

UPDATES TO THE 2013 DISCUSSION GUIDE & FINAL ACTION

AGENDA UPDATES

Updated 10/03/2013

RB4-13 Part I: Added Section R104.10.1 Public Comment 1 as follows:

Public Comment 1:

Gregory Wilson (FEMA) and Rebecca Quinn (RCQuinn Consulting), representing US Dept of Homeland Security, Federal Emergency Management Agency and RCQuinn Consulting, Inc. representing FEMA, requests Approval as Modified by this Public Comment,

Replace the proposal with the following:

Revise as follows:

R104.10.1 Flood hazard areas. The building official shall not grant modifications to any provisions related to flood hazard areas as established by Table R301.2(1) without the granting of a variance to such provisions by the board of appeals unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section R322 inappropriate.
2. A determination that failure to grant the modification would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a modification will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the modification is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

R105.3.1.1 Determination of substantially improved or substantially damaged existing buildings in flood hazard areas. For applications for reconstruction, rehabilitation, alteration, repair, addition or other improvement of existing buildings or structures located in a flood hazard area as established by Table R301.2(1), the building official shall examine or cause to be examined the construction documents and shall make a determination with regard to the value of the proposed work. For buildings that have sustained damage of any origin, the value of the proposed work shall include the cost to repair the building or structure to its predamage condition. If the building official finds that the value of proposed work equals or exceeds 50 percent of the market value of the building or structure before the damage has occurred or the improvement is started, the proposed work is a substantial improvement or restoration of substantial damage and the building official shall require all existing portions of the entire building or structure to meet the requirements of R322.

For the purpose of this determination, a substantial improvement shall mean any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the building or structure has sustained substantial damage, all repairs necessary to restore the building or structure to its pre-damaged condition are considered substantial improvement regardless of the actual repair work performed. The term shall not include:

1. Improvements of a building or structure required to correct existing health, sanitary or safety code violations identified by the building official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic building or structure, provided that the alteration will not preclude the continued designation as a historic building or structure. For the purposes of this exclusion, a historic building is:
 - 2.1. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places; or
 - 2.2. Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district; or
 - 2.3. Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.

R112.2.1 Determination of substantial improvement in flood hazard areas. When the building official provides a finding required in Section R105.3.1.1, the board of appeals shall determine whether the value of the proposed work constitutes a substantial improvement. A substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the building or structure has sustained substantial damage, all repairs are considered substantial improvement regardless of the actual repair work performed. The term does not include:

1. Improvements of a building or structure required to correct existing health, sanitary or safety code violations identified by the building official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic building or structure, provided that the alteration will not preclude the continued designation as a historic building or structure. For the purposes of this exclusion, a historic building is:
 - 2.1. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places; or
 - 2.2. Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district; or
 - 2.3. Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.

R112.2.2 Criteria for issuance of a variance for flood hazard areas. A variance shall only be issued upon:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 322 inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

Commenter's Reason: The committee action on this code change proposal was Disapproval, explained only by a concern with the description of historic building. The proposal does not, as perceived by the committee, "substantially change the description of a historic building..." The text proposed for R105.3.1.1 is simply being moved from the existing Section R112.2.1. The same language qualifying the I-Codes definition for "historic building" is in the IBC Chapter 34 Section 3409.2 and in the IEBC 1101.4.

This public comment replaces the original proposal with ONLY the portions of that proposal that affect Chapter 1, with no change to any of the originally proposed language.

The primary objective is to move certain determinations from R112 Board of Appeals into R104 Duties and Powers of the Building Official and R105 Permits. The result is to be consistent with the administrative provisions of the IBC and the IEBC. If the building official is authorized and capable of making these determinations under the IBC and the IEBC, then the building official is also capable and should be authorized to the same under the IRC. Importantly, having the building official make these determinations rather than the board of appeals increases an applicant's ability to appeal those decisions at the local level.