

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, February 17, 2023 - 10:00am

Chesterfield County Government Center
Community Development Building
Multipurpose Room
9800 Government Center Parkway Chesterfield, Virginia 23832

- I. Roll Call **(TAB 1)**
- II. Approval of November 18, 2022 Minutes **(TAB 2)**
- III. Approval of Final Order **(TAB 3)**
 - In Re: Jonathan and Lauren Borchers
Appeal No 22-08
- IV. Approval of Final Order **(TAB 4)**
 - In Re: Clifford and Khristina Hammill
Appeal No 22-13
- V. Approval of Final Order **(TAB 5)**
 - In Re: Vallerie Holdings of Virginia LLC
Appeal No 22-04
- VI. Public Comment
- VII. Preliminary Hearing **(TAB 6)**
 - In Re: Fei Zhang
Appeal No 22-15
- VIII. Appeal Hearing **(TAB 7)**
 - In Re: Park Crescent Owners LLC
Appeal No 22-14
- IX. Interpretation Request No. 08-22 **(TAB 8)**
 - In Re: John Russell (City of Falls Church)

Can the building official require a new certificate of occupancy to re-occupy an uninhabitable structure that is demolished to the framing; framed walls moved, removed, and added; and completely renovated to new condition while adding an addition as large or larger than the original structure using VCC Section 116.1 Exemption #2??

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Does VCC Section 116.4 prevent the code official from requiring a new certificate of occupancy?

X. Interpretation Request No. 01-23 **(TAB 9)**

In Re: Greg Revels (Henrico County)

The requirements for grounding of interconnected electric power production sources.

Question 1: Is an electric power production source disconnect connected to the supply side of the service disconnecting means required to have a grounded conductor connected to the enclosure?

Question 2: Is an electric power production source disconnect connected to the supply side of the service disconnecting means required to have a grounded electrode connection to the enclosure?

XI. Secretary's Report

- a. Policy #30 **(TAB 10)**
- b. Policy #31 **(TAB 11)**
- c. Board Retreat Discussion
- d. March 17, 2023 meeting update - location VHC

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

James R. Dawson, Chair

(Virginia Fire Chiefs Association)

W. Shaun Pharr, Esq., Vice-Chair

(The Apartment and Office Building Association of Metropolitan Washington)

Vince Butler

(Virginia Home Builders Association)

J. Daniel Crigler

(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

Alan D. Givens

(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

David V. Hutchins

(Electrical Contractor)

Christina Jackson

(Commonwealth at large)

Joseph A. Kessler, III

(Associated General Contractors)

R. Jonah Margarella, AIA, NCARB, LEED AP

(American Institute of Architects Virginia)

Eric Mays

(Virginia Building and Code Officials Association)

Joanne D. Monday

(Virginia Building Owners and Managers Association)

James S. Moss

(Virginia Building and Code Officials Association)

Elizabeth C. White

(Commonwealth at large)

Aaron Zdinak, PE

(Virginia Society of Professional Engineers)

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1 **STATE BUILDING CODE TECHNICAL REVIEW BOARD**
2 **MEETING MINUTES**
3 **November 18, 2022**
4 **Virginia Housing Center**
5 **4224 Cox Road Glen Allen, Virginia 23260**
6

Members Present

Mr. James R. Dawson, Chairman
Mr. W. Shaun Pharr, Esq., Vice-Chairman
Mr. Vince Butler
Mr. David V. Hutchins
Ms. Christina Jackson
Mr. Joseph Kessler
Mr. R. Jonah Margarella
Mr. Eric Mays, PE
Ms. Joanne Monday
Mr. James S. Moss
Ms. Elizabeth White
Mr. Aaron Zdinak, PE

Members Absent

Mr. Daniel Crigler
Mr. Alan D. Givens

7
8 Call to Order

The meeting of the State Building Code Technical Review Board (“Review Board”) was called to order at approximately 10:00 a.m. by Chair Dawson.

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12 Roll Call

The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Review Board from the Attorney General’s Office, arrived during the hearing for Jonathan and Lauren Borchers.

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14
15
16 Approval of Minutes

The draft minutes of the September 16, 2022 meeting in the Review Board members’ agenda package were considered. Ms. Monday moved to approve the minutes as presented. The motion was seconded by Mr. Zdinak and passed with Ms. Jackson and Mr. Moss abstaining.

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18
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20
21 Final Order

Daniel Maller: Appeal No. 22-10:

After review and consideration of the final order presented in the Review Board members’ agenda package, Mr. Mays moved to approve the final order with the underlined editorial changes offered by Mr. Pharr below.

Maller argued that his appeal was timely and that he was entitled to a hearing before the local appeals board, but his appeal was administratively denied by the building official.

The Review Board finds that no appeal to the Review Board shall lie prior to a final determination by the local appeals board (§36-

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34 *105). Further the local appeals board, not the building official, has the*
35 *authority to determine whether an appeal is timely filed. Therefore, the*
36 *Review Board remands the case to the local appeals board for decision.*

37
38 *IV. Final Order*
39 *The appeal having been given due regard, and for the reasons*
40 *set out herein, the Review Board orders as follows:*

41
42 A. *Whether to remand the appeal to the local appeals board for a*
43 *decision.*

44
45 *The appeal is remanded to the local appeals board to hear the*
46 *appeal and render a decision because no appeal to the Review Board*
47 *shall lie prior to a final determination by the local appeals board (§36-*
48 *105).*

49
50 The motion was seconded by Mr. Butler and passed with Ms. Jackson
51 and Mr. Moss abstaining.

52
53 Interpretation *Approval of Interpretation 04/2022:*

54
55 After review and consideration of Interpretation 04/2022 in the Review
56 Board members’ agenda package, Mr. Mays moved to approve
57 Interpretation 04/2022 with the editorial change to remove the “&” and
58 replace it with the word “and” in Question 1. The motion was seconded
59 by Ms. Monday and passed with Ms. Jackson and Mr. Moss abstaining.

60
61 Public Comment Chair Dawson opened the meeting for public comment. Mr. Luter
62 advised that no one had signed up to speak. With no one coming
63 forward, Chair Dawson closed the public comment period.

64
65 New Business *Jonathan and Lauren Borchers: Appeal No. 22-08:*

66
67 *Note: Chair Dawson recused himself from participation as a Board*
68 *member in the hearing due to his former employment with Chesterfield*
69 *County and that he still volunteers for the County; he subsequently*
70 *exited the room. Chair Dawson was notified at the conclusion of the*
71 *hearing to rejoin the meeting.*

72
73 A preliminary hearing convened with Vice-Chair Pharr serving as the
74 presiding officer. The hearing was related to the property located at
75 9930 Fawnhope Court, in Chesterfield County.

76
77 The following persons were sworn in and given an opportunity to
78 present testimony:

79
80 Jonathan Borchers, owner of the property

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81 Lauren Borchers, owner of the property
82 Jason Laws, Chesterfield County
83 Ron Clements, Chesterfield County
84

85 Also present was:

86
87 Emily Russell, legal counsel for Chesterfield County
88

89 After testimony concluded, Vice-Chair Pharr closed the hearing and
90 stated a decision from the Review Board members would be
91 forthcoming and the deliberations would be conducted in open session.
92 It was further noted that a final order reflecting the decision would be
93 considered at a subsequent meeting and, when approved, would be
94 distributed to the parties, and would contain a statement of further right
95 of appeal.
96

97 Decision: Jonathan and Lauren Borchers: Appeal No. 22-08:
98

99 After deliberations, Mr. Kessler moved to overturn the building official
100 and local appeals board and remand the matter back to the local appeals
101 board to hear the merits of the case because the March 25, 2022 email
102 from Jason Laws, the Assistant Director of Chesterfield County
103 Department of Building Inspections, was an application of the code;
104 therefore, the appeal is timely. The motion was seconded by Ms.
105 Monday and passed with Vice-Chair Pharr voting in favor of the
106 motion while Ms. Jackson and Messrs. Butler, Margarella, Mays, and
107 Moss voting in opposition.
108

109 Clifford and Khristina Hammill: Appeal No. 22-13:
110

111 A preliminary hearing convened with Chair Dawson serving as the
112 presiding officer. The hearing was related to the property located at
113 6591 Blenheim Road, in Albemarle County.
114

115 The following persons were sworn in and given an opportunity to
116 present testimony:
117

118 Clifford Hammill, owner of the property
119 Khristina Hammill, owner of the property
120 Michael Dellinger, Albemarle County
121

122 Also present was:

123
124 Andrew Herrick, legal counsel for Albemarle County
125

126 After testimony concluded, Chair Dawson closed the hearing and stated
127 a decision from the Review Board members would be forthcoming and

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128 the deliberations would be conducted in open session. It was further
129 noted that a final order reflecting the decision would be considered at a
130 subsequent meeting and, when approved, would be distributed to the
131 parties, and would contain a statement of further right of appeal.
132

133 Decision: Clifford and Khristina Hammill: Appeal No. 22-13:
134

135 After deliberations, Mr. Mays moved to uphold the code official and
136 local appeals board that the appeal was not timely filed. Mr. Mays
137 further moved that the current edition of the code is the appropriate
138 code to apply related to the timeframe for filing an appeal. The motion
139 was seconded by Mr. Kessler and passed unanimously.
140

141 Vallerie Holdings of Virginia LLC: Appeal No. 22-04:
142

143 A hearing convened with Chair Dawson serving as the presiding
144 officer. The hearing was related to the property located at 349
145 Pleasants Landing Road, in Louisa County.
146

147 The following persons were sworn in and given an opportunity to
148 present testimony:
149

- 150 Michael Vallerie, owner of the property
 - 151 John Grubbs, Louisa County
 - 152 Michael Guidry, Louisa County
 - 153 Jennifer Carter, Louisa County
- 154

155 Also present was:

- 156 Kyle Eldridge, legal counsel for Louisa County
 - 157 Clark Lemming, legal counsel for Vallerie Holdings of Virginia
- 158
159

160 After testimony concluded, Chair Dawson closed the hearing and stated
161 a decision from the Review Board members would be forthcoming and
162 the deliberations would be conducted in open session. It was further
163 noted that a final order reflecting the decision would be considered at a
164 subsequent meeting and, when approved, would be distributed to the
165 parties, and would contain a statement of further right of appeal.
166

167 Decision: Vallerie Holdings of Virginia LLC: Appeal No. 22-04:
168

169 After deliberations, Mr. Mays moved to uphold the code official and
170 local appeals board and amend the unsafe notice. The motion was
171 seconded by Mr. Moss. The motion and second were withdrawn.
172

173 After further deliberations, Mr. Butler moved to uphold the code
174 official and local appeals board and add another violation listed as (g)

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State Building Code Technical Review Board
November 18, 2022 Minutes - Page 5

175 occupancy of the upper floor without the required certificate of
176 occupancy. The motion was seconded by Mr. Mays and passed
177 unanimously.

178
179 Secretary's Report Mr. Luter distributed a draft copy of revised Review Board Policy #9.
180 After review and consideration of revised Review Board Policy #9, Mr.
181 Kessler moved to approve revised Review Board Policy #9 as written.
182 The motion was seconded by Ms. White and passed unanimously.

183
184 Mr. Luter distributed a draft copy of Review Board Policies #30 and
185 #31. After a brief discussion of the two policies, the Board directed
186 staff to bring policies #30 and #31 back to the Board at the January 20,
187 2023 meeting for consideration. The Board further directed staff to
188 email Policies #30 and #31 to the members for review. Attorney Bell
189 also advised staff to send the members the guide he provided related to
190 the policies. Staff requested Board members offer revisions by
191 December 15, 2022.

192
193 Mr. Luter presented the Board the proposed 2023 meeting calendar.
194 Mr. Pharr moved to approve the meeting calendar as presented. The
195 motion was seconded by Ms. White passed unanimously.

196
197 Mr. Luter informed the Review Board of the current caseload for the
198 upcoming meeting scheduled for January 20, 2023.

199
200 Attorney Bell offered no legal updates to the Board.

201
202 Adjournment There being no further business, the meeting was adjourned by proper
203 motion at approximately 3:30 p.m.

204
205
206 Approved: January 20, 2023

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209 _____
Chair, State Building Code Technical Review Board

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213 _____
214 Secretary, State Building Code Technical Review Board

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1 VIRGINIA:
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3 BEFORE THE
4 STATE BUILDING CODE TECHNICAL REVIEW BOARD
5 (For Preliminary Hearing as to Timeliness)
6

7 IN RE: Appeal of Jonathan and Lauren Borchers
8 Appeal No. 22-08
9

10 DECISION OF THE REVIEW BOARD
11

12 I. Procedural Background
13

14 The State Building Code Technical Review Board (Review Board) is a Governor-
15 appointed board established to rule on disputes arising from application of regulations of the
16 Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of
17 Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process
18 Act (§ 2.2-4000 et seq. of the Code of Virginia).

19 II. Case History

20 On March 25, 2022, Chesterfield County Department of Building Inspections (County),
21 the agency responsible for the enforcement of Part 1 of the 2015 Virginia Uniform Statewide
22 Building Code (Virginia Construction Code or VCC), informed Jonathan and Lauren Borchers
23 (Borchers), via email, there were no violations to cite at the structure, located at 9930 Fawnhope
24 Court, in Chesterfield County.

25 Borchers filed an appeal to the Chesterfield County Local Board of Building Code Appeals
26 (local appeals board) which was denied on May 19, 2022. Borchers appealed to the Review Board
27 on June 17, 2022. A Review Board hearing was held November 18, 2022. Appearing at the Review
28 Board hearing for the Borchers were Jonathan and Lauren Borchers. Appearing at the hearing for
29 Chesterfield County were Jason Laws, Ron Clements, and Emily Russel; legal counsel.
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III. Findings of the Review Board

A. Whether to uphold the decision of the County Building Official and the local appeals board that the appeal is untimely.

Borchers argued that their appeal was timely because the March 25, 2022 email from the Assistant Director of Chesterfield County Department of Building Inspections, was an application of the code. Borchers further argued that their appeal was proper as they notified the County promptly, within 30 days, upon discovering the issues.

The County, through legal counsel, argued that the final inspection approval on July 22, 2021 was the application of the code; therefore, the Borchers appeal was untimely as it was filed beyond the 30 day timeframe allowed to file an appeal to the final inspection. The County also argued that the March 25, 2022 email from the Assistant Director of Chesterfield County Department of Building Inspections, was not an application of the code.

The Review Board finds that the March 25, 2022 email from the Assistant Director of Chesterfield County Department of Building Inspections, was an application of the code. Therefore, the Review Board remands the case back to the local appeals board to hear the merits.

IV. Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders as follows:

A. Whether to uphold the decision of the County Building Official and the local appeals board that the appeal is untimely.

The decision of the County and local appeals board that the appeal was untimely is overturned; furthermore, the appeal is remanded back to the local appeals board to hear the merits of the case because the March 25, 2022 email from the Assistant Director of Chesterfield County Department of Building Inspections, was an application of the code.

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Chair, State Building Code Technical Review Board

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63 Date entered _____January 20, 2023_____

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As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days

68

from the date of service (the date you actually received this decision or the date it was mailed to

69

you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal

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with W. Travis Luter, Sr., Secretary of the Review Board. In the event that this decision is served

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on you by mail, three (3) days are added to that period.

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1 VIRGINIA:
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3 BEFORE THE
4 STATE BUILDING CODE TECHNICAL REVIEW BOARD
5 (For Preliminary Hearing as to Timeliness)
6

7 IN RE: Appeal of Clifford and Khristina Hammill
8 Appeal No. 22-13
9

10 DECISION OF THE REVIEW BOARD
11

12 I. Procedural Background
13

14 The State Building Code Technical Review Board (Review Board) is a Governor-
15 appointed board established to rule on disputes arising from application of regulations of the
16 Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of
17 Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process
18 Act (§ 2.2-4000 et seq. of the Code of Virginia).

19 II. Case History

20 On October 28, 2021, the County of Albemarle Community Development Department;
21 Building Inspections, Management Team (County), the agency responsible for the enforcement of
22 the 1996 Virginia Uniform Statewide Building Code (USBC), informed Clifford and Khristina
23 Hammill (Hammill), via email, their permits were expired for the structure, located at 6591
24 Blenheim Road, in the Albemarle County.

25 On April 27, 2022, the County offered to grant Hammill a one year extension with the
26 understanding the project had to be completed and receive the certificate within that one year time
27 limit.

28 Hammill filed an appeal to the Albemarle County Board of Building Code Appeals (local
29 appeals board) on July 26, 2022 which was denied on August 22, 2022. Hammill further appealed
30 to the Review Board on September 13, 2022. A Review Board hearing was held November 18,

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31 2022. Appearing at the Review Board hearing for the Hammills were Clifford and Khristina
32 Hammill. Appearing at the hearing for Albemarle County were Michael Dellinger and Andy
33 Herrick; legal counsel.

34 III. Findings of the Review Board

35 A. Whether to uphold the decision of the County Building Official and the local
36 appeals board that the appeal is untimely.
37

38 Hammill argued that their appeal was timely because the edition of the code in effect
39 when the permit was issued, 1996 Virginia Uniform Statewide Building Code, was the
40 appropriate code to apply related to the timeframe for filing an appeal. Hammill further argued
41 that the 1996 Virginia Uniform Statewide Building Code provided a 90 calendar day timeframe
42 to file the appeal of the application of the code.

43 The County, through legal counsel, argued that the appeal was untimely because the
44 current edition of the code was the appropriate code to apply related to the timeframe for filing
45 the appeal; therefore, Hammill was required to file their appeal within 30 calendar days of
46 application of the code.¹

47 The Review Board finds that the appeal is untimely and that the current edition of the code
48 is the appropriate code to apply related to the timeframe for filing the appeal; therefore, the appeal
49 had to be filed within 30 days of the application of the code.

50 IV. Final Order

51 The appeal having been given due regard, and for the reasons set out herein, the Review
52 Board orders as follows:

53 A. Whether to uphold the decision of the County Building Official and the local
54 appeals board that the appeal is untimely.
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¹ See Review Board Case No. 98-10

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1 VIRGINIA:
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3 BEFORE THE
4 STATE BUILDING CODE TECHNICAL REVIEW BOARD
5

6 IN RE: Appeal of Vallerie Holdings of Virginia LLC
7 Appeal No. 22-04
8

9 DECISION OF THE REVIEW BOARD
10

11 I. Procedural Background
12

13 The State Building Code Technical Review Board (Review Board) is a Governor-
14 appointed board established to rule on disputes arising from application of regulations of the
15 Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of
16 Virginia. The Review Board’s proceedings are governed by the Virginia Administrative Process
17 Act (§ 2.2-4000 et seq. of the Code of Virginia).
18

19 II. Case History

20 On January 14, 2022, the County of Louisa Department of Community Development
21 (County Building Official), the agency responsible for the enforcement of Part 1 of the 2018
22 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), performed an
23 inspection of the structure located at 349 Pleasants Landing Road, in Louisa County, owned by
24 Vallerie Holdings of Virginia LLC (Vallerie).

25 The inspection resulted in the issuance of a Notice of Unsafe Building or Structure (Notice)
26 dated January 24, 2022. In the Notice the County Building Official cited the following code
27 violations, related to an exterior stairway structure, and required the violations be made safe
28 through compliance with the VCC or be removed, if deemed necessary by the County Building
29 Official, pursuant to VCC Section 118.2:

- 30 a. *“Stair Riser Height: is 8” inches in height, per Section 1011.5.2, Riser height shall be a maximum of 7” inches and a minimum of 4” inches.”*

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- 31 b. *“Guard Height: on the stairs is 36" inches in height, per Section 1015.3, the*
32 *Guards height shall be 42" inches in height, on stairs, landings, ramps and*
33 *decks.”*
34 c. *“Handrails: no handrails installed, per Section 1014.2, a graspable handrail*
35 *shall be installed at a height of 34" -38" inches measuring from the nosing of*
36 *the tread.”*
37 d. *“Floor Joist and Stair Hangers: Not installed on the landing or the lower*
38 *section of stairs, which are required per Section 2304.10.3”*
39 e. *“Stairway Fire Separation Distance from the Building: is 23" inches, per*
40 *Sections 1027.5 and 1027.6 ex. (1), Exterior exit stairways and ramps shall*
41 *have a minimum fire separation distance of 10' feet measured at right angles*
42 *from the exterior edge of the stairway, ramp, or landing to: Adjacent lot lines,*
43 *and other portions of the building.”*
44 f. *“Footings: Could not be verified because the footers were poured and covered*
45 *up a while ago. Will need a structural engineer to verify the footings for code*
46 *compliance.”*
47

48 Vallerie filed an appeal to the Louisa County Local Board of Building Code Appeals (local
49 appeals board) for the Notice. The local appeals board upheld the decision of the County Building
50 Official. Vallerie further appealed to the Review Board. A Review Board hearing was held
51 November 18, 2022. Appearing at the Review Board hearing for Vallerie were Michael Vallerie
52 and Clark Lemming, legal counsel. Appearing at the hearing for Louisa County were John Grubbs,
53 Michael Guidry, Jennifer Carter, and Kyle Eldridge, legal counsel.

54 III. Findings of the Review Board

55 A. Whether to uphold the decision of the County and local appeals board to issue the 56 Notice of Unsafe Building or Structure pursuant to VCC Section 118 Unsafe 57 Buildings or Structures.

58 Vallerie, through legal counsel, argued that the upper level of the structure was Group R-
59 3 occupancy not Group R-1 occupancy. Vallerie further argued that, if the upper level of the
60 structure was properly deemed Group R-3 occupancy, items a, b, c, and e would no longer be
61 considered violations. Vallerie also argued that the owner and his wife were the only occupants
62 utilizing the upper level of the structure and did so throughout the boating season, identified by

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63 Vallerie as April through October. Vallerie further clarified that the upper level of the structure
64 was not being used by transient individuals. During cross examination, Vallerie confirmed that
65 he built the stairway structure without the required permits and inspections.

66 The County, through legal counsel, argued that the structure was properly deemed unsafe
67 due to its lack of compliance with 2018 VCC for Group R-1 occupancy which the County further
68 argued was the correct occupancy classification based on the plans submitted by Vallerie
69 identifying the upper level as a studio apartment and the definitions found in the VCC. The
70 County further argued that the certificate of occupancy was not granted for the upper level of the
71 structure due to the lack of proper fire rating between the upper and lower levels of the structure,
72 thus, no one should have been occupying the upper level of the structure. The County confirmed
73 the certificate of occupancy was issued for the Group B occupancy on the first floor. The County
74 also argued that Vallerie built the stairway structure for the second time after applying for the
75 necessary permits in 2019; however, the permits were never issued. The County provided a
76 point of clarification that Vallerie had previously built a deck and stairway structure adjacent to
77 the same structure without the required permits and inspections which he subsequently removed
78 after an unsuccessful appeal in 2017.

79 The Review Board finds that a violation of VCC Section 118 Unsafe Buildings or
80 Structures exists, agrees with the issuance of the Notice, and adds another violation to the Notice
81 listed as (g) occupancy of the upper floor without the required certificate of occupancy.

82 IV. Final Order

83 The appeal having been given due regard, and for the reasons set out herein, the Review
84 Board orders as follows:

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85 A. Whether to uphold the decision of the County and local appeals board to issue the
86 Notice of Unsafe Building or Structure pursuant to VCC Section 118 Unsafe
87 Buildings or Structures.

88 The decision of the County and local appeals board that a violation of VCC Section 118
89 Unsafe Buildings or Structures exists is upheld and adds another violation to the Notice listed as
90 (g) occupancy of the upper floor without the required certificate of occupancy.

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Chair, State Building Code Technical Review Board

Date entered ____ January 20, 2023 ____

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with W. Travis Luter, Sr., Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Fei Zhang
Appeal No. 22-15

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
(For Preliminary Hearing as to Right to Appeal)

IN RE: Appeal of Fei Zhang
 Appeal No. 22-15

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On June 15, 2022 the Fairfax County Department of Land Development Services (County), the agency responsible for the enforcement of the 2018 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), performed and approved a framing inspection for the residential structure, located at 1976 Kirby Road, in the Fairfax County currently under contract for purchase by Fei Zhang (Zhang).
2. Zhang was released from the purchase contract on July 1, 2022.
3. Zhang filed an appeal to the Fairfax County Board of Building Code Appeals (local appeals board) which was denied on September 14, 2022.
4. Zhang appealed to the Review Board on October 4, 2022; however, it took until October 12, 2022 to acquire an accurately completed application.
5. This staff document along with a copy of the documents submitted related to the jurisdictional issue of right to appeal will be sent to the parties and opportunity given for the submittal of additions, corrections or objections to the staff document, and the submittal of additional documents or written arguments related to the jurisdictional issue of right to appeal to be included in the information distributed to the Review Board members for the preliminary hearing before the Review Board.

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Suggested Preliminary Issues for Resolution by the Review Board

1. Whether to dismiss the appeal as not properly before the Board since Zhang has requested and been released from the purchase contract ending whatever aggrievement there was against Zhang.

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Basic Documents

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View Plan Status By

- Permit #
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=permit number)
- Applicant Name
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=applicant name)
- Address (../permits/search.aspx?pgmcat=plan&pgmtype=address)
- Project Name
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=project name)
- View Review Comments
(../permits/plan_review.aspx)
- Mechanical Certification Status
(../permits/search.aspx?pgmcat=mech&pgmtype=permit number)

View Inspection Status By

- Permit #
(../permits/insp_search.aspx?pgmcat=inspection&pgmtype=permit number)
- Applicant Name
(../permits/insp_search.aspx?pgmcat=inspection&pgmtype=applicant name)
- Address (../permits/search.aspx?pgmcat=inspection&pgmtype=address)
- Project Name
(../permits/insp_search.aspx?pgmcat=inspection&pgmtype=project name)

View Permits By

- Permit #
(../permits/perm_search.aspx?pgmcat=permit&pgmtype=permit number)
- Applicant Name
(../permits/perm_search.aspx?pgmcat=permit&pgmtype=applicant name)
- Address (../permits/search.aspx?pgmcat=permit&pgmtype=address)
- Project Name
(../permits/perm_search.aspx?pgmcat=permit&pgmtype=project name)

Elevators

- Check Elevator Plan Status
(../permits/search.aspx?pgmcat=elev&pgmtype=permit number)

- Schedule, Modify or Cancel an Inspection
(../permits/insp_schedule.aspx)

Inspection Status by Address

Inspection Status for Permit #: 201920202
 Address: 1978 KIRBY RD, MCLEAN
 Permit Information
 Permit Status

(ETA : Estimated Arrival Time)

Inspections	Inspection #	Scheduled Date/ETA	Completed Date	Inspector	Status
CONCRETE ENCASED ELECTRODE 20 #1	8928937		04/13/2021	CONTRACTOR 3RD PARTY INSPECTOR	Passed
RESIDENTIAL FINAL #1	8928939				None
RESIDENTIAL FOOTING #1	8928938		04/13/2021	CONTRACTOR 3RD PARTY INSPECTOR	Passed
RESIDENTIAL FRAMING #1	8928943	06/15/2022 (WED)	06/15/2022	JERRY MEYERS	Passed
RESIDENTIAL ROUTINE #1	9706000	07/08/2022 (FRI)	07/11/2022	WILLIAM DOUGHERTY	Failed Detail
RESIDENTIAL ROUTINE #2	9713087				None
RESIDENTIAL ROUTINE #3	9714632	07/12/2022 (TUE)	07/12/2022	JERRY MEYERS	Failed Detail
RESIDENTIAL ROUTINE #4	9714634				None
RESIDENTIAL SLAB #1	8928941		06/02/2021	SONIA KHAYATKAHOUEI	Passed
RESIDENTIAL WALL #1	8928940		04/19/2021	CONTRACTOR 3RD PARTY INSPECTOR	Passed
RESIDENTIAL WATERPROOFING #1	8928942		04/26/2021	CONTRACTOR 3RD PARTY INSPECTOR	Passed



Mobile Site



Building Code Appeal Request

PROJECT INFORMATION

Project Name: _____
Project Address: 1978 KIRBY RD MCLEAN, VA 22101
Permit or case number: CDAPPL-2022-00013 Tax map number: 0402490002

APPLICANT INFORMATION

Applicant Name: Fei Zhang
Address: 6715 Haycock Rd
City: Falls Church State: VA Zip: 22043
Phone: 202-290-6997 Email: feizhang86@gmail.com

OWNER INFORMATION

Owner Name: Evergreene Companies Llc The
Address: 1978 KIRBY RD
City: MCLEAN State: VA Zip: 22101
Phone: _____ Email: _____

APPEAL INFORMATION

Appealing decision made on the date of by Building Official Fire Official Property Maintenance Official
rendered on the following date: 06/15/2022
Code(s) (IBC, IMC, IPMC, etc.) and year-edition: 2018 Virginia Residential
Section(s): _____

REQUEST / SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision:

de

I am appealing the inspection conducted on June 15th 2022. Despite my concerns and the fact that there were standing water and mold on the multiple places on the frames, and the other structure concerns as shown in the pictures and documents, the inspector passed the inspection. It directly resulted the builder, Evergreene Homes, ignored my request of fixing the mold and structure issues. They ended to ask me to end the contract and reserved my deposit. The ignorance and the pass of the inspection on 6-15-2022 resulted the builder did not want to do anything to fix the mold, wet issue in the basement and the structure issues. I was under enormous pressure and stress, seeking medical help. After 15 days, no correction of the inspection from the county resulted letting me feel hopeless and no support. I was fighting with a business with much more experience and resources. I did not want to live in a house with mold issue and various structure issues, which will be costly to me later. The builder proposed to end my contract instead of fixing the issue. I ended signing a release to end the contract with no fault on my side and the builder took \$70,000 of my deposit. This can totally be avoided if the County's inspection on 7/11/2022 and 7/12/2022 can happen earlier or at the time I raised my concern! I request the county to help me to get my deposit back. I did not have any fault nor cause any damage to the builder

RESOLUTION

WHEREAS the Fairfax County Board of Building Code Appeals (the Board) is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide Building Code (USBC) 2015 Edition;

and

WHEREAS an appeal was filed and brought to the attention of the Board; and
WHEREAS a hearing has been duly held to consider the aforementioned appeal; and
WHEREAS, the Board has fully deliberated this matter; now, therefore, be it

RESOLVED, that the matter of

Appeal No. CDAPPL-2022-00013

In RE: Fairfax County Department of Land Development Services (LDS) v. Fei Zhang

The appeal is denied (4-0-0 CNV)

The rationale for denial of the appeal is that at the time the appeal was filed Ms. Zhang was under contract to purchase the subject home but as of the appeals hearing date, she was no longer under contract to purchase the home. As such she would no longer be an aggrieved party recognized by the code to file an appeal. For the record, the subject single-family home is still under construction and the issues raised in the appeal concerning the wet basement were noted to the builder of the home during the framing inspection and are required to be addressed as a part of the inspection report. An inspection to determine if they are being addressed has been conducted and a final inspection to determine compliance of the basement wall framing with the code can be done when the required insulation inspection is conducted.

FURTHER, be it known that:

1. This decision is solely for this case and its surrounding circumstances.
2. This decision does not serve as a precedent for any future cases or situations, regardless of how similar they may appear.

09/16/2022 | 09:47:54 EDT

Date: September 14, 2022

Signature:

DocuSigned by:

 6DFFDB519E374A1
 Chairman, Board of Building Code Appeals

Note: Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board within twenty-one (21) days of receipt of this resolution. Application forms are available from the Virginia Department of Housing and Community Development, 600 East Main Street, Suite 300, Richmond, VA 23219 or by calling 804.371.7150.

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Staff Note:

Multiple Review Board applications submitted by Fei Zhang are included in the agenda package to show the timeline from original submittal to when staff was able to acquire the completed application from Fei Zhang

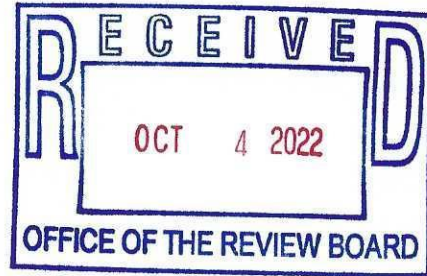
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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 - Virginia Construction Code
 - Virginia Existing Building Code
 - Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Fei Zhang
6715 Haycock Rd
Falls Church, VA 22043
202-2906997

Opposing Party Information (name, address, telephone number and email address of all other parties):

Fairfax County Board of Building Appeals
Fairfax County Department of Land Development Services

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of October, 2022, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: Fei Zhang

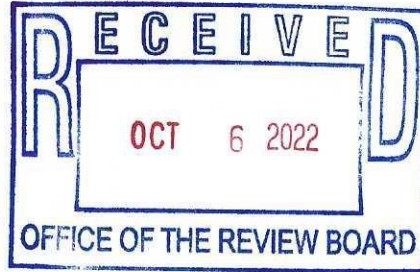
Name of Applicant: Fei Zhang
(please print or type)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 - Virginia Construction Code
 - Virginia Existing Building Code
 - Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Fei Zhang
6715 Haycock Rd
Falls Church, VA 22043
202-290-6997, feizhang86@gmail.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

Jay Riat, Fairfax County SUPERVISOR OF CUSTODIAN
Department of a Land Development Services
Dave Cououer, Chairman, Board of Building Code Appeals
CCarla Guerra-Moran Secretary to the Board of Building Code Appeals
Carla.Guerra-Moran@fairfaxcounty.gov
12055 Government Center Parkway, Suite 334
Fairfax, VA 22035 571-585-4698

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)
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CERTIFICATE OF SERVICE

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Signature of Applicant: _____

Fei Zhang

Name of Applicant: Fei Zhang

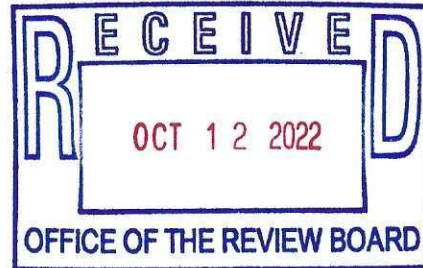
(please print or type)

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APPLICATION FOR ADMINISTRATIVE APPEAL

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- Uniform Statewide Building Code
 Virginia Construction Code
 Virginia Existing Building Code
 Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Fei Zhang
6715 Haycock Rd
Falls Church, VA 22043
202-290-6997, feizhang86@gmail.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

Jay Riat, Fairfax County SUPERVISOR OF CUSTODIAN
Department of a Land Development Services
jay.riat@fairfaxcounty.gov
703-324-1017
12055 Government Center Parkway, Suite 324, Fairfax, VA 22035

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of October, 2022, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: Fei Zhang

Name of Applicant: Fei Zhang
(please print or type)



Luter, William <travis.luter@dhcd.virginia.gov>

Fwd: appeal files

F Z <feizhang86@gmail.com>

Tue, Oct 4, 2022 at 3:28 PM

To: "DHCD-SBCO, rr" <sbco@dhcd.virginia.gov>, William Luter <travis.luter@dhcd.virginia.gov>, thomas.king@dhcd.virginia.gov, richard.potts@dhcd.virginia.gov

To : sbco@dhcd.virginia.govCC: travis.luter@dhcd.virginia.govthomas.king@dhcd.virginia.govrichard.potts@dhcd.virginia.gov

See Statement of
Relief Sought
highlighted below in
yellow

Dear Mr. Luter, Mr. King, Mr. Potts

I am filing appeal for the Resolution of Fairfax County Board of Building Code on 9/16/2022, regarding Fairfax County Department of Land Development Services (LDS) v. Fei Zhang.

I am appealing that I was file the appeal for the specific inspection conducted on 6/15/2022 by the county's inspector. When that inspection happened and when I file for appealing this inspection, I was contracted to purchase this house. Because of this wrong conclusion- pass of the inspection with no other detail information, (see screen shot took on 8/26/2022 below and the file attached), it allowed the builder to continue building the house without fix the mold/wet and other structure issues. Knowing the county's passing the inspection, the builder insisted there was no fault and no need to fix anything and continue their plan of installing the insulation and dry wall. Instead of fixing the mold issue, the builder let me sign a release of the contract and retained \$70,000 of my deposit on 7/1/2022. After I filed the appeal to Fairfax county, they had another inspector and the same inspector conducted the inspection on 7/11/2022 and 7/12/2022. Both inspections had detailed notes indicated that the house has wet/mold issue. (see attached files. 7-11 and 7-12)

I am filing appeal specifically regarding the 6/15/2022 inspection. I am seeking the correction of the inspection on 6/15/2022. It means the builder did not correctly build the house during the period.

Since the documents are very big in size, please see the documents in this link with the Summary and Timeline attached with this email. <https://drive.google.com/drive/folders/17tt0OVITdnOsJwtrkE95f3mkCeXjnpZr?usp=sharing>

Please feel free to let me know if you have any questions or need me to provide any further information. I appreciate your kind help and support sincerely.

Documents Submitted by Fei Zhang

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Timeline of the inspection and my appeal

6-15-2022	<ul style="list-style-type: none"> • Fairfax County Ms. Meyers had the Framing inspection and passed the inspection. • Fei Zhang emailed Mr. Meyers before the inspection, at 10:08am, expressed her detailed concern regarding the water and structure concerns. • Fei Zhang emailed Mr. Meyers after found out the inspector passed the inspection, at 4:27pm. Did not received any response from the inspector. • See attachment: email to county inspector on 6-15-2022
6-17-2022	<ul style="list-style-type: none"> • Fei Zhang sent email to Carlson Norm, expressed concerns again for the inspection. • See attachment email to Norm C on 6-17-2022
6-23-2022	<ul style="list-style-type: none"> • Fei Zhang sent email to Carlson Norm again after contact with William Dougherty • See attachment email to Norm C 6-23-2022
6-23-2022	<ul style="list-style-type: none"> • Meyers replied email and attached 4 pictures, which does not show the water in the basement. • See attachment: Meyers email 6-23-2022, • See attachment: Meyers 4 pictures • Fei Zhang sent email to respond Mr. Meyers email and questioned other structure issues too. No response from Myers • See attachment: responding email to Meyers 6-23-2022 • Pictures from Myers on 6-23-2022: https://photos.app.goo.gl/xr5WYxtHxUwG31MdA • Pictures from Fei Zhang with a whole situation for the room on same day on 6-23-2022 https://photos.app.goo.gl/7WGmihj1QY3foFk38 • Fei Zhang sent email to LDS. See attachment email to LDS department 6-23-2022
6-28-2022	<p>Fei Zhang sent email to Aaron Morgan See Attachment email to Aaron Morgan 6-28-2022</p>
7-11-2022	<p>County failed the inspection. See attachment FIDO – Fairfax 7-11-2022</p>
7-12-2022	<p>County failed the inspection again and requested the builder to stop building. See attachment FIDO – Fairfax 7-12-2022</p>

The ignorance and the pass of the inspection on 6-15-2022 resulted the builder did not want to do anything to fix the mold, wet issue in the basement and the structure issues. I was under enormous pressure and stress, seeking medical help. After 15 days, no correction of the inspection from the county resulted letting me feel hopeless and no support. I was fighting with a business with much more experience and resources. I did not want to live in a house with mold issue and various structure issues, which will be costly to me later. I ended signing a release to end the contract with no fault on my side and the builder took \$70,000 of my deposit. This can totally be avoided if the County's inspection on **7/11/2022** and **7/12/2022** can happen earlier or at the time I raised my concern! I request the county to help me get my deposit back. I did not have any fault nor cause any damage to the builder.

View Plan Status By

- Permit #
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=permit number)
- Applicant Name
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=applicant name)
- Address (../permits/search.aspx?pgmcat=plan&pgmtype=address)
- Project Name
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=project name)
- View Review Comments
(../permits/plan_review.aspx)
- Mechanical Certification Status
(../permits/search.aspx?pgmcat=mech&pgmtype=permit number)

View Inspection Status By

- Permit #
(../permits/insp_search.aspx?pgmcat=inspection&pgmtype=permit number)
- Applicant Name
(../permits/insp_search.aspx?pgmcat=inspection&pgmtype=applicant name)
- Address (../permits/search.aspx?pgmcat=inspection&pgmtype=address)
- Project Name
(../permits/insp_search.aspx?pgmcat=inspection&pgmtype=project name)

View Permits By

- Permit #
(../permits/perm_search.aspx?pgmcat=permit&pgmtype=permit number)
- Applicant Name
(../permits/perm_search.aspx?pgmcat=permit&pgmtype=applicant name)
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Elevators

- Check Elevator Plan Status
(../permits/search.aspx?pgmcat=elev&pgmtype=permit number)

- Schedule, Modify or Cancel an Inspection
(../permits/insp_schedule.aspx)



Mobile Site

Inspection Status by Address

Inspection Information for Permit Number: 201920202

Inspection Type: RESIDENTIAL ROUTINE

Inspection #: 9706000

Inspection Name: WILLIAM DOUGHERTY

Date of Inspection: 07/11/2022

General Comments: Routine inspection scheduled to verify basement is dry prior to insulation. Numerous complaints about mold and wet basement. Basement still has numerous puddles through out. See pictures. Failed inspection and added re-inspection fee. A re-inspection fee has been assessed for this permit. Please pay the fee prior to scheduling your next inspection.

[PRINTABLE PAGE](#)

[Previous](#)

View Plan Status By

- Permit #
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=permit number)
- Applicant Name
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=applicant name)
- Address (../permits/search.aspx?pgmcat=plan&pgmtype=address)
- Project Name
(../permits/plan_search.aspx?pgmcat=plan&pgmtype=project name)
- View Review Comments
(../permits/plan_review.aspx)
- Mechanical Certification Status
(../permits/search.aspx?pgmcat=mech&pgmtype=permit number)

Inspection Status by Address

Inspection Information for Permit Number: 201920202

Inspection Type: RESIDENTIAL ROUTINE

Inspection #: 9714632

Inspection Name: JERRY MEYERS

Date of Inspection: 07/12/2022

General Comments: - I took a look at the above address today around 2:30pm and found that the basement has standing water with insulation installed. I recommend that you remove all insulation in the basement until remediation is done. I met Mr. Paul Fry, of Building Performance Solutions at the sight, and he confirmed that there are signs of mold. He said that the basement has to be dried out and then he will perform testing. Please work on stopping the water from getting into the home. I am recommending a stop work order. If you have any further questions, please contact my supervisor, Norm Carlson at 703-539-9726.

[PRINTABLE PAGE](#)

[Previous](#)

View Inspection Status By

- Permit #
(../permits/insp_search.aspx?pgmcat=inspection&pgmtype=permit number)
- Applicant Name
(../permits/insp_search.aspx?pgmcat=inspection&pgmtype=applicant name)
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- Check Elevator Plan Status
(../permits/search.aspx?pgmcat=elev&pgmtype=permit number)

Schedule, Modify or Cancel an Inspection
(../permits/insp_schedule.aspx)



Mobile Site

Thank you very much for your help! I can be reached at





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Documents Submitted By Fairfax County

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County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Office of the County Attorney
Suite 549, 12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Phone: (703) 324-2421; Fax: (703) 324-2665
www.fairfaxcounty.gov

November 18, 2022

BY EMAIL AND FIRST-CLASS MAIL

Virginia Technical Review Board
c/o Travis Luter, Secretary
Main Street Centre
600 E. Main Street
Suite 300
Richmond, VA 23219

**RE: Appeal No. 22-15
Fei Zhang
1978 Kirby Road**

Mr. Luter,

My name is Patrick Foltz and my office represents the Jay Riat, Building Code Official for Fairfax County. I'm writing to present additional information and argument for the Technical Review Board's consideration of the above appeal.

This appeal concerns a disputed inspection result on a new single-family dwelling from June 16th, 2022, by Fairfax County Inspector Jerry Meyers. During the inspection, Mr. Meyers determined that the framing for a new single-family dwelling was per plan and compliant with code. However, due to water in the basement, Mr. Meyers only passed the framing inspection *as noted*. Mr. Meyers noted in the inspection results that it is acceptable to conceal the wall cavities with insulation so long as any remaining water in the basement is properly dried out.

Section 113.3 of the 2015 Virginia Uniform Statewide Building Code, Minimum Inspections, dictates the minimum inspections that are required when applicable to construction. Fairfax County's policy to ensure these minimum inspections are performed and to keep projects progressing is to at times pass inspections with notes. Often, these notes have stipulations that must be met for construction to progress.

Prior to the inspection, Ms. Zhang emailed county staff on June 15th, 2022 and expressed her concerns about the water in the basement. Over the next two weeks, Ms. Zhang sent several emails with pictures of the basement, concerns about the water, and requests that the County change the result of the inspection to a failure.

On July 12th, 2022, after re-inspections, the Inspector Meyers failed the inspection on the house for the builder's failure to remedy the water condition in the basement. Inspector

Meyers also recommended a stop work order on construction so that the basement could dry out and be tested.

Even though the result was failed, Ms. Zhang nevertheless appealed the June 15th, 2022 inspection result. In her appeal, however, Ms. Zhang explained her relationship to the Property:

I did not want to live in a house with mold issue and various structure issues, which will be costly to me later. The builder proposed to end my contract instead of fixing the issue. I ended signing a release to end the contract with no fault on my side and the builder took \$70,000 of my deposit. This can totally be avoided if the County's inspection on 7/11/2022 and 7/12/2022 can happen earlier or at the time I raised my concern! I request the county to help me to get my deposit back.

Ms. Zhang has never owned the property at 1978 Kirby Road – per the deed filed with the TRB with this letter, the Evergreene Companies, LLC has owned the property since June of 2020. Prior to June 15, 2022, she may have been a contract purchaser – however, in her appeal, she indicates that she previously signed a release for the contract. As a result, Ms. Zhang had no interest in the property at the time of the appeal and, therefore, no standing to appeal the building inspection result.

At Section 119.5, the Building Code allows “any person aggrieved by the *local building department's* application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the *LBBCA*.” (emphasis in original). At the time she appealed, Ms. Zhang possessed no interest in the property, as an owner, contract buyer, or renter. She could not, therefore, be “aggrieved” by the inspection nor does she have any standing to challenge it.

This outcome is consistent with the previous decision of the Technical Review Board in Appeal 95-3, *Appeal of Access Independence*. Applying a previous version of the Code, which allowed an “owner...the owner's agent or any other person involved in the design or construction” to appeal, the Technical Review Board ruled that Access Independence could not appeal without proof that it belonged in one of those categories. Though the current Building Code is broader than this previous provision, Ms. Zhang still cannot overcome her own admission that she released all her interest in the Property prior to filing her appeal.

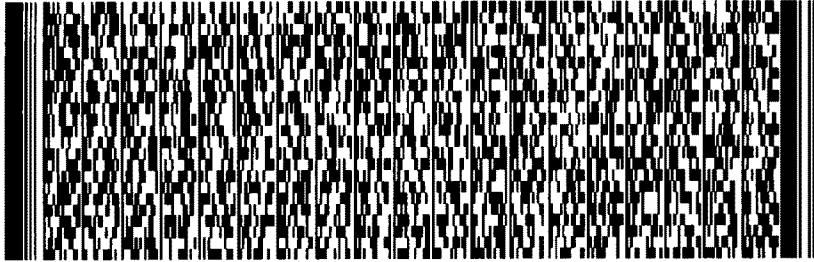
For these reasons, the Building Official requests that the Technical Review board deny Ms. Zhang's appeal.

Thank you,

Patrick V. Foltz

Fairfax Circuit Court Coversheet Generator

Cover Sheet Page 1 of 1



Consideration		Consideration/Actual Value %	100	
Actual/Assessed	Tax Exemption	NONE	Amount Not Taxed	
Code Section				
DEM Number				
Original Book	26059	Original Page	1814	
Title Company	NONE		Title Case	
Property Descr.	ARBORS OF MCLEAN		Multiple Lots?	NO
Return To Party Name:	ODIN, FELDMAN & PITTLEMAN, PC	Address:	1775 WIEHLE AVENUE, SUITE 400 RESTON, VA 20190	
No. of Certified Copies	0	No. of Non-certified Copies	0	Page Range

Document Type(s)

RESUBDIVISION, DEDICATION, EASEMENT, DEED OF GIFT

Grantor(s)

EVERGREEN COMPANIES LLC_F_N, CHMELIK, THOMAS TR_I_T, BABSON, MELINDA TR_I_T, MAINSTREET BANK_F_N

Grantee(s)

BOARD OF SUPERVISORS_F_N, ARBORS OF MCLEAN HOA_F_N

Tax Map Number

040-2- -01- -0048-

Tax map No. 040-2-01-0048
(Box 49) 58.1-811D

THIS DEED OF DEDICATION, SUBDIVISION, EASEMENT AND CONVEYANCE ("Deed") is made this 21st day of APRIL, 2020, by and between THE EVERGREEN COMPANIES, LLC, a Member Managed Virginia Limited Liability Company ("Owner") (Grantor); THOMAS CHMELIK and MELINDA BABSON, Trustees, either of whom may act ("Trustees") (Grantors); MAINSTREET BANK, Beneficiary ("Beneficiary") (Grantor); THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a body corporate and politic ("County") (Grantee); and THE ARBORS OF MCLEAN HOMEOWNERS ASSOCIATION, a Virginia nonstock corporation ("Association") (Grantee).

WITNESSETH:

WHEREAS, the Owner is the owner of certain property having Tax Map No. 040-2-01-0048 ("Property") by virtue of a deed recorded in Deed Book 26059, at Page 1814, among the land records of Fairfax County ("Land Records"), as further depicted on that plat dated March 31, 2020, with file number 17067R-01, entitled "Subdivision Plat Showing ARBORS OF MCLEAN and Various Easements", and prepared by Walter L. Phillips Incorporated of Falls Church, Virginia, attached hereto and incorporated herein ("Plat"); and

WHEREAS, by deed of trust recorded in Deed Book 26059, at Page 1818, among the Land Records ("Deed of Trust"), the Property was conveyed in trust to the Trustees, to secure a certain indebtedness to Beneficiary; and

WHEREAS, it is the desire of the Owner, with the consent and approval of the Trustees and Beneficiary, to subdivide the Property, to dedicate an area for public street purposes, and to convey certain easements, all in accordance with the Plat, and to convey a certain portion of the Property to the Association, as hereinafter provided; and

WHEREAS, it is the desire of the Owner, with the consent and approval of the Trustees and the Beneficiary, to create and establish private access easements and a private retaining wall maintenance easement, in accordance with the Plat and as hereinafter provided; and

WHEREAS, it is the desire of the Owner, with the consent and approval of the Trustees and the Beneficiary, to subordinate the lien of the Deed of Trust to the easements created herein, and to release certain portions of the Property from the lien of the Deed of Trust.

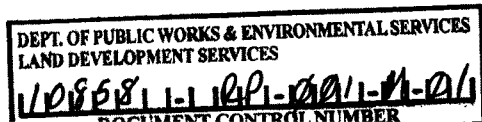
SUBDIVISION

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of the Trustees and the Beneficiary, does hereby subdivide the Property in accordance with the Plat, to be known as Lots One (1) through Ten (10), inclusive, and Outlot A, ARBORS OF MCLEAN.

STREET DEDICATION

THIS DEED FURTHER WITNESSETH that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval

Odin, Feldman & Pittleman, P.C.
1775 Wiehle Avenue
Suite 400
Reston, Virginia 20190



of the Trustees and the Beneficiary, does hereby dedicate for public street purposes and convey to the County, in fee simple, those portions of the Property designated as "13,727 Sq. Ft. Hereby Dedicated For Public Street Purposes" and "4,380 Sq. Ft. Hereby Dedicated For Public Street Purposes" on the Plat.

COUNTY EASEMENTS

THIS DEED FURTHER WITNESSETH that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of the Trustees and the Beneficiary, does convey to the County the following easements:

A. Storm Sewer. A Storm Sewer Easement for the purpose of constructing, operating, maintaining, adding or altering present or future storm sewage lines, plus necessary inlet structures, manholes, and appurtenant facilities for the collection of sewage and its transmission through and across the Property of the Owner, said Property and easement being more particularly bounded and described as "15' Storm Sewer Easement Hereby Granted" on the Plat attached hereto and incorporated herein. The easement is subject to the following terms and conditions:

1. All sewers, manholes, inlet structures and appurtenant facilities which are installed in the easement and right-of-way shall be and remain the property of the County, its successors and assigns.

2. The County and its agents shall have full and free use of the said easement and right-of-way for the purposes named, and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the easement and right-of-way including the right of reasonable access to and from the right-of-way and right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance, and further, this right shall not be construed to allow the County to erect any building or structure of a permanent nature on such adjoining land.

3. The County shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in or near the easement being conveyed, deemed by it to interfere with the proper and efficient construction, operation, maintenance of said sewers; provided, however, that the County at its own expense shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches, the replacement of shrubbery and the seeding or sodding of lawns or pasture areas, but not the replacement of structures, trees or other obstructions.

4. The Owner reserves the right to construct and maintain roadways over the easement and to make any use of the easement herein granted which may not be inconsistent with the rights herein conveyed, or interfere with the use of the easement by the County for the purposes named, provided, however, that the Owner shall not erect any building or structure, except a fence, on the easement without the prior written approval of the County.

B. Ingress-Egress. Ingress-Egress Easements for the purpose of ingress and egress by County emergency, maintenance and police vehicles over and across the Property of Owner, including Outlot A, said Property being more particularly bounded and described as "20'

Emergency Vehicle Access Easement Hereby Granted”, “5’ Private Sidewalk Esmt and 5’ Emergency Vehicle Access Esmt Hereby Granted” and “Private Access Easement Hereby Granted” on the Plat attached hereto and incorporated herein. The easements are subject to the following terms and conditions:

1. All streets, service drives, trails, sidewalks, and driveways and all appurtenant facilities installed in the easements and rights-of-way shall be and remain the property of the Owner, its successor and assigns, who shall properly maintain the Property and said facilities.

2. The County and its agents shall have full and free use of the easements and rights-of-way for the purposes named, and shall have all rights and privileges reasonably necessary to the exercise of the easements and rights-of-way including the right, but not the obligation to perform, if the Owner fails to do so, such repairs and maintenance as the County may deem necessary. The cost of such repairs and maintenance shall be reimbursed to the County by the Owner, its successors and assigns, upon demand.

PRIVATE ACCESS EASEMENTS FOR COMMON DRIVEWAYS

THIS DEED FURTHER WITNESSETH that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of the Trustees and the Beneficiary, does hereby grant and convey unto the Association and create and establish easements for ingress and egress over and across: (i) Lots 1 and 2 to provide access to Lots 1, 2 and 10; (ii) Lots 3, 4 and 6 to access Lots 3, 4, 5, and 6; and (iii) Lots 8, 9, and 10 and Outlot A to access Lots 7, 8 and 9, in the locations as shown on the Plat as “Private Access Easement Hereby Granted” for the construction and maintenance of Common Driveways and for the use and benefit of the Owners and their successors and assigns of the Lots served thereby. The maintenance (including repair and replacement and snow removal) of the Common Driveway pavement shall be performed by the Association or the owners of Lots served by the Common Driveways in accordance with the Declaration for The Arbors of McLean recorded subsequent to this Deed.

PRIVATE ACCESS EASEMENT FOR SIDEWALK

THIS DEED FURTHER WITNESSETH that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of the Trustees and the Beneficiary, does hereby grant and convey unto the Association, its successors and assigns, an easement and right-of-way for the purpose of constructing, using, and maintaining a sidewalk over and across Lots 7 and 8 in the location as more particularly bounded and described on the Plat as “5’ Private Sidewalk Esmt and 5’ Emergency Vehicle Access Esmt Hereby Granted”. The easement shall be subject to the following conditions:

1. The Association shall have full and free use of the easement for the purposes named, and shall have all rights and privileges reasonably necessary to the exercise thereof and the right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual construction or maintenance, and then only to the minimum extent necessary for such construction or maintenance, and further, this right shall not be construed to allow the Association to erect any building or structure of a

permanent nature on such adjoining land.

2. The Association shall have the use of the easement free from any obstructions and shall have the right to trim, cut, and remove trees, shrubbery, fences, structures, or other obstructions or facilities in or near the easement hereby conveyed deemed by it to interfere with the proper and efficient construction, use, and maintenance of the easement.

3. The Association shall have the right, in its sole discretion, to provide paving and to plant trees, shrubbery and other landscaping, within the easement, all of which shall remain the property of the Association, its successors and assigns.

PRIVATE RETAINING WALL MAINTENANCE EASEMENT

THIS DEED FURTHER WITNESSETH that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of the Trustees and the Beneficiary, does hereby grant and convey unto the Association, its successors and assigns, a Retaining Wall Maintenance Easement for the purpose of constructing, rebuilding, altering, repairing, replacing and maintaining retaining walls and fences in the locations as shown on the Plat as "Private Retaining Wall Maintenance Easement Hereby Granted". The foregoing easement is subject to the following conditions:

1. The Association shall have full and free use of the easement for the purposes named, and shall have all rights and privileges reasonably necessary to the exercise thereof and the right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual construction or maintenance, and then only to the minimum extent necessary for such construction or maintenance, and further, this right shall not be construed to allow the Association to erect any building or structure of a permanent nature on such adjoining land.

2. The Association shall have the use of the easement free from any obstructions and shall have the right to trim, cut, and remove trees, shrubbery, fences, structures, or other obstructions or facilities in or near the easement hereby conveyed deemed by it to interfere with the proper and efficient construction, use, and maintenance of the easement.

3. The Owner reserves the right to make any use of the easement herein granted which may not be inconsistent with the rights herein conveyed, or interfere with the use of the easement by the Association for the purposes named, provided, however, that the Owner shall not erect any building or structure, except a fence, on the easement without the prior written approval of the Association.

CONVEYANCE TO ASSOCIATION

THIS DEED FURTHER WITNESSETH that without payment of consideration therefore, but as a gift, the Owner, with the consent and approval of the Trustees and the Beneficiary, does hereby convey with Special Warranty of Title to the Association, Outlot A, ARBORS OF MCLEAN, to have and to hold unto the Association, its successors and assigns.

RELEASE/SUBORDINATION

THIS DEED FURTHER WITNESSETH that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Trustees, as authorized to act by the Beneficiary, do hereby release from the lien of the Deed of Trust those portions of the Property dedicated for public street purposes and Outlot A, and do hereby consent to and subordinate the lien of the Deed of Trust to the easements conveyed herein, as further shown on the Plat.

TO HAVE AND TO HOLD those portions of the Property dedicated for public street purposes and Outlot A fully released and discharged from the lien and obligation of the Deed of Trust.

It is expressly understood that the release of those portions of the Property described above and the subordination of the lien of the Deed of Trust to the easements conveyed shall not affect in any way the lien of the Deed of Trust upon the other land conveyed thereby and not released hereby or subject to said easements, and the Deed of Trust shall remain in full force and effect as to the land conveyed thereby and not released hereby, subject to said subordination.

COVENANTS REAL

The Owner, with the consent and approval of the Trustees and the Beneficiary, declares that the agreements and covenants stated in this Deed are not covenants personal to the Owner, but are covenants real, running with the land.

FREE CONSENT AND DESIRE

This Deed is made with the free consent and in accordance with the desire of the undersigned owner, proprietor, and the Trustees.

MISCELLANEOUS

This Deed shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. This Deed may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. This Deed is in accordance with the Statutes of Virginia and the ordinances in force in Fairfax County governing the platting and subdivision of land, and is approved by the proper authorities as evidenced by their endorsement hereto and the Plat.

(SIGNATURES APPEAR ON FOLLOWING PAGES)

FURTHER WITNESS THE FOLLOWING SIGNATURES AND SEALS.

THE EVERGREENE COMPANIES, LLC

By: [Signature]
Name: Robert Cappellini
Title: President

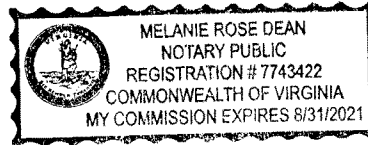
COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

The foregoing instrument was acknowledged before me this 23rd day of April,
2020, by Robert Cappellini, as President of THE
EVERGREENE COMPANIES, LLC, on behalf of the company.

[Signature]
Notary Public

My Commission Expires: 8/31/2021

Notary Registration No.: 7743422



Thomas Chmelik
THOMAS CHMELIK, TRUSTEE

MELINDA BABSON, TRUSTEE

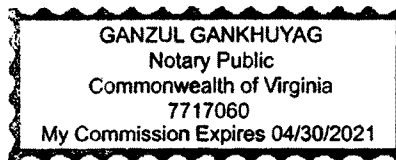
COMMONWEALTH OF VIRGINIA
COUNTY OF Fairfax

The foregoing instrument was acknowledged before me this 21 day of April,
2020, by THOMAS CHMELIK, TRUSTEE.

Thurman
Notary Public

My Commission Expires: 04/30/2021

Notary Registration No.: 7717060



COMMONWEALTH OF VIRGINIA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____,
2020, by MELINDA BABSON, TRUSTEE.

Notary Public

My Commission Expires: _____

Notary Registration No.: _____

MAINSTREET BANK,
BENEFICIARY

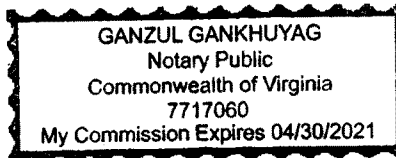
By: *Michael Rudolph*
Name: Michael J Rudolph
Title: EVP

COMMONWEALTH OF VIRGINIA
COUNTY OF Fairfax

The foregoing instrument was acknowledged before me this 21 day of April,
2020, by Michael Rudolph, as EVP of MAINSTREET BANK,
BENEFICIARY, on behalf of the Bank.

[Signature]
Notary Public

My Commission Expires: 04/30/2021
Notary Registration No.: 7717060.



THE ARBORS OF MCLEAN HOMEOWNERS
ASSOCIATION

By: Amy Polk
Name: Amy Polk
Title: President

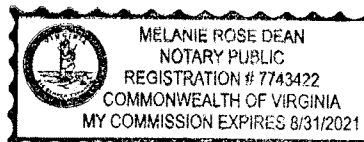
COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

The foregoing instrument was acknowledged before me this 23rd day of April,
2020, by Amy Polk, as President of THE ARBORS OF
MCLEAN HOMEOWNERS ASSOCIATION, on behalf of the Association.

Melanie Rose Dean
Notary Public

My Commission Expires: 8/31/2021

Notary Registration No.: 7743422



Executed and approved on behalf of the Board of Supervisors of Fairfax County, Virginia, by the authority granted by said Board.

APPROVED AS TO FORM:

Director, Land Development Services

[Signature]
Sr. Assistant County Attorney

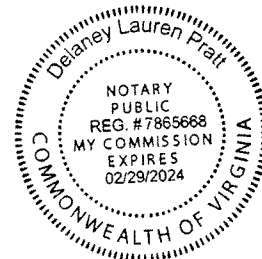
[Signature]
Project Manager II
Customer & Technical Support

COMMONWEALTH OF VIRGINIA:
COUNTY OF FAIRFAX, to wit:

The foregoing instrument was acknowledged before me by Kenneth R. Williams, Project Manager II, Customer & Technical Support, this 22 day of may, 2020.

[Signature]
Notary Public

My commission expires: 2/29/2024
Commission ID #: 79051668

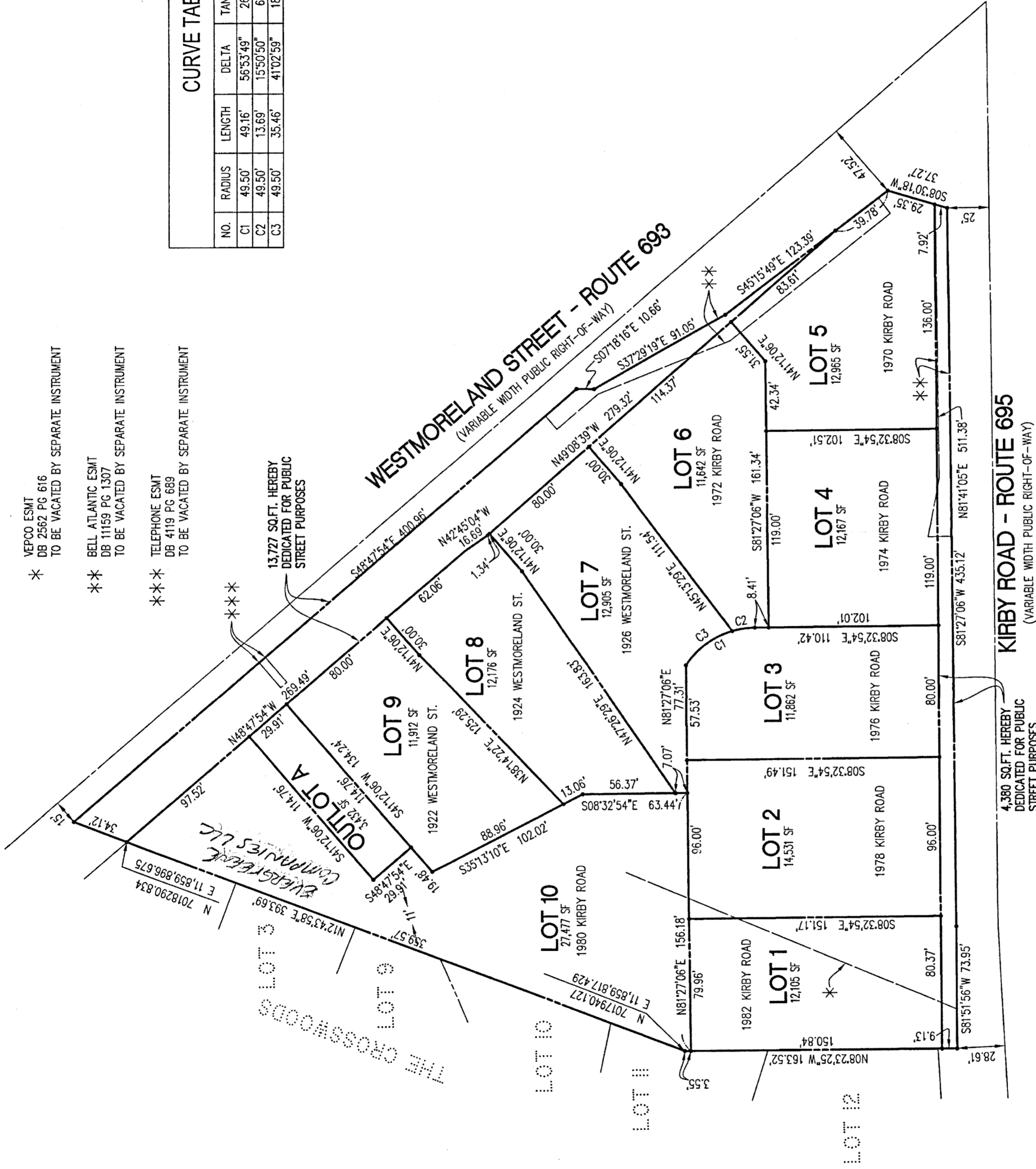


#4573388v4 052674/000030

VCS 1983 - NORTH ZONE

- * VEPCO ESMT
DB 2562 PG 616
TO BE VACATED BY SEPARATE INSTRUMENT
- ** BELL ATLANTIC ESMT
DB 11159 PG 1307
TO BE VACATED BY SEPARATE INSTRUMENT
- *** TELEPHONE ESMT
DB 4119 PG 689
TO BE VACATED BY SEPARATE INSTRUMENT

CURVE TABLE					
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD BEARING
C1	49.50'	49.16'	56°53'49"	26.82'	S36°59'49"E
C2	49.50'	13.69'	15°50'50"	6.89'	S16°28'19"E
C3	49.50'	35.46'	41°02'59"	18.53'	S44°55'13"E



SUBDIVISION PLAT SHOWING
ARBORS OF MCLEAN
AND VARIOUS EASEMENTS
DRANESVILLE DISTRICT
FAIRFAX COUNTY, VIRGINIA

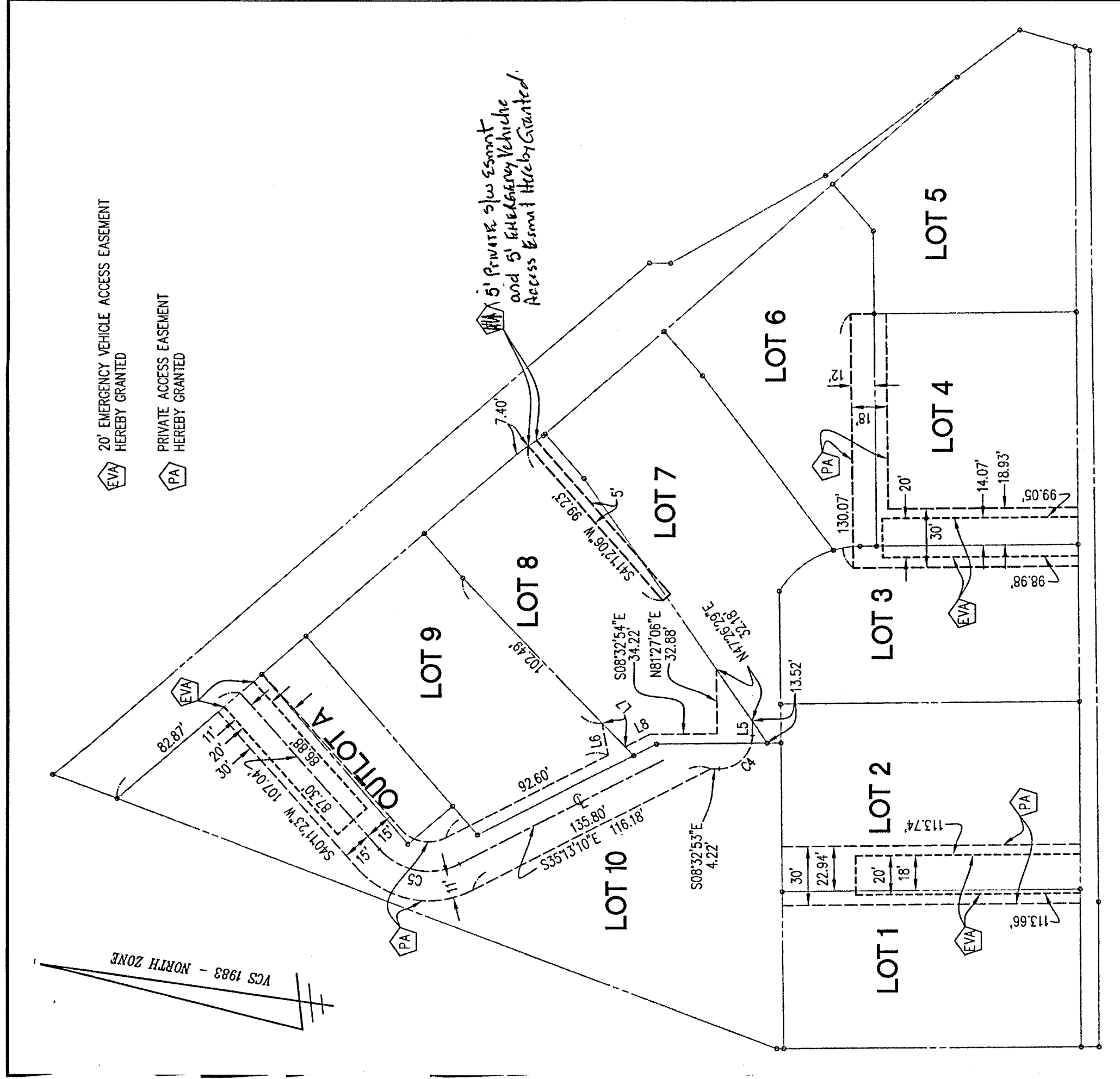


WALTER L. PHILLIPS
INCORPORATED
ESTABLISHED 1945
Engineers • Surveyors • Planners
Landscape Architects • Arborists
207 PARK AVENUE
FALLS CHURCH, VIRGINIA 22046
(703) 532-6163 Fax (703) 533-1301
www.WLPINC.com

SCALE: 1" = 50' DATE: FEBRUARY 25, 2019 SHEET: 2 OF: 3

REFERENCE: 10858-SD-001

DWG FILE NAME: 17067R-01



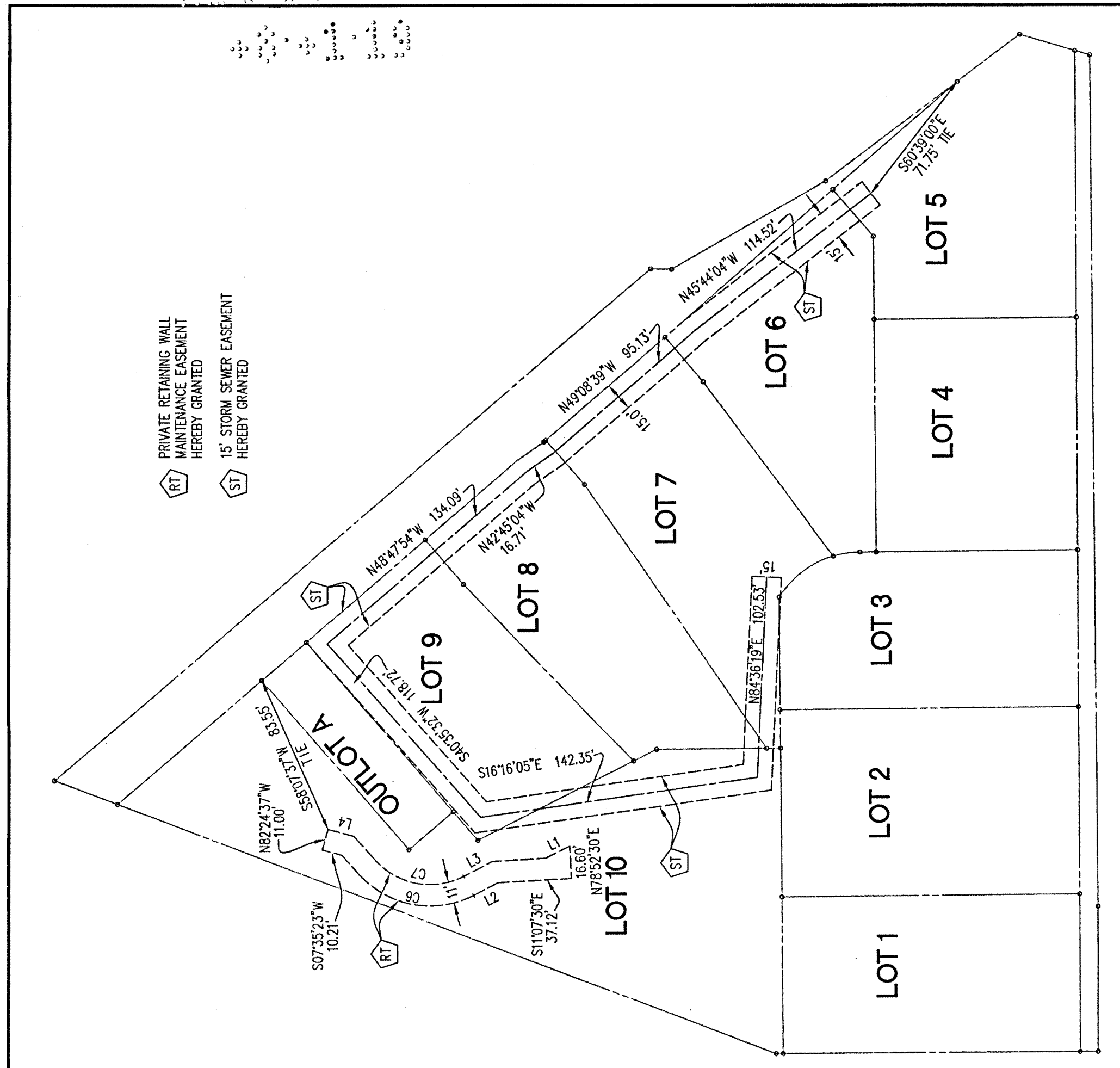
20' EMERGENCY VEHICLE ACCESS EASEMENT
HEREBY GRANTED (EVA)

PRIVATE ACCESS EASEMENT
HEREBY GRANTED (PA)

5' Private slow speed
and 5' Emergency Vehicle
Access Easement Hereby Granted

CURVE TABLE

NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C4	17.00'	26.55'	89°28'36"	16.85'	23.93'	S53°17'11"E
C5	34.00'	44.75'	75°24'33"	26.28'	41.59'	S02°29'07"W
C6	49.00'	64.32'	75°12'26"	37.74'	59.80'	S02°23'03"W
C7	38.00'	49.88'	75°12'26"	29.27'	46.37'	N02°23'03"E



PRIVATE RETAINING WALL
MAINTENANCE EASEMENT
HEREBY GRANTED (RT)

15' STORM SEWER EASEMENT
HEREBY GRANTED (ST)

LINE TABLE

NO.	BEARING	LENGTH
L1	N35°13'10"W	13.72'
L2	S35°13'10"E	14.35'
L3	N35°13'10"W	16.69'
L4	N07°35'23"E	13.40'
L5	N81°27'06"E	7.36'
L6	N71°42'33"E	16.58'
L7	S38°14'22"W	16.55'
L8	S35°13'10"E	14.04'

SUBDIVISION PLAT SHOWING
ARBORS OF MCLEAN
AND VARIOUS EASEMENTS
DRANESVILLE DISTRICT
FAIRFAX COUNTY, VIRGINIA

WALTER L. PHILLIPS
INCORPORATED ESTABLISHED 1845

Engineers • Surveyors • Planners
Landscape Architects • Arborists
207 PARK AVENUE
FALLS CHURCH, VIRGINIA 22046
(703) 532-6163 Fax (703) 533-1301
www.WLPINC.com

James A. Madison
JAMES A. MADISON
Lic. No. 2764
02.25.2019
LAND SURVEYOR

SCALE: 1" = 50' DATE: FEBRUARY 25, 2019 SHEET: 3 OF: 3

proper party

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

In RE: Appeal of Access Independence
Appeal No. 95-3

Decided FEB 17 1995

STATEMENT OF THE APPEAL

Access Independence, a disability and business technical assistance center, represented by Mr. W.E. Fuller, brings this appeal to the State Building Code Technical Review Board ("Review Board"). The appeal concerns property owned by Emmart Oil on Berryville Avenue in Winchester, Virginia.

The City of Winchester building official decided to deny a modification on December 13, 1994, under the Virginia Uniform Statewide Building Code, Volume I, New Construction Code, 1993 edition ("USBC") requested by W.H. Emmart & Son, Inc. The modification concerned access to a raised area behind the sales counter at the property listed above. The building official determined that the area with the raised platform was a work area and that § 4.1.1 (3) of the ADAAG standard which is part of the USBC requires areas used only as work areas to be designed and constructed so that individuals with disabilities can approach, enter and exit the areas.

W.H. Emmart & Son, Inc. appealed to the Winchester Building Code Board of Appeals ("local appeals board"). The local appeals board met on January 5, 1995 and overturned the decision of the building official finding that the platform complied with the USBC as installed. Mr. Fuller was present and testified at the

local appeals board meeting on behalf of Access Independence.

The Review Board conducted a hearing on February 17, 1995 to decide whether Access Independence has standing to appeal the decision of the local appeals board.

FINDINGS OF THE REVIEW BOARD

Sections 116.5 and 116.9 of the USBC identify the persons having a right to appeal to the Review Board.

Section 116.5 states in pertinent part:

"The owner of a building or structure, the owner's agent or any other person involved in the design or construction of the building or structure may appeal a decision of the building official..."

Section 116.9 states in pertinent part:

"After final determination by the [local appeals board], any person who was a party to the local appeal may appeal to the [Review Board]."

Testimony at the hearing before the Review Board established that Access Independence is not the owner, the owner's agent or any other person involved in the design or construction of the building in question.

The use of the terms, "who was a party to the local appeal," in § 116.9 is intended to include only those persons, other than the local building official, who have a right to initiate an appeal under § 116.5. Access Independence was not a party to the local appeal.

FINAL ORDER

This appeal having been given due regard and in consideration of the "Findings of the Review Board" set out above, the Review Board hereby rules that no valid appeal exists. The appeal is denied.


Chairman, State Technical Review Board

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Norman R. Crumpton, Secretary of the State Building Code Technical Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Park Crescent Owners LLC
Appeal No. 22-14

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Park Crescent Owners LLC and Croatan Investments, LLC
Appeal No. 22-14

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. In a letter dated March 25, 2022 the City of Norfolk Department of Planning: Division of Building Safety (City), the agency responsible for the enforcement of the 2015 and 2018 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), denied a plan review submittal for the permanent removal of the elevators in each of the 14 three story apartment buildings, located at 6400-6491 Crescent Way in the City of Norfolk, owned by Park Crescent Owners LLC and Croatan Investments, LLC (Park Crescent) citing the following violations of the 2015 and 2018 Virginia Existing Building Code (VEBC):

- a. VEBC Section 404.1 – Alterations shall not reduce or have the effect of reducing accessibility of a facility or portion of a facility.
- b. VEBC 102 – Your submitted building code path had not sufficiently been documents or prove that the VEBC will allow the elevators to be removed.
- c. VEBC Sections 103.1, 103.4, and 103.4.1 – these sections do not apply to this code application

2. Vincent Mastracco, legal counsel for Park Crescent, filed an appeal to the City of Norfolk Local Board of Appeals (local appeals board) which was denied on May 11, 2022.

3. Park Crescent further appealed to the Review Board on October 16, 2022; however, it took until October 21, 2022 to acquire an accurately completed application.

4. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the

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staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the appeal hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to uphold the building official and local appeals board that a violation of VEBC Section 404.1 exists.
2. Whether to uphold the building official and local appeals board that a violation of VEBC Section 102 exists.
3. Whether to uphold the building official and local appeals board that VEBC Sections 103.1, 103.4, and 103.4.1 do not apply.

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Basic Documents

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Norfolk

Department of Planning

Division of Building Safety
810 Union Street, First Floor
Norfolk, VA 23510
Phone: (757) 664-6565

March 25, 2022
Jamie Skinner, Owner
Jerry Smith, Applicant
Reference Property: 6400 Crescent Way Units 6400-6491
Reference #: B21-02383

Thank you for your Project Building Permit Plan Submittal. Your Plans have been reviewed in accordance with the Virginia Uniform Statewide Building Code. (VUSBC)

Upon your recent submittal, and the proposal to **permanently remove the elevators from each 3-story apartment building** has been denied based on the following comments and Virginia Uniform Statewide Building Code sections:

- As per section 404.1 of the 2015-2018 Virginia Existing Building Code
 - Alterations shall not reduce or have the effect of reducing accessibility of a facility or portion of a facility.
- As per section 102 of the 2015-2018 Virginia Existing Building Code
 - Your submitted Building Code Path has not sufficiently been documented or proven that the Virginia Existing Building Code will allow the elevators to be removed.

In addition, your response using code sections 103.1, 103.4, and 103.4.1 of the Virginia Existing Building Code does not apply to this code application.

In reference to section 119.5 of VUSBC, you have the right to appeal the Building Official's decision set forth above. The appeal must be filed with the Norfolk Local Board of Building Code Appeals, in writing and with a filing fee of seventy-five dollars (\$75.00) included, within thirty (30) days of the date of this letter. The appeal application may be submitted to the Division of Development Service Center, 810 Union Street, 5th Floor, Norfolk VA 23510. Failure to submit an application for appeal, including the filing fee, within the time limit established by this section shall constitute acceptance of the Building Official's decision.

We look forward to working with you and your organization, should you have any questions, please feel free to call me at 757-633-7274.

Sincerely,

Phillip E Williams,
Building Commissioner

Cc
George Homewood, Director of Planning
Adam Melita, Chief Deputy City Attorney
Daniel Winslow, Deputy Building Official



Norfolk

Department of Planning

Division of Building Safety and Development Service Center
810 Union Street, First Floor
Norfolk, VA 23510
Phone: (757) 664-6565

Appeals Application

The Virginia Uniform Statewide Building Code, Part I, Section 119.5 states in part: Right of appeal; filing of appeal application. Any person aggrieved by the local building department's application of the VUSBC or the refusal to grant a modification to the provisions of the VUSBC may appeal to the Local Board of Building Code Appeals (LBBCA).

Appeals of the Building Official's decision must be submitted within 30 calendar days of receipt of decision.

I (we)/name(s) PARK Crescent Owner, LLC + Crocten Investments, LLC

(Mailing address) 932 LASKIN Rd. Suite 200
Virginia BEACH, VA 23451

Respectfully request that the Local Board of Building Code Appeals review the decision made by the Norfolk Building Official.

Property address on which hearing is based: 6400 Crescent Way Unit 6400-6491

My interest in the property is:

Owner Contractor Owner's Agent Other (Explain) _____

Application for appeal must be based on one of the following reasons:

(Check one)

Decision: 3/25/22 (Copy must be submitted) - Copy Submitted

Refusal of the Building Official to grant a modification on the provision of the USBC, Part I, Description of decision(s) appealed:

Applicant signature: Vincent J. Mastrosso, Jr

Note: Please make check payable to Norfolk City Treasure in the amount of seventy-five (\$75.00) dollars for processing requested appeal. Due at time of application submittal.

Six (6) complete copies of plans and appeal data must be submitted with six (6) copies of application.

Applicant will be notified in writing of the scheduled appeal date.

**Local Board of Building Code Appeals
Resolution**

WHEREAS, the City of Norfolk Local Board of Appeals is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide Building Code; and

WHEREAS, an appeal has been filed and brought to the attention of the board of appeals; and

WHEREAS, a hearing has been held to consider the aforementioned appeal; and

WHEREAS, the board has fully deliberated this matter; now, therefore, be it

RESOLVED, That the matter of

Appeal Date: 5/11/2022

Inspection No: B21-02383

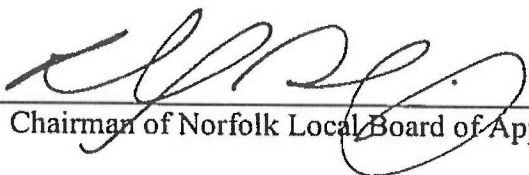
Property Address: 6400-6491 Crescent Way

IN RE: Vincent J. Mastracco, Jr v. Norfolk Building Commissioner

The appeal is hereby **denied**, for the reasons set out below:

Hearing Date: 5/11/2022

Signature


Chairman of Norfolk Local Board of Appeals

Note: Any person who has a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, VA 23219, (804) 371-7150.

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Staff Note:

Multiple Review Board applications submitted by Park Crescent Owners, LLC, through legal counsel, are included in the agenda package to show the timeline from original submittal to when staff was able to acquire the completed application from Park Crescent Owners, LLC

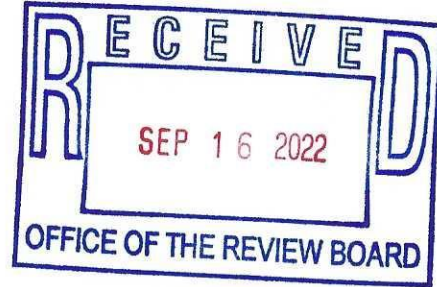
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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 Virginia Construction Code
 Virginia Existing Building Code
 Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Vincent J. Mastracco, Jr., Agent for Park Crescent Owner, LLC and Croatan Investments, LLC
Kaufman & Canoles, 150 W. Main Street, Suite 2100, Norfolk, VA 23510
(757) 624-3213
vjmastracco@kaufcan.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

Phillip E. Williams, Building Commissioner
Division of Building Safety and Development Service Center
810 Union Street, First Floor, Norfolk, VA 23510
(757) 664-6696
phillip.williams@norfolk.gov

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of September, 2022, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

A handwritten signature in black ink that reads "Vincent J. Mastracco, Jr." written over a horizontal line.

Name of Applicant: _____

Vincent J. Mastracco, Jr.

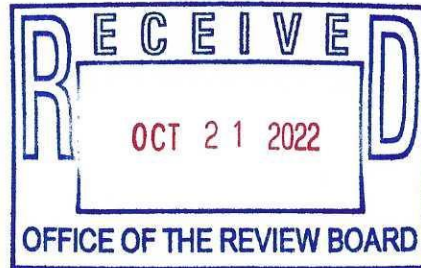
(please print or type)

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov**

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 - Virginia Construction Code
 - Virginia Existing Building Code
 - Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Park Crescent Owner, LLC
 CI Croatan Investments, LLC
 By: Jamie Skinner
 932 Laskin Rd., Suite 200
 Virginia Beach, Virginia 23451
 Office Number: (757) 614-1992
 Mobile Number: (757) 651-9785
 Email Address: jamie.skinner@croatan.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

City of Norfolk
 Phillip E. Williams, Building Commissioner
 810 Union Street
 Norfolk, Virginia 23510
 Office Number: (757) 633-7274
 Email Address: phillip.williams@norfolk.gov

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2022, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

Vincent J. Mastracco, Jr., Esq.
 Kaufman & Canoles, P.C.,
 150 W. Main Street, Suite 2100
 Norfolk, Virginia 23510

Office Number: (757) 624-3213
 Email Address: vjmastracco@kaufcan.com
 Mobile Number: (757) 439-0016

Name of Applicant: _____

(please print or type)

Statement of Specific Relief Sought

KAUFMAN & CANOLES
attorneys at law

Kaufman & Canoles, P.C.
150 West Main Street
Suite 2100
Norfolk, VA 23510

Mailing Address
Post Office Box 3037
Norfolk, VA 23514

T (757) 624.3000
F (888) 360.9092

kaufCAN.com

Vincent J. Mastracco Jr.
(757) 624.3213
vjmastracco@kaufcan.com

September 15, 2022

VIA ELECTRONIC MAIL

Mr. W. Travis Luter
Secretary to the State Building Code Technical Review Board
Virginia Department of Housing and Community Development
travis.luter@dhcd.gov

Re: 6440 Crescent Way, 6471 Crescent Way, 6411 Crescent Way, 6480 Crescent Way, 6401 Crescent Way, 6441 Crescent Way, 6431 Crescent Way, 6460 Crescent Way, 6451 Crescent Way, 6470 Crescent Way, 6481 Crescent Way, 6490 Crescent Way, 6461 Crescent Way, 6400 Crescent Way

Dear Mr. Luter:

I'm writing you on behalf of Park Crescent Owner, LLC and Croatan Investments, LLC, an Agent (CROATAN) which own and operates the above referenced properties. The properties were acquired in 2019. At the time the properties were acquired the elevators had a few operational issues but Croatan believed those issues could be resolved. Along with other vendors to the project to service and maintain the properties a Service and Maintenance Agreement was entered into with a repair and service company for elevator service and maintenance. Unfortunately the company has now indicated that the elevators have outlived their useful life and that repairing them was not an option. Croatan has expended significant funds in attempting to get the elevators to operate appropriately but without success.

Croatan has determined that it is in the best interest of the residents to close the elevators and to provide a safe and secure way to keep them out of the stream of traffic to those that are using hallways.

Steps on either end of the hallways were reconstructed in 2018 and those stairways meet current code requirements. The architect working with Croatan developed a project narrative demonstrating that the stairwells do comply and that they are in good condition and are maintained in a proper manner. Please see the architect's project narrative as Exhibit 1. In addition, the architect has prepared an egress plan showing the total length of footage from the furthest apartment unit door on the 3rd floor to the stair landing of the ground floor which also is within code. See Exhibit 2.

Exhibit 3 shows a proposed screen design attached to the existing wall with vandal-proof stations with a solid panel backup. Manufacturer is IVFPENSIGN the maker of the item metal screen with finished antique bronze measuring 8' height by 4' wide.

Mr. W. Travis Luter
September 15, 2022
Page 2

Also see Exhibit 4 which are photographs at the pool clubhouse they showed a typical decorative panel. This exhibit is to demonstrate how the decorative panels on the elevator are consistent with the panels shown at the pool clubhouse.

The owners communicated with the residents notifying them that if the status of the elevators in the building create a hardship the owners offered to move those persons at the owner's expense to the 1st floor. A letter was written from the apartment management to a resident who indicated that she would like to be relocated to the 1st floor. That same offer has been made to all residences on the 3rd floors and anyone who indicates that there is a hardship is encouraged to make that move and to accept reimbursement of moving expenses from the move from floor 3 to floor 1. In addition, the offer includes the right for any resident who wishes to terminate his/her lease to do so without penalty.

Very truly yours,

A handwritten signature in black ink, appearing to read "Vincent J. Mastfacco Jr.", written in a cursive style.

Vincent J. Mastfacco Jr.

VJM:hre
Attachments

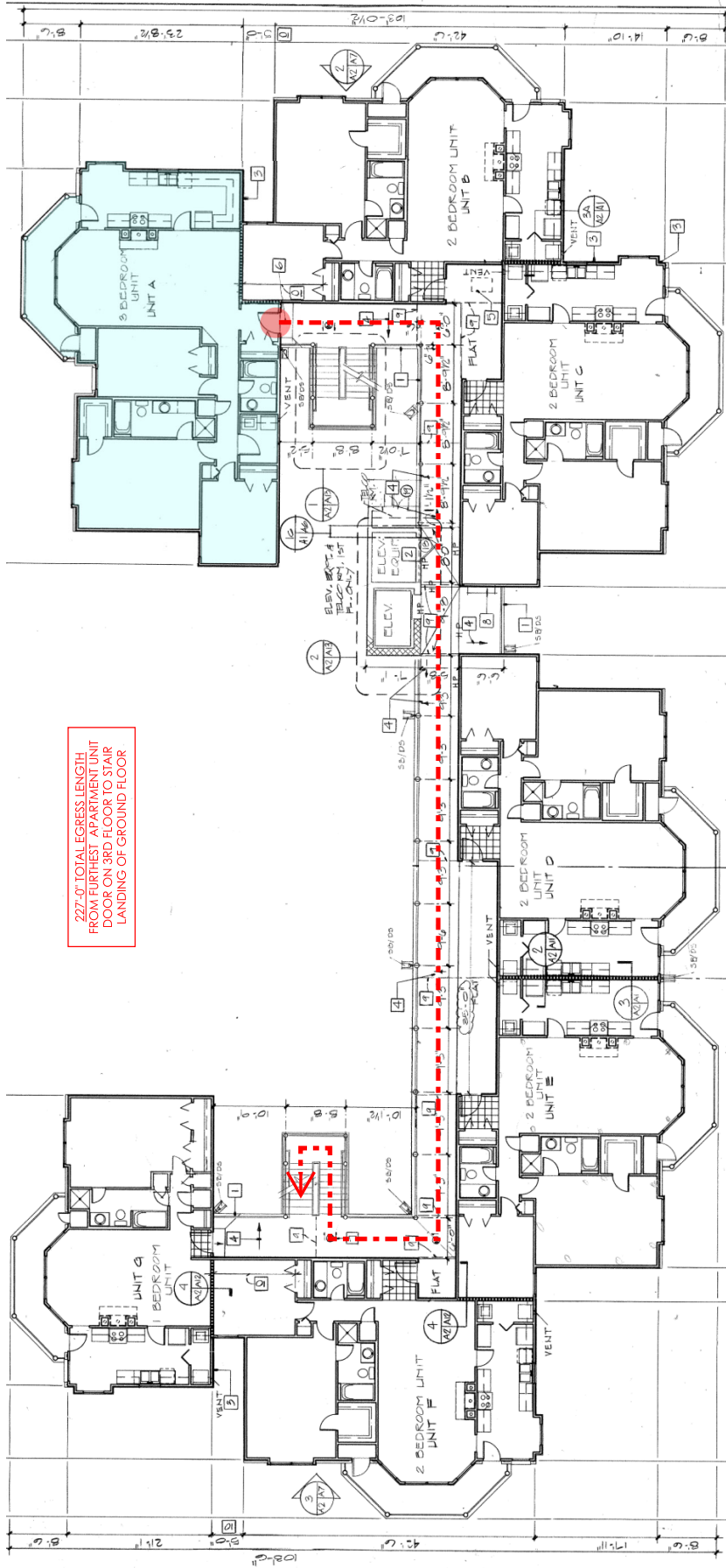
EXHIBIT 1

Park Crescent Apartments – Project Narrative

Per the Owner's request, we visited the property on Monday, August 9th and made the following observations.

1. The property has 14 "Phase 1" apartment buildings with each building matching in style, height, size, and unit count except for two which are slightly smaller in overall building length.
2. There are two remote exterior egress stairs that serve each floor of each three story apartment building.
3. **Section 1011 Stairways, Article 1011.2 of the 2015 IBC** requires that the stair width be no less than 44" and the observed interior clear egress width of both open stairs is 51".
4. **Section 1011 Stairways, Article 1011.5.2 of the 2015 IBC** requires stair riser heights to be 7" maximum and 4" minimum and the observed stair riser is 6 ½" high. The required tread depth is 11" minimum and our observed depth is 11".
5. **Section 1011 Stairways, Article 1011.8 of the 2015 IBC** requires that a flight of stairs not exceed a vertical rise of 12' between floor and landings. The existing observed floor to floor dimension is 9'-6 ½" which is well under the requirement especially considering there is an intermediate landing.
6. **Section 1014 Handrails, Article 1014.2 of the 2015 IBC** requires that the handrail height be no less than 34" and no more than 38" and the observed handrail height of both stairs is 34".
7. **Section 1014 Handrails, Article 1014.3.1 of the 2015 IBC** requires that the circular cross section of a handrail shall have an outside diameter of not less than 1 ¼" and not greater than 2". The observed circular handrail cross section is 1 ½".
8. **Section 1014 Handrails, Article 1014.4 of the 2015 IBC** requires the handrail gripping surfaces be continuous, without interruption by the newel posts or other obstructions, which the existing conditions were observed to comply.
9. **Section 1014 Handrails, Article 1014.6 of the 2015 IBC** requires that handrails shall return to a wall, guard or walking surface or shall be continuous to the handrail of an adjacent flight of stairs or ramp run. Where handrails are not continuous between flights, the handrails shall extend horizontally not less than 12" beyond the top riser and continue to slope for the depth of one tread beyond the bottom riser, which the existing conditions were observed to comply.
10. **Section 1015 Guards, Article 1015.3 of the 2015 IBC** requires that all guards shall be not less than 42" high, measured vertically from the adjacent walking surface and the line connecting the leading edges of the tread nosings of a stairwell, which the existing conditions were observed to comply.
11. **Section 1017 Exit Access Travel Distance, Table 1017.2 of the 2015 IBC** requires a travel distance of no greater than 200' without a sprinkler system, but Article 1017.2.1 states that the exist travel distance specified in Table 1017.2 shall be increased up to an additional 100' provided the last portion of the exit access leading to the exit occurs on an exterior egress balcony constructed in accordance with Section 1021. The length of such balcony shall be not less than the amount of the increase taken. The exist access travel distance from the furthest point on the third floor balcony to the ground floor of the stairwell on the opposite end of the apartment building was observed to be 227' which is less than the 300' allowed.
12. **Section 10121 Egress Balconies, Article 1021.1 of the 2015 IBC** requires that balconies used for egress purposes shall conform to the same requirements as corridors for minimum width, required capacity, head room, dead ends, and projections. The minimum width required per Table 1020.2 is 44" and we observed the smallest balcony width along the egress path of travel to be 66 ½".

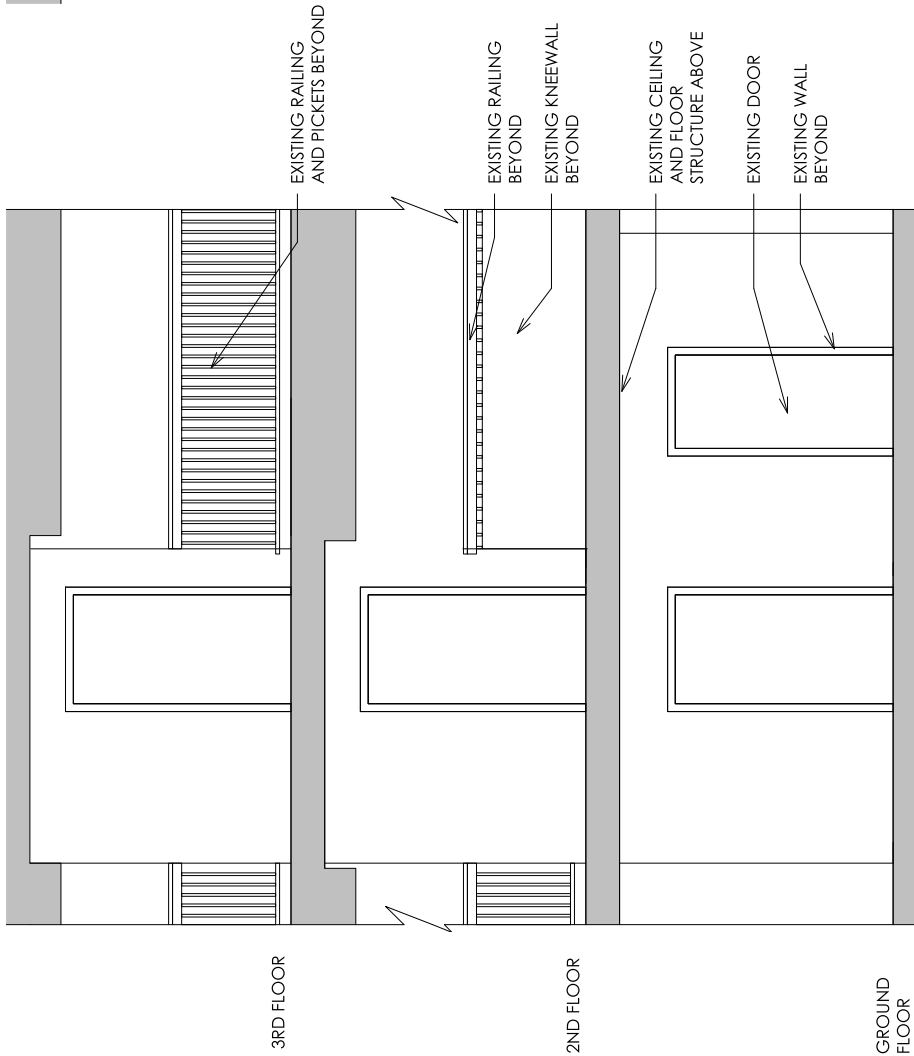
EXHIBIT 2



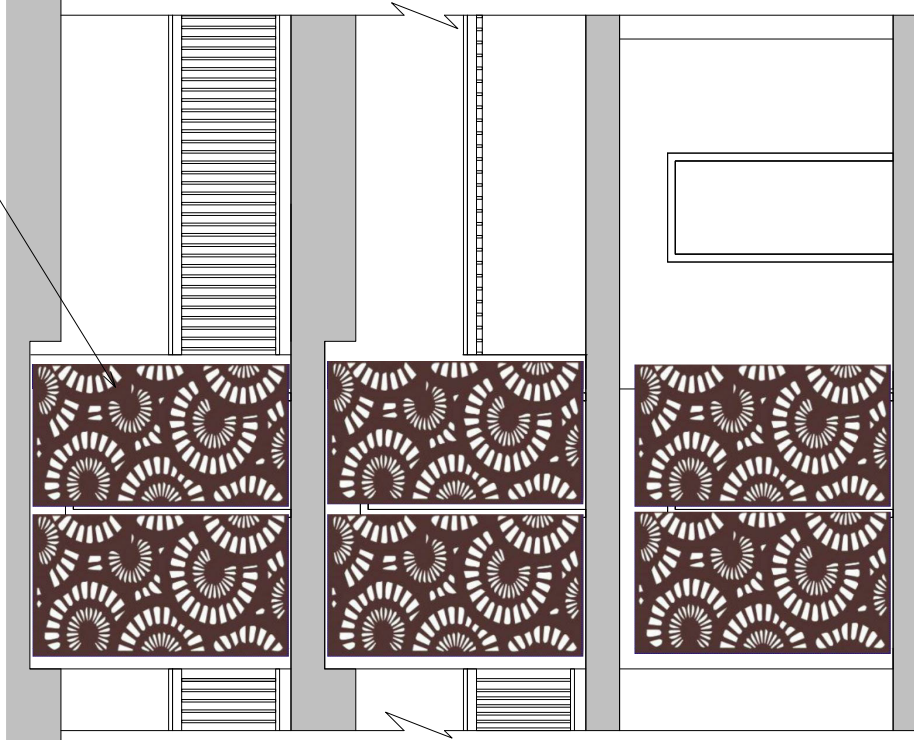
227'-0" TOTAL EGRESS LENGTH FROM FURTHEST APARTMENT UNIT DOOR ON 3RD FLOOR TO STAIR LANDING OF GROUND FLOOR

EXHIBIT 3

PROPOSED SCREEN DESIGN
 ATTACHED TO EXISTING WALL WITH
 VANDAL-PROOF STATIONERS WITH
 SOLID PANEL BACKUP.
 MANUFACTURER: IDF PENNSIGN
 ITEM: METAL SCREEN
 FINISH: ANTIQUE BRONZE
 MEASUREMENTS: 8' Hx 4' W
 CONTACT: WADE CRANE
 WADE@IDFPENNSIGN.COM



EXISTING ELEVATOR TOWER - TYPICAL
 SCALE: 1/4" = 1'-0"



ELEVATOR TOWER W/ DECORATIVE PANELS- TYPICAL
 SCALE: 1/4" = 1'-0"

EXHIBIT 4



PHOTOGRAPHS AT POOL CLUBHOUSE - DECORATIVE PANELS- TYPICAL
NOT TO SCALE

Documents
Submitted by Park
Crescent Owners,
LLC, through legal
counsel

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KAUFMAN & CANOLES
attorneys at law

Kaufman & Canoles, P.C.
150 West Main Street
Suite 2100
Norfolk, VA 23510

Mailing Address
Post Office Box 3037
Norfolk, VA 23514

T (757) 624.3000
F (888) 360.9092

kaufCAN.com

Vincent J. Mastracco Jr.
(757) 624.3213
vjmastracco@kaufcan.com

October 20, 2022

VIA ELECTRONIC MAIL

Mr. W. Travis Luter
Secretary to the State Building Code Technical Review Board
Virginia Department of Housing and Community Development
travis.luter@dhcd.gov

Re: Revised Application for Administrative Appeal

6440 Crescent Way, 6471 Crescent Way, 6411 Crescent Way, 6480 Crescent Way, 6401
Crescent Way, 6441 Crescent Way, 6431 Crescent Way, 6460 Crescent Way, 6451
Crescent Way, 6470 Crescent Way, 6481 Crescent Way, 6490 Crescent Way, 6461
Crescent Way, 6400 Crescent Way

Dear Mr. Luter:

Attached are the revised Application for Administrative Appeal along with copies of all documents previously supplied. As set forth in the attached, the specific relief sought is the discontinuance of elevators in the subject properties.

Thank you for your advice and patience in this appeal.



Vincent J. Mastracco Jr.

VJM:jat
Attachments

Vincent J. Mastracco Jr.
(757) 624.3213
vjmastracco@kaufcan.com

September 30, 2022

VIA ELECTRONIC MAIL

Mr. W. Travis Luter
Secretary to the State Building Code Technical Review Board
Virginia Department of Housing and Community Development
travis.luter@dhcd.gov

Re: 6440 Crescent Way, 6471 Crescent Way, 6411 Crescent Way, 6480 Crescent Way, 6401 Crescent Way, 6441 Crescent Way, 6431 Crescent Way, 6460 Crescent Way, 6451 Crescent Way, 6470 Crescent Way, 6481 Crescent Way, 6490 Crescent Way, 6461 Crescent Way, 6400 Crescent Way

Dear Mr. Luter:

Thank you for your call advising that you need additional information from the City of Norfolk regarding the Appeal to the Board of Building Code Appeals and a copy of the Appeals decision made by Phillip E. Williams, Building Commissioner.

Application was made for the discontinuance and permanent removal of the elevators in the 14 buildings.

Attached is a document entitled Development Services Center City of Norfolk that indicates on the form the Project Type in connection with the Building Permit Plan submittals to permanently remove the use of elevators in the 3 story buildings.

An Appeal was made to the Norfolk Local Board of Appeals where a hearing was held to consider the Appeal. As indicated in the Local Board of Building Code Appeals Resolution the Appeal was denied for the reasons set forth below. While it is not in the certified letter that was sent to me as a result of the decision on the Appeal, a letter attached from Phillip E. Williams, Building Commissioner, indicates the reasons for the Appeal denial, however it is in a separate letter from the Planning Department and not in the certified letter.

Attached is the package containing the submittals.

Mr. W. Travis Luter
September 30, 2022
Page 2

In the early submittals you indicated that I should make it absolutely clear that the purpose of the Appeal to your Board was in connection with a request to permanently remove the elevators from each 3 story building.

Very truly yours,

A handwritten signature in black ink that reads "Vincent J. Mastracco Jr." in a cursive style.

Vincent J. Mastracco Jr.

VJM:hre
Attachments



Norfolk

Department of Planning

Division of Building Safety
810 Union Street, First Floor
Norfolk, VA 23510
Phone: (757) 664-6565

March 25, 2022
Jamie Skinner, Owner
Jerry Smith, Applicant
Reference Property: 6400 Crescent Way Units 6400-6491
Reference #: B21-02383

Thank you for your Project Building Permit Plan Submittal. Your Plans have been reviewed in accordance with the Virginia Uniform Statewide Building Code. (VUSBC)

Upon your recent submittal, and the proposal to **permanently remove the elevators from each 3-story apartment building** has been denied based on the following comments and Virginia Uniform Statewide Building Code sections:

- As per section 404.1 of the 2015-2018 Virginia Existing Building Code
 - Alterations shall not reduce or have the effect of reducing accessibility of a facility or portion of a facility.
- As per section 102 of the 2015-2018 Virginia Existing Building Code
 - Your submitted Building Code Path has not sufficiently been documented or proven that the Virginia Existing Building Code will allow the elevators to be removed.

In addition, your response using code sections 103.1, 103.4, and 103.4.1 of the Virginia Existing Building Code does not apply to this code application.

In reference to section 119.5 of VUSBC, you have the right to appeal the Building Official's decision set forth above. The appeal must be filed with the Norfolk Local Board of Building Code Appeals, in writing and with a filing fee of seventy-five dollars (\$75.00) included, within thirty (30) days of the date of this letter. The appeal application may be submitted to the Division of Development Service Center, 810 Union Street, 5th Floor, Norfolk VA 23510. Failure to submit an application for appeal, including the filing fee, within the time limit established by this section shall constitute acceptance of the Building Official's decision.

We look forward to working with you and your organization, should you have any questions, please feel free to call me at 757-633-7274.

Sincerely,

Phillip E Williams,
Building Commissioner

Cc
George Homewood, Director of Planning
Adam Melita, Chief Deputy City Attorney
Daniel Winslow, Deputy Building Official

Local Board of Building Code Appeals Resolution

WHEREAS, the City of Norfolk Local Board of Appeals is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide Building Code; and

WHEREAS, an appeal has been filed and brought to the attention of the board of appeals; and

WHEREAS, a hearing has been held to consider the aforementioned appeal; and

WHEREAS, the board has fully deliberated this matter; now, therefore, be it

RESOLVED, That the matter of

Appeal Date: 5/11/2022

Inspection No: B21-02383

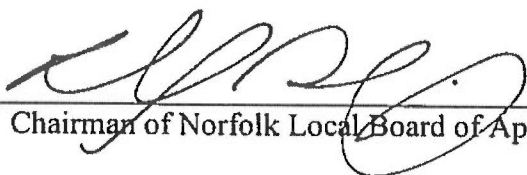
Property Address: 6400-6491 Crescent Way

IN RE: Vincent J. Mastracco, Jr v. Norfolk Building Commissioner

The appeal is hereby **denied**, for the reasons set out below:

Hearing Date: 5/11/2022

Signature


Chairman of Norfolk Local Board of Appeals

Note: Any person who has a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, VA 23219, (804) 371-7150.

Development Services Center

City of Norfolk



Thank you for your Project Building Permit Plan Submittal. Your Plans have been reviewed in accordance with the Virginia Uniform Statewide Building Code. Listed below are the questions, concerns, and Building Code Compliance comments regarding your project. The Comments List should be referenced as a checklist to complete towards obtaining your Building Permit and includes City Sign-Off items and Licensing items usually addressed by the Developer/Contractor as well as Architectural/Structural items usually addressed by the Architect/Engineer/Registered Design Professional.

Please reply using the comment letter with responses to the comments on the letter as well as corresponding Comment noted on the Plans.

Please be advised that Fire Protection Plan Reviews and Permits shall be deferred submittals.

Plumbing, Mechanical, and Electrical Plans and Permits are not reviewed for Code Compliance and should be design and constructed in accordance with all applicable Codes.

Date: 1-19-2022

Project Address: 6400 Crescent Way 6400-6491 14 Apartment Building Elevators

Building Permit Tracking Number: B21-02383

Project Type: Proposal to permanently remove the Elevators in 3 Story Apartment Building

1. VEBC 2015, (Virginia Existing Building Code), 501.2 Please show compliance with regard to reducing the level of accessibility to an existing building by removing a component of accessibility, namely the elevators.
2. VEBC 2015 102 Please provide a clear "code path" that shows compliance with the Building Code and also shows that removing the building elevators meets the intent of the VEBC.
3. Please be advised of the following excerpts from the 2015 VEBC. Please note that the 2018 VEBC has the same language and intent.

SECTION 404 ALTERATIONS

4. **404.1 General.**
5. *An alteration of an existing facility shall not impose a requirement for greater accessibility than that which would be required for new construction. Alterations shall not reduce or have the effect of reducing accessibility of a facility or portion of a facility.*

501.2 Conformance.

The work shall not make the *building* less conforming than it was before the repair was undertaken. Repairs shall be done in a manner that maintains the following:

1. 1. Level of fire protection that is existing.
2. 2. Level of protection that is existing for the means of egress.
3. 3. Level of accessibility that is existing.

The Existing Buildings appears to not allow, by Code, to have the level of Accessibility reduced by removing the Elevators.

Vincent J. Mastracco Jr.
(757) 624.3213
vjmastracco@kaufcan.com

September 15, 2022

VIA ELECTRONIC MAIL

Mr. W. Travis Luter
Secretary to the State Building Code Technical Review Board
Virginia Department of Housing and Community Development
travis.luter@dhcd.gov

Re: 6440 Crescent Way, 6471 Crescent Way, 6411 Crescent Way, 6480 Crescent Way, 6401 Crescent Way, 6441 Crescent Way, 6431 Crescent Way, 6460 Crescent Way, 6451 Crescent Way, 6470 Crescent Way, 6481 Crescent Way, 6490 Crescent Way, 6461 Crescent Way, 6400 Crescent Way

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Mr. W. Travis Luter
September 15, 2022
Page 2

Also see Exhibit 4 which are photographs at the pool clubhouse they showed a typical decorative panel. This exhibit is to demonstrate how the decorative panels on the elevator are consistent with the panels shown at the pool clubhouse.

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Very truly yours,

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Vincent J. Mastfacco Jr.

VJM:hre
Attachments

EXHIBIT 1

Park Crescent Apartments – Project Narrative

Per the Owner's request, we visited the property on Monday, August 9th and made the following observations.

1. The property has 14 "Phase 1" apartment buildings with each building matching in style, height, size, and unit count except for two which are slightly smaller in overall building length.
2. There are two remote exterior egress stairs that serve each floor of each three story apartment building.
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4. **Section 1011 Stairways, Article 1011.5.2 of the 2015 IBC** requires stair riser heights to be 7" maximum and 4" minimum and the observed stair riser is 6 ½" high. The required tread depth is 11" minimum and our observed depth is 11".
5. **Section 1011 Stairways, Article 1011.8 of the 2015 IBC** requires that a flight of stairs not exceed a vertical rise of 12' between floor and landings. The existing observed floor to floor dimension is 9'-6 ½" which is well under the requirement especially considering there is an intermediate landing.
6. **Section 1014 Handrails, Article 1014.2 of the 2015 IBC** requires that the handrail height be no less than 34" and no more than 38" and the observed handrail height of both stairs is 34".
7. **Section 1014 Handrails, Article 1014.3.1 of the 2015 IBC** requires that the circular cross section of a handrail shall have an outside diameter of not less than 1 ¼" and not greater than 2". The observed circular handrail cross section is 1 ½".
8. **Section 1014 Handrails, Article 1014.4 of the 2015 IBC** requires the handrail gripping surfaces be continuous, without interruption by the newel posts or other obstructions, which the existing conditions were observed to comply.
9. **Section 1014 Handrails, Article 1014.6 of the 2015 IBC** requires that handrails shall return to a wall, guard or walking surface or shall be continuous to the handrail of an adjacent flight of stairs or ramp run. Where handrails are not continuous between flights, the handrails shall extend horizontally not less than 12" beyond the top riser and continue to slope for the depth of one tread beyond the bottom riser, which the existing conditions were observed to comply.
10. **Section 1015 Guards, Article 1015.3 of the 2015 IBC** requires that all guards shall be not less than 42" high, measured vertically from the adjacent walking surface and the line connecting the leading edges of the tread nosings of a stairwell, which the existing conditions were observed to comply.
11. **Section 1017 Exit Access Travel Distance, Table 1017.2 of the 2015 IBC** requires a travel distance of no greater than 200' without a sprinkler system, but Article 1017.2.1 states that the exist travel distance specified in Table 1017.2 shall be increased up to an additional 100' provided the last portion of the exit access leading to the exit occurs on an exterior egress balcony constructed in accordance with Section 1021. The length of such balcony shall be not less than the amount of the increase taken. The exist access travel distance from the furthest point on the third floor balcony to the ground floor of the stairwell on the opposite end of the apartment building was observed to be 227' which is less than the 300' allowed.
12. **Section 10121 Egress Balconies, Article 1021.1 of the 2015 IBC** requires that balconies used for egress purposes shall conform to the same requirements as corridors for minimum width, required capacity, head room, dead ends, and projections. The minimum width required per Table 1020.2 is 44" and we observed the smallest balcony width along the egress path of travel to be 66 ½".

KAUFMAN & CANOLES
attorneys at law

Kaufman & Canoles, P.C.
150 West Main Street
Suite 2100
Norfolk, VA 23510

Mailing Address
Post Office Box 3037
Norfolk, VA 23514

T (757) 624.3000
F (888) 360.9092

kaufCAN.com

Vincent J. Mastracco Jr.
(757) 624.3213
vjmastracco@kaufcan.com

April 15, 2022

HAND DELIVERY

Mr. Phillip E. Williams
Building Commissioner
Division of Building Safety and Development
Service Center
810 Union St., First Floor
Norfolk, VA 23510

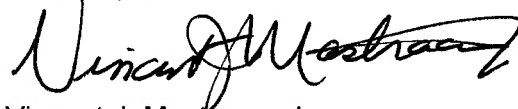
**Re: Norfolk Local Board of Building Code Appeals
Appeals Application
Reference Property: 6400 Crescent Way Units 6400-6491
Reference #: B21-02383**

Dear Mr. Williams:

Enclosed are 6 copies of plans and appeal data and 6 copies of the application. Also enclosed is a check in the amount of \$75.00 for the filing fee.

Please contact me if you have any questions.

Very truly yours,



Vincent J. Mastracco Jr.

VJM:hre
Enclosures

cc: Jamie Skinner (w/o enlosures)

KAUFMAN & CANOLES
attorneys at law

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(757) 624.3213
vjmastracco@kaufcan.com

August 26, 2021

**VIA ELECTRONIC MAIL
& HAND DELIVERY**

Mr. Daniel Winslow
Norfolk City Hall
810 Union Street
Norfolk, VA 23510
daniel.winslow@norfolk.gov

Re: 6440 Crescent Way, 6471 Crescent Way, 6411 Crescent Way, 6480 Crescent Way, 6401 Crescent Way, 6441 Crescent Way, 6431 Crescent Way, 6460 Crescent Way, 6451 Crescent Way, 6470 Crescent Way, 6481 Crescent Way, 6490 Crescent Way, 6461 Crescent Way, 6400 Crescent Way

Dear Mr. Winslow:

I'm writing you on behalf of Park Crescent Owner, LLC and Croatan Investments, LLC, an Agent (CROATAN) which own and operates the above referenced properties. The properties were acquired in 2019. At the time the properties were acquired the elevators had a few operational issues but Croatan believed those issues could be resolved. Along with other vendors to the project to service and maintain the properties a Service and Maintenance Agreement was entered into with a repair and service company for elevator service and maintenance. Unfortunately the company has now indicated that the elevators have outlived their useful life and that repairing them was not an option. Croatan has expended significant funds in attempting to get the elevators to operate appropriately but without success.

Croatan has determined that it is in the best interest of the residents to close the elevators and to provide a safe and secure way to keep them out of the stream of traffic to those that are using hallways.

Steps on either end of the hallways were reconstructed in 2018 and those stairways meet current code requirements. The architect working with Croatan developed a project narrative demonstrating that the stairwells do comply and that they are in good condition and are maintained in a proper manner. Please see the architect's project narrative as Exhibit 1. In addition, the architect has prepared an egress plan showing the total length of footage from the furthest apartment unit door on the 3rd floor to the stair landing of the ground floor which also is within code. See Exhibit 2.

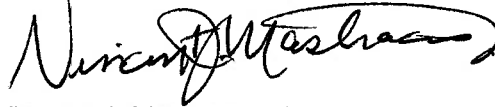
Daniel Winslow
August 26, 2021
Page 2

Exhibit 3 shows a proposed screen design attached to the existing wall with vandal-proof stations with a solid panel backup. Manufacturer is IVFPENSIGN the maker of the item metal screen with finished antique bronze measuring 8' height by 4' wide.

Also see Exhibit 4 which are photographs at the pool clubhouse they showed a typical decorative panel. This exhibit is to demonstrate how the decorative panels on the elevator are consistent with the panels shown at the pool clubhouse.

The owners communicated with the residents notifying them that if the status of the elevators in the building create a hardship the owners offered to move those persons at the owner's expense to the 1st floor. Enclosing as Exhibit 5 is a letter written from the apartment management to a resident who indicated that she would like to be relocated to the 1st floor. That same offer has been made to all residences on the 3rd floors and anyone who indicates that there is a hardship is encouraged to make that move and to accept reimbursement of moving expenses from the move from floor 3 to floor 1. In addition, the offer includes the right for any resident who wishes to terminate his/her lease to do so without penalty.

Very truly yours,

A handwritten signature in black ink, appearing to read "Vincent J. Mastracco Jr.", with a large, stylized flourish at the end.

Vincent J. Mastracco Jr.

VJM:hrs
Attachments

EXHIBIT 1

Park Crescent Apartments – Project Narrative

Per the Owner's request, we visited the property on Monday, August 9th and made the following observations.

1. The property has 14 "Phase 1" apartment buildings with each building matching in style, height, size, and unit count except for two which are slightly smaller in overall building length.
2. There are two remote exterior egress stairs that serve each floor of each three story apartment building.
3. **Section 1011 Stairways, Article 1011.2 of the 2015 IBC** requires that the stair width be no less than 44" and the observed interior clear egress width of both open stairs is 51".
4. **Section 1011 Stairways, Article 1011.5.2 of the 2015 IBC** requires stair riser heights to be 7" maximum and 4" minimum and the observed stair riser is 6 ½" high. The required tread depth is 11" minimum and our observed depth is 11".
5. **Section 1011 Stairways, Article 1011.8 of the 2015 IBC** requires that a flight of stairs not exceed a vertical rise of 12' between floor and landings. The existing observed floor to floor dimension is 9'-6 ½" which is well under the requirement especially considering there is an intermediate landing.
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EXHIBIT 5



6450 Crescent Way, Norfolk, VA 23513
P: 757-855-7275

Date: 8/11/2021
From: Park Crescent Apartments
To: Dianne Mangum
Re: 6440 Crescent Way Apt 305
Norfolk, VA 23513

Dear Resident(s),

It has been brought to our attention that the status of the elevators in your building has created a hardship. This letter is to inform you of managements offer of a unit transfer or lease termination without penalty, to include coverage of reasonable moving expenses. We are prepared to work with you to secure a first-floor or accessible home here or terminate your lease without penalty should you find more suitable housing.

Please see attachment, Dianne M. Mangum 8/15/2021

Acknowledged by: *Dianne M. Mangum*, Resident 8/15, 2021

Acknowledged by: _____, Resident _____, 20____

Acknowledged by: _____, Resident _____, 20____

Acknowledged by: _____, Resident _____, 20____

By: *Susan Fletcher*, Authorized Representative 8-11, 2021



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REQUEST FOR INTERPRETATION

TO: OFFICE OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
VIRGINIA DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT
Main Street Centre
600 E. Main Street, Suite 300
Richmond, Virginia 23219-1321
Tel: (804) 371-7150 Fax: (804) 371-7092
Email: sbco@dhcd.virginia.gov

From: _____

Phone Number : _____

Email Address: _____

Applicable Code: _____

Code Section(s): _____

Submitted by (signature): john russell  _____ Date: _____

QUESTION(S):

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CHAPTER 1 ADMINISTRATION

SECTION 116 **CERTIFICATES OF OCCUPANCY**

116.1 General; when to be issued.

Prior to occupancy or change of occupancy of *abuilding* or *structure*, a certificate of occupancy shall be obtained in accordance with this section. The *building official* shall issue the certificate of occupancy within *five working days* after approval of the final inspection and when the *building* or *structure* or portion thereof is determined to be in compliance with this code and any pertinent laws or ordinances, or when otherwise entitled.

Exceptions:

1. A certificate of occupancy is not required for an *accessory structure* as defined in the [IRC](#).
2. A new certificate of occupancy is not required for an *addition* to an existing Group R-5 building that already has a certificate of occupancy.

116.1.1 Temporary certificate of occupancy.

Upon the request of a *permit holder*, a temporary certificate of occupancy may be issued before the completion of the work covered by a permit, provided that such portion or portions of a *building* or *structure* may be occupied safely prior to full completion of the *building* or *structure* without endangering life or public safety.

116.2 Contents of certificate.

A certificate of occupancy shall specify the following:

1. The edition of the USBC under which the permit is issued.
2. The group classification and occupancy in accordance with the provisions of [Chapter 3](#).
3. The type of *construction* as defined in [Chapter 6](#).
4. If an *automatic sprinkler system* is provided and whether or not such system was required.
5. Any special stipulations and conditions of the building permit and if any modifications were issued under the permit, there shall be a notation on the certificate that modifications were issued.
6. Group R-5 occupancies complying with Section R320.2 of the [IRC](#) shall have a notation of compliance with that section on the certificate.

116.3 Suspension or revocation of certificate.

A certificate of occupancy may be revoked or suspended whenever the *building official* discovers that such certificate was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC after the certificate has been issued or when requested by the code official under [Section 106.6](#) of the [VMC](#). The revocation or suspension shall be in writing and shall state the necessary corrections or conditions for the certificate to be reissued or reinstated in accordance with [Section 116.3.1](#).

116.3.1 Reissuance or reinstatement of certificate of occupancy.

When a certificate of occupancy has been revoked or suspended, it shall be reissued or reinstated upon correction of the specific condition or conditions cited as the cause of the revocation or suspension and the revocation or suspension of a certificate of occupancy shall not be used as justification for requiring a *building* or *structure* to be subject to a later edition of the code than that under which such *building* or *structure* was initially constructed.

116.4 When no certificate exists.

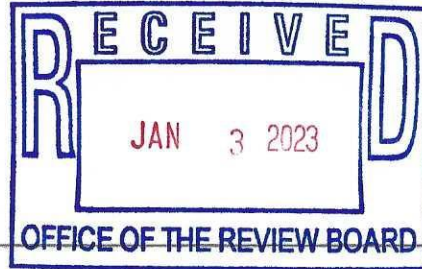
When the *preoccupancy local building department* does not have a certificate of occupancy for *abuilding* or *structure*, the *owner* or *owner's agent* may submit a written request for a certificate to be created. The *building official*, after receipt of the request, shall issue a certificate provided a determination is made that there are no current violations of the [VMC](#) or the [Virginia Statewide Fire Prevention Code \(13VAC5-51\)](#) and the occupancy classification of the *building* or *structure* has not changed. Such *buildings* and *structures* shall not be prevented from continued use.

When the *local building department* has records indicating that a certificate did exist but does not have a copy of the certificate itself, then the *building official* may either verify in writing that a certificate did exist or issue a certificate based upon the records.

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REQUEST FOR INTERPRETATION

TO: OFFICE OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
VIRGINIA DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT
Main Street Centre
600 E. Main Street, Suite 300
Richmond, Virginia 23219-1321
Tel: (804) 371-7150 Fax: (804) 371-7092
Email: sbco@dhcd.virginia.gov



From: Gregory H. Revels

Phone Number: 804/501-4374

Email Address: Greg.Revels@henrico.us

Applicable Code: 2017 National Electrical Code

Code Section(s): Articles 230.82(6), 250.4(A), 250-142(A)(1), 705.12(A), 705.50

Submitted by (signature):

A handwritten signature in blue ink, appearing to be "Gregory H. Revels", written over a horizontal line.

Date: 12.30.2022

QUESTION(S):

See attached

(Page left blank intentionally)

The requirements for grounding of interconnected electric power production sources have been evolving in the NEC as solar and other systems have gained wider use. Currently one of the most popular methods of connecting larger systems to dwelling unit electric utilities is by a disconnect switch added to the supply side of the existing electric service disconnecting means. This practice is allowed by section 705.12(A) of the 2017 NEC which says an electric power production source can be connected to the supply side of the service disconnecting means as permitted in 230.82(6). How to ground these disconnects attached to the supply side of the service disconnect according to the 2017 NEC can differ depending on the jurisdiction and the code path they use.

Section 705.50 2017 NEC states that interconnected electric power production sources shall be grounded in accordance with article 250 with an exception for dc inverters connected to a grounded service and other methods that accomplish equivalent system protection. The code path our jurisdiction applies follows the concept that a supply side connection to service conductors needs to follow the same rules as service disconnects as the hazard is the same. Other jurisdictions have numerous different policies for grounding these disconnects based on their interpretation of the 2017 NEC. This lack of consistency and confusion for this installation method is clarified by new code in the 2020 and 2023 NEC.

A new code section in the 2020 NEC section 250.25 clarifies grounding of systems connected on the supply side of the service to be grounded by complying with 250.24 (A) through (D). 250.24 NEC 2017 requires a grounded conductor (neutral) and a grounding electrode conductor connection attached to the service disconnecting means enclosure with a main bonding jumper. This type of supply connection to utility conductors is not considered service conductors by the NEC until 2023 section 705.11(B)(2). This same section also specifically calls the electric power production source disconnect a service disconnect for the first time. Not calling this equipment service equipment/conductors until 2023 has left a lot of differing opinions when solely using the 2017 NEC to determine grounding requirements by AHJ's.

1. Is an electric power production source disconnect connected to the supply side of the service disconnecting means required to have a grounded conductor connected to the enclosure?
2. Is an electric power production source disconnect connected to the supply side of the service disconnecting means required to have a grounding electrode connection to the enclosure?

(Page left blank intentionally)

230.82 Equipment Connected to the Supply Side of Service Disconnect.

Only the following equipment shall be permitted to be connected to the supply side of the service disconnecting means:

- (1) Cable limiters or other current-limiting devices.**
- (2) Meters and meter sockets nominally rated not in excess of 1000 volts, if all metal housings and service enclosures are grounded in accordance with Part VII and bonded in accordance with Part V of Article 250.**
- (3) Meter disconnect switches nominally rated not in excess of 1000 V that have a short-circuit current rating equal to or greater than the available short-circuit current, if all metal housings and service enclosures are grounded in accordance with Part VII and bonded in accordance with Part V of Article 250. A meter disconnect switch shall be capable of interrupting the load served. A meter disconnect shall be legibly field marked on its exterior in a manner suitable for the environment as follows:
**METER DISCONNECT
NOT SERVICE EQUIPMENT****
- (4) Instrument transformers (current and voltage), impedance shunts, load management devices, surge arresters, and Type 1 surge-protective devices.**
- (5) Taps used only to supply load management devices, circuits for standby power systems, fire pump equipment, and fire and sprinkler alarms, if provided with service equipment and installed in accordance with requirements for service-entrance conductors.**
- (6) Solar photovoltaic systems, fuel cell systems, wind electric systems, energy storage systems, or interconnected electric power production sources.**
- (7) Control circuits for power-operable service disconnecting means, if suitable overcurrent protection and disconnecting means are provided.**
- (8) Ground-fault protection systems or Type 2 surge-protective devices, where installed as part of listed equipment, if suitable overcurrent protection and disconnecting means are provided.**
- (9) Connections used only to supply listed communications equipment under the exclusive control of the serving electric utility, if suitable overcurrent protection and disconnecting means are provided. For installations of equipment by the serving electric utility, a disconnecting means is not required if the supply is installed as part of a meter socket, such that access can only be gained with the meter removed.**

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250.4 General Requirements for Grounding and Bonding.

The following general requirements identify what grounding and bonding of electrical systems are required to accomplish. The prescriptive methods contained in Article 250 shall be followed to comply with the performance requirements of this section.

ENHANCED CONTENT

Expand 

(A) Grounded Systems.

(1) Electrical System Grounding.

Electrical systems that are grounded shall be connected to earth in a manner that will limit the voltage imposed by lightning, line surges, or unintentional contact with higher-voltage lines and that will stabilize the voltage to earth during normal operation.

Informational Note No. 1: An important consideration for limiting the imposed voltage is the routing of bonding and grounding electrode conductors so that they are not any longer than necessary to complete the connection without disturbing the permanent parts of the installation and so that unnecessary bends and loops are avoided.

Informational Note No. 2: See NFPA 780-2014, *Standard for the Installation of Lightning Protection Systems*, for information on installation of grounding and bonding for lightning protection systems.

(2) Grounding of Electrical Equipment.

Normally non-current-carrying conductive materials enclosing electrical conductors or equipment, or forming part of such equipment, shall be connected to earth so as to limit the voltage to ground on these materials.

(3) Bonding of Electrical Equipment.

Normally non-current-carrying conductive materials enclosing electrical conductors or equipment, or forming part of such equipment, shall be connected together and to the electrical supply source in a manner that establishes an effective ground-fault current path.

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(4) Bonding of Electrically Conductive Materials and Other Equipment.

Normally non-current-carrying electrically conductive materials that are likely to become energized shall be connected together and to the electrical supply source in a manner that establishes an effective ground-fault current path.

(5) Effective Ground-Fault Current Path.

Electrical equipment and wiring and other electrically conductive material likely to become energized shall be installed in a manner that creates a low-impedance circuit facilitating the operation of the overcurrent device or ground detector for high-impedance grounded systems. It shall be capable of safely carrying the maximum ground-fault current likely to be imposed on it from any point on the wiring system where a ground fault may occur to the electrical supply source. The earth shall not be considered as an effective ground-fault current path.

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250.142 Use of Grounded Circuit Conductor for Grounding Equipment.

(A) Supply-Side Equipment.

A grounded circuit conductor shall be permitted to ground non-current-carrying metal parts of equipment, raceways, and other enclosures at any of the following locations:

- (1) On the supply side or within the enclosure of the ac service-disconnecting means
- (2) On the supply side or within the enclosure of the main disconnecting means for separate buildings as provided in 250.32(B)
- (3) On the supply side or within the enclosure of the main disconnecting means or overcurrent devices of a separately derived system where permitted by 250.30(A)(1)

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705.12 Point of Connection.

The output of an interconnected electric power source shall be connected as specified in 705.12(A) or (B).

ENHANCED CONTENT

Expand 

(A) Supply Side.

An electric power production source shall be permitted to be connected to the supply side of the service disconnecting means as permitted in 230.82(6). The sum of the ratings of all overcurrent devices connected to power production sources shall not exceed the rating of the service.

ENHANCED CONTENT

(Page left blank intentionally)



Part II. Interactive Inverters

705.60 Circuit Sizing and Current.

(A) Calculation of Maximum Circuit Current.

The maximum current for the specific circuit shall be calculated in accordance with **705.60(A)(1)** and (A)(2).

(1) Inverter Input Circuit Currents.

The maximum current shall be the maximum rated input current of the inverter.

(2) Inverter Output Circuit Current.

The maximum current shall be the inverter continuous output current rating.

(B) Ampacity and Overcurrent Device Ratings.

Inverter system currents shall be considered to be continuous. The circuit conductors and overcurrent devices shall be sized to carry not less than 125 percent of the maximum currents as calculated in **705.60(A)**. The rating or setting of overcurrent devices shall be permitted in accordance with **240.4(B)** and (C).

Exception: Circuits containing an assembly together with its overcurrent device(s) that is listed for continuous operation at 100 percent of its rating shall be permitted to be utilized at 100 percent of its rating.



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2020 NEC

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250.24 Grounding of Service-Supplied Alternating-Current Systems.

(A) System Grounding Connections.

A premises wiring system supplied by a grounded ac service shall have a grounding electrode conductor connected to the grounded service conductor, at each service, in accordance with 250.24(A)(1) through (A)(5).

ENHANCED CONTENT

Expand 

(1) General.

The grounding electrode conductor connection shall be made at any accessible point from the load end of the overhead service conductors, service drop, underground service conductors, or service lateral to, including the terminal or bus to which the grounded service conductor is connected at the service disconnecting means.

*Informational Note: See definitions of **Service Conductors, Overhead**; **Service Conductors, Underground**; **Service Drop**; and **Service Lateral** in Article 100.*

ENHANCED CONTENT

Expand 

(2) Outdoor Transformer.

Where the transformer supplying the service is located outside the building, at least one additional grounding connection shall be made from the grounded service conductor to a grounding electrode, either at the transformer or elsewhere outside the building.

Exception: The additional grounding electrode conductor connection shall not be made on high-impedance grounded neutral systems. The system shall meet the requirements of 250.36.

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ENHANCED CONTENT

Expand **(3) Dual-Fed Services.**

For services that are dual fed (double ended) in a common enclosure or grouped together in separate enclosures and employing a secondary tie, a single grounding electrode conductor connection to the tie point of the grounded conductor(s) from each power source shall be permitted.

(4) Main Bonding Jumper as Wire or Busbar.

Where the main bonding jumper specified in [250.28](#) is a wire or busbar and is installed from the grounded conductor terminal bar or bus to the equipment grounding terminal bar or bus in the service equipment, the grounding electrode conductor shall be permitted to be connected to the equipment grounding terminal, bar, or bus to which the main bonding jumper is connected.

(5) Load-Side Grounding Connections.

A grounded conductor shall not be connected to normally non-current-carrying metal parts of equipment, to equipment grounding conductor(s), or be reconnected to ground on the load side of the service disconnecting means except as otherwise permitted in this article.

Informational Note: See [250.30](#) for separately derived systems, [250.32](#) for connections at separate buildings or structures, and [250.142](#) for use of the grounded circuit conductor for grounding equipment.

ENHANCED CONTENT

Expand **(B) Main Bonding Jumper.**

For a grounded system, an unspliced main bonding jumper shall be used to connect the equipment grounding conductor(s) and the service-disconnect enclosure to the grounded conductor within the enclosure for each service disconnect in accordance with [250.28](#).

(Page left blank intentionally)

Exception No. 1: *Where more than one service disconnecting means is located in an assembly listed for use as service equipment, an unspliced main bonding jumper shall bond the grounded conductor(s) to the assembly enclosure.*

Exception No. 2: *Impedance grounded neutral systems shall be permitted to be connected as provided in [250.36](#) and [250.187](#).*

ENHANCED CONTENT

Expand 

(C) Grounded Conductor Brought to Service Equipment.

Where an ac system operating at 1000 volts or less is grounded at any point, the grounded conductor(s) shall be routed with the ungrounded conductors to each service disconnecting means and shall be connected to each disconnecting means grounded conductor(s) terminal or bus. A main bonding jumper shall connect the grounded conductor(s) to each service disconnecting means enclosure. The grounded conductor(s) shall be installed in accordance with [250.24\(C\)\(1\)](#) through (C)(4).

Exception: Where two or more service disconnecting means are located in a single assembly listed for use as service equipment, it shall be permitted to connect the grounded conductor(s) to the assembly common grounded conductor(s) terminal or bus. The assembly shall include a main bonding jumper for connecting the grounded conductor(s) to the assembly enclosure.

ENHANCED CONTENT

Expand 

(1) Sizing for a Single Raceway or Cable.

The grounded conductor shall not be smaller than specified in [Table 250.102\(C\)\(1\)](#).

(2) Parallel Conductors in Two or More Raceways or Cables.

If the ungrounded service-entrance conductors are installed in parallel in two or more raceways or cables, the grounded conductor shall also be installed in parallel. The size of the grounded conductor in each raceway or cable shall be based on the total circular mil area of the parallel ungrounded conductors in the raceway or cable, as indicated in [250.24\(C\)\(1\)](#), but not smaller than 1/0 AWG.

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Informational Note: See 310.10(G) for grounded conductors connected in parallel.

(3) Delta-Connected Service.

The grounded conductor of a 3-phase, 3-wire delta service shall have an ampacity not less than that of the ungrounded conductors.

(4) High Impedance.

The grounded conductor on a high-impedance grounded neutral system shall be grounded in accordance with 250.36.

(D) Grounding Electrode Conductor.

A grounding electrode conductor shall be used to connect the equipment grounding conductors, the service-equipment enclosures, and, where the system is grounded, the grounded service conductor to the grounding electrode(s) required by Part III of this article. This conductor shall be sized in accordance with 250.66. High-impedance grounded neutral system connections shall be made as covered in 250.36.

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250.25 Grounding Systems Permitted to Be Connected on the Supply Side of the Disconnect.

The grounding of systems connected on the supply side of the service disconnect, as permitted in 230.82, that are in enclosures separate from the service equipment enclosure shall comply with 250.25(A) or (B).

N (A) Grounded System.

If the utility supply system is grounded, the grounding of systems permitted to be connected on the supply side of the service disconnect and are installed in one or more separate enclosures from the service equipment enclosure shall comply with the requirements of 250.24(A) through (D).

N (B) Ungrounded Systems.

If the utility supply system is ungrounded, the grounding of systems permitted to be connected on the supply side of the service disconnect and are installed in one or more separate enclosures from the service equipment enclosure shall comply with the requirements of 250.24(E).

ENHANCED CONTENT

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2023 NEC

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705.11 Source Connections to a Service.

ENHANCED CONTENT

Expand 

N(A) Service Connections.

An electric power production source shall be permitted to be connected to a service by one of the following methods:

- (1) To a new service in accordance with 230.2(A)
- (2) To the supply side of the service disconnecting means in accordance with 230.82(6)
- (3) To an additional set of service entrance conductors in accordance with 230.40,
Exception No. 5

These connections shall comply with 705.11(B) through (F).

Δ(B) Conductors.

Service conductors connected to power production sources shall comply with the following:

- (1) The ampacity of the service conductors connected to the power production source service disconnecting means shall not be less than the sum of the power production source maximum circuit current in 705.28(A).
- (2) The service conductors connected to the power production source service disconnecting means shall be sized in accordance with 705.28 and not be smaller than 6 AWG copper or 4 AWG aluminum or copper-clad aluminum.
- (3) The ampacity of any other service conductors to which the power production sources are connected shall not be less than that required in 705.11(B).

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State Building Code Technical Review Board Policy #30

Title: Remote Participation of State Building Code Technical Review Board Members

Authority: Section 2.2-3708.3 of the Code of Virginia and is to be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Code of Virginia Section 2.2-3700—3715.

This policy shall not govern an electronic meeting conducted to address a state of emergency declared by the Governor or the Board of Supervisors. Any meeting conducted by electronic communication means under such circumstances shall be governed by the provisions of Va. Code § 2.2-3708.2. This policy also does not apply to an all-virtual public meeting.

Policy Statement: **DEFINITIONS**

a. **“BOARD”** means the State Building Code Technical Review Board or any committee, subcommittee, or other entity of the State Building Code Technical Review Board.

b. **“Member”** means any member of the State Building Code Technical Review Board.

c. **“Remote participation”** means participation by an individual member of the State Building Code Technical Review Board by electronic communication means in a public meeting where a quorum of the Board is physically assembled, as defined by Va. Code § 2.2-3701.

d. **“Meeting”** means a meeting as defined by Va. Code § 2.2-3701.

e. **“Notify”** or **“notifies,”** for purposes of this policy, means written notice, such as email or letter. Notice does not include text messages or communications via social media.

MANDATORY REQUIREMENTS

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means, the following conditions must be met for the member to participate remotely:

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a. A quorum of the Board must be physically assembled at the primary or central meeting location; and

b. Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely.

PROCESS TO REQUEST REMOTE PARTICIPATION

a. On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the Board Chair (or the Vice-Chair if the requesting member is the Chair) that they are unable to physically attend a meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance, (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance, (iii) their principal residence location more than 60 miles from the meeting location, or (iv) a personal matter and identifies with specificity the nature of the personal matter.

b. The requesting member shall also notify the Board Secretary of their request, but their failure to do so shall not affect their ability to remotely participate.

c. If the requesting member is unable to physically attend the meeting due to a personal matter, the requesting member must state with specificity the nature of the personal matter. Remote participation due to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. There is no limit to the number of times that a member may participate remotely for the other authorized purposes listed in (i)—(iii) above.

d. The requesting member is not obligated to provide independent verification regarding the reason for their nonattendance, including the temporary or permanent disability or other medical condition or the family member's medical condition that prevents their physical attendance at the meeting.

e. The Chair (or the Vice-Chair if the requesting member is the Chair) shall promptly notify the requesting member whether their request is in conformance with this policy, and therefore approved or disapproved.

PROCESS TO CONFIRM APPROVAL OR DISAPPROVAL OF PARTICIPATION FROM A REMOTE LOCATION

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When a quorum of the Board has assembled for the meeting, the Board shall vote to determine whether:

- a. The Chair's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy; and
- b. The voice of the remotely participating member can be heard by all persons at the primary or central meeting location.

RECORDING IN MINUTES:

a. If the member is allowed to participate remotely due to a temporary or permanent disability or other medical condition, a family member's medical condition that requires the member to provide care to the family member, or because their principal residence is located more than 60 miles from the meeting location the Board shall record in its minutes (1) the Board's approval of the member's remote participation; and (2) a general description of the remote location from which the member participated.

b. If the member is allowed to participate remotely due to a personal matter, such matter shall be cited in the minutes with specificity, as well as how many times the member has attended remotely due to a personal matter, and a general description of the remote location from which the member participated.

c. If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or VFOIA, shall be recorded in the minutes with specificity.

CLOSED SESSION

If the Board goes into closed session, the member participating remotely shall ensure that no third party is able to hear or otherwise observe the closed meeting.

STRICT AND UNIFORM APPLICATION OF THIS POLICY

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

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The Chair (or Vice-Chair) shall maintain the member's written request to participate remotely and the written response for a period of one year, or other such time required by records retention laws, regulations, and policies.

**Approval
and Review:**

This Board policy was reviewed and approved on 02/17/2023.

Supersession:

This Board policy is new.

**Board Chair
at Last Review:**

James R. Dawson

DHCD Director:

Bryan Horn

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State Building Code Technical Review Board Policy #31

Title: All Virtual Public Meeting of the State Building Code Technical Review Board

Authority: Section 2.2-3708.3 of the Code of Virginia and is to be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Code of Virginia Section 2.2-3700—3715.

This policy shall not govern an electronic meeting conducted to address a state of emergency declared by the Governor or the Board of Supervisors. Any meeting conducted by electronic communication means under such circumstances shall be governed by the provisions of Va. Code § 2.2-3708.2.

Policy Statement: **DEFINITIONS**

a. **“BOARD”** means the State Building Code Technical Review Board or any committee, subcommittee, or other entity of the State Building Code Technical Review Board.

b. **“Member”** means any member of the State Building Code Technical Review Board.

c. **“All-virtual public meeting”** means a public meeting conducted by the Board using electronic communication means during which all members of the public body who participate do so remotely rather than being assembled in one physical location, and to which public access is provided through electronic communication means, as defined by Va. Code § 2.2-3701.

d. **“Meeting”** means a meeting as defined by Va. Code § 2.2-3701.

e. **“Notify”** or **“notifies,”** for purposes of this policy, means written notice, such as email or letter. Notice does not include text messages or communications via social media.

WHEN AN ALL-VIRTUAL PUBLIC MEETING MAY BE AUTHORIZED

An all-virtual public meeting may be held under the following circumstances:

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- a. It is impracticable or unsafe to assemble a quorum of the Board in a single location, but a state of emergency has not been declared by the Governor; or
- b. Other circumstances warrant the holding of an all-virtual public meeting, including, but not limited to, the convenience of an all-virtual meeting; and
- c. The Board has not had more than two all-virtual public meetings, or more than 25 percent of its meetings rounded up to the next whole number, whichever is greater, during the calendar year; and
- d. The Board's last meeting was not an all-virtual public meeting.

PROCESS TO AUTHORIZE AN ALL-VIRTUAL PUBLIC MEETING

- a. The Board may schedule its all-virtual public meetings at the same time and using the same procedures used by the Board to set its meetings calendar for the calendar year; or
- b. If the Board wishes to have an all-virtual public meeting on a date not scheduled in advance on its meetings calendar, and an all-virtual public meeting is authorized under Section 3 above, the Board Chair may schedule an all-virtual public meeting provided that any such meeting comports with VFOIA notice requirements.

ALL-VIRTUAL PUBLIC MEETING REQUIREMENTS

The following applies to any all-virtual public meeting of the Board that is scheduled in conformance with this Policy:

- a. The meeting notice indicates that the public meeting will be all-virtual and the Board will not change the method by which the Board chooses to meet without providing a new meeting notice that comports with VFOIA;
- b. Public access is provided by electronic communication means that allows the public to hear all participating members of the Board;
- c. Audio-visual technology, if available, is used to allow the public to see the members of the Board;
- d. A phone number, email address, or other live contact information is provided to the public to alert the Board if electronic transmission of the meeting fails for the public, and if such transmission fails, the Board takes a recess until public access is restored;

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e. A copy of the proposed agenda and all agenda packets (unless exempt) are made available to the public electronically at the same time such materials are provided to the Board;

f. The public is afforded the opportunity to comment through electronic means, including written comments, at meetings where public comment is customarily received; and

g. There are no more than two members of the Board together in one physical location.

RECORDING IN MINUTES:

Minutes are taken as required by VFOIA and must include the fact that the meeting was held by electronic communication means and the type of electronic communication means used.

CLOSED SESSION

If the Board goes into closed session, transmission of the meeting will be suspended until the public body resumes to certify the closed meeting in open session.

STRICT AND UNIFORM APPLICATION OF THIS POLICY

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the matters that will be considered or voted on at the meeting.

**Approval
and Review:**

This Board policy was reviewed and approved on 02/17/2023.

Supersession:

This Board policy is new.

**Board Chair
at Last Review:**

James R. Dawson

DHCD Director:

Bryan Horn

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