Questions for Virtual AIA Brooklyn Industry Meeting – December 10th @ 3:00 PM

1. What is the process to speak with Construction Enforcement chief to discuss ECB violation that was written in error?
   The customer can email to: BKCONSTENF@BUILDINGS.NYC.GOV with their evidence and request for written in error.

2. If a building residential/commercial/manufacturing is demolished and we have records of the existing curb cut(s) is/are legal, can the curb cut(s) remain in place for the new building/development, assuming the curb cut(s) location is accessing parking in the same location as per DOT regulations?
   When a building on a zoning lot is fully demolished, the zoning lot is considered to be an empty lot. The existing curb cut for the zoning lot is also considered to be demolished. Off street parking spaces or curb cut is not required for an empty lot. A new request to be submitted to establish a new curb cut.

3. As per ZR 25-631 (b) a minimum distance of 16 feet of uninterrupted curb space shall be maintained between all curb cuts constructed after June 30, 1989.
   (a) if 16 feet distance between curb cuts cannot be provided due to site logistics, parking location and other important factors of building placement and setbacks, does the commissioner's office have any precedence we can use for our projects besides a lengthy ZRD1 process?
   (b) if an adjacent lot to a development has an existing (legal) curb cut, can a new curb cut on the development property connect with the adjoining curb cut on one side to create one large curb cut with each complying in the total width on each lot and only provide the 16 feet between curb cuts on the opposite side?
   (c) through DOB record search we find an adjacent lot curb cut(s) are not legal. A project under development is proposing a development/alteration and is proposing a new curb cut, how does the DOB examiner handle such a situation? Will the proposed curb cut be denied, even though the adjacent curb cut is not legal?

   (a) NYC DOB has no jurisdiction over NYC zoning regulations even though ZRD1 request is submitted.

   (b) Paired curb cuts are not permitted for all curb cuts developed after June 30, 1989.

   A minimum distance of 16 feet of uninterrupted curb space shall be maintained between all curb cuts constructed after June 30, 1989, provided that this requirement shall not apply to any ***zoning lot*** existing both on June 30, 1989 and April 14, 2010, that is less than 40 feet wide and where at least 16 feet of uninterrupted curb space is maintained in front of such ***zoning lot*** along the ***street***.

   [ZR25-631(b)(2)(ii) for R2x, R3, R4, R5 districts and Quality or non-quality housing building in R6, R7, R8 with three or less units].

   For R2X, R3,R4, R5 districts, not more than two accessory parking spaces are needed and wherever ***accessory*** parking spaces are provided in adjacent ***side lot ribbons*** on ***zoning lots*** subdivided after June 30, 1989, the curb cuts giving access to such ***side lot ribbons*** shall

be contiguous (paired), so that only one curb cut, having a maximum width of 18 feet, including splays, shall serve both ***side lot ribbons***;[ZR25-631(b)(1)(iii)].

ZR25-631(b)(iii) Driveways may be paired with other driveways on the same or adjoining ***zoning lots***, provided the aggregate width of such paired driveways, including any space between them, does not exceed 20 feet. Curb cuts accessing such paired driveway shall have a minimum width of 15 feet and a maximum width, including splays, of 18 feet;

Per BC406.7.6; Curb cut for accessory open parking space with more than four motor vehicles shall not be located within 30 inches from the side lot line of the zoning lot with 50 feet or less in street frontage.

(c) DOB determine existing curb cut by survey and with any legal documents. Plan examiner will not review the job to determine whether existing adjacent curb cut is legally or illegally built.

4. In reference to energy code for new buildings where there is an elevator involved IIC6 requires electric motors and elevators to be an energy inspection item.
   Question: Wouldn't the elevator inspection be part of the elevator application?
   Although the progress inspection requirement for elevators and escalators may be completed by the same individual performing the elevator filing application, TR-8 inspection items and documentation are still required. An approved progress inspection agency, as defined in RCNY 101-07, is required to sign off on the TR8 Form certifying that the construction complies with the NYCECC for each inspection.

5. When filing an application to correct a Work W/O a Permit Violation, and the owner would like to pay the FULL civil penalty (a waiver, reduction or override is not being requested therefore an L2 is NOT required) how is this processed? A civil penalty waiver submittal is still required for CPP along with payment to assure all applicable civil penalties (including electrical, if applicable) have been paid.
   a. How is the full amount of the civil penalty calculated?
   b. How is the full civil penalty paid?

   i. File job applications with Department of Buildings for general construction, plumbing, and electrical as applicable. Once these the applicable jobs are filed, notify the fee estimator so a full penalty amount can be estimated. The way the fee will be estimated is this:
      - A. General Construction filing fee x6 (one- and two-family) or x21 (all other)
      - B. Plumbing work filing fee x6 (one- and two-family) or x21 (all other)
      - C. Electrical filing fee x 10
        - Total fee = A + B (maximum $10,000 for one- and two-family and $15,000.00 for all other) + C (the fee is paid at the Borough Office)

   ii. Pay the OT and PL civil penalty amount at the borough office and receive receipt of payment.

   iii. Pay the EL civil penalty at Manhattan Central Cashier and receive receipt of payment.

iv. File an L2 form through DOB Now. You will be notified once your L2 form is approved.
v. If civil penalty somehow not lifted at L2 time of approval, submit a copy of the approved L2 form to the fee estimator (BKPER11PlanExam@buildings.nyc.gov). The fee estimator will override the violation in the system and notify the applicant. The applicant can then pull the permits.
vi. To fully resolve the violation, the applicant shall go to Manhattan Administrative Enforcement Unit (AEU) to get a Certificate of Correction.
vii. Please note that civil penalties are doubled when LL 158/17 is triggered

Note: DOBNOW requires a job number and NOV number in order to submit a waiver through DOBNOW

Therefore, the following are submitted at the borough manually:

1. LEG – no violation issued so applicant can't provide when submitting request
2. SWOE - no application filing
3. SWBC – no application filing
4. SAPW – only when no application filed and the sign was removed
5. ECB – no application filing
6. When a violation is resolved and application resolving the violation is signed off and they need an L2 for BFP so they can obtain a Certificate of Correction with AEU
7. L2's for DOBNOW applications filed before July 01, 2020

The penalty for such is $600 on a one-family or two-family dwelling or $6,000 on a building other than a one-family or two-family dwelling.

Therefore, pay minimum civil penalty amount at the borough office and receive receipt of payment. Once received, submit an hand delivered L2 at the Borough office so you can forward to AEU to obtain your Certificate of Correction once the work is done and signed off

c. The system requires an L2 application, how is that navigated if an L2 is not required?
Civil penalty waiver (L2) always required when a WWP violation has been issued.

6. Examiner insists that closets with gas and electrical meters can NOT be deducted from floor area calculation PER Z.R. 12-10 (8) as MECHANICAL EQUIPMENT AREAS, because examiner believes they are NOT mechanical equipment.
The application is for a two-family dwelling in an R-4 district and the proposed total mechanical deduction is just 17 sq.ft.
Gas or electrical meter room shall not be deducted from zoning floor area.

7. Can the Department request auditors and examiners to initially produce a complete set of objection, in other words NOT to raise new objections when there are no new facts or circumstances on the job they are examining?
Raising new objections multiple times is not only frustrating, but very time consuming for the applicant, and delays the examination process and puts our profession in a bad light for the public.
Also, is it possible to set guidelines for the examination to have at least some consistency, unlike now when identical jobs receive very different review approaches and some jobs

get ridiculously irrelevant objections (plenty of examples are available to demonstrate the level of waste the profession is experiencing).

Prior to approval objections:

1. Multiple levels of review take place and multiple changes occur to address the initial objections that may or may not require more objections.
2. The initial review objections are based on what drawings are initially submitted. These drawings typically are not complete, and the objections seek further clarification or amendments to the drawings.
3. The updated drawings or redesigns may result into new objections that were not previously raised by the examiner. Therefore, it requires updated objections from the examiner

PAAs and audit objections:

4. Typically, PAAs are filed for proposed work or as-built conditions. In both cases, like initial reviews, the examiner is seeing the submittal for the first time. As a result, he/she has the right to raise objections to anything contrary to zoning, codes, or applicable laws and regulations.
5. Whereas, audit objections are created to address initial approvals and PAA's that are not compliant with zoning, codes, or laws, and regulations.

All redesigns, unless proven otherwise, are subject to new objections from standard review and/ or audits.

8. TPPN #4/03 notes that "An open porch, veranda, portico, terrace or deck shall be considered acceptable for projection into a required yard if the following is provided: Projection does not exceed eight feet beyond the face of the building, except that steps leading from a porch or deck may be located beyond this unit."

   Steps are a permitted obstruction in Residence Districts in any yard or rear yard equivalent per ZR23-44(a)(17) - "Steps, provided that such steps access only the lowest story or cellar of a building fronting on a street, which may include a story located directly above a basement;"

   We were told that the steps we proposed on a job where the rear yard was 1' lower than the basement level were actually "stairs" as they spanned from a level lower than the basement to the first floor, and that "stairs" are not a permitted obstruction in the rear yard. Could you point us to a section of code or a zoning resolution that defines stairs in this manner?

   Deck or porch is permitted at the first floor level above the basement in the required yards per TPPN#04/03. Steps leading to the yards from the deck or porch are also permitted obstruction in the required yards. Open steps from the deck or porch to the required yards shall not be considered a stair.

9. Day nursery classified in 2014 and 2008 Building codes as occupancy I-4.

BC 308.5 Group I-4. "... Such occupancy shall include, but not be limited to, adult custodial care facilities and day nurseries"

In 2008 Plumbing code only one bathtub is required for day nurseries as per footnote d of TABLE 403.1.
TABLE 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES
Footnote d) For day nurseries, a maximum of one bathtub shall be required.

In 2014 Plumbing Code Bathtubs/Showers are required for every 15 persons and exception for day nurseries is removed.
At the same time the table refers to Childcare.
And as per BC 308.3.1 Definitions, CHILD CARE FACILITIES are facilities that provide care on a 24-hour basis to more than five children, under the age of 2.
Day nurseries do not provide care on a 24-hour basis.

Health Code §47.35 states:
Personal hygiene practices; staff and children.
(e) Bathing. Children shall not be regularly bathed on premises; but shall be washed in case of accidents.

So, one bathtub that was required under 2008 Plumbing Code made sense.

How to deal with required bathtubs/showers in table 403.1. Is it inadvertently omitted in 2014 Plumbing Code?
I do not believe a day nursery (Infants and toddlers) will have a need for 1 bathtub/shower for every 15 persons, they have diaper changing tables. And if it is actually required, is it children occupant load, staff, or combined that needs to be analyzed.

We should first acknowledge that "Day care" and "Childcare" are not interchangeable. The question takes the position that these facilities are already in I-4 occupancy group classification. However, some of these facilities might properly be classified as group E, which has no requirement for bathtubs. Per BC 305.1, E would include "Day care facilities where no more than two children are under the age of 2."

Then, there is further relief in the form of the 3rd exception:

> "*Custodial care facilities with up to 30 children under the age of 2 are permitted to be classified as Group E when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior."*

As such, it is only once that the limit of group "E" is exceeded in which the facility would be classified in the I-4 occupancy group. Once it's in that classification, there is no allowance in the code to support a fixture count based on anything other than total occupant load as-of-right.

Per PC 403.1, "The number of occupants shall be determined by the New York City Building Code." Of course, it might be reasonable for an applicant to submit a CCD1 request, using the

Table's requirements in I-2 and I-3, which distinguish employees as separate and not requiring bathtubs, as precedent.

On the nature of the change, there's not much we can offer the AIA, other than saying that the requirement will be highlighted as an area of concern for further consideration in the future.