug, and should you have any further questions or concerns about this or any other seats, please don't hesitate to give me a call.

Sincerely,

Michelle Anaya DePotter
Chief Executive Officer

C: Cynthia Peterson, PBC Building Administration
Rex Kirby, Verdex Construction

Attachment: Bio of Rex Kirby

*General Counsel

515 North Flagler Drive, Suite 910 • West Palm Beach, FL 33401
Telephone: (561) 833-3609

www.agcfla.com
www.agc.org

CBAA MEETING ATTENDANCE
2019

| SEAT | MEMBER | 19-Jan | 19-Feb | 19-Mar | 19-Apr | 19-May | 19-Jun | 19-Jul | 19-Aug | 19-Sep | 19-Oct | 19-Nov | 19-Dec |
|------|---------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 1 | Rasper, Bart | P | A | A | C | P | C | C | P | P | C | C | C |
| 2 | Vacant | | | | | | C | | | | | | |
| 3 | Kutscher, Fred | A | P | P | P | A | C | C | P | A | C | A | C |
| 4 | Dornblaser, Jessica | | | | | | | | | | | A | C |
| 5 | Dixon, Ron | P | P | P | P | A | C | C | P | P | C | C | C |
| 6 | Markel, Steven | A | P | P | A | P | C | C | P | P | C | C | C |
| 7 | Oyola, Manuel | A | A | P | P | P | C | C | P | P | C | C | C |
| 8 | Kirby, Rex | P | A | A | A | A | C | C | P | P | C | C | C |
| 9 | Walden, Margie | P | P | P | P | P | C | C | A | P | C | A | C |
| ALT | McIntosh, Justin | P | P | P | P | P | C | C | P | P | C | A | C |
| ALT | Vacant | | | | | | | | | | | | |

P = Member in attendance


A = Member absent

C = Scheduled meeting cancelled

H = Holiday

*Change in member status (i.e. appointment, resignation, removal or seat change)

 Vacant

 No Meeting

CBAA MEETING ATTENDANCE
2020

| SEAT | MEMBER | 20-Jan | 20-Feb | 20-Mar | 20-Apr | 20-May | 20-Jun | 20-Jul | 20-Aug | 20-Sep | 20-Oct | 20-Nov | 20-Dec |
|------|---------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 1 | Rasper, Bart | C | P | P | C | C | P | C | C | P | P | C | C |
| 2 | Wingate, Timothy | | | | | | | | | | | C | C |
| 3 | Kutscher, Fred | C | A | A | | | | | | | | | |
| 4 | Dornblaser, Jessica | C | P | A | C | C | P | C | C | P | P | C | C |
| 5 | Dixon, Ron | C | P | A | C | C | P | C | C | P | P | C | C |
| 6 | Markel, Steven | C | P | P | C | C | P | C | C | A | P | C | C |
| 7 | Oyola, Manuel | C | P | P | C | C | P | C | C | P | P | C | C |
| 8 | Kirby, Rex | C | P | A | C | C | P | C | C | P | P | C | C |
| 9 | Walden, Margie | C | P | P | C | C | A | C | C | P | A | C | C |
| ALT | McIntosh, Justin | C | P | P | C | C | A | | | P | | | |
| ALT | Vacant | | | | | | | | | | | | |

P = Member in attendance


A = Member absent

C = Scheduled meeting cancelled

H = Holiday

*Change in member status (i.e. appointment, resignation, removal or seat change)

 Vacant

 No Meeting

CBAA MEETING ATTENDANCE
2021

| SEAT | MEMBER | 21-Jan | 21-Feb | 21-Mar | 21-Apr | 21-May | 21-Jun | 21-Jul | 21-Aug | 21-Sep | 21-Oct | 21-Nov | 21-Dec |
|------|---------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 1 | Rasper, Bart | P | C | C | C | P | C | C | P | C | C | H | C |
| 2 | Wingate, Timothy | P | C | C | C | P | C | C | P | C | C | H | C |
| 3 | Vacant | | | | | | | | | | | | |
| 4 | Dornblaser, Jessica | A | C | C | C | P | C | C | P | C | C | H | C |
| 5 | Dixon, Ron | P | C | C | C | A | C | C | P | C | C | H | C |
| 6 | Markel, Steven | P | C | C | C | P | C | C | A | C | C | H | C |
| 7 | Oyola, Manuel | P | C | C | C | P | C | C | P | C | C | H | C |
| 8 | Kirby, Rex | P | C | C | C | P | C | C | P | C | C | H | C |
| 9 | Vacant | | | | | | | | | | | | |
| ALT | McIntosh, Justin | P | C | C | C | P | C | C | P | C | C | H | C |
| ALT | Vacant | | | | | | | | | | | | |

P = Member in attendance


A = Member absent

C = Scheduled meeting cancelled

H = Holiday

*Change in member status (i.e. appointment, resignation, removal or seat change)

 Vacant

 No Meeting

Completion is issued. The servicing utility company shall not connect the power supply until notified by the building official.

112.2 Temporary connection. The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary or partial Certificate of Occupancy.

112.3 Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 101.4 of this code in case of emergency where necessary to eliminate an immediate hazard to life or property, unsafe condition, or when such utility connection has been made without the approval required by Section 112.1 or 112.2 of this code. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION 113 CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

113.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, or to consider variances of this code, there shall be a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

113.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

113.4 Membership and Terms.

113.4.1 Membership. The Construction Board of Adjustment and Appeals shall consist of nine regular members plus two alternate members. Regular board members shall be composed of individuals with knowledge and experience in the technical codes to include, to the greatest extent possible, an architect, engineer, two Division I contractors (GC, BC, or RC), electrical contractor, HVAC contractor, plumbing contractor, a member at large from the public, 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 or she has a personal or financial interest.

113.4.2 Terms. The terms of office of the regular board members shall be for three (3) years and staggered so no more than one-third of the board is appointed or replaced in any 12-month period. The two alternates shall serve three-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. No board member shall be appointed or re-appointed to this board for more than three (3) consecutive, three (3) year terms.

113.4.3 Quorum and voting. A simple majority of the occupied seats 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 members present, shall be required. In the event that regular members are unable to attend a meeting, the alternate members shall vote.

113.4.4 Secretary of board. The building official or his/her authorized representative shall act as secretary of the board and shall make a 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.

113.4.5 Removal from office. Members shall be automatically removed for lack of attendance. Lack of attendance is defined as a failure to attend three (3) consecutive meetings or a failure to attend more than one-half of the meetings scheduled during a calendar year. Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting. Members removed pursuant to this provision shall not continue to serve on the board and such removal shall create a vacancy.

113.5 Powers. The Construction Board of Adjustments and Appeals shall have the power, as further defined in 113.6 of this code, to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.

113.6 Appeals.

113.6.1 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 Construction 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.

113.6.2 Variances. The Construction 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.

113.6.2.1 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.

113.6.3 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.

113.6.4 Unsafe or dangerous buildings, structures, equipment or service systems. In the case of a building, structure, equipment 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.

113.7 Procedures of the board.

113.7.1 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 the second Thursday of each month, as needed, or at the call of the chairperson, subsequent to a request to call a meeting by the secretary. The board shall meet at the second regular meeting if a notice of appeal has been received fewer than 15 business days before a regular meeting.

113.7.1.1 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 from the appellant to be provided by an architect or engineer registered in the State of Florida, in which case, said evidence shall be signed, sealed, and dated.

113.7.1.2 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 appellant 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 appellant, or any other witness.

113.7.2 Decisions. The Construction 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 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.

113.8 Local Construction Regulation Board. The local government may also utilize this Board to convene as the Local Construction Regulation Board (LCRB), as provided in Florida Statute 489.113. The LCRB may deny, suspend, revoke or limit the authority of a certified contractor to obtain a building permit or permit with specific conditions, if the LCRB has found such contractor, through a public hearing, to be guilty of fraud or a willful building code violation within the county or municipality that the LCRB represents. The LCRB may also, deny, suspend, revoke or limit the authority of a certified contractor to obtain a building permit or permit with specific conditions, if it has proof through the public hearing process, that a contractor has been found guilty in another county or municipality within the past 12 months, of fraud or a willful building code violation and, after providing notice of an opportunity to be heard to the contractor, finds that such fraud or violation would have been fraud or a violation if committed in the county or municipality that the LCRB represents. Notification of and information concerning such permit denial shall be submitted to the division within 15 days after the LCRB decides to deny the permit.