Informal Interpretation Report
Number 8604

Date January 19, 2022

Edition 2021

Section Definitions 3109.2

Question:

When enclosed space within a single-family dwelling is located below the 100-year storm elevation, within the breakaway walls, are bathrooms and/or other spaces permitted to be located within the enclosed area?

Petitioner is reviewing construction documents for a new single-family dwelling located entirely seaward of the Coastal Construction Control Line (CCCL). The structure is also located within a V-zone, VE13. The lowest horizontal structural member is located above BFE +1', but the enclosed living area supported above is located below the 100-year storm elevation. The enclosed living area has a full bathroom, home theater area, stairway access and foyer (see exhibit #1).
The enclosed area is required to comply with section 3109 of the Florida Building Code, Building. The perimeter walls of the enclosed living area are designed as breakaway walls as required. Section 3109 provides a definition for "Allowed Use" of enclosed areas that are located below the elevations set under section 3109.3.3(3) and the FDEP permit requirement are located.

The definition of "Allowed Use" is one sentence with no periods that ends with "that are not spaces for living, sleeping, or cooking". The definition potentially reads as applicable only to commercial buildings or large multi-family structures that contain mixed uses, not living spaces within single-family residential buildings. The definition uses the term "commercial" multiple times and references occupancies that are associated with commercial uses or portions of a commercial use.

Answer

The structure should be designed in accordance with R322 and Section 3109 of the FBC-B to the extent required by R322.1.11. The allowable uses below the lowest floor as established by FDEP are found in the definition of "Allowed Use" and must be interpreted by the local jurisdiction. Conn Cole, the State Floodplain Manager with the Florida Division of Emergency Management, State Floodplain Management Office, has provided the following for inclusion in this interpretation:

There is a difference between uses of enclosures below the DEP 100-year elevation and enclosures below the FBCR elevation (bottom of the lowest horizontal structural member of the lowest floor). See R322.3.2 which establishes the minimum elevation - which might be modified by a local technical amendment to add more

freeboard.

The definition for “allowed use” originated from Declaratory Statements issued prior to the 6th Edition which revised Section 3109. In particular, Dec Statement DCA07-DEC-179 was based on “historical application of language by the predecessor agencies.” Other Dec Statements may also have been used to craft the definition.

The term “allowed use” is used ONLY in Sec. 3109.3.4, item #5 and item #6. Item #5b states that only “allowed uses” are permitted in enclosures “above the elevation specified in ASCE 24 or by the jurisdiction and below the 100-year storm elevation.” Item #6 applies in FIRM flood Zone X, and also specifies only “allowed uses” are permitted below the 100-year storm elevation.

The specific question is whether “bathrooms and/or other spaces” are permitted. The petitioner then describes the “enclosed living area has a full bathroom, home theater area, stairway access and foyer.” The definition for “allowable uses” lists specific uses and examples of specific uses (e.g., “recreational spaces such as gyms and card rooms”), but ends with “uses of a similar nature that are not spaces for living, sleeping or cooking.” Based on that, the local building official must exercise their authority to interpret the code and consider whether the “other spaces” called out for the non-habitable area below the FDEP required elevation shown for the area in question are of sufficiently “similar nature” to be classified as uses in the definition.

Also see the CCCL Fact Sheet prepare for the Florida Building Commission by Building A Safer Florida (https://www.floridadisaster.org/dem/mitigation/floodplain/ (Community Resources/FBC Resources).

Commentary:

None.

Notice:
The Building Officials Association of Florida, in cooperation with the Florida Building Commission, the Florida Department of Business & Professional Regulation, ICC, and industry and professional experts offer this interpretation of the Florida Building Code in the interest of consistency in their application statewide. This interpretation is informal, non-binding and subject to acceptance and approval by the local building official.