

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, March 20, 2015 - 10:00 a.m.

Virginia Housing Center  
4224 Cox Road  
Glen Allen, Virginia

I. Roll Call and Introduction New Members **(Tab 1)**

II. Approval of November 21, 2014 Minutes **(Tab 2)**

III. Public Comment

IV. Approval of Final Order **(Tab 3)**

In Re: Appeal of Poplar Place HOA  
Appeal No. 14-11

V. Approval of Final Order **(Tab 4)**

In Re: Appeal of Greg S. Mercer  
Appeal No. 14-7

VI. Appeal Hearing **(Tab 5)**

In Re: Appeal of Mary Ann Capp  
Appeal Nos. 14-1 and 14-10

VII. Appeal Hearing **(Tab 6)**

In Re: Appeal of T. Chester Baker  
Appeal No. 14-8 (B)

VIII. Appeal Hearing **(Tab 7)**

In Re: Appeal of T. Chester Baker  
Appeal No. 14-8 (A)

IX. Secretary's Report **(Tab 8)**

Report on Updated Interpretation Booklet

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(AOBA of Metro. Wash.)

# DRAFT MINUTES

## STATE BUILDING CODE TECHNICAL REVIEW BOARD

### MEETING

November 21, 2014

VIRGINIA HOUSING CENTER  
GLEN ALLEN, VIRGINIA

#### Members Present

Mr. J. Robert Allen, Chairman  
Mr. Vince Butler  
Mr. J. Daniel Crigler  
Mr. James R. Dawson  
Mr. John H. Epperson  
Mr. Joseph A. Kessler, III  
Mr. John A. Knepper, Jr.  
Ms. Joanne D. Monday

#### Members Absent

Mr. Matthew Arnold  
Mr. W. Keith Brower, Jr.  
Mr. Eric Mays  
Ms. Patricia S. O'Bannon

#### Call to Order

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

#### Roll Call

The attendance was established by the Secretary, Mr. Vernon W. Hodge. Mr. James M. Flaherty, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel.

#### Election of Officers

The Chairman opened the floor for nominations of the Office of Vice-Chairman to fill the remaining term of the office due to a resignation. Mr. Crigler nominated Mr. Dawson. As no other nominations came forth, the Chairman closed the nominations and a vote was taken. The vote to elect Mr. Dawson to fill the remaining term of the Office of Vice-Chairman was approved unanimously.

#### Approval of Minutes

After consideration of the June 20, 2014 draft minutes in the agenda package, Mr. Epperson moved to approve the minutes as presented. The motion was seconded by Ms. Monday and passed unanimously with Messrs. Dawson, Kessler and Knepper abstaining from the vote.

#### Public Comment

The Chairman opened the floor for public comment. The Secretary reported that no one was preregistered. The Chairman closed the public comment period.

Final Orders

Appeal of John A. Parrish and Maria P. Tungol; Appeal No. 13-8:

After consideration of the final order, Mr. Epperson moved to approve the order as presented in the agenda package. The motion was seconded by Mr. Crigler and passed unanimously with Messrs. Dawson, Kessler and Knepper abstaining from the vote.

New Business

Appeal of Poplar Place Homeowners Association; Appeal No. 14-11:

A preliminary hearing as to jurisdiction convened with the Chairman serving as the presiding officer. The preliminary hearing concerned whether the Review Board had jurisdiction to hear an appeal of a citation under Chapter 62 of the Fairfax County Code by the Fairfax County Office of the Fire Marshal requiring the Poplar Place Homeowners Association, in McLean, to provide a fire lane on the road serving its subdivision. The citation was first appealed by the homeowners association to the Fairfax County Board of Building Code Appeals, which ruled to uphold the citation.

The following person was sworn in and given an opportunity to present testimony:

George Hollingsworth, for Fairfax County

Also present were:

Paul Emerick, Esq., legal counsel for Fairfax County

Cherie Halyard, Esq., co-legal counsel for Fairfax County

No exhibits were submitted to supplement the documents in the Review Board members' agenda package.

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

New Business

Decision – Appeal of Poplar Place Homeowners Association; Appeal No. 14-11:

After deliberation, Mr. Dawson moved to dismiss the appeal due to lack of jurisdiction. The motion was seconded by Mr. Kessler and passed unanimously.

Appeal of Anchor Homes, LLC; Appeal No. 14-3:

The Secretary informed the Review Board members that the appeal had been withdrawn subsequent to the agenda package being distributed. After discussion, Mr. Kessler made a motion to place the appeal among the ended causes of the Review Board. The motion was seconded by Mr. Crigler and passed unanimously.

Appeal of Gregory S. Mercer; Appeal No. 14-7:

An appeal hearing convened with the Chairman serving as the presiding officer. Mr. Mercer, owner of a townhome at 3114 Borge Street, in Oakton, was appealing citations under the Virginia Maintenance Code issued by the Fairfax County Department of Code Compliance (FCDCC) for the lack of maintenance of several areas on the outside of the townhome. The appeal was a further appeal from a decision of the Fairfax County Board of Building Code Appeals (County appeals board), which upheld the citations but granted Mr. Mercer an additional 60 days to correct the violations.

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

Greg Mercer  
Elizabeth Perry, for Fairfax County

Also present were:

Paul Emerick, Esq., legal counsel for Fairfax County  
Cherie Halyard, Esq., co-legal counsel for Fairfax County

No exhibits were submitted to supplement the documents in the Review Board members' agenda package.

New Business

Appeal of Gregory S. Mercer; Appeal No. 14-7 (continued):

Testimony was taken concerning subpoena requests submitted by Mr. Mercer, after which the hearing was closed for deliberation. Mr. Epperson made a motion that the subpoenas were not necessary. The motion was seconded by Mr. Dawson and passed unanimously.

The Chairman reopened the hearing for testimony on the merits of the appeal. Mr. Mercer read a prepared statement, copies of which were submitted for the Review Board members and FCDCC.

Representatives of FCDCC testified that an extension of the compliance deadline to May 1, 2015 would be acceptable due to the winter season making it difficult to do repairs on the outside of the townhome.

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

Decision – Appeal of Gregory S. Mercer; Appeal No. 14-7:

After deliberation, Mr. Epperson moved to uphold the citations issued by FCDCC and the upholding of the citations by the County appeals board, but to further modify the extension for compliance granted by the County appeals board to May 1, 2015. Mr. Epperson further motioned that no other issues were properly before the Review Board. The motion was seconded by Mr. Crigler and passed unanimously.

Secretary's Report

The Secretary informed Review Board members of training opportunities for the 2012 building and fire regulations of the Department and there was discussion concerning training for the International Existing Building Code as used in the Virginia Rehabilitation Code.

Secretary's Report

In addition, the Secretary advised that the proclamation commending former Vice-Chairman Oglesby's service to the Review Board had been professionally framed and combined with a certificate of service from the Department and delivered to his home.

Adjournment

There being no further business, the meeting was adjourned by motion of Ms. Monday at approximately 12:15 p.m.

Approved: March 20, 2015

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Chairman, State Building Code Technical Review Board

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Secretary, State Building Code Technical Review Board



VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Poplar Place Homeowners Association  
Appeal No. 14-11

Hearing Date: November 21, 2014

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

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

II. CASE HISTORY

The Poplar Place Homeowners Association (the Association), a homeowners association for a subdivision in McLean on Poplar Place road, through its attorney, appeals the issuance of a notice of violation under the Fire Prevention Code of the County of Fairfax for the lack of a properly designated and marked fire

lane on the subdivision's road. Prior to the appeal to the Review Board, the notice of violation was appealed to the Fairfax County Board of Building Code Appeals (County appeals board), which conducted a hearing and ruled to uphold the issuance of the notice.<sup>1</sup>

Review Board staff, in processing the Association's appeal, informed the parties that in prior cases concerning local fire lane issues, the Review Board had determined that it lacked jurisdiction to hear such appeals as the Review Board is only authorized to hear appeals of the application of the Virginia Statewide Fire Prevention Code, not local fire prevention regulations. Further, while there had been a statutory change addressing appeals of local fire prevention regulations, the new law did not appear to give the Review Board jurisdiction to hear an appeal if a local board of appeals had jurisdiction.

Accordingly, the parties were informed that a preliminary hearing would be scheduled before the Review Board to determine whether the Review Board had jurisdiction to hear the Association's appeal.

The preliminary hearing was held and attended by representatives of the Fairfax County Office of the Fire Marshal

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<sup>1</sup>The County appeals board's ruling stated the appeal was denied without providing a reason; however, the record and testimony confirms that the County appeals board accepted jurisdiction of the appeal, conducted a hearing on the merits of the issuance of the notice of violation and upheld the issuance of the notice as a proper and correct application of the County Fire Prevention Code.

and its legal counsel. Legal counsel for the Association submitted written arguments in lieu of attending the preliminary hearing.

### III. FINDINGS OF THE REVIEW BOARD

The current law addressing the Review Board's jurisdiction to hear appeals of the application of local fire prevention regulations, in § 27-98 of the Code of Virginia, states in pertinent part:

"Any local fire code may provide for an appeal to a local board of appeals. If no local board of appeals exists, the State Building Code Technical Review Board shall hear appeals of any local fire code violation."

The Fairfax County Fire Prevention Code, as established in §§ 62-2-7 and 62-2-8 of the Code of the County of Fairfax, states in § 112.1.1 that "[t]he Fairfax County Board of Building Code Appeals is the Local Board of Fire Prevention Code Appeals (BFPCA) for Fairfax County[,]" and in § 112.5.1 that "[a]ppeals arising from the Fire Prevention Code of Fairfax County shall be limited to the factual basis of the application of this code."

The Review Board finds this language sufficient to establish that the County appeals board is duly authorized to hear appeals of local fire code violations and as there is no dispute that the action taken against the Association by the Fairfax County Fire Marshal's Office is action under a local fire code and not under the Virginia Statewide Fire Prevention

Code, the Review Board is not authorized by § 27-98 of the Code of Virginia to hear the Association's appeal.

The Review Board further finds that its basic law, in § 36-114 of the Code of Virginia, does not authorize it to hear appeals of local fire prevention regulations as only the Statewide Fire Prevention Code is referenced in its statutory authority.

Therefore, in this case, the Association's administrative remedy is limited to an appeal to the County appeals board and the Review Board lacks jurisdiction to hear a further appeal from the decision of the County appeals board.

#### IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the appeal of the Association, to be, and hereby is, dismissed due to lack of jurisdiction.

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Chairman, State Technical Review Board

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Date Entered

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 Vernon W. Hodge, 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.

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Gregory S. Mercer  
Appeal No. 14-7

Hearing Date: November 21, 2014

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

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

II. CASE HISTORY

Gregory S. Mercer (Mercer), owner of a townhouse located at 3114 Borge Street, in Oakton, a community in Fairfax County, appeals a citation under Part III of the Virginia Uniform Statewide Building Code (the Virginia Maintenance Code or VMC), issued to him by the Fairfax County Department of Code

Compliance (DCC). Prior to the appeal to the Review Board, Mercer appealed the citation to the Fairfax County Board of Building Code Appeals (County appeals board), which conducted a hearing and ruled to uphold the issuance of the citation and extended the time period for correction of the cited VMC violations from the thirty days provided for in the citation to sixty days.

In his appeal to the Review Board, Mercer asks for the Review Board to (i) direct DCC to desist from using citations under the VMC as warrants for the County's child protective services agency and cause the responsible person's employment to be terminated, (ii) provide him with a state trooper's employment record and cause the state trooper's employment to be terminated, (iii) cause two Virginia constitutional changes to be balloted, (iv) require Fairfax County or the State of Virginia to pay him damages of one half to one million dollars, (v) transfer the case of a federal court outside of Virginia, (vi) have the Governor of Virginia grant him a full pardon for a fraudulent conviction in 2006, (vii) impeach a Virginia circuit court judge, (viii) grant him 30 days after he has the money to correct the violations cited by DCC, and (ix) require DCC or Fairfax County to provide a copy of the initial complaint to DCC.

### III. FINDINGS OF THE REVIEW BOARD

After conducting a hearing attended by Mercer and representatives of DCC and given the representatives of DCC's stated willingness to extend the deadline for Mercer to repair a hole in the wood trim of his townhouse and the deterioration of a fascia board on his townhouse until May 1, 2015, the Review Board finds that the only issue properly before it is the extension of the deadline for correction of the VMC violations and that an extension to May 1, 2015 is an appropriate extension of time to permit favorable weather conditions to enable repairs to be made.

### IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders Mercer's appeal requesting an extension of time to correct the cited violations to be, and hereby is, granted to extend the deadline to May 1, 2015. The Review Board further orders all other aspects of Mercer's appeal to be, and hereby are, dismissed as invalid.

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Chairman, State Technical Review Board

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Date Entered

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 Vernon W. Hodge, 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.

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Mary Ann Capp  
Appeal Nos. 14-1 and 14-10

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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeals of Mary Ann Capp  
Appeal Nos. 14-1 and 14-10

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. Mary Ann Capp (Capp), a property owner in Montgomery County, appeals decisions of the Montgomery County Department of Building Inspections (local building department and its building official, William Yeager (Yeager)), under Part I of the Virginia Uniform Statewide Building Code (Virginia Construction Code, or VCC), concerning the construction of a bridge on her property to cross a creek known as “Rocky Branch” on a driveway off of Sugar Grove Road used by Norman Gray (Gray), Capp’s neighbor.
2. Capp entered into an agreement with Gray in 2008 to permit Gray to use the driveway to access his home. The crossing of Rocky Branch on the driveway was by culverts made from chemical storage tanks covered with gravel. A flood in early 2013 washed out the crossing.
3. In February of 2013, Capp revoked the agreement with Gray to use the driveway. A suit for injunctive relief was filed by Gray and a court order was subsequently issued to permit Gray to restore the washed out area of the driveway while pending the outcome of a court proceeding to determine whether Gray had a right to use the driveway.

4. In May of 2013, Gray's wife submitted a VCC permit application to replace the culverts. A VCC permit was issued. Capp filed an appeal of the issuance of the permit. A hearing before the Montgomery County Local Board of Building Code Appeals (County appeals board) was scheduled. Prior to the hearing, Gray's wife withdrew the permit and the appeal hearing was cancelled.

5. In October of 2013, Gray submitted a VCC permit application to construct a clear span bridge in the washed-out area of the driveway. A VCC permit was issued with the same permit number as the prior permit obtained by Gray's wife. Capp filed an appeal of the issue of the new permit.

6. The County appeals board conducted a hearing in November of 2013 and ruled to uphold the issuance of Gray's permit. Capp further appealed to the Review Board and the appeal was designated as Appeal No. 14-1.

7. Review Board staff conducted an informal fact-finding conference in April of 2014, attended by Capp and her legal counsel, Gray and his legal counsel, and Yeager. At the conference, Yeager stated that the bridge had been approved after receiving an evaluation by a professional engineer. After discussion, the parties agreed to continue Appeal No. 14-1 while Capp appealed Yeager's approval of the bridge and after the outcome of that appeal, Capp would decide whether to withdraw the appeal to the Review Board.

8. Capp filed an appeal of Yeager's approval of the bridge and the County appeals board conducted a hearing in June of 2014, ruling to uphold Yeager's decision. Capp further appealed to the Review Board and the appeal was designated as Appeal No. 14-10.

9. Review Board staff conducted an informal fact-finding conference in December of 2014, attended by all parties and their respective legal counsel. At the conference, Capp

stipulated that she was not questioning the right of Gray to construct the bridge given the injunctive relief granted by the courts; however, the issue of whether the permit was issued in error under the VCC was still present. Review Board staff discussed the arrangement of the documents for the record in both appeals and indicated that while there would be some duplication of documents, the logical arrangement would be to keep the documents as submitted by the parties so that arguments and exhibits could remain together. Review Board staff suggested language to frame the issues for resolution in both appeals and noted that this staff document would be drafted and distributed to the parties for comment and that time would be allotted for the submittal of additional written arguments, objections, additions or corrections to the staff document or additional documents for the record.

#### Suggested Issues for Resolution by the Review Board

1. With respect to Appeal No. 14-1; whether to overturn Yeager's decision to issue Gray's VCC permit for the bridge due to deficiencies in the permit application, construction documents or procedural requirements, or due to the permit being issued in violation of Capp's due process or equal protection rights.

2. With respect to Appeal No. 14-10; if not overturning Yeager's decision to issue Gray's VCC permit for the bridge as outlined in Issue #1 above, whether to overturn Yeager's approval of the bridge due to the lack of adequate information to determine whether the bridge complies with the VCC or due to the bridge not complying with the structural requirements of the VCC.

REVIEW BOARD APPEAL 14-1  
CAPP VS. MONT. CO. ET AL.

APPLICATION FOR APPEAL TO  
THE REVIEW BOARD BY CAPP

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: alan.mcmahan@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

13 2014  
AWM

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations

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

Mary Ann Capp, 2732 Sugar Grove Road, Christiansburg, Virginia 24073, cell telephone 540-320-6001, email: macapp@mindspring.com and who is represented by counsel: Tammy L. Belinsky, Esquire, The Environmental Law Group, PLLC, 9544 Pine Forest Road, Copper Hill, Virginia 24079, telephone: 540-929-4222, email: tbelinsky@envirolawva.com. Note that County decision improperly names the co-owner of the property as an initial appealing party in the appeal decision resolution, however, the co-owner was not a party to the appeal to the Local Board of Building Code Appeals which matter is the subject of Ms. Capp's enclosed Motion to Strike the Resolution of the LBBCA.

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

Montgomery County Department of Building and Inspections, 755 Roanoke Street, Suite D1, Christiansburg, Virginia 24073, telephone 540-382-5750, www.MontVa.com; Norman Gray, 3000 Sugar Grove Road, Christiansburg, Virginia 24073, telephone number 540-381-0722, email address unknown; the Local Board of Building Code Appeals for which the only contact information the applicant has for the LBBCA is the Montgomery County Department of Building Inspections (see decision transmitted by the Montgomery County Department of Building Inspections).

Additional Information (to be submitted with this application)

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

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of January, 2014, 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: Mary Ann Capp

Name of Applicant: Mary Ann Capp

**RESIDENTIAL BUILDING PERMIT APPLICATION**  
Montgomery County, Virginia

Residential Building Permit must be issued before construction begins. Application for this permit may be made to the Building Official or designate.

Application is hereby made for a Residential Building Permit in accordance with the description and for the purpose hereinafter set forth. This application is made subject to all local and state laws and ordinances and the undersigned hereby agrees to said laws and ordinances which shall be deemed a condition of applying for this permit.

Applications must be accompanied by ONE set of construction plans.

**ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE**

Application Date: 10/7/13 Applicant Type: Residential  
Applicant Name: Norman Gray

Property Owner's Name: Mary Ann Capp + Karen Wadham  
Mailing Address: 2732 Sugar Grove Rd.  
Phone (H): (540) 391-0722 Phone (W) (540) 310-4145 e-mail: \_\_\_\_\_

Contractor's Name: Norman Gray DBA Name: \_\_\_\_\_ License#: 2705151449  
Address: 3000 Sugar Grove Rd. Town: Christiansburg State: Va Zip: 24073  
Phone: (540) 391-0722 Mobile: (540) 310-4145 Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

Mechanic's Lien Agent: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_  
Address: \_\_\_\_\_

Project Site Address: 2732 Sugar Grove Rd.

Residential Building Information:

SCANNED

New Construction: Stick Built? \_\_\_\_\_ or Modular? \_\_\_\_\_ Alterations/Repairs? \_\_\_\_\_ Addition? \_\_\_\_\_  
Foundation: Basement? \_\_\_\_\_ Crawl Space? \_\_\_\_\_ Piers? \_\_\_\_\_  
Type of Activity: RESIDENTIAL IRC: \_\_\_\_\_ Code Year: \_\_\_\_\_ Use Group: R-5 Construction Type: 5B  
Size: Height: 5' Width: 12' Length: 14' # Stories: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_ # Bathrooms: \_\_\_\_\_  
Finished Area(sq ft): \_\_\_\_\_; Unfinished Area(sq ft): \_\_\_\_\_; Basement (sq. ft.) (if not already included in Finished/Unfinished area) \_\_\_\_\_  
Attached Garage: (sq. ft.): \_\_\_\_\_  
Accessory Building (sq. ft.): \_\_\_\_\_ Detached Garage (sq. ft.): \_\_\_\_\_ Addition(sq. ft.): \_\_\_\_\_ Alteration(sq. ft.): \_\_\_\_\_

Water Services: \_\_\_\_\_ Sewer Services: \_\_\_\_\_  
Road Services: \_\_\_\_\_ Public \_\_\_\_\_ Private \_\_\_\_\_

Additional Comments: New Clear SPAN BRIDGE on Right of Way  
Estimated Project Cost: 8900<sup>00</sup> (Labor and Materials Only)

I hereby certify that I have the authority to make the foregoing application, that the information given is correct and that the construction will conform to the regulations of the Virginia Uniform Statewide Building Code, Zoning Ordinance, and any private building restrictions that may be imposed upon the above property by the deed. Also, I hereby agree to restore all damages to sidewalks, streets, alleys, sewers, gas mains, and electrical installation that may result.

I further certify that I have or will contact Montgomery Co. Planning and GIS Services to discuss the proposed project to insure that it will comply with all applicable development and zoning codes.

Norman Gray  
Printed Name of Permit Applicant

Norman Gray  
Signature of Property Owner, Contractor, or Authorized Agent

**MUST SATISFY ALL FIELD INSPECTIONS**

# RESIDENTIAL BUILDING/ZONING PERMIT

Building Inspections, Dept. of General Services

755 Roanoke Street, Suite 1D, Christiansburg, VA 24073-3173 Phone: 540-382-5750 Fax: 540-381-6880

This Permit becomes void if work is not commenced within six (6) months of issuance or work becomes inactive for a time period greater than six (6) months.

This permit includes the Virginia State Levy for continued education and training (2.0% of Building Permit Fee)

**ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE**

Permit Date: 05/24/2013 R-Permit Number: BP-2013-10893 Permit Fee: \$76.00

Property Owner's Name: CAPP MARY ANN Phone (H): Phone (W):

Mailing Address: 2732 SUGAR GROVE ROAD CHRISTIANSBURG, VA 24073-

Contractor Name: NORMAN GRAY License #: 2705151449

Phone: Fax: Cell: (540)320-4145 eMail:

Mailing Address: 3000 SUGAR GROVE ROAD CHRISTIANSBURG, VA 24073

Mechanics Lien Agent (MLA): NONE DESIGNATED Phone:

Address:

Project Site Address: 2732 SUGAR GROVE ROAD

Magisterial Dist: MS Parcel ID: 020499 Tax Map #: 109- A 45 Deeded Acres: 73.900

Subdivision: Block: Lot #:

Driving Directions:

Property Zoning: Agricultural Building Setbacks: Front: 40 Side: 20 L/S: 15 R/S: 15 Rear: 40

**BUILDING INFORMATION:** Type of Activity: VB Wood Frame - Unprotected IBC: IRC: Year: 2009

Use Group: R-5 Residential, Residential, 1&2 Family,IRC Structure: Bridge - Res. New

Description: RESIDENTIAL BRIDGE

Size - Height: Width: 12 Length: 16 # Stories: # Bedrooms: # Bathrooms:

Finished Area (sq ft): 192 Unfinished Area (sq ft):

Garage Attached(sq.ft.): #Existing Dwelling Units: #Other Units:

Water Services: Sewer Services: Septic Permit#:

Road Services:

Estimated Construction Cost: \$10,000.00

MONTGOMERY COUNTY BUILDING OFFICIAL:

Date: 10/09/13

### NOTICE

The permit holder shall be responsible for notifying Building Inspections for all inspections as required above.



MONTGOMERY COUNTY DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173



CHAIRPERSON
MONTGOMERY COUNTY BOARD OF BUILDING CODE APPEALS
755 Roanoke St. Suite 2E
Christiansburg, VA 24073
Attn: Secretary to the Board

I wish to appeal a decision of the Montgomery County Building Official as permitted under the current edition of the Virginia Uniform Statewide Building Code (USBC).

The subject of this appeal is located at: 2732 Sugar Grove Rd Christiansburg VA 24073

As the building (check one) [X] Owner, [ ] Owner's Agent, I am hereby appealing the decision of the Montgomery County Building Official because of the following reason. Please check one:
[ ] The Building Official has refused to grant a modification to the USBC
[X] The Building Official has incorrectly interpreted the true intent of the USBC
[ ] The provisions of the USBC do not fully apply in this instance

The Building Official determined that: (describe the decision, a copy of the decision must be attached)
A building permit be issued to an applicant that is not my authorized agent. The applicant, Norman Gray has an adversarial position to my property, protection and liability interests. The applicant Norman Gray has no fee interest in my property. No Right of Way has been determined.

The decision of the Building Official was rendered on: October 9, 2013 (Date)

The Building Official's decision was based on the following code and section(s):
Virginia Uniform Statewide Building Code 2009 Sec 108.4 and Sec 109.1
(Code Name) (Edition) (Section)

This appeal is being filed for the following reason or reasons: (add additional sheets if needed):
The County has violated the code by not requiring Construction plans. Application is incomplete. The permit application is inaccurate. It is not a clear span bridge because abutments are in the creek which creates a liability and hazard. I am protecting liability concerns within the bounds of the permitting process.

The following points are relevant add addition sheets as needed): Building Permit BP-2013-10893 was Appealed on June 21, 2013. On July 15, 2013 I was informed by electronic mail that this permit was withdrawn and the Hearing was cancelled. A week later I inquired about any additions to the

Table with 2 columns: Owners' Name, Signature, Address, City, State, Zip, Telephone/e-mail and Submitters Name, Signature, Address, City, State, Zip, Telephone. All fields contain handwritten information for Mary Ann Capp and Karan Windham.

Page 3 of 4 and was told that the file no longer exists. Today I was told the file (intended) had been recycled (i.e. destroyed) It appears there is an attempt to deny my right to appeal by re-issuing a Permit No. BP-2013-10893 and beyond the time limit, and beyond the time limit. Since the Stop Work Order in July 2013, construction resumed again on October 17, 2013. Since the Stop Work Order in July 2013, 7-10 business days indicated in Permit file.

REVIEW BOARD APPEAL 14-1  
CAPP VS. MONT. CO. ET AL.

STATEMENT OF SPECIFIC RELIEF  
SOUGHT SUBMITTED BY CAPP

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: APPEAL FROM THE DECISION OF THE MONTGOMERY COUNTY  
LOCAL BOARD OF BUILDING CODE APPEALS  
TO UPHOLD THE ISSUANCE OF  
MONTGOMERY COUNTY BUILDING PERMIT NO. BP-2013-10893

**STATEMENT OF SPECIFIC RELIEF SOUGHT  
BY THE APPELLANT MARY ANN CAPP**

COMES NOW, Mary Ann Capp, by counsel, and states the relief sought in her appeal from the decision of the Montgomery County Local Board of Building Code Appeals (hereinafter "LBBCA") which decision upheld the issuance of Building Permit No. BP-2013-10893 and was received by Mary Ann Capp on December 23, 2013. Appellant Capp asserts that the permit was issued in violation of section 109.1 of the Virginia Uniform Statewide Building Code (the "USBC") and Ms. Capp's rights of due process, and is thereby invalid and must be rescinded, and in support thereof states as follows:

1. Norman Gray filed the application for the subject building permit on October 7, 2013.
2. The Montgomery County Department of Building Inspections granted the permit on October 9, 2013.
3. Appellant Mary Ann Capp appealed the issuance of the permit on October 15, 2013, and individually signed the permit-appeal application in her name only. The LBBCA held a hearing on November 6, 2013, and Ms. Capp received the resolution decision on December 23, 2013.
4. The permit applicant, Norman Gray, owns property non-contiguous with Mary

Ann Capp's property.

5. The subject building permit authorizes Norman Gray to construct a bridge on Mary Ann Capp's property to replace a bridge that was washed out in a flood in early 2013, which original structure was constructed of used chemical storage tanks rather than culverts.

6. Norman Gray obtained a Class C contractor license immediately prior to the filing for the building permit application, however, Norman Gray is not an agent for Mary Ann Capp nor did Ms. Capp hire Mr. Gray as her contractor as the term contractor is commonly applied in the USBC.

108.3 Applicant information, processing by mail. Application for a permit shall be made by the owner or lessee of the relevant property or the agent of either or by the RDP, contractor or subcontractor associated with the work or any of their agents. The full name and address of the owner, lessee and applicant shall be provided in the application. If the owner or lessee is a corporate body, when and to the extent determined necessary by the building official, the full name and address of the responsible officers shall also be provided.

USBC § 108.3.

7. The Class C contractor license authorizes Norman Gray to perform jobs of value less than \$10,000.00 while the Building Official estimated the project cost as \$10,000.00.

8. Most significantly, the permit to construct the new bridge was granted without the provision of plans and specifications for the bridge in violation of section 109.1 of the USBC:

109.1 Submittal of documents. Construction documents shall be submitted with the application for a permit. The number of sets of such documents to be submitted shall be determined by the locality. Construction documents for one- and two family dwellings may have floor plans reversed provided an accompanying site plan is approved.

Exception: Construction documents do not need to be submitted when the building official determines the proposed work is of a *minor nature*.

Note: Information on the types of construction required to be designed by an RDP is included in the “Related Laws Package” available from DHCD.

USBC § 109.1 (emphasis added).

9. The Building Official did not make any finding that the bridge construction is minor in nature in order to waive the requirement for construction documents. Rather, at the hearing before the LBBCA, the Building Official stated, “A bridge is not anything that you can inspect in the code book. You can look through all the codes that I have – nothing addresses the clear span of an I-beam or a bridge. That’s all done by engineers.” *See*, Transcript of Hearing, November 6, 2013, p 20, line 25 to page-21, lines 1-5 (filed herewith).<sup>1</sup>

10. Despite the Building Official’s admitted incapacity to inspect bridge construction, he arbitrarily failed to require construction documents with the permit application, and he was completely unqualified to determine whether the construction was of a minor nature.

11. The only engineer on the LBBCA, Mr. Joel Donahue, who is the chair of the LBBCA, found that the bridge is not minor in nature, and that the permit should be set aside or deemed invalid until a plan is approved. *See*, Transcript of Hearing, November 6, 2013, p 44, lines 23-25 to p 45, lines 1-2; and p 49, lines 1-25 to page 50, lines 1-2. Donahue, nevertheless, went with the herd in the final decision.

12. According to the Related Laws Package under the section titled “A/E Seal on Drawings” on page 67, “Any unique design of structural elements for floors, walls, roofs *or foundations* requires an A/E seal, regardless of whether or not the remainder of the plans require such certification.” Related Laws Package at 67, (emphasis added).

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<sup>1</sup> Note that the cover to the Transcript misnames Susan Gray, who is Norman Gray’s wife, as the permit applicant rather than Norman Gray. The Court Reporter’s confusion arose from the provision of a document from the Gray’s counsel at the LBBCA hearing which document erroneously named Susan Gray as the permit applicant.

13. The foundation design is indeed unique because the bridge spans were placed below, rather than above, the ordinary high water mark of the creek -- which characteristic is the defining feature of a clear span bridge. The spans were constructed in the creek which construction has narrowed the creek channel in the form of a flume.

14. The grant of the permit without first requiring plans and specifications violates Ms. Capp's rights of due process. The only opportunity for Ms. Capp to review the plans for the bridge are in the building permit process. The bridge is on Ms. Capp's land which raises extraordinary liability concerns particularly in a bold creek with a history of washing out homemade bridges.

15. As built, after-the-fact assessment does nothing to afford Ms. Capp due process during the time that the issuance of the permit is under consideration by the Building Official, or even during the first administrative appeal which opportunity did not occur in this case. Rather, the acceptance of an after the fact assessment of the bridge rewards the act of lawless construction.

16. The permit was issued in violation of law and Ms. Capp's rights of due process.

17. The bridge construction started before May 10, 2013, on which date Mary Ann Capp inquired with the Building Official whether a permit is required for the construction that had commenced before that date. *See Exhibit A.*

18. By view of the photographs in Exhibit A, it was apparent on May 10, 2013, that construction of a span bridge with a concrete foundation was underway. Note the construction of concrete forms in the creek bottom below the ordinary high water mark.

19. By letter dated May 20, 2013, Mary Ann Capp, by counsel, advised counsel for Norman Gray that the bridge construction was proceeding without any permits. *See Exhibit B.*

20. On May 24, 2013, Susan Gray first applied for a building permit to construct the bridge on Mary Ann Capp's land. Ms. Gray submitted sketch plans for a culvert bridge with that first permit application despite the fact that a span bridge with abutments in the creek was already under construction. The Building Official knew that the bridge already under construction on Ms. Capp's land was not a culvert bridge but he nevertheless accepted the plans for a culvert bridge with Ms. Gray's permit application.

21. On May 24, 2013, the Building Official issued building permit number BP-2013-10893 to Susan Gray, which is the same number as the permit issued to Norman Gray on October 9, 2013. The chair of the LBBCA, Mr. Joel Donahue, took exception to the fact that the Building Official maintained the same permit number. See, Transcript of Hearing, November 6, 2013, p. 47, line 25 to page 48, line 2; and p 49, line 17-25 to p. 50, line 1-2.

22. Ms. Capp filed an appeal of the first permit on June 21, 2013.

23. By electronic mail message dated July 15, 2013, Ms. Capp was advised by the Building Official that Ms. Gray had withdrawn her permit application. See, Exhibit C.

24. When Ms. Capp returned to the office of the Building Inspector approximately one week later to review the permit file, Ms. Capp was advised that there was no file because the permit application had been withdrawn. Ms. Capp confirmed her understanding that there was no file for the first permit by letter dated October 17, 2013. See, Exhibit D.

25. Norman Gray and Mary Ann Capp are in litigation over his use of Mary Ann Capp's property to access his property, and although Norman Gray served his first action against Mary Ann Capp in February 2013, Gray has not yet to file a complaint that states a valid cause of action against Ms. Capp. The court granted injunctive relief to permit Gray to use Capp's property while the action moves forward based on the mere proffer by Gray's counsel that a

prescriptive right can be proved at trial on the merits, however, Gray has yet to file a complaint setting forth facts sufficient to state a claim for prescriptive easement and Ms. Capp has not yet been compelled to answer any complaint. Though in litigation for nearly a year, the parties are not yet at issue.

26. Obviously, the civil access-dispute has no bearing on the legal requirements for a valid building permit, but the adversarial relationship of the parties is not normal in the application of section 108.3 of the USBC as Norman Gray is not Ms. Capp's authorized agent or contractor.

27. Today, January 10, 2014, the Building Official transmitted to Ms. Capp an electronic mail message advising that the County now has information for Ms. Capp pertaining to the construction of the bridge that Ms. Capp could either pick up or the County will mail it to her. *See*, Exhibit E.

28. The County's consideration of an after the fact survey of the bridge does nothing to cure the violation of Ms. Capp's rights of due process.

29. Ms. Capp asserts that the permitting process orchestrated by locality has been abusive to her property rights, and her rights of due process and equal protection. Ms. Capp has never been given the opportunity to review the plans and specifications for a bridge constructed on her land which has been constructed by an adverse party with whom she is in litigation, and for which bridge she will be exposed to liability -- whether from the soundness of the construction or the safety of foot traffic due to its height above the rocky creek bed. It was a done deal before the Building Official signed the first permit because he already knew that a span bridge was under construction when he accepted plans for a culvert bridge but he issued a permit anyway while knowing that he was not even qualified to inspect the construction of a span bridge

-- with or without its foundation in the creek.

WHEREFORE, Mary Ann Capp requests the State Building Code Technical Review Board to find that the construction of a span bridge in a perennial stream with the abutments anchored in the creek is construction that is not minor in nature, that construction documents for such bridge are required before a lawful building permit can be issued, that the permit application is deficient, and to rescind Building Permit No. BP-2013-10893, which permit was issued in violation of section 109.1 of the USBC and in violation of Ms. Capp's of due process and equal protection.

Respectfully submitted,

Mary Ann Capp  
By Counsel

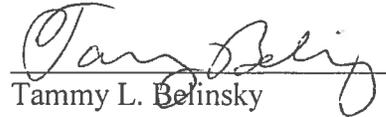


Tammy L. Belinsky, Esquire (VSB No. 43424)  
The Environmental Law Group, PLLC  
9544 Pine Forest Road  
Copper Hill, Virginia 24079  
Telephone: 540-929-4222  
Facsimile: 540-929-9195  
email: tbelinsky@envirolawva.com

David S. Bailey, Esquire (Va Bar 24940; DC Bar 455518)  
The Environmental Law Group, PLLC  
5803 Staples Mill Road  
P.O. Box 6236  
Richmond, Virginia 23230  
Telephone: 804-433-1980  
Facsimile: 804-433-1981  
email: dbailey@envirolawva.com

## CERTIFICATE

I hereby certify that a true copy of the foregoing Statement was transmitted by FedEx to the Montgomery County Department of Building and Inspections and the Local Board of Building Code Appeals, 755 Roanoke Street, Suite D1, Christiansburg, Virginia 24073, and to Norman Gray 3000 Sugar Grove Road, Christiansburg, Virginia 24073, this 11th day of January, 2014.

  
Tammy L. Belinsky

# EXHIBIT A

## Tammy Belinsky

---

**From:** Mary Ann Capp [macapp@mindspring.com]  
**Sent:** Friday, May 10, 2013 4:07 PM  
**To:** broughtonjw@montgomerycountyva.gov  
**Subject:** Inquiry  
**Attachments:** 5-10-13 pics 068.JPG; 5-10-13 pics 073.JPG; 5-10-13 pics 074.JPG

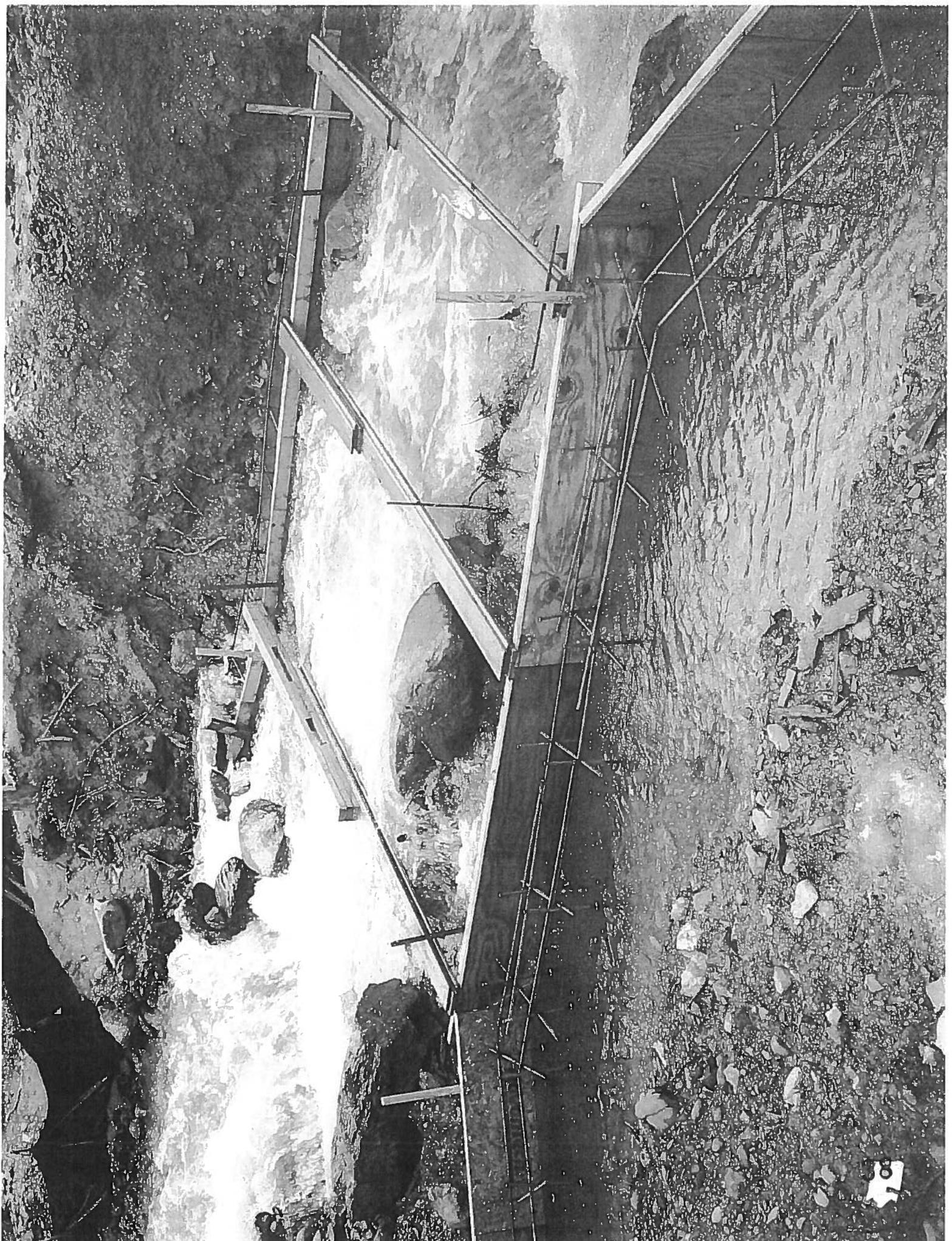
Mr. Broughton,

Does this construction activity require a permit?

I would appreciate your response in a return reply.

Thank you,

Mary Ann Capp







# EXHIBIT B

**The Environmental Law Group, PLLC**  
*Law and Science for the Environment*  
9544 Pine Forest Road, Copper Hill, Virginia 24079

David S. Bailey (VA & DC)  
General Manager & Senior Counsel  
Tammy L. Belinsky (VA) (Associate Counsel)  
Jennifer A. French (VA) (Associate Counsel)  
Jeter M. Watson (VA) (Of Counsel)

Telephone: 540-929-4222  
Facsimile: 540-929-9195  
Email: tbelinsky@envirolawva.com

May 20, 2013

Kendall O. Clay, Esquire  
1210 Grove Avenue  
P. O. Box 852  
Radford, Virginia 24143

BY FACSIMILE AND  
BY U.S. FIRST CLASS MAIL

Re: *Norman Gray, et al. v. Mary Ann Capp and Karen Windham*;  
Civil Action No. CL13-12272

Dear Kendall:

You likely are aware that new bridge construction and unrelated excavation are occurring on Mary Ann Capp's property. For liability purposes, Mary Ann Capp consulted Mr. Broughton in the offices of the Montgomery County building inspector to determine whether the construction requires a building permit in accordance with the statewide building code. A copy of the electronic mail correspondence with the Mr. Broughton is enclosed, together with the photographs transmitted with the inquiry, and Mr. Broughton's response.

Based only on the three photographs sent with Ms. Capp's inquiry, Mr. Broughton cautioned that "permits shall be required per the VUSBC, DCR, & possibly the Army Corp. of Engineers. Depending on the length of time the stream is disturbed. It is very important to obtain permits for this type of work because the liability and fines associated with this type of construction is very stringent."

Surely the injunction order is not intended to authorize illegal activity on the Windham & Capp property or prevent them from protecting themselves from liability for such activity. In addition, even if the Grays have any right to maintain

Mr. Clay  
page two  
May 20, 2013

a culvert bridge on the Windham-Capp property, which Ms. Capp denies, the bridge that is currently under construction exceeds the scope of any right the Grays may have. Both the scope of the bridge and the interference with the use of the Windham-Capp property while the construction is underway is burdening the Defendants' property.

Without documentation of the required permits or official regulatory correspondence indicating such permits are not required, Ms. Capp will move the Court to stay the injunction while the required permits are obtained and request an increase in the bond.

Three additional photos of the construction activity taken since Ms. Capp sent the three photos to Mr. Broughton are enclosed here.

Sincerely,



Tammy L. Belinsky

enclosures

copies: Mary Ann Capp  
Hon. Erica W. Williams, Clerk,  
Montgomery County Circuit Court (by US mail only)  
Hon. Colin R. Gibb (by facsimile only)  
Danielle Courtois, USACE (by US mail only)  
John Spicer, Esq. (By US mail only)

**From:** Mary Ann Capp  
**To:** [broughtonjw@montgomerycountyva.gov](mailto:broughtonjw@montgomerycountyva.gov);  
**Subject:** Inquiry  
**Date:** Friday, May 10, 2013 4:07:31 PM  
**Attachments:** [5-10-13 pics 068.JPG](#)  
[5-10-13 pics 073.JPG](#)  
[5-10-13 pics 074.JPG](#)

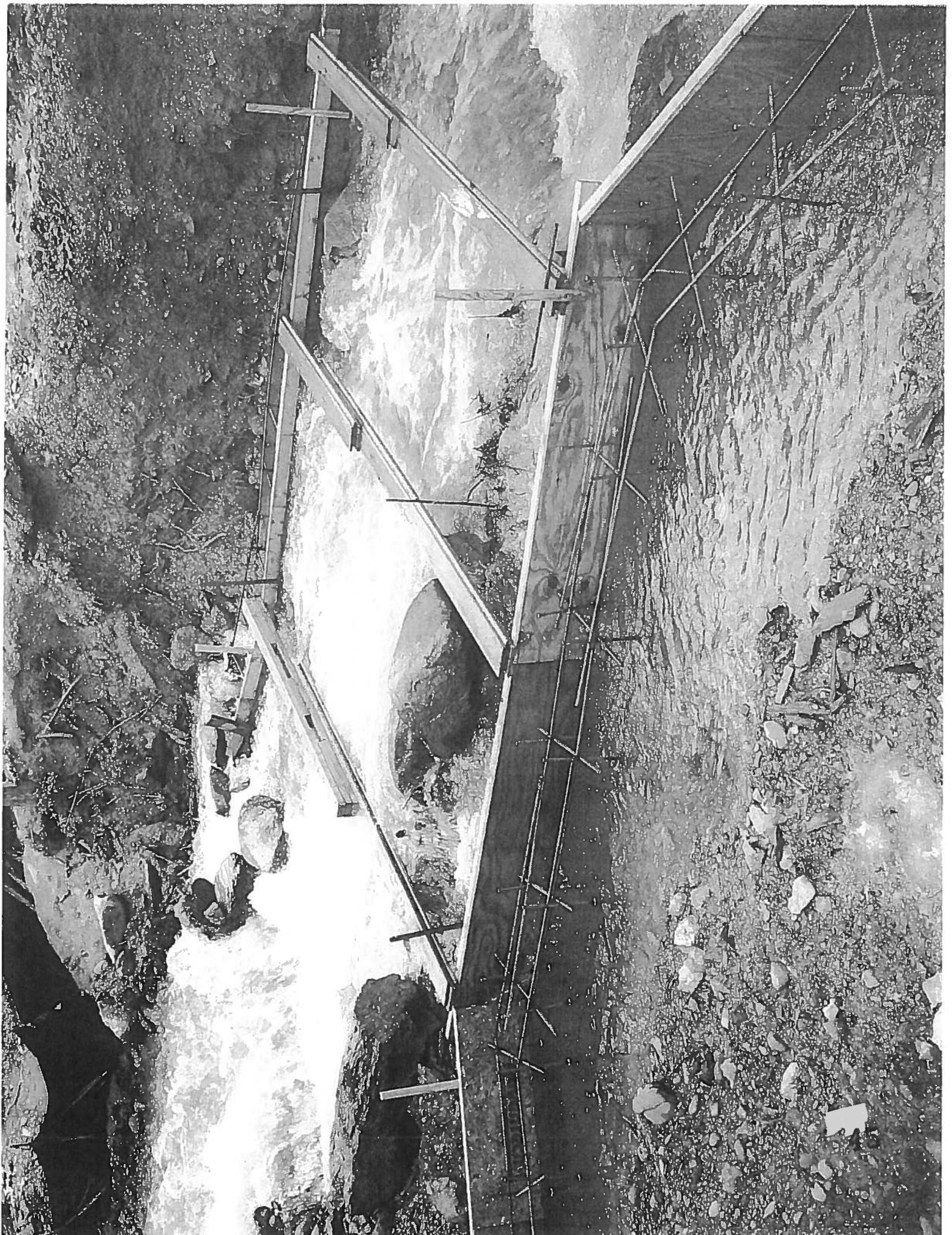
Mr. Broughton,

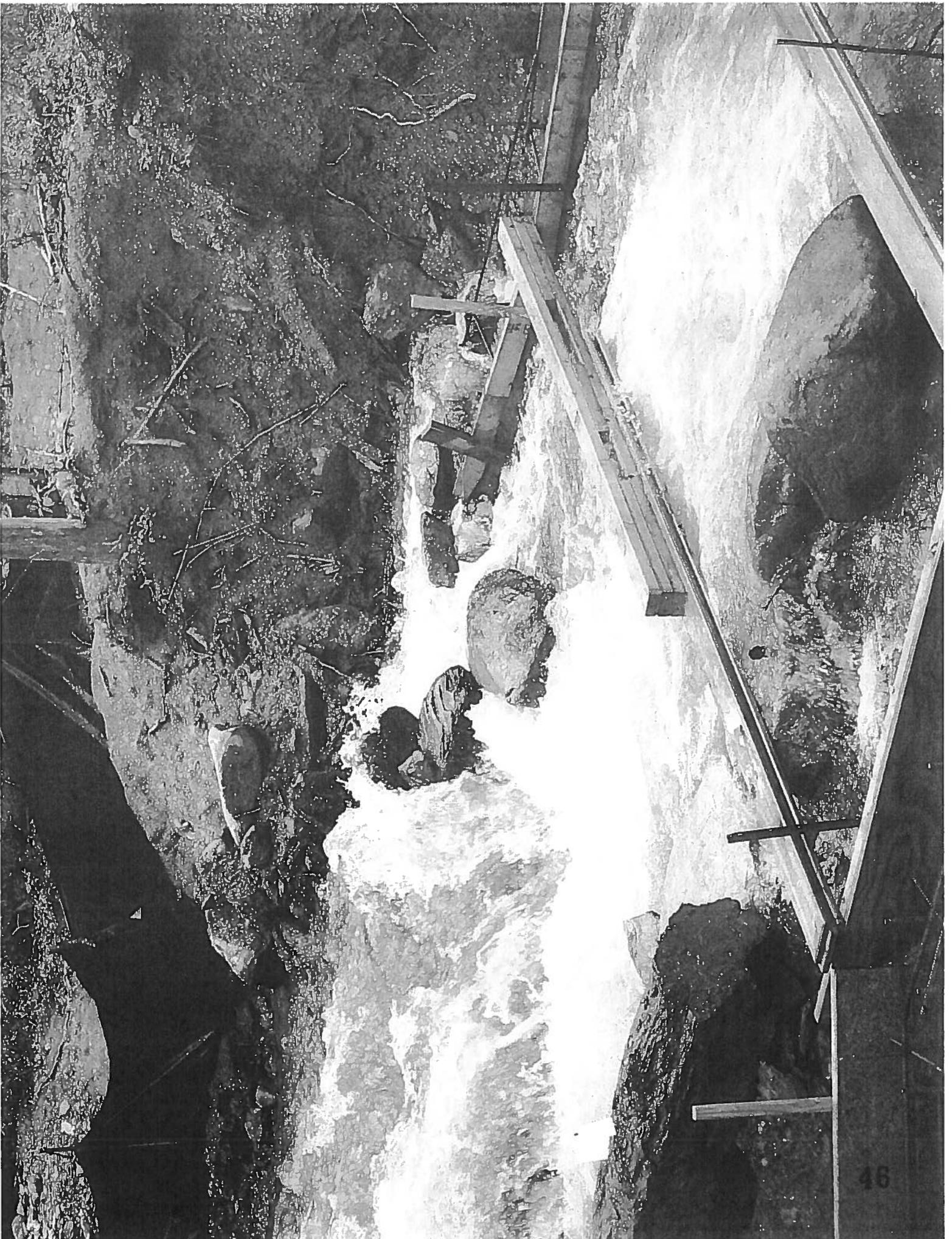
Does this construction activity require a permit?

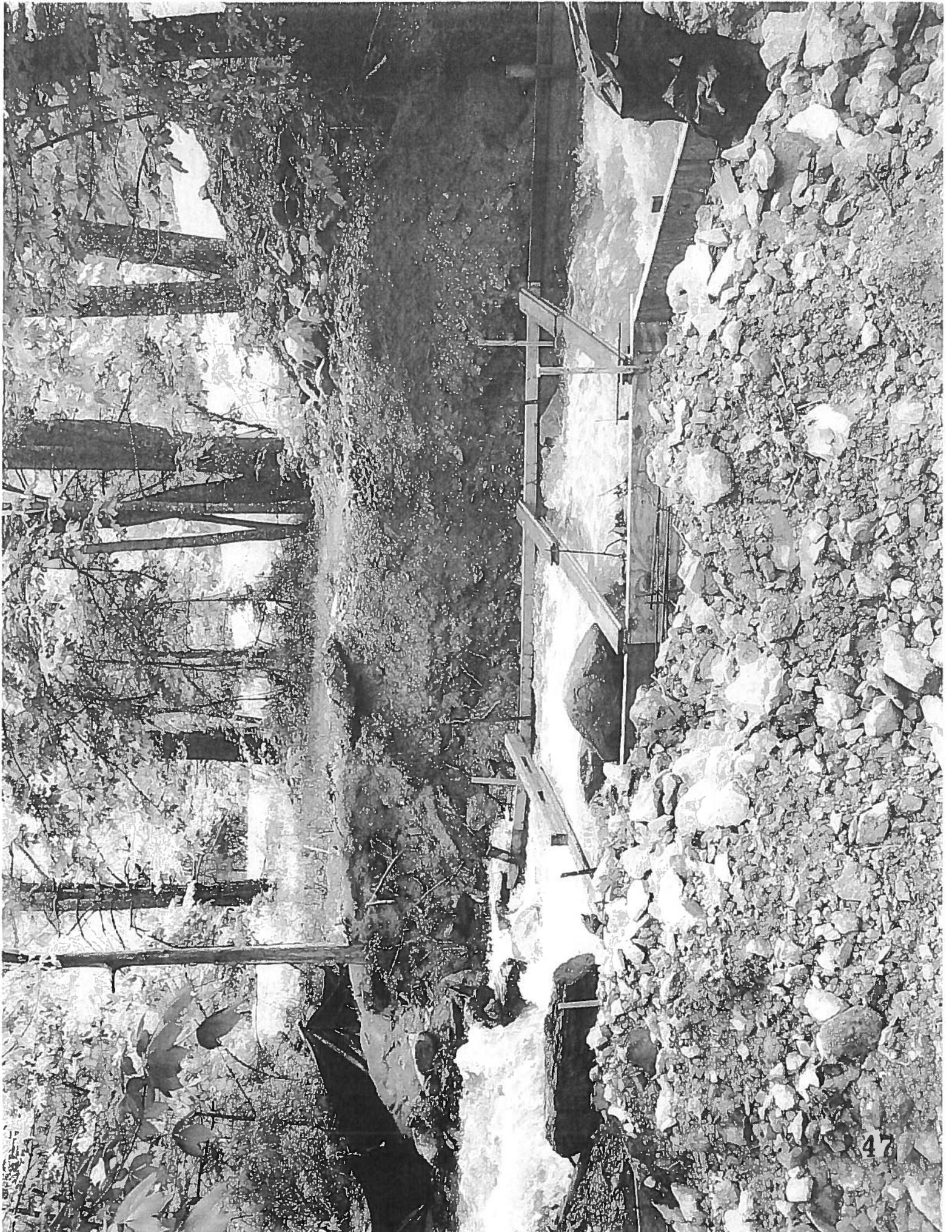
I would appreciate your response in a return reply.

Thank you,

Mary Ann Capp







**From:** Mary Ann Capp  
**To:** "Tammy Belinsky";  
**Subject:** FW: Inquiry  
**Date:** Monday, May 20, 2013 12:54:34 PM

-----Original Message-----

From: John W. Broughton [<mailto:broughtonjw@montgomerycountyva.gov>]  
Sent: Monday, May 13, 2013 8:28 AM  
To: Mary Ann Capp  
Cc: William C. Yeager  
Subject: RE: Inquiry

Ms. Capp,

According to your photos permits shall be required per the VUSBC, DCR, & possibly the Army Corp. of Engineers. Depending on the length of time the stream is disturbed. It is very important to obtain permits for this type of work because the liability and fines associated with this type of construction is very stringent.

If I can be of further assistance please feel free to contact me.

Thank You,

John W. Broughton  
Building Inspector  
Montgomery County Inspections Department  
540-382-5750  
[broughtonjw@montgomerycountyva.gov](mailto:broughtonjw@montgomerycountyva.gov)

-----Original Message-----

From: Mary Ann Capp [<mailto:macapp@mindspring.com>]  
Sent: Friday, May 10, 2013 4:07 PM  
To: John W. Broughton  
Subject: Inquiry

Mr. Broughton,

Does this construction activity require a permit?

I would appreciate your response in a return reply.

Thank you,





50



# EXHIBIT C

**From:** [mary.a.capp@cummins.com](mailto:mary.a.capp@cummins.com)  
**To:** [tbelinsky@envirolawva.com](mailto:tbelinsky@envirolawva.com);  
**cc:** [macapp@mindspring.com](mailto:macapp@mindspring.com);  
**Subject:** Fw: Permit for 2732 Sugar Grove Road  
**Date:** Monday, July 15, 2013 4:49:30 PM

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----- Forwarded by Mary A Capp/Distributors/Cummins on 07/15/2013 04:48 PM -----

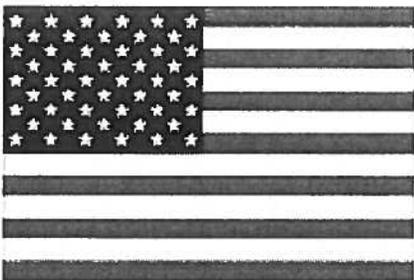
From: "Teresa A. Gantt" <[ganttta@montgomerycountyva.gov](mailto:ganttta@montgomerycountyva.gov)>  
To: "Jason Boyle (jason@greenvalleybuildersinc.com)" <[jason@greenvalleybuildersinc.com](mailto:jason@greenvalleybuildersinc.com)>, "Robert Pilkington (rpilkington@balzer.cc)" <[rpilkington@balzer.cc](mailto:rpilkington@balzer.cc)>, "swvaroot@shentel.net" <[swvaroot@shentel.net](mailto:swvaroot@shentel.net)>, "joel.donahue@comcast.net" <[joel.donahue@comcast.net](mailto:joel.donahue@comcast.net)>, "wag230@msn.com" <[wag230@msn.com](mailto:wag230@msn.com)>  
Cc: "mary.a.capp@cummins.com" <[mary.a.capp@cummins.com](mailto:mary.a.capp@cummins.com)>, "kwindham@mindspring.com" <[kwindham@mindspring.com](mailto:kwindham@mindspring.com)>, "sgray@pulaskicounty.org" <[sgray@pulaskicounty.org](mailto:sgray@pulaskicounty.org)>, "William C. Yeager" <[yeagerwc@montgomerycountyva.gov](mailto:yeagerwc@montgomerycountyva.gov)>, Marty McMahon <[mcmahonmm@montgomerycountyva.gov](mailto:mcmahonmm@montgomerycountyva.gov)>  
Date: 07/15/2013 04:36 PM  
Subject: RE: Permit for 2732 Sugar Grove Road

---

I have received a letter confirming that Susan Gray has withdrawn permit no. BP-2013-10893. There won't be a meeting on Wednesday night as this turn of events means there is nothing to Appeal.  
Thanks,  
Teresa

**Teresa Gantt**  
**Program Assistant**  
**Montgomery County**  
**Department of Building Inspections**  
**755 Roanoake Street, Suite 1D**  
**Christiansburg, VA 24073-3173**  
**P:(540) 382-5750 F:(540) 381-6880**

***We will not schedule any inspections for Thursday, July 18, 2013. Please plan accordingly.***



*All permit applications, including trades, require 7-10 business-days to process.*

**From:** Teresa A. Gantt

**Sent:** Monday, July 15, 2013 12:34 PM

**To:** Jason Boyle (jason@greenvalleybuildersinc.com); Robert Pilkington (rpilkington@balzer.cc); swvawindow@aol.com; joel.donahue@comcast.net; wag230@msn.com

**Cc:** mary.a.capp@cummins.com; kwindham@mindspring.com; sgray@pulaskicounty.org; William C. Yeager (yeagerwc@montgomerycountyva.gov); Marty McMahon

**Subject:** Permit for 2732 Sugar Grove Road

Mrs. Susan Gray has given me verbal notice to withdraw permit number BP-2013-10893. She will follow-up in writing this afternoon.

As of 12:30pm today, the permit is no longer valid. Please inform those working with you (who are not on this e-mail list), of this decision by the Applicant.

Thanks,

Teresa

**Teresa Gantt**

**Program Assistant**

**Montgomery County**

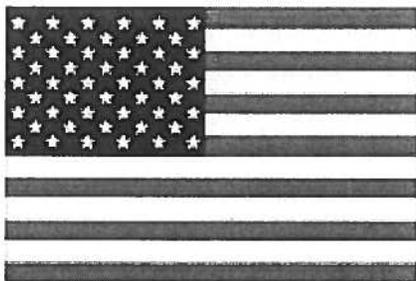
**Department of Building Inspections**

**755 Roanoake Street, Suite 1D**

**Christiansburg, VA 24073-3173**

**P:(540) 382-5750 F:(540) 381-6880**

***We will not schedule any inspections for Thursday, July 18, 2013. Please plan accordingly.***



*All permit applications, including trades, require 7-10 business-days to process.*

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This email has been scanned by the Symantec Email Security.cloud service.  
For more information please visit <http://www.symanteccloud.com>

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# EXHIBIT D

Mary Ann Capp  
2732 Sugar Grove Road  
Christiansburg, VA 24073  
October 17, 2013  
HAND DELIVERED



**CHAIRPERSON**  
Montgomery County Board of Building Code Appeals  
755 Roanoke Street, Suite 2E  
Christiansburg, VA 24073

**Subject: Building Permit No. BP-2013-10893**

Dear Chairperson,

Attached is an Appeal to the reissuance of Building Permit No. BP-2013-10893. You may recall that I appealed BP-2013-10893 on June 21, 2013, which permit was issued on May 24, 2013. A Stop Work Order was issued and posted on or about July 5<sup>th</sup> 2013. On July 15, 2013, I submitted a binder of evidence for a scheduled appeal hearing. On July 15, 2013 I was notified by electronic mail from Teresa Gantt of the Montgomery County Department of Building Inspections (MCBCI) that she had "received a letter confirming that Susan Gray had withdrawn Permit No. BP-2013-10893. There won't be a meeting Wednesday night as this turn of events means there is nothing to appeal". I also received a telephone call from Ms. Gantt stating the Appeal Hearing was cancelled because Susan Gray had withdrawn the building permit. The following week I went into the Montgomery County Building Inspections office and inquired of Teresa Gantt to copy any new activity in this permit file. She told me that the file "no longer exists because the permit was withdrawn".

On Saturday, October 12, 2013 I was surprised to have heavy machinery and several trucks and people resuming construction on my property as I believed there was a Stop Work Order in place.

On October 15, 2013, I requested of the MCBCI to view the file for the Building Permit issued to Norman Gray on October 9, 2013. I was given copies of the documents in the current file, which file is also labeled as Building Permit No. BP-2013-10893 – the same number for the permit for which I had been told in July the file "no longer existed". A copy of the documents that were in the file as of 10 am this morning are enclosed with this letter and include: an electronically generated permit application backdated May 24, 2013 which names Norman Gray as the contractor but which application is not signed; a copy of the licensing data for Norman Gray who was granted a Class C contractor's license by the Commonwealth on October 1, 2013; a two-page checklist entitled "Requirements for New Construction"; residential building permit application dated October 7, 2013; a document stating "no zoning permit required"; and a building permit backdated May 24, 2013, with a signature of the Building Inspector dated October 9, 2013.

On October 15, 2013, I inquired again about the Building Permit that was actually issued by the Building Inspector on May 24, 2013 to Susan Gray and was told by Ms. Gantt that the file no longer exists and that the file was recycled. The Building Permit file now has new documents with the same permit number as the file that was initiated in May 2013, and in the meantime the initial documents have been destroyed.

Please advise if any information conveyed in this letter is not correct, or whether the accounting of file contents as of 10 am on October 15, 2013, is not correct. Thank you for your consideration of this urgent matter.

Sincerely,

Mary Ann Capp

Copies: Norman and Susan Gray

---

# EXHIBIT E

## Tammy Belinsky

---

**From:** mary.a.capp@cummins.com  
**Sent:** Friday, January 10, 2014 11:16 AM  
**To:** tbelinsky@envirolawva.com; tambel@hughes.net  
**Subject:** Fw: Packet of info

This just in....

I will go pick it up before coming over.

----- Forwarded by Mary A Capp/Distributors/Cummins on 01/10/2014 11:13 AM -----

**From:** "Teresa A. Gantt" <gantta@montgomerycountyva.gov>  
**To:** "(mary.a.capp@cummins.com)" <mary.a.capp@cummins.com>  
**Date:** 01/10/2014 10:56 AM  
**Subject:** Packet of info

---

I have a packet of information on the final on the bridge.

If you want to stop by to pick it up, I will keep it here.

If you want, I can mail it to you, just let me know.

Thanks,

Teresa

*Teresa*

Teresa Gantt, Program Assistant to the Building Official  
Montgomery County Building Inspections Department  
755 Roanoke St. Suite 1D, Christiansburg, VA 24073-3173  
540.382.5750 (phone) 540.381.6880 (fax)

Montgomery County offices will be closed in observance of Lee-Jackson Day on Friday, Jan. 17, and Martin Luther King, Jr., Day on Monday, Jan. 20. Please plan accordingly.

This email has been scanned for Malware.

---

REVIEW BOARD APPEAL 14-1  
CAPP VS. MONT. CO. ET AL.

SUBMITTAL BY GRAY

**KENDALL O. CLAY**  
ATTORNEY AT LAW, P.C.  
1210 GROVE AVENUE  
POST OFFICE BOX 852  
RADFORD, VIRGINIA 24143-0852  
TELEPHONE: (540) 639-9623 FAX: (540) 633-1275  
E-MAIL: claylaw@usit.net  
January 28, 2014

30 2014  
AM

**CERTIFIED MAIL**

Mr. Alan W. McMahan  
Virginia DHCD  
Main Street Centre  
600 East Main Street, Suite 300  
Richmond, Virginia 23219

In re: Appeal of Mary Ann Capp to the Review Board (Appeal No. 14-1)

---

Dear Mr. McMahan:

I am enclosing four pictures as documents, which in the opinion of Norman Gray are essential to more accurately show the location of the bridge in question and to show that the footers are properly located in accordance with the applicable provisions of law. Please consider these along with the other documents for review of this matter on appeal.

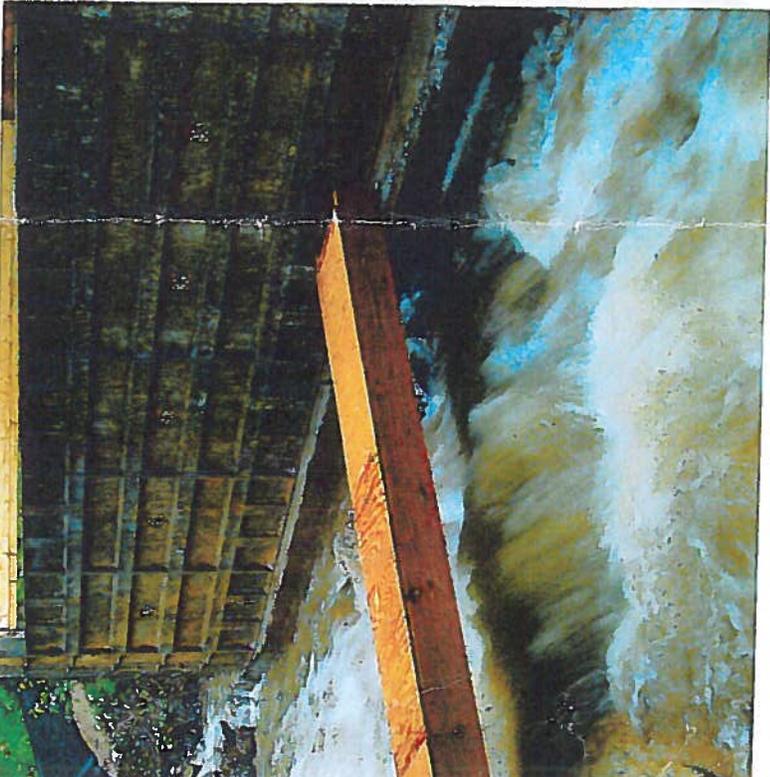
Very truly yours,

  
KENDALL O. CLAY

KOC/jp

Enclosures

cc: Mr. William Yeager, Certified Building Official, Montgomery County, VA  
Ms. Mary Ann Capp



REVIEW BOARD APPEAL 14-1  
CAPP VS. MONT. CO. ET AL.

MOTION TO STRIKE SUBMITTED  
BY CAPP

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: APPEAL FROM THE DECISION OF THE MONTGOMERY COUNTY  
LOCAL BOARD OF BUILDING CODE APPEALS  
TO UPHOLD THE ISSUANCE OF  
MONTGOMERY COUNTY BUILDING PERMIT NO. BP-2013-10893

**APPELLANT MARY ANN CAPP'S MOTION TO STRIKE**

COMES NOW, Mary Ann Capp, by counsel, and moves the State Building Code Technical Review Board to strike the resolution decision of the Montgomery County Local Board of Building Code Appeals (hereinafter "LBBCA") in the matter of Building Permit No. BP-2013-10893. The resolution issued by the LBBCA improperly names the co-owner of the property where the subject construction occurred as a party to the appeal, and is therefore void.

1. Appellant Mary Ann Capp appealed the issuance of the subject permit on October 15, 2013.
2. Ms. Capp accurately completed the application for appeal by noting the co-owners of the property. *See*, Exhibit A.
3. Ms. Capp is the only signatory to the permit appeal application.
4. At the hearing conducted by the LBBCA, the chair of the LBBCA, Mr. Joel Donahue, correctly acknowledged that Ms. Capp is the only appellant to this administrative action. *See*, Transcript of Hearing, November 6, 2013 (filed with the appeal to the State Building Code Technical Review Board), p 6, line 18.<sup>1</sup>

---

<sup>1</sup> Note that the cover to the Transcript misnames Susan Gray, who is Norman Gray's wife, as the permit applicant rather than Norman Gray. The Court Reporter's confusion arose from the provision of a document from the Gray's counsel at the LBBCA hearing which document erroneously named Susan Gray as the permit applicant.

5. Nonetheless, the resolution decision issued by the board goes out of its way to erroneously name the co-owner of the property, Karen Windham -- who is an absentee landowner and lives in Georgia -- as a party to the appeal.

6. The resolution fabricates party status in contradiction to the agency record.

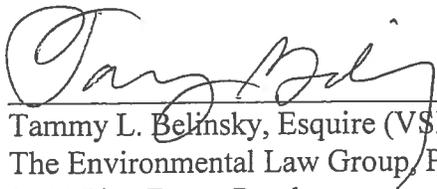
7. By letter dated January 6, 2014, Ms. Capp, by counsel, requested that the LBBCA correct the party status as stated in the resolution decision and remove Karen Windham as a party from the decision document. *See*, Exhibit B.

8. In follow-up oral communications with the Chair of the LBBCA, Mr. Joel Donahue, he declined to amend the decision.

WHEREFORE, Ms. Capp requests the State Building Code Technical Review Board to find that the resolution decision of Montgomery County LBBCA improperly names a party who was, and is not a party to the appeal, to hold that the said decision is void for its naming of a party who was, and is not a party to the appeal, and therefore strike the resolution decision of the Montgomery County LBBCA which decision upheld the issuance of Building Permit No. BP-2013-10893.

Respectfully submitted,

Mary Ann Capp  
By Counsel



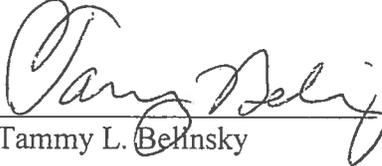
Tammy L. Belinsky, Esquire (VSB No. 43424)  
The Environmental Law Group, PLLC  
9544 Pine Forest Road  
Copper Hill, Virginia 24079  
Telephone: 540-929-4222  
Facsimile: 540-929-9195  
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David S. Bailey, Esquire (Va Bar 24940; DC Bar 455518)  
The Environmental Law Group, PLLC

5803 Staples Mill Road  
P.O. Box 6236  
Richmond, Virginia 23230  
Telephone: 804-433-1980  
Facsimile: 804-433-1981  
email: dbailey@envirolawva.com

**CERTIFICATE**

I hereby certify that a true copy of the foregoing Motion to Strike was transmitted by FedEx to the Montgomery County Department of Building and Inspections and the Local Board of Building Code Appeals, 755 Roanoke Street, Suite D1, Christiansburg, Virginia 24073, and to Norman Gray 3000 Sugar Grove Road, Christiansburg, Virginia 24073, this 11th day of January, 2014.

  
Tammy L. Belinsky

# EXHIBIT A



MONTGOMERY COUNTY
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073



CHAIRPERSON
MONTGOMERY COUNTY BOARD OF BUILDING CODE APPEALS
755 Roanoke St. Suite 2E
Christiansburg, VA 24073
Attn: Secretary to the Board

I wish to appeal a decision of the Montgomery County Building Official as permitted under the current edition of the Virginia Uniform Statewide Building Code (USBC).

The subject of this appeal is located at: 2732 Sugar Grove Rd Christiansburg VA 24073

As the building (check one) [X] Owner, [ ] Owner's Agent, I am hereby appealing the decision of the Montgomery County Building Official because of the following reason. Please check one:
[ ] The Building Official has refused to grant a modification to the USBC
[X] The Building Official has incorrectly interpreted the true intent of the USBC
[ ] The provisions of the USBC do not fully apply in this instance

The Building Official determined that: (describe the decision, a copy of the decision must be attached)
A building permit be issued to an applicant that is not my authorized agent.
The applicant, Norman Gray has an adversarial position to my property protection and liability interests. The applicant Norman Gray has no fee interest in my property. No Right of Way has been determined.

The decision of the Building Official was rendered on: October 7, 2013 (Date)

The Building Official's decision was based on the following code and section(s):
Virginia Uniform Statewide Building Code 2009 Sec 108.4 and Sec 109.1
(Code Name) (Edition) (Section)

This appeal is being filed for the following reason or reasons: (add additional sheets if needed):
The County has violated the code by not requiring Construction plans. Application is incomplete. The permit application is inaccurate. It is not a clear span bridge because abutments are in the creek which creates a liability and hazard. I am protecting liability concerns within the bounds of the permitting process.

The following points are relevant add additional sheets as needed): Building Permit BP-2013-10893 was Appealed on June 21, 2013. On July 15, 2013 I was informed by electronic mail that this permit was withdrawn and the Hearing was cancelled. A week later I inquired about any additions to the

Table with 2 columns: Owners' Name, Signature, Address, City, State, Zip, Telephone/e-mail; and Submitters Name, Signature, Address, City, State, Zip, Telephone.

Page 3 of 4 and was told that the file no longer exists. Today I was told the file had been recycled (i.e. destroyed) It appears there is an attempt to deny my right to appeal by re-issuing a Permit No. BP-2013-10893 and beyond the time limit. Since the Stop Work Order in July 2013, construction resumed again on October 12, 2013. 7-10 business days indicated in Permit file

# EXHIBIT B

**The Environmental Law Group, PLLC**  
*Law and Science for the Environment*  
**9544 Pine Forest Road, Copper Hill, Virginia 24079**

David S. Bailey (VA & DC)  
General Manager & Senior Counsel  
Tammy L. Belinsky (VA) (Associate Counsel)  
Jeter M. Watson (VA) (Of Counsel)

Telephone: 540-929-4222  
Facsimile: 540-929-9195  
Email: tbelinsky@envirolawva.com

January 6, 2014

Local Board of Building Code Appeals  
C/O Candace R. Ross, Acting Secretary  
755 Roanoke Street, Suite 1D  
Christiansburg, Virginia 24073  
rosscr@montgomerycountyva.gov  
Facsimile: 540-381-6880

BY ELECTRONIC MAIL AND  
BY FACSIMILE

Re: Appeal of Building Official Decision, BP-2013-10893

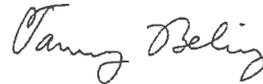
Dear Ms. Ross:

Ms. Mary Ann Capp received the subject appeal decision resolution by certified mail on December 23, 2013. The resolution as written is defective. The resolution improperly names Karen Windham as a party to the appeal. Karen Windham did not sign the building permit appeal that Ms. Capp filed, and Karen Windham did not participate in the hearing. The persons present at the hearing each introduced themselves, including the neighbors who were merely there to observe. I am certain that your official records of the hearing will reflect that Karen Windham is not a party to the appeal.

Please issue a proper resolution as the resolution in its current form is void and of no effect having improperly named a party who is not a party to the building permit appeal.

Thank you for your attention to this matter.

Sincerely,



Tammy L. Belinsky

copies: Mary Ann Capp  
Mr. Joel Donahue - Chair, LBBCA (by electronic mail)

REVIEW BOARD APPEAL 14-1  
CAPP VS. MONT. CO. ET AL.

TRANSCRIPT OF LOCAL BOARD  
HEARING

VIRGINIA: COUNTY OF MONTGOMERY  
LOCAL BOARD OF BUILDING CODE APPEALS  
(LBBCA)

\*\*\*\*\*  
IN RE: BUILDING PERMIT ISSUED TO SUSAN GRAY,  
DATED OCTOBER 9TH, 2013  
\*\*\*\*\*

JOEL A. DONAHUE, CHAIRMAN  
NOVEMBER 6, 2013  
5:00 p.m. - 6:20 p.m.  
CHRISTIANSBURG, VIRGINIA

REPORTED BY: Caroline Lane, Court Reporter

**CERTIFIED  
ORIGINAL**

PROCEEDINGS INDEX

EXHIBITS  
(NONE)

1 APPEARANCES OF COUNSEL:

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County Attorney,  
Montgomery County Virginia  
Montgomery County Government Center  
755 Roanoke Street  
Suite 2F  
Christiansburg, Virginia 24073-3182  
(540) 382-5730  
Counsel for William C. Yeager

LAW OFFICES OF KENDALL O. CLAY  
P.O. Box 852  
1210 Grove Avenue  
Radford, Virginia, 24143  
(540) 639-9623  
Counsel for Susan and Norman Gray

TAMMY LYNN BELINSKY, ESQUIRE  
Environmental Law Group  
9544 Pine Forest Road NE  
Copper Hill, Virginia 24079  
(540) 929-4222  
tambel@hughes.net  
Counsel for Mary Ann Capp

18 BOARD MEMBERS PRESENT:

JOEL DONAHUE  
ALLEN F. WAGNER  
ROBERT W. PILKINGTON  
JASON C. BOYLE

22 ALSO PRESENT: BILL YEAGER  
CANDACE ROSS  
MARY ANN CAPP  
SUSAN GRAY  
NORMAN GRAY  
MICHELLE ALLEY  
BILL SMELTZER

PROCEEDINGS

MR. DONAHUE: Next on the agenda is the  
appeal, under new business.  
Mr. McMahon, as county attorney, I assume  
you are representing the building inspector  
himself; correct?  
MR. McMAHON: Correct.  
MR. DONAHUE: Now, introductions.  
You are --  
THE REPORTER: I am Caroline Lane. I was  
hired to be the court reporter. I am taking  
everything down.  
MR. DONAHUE: Oh, we have a court  
reporter. Excellent.  
THE REPORTER: And I would appreciate  
everyone introducing themselves.  
MR. DONAHUE: All right. We are doing  
that now.  
MR. PILKINGTON: Who are you?  
MS. ALLEY: I am Michelle Alley. I am a  
neighbor.  
MR. WAGNER: Neighbor?  
MS. ALLEY: Uh-huh.  
MR. WAGNER: Go around the table, ple

1 MS. BELINSKY: My name is Tammy Belinsky,  
2 and I am Ms. Capp's legal counsel.  
3 MS. CAPP: And I am Mary Ann Capp.  
4 MR. DONAHUE: Glad to meet you. Welcome.  
5 And --  
6 MR. GRAY: Norman Gray.  
7 MR. DONAHUE: Mr. Gray, yes. Okay.  
8 He's the -- issue --  
9 MR. GRAY: I am the holder of the permit.  
10 MR. DONAHUE: Thank you.  
11 And --  
12 MR. SMELTZER: I'm Bill Smeltzer. I am a  
13 neighbor.  
14 MR. DONAHUE: Okay.  
15 MS. GRAY: I am Susan Gray.  
16 MR. DONAHUE: Okay. Take a seat at the  
17 table if you wish, or stay where you are.  
18 Okay. We have --  
19 MR. CLAY: I'm Kendall Clay. I am the  
20 attorney for the Grays.  
21 MR. DONAHUE: For the Grays?  
22 MR. CLAY: Yes.  
23 MR. DONAHUE: Okay. Glad to meet you.  
24 I've heard your name a lot.  
25 MR. CLAY: Thank you, sir.

1 MR. DONAHUE: We have Marty McMahon, as  
2 county attorney, Bill Yeager, the county  
3 building official.  
4 Candace Ross is our secretary, recording  
5 secretary, and then this board is --  
6 MR. BOYLE: Jason Boyle. I am a general  
7 contractor in the area.  
8 MR. PILKINGTON: Robert Pilkington. I am  
9 an architect in the area.  
10 MR. DONAHUE: I am Joel Donahue, the  
11 chairman. I'm a licensed engineer in the State  
12 of Virginia.  
13 MR. WAGNER: My name is Allen Wagner. I  
14 am a contractor, electrician, plumber.  
15 MR. DONAHUE: The way that we are going  
16 to handle this is, the building permit has been  
17 issued in Mr. Gray's name by our building  
18 official, and the appeal is by Ms. Capp.  
19 And at this point, what I would like to  
20 do is hear from all parties for up to five  
21 minutes. And at that point, the board will  
22 then ask the first questions, as necessary.  
23 So I will have Ms. Capp go first.  
24 MS. BELINSKY: This is Tammy Belinsky,  
25 and I will speak on behalf of Ms. Capps, given

1 that you have given us only five minutes.  
2 This situation is obviously about  
3 property rights. Ms. Capp owns this piece of  
4 property through which a driveway transects.  
5 The Grays use the driveway to get to  
6 their property. There was a culvert bridge on  
7 the property that washed out.  
8 Ms. Capp pulled the culvert bridge out,  
9 and the Grays wanted to replace the bridge.  
10 And Ms. Capp would like them to use the  
11 other route that they have to their property,  
12 rather than going over the creek on Ms. Capp's  
13 property to get to their house.  
14 You -- perhaps you would like to ask  
15 questions about that later.  
16 But, in any case, there was an initial  
17 building permit applied for by Mrs. Gray. When  
18 Ms. Capp objected to that permit, the permit  
19 application was withdrawn.  
20 The same permit number was retained by  
21 the county, and subsequently Norman Gray  
22 applied for a contractor's license, received a  
23 contractor's license and reapplied for a  
24 building permit to build a bridge on Ms. Capp's  
25 land.

1 The creek is in endangered species water.  
2 There was a time-of-year restriction for  
3 replacing the bridge with a culvert bridge.  
4 The Grays decided they were going to  
5 build a clear-span bridge. The problem is that  
6 it isn't a clear-span bridge.  
7 They put the abutment in the creek, which  
8 caused another flurry of regulatory activity  
9 around the fact that the abutment was put in  
10 the creek.  
11 Nevertheless, the issue before you today  
12 is the fact that the county issued a building  
13 permit to the Grays to put a bridge on Ms.  
14 Capp's property.  
15 They are in civil litigation. The Court  
16 has issued an injunction to prevent Ms. Capp  
17 from interfering with the building of the  
18 bridge.  
19 And all of that is fine. We are not here  
20 today over whether or not there is a legal  
21 right to use the road.  
22 That is not why we're here.  
23 We're here because it is Ms. Capp's  
24 assertion that the permit is invalid because it  
25 wasn't issued in accordance with the law.

1 Here's the issue: There is a concrete  
2 bridge built on her property with the abutment  
3 in the creek.

4 And she is concerned about liability and  
5 the safety of the bridge, for any number of  
6 reasons.

7 And the purpose -- and there were no  
8 plans and specifications for this bridge  
9 submitted with the permit application.

10 There has been no opportunity for Ms.  
11 Capp, as the property owner, to review the  
12 safety of the bridge.

13 Now, ordinarily, of course, plans and  
14 specs are, you know, submitted for public  
15 safety. And there are public safety concerns.  
16 There could be a fire truck that needs to use  
17 the bridge, or a rescue vehicle that needs to  
18 use the bridge.

19 But here is the thing: Without those  
20 plans and specs on file during the application  
21 proceeding, there is no way for Mary Ann to  
22 look at those plans and specs and have her own  
23 engineer look at those plans and specs, and be  
24 able to make any comments, recommendations,  
25 come to the county with her engineer, and say:

1 Therefore, it is her assertion that the  
2 permit is invalid.

3 Now, let me check with Mary Ann.

4 I mean, it is obvious that Norman Gray is  
5 not Mary Ann, the property owner's authorized  
6 agent.

7 They are actually adversaries in a  
8 proceeding regarding the right to use the  
9 property, which is still ongoing.

10 MR. DONAHUE: We will get back and ask  
11 more.

12 I know there is lots of documents here.  
13 Let's get a general overview of what the  
14 perspectives are before we start any of that.

15 I think the next person we need to hear  
16 from is the building official who issued the  
17 permit.

18 MR. McMAHON: I would suggest you hear  
19 from the property owners first.

20 MR. DONAHUE: The applicant first?

21 MR. McMAHON: Right.

22 MR. DONAHUE: Okay. That is a good idea.

23 Thank you.

24 MS. BELINSKY: Mary Ann Capp is the --  
25 just to make a correction.

1 Hey, I think this bridge should be built better  
2 this way or, you know, raise her concerns with  
3 the abutments in the creek, they have narrowed  
4 the channel of the creek, there needs to be  
5 hydrological analysis done to see how they have  
6 narrowed the creek.

7 After all, these culverts, which were  
8 very large underground storage tanks that were  
9 used for culverting the creek, so you can see  
10 that is a bold creek.

11 There is no analysis of whether or not  
12 this creek -- and you can see where the rebar  
13 that was put right into the creek, in these  
14 photographs -- there is no analysis of how  
15 sound that structure is.

16 And so there is essentially a due process  
17 problem here in this proceeding.

18 It is her property. She has her property  
19 interests -- her liability interests primarily  
20 in this case, to look after.

21 And there has been no due process in  
22 place for her to see what was going to be built  
23 on her property before it was built, and have  
24 an engineer look at it, review it, and  
25 determine whether it was structurally sound.

1 Mary Ann Capp is the property owner. The  
2 Grays are not the property owners.

3 MR. DONAHUE: Right.

4 MS. BELINSKY: They built the bridge.

5 MR. DONAHUE: Trying to get an easement  
6 through that property.

7 But I think Mr. McMahon is correct. We  
8 should hear from the applicant --

9 MR. CLAY: Permit holder.

10 MR. DONAHUE: Permit holder or applicant.

11 MR. WAGNER: Aren't both of them property  
12 owners?

13 MR. McMAHON: They do have a property.

14 MR. WAGNER: Do what?

15 MR. McMAHON: I think the court has  
16 adjudicated that they do have a property.

17 MR. WAGNER: She owns part of it and she  
18 owns part of it?

19 MS. BELINSKY: No.

20 MS. CAPP: No easement has been  
21 determined.

22 MS. BELINSKY: No. Thier properties do  
23 not even connect. There is intervening  
24 properties between Mary Ann Capp's property and  
25 the Grays' property.

1 MR. DONAHUE: Well, that is good evidence  
2 to look at later, on maps.

3 Let's hear -- which one of you would like  
4 to speak, or is Mr. Clay going to speak for  
5 them?

6 MR. CLAY: May I speak for them?

7 MR. DONAHUE: You certainly may.

8 MR. CLAY: Thank you, sir.

9 I don't think it is an issue that is  
10 before you, and I don't think it is  
11 determinative of what your responsibility is --  
12 however, there is a case pending. The judge  
13 has ordered that Ms. Capp not interfere with  
14 the rights of the Grays to put the bridge in.

15 In that proceeding, we have alleged that  
16 they have a property right, that they have an  
17 easement, that they have a right to build the  
18 bridge.

19 The court saw fit to enjoin her from  
20 interfering with them.

21 I think that is -- for the purposes here  
22 today, that is the essential fact that sets the  
23 basis from which we need to proceed.

24 Our position is that it is the building  
25 official that has the responsibility, the

1 And I just wanted to say that.

2 And I am in the process of getting the  
3 post-construction inspection by an engineer  
4 done, which is required by Bill Yeager, and  
5 that is currently happening.

6 So I'm doing everything by the book.

7 MS. GRAY: I would also like to say, we  
8 have owned this property since 1986. We have  
9 100 acres. We have a beautiful home that we  
10 built.

11 These culverts -- you could walk across  
12 after the flood.

13 We were advised by a letter that Ms. Capp  
14 delivered six different ways, posted, mail, UPS  
15 -- everything -- saying that we could not  
16 trespass, that our vehicles would be towed,  
17 that the culverts would be removed because they  
18 were a nuisance and a hazard.

19 I have photographs to show that what she  
20 did by tearing them out, created much more of a  
21 hazard and tore this creek all to crap.

22 I saw a movie once -- and I can't --  
23 Dances With Wolves.

24 They are on -- the Indians -- the buffalo  
25 hunt.

1 authority to determine what meets the  
2 requirements for this structure in Montgomery  
3 County.

4 And what Mrs. Capp thinks about it or  
5 what she might -- with whatever engineering  
6 expertise, or whoever she might have that would  
7 have engineering expertise, we think that is  
8 irrelevant.

9 It is the responsibility of the authority  
10 of the county -- and I think that's where we  
11 are and that is what needs to be decided.

12 Thank you, sir.

13 MR. DONAHUE: Now, Mr. Yeager.

14 MR. GRAY: I just have got a -- I'm  
15 sorry. Can I have just a couple of minutes?

16 MR. DONAHUE: You can speak if you wish.

17 MR. GRAY: Well, one thing -- when she  
18 claims that the abutments are in the creek --  
19 the two culverts that were there were only ten  
20 feet wide -- the two of them together -- they  
21 were five foot wide.

22 My span on the abutments are 15 feet.

23 The picture she shows is after four days  
24 of rain with my footers full of water. I am  
25 clearly out of the creek.

1 When they come over the hill and they see  
2 the buffalo slaughtered, senselessly, for their  
3 tongues and their hide, and the people are so  
4 quiet because they are just devastated at the  
5 absolute senseless destruction -- when I walked  
6 over that hill, and I had to walk in and out of  
7 my house in the dead of winter, because of what  
8 Ms. Capp did -- that is the way I felt.

9 We have gone through every possible thing  
10 that we have been told to do from the federal  
11 government down to the lowest level, and have  
12 done everything that we can possibly do.

13 This woman is trying to keep me from  
14 going to my home, which has a deeded  
15 right-of-way, that she disputes.

16 My children couldn't even come and go to  
17 my home.

18 MR. DONAHUE: Mr. Yeager, if you would  
19 summarize your reasoning of issuing the  
20 building permit, and what grounds you feel  
21 under your rights under the U.S. -- under the  
22 Virginia Uniform State Building Code, we would  
23 appreciate it.

24 MR. YEAGER: Well, when a contractor  
25 comes in your office, under Section 108.4 the

1 pre-requisites for obtaining a permit -- they  
2 either have to be a landowner, which has many  
3 definitions in the IBC, if you ever look at it,  
4 or you have got to be a contractor.

5 And once one of those two things is  
6 confirmed, we're pretty much done with it.

7 That's really our only job.

8 I mean we get contractors that come in  
9 and pull permits every day. And as long as  
10 they are licensed in the State of Virginia, or  
11 a professional engineer, you know, sometimes,  
12 that's all we have as far as responsibility to  
13 issue that permit, as far as prerequisites.

14 MR. McMAHON: What was the case in this  
15 one?

16 What did you determine?

17 Did Mr. Gray show you he was a  
18 contractor?

19 MR. YEAGER: Yes. The first permit, back  
20 in May, was when he retracted that permit, and  
21 when he came back -- I don't know -- a couple  
22 of months ago, re-applied -- he had a  
23 contractor's license.

24 So we issued a permit based on the fact  
25 that he was a licensed contractor.

1 Is that correct, Mr. Yeager?

2 MR. YEAGER: I guess. That is handled by  
3 LPO.

4 It is BP 2013-10893.

5 MR. McMAHON: I am just asking you to  
6 confirm to make sure we're on the same page --  
7 literally.

8 Just to clarify, that permit came into  
9 effect on October 9th.

10 The one that came into effect earlier was  
11 voided, and this is a new one.

12 MR. YEAGER: That is correct.

13 MS. BELINSKY: They have the same permit  
14 number.

15 MR. McMAHON: Yeah. It has the same  
16 number, but it not going back to that May day.

17 It is going on the October 9th day.

18 Correct?

19 MR. YEAGER: That's correct.

20 We do not issue the numbers. That is  
21 done by computer.

22 MR. McMAHON: Now, look at their appeal.  
23 They decided two reasons why this board should  
24 overturn their decision.

25 One was that it shouldn't have been

1 MR. McMAHON: And did he provide the  
2 necessary number and certification to prove to  
3 you that he was a contractor?

4 MR. YEAGER: Yes. We verified it by the  
5 code.

6 We verified that one.

7 MR. McMAHON: What date did the permit go  
8 under?

9 MR. YEAGER: It was in October. The  
10 permit was issued in October. I don't know  
11 exactly what day.

12 MS. GRAY: October 9th, 2013.

13 MR. McMAHON: October 9th -- that is when  
14 you signed it; correct?

15 MR. YEAGER: That is when I signed it.

16 The permits aren't valid until I sign  
17 them.

18 MR. McMAHON: What is the permit number,  
19 there, Mr. Yeager?

20 Do you have a copy of that in front of  
21 you?

22 I think you will find it five or six  
23 pages in.

24 It is the same number as the previous  
25 permit.

1 issued.

2 And you addressed that; correct?

3 MR. YEAGER: That is my position.

4 MR. McMAHON: If he can show that he is a  
5 contractor or a landowner, he doesn't need to  
6 be a contractor, then you really -- your hands  
7 are tied. You have to issue the permit.

8 MR. YEAGER: Correct.

9 MR. McMAHON: Now, the second one they  
10 claim that they have should have submitted a  
11 plan or a plan should have been submitted.

12 Can you address that?

13 Can you address what has happened with  
14 plans and what has gone on to date, and what  
15 will happen in the future when this thing is  
16 wrapped up?

17 MR. YEAGER: Well, we got a plan that was  
18 prepared by John Neel, that showed in April a  
19 couple of culverts in it.

20 And when my inspector went out to do his  
21 first inspection, he noticed that what was  
22 going on on the job site didn't match the plan.

23 And at that point, during the  
24 construction -- when you're doing a bridge  
25 first of all, a bridge is not anything that you

1 can inspect in the code book.  
2 You can look through all the codes that I  
3 have -- nothing addresses the clear span of an  
4 I-beam or a bridge. That is all done by  
5 engineers.

6 MR. McMAHON: So you couldn't inspect  
7 that. You would need them to provide a bridge  
8 engineer to certify that it is built --

9 MR. YEAGER: Yeah. Somebody that can --  
10 an engineer would either have to do a plan or  
11 do the inspections, or -- you know, my job as  
12 the building official is to certify that that  
13 bridge meets the intent of the building code.

14 So any time you have an engineered  
15 entity, where your plan does not match --  
16 whether it is a log cabin or a bridge -- and  
17 you deviate from the plan, you know, our  
18 protocol, is: Now you have got to get it  
19 certified by a third-party engineer.

20 That third-party engineer has to give me  
21 a document that says, "This structure meets the  
22 intent of the building code" before I can issue  
23 a completion certificate.

24 MR. McMAHON: And you advised the Grays  
25 --

1 MR. YEAGER: I advised them of that, and  
2 they are currently, I guess, working on that.

3 MR. GRAY: Yes.

4 MR. YEAGER: But, again, my job is to  
5 make sure it meets the code.

6 A bridge has to be certified by an  
7 engineer. And, you know, once I get that, I  
8 feel like I've done what I'm supposed to do.

9 MR. BOYLE: But when you say, "The bridge  
10 has to be certified by an engineer," what do  
11 you mean?

12 MR. YEAGER: Well, the bridge has to be  
13 certified.

14 It actually -- he has actually got to do  
15 the calculations on the structure, the way it  
16 is built, and figure out what it is capable of  
17 holding, whether or not it meets all  
18 performance criteria.

19 You know, this thing, I guess has  
20 concrete-and-steel girders and stuff in it.

21 You know, he is going to have to evaluate  
22 the steel girders.

23 MR. BOYLE: You are going to ask him for  
24 these things in order to --

25 MR. YEAGER: Yes.

1 MR. BOYLE: Because he didn't do a plan  
2 prior?

3 MR. YEAGER: Right. Right.

4 MR. BOYLE: So now he is going to be  
5 going back and saying, yes, these items -- you  
6 know "I feel this bridge is safe," and he is  
7 going to put his stamp on the plan, and then  
8 that would be acceptable to you as the way to  
9 issue a final?

10 MR. YEAGER: Well, he is not only going  
11 to tell me the bridge is safe; he is going to  
12 tell me that this bridge will hold X amount of  
13 tons.

14 He is going to do the calculations, and  
15 tell us what the weight capacity of that bridge  
16 is -- not just give you a letter that says it  
17 meets the building code.

18 He is actually going to do calculations,  
19 and he's going to figure out what the capacity  
20 of the bridge is.

21 Then he is going to figure out what the  
22 acceptable limits for a bridge like that is,  
23 and then he is going to make some --

24 MR. McMAHON: Is he also going to provide  
25 you as-builts, showing what the bridge's

1 current state is?

2 MR. YEAGER: He can.

3 MR. McMAHON: Would you require that?

4 MR. YEAGER: I wouldn't really need it.

5 If he is telling me -- an actual as-built plan  
6 would only be helpful in an inspection process.  
7 It is kind of redundant to do a set of plans if  
8 you are having it certified, but, you know, he  
9 may do that. Some of them do that.

10 The calculations is really what I am more  
11 interested in. That way I know the actual  
12 structure was dissected for its capacity.

13 MR. PILKINGTON: Bill, when you -- when  
14 someone applies for a permit for a house, do  
15 you require drawings to be -- drawings and  
16 specs to be submitted as part of that?

17 MR. YEAGER: Yes.

18 MR. DONAHUE: Let me interrupt here.

19 I am a little at sixes and sevens here,  
20 because the only packet we have does not have  
21 -- it has the older date of June and July, but  
22 I do not see a copy of the current re-appeal  
23 that has caused this hearing, and its reason in  
24 our package.

25 And I have no copy of the current

1 building term. The building term copy I have  
2 is one of May -- May or June.

3 So if Ms. Ross can help us with that?  
4 Do you know where that is? In your  
5 office?

6 Do you have the file on that with you?  
7 MS. ROSS: I don't have it with me. I  
8 could go down and get the file.

9 MR. DONAHUE: Can we have her do that?

10 MR. McMAHON: I'm sorry?

11 MR. DONAHUE: Can we have her go down and  
12 get the file with the current -- make a copy?

13 MR. McMAHON: I have a copy.

14 MR. DONAHUE: Do you have it with you?

15 MR. McMAHON: I do. Here you go.

16 MR. DONAHUE: I'm willing to do that.

17 MR. McMAHON: Mr. Chairman, before you go  
18 on, can I address -- it was mentioned that  
19 plans are submitted when you get a building  
20 permit for a house, but is it true that plans  
21 are submitted throughout the whole process?

22 I mean, the permit is issued, and then  
23 there is always plans being submitted with  
24 changes or updates, or --

25 MR. YEAGER: I had a plan for this one.

1 the Uniform State Building Code, Bill.

2 Are they covered?

3 MR. YEAGER: No. No.

4 MR. DONAHUE: They are generally not  
5 covered under the --

6 MR. YEAGER: They don't come up not  
7 specifically covered under the building code,  
8 no.

9 MR. DONAHUE: Now, generally --

10 MR. WAGNER: Prescriptive; correct?

11 MR. DONAHUE: Prescriptive.

12 MR. BOYLE: It means it is not written  
13 down in the code book, which there are lots of  
14 things that are not.

15 MR. DONAHUE: It is not actually in the  
16 code, because the building code generally  
17 covers structures both commercial and  
18 residential, which is -- this is not considered  
19 a residual -- residential and commercial  
20 building structure.

21 It is more of a traffic structure or a  
22 highway structure.

23 There are requirements in the code --  
24 correct me -- I want to make sure that we have  
25 your understanding of this, is that some --

1 MR. DONAHUE: Let's back up for one or  
2 two minutes.

3 What I want to get to is, I want to get  
4 to this appeal, this file that is addressed to  
5 the chairperson, which is now myself.

6 The appeal is being filed for the  
7 following reason or reasons -- this is going to  
8 focus on what we need to talk about.

9 This is on -- you'll have to forgive me.  
10 I think Ms. Capp and her lawyer will agree --  
11 they filed this -- this is a verbatim reading:  
12 The appeal is being filed for the following  
13 reason or reasons: The county has violated the  
14 code by not requiring construction plans. The  
15 application is incomplete. The permit  
16 application is inaccurate. It is not a  
17 clear-span bridge because abutments are in the  
18 creek, which creates a liability and hazard.  
19 We are protecting liability concerns in the  
20 bounds of the permitting process.

21 And that is fair enough. Right.

22 Okay. So this brings us back to what we  
23 were discussing.

24 I would like to address the question  
25 directly is where our bridges is normally in

1 certain plans require, under -- certain permits  
2 require such a plan.

3 But to issue a building permit, all one  
4 needs is a plan signed by the engineer.

5 You have no right to question it.

6 If I submit a plan for a project and it  
7 has got my seal on it, as long as it meets the  
8 minimum requirements that it has a cover sheet  
9 and calls out for a certain few things -- the  
10 minimum requirements -- then you can't question  
11 the details of it, only the administrative issues  
12 of that.

13 Correct?

14 MR. YEAGER: Generally, I don't question  
15 engineers.

16 MR. BOYLE: But when you said a plan has  
17 to be submitted to get a permit -- is that the  
18 case?

19 MR. YEAGER: That is not necessarily --

20 MR. DONAHUE: He said in some cases.

21 MR. BOYLE: But it doesn't have to be.

22 MR. YEAGER: It doesn't have to be, no.

23 MR. BOYLE: Let's read it real quick.

24 Okay. It is right here.

25 MR. DONAHUE: That is what I want to get

1 to. I want to get the USBC.

2 MR. BOYLE: This is the application for  
3 permit, Section 108, and construction documents  
4 in section 109.1.

5 So 109.1 states, middle of document:  
6 Construction documents must be submitted with  
7 the application for a permit. The number of  
8 sets in such document shall be submitted -- to  
9 be submitted -- shall be determined by the  
10 locality. Construction documents for one- and  
11 two-family dwellings may have floor plans  
12 reversed, provided an accompanying site plan is  
13 approved.

14 By the way, this is the Virginia  
15 Construction Code. It is not the residential  
16 code.

17 There is an exception: Construction  
18 documents do not need to be submitted, when the  
19 building official determines the proposed work  
20 is of a minor nature.

21 MR. DONAHUE: Right. In either case, the  
22 county -- you mentioned the county in here, the  
23 county and the building official.

24 In these cases, we are talking about the  
25 AHJ, which is in the code, is the authority

1 having jurisdiction in this case -- by  
2 definition, the authority who has jurisdiction  
3 is the building inspector official, which is  
4 Mr. Yeager.

5 MR. BOYLE: There is a -- note --  
6 information on the types of construction  
7 required to be designed by an RDP, Registered  
8 Design Professional, is included in the related  
9 laws package, available from DHCD.

10 But I don't have a copy of that.

11 So -- well, I don't have it with me.

12 Going on one further, real quick, 109.3  
13 is "Engineering Details."

14 When determined necessary by the building  
15 official, construction shall include adequate  
16 details of structural, mechanical, plumbing,  
17 and electrical components, and so on.

18 So I just wanted to make that clear.

19 MR. DONAHUE: And plans were submitted  
20 with this applications, were they not?

21 MR. YEAGER: Yeah. I did get a plan. It  
22 just wasn't followed.

23 MR. DONAHUE: That's separation, because  
24 we're -- the matter here has to do with: Did  
25 the county follow the code by not requiring a

1 construction permit?

2 MR. YEAGER: We did get --

3 MR. DONAHUE: So as a factual matter,  
4 constructions plans were submitted.

5 MS. BELINSKY: Not with this application.

6 MR. YEAGER: Yes. Well --

7 MR. BOYLE: Was a plan submitted with the  
8 application made in early October?

9 MR. YEAGER: No. There was not a plan  
10 submitted in October.

11 The structure was already started and  
12 there was an understanding right up front that  
13 the engineer would be required to certify the  
14 structure.

15 MR. WAGNER: Are you defining the  
16 "structure" as the bridge or the house?

17 MR. YEAGER: Pardon?

18 MR. WAGNER: Are you defining the  
19 structure as a building or the bridge?

20 MR. YEAGER: I just call it "the  
21 structure."

22 It is not a building.

23 MR. WAGNER: Then let's don't call it a  
24 structure as in, per se, a framed building.

25 Just so we don't get confused.

1 MR. BOYLE: A structure is not defined  
2 necessarily as a building.

3 MR. DONAHUE: It's not a building  
4 structure.

5 MR. PILKINGTON: I mean, a retaining wall  
6 is considered a structure by the code.

7 MR. DONAHUE: That's fine.

8 You're used to working on buildings,  
9 because you build electrical systems and things  
10 like that.

11 MR. PILKINGTON: I mean for instance in  
12 the code --

13 MR. WAGNER: You mean a retaining wall is  
14 a structure?

15 MR. PILKINGTON: Yes.

16 MR. WAGNER: Well, that's confusing as  
17 hell, ain't it?

18 MR. DONAHUE: That is another issue, but  
19 that is --

20 Okay. Was there -- when you reissued  
21 this permit in October, did you have existing  
22 plans in the file?

23 MR. YEAGER: They submitted the same plan  
24 that I had the first time.

25 MR. DONAHUE: And at the time you were

1 issuing the building permit, administrative, in  
2 your office, you're not preparing -- at that  
3 point, in issuing the initial permit, whether  
4 it meets anything in the field yet, because no  
5 construction has occurred.

6 You are deciding whether they should have  
7 the right to have a permit issued.

8 MR. YEAGER: The second time around.

9 MR. DONAHUE: At any time around. You  
10 need to have -- you determine that this person  
11 has -- as Mr. McMahon has pointed out -- in  
12 this particular case, the person was a licensed  
13 contractor.

14 MR. YEAGER: Right.

15 MR. DONAHUE: Therefore, they did not  
16 have to have a homestead permit, and they did  
17 not own the land -- didn't own the land.

18 And then you have administrative  
19 requirements. In this case, you had some idea  
20 that there was a plan was received, and to your  
21 understanding, which in your position, sitting  
22 in this building, there is a plan that is --  
23 actually -- whether it was a true plan, or an  
24 effective plan or whatever, it is not your  
25 determination to make.

1 inaccurate in -- as they turn to the building  
2 code, and the administrative code that you were  
3 citing from.

4 And then the other point is -- I don't  
5 think this board, which is an administrative  
6 board -- needs -- will get into whether a  
7 "clear-span bridge" is the proper definition or  
8 not, but again, from an administrative  
9 standpoint, the building official -- the code  
10 doesn't require that for a permit to be issued.

11 Let's see -- and the rest of it is a  
12 description of how she has been injured.

13 So those are the two things -- no, that  
14 is the one thing. Those are the two things we  
15 need.

16 The two things are: Why is the  
17 application incomplete?

18 And how is it inaccurate as it pertains  
19 to a legally filed building permit application?

20 And at this point, we probably should let  
21 them talk, and then the Grays can rebut if they  
22 wish.

23 Fair enough?

24 MS. BELINSKY: Yes. Thank you, sir.

25 When Mr. McMahon started asking the

1 It is just the fact that  
2 administratively, it is there.

3 If you want to listen to -- take evidence  
4 from other parties -- hold on.

5 But I want to make sure that we are all  
6 pulling on this.

7 Is there anything else as far as the  
8 permit goes?

9 So we're trying to address these facts,  
10 And then we'll ask for some responses here.

11 The application is incomplete.

12 Now, we -- there was an existing  
13 application that was retracted, and that has  
14 been refiled in October.

15 And some of this information that is in  
16 the file is being reused. So there is existing  
17 information.

18 And the application is complete.

19 The question is -- I would like to ask --  
20 I'll probably have to ask Ms. Capp and her  
21 attorney how they feel the application is  
22 incomplete.

23 That is one of their assertions.

24 If the permit application is inaccurate,  
25 the only inaccuracies we can address are

1 building official questions, he said -- he was  
2 asking about the after-the-fact certification.

3 And what he said was, he wanted Mr.  
4 Yeager to address what will happen in the  
5 future when this thing is wrapped up?

6 Well, that is just the issue.

7 There is never an opportunity for Ms.  
8 Capp to look at those plans and have her own  
9 engineer look at those plans.

10 If those plans had been in place when the  
11 application was made, Ms. Capp could have taken  
12 them to her independent engineer, and had them  
13 evaluated.

14 That wasn't -- she wasn't given that  
15 choice.

16 And our complaint about that is that her  
17 rights of due process has been violated by the  
18 lack of plans.

19 Now, does the code require the plan?

20 Construction, Section 109.1:

21 Construction documents shall be submitted with  
22 the application for a permit.

23 Were there plans?

24 No. Ms. Capp went to the office on  
25 there was a Columbus Day holiday the Monday

1 following the issuance of the permit.

2 There was construction activity  
3 throughout the weekend. She went to the office  
4 Tuesday morning. She was there by 10:00 in the  
5 morning, and she asked for everything in the  
6 file.

7 She was not given a set of plans. She  
8 wrote a letter to you, asking you to confirm  
9 that what she got was the complete file.

10 MR. DONAHUE: Not to us, but to Mr.  
11 Yeager's office.

12 MS. BELINSKY: Right. So there was a  
13 request made to tell me if everything I have  
14 right here is not the complete file.

15 And there was no response to that letter.  
16 There was no correction made, and there were no  
17 plans with that application.

18 MR. BOYLE: We just read --

19 MS. BELINSKY: In fact, she was told that  
20 the file had been destroyed -- that there was  
21 no file.

22 MR. BOYLE: But the idea that the county  
23 violated the code by not requiring construction  
24 plans, and you just read the first sentence  
25 from that section, but there is an exception

1 directly underneath of it.

2 MS. BELINSKY: There is an exception for  
3 -- when the building official determines the  
4 proposed work is of a minor nature.

5 He hasn't made that determination that I  
6 am aware of, then there is these --

7 MR. BOYLE: So --

8 MS. BELINSKY: Then --

9 MR. BOYLE: So the statement is that they  
10 have to be submitted, and then the next  
11 statement says that there is an exception where  
12 they do not have to have plans.

13 MS. BELINSKY: If the building official  
14 determines that the proposed work --

15 MR. BOYLE: That's right.

16 MS. BELINSKY: -- is of a minor nature.

17 MR. BOYLE: Yes.

18 MS. BELINSKY: He hasn't done that, that  
19 I am aware of. He didn't do it in writing.

20 MR. BOYLE: I mean, obviously that might  
21 have happened if the permit was issued, and  
22 there was no plans.

23 MS. BELINSKY: Well, then how would you  
24 know if it was of a minor nature if he didn't  
25 have any plans?

1 MR. BOYLE: I mean, if you are just  
2 looking at it from the outside saying that a  
3 permit was applied for without plans, and  
4 issued --

5 MS. BELINSKY: Okay. Well --

6 MR. BOYLE: And then issued, then  
7 somebody would have used this exception. I  
8 mean --

9 MS. BELINSKY: That should have been  
10 documented, but nevertheless -- the  
11 determination -- the issue of this bridge being  
12 a clear-span bridge -- the definition of a  
13 clear-span bridge is that it is out of the high  
14 water mark. It is above the high water mark of  
15 the creek.

16 That is what the definition is of a  
17 clear-span bridge.

18 And so, if you put a bridge abutment in a  
19 creek below the high water mark, that would  
20 necessarily make it not of a minor nature.

21 Now, let me address one more issue here.

22 The note -- there is a note --  
23 information on the types of construction  
24 required to be designed by an RDP is included  
25 in the related laws package, available from the

1 DAPD.

2 Well, the related laws package says on  
3 page 67, and the title of the section is "A/E  
4 seal on drawing."

5 Any unique design of structural elements  
6 for floors, walls, roofs, or foundation,  
7 requires an A/E seal, regardless of whether or  
8 not the remainder of the plans require such  
9 certification.

10 Well, there is a foundation in a creek.

11 MR. BOYLE: Would you read that again,  
12 please.

13 MS. BELINSKY: Sure. I'm sorry.

14 Any unique design of structural elements  
15 for floors, walls, roofs, or foundations,  
16 requires an A/E seal, regardless of whether or  
17 not the remainder of the plans require such  
18 certification.

19 It's our assertion that --

20 MR. WAGNER: Where did that come from?

21 MS. BELINSKY: That comes from the  
22 related laws package.

23 MR. BOYLE: All right. But what that  
24 doesn't say is that, yes, they say it need an  
25 RDP plan. 81

1 And the building official is -- asks them  
2 for that. So you can't -- it doesn't say that  
3 they then have to have this plan before they  
4 issue a building permit.

5 It just says that -- you know, it's  
6 saying, you know, where -- because that happens  
7 a lot, you know, where --

8 MS. BELINSKY: It happens a lot on  
9 property where --

10 MR. BOYLE: Excuse me.

11 MS. BELINSKY: Where the developer is the  
12 property owner --

13 MR. BOYLE: When it happens -- when it is  
14 supposed to happen when -- the building  
15 official is not an expert in designing bridges.

16 And so, they would use -- they would say:  
17 I need you to tell me that this works. So --  
18 and that is done by an RDP.

19 And that is why it is saying that.

20 MS. BELINSKY: When does Ms. Capp get to  
21 challenge whether that engineer is correct?

22 MR. BOYLE: She does not.

23 MS. BELINSKY: Okay --

24 MR. BOYLE: She doesn't get to challenge  
25 that, I don't get to challenge that. Nobody

1 because it is of a minor nature.

2 MS. BELINSKY: This is nothing in  
3 writing, no determination by the building  
4 official that this bridge is of a minor nature.

5 MR. WAGNER: By not issuing or asking the  
6 contractor that did the work to supply him with  
7 drawings and R&D certificate form, informed the  
8 contractor that was doing that work that it was  
9 of a minor nature.

10 Had it been of anything other than that,  
11 then Mr. Yeager would have asked for the  
12 drawings and the certificate.

13 But he didn't.

14 So therefore, it is of a minor nature.

15 MR. DONAHUE: Mr. Pilkington?

16 MR. PILKINGTON: Typically, it is allowed  
17 for the building official to make the  
18 determination whether or not the work is of a  
19 minor nature.

20 I deal with that all the time in my work.  
21 So Mr. Yeager does have the authority to make  
22 that determination under the related laws  
23 package.

24 That is always the understanding that we  
25 as designers, as engineers and architects, have

1 gets to challenge that.

2 MR. WAGNER: Why should she?

3 MS. BELINSKY: Because her liability  
4 insurance carrier for her property insurance  
5 might care.

6 MR. WAGNER: -- right to declare that.

7 MR. BOYLE: These people are licensed by  
8 the State of Virginia, when they do --

9 MS. BELINSKY: The insurance carriers  
10 might have been here had the engineer provided  
11 -- had there been plans provided, we might be  
12 sitting here with our own engineer tonight.

13 MR. WAGNER: Well, didn't you have the  
14 opportunity to do that already?

15 MS. BELINSKY: No, we did not.

16 There were no plans submitted.

17 MR. WAGNER: Then there were no plans  
18 submitted because there was none required.

19 MR. BOYLE: Are --

20 MR. WAGNER: You read that a minute ago,  
21 that it does not require --

22 MS. BELINSKY: The law says they shall be  
23 required.

24 MR. WAGNER: It does not require those  
25 plans to be given to the building official,

1 always had with the building component.

2 MR. DONAHUE: Let's back up here because  
3 this is not a court of law. And obviously  
4 there are a lot of legal issues here that  
5 should be resolved in a court of law.

6 One, this board has no legal  
7 administrative law obligation to make a  
8 determination of whether the plans call for a  
9 technically clear-span bridge or not.

10 We only can review process and whether,  
11 according your appeal, a building permit should  
12 have been issued.

13 The only action we have as a board, is to  
14 either concur that the building permit was  
15 issued legally or not, or should be retracted.

16 That is the only issues that we're here  
17 to talk about tonight.

18 MR. WAGNER: That is it.

19 MR. DONAHUE: That is it.

20 Now, I as an engineer -- Mr. Pilkington  
21 represents the architectural side -- I  
22 represent the engineering side.

23 I personally have a problem with -- this  
24 is obviously not a minor matter. A bridge that  
25 carries traffic is not a minor construction. **82**

1 project.

2 The plans should be supplied.

3 Now, I don't think it does any good to us  
4 to say what happened when the permit was --

5 I think we need to look at right now, the  
6 current status. It's water over the dam, quite  
7 literally, even though there is not a dam  
8 involved here.

9 But we have to look at what we have now.

10 We have an existing building permit. It  
11 is a question of whether it's legitimate or  
12 not.

13 And at this point, whether it was  
14 legitimate when it was actually signed a month  
15 ago or not, I think is less relevant than where  
16 the status of it is now.

17 If we find, as a Commission, or a Board,  
18 I should say, that the building permit as it  
19 stands, and the package that was with it, is  
20 not sufficient and not adequate to make a legal  
21 permit, we would have a right to rule that the  
22 building permit should be denied, cancelled,  
23 voided, and retracted.

24 But if, even though it may have not been  
25 originally sufficient, it is now sufficient, as

1 and tries to do a project on my property I  
2 don't know anything about.

3 MR. WAGNER: That's right.

4 MR. DONAHUE: But whether or not I have  
5 the right to go and look at plans and all that,  
6 again, would be more for a court of law.

7 All the building official can do is meet  
8 the state regulations for building of  
9 structures and residences.

10 In this case, the question is: Do we  
11 have a licensed contractor whose building  
12 applies to the permit, in a timely manner, met  
13 the requirements of the USBC, and is there now  
14 a plan -- whether or not it is as-built to the  
15 plan -- is there a plan signed by an engineer  
16 that is in the files of the offices of the  
17 building department in the County of  
18 Montgomery?

19 MR. YEAGER: Well, not yet. It is still  
20 being worked on.

21 MR. DONAHUE: Okay. I think we need to  
22 consider that.

23 I also do have a problem -- to finish up  
24 with me, because I want these other gentlemen  
25 to reflect on this -- I have a problem with the

1 the record stands, I can't see why we would  
2 then force the Building Department of the  
3 County of Montgomery to retract that building  
4 permit.

5 So I think we go back to ascertaining  
6 where we are.

7 As far as I know, there is no requirement  
8 in the USBC that when you take out a permit,  
9 you have to consider the landowner.

10 MR. WAGNER: That's right.

11 MR. DONAHUE: If the landowner has a  
12 problem with a permit being taken out, it can  
13 be considered a criminal trespass matter.

14 And, at that point, it is not a matter  
15 for us. It is back again to the courts.

16 And I will not, as chairman of this  
17 board, entertain anything to do with whether  
18 this is or is not an act of criminal trespass.

19 So we now have a licensed contractor  
20 coming in and asking for a permit on somebody's  
21 property, and I don't really care, as chairman  
22 -- and I'll let the other board members state  
23 their opinion, whether it is your property, her  
24 property or my property.

25 I might have a problem if somebody comes

1 building permit in October being reissued in  
2 the same number.

3 And I know -- we know, Bill, that the  
4 land tracting system, planning department gave  
5 us the same number, but you can request that it  
6 be a different number.

7 And I think -- If I remember seeing a  
8 documentation -- I don't really want to reflect  
9 on things that haven't been officially entered  
10 in this proceeding.

11 But we did see some initial stuff, until  
12 it was retracted in July, at the first appeal,  
13 that became moot because of the retracting of  
14 the building permit, but there was -- Ms. Gray  
15 had applied as an unlicensed person, under her  
16 homestead permit.

17 And now her husband, a separate  
18 individual, has applied.

19 As a contractor, I believe there is  
20 enough difference there that that building  
21 permit should be issued under a separate  
22 number.

23 MR. YEAGER: I will make that change.

24 MR. DONAHUE: Well, this board, we may  
25 have to make a ruling on that some day.

1 At this point, if there is no plan on the  
2 record, I would propose -- and I want the other  
3 three gentlemen here to reflect on this -- and  
4 tell me what their opinion is -- but I would  
5 say that my opinion on this right now, is that  
6 the current building permit should be set aside  
7 and tabled right now, or whatever the legal  
8 term is.

9 It should be put aside and become  
10 inactive -- or not inactive, but invalid to a  
11 point that -- until a plan -- put on standby,  
12 until a plan is approved.

13 Because I believe this project is not of  
14 a minor nature, and it needs to have a plan.

15 I think Mr. Pilkington can probably agree  
16 on that.

17 The second thing is, I would like to see  
18 this building permit when it goes forward,  
19 reissued under a different number.

20 So seeing that, I think what needs to  
21 happen is this current building permit needs to  
22 be retracted and voided, and the file be moved  
23 under a different file number, and be held up  
24 for building permit issuance, reissue it under  
25 a different number, until such time as a plan

1 exists.

2 So that is my perspective on that.

3 All the other issues here I don't think  
4 are relevant. They are all court related --  
5 either civil or criminal court related and they  
6 don't pertain to us.

7 Do you want to speak to that, Jason?

8 MR. BOYLE: No. I don't agree.

9 I mean, I think that the building  
10 official made his decision about the plans, and  
11 now is working to get them, and that seems to  
12 me to be completely acceptable within the code.

13 Because we run into this a lot. And  
14 people try to question the RDP's design or  
15 question what's happening, and they really --  
16 you really can't.

17 You know, it's not necessarily -- I mean,  
18 these people are designing it -- but anyway --

19 MR. DONAHUE: Well, we are actually --

20 MR. BOYLE: I don't think the county has  
21 violated the code by not requiring a  
22 construction plan.

23 MR. WAGNER: Well, I completely agree  
24 with him.

25 MR. DONAHUE: Okay.

1 MR. WAGNER: I have absolutely no problem  
2 with the building official.

3 Now, we are professionals. We do this  
4 for a living. You do the same thing.

5 That man sitting right there depends on  
6 us as professionals to know our jobs and to do  
7 our jobs.

8 He is not down there to correct what we  
9 do -- one.

10 Now, if that man has already got his  
11 contractor's license and he is going to the  
12 county to get a permit, then he is dependent on  
13 that man back there to give him correct  
14 information.

15 Now, the information in the beginning may  
16 not be the same thing as it ends up in the end,  
17 as a lot of times we do.

18 We will go in. They will give us some  
19 drawings that may start out to be one thing.  
20 Somewhere down the road, they get changed a  
21 little bit.

22 Well, he can even come back and look at  
23 it, ask for drawings, ask for submittals to,  
24 you know, upgrade it, downgrade it, or change  
25 it.

1 But they are not on the record when  
2 everything gets started.

3 Very seldom do you have everything that  
4 you need, that when you start a job, when you  
5 apply for a permit, a building permit,  
6 everything that he needs is in that file in the  
7 beginning.

8 It ain't there. It never has been. And  
9 it probably never will be.

10 There will always be some things that  
11 will be left out, some things that he will have  
12 to require, as he goes along, to be added to  
13 that file.

14 That is why he depends on us as  
15 professionals and contractors to work with him.

16 That is where they run into a problem  
17 with homeowners trying to come to the county,  
18 because they are not used to working under that  
19 kind of circumstances or working under --  
20 trying to find the information that he needs to  
21 do his job.

22 They are just not used to that.

23 So -- now, back up to your part right  
24 there -- I don't care if you got a landowner,  
25 if she is a landowner, if that man right back

1 there in the corner wants to come and build a  
2 house and build on your property, as far as him  
3 and that building official goes, he can come  
4 and build it.

5 Now, if you have got a problem with  
6 building it, there is nothing in the code that  
7 says he can't build it on somebody else's  
8 property.

9 There is nothing in the code that says he  
10 can't build that house on somebody else's  
11 property.

12 Because that is not his job.

13 His job is to oversee the contractors  
14 that come in to him to apply for a permit to  
15 build a house, to see that it is built,  
16 according to the building code.

17 And the building code is of a very low  
18 standard for building any structure.

19 It is not at the top of the list. It is  
20 a minimum.

21 If you can't build a house to the  
22 building code, then you don't have a very good  
23 house to begin with.

24 You need to build way above that.

25 But that -- his job is to determine that

1 on a specific location.

2 But if she had been using a right-of-way  
3 on that property for the last 20 years, which I  
4 think she has been, since '86 -- 25 years ago.

5 Have you ever had a beef with her coming  
6 across your property for 25 years?

7 MS. CAPP: Many.

8 MR. WAGNER: Have you ever stopped her?

9 MS. BELINSKY: This is a --

10 MR. WAGNER: The thing about it is --

11 MS. BELINSKY: These issues go far beyond

12 --

13 MR. DONAHUE: Let's --

14 MR. WAGNER: I'll tell you what -- but  
15 what I'm saying is, he has a right to issue  
16 that permit, whenever he wants to and whoever  
17 he wants to, and it is up to him to determine  
18 what he wants to see in a package in the way of  
19 information.

20 Now, there are times I have gone out and  
21 said: I need to get a permit, doing a job.

22 And I'll bring him things as they come  
23 along.

24 And he says: Well, that if fine. I know  
25 who you are. I know what kind of job you are

1 you meet the lowest standards possible for a  
2 house.

3 Now, as far as where he builds it, it  
4 doesn't make any difference.

5 That is your job to see that he builds it  
6 on the right side of the fence.

7 Now, if that property belongs to that  
8 lady right back there, and she is building on  
9 her house, and she has crossed your land for  
10 the last 25 years to get to her property and to  
11 her house, you have got no claim on it. None.

12 So I don't know really what the issue is  
13 here right now. The permit was issued to a  
14 licensed contractor. The numbers could be the  
15 same thing. Maybe he wants to issue each  
16 contractor the same building permit number.

17 There is nothing wrong with that, as long  
18 as that contractor built -- you are working on  
19 this job today. Sure.

20 Building contractor numbers, the license  
21 numbers like that, go to specific jobs.

22 It doesn't make any difference if it is  
23 over a duplicate. There is no reason why it  
24 can't be, as long he keeps track of the  
25 information that he is given for a specific job

1 going to do. And you will bring it to me  
2 later. Sure. Go ahead.

3 But it's not scientific -- or not  
4 scientific. It is not specified in there in  
5 writing that he does not have the option that  
6 he can switch it one way or the other. It is  
7 his option.

8 And that's all I got to say.

9 MR. PILKINGTON: I have a quick question  
10 for Mr. Yeager, because there is a lot of talk  
11 about whether or not it is in the code, as to  
12 whether or not someone has the legal right to  
13 build on someone else's property, or issue a  
14 permit for it.

15 Mr. Yeager, do you know of anything in  
16 the code book or in the related laws package  
17 that requires legal proof of ownership of the  
18 property or legal access to the property prior  
19 to issuance of the building permit?

20 MR. YEAGER: Not that I'm aware of.

21 MR. PILKINGTON: You folks have owned it  
22 since '86; correct?

23 MS. GRAY: Yes, sir.

24 MR. PILKINGTON: Ms. Cappy, when was the  
25 first point where you brought up a legal issue

1 regarding access to the property?

2 MS. CAPP: That is a whole different  
3 subject matter.

4 MR. PILKINGTON: The reason I ask is  
5 because there is a prescribed easement, which  
6 is what you guys are basically going for, these  
7 20 years in the State of Virginia.

8 MS. CAPP: Well, my attorney has that  
9 pretty well under --

10 MR. PILKINGTON: Okay.

11 MS. CAPP: And there is a big file in the  
12 county courthouse.

13 MS. BELINSKY: If you really want to  
14 know, the Grays sued in 2002 -- Sue and Mary  
15 Ann Capp for a prescriptive easement and let  
16 the claim elapse.

17 It was dismissed out of the court system  
18 for lack of prosecution.

19 So as early as 2002 -- and Mary Ann Capp  
20 counterclaimed.

21 So they were at issue about it in 2002.

22 MS. CAPP: This is not a prescriptive  
23 easement hearing.

24 MR. PILKINGTON: I understand that.

25 But the reason I am asking -- the only

1 with the lawful construction of a bridge or  
2 interfering with their access.

3 MR. WAGNER: Did she use that bridge  
4 prior to it washing out?

5 MS. BELINSKY: Ms. Capp?

6 MR. PILKINGTON: So --

7 MS. CAPP: There is a way around the  
8 bridge too.

9 MR. PILKINGTON: So the court has  
10 determined that Ms. Capp does not have a legal  
11 right to interfere with -- I mean, I am just  
12 trying --

13 MS. BELINSKY: There is an injunction.  
14 We have not had a full trial on the merits. In  
15 fact, there isn't -- the parties aren't even  
16 joined yet.

17 MR. PILKINGTON: Right.

18 MS. BELINSKY: We haven't replied to a  
19 complaint, and we have not answered a complaint  
20 and so forth.

21 So we are in preliminary stages of  
22 litigation.

23 MR. DONAHUE: Thank you for that.

24 MS. BELINSKY: To determine the --

25 MR. DONAHUE: We want to pull back away

1 reason I am asking that is because, I just  
2 would like to know whether or not there is  
3 proof -- I am not debating whether or not it is  
4 a prescriptive easement or not.

5 What I am asking is: Is there legal  
6 proof from the applicant -- from the permit  
7 applicant that they have legal access right to  
8 build on the property.

9 MS. CAPP: That is to be determined.

10 MS. BELINSKY: And our understanding of  
11 the law is that it is irrelevant to this  
12 proceeding.

13 MR. PILKINGTON: I understand that.

14 But there has been all this talk about  
15 it, and I want to make sure we kind of -- we  
16 establish that.

17 MS. CAPP: My assertion and my position  
18 is, no, they have no right to build on my  
19 property. They will not get a prescriptive  
20 easement.

21 MR. PILKINGTON: I understand that is  
22 yours, but what has the court ruled on that?

23 MS. BELINSKY: There has been  
24 preliminary hearings and an injunction has been  
25 issued to prevent Mary Ann from interfering

1 from those issues.

2 MR. PILKINGTON: The only reason I --  
3 because there was talk about they were using it  
4 for so long.

5 And I want to make clear, and I think Mr.  
6 Yeager answered the question.

7 Is there nothing in the code or the state  
8 law -- or state law that requires proof of  
9 legal access to the property to issue a permit?

10 And if that is the determination then so  
11 be it.

12 MR. DONAHUE: You have your answer there.  
13 The question I have for you as the other  
14 RDP on this board --

15 MR. PILKINGTON: Uh-huh.

16 MR. DONAHUE: -- is do you feel, as I do,  
17 that in a case like this, where you're building  
18 a structure for your use on a third-person's  
19 property, that we can say, at least that, that  
20 we know they are trying to build a structure on  
21 property that is not theirs, to access their  
22 property -- that is a simple thing. It is easy  
23 to not argue about that they obviously want to  
24 build on somebody else's property -- to access  
25 the property that they do own. **86**

1 MR. PILKINGTON: Sure.

2 MR. DONAHUE: In a structure like that,  
3 wouldn't you normally require -- would you be  
4 willing to go with Jason and Allen to determine  
5 that was a minor -- or we can see that it  
6 certainly should require some kind of plan.

7 Now, whether the plans meet what are  
8 filed or not later down the road is not an  
9 issue.

10 MR. WAGNER: No issue.

11 MR. DONAHUE: The question is: Do they  
12 have a plan by an RDP in the first place?

13 That is all I was asking. I think we  
14 should have an RDP plan with an RDP stamp.

15 I don't care if they meet -- that is an  
16 ongoing enforcement issue that the courts would  
17 issue --

18 But that's down the road. But right now,  
19 the question is: Was this a minimally issued  
20 permit, and should it stand, or should we  
21 retract it, and it be amended or corrected, or  
22 some other thing that I had proposed from my  
23 perspective?

24 MR. PILKINGTON: Well, Mr. Donahue, I  
25 personally -- I think that the work is not of a

1 to the building inspector.

2 Otherwise, he has got no credentials. He  
3 has a hard job day in and day out, dealing with  
4 people like us, and worse reprobates.

5 MR. YEAGER: I would like to say  
6 something.

7 One thing with plans in Montgomery  
8 County, you know, typically a lot of your  
9 larger apartments have legitimate plan review  
10 people, which makes it more easier to handle  
11 the flow of plans that come in.

12 We don't review plans here. We look over  
13 them to make sure the information is what we  
14 need for our inspectors out on site, and scan  
15 them and send them back out in the field.

16 So, you know, until I get some in-house  
17 plan reviewers on a full-time basis, my  
18 inspectors do my plan review in the field.

19 That is why with projects that -- of this  
20 magnitude, the engineering is done third party.

21 Throughout the whole county -- our  
22 schools are done third party, our churches were  
23 done third party. And they all change.

24 They start out with a good, pretty decent  
25 direction, but, you know, steeples change,

1 minor nature.

2 MR. DONAHUE: Yes.

3 MR. PILKINGTON: But as I said before, it  
4 has always been understood that the building  
5 official had the authority to decide whether or  
6 not the work is of a minor nature.

7 MR. DONAHUE: So something is -- if he  
8 did not have a plan on file he has made that  
9 determination?

10 MR. BOYLE: Or has made arrangements to  
11 deal with it.

12 MR. PILKINGTON: Yes. I mean, I  
13 personally don't believe that that is the case,  
14 but as I said, it is always the building  
15 official's responsibility to make that  
16 determination.

17 MR. DONAHUE: And that's your argument.

18 MR. BOYLE: We don't know you're arguing  
19 whether or not you can even question --

20 MR. DONAHUE: I see that point.

21 MR. BOYLE: If you even have the right to  
22 question whether it is a minor question.

23 MR. DONAHUE: I think we are in  
24 agreement. I have to -- unless there is an  
25 egregious abuse of his authority, have to defer

1 seating changes, structures -- materials  
2 change.

3 But in the end, my job is to make sure  
4 that building meets -- or that structure meets  
5 the code.

6 So I am going to get a design  
7 professional that knows that job, a structural  
8 engineer, to tell me -- do calculations and  
9 documentation and provide a stamped document  
10 that says: This meets the conformance values  
11 of the code.

12 As the building official, I have  
13 accomplished what Chapter One asks me to do --  
14 is make sure that it meets the intent of the  
15 code.

16 I may not follow the path, exactly how it  
17 is scripted, but I don't have three plan  
18 reviewers on staff and four inspectors.

19 There is three of us.

20 But I can accomplish code compliance in  
21 the end, the same way.

22 And as far as -- to my best ability, I  
23 don't know of anything in the code where if we  
24 have a licensed contractor, where I have to  
25 deny them a permit for the basis of getting **87**

1 homeowner's consent.

2 Perhaps that is something that needs to  
3 change, but right now, it is just not there.

4 You know, the book -- we've got about  
5 1600 changes going in again this year.

6 Obviously it is not right.

7 That's all I wanted to say.

8 MR. DONAHUE: Okay. So to summarize  
9 here, is what we are dealing with, and this  
10 would go along with Mr. Wagner's comment is Mr.  
11 Yeager's only job in the code purposes is --  
12 just pulling it out of the code -- is to  
13 guarantee -- and this is part of my ethical  
14 thing, I swear to when I get -- Mr. Pilkington  
15 does as an architect, is we have to assure the  
16 health, safety, and welfare of the public.

17 And that is the scope and only purview we  
18 have.

19 So that is why we do not get into who  
20 owns what land.

21 All the code requires is, if it is not on  
22 your own property and you do not apply for  
23 homesteading purposes because you own the  
24 property, you have to be a licensed contractor,  
25 you are a licensed contractor, you applied for

1 the record, just because I don't know the  
2 sufficiency of the Adjustment and Appeals Board  
3 serving as the Local Board of Building Code  
4 Appeals.

5 So I just want to note that on the record  
6 that --

7 MR. WAGNER: What was that again?

8 MS. BELINSKY: The notice for this  
9 proceeding says that this is the Adjustment and  
10 Appeals Board, parenthesis, or LBBCA, Local  
11 Board of Building Code Appeals, so I'm just  
12 questioning the board's status, just to get it  
13 on the record.

14 MR. PILKINGTON: What was the question?

15 MR. DONAHUE: I will ask the question.

16 Mr. McMahon, as the county attorney, can  
17 you affirm that we are a county board?

18 MR. McMAHON: Correct. And this board was  
19 appointed and designated by the board of  
20 supervisor for the purpose of getting a Local  
21 Building Code --

22 MR. DONAHUE: Right. We are acting in  
23 our capacity in this particular case as the  
24 Local Building Code Court of Building Code  
25 Appeals.

1 the permit.

2 With that, I think Mr. Boyle is ready to  
3 make a motion that we uphold the permit as it  
4 stands, as it is.

5 Is that correct?

6 MS. BELINSKY: Can I address some issues  
7 before you vote?

8 MR. DONAHUE: Sure.

9 MS. BELINSKY: There are some criteria  
10 that go into concrete construction that we are  
11 not certain whether that is going to be in any  
12 kind of a post-construction certification and  
13 --

14 MR. BOYLE: But it will be.

15 MS. BELINSKY: Okay. So where -- there  
16 needed to be hydraulic sufficiency, determined,  
17 of this bridge -- concrete mix ratios,  
18 anchoring of the footers, anchoring of the  
19 slabs, rebar size, and rebar spacing.

20 And considering that this is something  
21 that is going to be at a -- under a --  
22 basically a hydraulic load.

23 And after all, it was a flood that washed  
24 out the culverts that were there to begin with.

25 And I just want to make one final note on

1 MS. BELINSKY: You were appointed by the  
2 Board of Supervisors when?

3 MR. DONAHUE: The board of supervisors.  
4 We have a list of all our terms and when they  
5 expire.

6 MR. WAGNER: Mine was eight years ago.

7 MS. BELINSKY: Okay.

8 MR. DONAHUE: But they are appointed  
9 every four years.

10 MR. PILKINGTON: We serve four four-year  
11 terms, and I believe, Mr. Donahue, you are on  
12 your first term.

13 MR. DONAHUE: I am on my second term.

14 MR. PILKINGTON: You are on your second  
15 term.

16 Mr. Boyle and I are on our first term.

17 MR. DONAHUE: Mr. Boyle is now on his  
18 second term, and that starts next month.

19 And the -- here we go -- as to which is  
20 -- the idea is that the county cannot afford  
21 the resources and has the personnel willing to  
22 serve in a voluntary capacity, as we do, to  
23 constitute multiple boards with different  
24 personnel.

25 Therefore, it is the choice of the **88**

1 to have an Adjustment and Appeals Board with  
2 the overall names such as that, and then we can  
3 act as necessary as the Local Board of Building  
4 Code of Appeals, or the Fire Safety Code  
5 Appeals or whatever codes need to be appealed.

6 MR. PILKINGTON: Mr. Donahue, may I ask  
7 one further question?

8 MR. DONAHUE: Certainly.

9 MR. PILKINGTON: Mr. Yeager, so just to  
10 reiterate, it is your determination that an  
11 engineered report, including design data,  
12 including all the information that Ms. Capp's  
13 attorney mentioned would be acceptable to be  
14 submitted at the end of the project or during  
15 the construction of the project?

16 MR. YEAGER: Either/or.

17 MR. PILKINGTON: As opposed to the  
18 beginning. Okay.

19 MR. YEAGER: Preferably, we would like to  
20 have it in the beginning, but when you get  
21 started, and things are already done and  
22 covered up, and you have got to use the  
23 forensic approach, it is more costly to do it  
24 that way, but everybody else accepts it.

25 MR. WAGNER: But he will also come back

1 it, we don't know what his determination is  
2 going to be.

3 MR. DONAHUE: So my feeling is somewhere  
4 I would like to have some assurance that there  
5 is going to be a RDP certified document here  
6 that is going to be filed eventually --

7 MR. WAGNER: Sure.

8 MR. DONAHUE: And we understand that can  
9 be edited and changes get done all the time,  
10 but there has got to be a document, which is a  
11 part of the record.

12 MR. WAGNER: And that --

13 MR. BOYLE: And they are risking having  
14 to remove it.

15 MR. DONAHUE: And we certainly believe  
16 that there might be liability issues here, but  
17 they don't involve us -- they don't involve Mr.  
18 Yeager, or therefore us.

19 MR. WAGNER: True. Now, when he gets  
20 down to giving his final blessing and hands  
21 over the CO and the keys and everything else to  
22 the bridge, and the house, that is when  
23 everything has got to be in that file and  
24 determined and passed, or steps have to be  
25 taken to make corrections to get it to pass.

1 and give you a load limit on it too.

2 MR. YEAGER: He will give you a load, a  
3 maximum load.

4 MR. WAGNER: Right. And that is  
5 basically all you are interested in anyway.

6 MR. YEAGER: Well, not just load.

7 I want to make sure that, you know, it  
8 meets all aspects of the performance  
9 requirements.

10 MR. WAGNER: What is that load?

11 MR. YEAGER: Part of that is load.

12 MR. PILKINGTON: Part of that is load,  
13 and part of it is also lateral forces on the  
14 bridge.

15 MR. WAGNER: All of the above.

16 MR. PILKINGTON: -- hydraulic or  
17 whatever.

18 MR. DONAHUE: To be determined by the  
19 RDP.

20 MR. PILKINGTON: Right. Exactly.

21 MR. WAGNER: The RDP may come in there at  
22 the end of it and say, "Hey, this is a pile of  
23 rocks and concrete, and you have got to tear  
24 the whole thing out and start over," which  
25 until it is done, until he goes and inspects

1 And that can happen anywhere through the  
2 process, until he says his blessing.

3 MR. YEAGER: Yes. If there is any  
4 corrections, they have to be done prior to.

5 MR. WAGNER: And that is the only thing  
6 we are here trying to do is to make sure that  
7 the structure that she is building, that she is  
8 building on -- well, somebody's property.

9 We don't know who it belongs to yet.

10 It meets the code and that is all the  
11 whole thing can be done. That is all she had  
12 -- that is it.

13 MR. DONAHUE: Gentlemen, how are we going  
14 to close out this hearing?

15 We have to have some kind of a  
16 resolution.

17 MR. WAGNER: I'll make a motion that we  
18 are in agreement to Mr. Yeager issuing the  
19 permit to the contractor, and that it is of  
20 good standing.

21 MR. DONAHUE: It is a legitimate action.

22 MR. WAGNER: A legitimate action.

23 MR. DONAHUE: Second?

24 MR. BOYLE: I just want to make sure  
25 is the right thing we are doing here as far as

1 the wording.

2 I mean, it sounds good, but I just --

3 there is some other things in here, but we're

4 saying that we would --

5 MR. WAGNER: All we are concerned with is

6 him issuing a permit to that contractor to

7 build a structure.

8 MR. BOYLE: So we're making --

9 MR. PILKINGTON: I think, Jason, what you

10 are asking is the argument that the claimant

11 has made in this case -- are we addressing all

12 of those items accordingly?

13 MR. BOYLE: Right.

14 MR. PILKINGTON: Or are we -- or are we

15 making the motion that the appeal will be

16 denied?

17 MR. BOYLE: Basically, yeah.

18 MR. DONAHUE: I think what this court has

19 to do is at the end of the motion, is to say

20 either uphold, or overturn or amend the

21 decision.

22 MR. BOYLE: I think Mr. Wagner is trying

23 to make a motion to uphold.

24 MR. DONAHUE: For the following reasons,

25 and you should say why you're upholding it --

1 MR. WAGNER: I disagree --

2 MR. DONAHUE: -- or amending it.

3 MR. WAGNER: I disagree with the reasons,

4 other than just stating one simple fact: That

5 we are upholding his decision to issue a permit

6 -- and stop.

7 MR. DONAHUE: I think we can clarify that

8 motion by saying that we want to make a motion

9 to uphold his decision based on our reading and

10 interpretation of the USBC.

11 MR. WAGNER: Correct.

12 MR. DONAHUE: Is that right, Robert?

13 MR. PILKINGTON: What is that?

14 MR. DONAHUE: We are basically upholding

15 his reading and interpretation of the USBC.

16 MR. PILKINGTON: Yeah. I mean, the

17 bottom line is the appeal was made on the fact

18 that the County violated the permit application

19 by not requiring a construction plan. The

20 application was incomplete. The permit

21 application is inaccurate. It is not a

22 clear-span bridge because abutments are in the

23 creek. And she is protecting her liability

24 concerns.

25 MR. BOYLE: So we're mainly responding to

1 the first sentence.

2 MR. PILKINGTON: That the County has not

3 violated -- violated the code by not requiring

4 construction plans, and that the application is

5 incomplete.

6 MR. DONAHUE: Now, Mr. McMahon, would you

7 be more comfortable if we made a motion that

8 specifically addressed those four points -- the

9 reasons -- such as we disagree that the --

10 MR. McMAHON: It is not a matter of me

11 being comfortable, because I am not

12 representing you.

13 But I'm making the argument that this

14 board should make -- you can do three things --

15 uphold it --

16 MR. DONAHUE: You're the only --

17 MR. McMAHON: -- deny it, or amend it.

18 But you should give reasons why.

19 MR. DONAHUE: There should be reasons.

20 So I am asking whether --

21 MR. BOYLE: I think the two reasons that

22 the appeal -- is one, they are saying it

23 shouldn't have been issued, and, two, they are

24 saying there should have been plans.

25 Right?

1 MR. McMAHON: Right.

2 MR. DONAHUE: I think you addressed

3 those.

4 MR. McMAHON: Right.

5 MR. PILKINGTON: The only one that I will

6 say, because I have asked the question, but I

7 personally don't know the answer.

8 I know that it is not in the code book.

9 I haven't found it anywhere in the code book,

10 that states that you have to have a legal right

11 to build on a piece of property, but I would be

12 curious --

13 MR. DONAHUE: To get a permit.

14 MR. PILKINGTON: To get a permit. Yeah.

15 To be granted a permit to build, but I can't

16 say whether or not that's actually in the

17 statement.

18 MR. WAGNER: It is not.

19 MR. BOYLE: It is not in the building

20 code.

21 Is it in some other state law?

22 MR. DONAHUE: It is, but it is not under

23 building code or administrative code.

24 MR. PILKINGTON: It is under land law

25 MR. DONAHUE: Which is not our purview

1 MR. PILKINGTON: Which is not -- okay.  
2 Got you. That is a good point.  
3 So it might be under some other state  
4 law.  
5 But that doesn't involve --  
6 MR. DONAHUE: It doesn't involve us.  
7 There is plenty of legal standing. I am  
8 very satisfied on this.  
9 MR. PILKINGTON: Okay. I am clear now.  
10 I think I am clear on it.  
11 MR. DONAHUE: Ms. Capp's attorney can  
12 deal with it in a court of law, but it doesn't  
13 involve this particular decision.  
14 MR. PILKINGTON: Got you. I'm clear on  
15 that now. I think we can --  
16 MR. BOYLE: I make a motion that we deny  
17 the appeal based on the fact that the County  
18 did not violate the code by not requiring the  
19 construction plans.  
20 MR. PILKINGTON: I second that.  
21 MR. WAGNER: I concur.  
22 MR. DONAHUE: Any discussion?  
23 MR. WAGNER: We have been doing that for  
24 10 minutes.  
25 MR. DONAHUE: We will take a vote.

1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:  
2 I, Caroline Lane, Court Reporter, Notary  
3 Public in and for the Commonwealth of Virginia at  
4 Large, and whose commission expires February 28,  
5 2015, do certify that the aforementioned appeared  
6 before me, that the foregoing is a true, correct,  
7 and full transcript of the testimony adduced.  
8 I further certify that I am neither  
9 related to nor associated with any counsel or party  
10 to this proceeding, nor otherwise interested in the  
11 event thereof.

12 Given under my hand at Roanoke, Virginia,  
13 this 20th day of November, 2013.

14  
15  
16  
17 

18 Caroline Lane, Notary Public  
19 Notary Registration No. 238126  
20 Commonwealth of Virginia at Large

21  
22  
23  
24  
25

78

1 Would you call the roll, Ms. Ross?  
2 We are going to take a vote on this  
3 motion.  
4 MS. ROSS: James.  
5 MR. BOYLE: Jason.  
6 MR. PILKINGTON: Mr. Boyle.  
7 MR. ROSS: Mr. Boyle.  
8 MR. BOYLE: Here.  
9 MR. DONAHUE: No, you have to vote on it.  
10 MR. BOYLE: I am voting.  
11 MR. DONAHUE: You have to vote.  
12 MR. BOYLE: I vote yes.  
13 MS. ROSS: Mr. Pilkington?  
14 MR. PILKINGTON: I concur. I vote yes.  
15 MS. ROSS: Mr. Donahue.  
16 MR. DONAHUE: Go with him. The chairman  
17 is the last.  
18 MS. ROSS: Mr. Wagner?  
19 MR. WAGNER: I vote yes.  
20 MR. DONAHUE: Yes.  
21 The motion passed. It is unanimous.  
22 I declare this hearing closed.  
23  
24 (Proceedings concluded at 6:29 p.m.)  
25

REVIEW BOARD APPEAL 14-1  
CAPP VS. MONT. CO. ET AL.

RECORD OF THE LOCAL BOARD

**McMahan, Alan (DHCD)**

---

**From:** Candace R. Ross [rosscr@montgomerycountyva.gov]  
**Sent:** Friday, January 24, 2014 2:50 PM  
**To:** McMahan, Alan (DHCD)  
**Cc:** William C. Yeager  
**Subject:** Mary Ann Capp Appeal  
**Attachments:** Capp Appeal.pdf; Appeal Decision Capp.pdf

Mr. McMahan,

Enclosed is a copy of the documents presented to the LBBCA for the appeal filed by Mary Ann Capp. I also attached a copy of the letter and resolution that was mailed to Ms. Capp and Mr. Gray.

Thank You,

Candace R. Ross  
Montgomery County Building Inspections Department  
755 Roanoke St. Suite 1D  
Christiansburg, VA 24073-3173  
540-382-5750(phone)  
540-381-6880(fax)  
[rosscr@montgomerycountyva.gov](mailto:rosscr@montgomerycountyva.gov)



**RESOLUTION UPHOLDING THE MONTGOMERY COUNTY  
BUILDING OFFICIALS DECISION TO  
ISSUE BUILDING PERMIT NUMBER BP-2013-10893**

WHEREAS, On November 6, 2013, the Montgomery County Local Board of Building Code Appeals (LBBCA) considered the appeal filed by Karen Windham and Mary Ann Capp, property owners residing at 2732 Sugar Grove Road, Christiansburg, Virginia; and

WHEREAS, Ms. Windham and Ms. Capp appealed the decision of the Montgomery County Building Official to issue building permit #BP-2013-10893 to Norman Gray for the construction of a bridge at 2732 Sugar Grove Road in the County of Montgomery, Virginia; and

WHEREAS, the LBBCA conducted an open meeting providing all parties the opportunity to be heard and the LBBCA considered evidence presented by Ms. Windham and Ms. Capp, the Montgomery County Building Official and the Permit Holder; and

WHEREAS, a Motion was made and seconded for the LBBCA to uphold the decision of the Montgomery County Building Official to issue Permit Number BP-2013-10893 to Norman Gray for the construction of a bridge at 2732 Sugar Grove Road in Montgomery County, Virginia.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Local Board of Building Code Appeals that the Montgomery County Local Board of Building Code Appeals hereby unanimously uphold the Decision of the Montgomery County Building Official to issue Building Permit Number BP-2013-10893 to Norman Gray for the construction of a bridge at 2732 Sugar Grove Road in Montgomery County, Virginia.

BE IT FURTHER RESOLVED by the Montgomery County Local Board of Building Code Appeals that "Any person who was a party to the appeal may appeal to the State 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, Virginia 23219, (840) 371-7150."



Joel Donahue, Chair  
Montgomery County Local Board of Building Code Appeals

RECEIVED  
JUL 15 2013  
11:20am

**Building Permit Appeal**  
**Montgomery County, VA**

RECEIVED  
NOV 1 - 2013

**Submitted by:**

**Mary Ann Capp**

**July 15, 2013**

*Nov 1, 2013*

**ADJUSTMENT AND APPEALS BOARD (BUILDING CODE)**

<u>Member</u>	<u>District</u>	<u>Term of Appointment</u>
Jason C. Boyle (Term 1) 3930 Horse Farm Road Blacksburg, VA 24060 (h) 552-1004 (c) 320-9705 <u>jason@greenvalleybuildersinc.com</u>	A	Nov. 24, 2009 – Nov. 23, 2013
Robert W. Pilkington (Term 1) 4099 Fort Vause Drive Shawsville, VA 24162 (h) 268-1495 (w) 381-4290 <u>rpilkington@balzer.com</u>	C	Nov. 24, 2009 – Nov. 23, 2013
Edgar A. Howard (Term 1) 850 New Village Drive NW Christiansburg, VA 24073 Tel: 540-641-4933 <u>eah0622@hotmail.com</u>	B	Mar. 29, 2011 – Mar. 28, 2015
Joel A. Donahue(Term 2) 2722 Bunny trail Drive Blacksburg, VA 24060 Tel: 951-3782 (c) 577-0772 <u>joel.donahue@comcast.net</u>	A	June 26, 2011 – June 25, 2015
Allen F. Wagner (Term 2) 1005 Red Leaf Court Christiansburg, VA 24073 (c) 597-4627 <u>wag230@msn.com</u>	B	Mar. 28, 2010 – Mar. 27, 2014
<b>TERM OF OFFICE:</b>	4 Years	
<b>TERM LIMIT:</b>	Yes (2 consecutive 4-year terms)	
<b>NUMBER MEMBERS:</b>	5	
<b>APPOINTMENT BY:</b>	At Large	
<b>LEGAL MANDATE:</b>	State	
<b>BONDED:</b>	No	
<b>COMPENSATION:</b>	\$25 per meeting	
<b>PUBLIC NOTICE OF MEETINGS:</b>	No	
<b>MEETING SCHEDULE:</b>	Meets on an as-needed basis	
<b>JOB DESCRIPTION:</b>	Meets to hear appeals regarding decisions made by the Building Inspector, and any appeals regarding the Electrical Code.	

Advertise; Board appoints.



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173



CHAIRPERSON  
MONTGOMERY COUNTY BOARD OF BUILDING CODE APPEALS  
755 Roanoke St. Suite 2E  
Christiansburg, VA 24073  
Attn: Secretary to the Board

I wish to appeal a decision of the Montgomery County Building Official as permitted under the current edition of the Virginia Uniform Statewide Building Code (USBC).

The subject of this appeal is located at: 2732 Sugar Grove Rd Christiansburg VA 24073

As the building (check one)  Owner,  Owner's Agent, I am hereby appealing the decision of the Montgomery County Building Official because of the following reason. Please check one:

- The Building Official has refused to grant a modification to the USBC
- The Building Official has incorrectly interpreted the true intent of the USBC
- The provisions of the USBC do not fully apply in this instance

The Building Official determined that: (describe the decision, a copy of the decision must be attached)  
A building permit be issued to an applicant that is not my authorized agent. The applicant, Norman Gray has an adversarial position to my property protection and liability interests. The applicant Norman Gray has no fee interest in my property. No right of way has been determined.

The decision of the Building Official was rendered on: October 9, 2013  
(Date)

The Building Official's decision was based on the following code and section(s):  
Virginia Uniform Statewide Building Code 2009 Sec 108.4 and Sec 109.1  
(Code Name) (Edition) (Section)

This appeal is being filed for the following reason or reasons: (add additional sheets if needed):  
The County has violated the code by not requiring Construction plans. Application is incomplete. The permit application is inaccurate. It is not a clear span bridge because abutments are in the creek which creates a liability and hazard. I am protecting liability concerns within the bounds of the permitting process.

The following points are relevant add addition sheets as needed): Building Permit BP-2013-10893 was Appealed on June 21, 2013. On July 15, 2013 I was informed by electronic mail that this permit was withdrawn and the Hearing was cancelled. A week later I inquired about any additions to the

Owners' Name: <u>Mary Ann Capp Karen Windham</u>	Submitters Name: <u>Mary Ann Capp</u>
Signature: <u>Mary Ann Capp</u>	Signature: <u>Mary Ann Capp</u>
Address: <u>2732 Sugar Grove Rd</u>	Address: <u>2732 Sugar Grove Rd</u>
City, State, Zip: <u>Christiansburg VA 24073</u>	City, State, Zip: <u>Christiansburg VA 24073</u>
Telephone/e-mail: <u>540-320-6001 macapp@windspan.com</u>	Telephone: <u>540-320-6001</u>

> Page 3 of 4 and was told that the file no longer exists. Today I was told the file (continued) had been recycled (ie. destroyed) It appears there is an attempt to deny my right to appeal by re-issuing a Permit No. BP-2013/10893 and beyond the time limit. Since the Stop Work Order in July 2013, construction resumed again on October 19, 2013. 7-10 business days indicated in Permit file.

# RESIDENTIAL BUILDING/ZONING PERMIT

Building Inspections, Dept. of General Services  
755 Roanoke Street, Suite 1D, Christiansburg, VA 24073-3173 Phone: 540-382-5750 Fax: 540-381-6880

This Permit becomes void if work is not commenced within six (6) months of issuance or work becomes inactive for a time period greater than six (6) months.

This permit includes the Virginia State Levy for continued education and training (2.0% of Building Permit Fee)

**ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE**

Permit Date: 05/24/2013 R-Permit Number: BP-2013-10893 Permit Fee: \$76.00

Property Owner's Name: CAPP MARY ANN Phone (H): Phone (W):

Mailing Address: 2732 SUGAR GROVE ROAD CHRISTIANSBURG, VA 24073-

Contractor Name: NORMAN GRAY License #: 2705151449

Phone: Fax: Cell: (540)320-4145 eMail:

Mailing Address: 3000 SUGAR GROVE ROAD CHRISTIANSBURG, VA 24073

Mechanics Lien Agent (MLA): NONE DESIGNATED Phone:

Address:

Project Site Address: 2732 SUGAR GROVE ROAD

Magisterial Dist MS Parcel ID: 020499 Tax Map #: 109- A 45 Deeded Acres: 73.900

Subdivision: Block: Lot #:

Driving Directions:

Property Zoning: Agricultural Building Setbacks: Front 40 Side: 20 L/S: 15 R/S: 15 Rear: 40

**BUILDING INFORMATION:** Type of Activity: VB Wood Frame - Unprotected IBC: IRC: Year: 2009

Use Group: R-5 Residential, Residential, 1&2 Family, IRC Structure: Bridge - Res. New

Description: RESIDENTIAL BRIDGE

Size - Height Width: 12 Length: 16 # Stories: # Bedrooms: # Bathrooms:

Finished Area (sq ft): 192 Unfinished Area (sq ft):

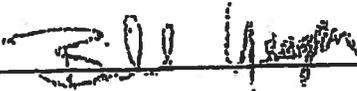
Garage Attached (sq. ft.): #Existing Dwelling Units: #Other Units:

Water Services: Sewer Services: Septic Permit#:

Road Services:

Estimated Construction Cost: \$10,000.00

MONTGOMERY COUNTY BUILDING OFFICIAL:



Date: 10/09/13

## NOTICE

The permit holder shall be responsible for notifying Building Inspections for all inspections as required above.

**RESIDENTIAL BUILDING PERMIT APPLICATION**  
Montgomery County, Virginia

Residential Building Permit must be issued before construction begins. Application for this permit may be made to the Building Official or designate.

Application is hereby made for a Residential Building Permit in accordance with the description and for the purpose hereinafter set forth. This application is made subject to all local and state laws and ordinances and the undersigned hereby agrees to said laws and ordinances which shall be deemed a condition of applying for this permit.

Applications must be accompanied by ONE set of construction plans.

**ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE**

Application Date: 10/7/13 Applicant Type: Residential  
Applicant Name: Norman Gray

Property Owner's Name: Mary Ann Capp + Karen Wigham  
Mailing Address: 2732 Sugar Grove Rd.  
Phone (H): (540) 381-2722 Phone (W): (540) 380-4145 e-mail: \_\_\_\_\_

Contractor's Name: Norman Gray DBA Name: \_\_\_\_\_ License#: 2705151449  
Address: 3000 Sugar Grove Rd Town: Christiansburg State: Va Zip: 24073  
Phone: (540) 381-9122 Mobile: (540) 380-4145 Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

Mechanic's Lien Agent: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_  
Address: \_\_\_\_\_

Project Site Address: 2732 Sugar Grove Rd.

Residential Building Information:

New Construction: Stick Built? \_\_\_\_\_ or Modular? \_\_\_\_\_ Alterations/Repairs? \_\_\_\_\_ Addition? \_\_\_\_\_  
Foundation: Basement? \_\_\_\_\_ Crawl Space? \_\_\_\_\_ Piers? \_\_\_\_\_  
Type of Activity: RESIDENTIAL IRC: \_\_\_\_\_ Code Year: \_\_\_\_\_ Use Group: R-6 Construction Type: 5B  
Size: Height: 5' Width: 12' Length: 14' # Stories: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_ # Bathrooms: \_\_\_\_\_  
Finished Area(sq ft): \_\_\_\_\_; Unfinished Area(sq ft): \_\_\_\_\_; Basement (sq. ft.) (if not already included in Finished/Unfinished area) \_\_\_\_\_  
Attached Garage (sq. ft.): \_\_\_\_\_  
Accessory Building (sq. ft.): \_\_\_\_\_ Detached Garage (sq. ft.): \_\_\_\_\_ Addition(sq. ft.): \_\_\_\_\_ Alteration(sq. ft.): \_\_\_\_\_

Water Services: \_\_\_\_\_ Sewer Services: \_\_\_\_\_

Road Services: \_\_\_\_\_ Public \_\_\_\_\_ Private \_\_\_\_\_

Additional Comments: New Clear SPAN BRIDGE on Right of Way

Estimated Project Cost 8900<sup>00</sup> (Labor and Materials Only)

I hereby certify that I have the authority to make the foregoing application, that the information given is correct and that the construction will conform to the regulations of the Virginia Uniform Statewide Building Code, Zoning Ordinance, and any private building restrictions that may be imposed upon the above property by the deed. Also, I hereby agree to restore all damages to sidewalks, streets, alleys, sewers, gas mains, and electrical installation that may result.

I further certify that I have or will contact Montgomery Co. Planning and GIS Services to discuss the proposed project to insure that it will comply with all applicable development and zoning codes.

Norman Gray  
Printed Name of Permit Applicant

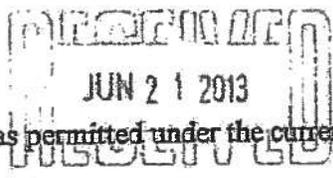
Norman Gray  
Signature of Property Owner, Contractor, or Authorized Agent

**MUST SATISFY ALL FIELD INSPECTIONS**

SCANNED

Chairman  
Montgomery County Board of Building Code Appeals  
755 Roanoke Street, Suite 2E  
Christiansburg, VA 24073  
Attention: Secretary to the Board

Date: 6-21-13



I wish to appeal a decision of the Montgomery County Building Official as permitted under the current edition of the Virginia Uniform Statewide Building Code (USBC).

The subject of this appeal is located at:

2732 Sugar Grove Road, Christiansburg VA 24073  
Street Address Town

As the building  owner  owner's agent, I am hereby appealing the decision of the Montgomery County Building Official because of the following reason: (check one)

- The Building Official has refused to grant a modification to the USBC.
- Building Official has incorrectly interpreted the true intent of the USBC.
- The provisions of the USBC do not fully apply in this instance.

The Building Official determined that: (describe the decision; a copy of the decision must be attached)

A Building Permit be issued based on abandoned plans and an ineligible applicant that can be adverse to my interests and liability concerns

The decision of the Building Official was rendered on: 5-30-13  
Date

The Building Official's decision was based on the following code and section(s):

Virginia Uniform Statewide Building Code 2009 Sec 108.4 ADD  
Code Name Edition (Year) Section(s)  
The State of Virginia Sec 54.1

This appeal is being filed for the following reason or reasons: (add additional sheets if needed)

Only the landowner can self contract. The applicant, Susan Gray has no fee interest in the land. The applicant is not an authorized agent. The applicant has an adversarial position to the protection of my liability and interests. The applicant has no bridge construction supervision experience. The applicant has a claim of emotional distress.

The following points are relevant: Exemption Affidavit is invalid.

Concern for liability, the accepted plans are abandoned for a culvert bridge and the intent of the code is circumvented by not assuring the plans for a span bridge would meet all potential load and safety requirements. I am protecting liability concerns within the bounds of the permitting process. The permit application is inaccurate and with errors.

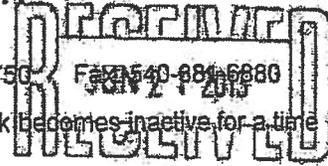
Owner's Name: <u>Mary Ann Coppy + Karan Winkler</u>	Submitter's Name: <u>Mary Ann Coppy</u>
Signature: <u>[Signature]</u>	Signature: <u>[Signature]</u>
Address: <u>2732 Sugar Grove Rd</u>	Address: <u>2732 Sugar Grove Rd</u>
City, State, Zip: <u>Christiansburg VA 24073</u>	City, State, Zip: <u>Christiansburg VA 24073</u>
Telephone: <u>540 320-6000</u>	Telephone: <u>540-320-6801</u>

R-Permit #: BP-2013-10893

Montgomery County, Virginia

**RESIDENTIAL BUILDING/ZONING PERMIT**

Building Inspections, Dept. of General Services  
755 Roanoke Street, Suite 1D, Christiansburg, VA 24073-3173 Phone: 540-382-5750



This Permit becomes void if work is not commenced within six (6) months of issuance or work becomes inactive for a time period greater than six (6) months.

This permit includes the Virginia State Levy for continued education and training (2.0% of Building Permit Fee)

**ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE**

Permit Date: 05/24/2013 R-Permit Number: BP-2013-10893 Permit Fee: \$56.00

**Property Owner's Name:** CAPP MARY ANN Phone (H): Phone (W):

**Mailing Address:** 2732 SUGAR GROVE ROAD CHRISTIANSBURG, VA 24073-

**Contractor Name:** SUSAN GRAY License #:

Phone: Fax: Cell: (540)320-4145 eMail:

**Mailing Address:** 3000 SUGAR GROVE ROAD CHRISTIANSBURG, VA 24073

**Mechanics Lien Agent (MLA):** NONE DESIGNATED Phone:

**Address:**

**Project Site Address:** 2732-SUGAR GROVE ROAD

**Magisterial Dist. MS Parcel ID:** 020499 **Tax Map #:** 109- A 45 **Deeded Acres:** 73.900

**Subdivision:** **Block:** **Lot #:**

**Driving Directions:**

**Property Zoning:** Agricultural **Building Setbacks:** Front: 40 Side: 20 L/S: 15 R/S: 15 Rear: 40

**DING INFORMATION:** Type of Activity: VB Wood Frame - Unprotected IBC: IRC: Year:

**Use Group:** R-5 Residential, Residential, 1&2 Family, IRC: Structure: Basement

**Description:** PERMIT IS FOR A BRIDGE

**Size - Height:** Width: 12 Length: 16 # Stories: # Bedrooms: # Bathrooms:

**Finished Area (sq ft):** 192 **Unfinished Area (sq ft):**

**Garage Attached (sq.ft.):** #Existing Dwelling Units: #Other Units:

**Water Services:** **Sewer Services:** **Septic Permit#:**

**Road Services:**

**Estimated Construction Cost:** \$10,000.00

**MONTGOMERY COUNTY BUILDING OFFICIAL:**

*Bill [Signature]*

**Date:** 05/30/13

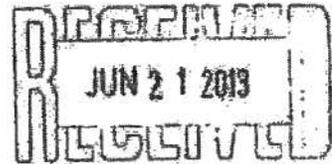
**NOTICE**

The permit holder shall be responsible for notifying Building Inspections for all inspections as required above.



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 10, CHRISTIANSBURG, VIRGINIA 24073-3173



**EXEMPTION AFFIDAVIT**

I (name) SUEAN Gray  
(PLEASE PRINT)

affirm that I am performing, managing or superintending work consisting of improvements to real property located at this address:

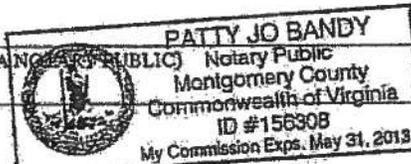
and that I am the person who has applied for a building permit.

In accordance with Title 54.1-1.1 of the Code of Virginia, any person applying for a permit shall furnish satisfactory proof that he is duly licensed to do the work, or file a written affidavit that he is not subject to licensure or certification as a contractor or subcontractor. The Code of Virginia 54.1-1101 exempts any person who performs or supervises the construction, removal, repair or improvement of (1) no more than one building for retail use, one building for commercial use, and one residence upon his own real property and for his own use during any twenty-four-month period, (2) a house upon his own real property as a bona fide gift to a member of his immediate family\* provided such member lives in the house, (3) industrial or manufacturing facilities for his own use. \*"Immediate family" includes one's mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law and father-in-law.

**NOTE TO PROPERTY OWNERS:** If you made arrangements with a contractor to do this work, Montgomery County strongly suggests that the contractor is the party to secure the necessary permit(s). When contractors obtain permits in their names, they indicate their responsibility for the work. When you sign this affidavit you are obtaining a permit(s) in your name that will be performed by the contractor. This should be avoided. When a permit is issued solely in the name of the property owner, enforcement actions against a contractor for code violations may become difficult. In addition, when the contractor applies for the permit, the contractor will be required to submit licensing information. Unwillingness on the part of the contractor to obtain the necessary permit(s) may be an indication that he contractor is not properly licensed. Ask the Building Official's office any questions you have regarding the matter before signing this form.

Signature: Suean Gray

(MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC)



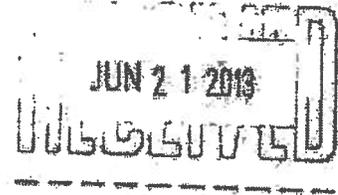
County of Montgomery, Commonwealth of Virginia

I Patty Jo Bandy, a Notary Public in and for the  
aforementioned State/County. I have executed this affidavit on the 24th day of  
May, 2013.

Patty Jo Bandy  
(Notary Public)

**SCANNED**  
May 31, 2013  
(Commission Expires)

Effective 09/2008



Montgomery County Inspections Department  
755 Roanoke St. Suite 1-D  
Christiansburg, Va. 24073  
Office: 540-382-5750  
Fax: 540-381-6880

Project Name: Sugar Grove

May 30, 2013

Permit Holder: Mrs. Susan Grey  
3000 Sugar Grove Rd  
Christiansburg, Va. 24073

Property Owner: Mary Ann Capp  
2732 Sugar Grove Rd  
Christiansburg, Va. 24073

Mrs. Grey,

The application submitted for the structure to replace the removed culverts has been approved. Because the original stamped plans has been changed. I need the following items:

- 1) A post construction inspection performed on the structure and a stamped approval document by the RDP indicating that the structure meets the intent of the applicable codes.
- 2) A formal letter from the RDP verifying the construction materials used are adequate for the use intended.

Respectfully,

John W. Broughton  
Building Inspector/  
Erosion and Sediment Control Inspector



MONTGOMERY COUNTY DEPARTMENT OF  
PLANNING AND GIS SERVICES

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

No Zoning Permit Required

Date: 5/24/13

Applicant Name: Susan Gray

Phone number: 540-250-1432

Property Owner Name: Mary Ann Capp & Karen Windham

Tax Map Number: 109-A-45

Parcel ID Number: 020499

Parcel Address: Btwn 2732 & 2901 Sugar Grove Rd.

Proposed Project: Construct a 12'x16' clear span bridge with Steel I-beams  
above high water mark

Reason Zoning Permit not required: Not in regulated flood zone.

Signature of Zoning Administrator or Designee Steve M. Sandy

SCANNED

\*Please remember to attach this form to the subject parcel in LDO.\*

Montgomery County, Virginia

RESIDENTIAL BUILDING/ZONING PERMIT APPLICATION

Residential Building/Zoning Permit must be issued before construction begins. Application for this permit may be made to the Building Official.

Application is hereby made for a Residential Building/Zoning Permit in accordance with the description and for the purpose hereinafter set forth. This application is made subject to all local and state laws and ordinances and the undersigned hereby agrees to said laws and ordinances which shall be deemed a condition of applying for this permit.

Applications must be accompanied by construction plans.

ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE

Application Date: 05 / 24 / 2013 Applicant Type: Contractor
Applicant Name: SUSAN GRAY

Property Owner's Name: CAPP MARY ANN
Mailing Address: 2732 SUGAR GROVE ROAD CHRISTIANSBURG, VA 24073-
Phone (H): Phone (W): Email:

Contractor's Name: SUSAN GRAY DBA Name: License#:
Address: 3000 SUGAR GROVE ROAD CHRISTIANSBURG, VA 24073
Phone: Mobile: (540)320-4145 Fax: Email:
Mechanic's Lien Agent: NONE DESIGNATED Phone:
Address:



BY:.....

Project Site Address: 2732 SUGAR GROVE ROAD

Magisterial District: MS Parcel ID: 020499 Tax Map #: 109- A 45 Deeded Acres: 73.900
Division: Block: Lot #:

Living Directions:

Property Zoning: Agricultural Building Setbacks: Front 40 Side: 20 L/S: 15 R/S: 15 Rear: 40

Residential Building Information: Type of Activity: VB Wood Frame - Unprotected IBC: IRC: Year:

Use Group: R-5 Residential, Residential, 1&2 Family, IRC Structure: Basement

Description: PERMIT IS FOR A BRIDGE

Size - Height Width: 12 Length: 16 # Stories: # Bedrooms: # Bathrooms:

Finished Area (sq ft): 192 Unfinished Area (sq ft):

Garage Attached(sq.ft.): #Existing Dwelling Units: #Other Units:

Water Services: Sewer Services: Septic Permit#:

Road Services:

SCANNED

Estimated Project Cost: \$10000.00 Residential Permit Fee (Estimated):\$56.00

I hereby certify that I have the authority to make the foregoing application, that the information given is correct and that the construction will conform to the regulations of the Virginia Uniform Statewide Building Code, Zoning Ordinance, and any private building restrictions that may be imposed upon the above property by the deed. Also, I hereby agree to restore all damages to sidewalks, streets, alleys, sewers, gas mains, and electrical installation that may result.

I further certify that I have or will contact Montgomery Co. Planning and GIS Services to discuss the proposed project to insure that it will comply with all applicable development and zoning codes.

Susan Gray
Printed Name of Permit Applicant

Susan Gray
Signature of Permit Applicant

MUST SATISFY ALL FIELD INSPECTIONS

**RESIDENTIAL BUILDING PERMIT APPLICATION**  
**Montgomery County, Virginia**

Residential Building Permit must be issued before construction begins. Application for this permit may be made to the Building Official or designate.

Application is hereby made for a Residential Building Permit in accordance with the description and for the purpose hereinafter set forth. This application is made subject to all local and state laws and ordinances and the undersigned hereby agrees to said laws and ordinances which shall be deemed a condition of applying for this permit.

Applications must be accompanied by ONE set of construction plans.

**ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE**

Application Date: 05/24/13 Applicant Type: Residential  
Applicant Name: Norman P. Gray  
Property Owner's Name: Mary Ann Capp & Karen Windham  
Mailing Address: 2732 Sugar Grove Rd.  
Phone (H): ( ) Phone (W) ( ) e-mail: \_\_\_\_\_  
Contractor's Name: SELF - Norman Paul Gray DBA Name: \_\_\_\_\_ License#: \_\_\_\_\_  
Address: 3000 Sugar Grove Rd. Town: Christiansburg State: VA Zip: 24073  
Phone: (540) 381-6722 Mobile: (540) 3204145 Fax: (540) 994-5050 Email: sgray@pulaskicounty.org

Mechanic's Lien Agent: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_  
Address: \_\_\_\_\_

Project Site Address: Between 2732 & 2901 Sugar Grove Rd.

**Residential Building Information:**  
New Construction: Stick Built? \_\_\_\_\_ or Modular? \_\_\_\_\_ Alterations/Repairs? \_\_\_\_\_ Addition?  Bridge  
Foundation: Basement? \_\_\_\_\_ Crawl Space? \_\_\_\_\_ Piers? \_\_\_\_\_  
Type of Activity: RESIDENTIAL IRC: 2009 Code Year: 2009 Use Group: R-5 Construction Type: 5B  
Size: Height: \_\_\_\_\_ Width: 12 Length: 16' # Stories: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_ # Bathrooms: \_\_\_\_\_  
Finished Area(sq ft): \_\_\_\_\_; Unfinished Area(sq ft): \_\_\_\_\_; Basement (sq. ft.) (if not already included in Finished/Unfinished area) \_\_\_\_\_  
Attached Garage (sq. ft.): \_\_\_\_\_  
Accessory Building (sq. ft.): \_\_\_\_\_ Detached Garage (sq. ft.): \_\_\_\_\_ Addition(sq. ft.): \_\_\_\_\_ Alteration(sq. ft.): \_\_\_\_\_

Water Services: \_\_\_\_\_ Sewer Services: \_\_\_\_\_  
Road Services: \_\_\_\_\_ Public  Private  
Additional Comments: Clear span bridge using steel I-beams on concrete footer abutments  
Estimated Project Cost: \$15,000 (Labor and Materials Only) Bridge Const on private property

I hereby certify that I have the authority to make the foregoing application, that the information given is correct and that the construction will conform to the regulations of the Virginia Uniform Statewide Building Code, Zoning Ordinance, and any private building restrictions that may be imposed upon the above property by the deed. Also, I hereby agree to restore all damages to sidewalks, streets, alleys, sewers, gas mains, and electrical installation that may result.

I further certify that I have or will contact Montgomery Co. Planning and GIS Services to discuss the proposed project to insure that it will comply with all applicable development and zoning codes.

**SCANNED**

\_\_\_\_\_  
Printed Name of Permit Applicant Signature of Property Owner, Contractor, or Authorized Agent

**MUST SATISFY ALL FIELD INSPECTIONS**

**VIRGINIA: IN THE CIRCUIT COURT OF MONTGOMERY COUNTY**

**NORMAN PAUL GRAY, SUSAN GRAY )  
CONNOR GRAY and SARAH GRAY, )  
Plaintiffs )**

**v. )**

**MARY ANN CAPP )  
and )  
KAREN WINDHAM, )  
Defendants )**

**Case No.: CL13-12272**

**ORDER**

**THIS cause came on to be heard upon the prayer for injunctive relief by the plaintiffs, which prayer is contained in the plaintiffs' Complaint, and the testimony of witnesses on behalf of the plaintiffs and was argued by counsel.**

**Upon consideration whereof, it appearing unto the court that the plaintiffs are entitled to temporary relief against the defendants to allow the plaintiffs free and unrestricted access to the use of the roadway known as Sugar Grove Road; that the plaintiffs have the right to restore and maintain the said roadway, that the defendants be enjoined from obstructing or, in any way, restricting the use and enjoyment of the roadway to the plaintiffs' property for access to Bow Hill Road on the property of the plaintiffs and that the defendants are restrained and enjoined from suing and having issued criminal warrants for trespass against the plaintiffs or any of them on account of the plaintiffs' use of the said roadway, all of which shall remain in effect until further order of the court.**

**This injunction Order shall be effective from 2:00 p.m. on Tuesday, February 19, 2013, until further Order of the court unless, prior thereto, it shall have been enlarged or a further injunction shall have been granted by further order of the court; but this Order shall not become effective until the plaintiffs enter into a bond before the Clerk of this Court in the sum of \$ 10,000 Cash, conditioned according to law.**

Enter: February 19<sup>th</sup> 2013  
[Signature]  
Judge

**I ASK FOR THIS ORDER:**

[Signature]  
Randall O. Clay, Attorney  
VSB No: 12702  
Post Office Box 852  
Radford, Virginia 24143  
(540) 639-9623  
Fax: (540) 633-1275  
Counsel for Plaintiffs

**SEEN AND OBJECTED TO:** *for reasons set forth at hearing and*

[Signature]  
Tammy L. Blanks, Attorney  
VSB No: 43424 *Belinsky*  
9544 Pine Forest Road  
Copper Hill, Virginia 24079  
(540) 929-4222  
Fax: (540) 929-9195  
Counsel for ~~Defendants~~

*in the responsive pleadings  
filed by Mr. Clay and  
for lack of proper service  
to Defendant Karen Whidman*

*Mary Ann Clay*

A Copy - Teste:  
ERICA W. WILLIAMS  
Circuit Court Montgomery County, Virginia  
By: [Signature], Deputy Clerk

THIS DEED OF GIFT, made and entered into this 13th day of January, 1989, by and between NORMAN PAUL GRAY and SUSAN BUTLER GRAY, husband and wife, parties of the first part and NORMAN P. GRAY and SUSAN BUTLER GRAY, husband and wife, as tenants by the entirety in fee simple with the right of survivorship as at common law, parties of the second part:

W I T N E S S E T H:

That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid to the parties of the first part by the parties of the second part, the receipt of which is hereby expressly acknowledged, the said parties of the first part do hereby give, grant and convey with General Warranty of Title and English Covenants of Title unto the said Norman P. Gray and Susan Butler Gray, husband and wife, as tenants by the entirety in fee simple with the right of survivorship as at common law, all that certain tract or parcel of land with all improvements thereon and appurtenances thereunto belonging situate, lying and being in the Shawsville Magisterial District of Montgomery County, Virginia, on the waters of Elliott's Creek, in the Sugar Grove Community, containing two hundred (200) acres, more or less.

BEING all the same land conveyed to Norman Paul Gray from Cary W. Hopper and Mary Jane Huber, his wife, by deed dated on the 26th day of November, 1986, which deed is of record in Deed Book 555, Page 687 of the Clerk's Office of the Circuit Court of Montgomery County, Virginia.

This conveyance is made subject to an easement and right of way fifty (50) feet in width reserved by Cary W. Hopper and Mary Jane Huber in

IRV A. WHITEHURST, P.C.  
CLERK AND COUNSELLOR  
AT LAW  
MONTICELLO, VA 24079

said deed dated November 26, 1986 and is further subject to all other easements, rights of way and conditions of record affecting the land herein described and conveyed.

This deed is exempt from taxation pursuant to Section 58.1-811(D) of the 1950 Code of Virginia, as amended.

WITNESS the following signatures and seals:

Norman P. Gray (SEAL)  
Norman Paul Gray

Susan B. Gray (SEAL)  
Susan Butler Gray

STATE OF VIRGINIA

COUNTY OF MONTGOMERY, to-wit:

The foregoing instrument was acknowledged before me this 16th day of January, 1989 by Norman Paul Gray and Susan Butler Gray, husband and wife.

My commission expires 6-21-90.

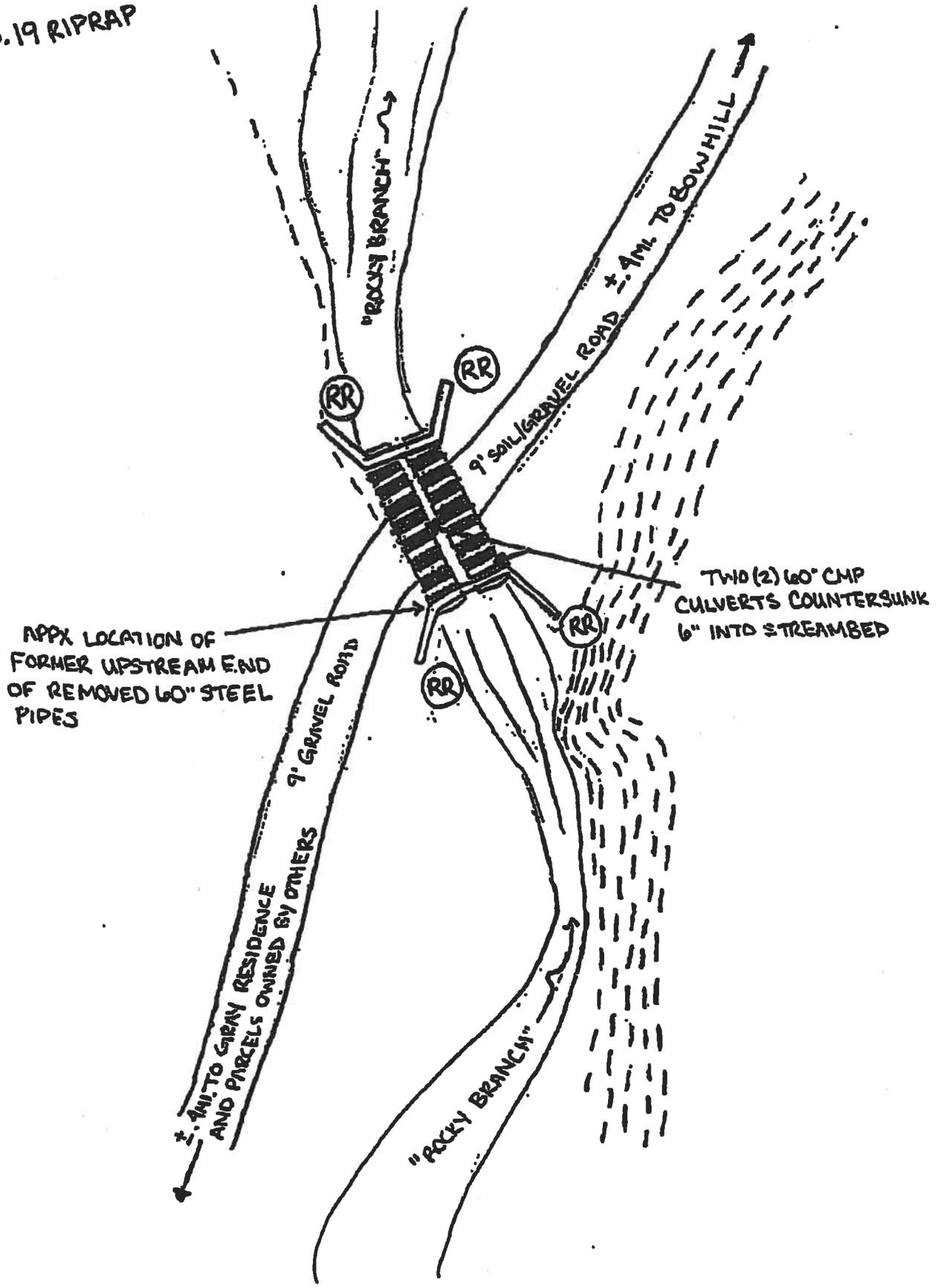
Susan J. Scott  
NOTARY PUBLIC

VIRGINIA: In the Office of the Circuit Court of Montgomery County  
3rd day of February, 19 89 The foregoing  
instrument was this day presented in said Office and with certificate  
annexed admitted to record at 4:16 o'clock PM.

Teste:  
JOHN B. MYERS, JR., CLERK  
By Carol K. Beachler D.C.

JUGAR GRUVE CULVER I REPLACEMENT

24 = 3.19 RIPRAP



APPX LOCATION OF FORMER UPSTREAM END OF REMOVED 60" STEEL PIPES

TWO (2) 60" CMP CULVERTS COUNTERSUNK 6" INTO STREAMBED

± 4MI. TO GRAY RESIDENCE AND PARCELS OWNED BY OTHERS



**MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS**

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

July 8, 2013

Mary Ann Capp  
2732 Sugar Grove Road  
Christiansburg, VA 24073

**Re: Appeal to Building Official's Decision**

This is a letter of notification that a meeting has been scheduled by the Local Board of Building Code Appeals (LBBCA) to hear the Appeal of Mary Ann Capp who is appealing the decision of the Building Official to issue a permit for a bridge being constructed at 2732 Sugar Grove Road, Christiansburg, VA.

The Board will meet on Wednesday, July 17 at 7pm in the Board of Supervisors' chambers of the Government Center Building located at 755 Roanoke St. Christiansburg, VA. If you have information for the LBBCA concerning this case, it must be submitted to me by noon on Monday, July 15, 2013 in order to be considered.

If you have questions, please call me at 540.382.5750.

Sincerely,

Teresa A. Gantt,  
Secretary,  
Local Board of Building Code Appeals

**John W. Broughton**

---

**From:** Mary Ann Capp <macapp@mindspring.com>  
**Sent:** Friday, May 10, 2013 4:07 PM  
**To:** John W. Broughton  
**Subject:** Inquiry  
**Attachments:** 5-10-13 pics 068.JPG; 5-10-13 pics 073.JPG; 5-10-13 pics 074.JPG

Mr. Broughton,

Does this construction activity require a permit?

I would appreciate your response in a return reply.

Thank you,

Mary Ann Capp

**John W. Broughton**

---

**From:** William C. Yeager  
**Sent:** Thursday, May 23, 2013 4:01 PM  
**To:** John W. Broughton  
**Subject:** FW: NAO-2013-254 Gray BridgeNo Permit Required (UNCLASSIFIED)  
**Attachments:** NAO-2013-254 Gray Bridge NPR.pdf

FYI

Bill Yeager  
Certified Building Official  
755 Roanoke Street, Suite 1D  
Christiansburg, VA 24073-3173  
Ph: (540) 382-5750  
FAX: (540) 381-6880

-----Original Message-----

**From:** Steve Sandy  
**Sent:** Thursday, May 23, 2013 2:58 PM  
**To:** William C. Yeager; Dari S. Jenkins  
**Subject:** FW: NAO-2013-254 Gray BridgeNo Permit Required (UNCLASSIFIED)

US Army Corps Letter related to bridge question

Steven M. Sandy, AICP, CZA  
Director of Planning & GIS Services  
Montgomery County  
755 Roanoke Street, Suite 2A  
Christiansburg, VA 24073  
(540) 394-2148  
(540) 381-8897 fax  
sandysm@montgomerycountyva.gov

-----Original Message-----

**From:** Susan Gray [mailto:sgray@pulaskicounty.org]  
**Sent:** Friday, April 05, 2013 3:20 PM  
**To:** Steve Sandy  
**Subject:** Fwd: NAO-2013-254 Gray BridgeNo Permit Required (UNCLASSIFIED)

Please let me know if you received the attached "No Permit Required" letter. Thank you for your help and explanations yesterday.

Susan Gray

>>> "Courtois, Danielle R NAO" <Danielle.R.Courtois@usace.army.mil> 04/01/13 12:56 PM >>>  
Classification: UNCLASSIFIED  
Caveats: NONE

Ms Gray et al:

Please find attached the no permit required letter for the proposed clear span bridge over Rocky Branch.

If you have any further questions or concerns, please let me know.

Danielle Courtois  
Environmental Scientist  
Blue Ridge Field Office  
P.O. Box 143  
Floyd, VA 24091  
540-651-2088  
Norfolk District Webpage:  
<http://www.nao.usace.army.mil/>

The Norfolk District is committed to providing the highest level of support to the public. In order for us to better serve you, we would appreciate you completing our Customer Satisfaction Survey located at <http://per2.nwp.usace.army.mil/survey.html>. We value your comments and appreciate your taking the time to complete the survey.

-----Original Message-----

From: Courtois, Danielle R NAO  
Sent: Monday, March 25, 2013 7:42 AM  
To: 'Susan Gray'  
Cc: 'Ashley Rudolph'; 'claylaw@usit.net'  
Subject: Gray Application and are we good to go? (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Ms Gray,

I have not yet received your application (sent March 21) since work related items have precluded me from going to the Floyd USPS office. Most likely I will pick it up by Wednesday.

If you require a No Permit Required letter, then the application should reflect the proposed change from culverts to a clear span bridge. If the information you sent last week does not show the newest proposal, I will need additional information that documents that change. You and your contractor should use all necessary erosion and sediment control practices during construction to prevent sediment from entering the creek during the time of year restriction for Roanoke Logperch. If the work is above the ordinary high water mark and there is no disturbance of the creek bed, then the project will not require a permit.

A final note; I would not and cannot attend the fundraiser that you reference below. My only role here is to serve as the regulatory project manager, provide guidance regarding the permit process, and provide the necessary permit (s) etc., as needed.

When I receive your application, I will contact you if I need further information or clarification.

Thank you for your time,

Danielle Courtois  
Environmental Scientist  
Blue Ridge Field Office  
P.O. Box 143  
Floyd, VA 24091  
540-651-2088  
Norfolk District Webpage:  
<http://www.nao.usace.army.mil/>

The Norfolk District is committed to providing the highest level of support to the public. In order for us to better serve you, we would appreciate you completing our Customer Satisfaction Survey located at <http://per2.nwp.usace.army.mil/survey.html>. We value your comments and appreciate your taking the time to complete the survey.

-----Original Message-----

From: Susan Gray [mailto:[sgray@pulaskicounty.org](mailto:sgray@pulaskicounty.org)]  
Sent: Friday, March 22, 2013 12:32 PM  
To: Courtois, Danielle R NAO  
Subject: Application and are we good to go?

Hello Danielle,

Despite all kinds legal jockeying and outright untruths by Capp, Judge Gibb upheld the injunction in our favor. Did you receive the mailed application? We are committed to the clear span bridge. My husband would like to get a contractor down asap to get working on an estimate. As long as we do no work in the waterway can we please proceed ? The Judge did give a deadline of July 1, 2013.

He did ask that all parties try to "work this out", but we have been trying to work things out for 10 long years and you can see sort of what that got us. Ms. Balinsky testified in Court that Ms. Capp did NOT need any permits to tear that place apart. Said that she talked to the Norfolk office, but that is your region, shouldn't she have gone through you?

If we can get a letter (NPR), that would be wonderful. Do you need more information from us? I did the best I could with application.

You should come to the benefit they are having for us in Blacksburg, you would meet a lot of great people from all over your region. We wouldn't tell people what you do, so no one would question you about stuff. Will forward the event details from Bernadette. Lance Terpenney. Town Manager of Floyd and his family will there, he thinks he might know you. He was Town manager of C'burg for 15 years.

Susan Gray

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE



Hi Don

I hope you and your family is doing well. TGIF!!! I just got a phone call from one of my inspectors about someone building a bridge on Sugar Grove Road that was clouding the water up a long ways down stream. I was wondering if you knew anything about this and if not what do you recommend I need to do. It less than 10,000 S.F I suppose but is at a live stream. Do we need to call the army core of engineers? Any help you can give would be appreciated.

Bill Yeager

Certified Building Official  
755 Roanoke Street, Suite 1D  
Christiansburg, VA 24073-3173  
Ph: (540) 382-5750  
FAX: (540) 381-6880

---

From: Packard, Donald (DCR) [mailto:Donald.Packard@dcr.virginia.gov]

Sent: Tuesday, May 14, 2013 5:53 PM

To: Barbour, Chris; Blankenship, Whitney; Bowman, Art; Byrd, Kevin; Dietz, Chuck; Flora, Richard; Formica, Randy; Grimes, Lauren; Howard, Kafi; Hurt, Jim; Kast, James; Kirkrier, Tyler; Linkous, Jared; Martin, Joe; Nelson, Wayne; Nester, Roy; Parker, Bill; Pedigo, Bill; Quinn, Craig; Reed, Bryan; Sharp, Elijah; Tawney, Rick; Walters, Todd; Webster, Christopher; William C. Yeager

Cc: Echols, Jim (DCR); Abe, Elizabeth (DCR); Boggs, Cody (DCR)

Subject: RE: CORRECTION - Basic SWM Class

CORRECTION - - - The number on the flyer is incorrect.

THE NUMBER TO CALL TO REGISTER IS (804) 786-1518

Don Packard

Stormwater Compliance Specialist  
VA Dept. of Conservation and Recreation  
8 Radford Street, Suite 102A  
Christiansburg, VA 24073  
(540) 394-2581 PH / (540) 394-2588 FAX  
[donald.packard@dcr.virginia.gov](mailto:donald.packard@dcr.virginia.gov)

---

From: Packard, Donald (DCR)

Sent: Friday, May 10, 2013 3:54 PM

To: 'Barbour, Chris'; 'Blankenship, Whitney'; Bowman, Art; Byrd, Kevin; 'Dietz, Chuck'; Flora, Richard; Formica, Randy; Grimes, Lauren; Howard, Kafi; Hurt, Jim; Kast, James; Kirkner, Tyler; Linkous, Jared; Martin, Joe; Nelson, Wayne; Nester, Roy; Parker, Bill; Pedigo, Bill; Quinn, Craig; 'Reed, Bryan'; Sharp, Elijah; Tawney, Rick; Walters, Todd; Webster, Christopher; Yeager, Bill

Cc: Echols, Jim (DCR)

Subject: Basic SWM Class

ESC & SWM Administrators and Staff,

Please see the attached flyer on the availability of **Basic Stormwater Management in Virginia**. This class is a two-day introduction to stormwater management offered by Virginia Department of Environmental Quality (DEQ) staff in collaboration with the Virginia Department of Conservation and Recreation (DCR) emphasizing specific requirements for Virginia Stormwater Management Programs (VSMPs). Successful completion of the class is the

first step in obtaining a state certificate of competence in the area of stormwater management.

Please respond to Daniel Moore for registration @ (804) 786-1516  
or [Daniel.moore@dcr.virginia.gov](mailto:Daniel.moore@dcr.virginia.gov)

Don Packard  
Stormwater Compliance Specialist  
VA Dept. of Conservation and Recreation  
8 Radford Street, Suite 102A  
Christiansburg, VA 24073  
(540)394-2581 PH / (540)394-2588 FAX  
[donald.packard@dcr.virginia.gov](mailto:donald.packard@dcr.virginia.gov)

**ADJUSTMENT AND APPEALS BOARD (BUILDING CODE)**

<u>Member</u>	<u>District</u>	<u>Term of Appointment</u>
Jason C. Boyle (Term 1) 3930 Horse Farm Road Blacksburg, VA 24060 (h) 552-1004 (c) 320-9705 <a href="mailto:jason@greenvalleybuildersinc.com">jason@greenvalleybuildersinc.com</a>	A	Nov. 24, 2009 – Nov. 23, 2013
Robert W. Pilkington (Term 1) 4099 Fort Vause Drive Shawsville, VA 24162 (h) 268-1495 (w) 381-4290 <a href="mailto:milkington@balzer.com">milkington@balzer.com</a>	C	Nov. 24, 2009 – Nov. 23, 2013
Edgar A. Howard (Term 1) 850 New Village Drive NW Christiansburg, VA 24073 Tel: 540-808-2710 <a href="mailto:swvawire@verizon.net">swvawire@verizon.net</a>	B	Mar. 29, 2011 – Mar. 28, 2015
Joel A. Donahue (Term 2) 2722 Bunny trail Drive Blacksburg, VA 24060 Tel: 951-3782 <a href="mailto:JAD_PE@comcast.net">JAD_PE@comcast.net</a>	A	June 26, 2011 – June 25, 2015
Allen F. Wagner (Term 2) 1005 Red Leaf Court Christiansburg, VA 24073 Tel: 381-8755 (h)	B	Mar. 28, 2010 – Mar. 27, 2014

<b>TERM OF OFFICE:</b>	4 Years
<b>TERM LIMIT:</b>	Yes (2 consecutive 4-year terms)
<b>NUMBER MEMBERS:</b>	5
<b>APPOINTMENT BY:</b>	At Large
<b>LEGAL MANDATE:</b>	State
<b>BONDED:</b>	No
<b>COMPENSATION:</b>	\$25 per meeting
<b>PUBLIC NOTICE OF MEETINGS:</b>	No
<b>MEETING SCHEDULE:</b>	Meets on an as-needed basis
<b>JOB DESCRIPTION:</b>	Meets to hear appeals regarding decisions made by the Building Inspector, and any appeals regarding the Electrical Code.

Advertise; Board appoints.

May Ann Capp



**MONTGOMERY COUNTY**  
**DEPARTMENT OF BUILDING INSPECTIONS**  
755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRG

July 5, 2013

Permit Holder: Mrs. Susan Grey  
3000 Sugar Grove Rd.  
Christiansburg, Va. 24073

Re: Sugar Grove Project

Mrs. Grey,

An official application of appeal has been filed, as of June 21, 2013, with the Montgomery County Board of Building Code Appeals concerning the issuance of the building permit for your court ordered injunction. As a result, the 2009 USBC requires that all work shall stop immediately, until a decision is confirmed from the Board.

The LBBCA will meet within 30 calendar days after receiving an application of appeal. A notice indicating the time and place of the hearing will be sent to the parties listed on the application at least 14 days before the meeting.

As of July 5, 2013, All Work Shall Stop on project: 2732 Sugar Grove Rd. until further notice from the appeals board.

If you have any questions, please feel free to contact me at 540-382-5750 or email: [broughtonjw@montgomerycountyva.gov](mailto:broughtonjw@montgomerycountyva.gov)

Sincerely,

John W. Broughton  
Building Inspector  
E&S Inspector



DEPARTMENT OF THE ARMY  
 NORFOLK DISTRICT, CORPS OF ENGINEERS  
 FORT NORFOLK, 803 FRONT STREET  
 NORFOLK, VIRGINIA 23510-1088

REPLY TO  
 ATTENTION OF: CENOA-WR-RW

April 1, 2013

Western Virginia Regulatory Section  
 NAO-2013-254 (Roanoke River)

Ms. Susan Gray  
 2602 Sugar Grove Road  
 Christiansburg, VA 24073

Dear Ms. Gray:

This letter is in response to the Joint Permit Application (JPA) and subsequent additional information you submitted for construction of a clear span bridge over Rocky Branch. This work is proposed for access to your home in lieu of replacing culverts that were washed out in the January 30, 2013 flood. The project is located at 2732 Sugar Grove Road (N37.0987 W-80.3287; Tax Parcel ID 020499), Montgomery County, Virginia, over the tributary to the Roanoke known as Rocky Branch. The project proposal is to cross Rocky Branch creek with a clear span bridge using steel I-beams as supports. Concrete footers for the abutments will be poured above the ordinary high water mark and metal corrugated slab support material with rebar and wire mesh will be used for the bridge support. The road base will be stabilized after the concrete footer and slab have been poured.

My review of this JPA indicates that no fill material will be placed into waters of the United States and the proposed bridge is not crossing a section 10 water, therefore no permit will be required from this office. If the scope of your project should change please notify this office immediately so that we may reevaluate your need for a permit. Please be advised that due to the potential presence of Roanoke Logperch, all exposed soils should be seeded as soon as final grade is complete and that use of standard sediment and erosion control measures consistent with those contained in the standards and criteria of the current Virginia Sediment and Erosion Control handbook should be used.

Please be advised that you should obtain all required State and local authorizations before you proceed with the project. Please contact Danielle Courtois at 540.651.2088 or [Danielle.R.Courtois@usace.army.mil](mailto:Danielle.R.Courtois@usace.army.mil) with any questions or comments.

Sincerely,

*Danielle Courtois*

for:

Danielle Courtois for:  
 Peter R. Kube, Chief  
 Western Virginia Regulatory Section

Copy Furnished via email on April 1, 2013

Jay Roberts, Department of Environmental Quality, Roanoke  
 Susan Gray, Applicant  
 Kendall O. Clay, attorney for applicant

3000 Sugar Grove Road  
Christiansburg, VA 24073  
540-250-1432

**THE GRAY'S**

# Fax

**To:** Bill Yeager **From:** Susan B. Gray

---

**Fax:** 540-391-6880 **Date:** May 30, 2013

---

**Company:** Montgomery County Building Off. **Pages:** 4

---

**Re:** Sugar Grove Bridge Project **CC:**

---

Urgent     For Review     Please Comment     Please Reply     Please Recycle

---

**•Comments:**

Dear Mr. Yeager,

Hope these are sufficient for what your office needs.

Will work on having someone get plan from Gay & Neel to you asap.

Susan Gray

**From:** John Neel  
**To:** John W. Broughton  
**Cc:** Ralph Clements  
**Subject:** Gray Culvert Replacement(JN)  
**Date:** Thursday, May 30, 2013 3:07:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[Sugar Grove Culvert Replacement.pdf](#)

---

John,

Thanks for the phone call a few minutes ago. I understand that the Gray family has opted to construct a bridge span vs. a replacement of the culverts that were torn out some time ago by the neighboring property owner. We issued a single plan sheet to provide them with guidance in replacing the culverts. I have attached that plan sheet for your reference. It is dated March 08, 2013 and is Job No. 2411.0 and is entitled 'Sugar Grove Culvert Replacement'.

With regard to your specific question, we performed no hydrologic analysis of the storm flows in the stream to be crossed and were only replacing the size of culverts that existed. We have no data or analysis that would tell us what the stream depth rises to during storm events. So, with that said, they need not be any specific correlation between the elevation shown on the plans and the elevation of the bridge. Everyone should keep in mind that this bridge will likely have water overtopping it during some storm events and that care should be given to the washing of debris into and/or under the bridge and the issues that can arise. The culverts would also have the same considerations. It is my understanding from you that the Corps of Engineers has approved the installation of the bridge, but I would also recommend confirming any permitting needs.

Last but not least, storm water flows have a tendency to scour abutments of bridges and I would recommend considering this as a part of the construction to prevent future damage.

I am glad to see the Gray family moving forward to hopefully gain good access back to their property.

I hope this answers your questions.

Thanks,  
John

**John T. Neel**

(540) 239-8174 (cell)

[jneel@gayandneel.com](mailto:jneel@gayandneel.com)

**20 YEARS GAY AND NEEL, INC.**  
ENGINEERING ♦ LANDSCAPE ARCHITECTURE ♦ SURVEYING  
Christiansburg 540.381.6011 • Staunton 540.851.0816  
[www.gayandneel.com](http://www.gayandneel.com)  
Celebrating 20 Years of Designing Your Community



COUNTY OF MONTGOMERY  
REVENUE TRANSMITTAL

Take to Treasurer's Office, Suite 1B, on the first floor to pay the amount due and to verify that real estate taxes are not delinquent

Date: 05/24/2013

Applicant: SUSAN GRAY

Property Address: 2732 SUGAR GROVE ROAD

Map Number: 109- A45 Parcel ID: 020499

Revenue Account Description	Charge Code	Amount
<b>BUILDING &amp; INSPECTIONS</b>		
Building Permit	P&IBPM	\$36.00
Electrical Permit	P&IEPM	
Mechanical Permit	P&IMPM	
Plumbing Permit	P&IPPM	
Manufactured Housing Permit	P&IHPM	
Land Disturbance Permit	SOILPM	
Re-Inspection	REINSP	
Building Plan Review	B REV	
Temporary Certificate of Occupancy	P&ICOO	
LDO Technology Fee	P&GTF	20.00
<b>PLANNING &amp; GIS</b>		
Pre-Development Report	P&GPDR	
Zoning	P&IPMI	
Variance Request - BZA	P&GBZA	
Special Use Permits	P&IPMI	
Change in Proffered Conditions	P&GCPD	
Appeal of Zoning Administrator's Decision - BZA	P&GABZ	
Zoning Confirmation Letter	P&GZCL	
Site Plan Review	S REV	
Zoning Permit	P&GZP	\$0.00
DMV Certification Letter	P&GDMV	
Comprehensive Plan Review	P&GCPR	
Recovered Costs	2800RC	
LDO Technology Fee	P&GTF	
	Paid (or partial)	0.00
	Grand Total	56.00

Verification of Taxes

- Delinquent Taxes  
 No Delinquent Taxes

FOR TREASURER'S OFFICE USE ONLY

Date Received: 05/24/13 Received by: DJA Amount received: \$ 56.00

Remarks:

- I have given a copy of this transmittal to Mary.  
 No one in the treasurer's office needs a copy of this transmittal

## John W. Broughton

---

**From:** John Neel <jneel@gayandneel.com>  
**Sent:** Thursday, May 30, 2013 3:08 PM  
**To:** John W. Broughton  
**Cc:** Ralph Clements  
**Subject:** Gray Culvert Replacement(JN  
**Attachments:** Sugar Grove Culvert Replacement.pdf

John,

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Thanks,  
John

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(540) 239-8174 (cell)  
[jneel@gayandneel.com](mailto:jneel@gayandneel.com)

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Celebrating 20 Years of Designing Your Community



## John W. Broughton

---

**From:** John Neel <jneel@gayandneel.com>  
**Sent:** Thursday, May 30, 2013 4:04 PM  
**To:** John W. Broughton  
**Cc:** Ralph Clements  
**Subject:** FW: Gray Culvert Replacement(JN  
**Attachments:** Sugar Grove Culvert Replacement.pdf

Appeared to get stuck in email. Re-Sending.

**John T. Neel**  
(540) 239-8174  
[jneel@gayandneel.com](mailto:jneel@gayandneel.com)

Gay and Neel, Inc.  
(540) 381-6011

---

**From:**  
**Sent:** Thursday, May 30, 2013 3:08 PM  
**To:** 'broughtonjw@montgomerycountyva.gov'  
**Cc:** Ralph Clements  
**Subject:** Gray Culvert Replacement(JN

John,

Thanks for the phone call a few minutes ago. I understand that the Gray family has opted to construct a bridge span vs. a replacement of the culverts that were torn out some time ago by the neighboring property owner. We issued a single plan sheet to provide them with guidance in replacing the culverts. I have attached that plan sheet for your reference. It is dated March 08, 2013 and is Job No. 2411.0 and is entitled 'Sugar Grove Culvert Replacement'.

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*John T. Neel*

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[www.gayandneel.com](http://www.gayandneel.com)  
Celebrating 20 Years of Designing Your Community



**John W. Broughton**

---

**From:** Steve Sandy  
**Sent:** Friday, May 24, 2013 12:04 PM  
**To:** William C. Yeager  
**Cc:** John W. Broughton  
**Subject:** RE: Bridge in stream (UNCLASSIFIED)

Ok thanks guys!

Steven M. Sandy, AICP, CZA  
Director of Planning & GIS Services  
Montgomery County  
755 Roanoke Street, Suite 2A  
Christiansburg, VA 24073  
(540) 394-2148  
(540) 381-8897 fax  
sandysm@montgomerycountyva.gov

-----Original Message-----

**From:** William C. Yeager  
**Sent:** Friday, May 24, 2013 11:12 AM  
**To:** Steve Sandy  
**Cc:** John W. Broughton  
**Subject:** RE: Bridge in stream (UNCLASSIFIED)

To the best of my comprehension any bridge on private property that is not being constructed or inspected by the Virginia Department of Transportation does require a building permit and an engineered plan from the local AHJ. The E&S law regarding bridge construction really needs to be looked at and made more specific in regards to "impact area" and permit requirements. I am hoping to meet with Donald Packard (DCR) to discuss other control issues and discuss this one soon as we can establish a time. When we first contacted Don about a possible violation relative to the bridge construction he referred us to Danielle Courtois. I will keep you updated as this unfolds.

Sincerrelly,

Bill Yeager  
Certified Building Official  
755 Roanoke Street, Suite 1D  
Christiansburg, VA 24073-3173  
Ph: (540) 382-5750  
FAX: (540) 381-6880

-----Original Message-----

**From:** Steve Sandy  
**Sent:** Friday, May 24, 2013 10:44 AM  
**To:** William C. Yeager  
**Cc:** John W. Broughton  
**Subject:** RE: Bridge in stream (UNCLASSIFIED)

Thanks guys! So will you require a building permit for bridge or will you be reviewing for erosion & sediment control issues (or both)?

Steven M. Sandy, AICP, CZA  
Director of Planning & GIS Services  
Montgomery County  
755 Roanoke Street, Suite 2A  
Christiansburg, VA 24073  
(540) 394-2148  
(540) 381-8897 fax  
sandysm@montgomerycountyva.gov

-----Original Message-----

From: William C. Yeager  
Sent: Friday, May 24, 2013 10:32 AM  
To: Steve Sandy  
Cc: John W. Broughton  
Subject: RE: Bridge in stream (UNCLASSIFIED)

Steve,

I think they may have got closer into the stream which caused the water to become sediment laden and was the cause for a complaint that we investigated. The forms were actually on the water's edge apparently. It is most likely just another case of someone not following instructions or changing the approved guidelines I suppose. I will tell John Broughton to share all his current events regarding this complaint with you so we are all aware of current events.

Sincerely,

Bill Yeager  
Certified Building Official  
755 Roanoke Street, Suite 1D  
Christiansburg, VA 24073-3173  
Ph: (540) 382-5750  
FAX: (540) 381-6880

-----Original Message-----

From: Steve Sandy  
Sent: Friday, May 24, 2013 9:34 AM  
To: William C. Yeager  
Subject: RE: Bridge in stream (UNCLASSIFIED)

So they are not building the clear span bridge that was originally proposed? I didn't get the photos. Thanks.

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(540) 381-8897 fax  
sandysm@montgomerycountyva.gov

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Sent: Friday, May 24, 2013 9:12 AM  
To: Steve Sandy  
Subject: FW: Bridge in stream (UNCLASSIFIED)

FYI

Bill Yeager  
Certified Building Official  
755 Roanoke Street, Suite 1D  
Christiansburg, VA 24073-3173  
Ph: (540) 382-5750  
FAX: (540) 381-6880

-----Original Message-----

From: Courtois, Danielle R NAO [mailto:Danielle.R.Courtois@usace.army.mil]  
Sent: Friday, May 24, 2013 9:11 AM  
To: John W. Broughton; jesse.roberts@deq.virginia.gov  
Cc: William C. Yeager  
Subject: RE: Bridge in stream (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

MR. Broughton,

Thank you for sharing this information. The property owner had a letter sent to them April 1, 2013 for a clear span bridge, which did not require a permit from USACE at that time, based on the information provided to my office.

I have since spoken to the contractors (Aaron Woods, Jeff Ligon) and Norman Gray, property owner, and given a verbal Cease and Desist. I am waiting for signature of the official letter of potential violation and Cease and Desist to come from my District Office.

Danielle Courtois  
Environmental Scientist  
Blue Ridge Field Office  
P.O. Box 143  
Floyd, VA 24091  
540-651-2088  
Norfolk District Webpage:  
<http://www.nao.usace.army.mil/>

The Norfolk District is committed to providing the highest level of support to the public. In order for us to better serve you, we would appreciate you completing our Customer Satisfaction Survey located at <http://per2.nwp.usace.army.mil/survey.html>. We value your comments and appreciate your taking the time to complete the survey.

-----Original Message-----

From: John W. Broughton [mailto:broughtonjw@montgomerycountyva.gov]

Sent: Tuesday, May 21, 2013 3:15 PM

To: jesse.roberts@deq.virginia.gov; Courtois, Danielle R NAO

Cc: William C. Yeager

Subject: Bridge in stream

To whom it may concern:

It has been brought to my attention that a contractor is building a bridge crossing in a live watercourse or stream. The pictures attached depict the construction being done. During a brief investigation into the matter I found that there are not any permits for this type of construction in this area. I wanted to forward this information to you and give you the opportunity to offer advice or take control of the matter. See below:

Property address: 2732 Sugar Grove Road

Christiansburg, Va. 24073

State Route #674

Pictures attached

If you have any questions don't hesitate to call or email.

Office 540-382-5750

Thanks,

John W. Broughton

Building Inspector

E&S Inspector

Montgomery County

**Classification: UNCLASSIFIED**  
**Caveats: NONE**

**John W. Broughton**

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-----Original Message-----

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**Sent:** Friday, May 24, 2013 10:44 AM  
**To:** William C. Yeager  
**Cc:** John W. Broughton  
**Subject:** RE: Bridge in stream (UNCLASSIFIED)

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State Route #674

Pictures attached

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Office 540-382-5750

Thanks,

John W. Broughton

Building Inspector

E&S Inspector

Montgomery County

Classification: UNCLASSIFIED

Caveats: NONE

**John W. Broughton**

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**Cc:** John W. Broughton  
**Subject:** RE: Bridge in stream (UNCLASSIFIED)

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I think they may have got closer into the stream which caused the water to become sediment laden and was the cause for a complaint that we investigated. The forms were actually on the water's edge apparently. It is most likely just another case of someone not following instructions or changing the approved guidelines I suppose. I will tell John Broughton to share all his current events regarding this complaint with you so we are all aware of current events.

Sincerely,

Bill Yeager  
Certified Building Official  
755 Roanoke Street, Suite 1D  
Christiansburg, VA 24073-3173  
Ph: (540) 382-5750  
FAX: (540) 381-6880

-----Original Message-----

**From:** Steve Sandy  
**Sent:** Friday, May 24, 2013 9:34 AM  
**To:** William C. Yeager  
**Subject:** RE: Bridge in stream (UNCLASSIFIED)

So they are not building the clear span bridge that was originally proposed? I didn't get the photos. Thanks.

Steven M. Sandy, AICP, CZA  
Director of Planning & GIS Services  
Montgomery County  
755 Roanoke Street, Suite 2A  
Christiansburg, VA 24073  
(540) 394-2148  
(540) 381-8897 fax  
[sandysm@montgomerycountyva.gov](mailto:sandysm@montgomerycountyva.gov)

-----Original Message-----

From: William C. Yeager  
Sent: Friday, May 24, 2013 9:12 AM  
To: Steve Sandy  
Subject: FW: Bridge in stream (UNCLASSIFIED)

FYI

Bill Yeager  
Certified Building Official  
755 Roanoke Street, Suite 1D  
Christiansburg, VA 24073-3173  
Ph: (540) 382-5750  
FAX: (540) 381-6880

-----Original Message-----

From: Courtois, Danielle R NAO [<mailto:Danielle.R.Courtois@usace.army.mil>]  
Sent: Friday, May 24, 2013 9:11 AM  
To: John W. Broughton; [jesse.roberts@deq.virginia.gov](mailto:jesse.roberts@deq.virginia.gov)  
Cc: William C. Yeager  
Subject: RE: Bridge in stream (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

MR. Broughton,

Thank you for sharing this information. The property owner had a letter sent to them April 1, 2013 for a clear span bridge, which did not require a permit from USACE at that time, based on the information provided to my office.

I have since spoken to the contractors (Aaron Woods, Jeff Ligon) and Norman Gray, property owner, and given a verbal Cease and Desist. I am waiting for signature of the official letter of potential violation and Cease and Desist to come from my District Office.

Danielle Courtois  
Environmental Scientist  
Blue Ridge Field Office  
P.O. Box 143

Floyd, VA 24091  
540-651-2088  
Norfolk District Webpage:  
<http://www.nao.usace.army.mil/>

The Norfolk District is committed to providing the highest level of support to the public. In order for us to better serve you, we would appreciate you completing our Customer Satisfaction Survey located at <http://per2.nwo.usace.army.mil/survey.html>. We value your comments and appreciate your taking the time to complete the survey.

-----Original Message-----

From: John W. Broughton [<mailto:broughtonlw@montgomerycountvva.gov>]  
Sent: Tuesday, May 21, 2013 3:15 PM  
To: [jesse.roberts@deo.virginia.gov](mailto:jesse.roberts@deo.virginia.gov); Courtois, Danielle R NAO  
Cc: William C. Yeager  
Subject: Bridge in stream

To whom it may concern:

It has been brought to my attention that a contractor is building a bridge crossing in a live watercourse or stream. The pictures attached depict the construction being done. During a brief investigation into the matter I found that there are not any permits for this type of construction in this area. I wanted to forward this information to you and give you the opportunity to offer advice or take control of the matter. See below:

Property address: 2732 Sugar Grove Road  
Christiansburg, Va. 24073

State Route #674

Pictures attached

If you have any questions don't hesitate to call or email.

Office 540-382-5750

Thanks,

**John W. Broughton**

**Building Inspector**

**E&S Inspector**

**Montgomery County**

**Classification: UNCLASSIFIED**

**Caveats: NONE**

## John W. Broughton

---

From: William C. Yeager  
Sent: Friday, May 24, 2013 10:32 AM  
To: Steve Sandy  
Cc: John W. Broughton  
Subject: RE: Bridge in stream (UNCLASSIFIED)

Steve,

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To: [jesse.roberts@deq.virginia.gov](mailto:jesse.roberts@deq.virginia.gov), Courtois, Danielle R NAO  
Cc: William C. Yeager  
Subject: Bridge in stream

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**Christiansburg, Va. 24073**

**State Route #674**

**Pictures attached**

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**Office 540-382-5750**

**Thanks,**

**John W. Broughton**

**Building Inspector**

**E&S Inspector**

**Montgomery County**

**Classification: UNCLASSIFIED  
aveats: NONE**

**John W. Broughton**

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Classification: UNCLASSIFIED

Caveats: NONE

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**Subject:** Bridge in stream

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**Office 540-382-5750**

**Thanks,**

**John W. Broughton**

**Building Inspector**

**E&S Inspector**

**Montgomery County**

**Classification: UNCLASSIFIED**

**Caveats: NONE**

3626708 MISC RECEIPT PG: 1  
Montgomery County TAX System  
Christiansburg VA 24073

CUSTOMER CAPP MARY ANN  
REFERENCE 020499

01 REC COSTS 175.00

TOTAL: 175.00

DATE/TIME 06/28/13 15:31  
CLERK neffkg  
EFF. DATE 06/28/2013

**Teresa A. Gantt**

---

**From:** Joel Donahue <joel.donahue@comcast.net>  
**Sent:** Friday, July 05, 2013 1:15 PM  
**To:** Teresa A. Gantt  
**Cc:** William C. Yeager; Robert Pilkington; Jason Boyle  
**Subject:** Re: Capp Building Code appeal

**Dear Ms. Gantt:**

**As Ad-hoc Chairman of the Adjustment and Appeals Board (Building Code), I request that the Montgomery County Department of Building Inspections put a work hold on the Building permit that is the subject of Ms. Capp's appeal until such time as the board can hold a hearing on this matter and decide whether the building permit is actually valid. This is expected to occur within the next two weeks or so**

**Thank you,**

**Joel A. Donahue, P.E.  
Blacksburg, VA  
540-951-3782**



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- Inbox (40)
- Drafts
- Sent (70)
- Trash
- UnDeliverabl...

- spamBlocker (60)
- Known Spam (42)
- Virus Blocker

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Message

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Reply Reply All Forward... Print Delete Spam Move to... More Actions...

From: "John W. Broughton" <broughtonjw@montgomerycountva.gov> [Add to Address Book]  
 To: Mary Ann Capp <macapp@mindspring.com>  
 Cc: "William C. Yeager" <yeagerw@montgomerycountva.gov>  
 Subject: RE: Inquiry  
 Date: May 13, 2013 8:25 AM

Ms. Capp,

According to your photos permits shall be required per the VUSBC, DCR, & possibly the Army Corp. of Engineers. Depending on the length of time the stream is disturbed. It is very important to obtain permits for this type of work because the liability and fines associated with this type of construction is very stringent.  
 If I can be of further assistance please feel free to contact me.

Thank You,

John W. Broughton  
 Building Inspector  
 Montgomery County Inspections Department  
 340-382-5750  
 broughtonjw@montgomerycountva.gov

-----Original Message-----  
 From: Mary Ann Capp [mailto:macapp@mindspring.com]  
 Sent: Friday, May 10, 2013 4:07 PM  
 To: John W. Broughton  
 Subject: Inquiry

Mr. Broughton,

Does this construction activity require a permit?  
 I would appreciate your response in a return reply.

Thank you,

Mary Ann Capp

Reply Reply All Forward... Print Delete Spam Move to... More Actions...

Previous | Next | Back to INBOX

RECEIVED  
JUN 21 2013  
RECEIVED

# SUGAR GROVE CULVE

## MONTGOMERY COL

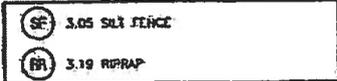
**SURVEY NOTES:**

1. THIS SURVEY WAS PREPARED FOR MORGAN E. GRAY AND SUSAN B. GRAY.  
ADDRESS: 3000 SUGAR GROVE ROAD  
CHRISTIANBURG, VIRGINIA 24073.
2. NO BOUNDARY SURVEY HAS BEEN PERFORMED AS A PART OF THIS PROJECT AND IT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE MAY NOT INDICATE ALL ENCUMBRANCES AND EASEMENTS THAT MAY AFFECT THE SUBJECT PROPERTY.
3. THIS TOPOGRAPHIC SURVEY WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF RALPH D. CLEMENTS, L.S. LIC. #1084, FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION. THIS PLAN, MAP OR DIGITAL GEOSPATIAL DATA USING METHODS MEETS MODERN ACCURACY STANDARDS UNLESS OTHERWISE NOTED.
4. ELEVATIONS AS SHOWN HEREON, ARE ASSUMED VERTICAL AND HORIZONTAL DATUMS.
5. CONTOUR INTERVAL = 2 FT.
6. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A FEMA DESIGNATED 100-YEAR FLOOD HAZARD ZONE. THE SUBJECT PROPERTY LIES IN "ZONE X" - OTHER FLOOD AREAS AS TERMED BY FEMA. AS SHOWN ON FIRM MAP NO. SH00002E, ELEVATION DATE OF SEP. 23, 2008. THIS DETERMINATION HAS BEEN MADE BY GRAPHIC METHODS ONLY. NO ELEVATION STUDY HAS BEEN PERFORMED AS A PART OF THIS PROJECT.
7. NOTES REGARDING UTILITIES  
GAT AND NEEL, INC. AND THE LOAD SURVEYOR WHOSE NAME AND SEAL IS AFFIXED HEREIN, ASSUMES NO LIABILITY FOR THE LOCATION, DEPTH, CONDITION, OCCUPANCY, OPERATIONS OR MAINTENANCE OF OPERATIONS OR REPAIRS TO ANY UTILITY STRUCTURE OR FACILITY, ABOVE, OR BELOW GROUND, EITHER SHOWN OR NOT SHOWN ON THESE DRAWINGS.  
NO VISIBLE EVIDENCE OF SURFACE STRUCTURES, SUCH AS VALVES, MANHOLES, ETC. INDICATING THE PRESENT DISTANCE OF UNDERGROUND UTILITIES WAS OBSERVED IN THE COURSE OF THIS SURVEY. VISIBLE UTILITY STRUCTURES WERE LOCATED IN ACCORDANCE WITH C/ASCE 38-01 (CONSTRUCTION INSTITUTE OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS) QUALITY LEVEL "C", WHICH IS DEFINED IN C/ASCE 38-07 AS FOLLOWS:  
UTILITY QUALITY LEVEL "C": INFORMATION OBTAINED BY SURVEYING AND PLOTTING VISIBLE ABOVE-GROUND UTILITY FEATURES AND BY USING PROFESSIONAL JUDGMENT IN CORRELATING THIS INFORMATION TO QUALITY LEVEL "V" INFRASTRUCTURE.  
48 HOURS PRIOR TO ANY EXCAVATION BEING CONDUCTED AS A PART OF THIS PROJECT, "MISS UTILITY" MUST BE NOTICED BY PHONE AT 1-800-552-7901, OR BY CALLING 911 IN VIRGINIA.

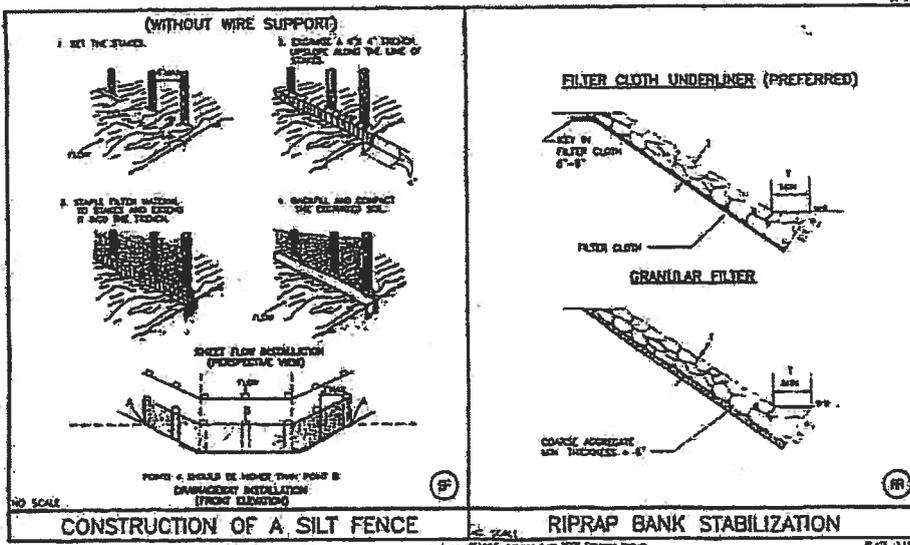
**GENERAL NOTES:**

1. NO STORMWATER CALCULATIONS HAVE BEEN PROVIDED AS A PART OF THESE PLANS.
2. CURVES SHALL BE CONSIDERED IN 8" CHORDS (8" BIRD STRAIGHT) AND CIRCUMFERENCES (SEE PROFILE).
3. ALL PERMITTING SHALL BE HANDLED BY THE CLIENT.
4. WHEN WORK IN A RIVER OR WATERCOURSE IS PERFORMED, PRECAUTIONS SHALL BE TAKEN TO MAINTAIN ENCUMBRANCE, CONTROL SEDIMENT TRANSPORT AND STABILIZE THE WORK AREA TO THE GREATEST EXTENT POSSIBLE DURING CONSTRUCTION. NONERODIBLE MATERIAL SHALL BE USED FOR THE CONSTRUCTION OF CAUSEWAYS AND EXTERIOR EARTHEN FILL MAY BE USED FOR THESE STRUCTURES IF ARMORED BY NONERODIBLE COVER MATERIALS.
5. WHEN A LIVE WATERCOURSE MUST BE CROSSED BY CONSTRUCTION VEHICLES MORE THAN TWICE IN ANY 500-YARD PERIOD, A TEMPORARY VEHICULAR STREAM CROSSING CONSTRUCTED OF NONERODIBLE MATERIAL SHALL BE PROVIDED.
6. ALL APPLICABLE FEDERAL, STATE AND LOCAL REGULATIONS PERTAINING TO WORKING IN OR CROSSING LIVE WATERCOURSES SHALL BE MET.
7. THE BED AND BANKS OF WATERCOURSES SHALL BE STABILIZED IMMEDIATELY AFTER WORK IN THE WATERCOURSE IS COMPLETED.

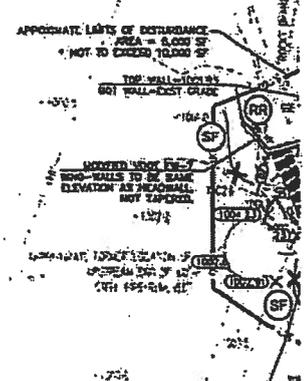
**EROSION CONTROL SYMBOLS:**



NO PARTIAL JOINTS ALLOWED  
MIN. 24" DIA. & 24" DIA. MINIMUM  
USE NO. 24 RIPRAP  
FROM SUPPLIER SEE SPECIFICATIONS FOR SIZE



**CONSTRUCTION OF A SILT FENCE**      **RIPRAP BANK STABILIZATION**



R. D. CLEMENTS, L.S. LIC. #1084, CIVIL ENGINEER, 1000 SUGAR GROVE ROAD, CHRISTIANBURG, VA 24073  
 MORGAN E. GRAY AND SUSAN B. GRAY, 3000 SUGAR GROVE ROAD, CHRISTIANBURG, VA 24073

**PROJECT NAME**  
SUGAR GROVE CULVERT  
REPLACEMENT

**LOCATION**  
MONTGOMERY COUNTY, VIRGINIA

**DATE**  
2018

**DESIGNED BY**  
JOHN T. NEEL, PE

**CHECKED BY**  
LARRY P. TOMLINSON, PE

**SCALE**  
AS SHOWN

**PROJECT NO.**  
18-001

**DATE**  
08/15/18

**PROJECT**  
SUGAR GROVE CULVERT  
REPLACEMENT

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**SCALE**  
AS SHOWN

**PROJECT NO.**  
18-001

**DATE**  
08/15/18

**STANDARD DETAILS FOR MATERIALS PER CLIENTS**

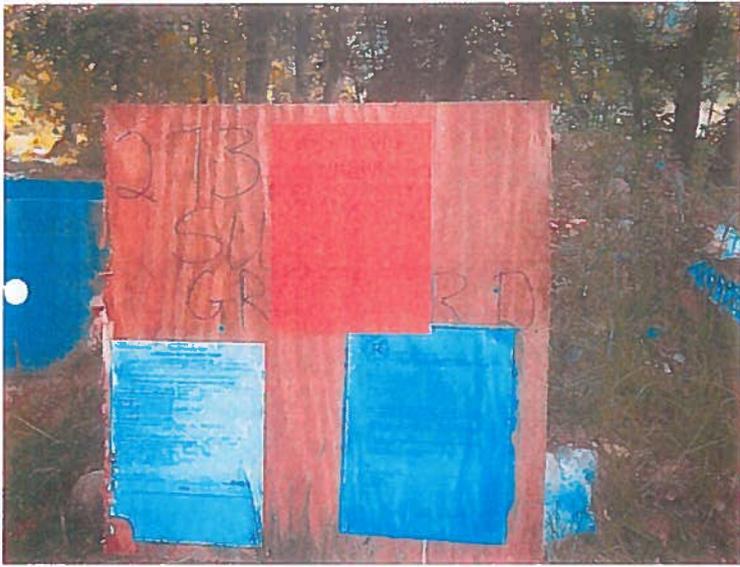
NO.	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	CONCRETE	100	YD	100	10000
2	STEEL	50	LB	50	2500
3	GRAVEL	200	YD	200	20000
4	PIPE	100	YD	100	10000
5	LABOR	100	HOUR	100	10000
6	PERMITS	1	SET	1000	1000
7	INSURANCE	1	YEAR	5000	5000
8	TRAVEL	1	TRIP	1000	1000
9	MEALS	1	DAY	500	500
10	TOOLBOX	1	SET	100	100
11	SALES TAX	1	PERCENT	1000	1000
12	TOTAL				140000

**STANDARD DETAILS FOR MATERIALS PER CLIENTS**

**SECTION 1**  
GENERAL NOTES:  
1. ALL CONCRETE SHALL BE 4000 PSI STRENGTH.  
2. ALL STEEL SHALL BE A36.  
3. ALL DIMENSIONS SHALL BE IN FEET AND INCHES.  
4. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR CONSTRUCTION OF PUBLIC WORKS, 2013 EDITION, WITH 2017 SUPPLEMENTS.  
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.  
6. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.  
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES.  
8. THE CONTRACTOR SHALL MAINTAIN PROPER DRAINAGE THROUGHOUT THE PROJECT.  
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING TREES AND LANDSCAPE.  
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING STRUCTURES.  
11. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES.  
12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING LANDSCAPE.  
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14. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES.  
15. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING LANDSCAPE.

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12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING LANDSCAPE.

**RT REPLACEMENT**  
MONTGOMERY COUNTY, VIRGINIA





MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 100, CHRISTIANSBURG, VIRGINIA 24073-3173

October 22, 2013

RE: Determining factors in the issuance of a building permit to a licensed contractor for the construction of a bridge structure.

Dear LBBCA

Section 108.4 of Part 1 of the Virginia Uniform Statewide Building Code (VUSBC) 2009 edition in effect since March 1, 2011 in the Commonwealth of Virginia lists the "Prerequisites for obtaining a Permit", as shown below.

**108.4 Prerequisites to obtaining permit.** In accordance with Section 54.1-111 (Section 54.1-111 attached for reference) of the Code of Virginia, any person applying to the building department for the construction, removal or improvement of any structure shall furnish prior to the issuance of the permit either (i) satisfactory proof to the building official that he is duly licensed or certified under the terms of Chapter 11 (Section 54.1-1000 et seq.) of Title 54.1 of the Code of Virginia to carry out or superintend the same or (ii) file a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Chapter 11 of Title 54.1 of the Code of Virginia. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied.

One prerequisite listed in the VUSBC contains language that the permit applicant be "duly licensed". The County Building Official simply follows the corresponding law to approve all such permits. There is no language that requires any contractor to provide any additional documentation to the County Building Official as a prerequisite for obtaining a permit. The Building Officials used no interpretations of his own in correlation with a section of the code in which there could be multi-comprehension scenarios as to its application but, simply followed the law as clearly written.

Owner/ contractor disagreements that are outside the content included in the VUSBC are clearly of a civil matter and these disputes should be settled in the civil court.

Bridge construction is not specific to the prescriptive codes that are easily referenced in a book and are designed by structural engineers licensed in the Commonwealth of Virginia by what is referred to as the "performance code". The actual construction on site doesn't match the original submitted stamped plans therefore the contractor was notified by County code official that the contractor shall provide a "stamped" letter document from a professional structural engineer licensed in the Commonwealth of Virginia that includes the language stating the structure meets the intent of the code in accordance to section 113.7 of the VUSBC 2009 edition. I have attached a copy of the Building Officials third Party inspection policy in accordance to section 113.7.1 of



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 102, CHRISTIANSBURG, VIRGINIA 24073-3173

the USBC 2009 edition for reference. The above mentioned document must be submitted prior to issuance of the Certificate of Completion from the County Building Official.

Reference/

**§ 54.1-1111. Prerequisites to obtaining business license; building, etc., permit.**

A. Any person applying to the building inspector or any other authority of a county, city, or town in this Commonwealth, charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, or structure, or any removal, grading or improvement shall furnish prior to the issuance of the permit, either (i) satisfactory proof to such inspector or authority that he is duly licensed or certified under the terms of this chapter to carry out or superintend the same, or (ii) file a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to this chapter. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied.

It shall be unlawful for the building inspector or other authority to issue or allow the issuance of such permits unless the applicant has furnished his license or certificate number issued pursuant to this chapter or evidence of being exempt from the provisions of this chapter.

The building inspector, or other such authority, violating the terms of this section shall be guilty of a Class 3 misdemeanor.

B. Any contractor applying for or renewing a business license in any locality in accordance with Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall furnish prior to the issuance or renewal of such license either (i) satisfactory proof that he is duly licensed or certified under the terms of this chapter or (ii) a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to this chapter.

No locality shall issue or renew or allow the issuance or renewal of such license unless the contractor has furnished his license or certificate number issued

Thank you for your attention and time.

Sincerely

William C. Yeager C.B.O

Cc/Marty McMahan County Attorney, Steve Phillips Department Administrator



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 10, CHRISTIANSBURG, VIRGINIA 24073-3173

## Third Party Inspections Policy

*Effective Date May 1, 2009*

This policy shall govern the use of third party inspection services in Montgomery County VA.

This policy is written as required, starting and established in accordance to the 2006 Virginia Uniform Statewide Building Code, Section 13.7.1 Third-party inspectors and shall stand as policy for all future code updates and revisions in accordance to the USBC.

Section 13.7.1 each building official charged with the enforcement of the USBC shall have a written policy establishing the minimum acceptable qualifications for third-party inspectors. The policy shall include the format and time frame required for submission of reports, any prequalification or pre-approval requirements before conducting a third-party inspection and any other requirements and procedures established by the building official.

The Building Official with discretionary authority may accept reports of inspections and tests from individuals or inspection agencies which satisfy qualifications and reliability requirements in accordance to Section 13 of the Virginia Uniform Statewide Building Code. Use of third party inspection services will only be permitted if:

- o The County's inspectors cannot inspect the work within 48 hours (2 working days) of when the inspection was requested, due to scheduling difficulties in accordance to section 13.7 of the VUSBC,
- o The nature and scope of the work to be inspected exceeds the technical expertise of the County's inspectors, or requires special on-site design or guidance beyond the limitations of county staff.
- o The Building Code requires the use of special inspections for a particular type of work in accordance to requirements of chapter 17 of the VCC.
- o Required, by the code official, as a necessity to certify the intent of the code.

**NOTICE:** *All third party inspections shall be at the expense of the applicant. The County shall not bear any expenses for third party inspections and will not discount applicable permit fees in any way for the use of third party inspectors.*

### Pre-approval

Prior to performing any inspections, the third party inspectors wishing to perform third party inspections within Montgomery County shall obtain the pre-approval from the Building Official.

WWW.MONTVA.COM • 540-382-5750 • FAX 540-381-6880



## MONTGOMERY COUNTY DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

The Building Official will not accept any third party inspections performed by non-approved Inspectors. The Building Official may approve individual inspectors and approved inspection agencies applicable to chapter 17 of the VCC. The building Official has **ten business days** from the time the pre-approval request is received to render his decision. Approvals will be job site specific and shall *not be transferable* to multiple sites. Third party inspectors for energy compliance shall submit their qualification application with the building permit application.

- **Exception:** Pre-approval is not required when third party inspections and certificates are required by necessity by the code official to meet the intent of the code.

**Prequalification** Third Party inspectors seeking approval to perform third party inspections shall meet the following minimum qualifications:

- o Submit evidence that they are qualified to perform the inspections for which they are seeking approval. Such evidence may include DHCD inspector certificates or national inspector certifications recognized by the DHCD and attendance to the required core modules within the subject area, Registered Design Professional's in areas specific to their credentials or other evidence deemed equivalent and *acceptable* by the Building Official in accordance to Section 13.7.2 of the VUSBC. When considering Registered Design Professionals, applicants must provide conclusive proof of expertise solely dedicated in the subject area. Applicants that may be considered a "conflict of interests" by the building official will not be approved.
- o The Building Official shall provide written notice to all approved to third party inspectors working within Montgomery County and are not subject to the requirements in accordance to Chapter 17 of the VCC. This notice shall include the type of work that they are approved to inspect, and any limitations imposed by the Building Official. The written notice will be job site specific and shall not be transferable to multiple sites.

### **Reporting** Format and time frame;

- Inspection reports shall be submitted to the Building Official within a reasonable amount of time to be determined by the Building Official and based upon a schedule corresponding in accordance to the USBC or project specific as written on the approval document by the approving official. Completion certificates or Certificate of Occupancy shall not be issued unless the official has all the inspection documentation required to substantiate compliance with the USBC.
- Reports shall include the following;
  1. Name of inspector
  2. Date & time of inspection.
  3. Specific details indicating what is being inspected.

WWW.MONTVA.COM • 540-382-5750 • FAX 540-381-6880



**MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS**

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

4. Applicable standard or section specific to the inspection.
5. Other details required by the code or requested by the Building Official.
6. EMAILS or FAX copies shall not be accepted for reporting inspections unless specifically REQUESTED by the Building Official.

**NOTICE:** Failure to submit reports in a timely manner as established by the approving official or without substantiation of the performed inspection is just cause to revoke the approved use of third party inspection service. The approval will terminate immediately and the county staff will pick up the remaining inspections or require the permit holder to submit an application for approval of another qualified applicant, all work on site will stop until approved inspections in accordance to the USBC can resume.

**OTHER IMPORTANT NOTES:**

- Third party inspectors may not be used to inspect work that has been rejected by any of the County's Code Officials, unless preapproval is documented and approved by the Building Official, or after corrections have been completed.
- Documentation is required for all information pertinent to the project. Phone conversations and on site non-documented conversations shall be considered hearsay and will not be accepted.
- Any items that are covered by the manufactures warranty shall submit consent from the manufacturer stating the warranty will be honored with the use of the third party inspection process in addition to the approval requirements written in this policy by the Building Official.
- With the exception of elevator inspectors, third party inspectors shall not perform any level of the Final Inspections without the physical presents of a County Code Official unless pre-approved by the Building Official".
- Photographs, videotapes or other sources of pertinent data or information may be considered by the Building Official as constituting such reports and tests. Pre-approval for use of any technology in lieu of a physical inspection is mandatory. Use of any technology shall not be the sole source for specific third party inspections.



**MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS**

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

- Any deviation from an approved stamped plan may prompt the building official to require the Registered Design Professional to inspect or certify or both, the building or structure meets all applicable codes in accordance to the applicable edition of the VSBC.
- Third Party Inspection firms and personnel shall be independent of the contractors performing the work, and shall have no personal interests in the project, including but not limited to political or business related ties to the contractor or land/structure owner.
- Third Party inspections shall be in accordance to the prescriptive code in accordance to the VUSBC and inspectors shall not accept, utilize, refer or approve to anything referenced as a modification or variance to the VUSBC.

*Rev 3/1/12 updated to the 09 code year, Updated 11/2012, Updated 07/15/2013*

**VIRGINIA: COUNTY OF MONTGOMERY -- LOCAL BOARD OF BUILDING CODE  
APPEALS (LBBCA)**

**APPEAL OF DECISION OF BUILDING OFFICIAL**

**IN RE: BUILDING PERMIT ISSUED TO SUSAN GRAY, DATED MAY 30, 2013**

Comes now Susan Gray and, in support of her position that the building permit issued to her on May 30, 2013, was properly issued, provides the following information:

1. Susan Gray provides a copy of the Complaint filed in the Circuit Court of Montgomery County, Virginia, on February 6, 2013, Case No: CL13012272, and a copy of the court's Order dated February 13, 2013, and the Order dated May 31, 2013. The court Order dated February 13, 2013, in relevant part provides that "the plaintiffs [have] free and unrestricted access to the use of the roadway known as Sugar Grove Road; that the plaintiffs have the right to restore and maintain the said roadway, that the defendants [Mary Ann Capp and Karen Windham] be enjoined from obstructing or, in any way, restricting the use and enjoyment of the roadway to the plaintiffs' property for access to Bow Hill Road . . ." The injunction remains in effect. The attached documents show that Gray has a right to restore and maintain the roadway of which the bridge in question is an integral part.

2. Capp and Windham own real estate but their ownership is subject to all the rights of others, which include prescriptive rights, equitable easement rights and the right to restore and maintain the said roadway.

3. Gray's predecessors in title have used the roadway for access for a period in excess of 20 years and, therefore, she has a prescriptive right to the roadway. Gray was granted a right to install a stream crossing which Gray elected to do in the form of culverts which were removed following the storm of January 31, 2013, by Capp. Following the grant of the right to install a stream crossing by Capp's predecessors in title, Gray incurred expense in erecting the stream

crossing and, therefore, has established an equitable easement for the stream crossing which is now in the form of a clear span bridge.

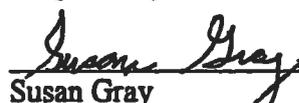
4. The suit by Gray against Capp remains pending in the Circuit Court of Montgomery County, Virginia, and the injunction against interference by Capp remains in effect.

5. The assertion by Capp regarding legal liability demonstrates a marked misunderstanding of applicable law.

6. John W. Broughton, Building Inspector, correctly approved the plans and has the authority to approve the modifications and appropriately included the requirement that the completed structure meet the intent of the applicable codes.

WHEREFORE, the appeal by Mary Ann Capp should be denied and the actions of the building official should BE AFFIRMED.

Respectfully,

  
\_\_\_\_\_  
Susan Gray  
3000 Sugar Grove Road  
Christiansburg, VA 24073

**VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF MONTGOMERY**

**NORMAN PAUL GRAY, SUSAN GRAY )  
CONNOR GRAY and SARAH GRAY, )  
Plaintiff, )**

v. )

**MARY ANN CAPP, )  
2660 Sugar Grove Rd. )  
Christiansburg, VA 24073 )**

and )

**KAREN WINDHAM, )  
10544 Serenbe Lane )  
Palmetto, Georgia, 30268, )  
Defendants )**

Case No.: CL13012272

RECEIVED AND FILED

FEB 0 3 2013

Montgomery Co. Circuit Court  
Erica W. Williams

**COMPLAINT**

Come now the plaintiffs, Norman Paul Gray, Susan Gray, Connor Gray and Sarah Gray, by counsel, and for their Complaint against defendants, Mary Ann Capp and Karen Windham, represent unto this court as follows:

**STATEMENT OF THE FACTS**

1. Plaintiff, Norman Paul Gray, is the owner of improved real estate situate in Montgomery County, Virginia, containing 200 acres, located in the Sugar Grove Community in the Shawsville Magisterial District, which property was acquired by the plaintiff, Norman Gray, by deed dated November 26, 1986, from Cary W. Hopper and Mary Jane Huber. Susan Gray, Connor Gray and Sarah Gray are family members of Norman Gray, owner of the said property.

2. The defendant, Mary Ann Capp, is the owner of improved real estate situate in Montgomery County, Virginia, designated as Tracts 1, 2, and 3, lying in the Shawsville (formerly Christiansburg) Magisterial District, on the waters of Elliott's Creek, purchased December 22, 1988, from Douglas M. Arthur and Carlene T. Arthur.

3. The defendants, Mary Ann Capp and Karen Windham, are the owners of improved real estate situate in Montgomery County, Virginia, lying in the Shawsville Magisterial District, acquired from Willis K. Webb and Virginia F. Webb by deed dated January 24, 2005.

4. The plaintiffs utilize, in part, for ingress and egress to their property the roadway used by Turman Lumber Co., Inc. on property heretofore conveyed to Darrell Musselman.

5. That this court has heretofore entered an Order stating that Turman Lumber Co., Inc. established a prescriptive easement on the roadway known as Sugar Grove Road across the property of Mary Ann Capp.

6. That the plaintiffs' property is accessed by a roadway that passes through the property of Mary Ann Capp and the defendants, Mary Ann Capp and Karen Windham, which use has been open, notorious, obvious, hostile, visible, exclusive, continuous and unobstructed under claim of right in excess of 20 years and, by such, plaintiffs have obtained a prescriptive easement to the use of the roadway as well as easements by necessity, by implication and by estoppel.

7. That, as a result of the storm which occurred on or about January 31, 2013, parts of the roadway used for ingress and egress were significantly damaged and need to be restored to the condition existing prior to the storm.

8. That the defendants have blocked the roadway, have threatened the plaintiff, Norman Gray, and his family members, Susan Gray, Connor Gray and Sarah Gray, all as shown on the document dated February 4, 2013, attached hereto as Exhibit 1.

9. That the plaintiffs have no other access to this property.

10. That the plaintiffs allege that they have no adequate remedy at law, that the defendants' actions create irreparable injury to the plaintiff, Norman Gray, and his family members. That the equities require that the court grant a temporary injunction pending the litigation by the plaintiffs to

establish their right to the said roadway and that the court permanently enjoin the defendants from interference in any way with the use and enjoyment of the access road for ingress and egress to the plaintiffs' property and to allow the plaintiffs to maintain and restore the roadway to the condition existing prior to the January 31 storm.

11. That the actions by the defendants are willful, wanton and intentional and are an intentional infliction of emotional distress, all of which entitle the plaintiffs to damages and punitive damages and attorney's fees against the defendants.

Wherefore, the plaintiffs respectfully pray that the court grant injunctive relief against the defendants to allow the plaintiffs free and unrestricted access to the use of the roadway known as Sugar Grove Road; that the court find that the plaintiffs have the right to restore and maintain the said roadway, that defendants be enjoined now and in the future from obstructing or in any way restricting the use and enjoyment of the easement to the plaintiffs' property; that the court find and adjudge that the plaintiffs have established a right to use the road by other applicable law, that the court grant a temporary injunction granting to the plaintiffs the right to unrestricted access to the roadway, the right to restore the roadway to the condition existing prior to the January 31, 2013, storm and to permanently enjoin the defendants from, in any way, interfering with, intimidating or otherwise restricting the plaintiffs' use and enjoyment of the said roadway; that the court grant to the plaintiffs damages and punitive damages for past actions for the willful and wanton disregard of the rights of the plaintiffs in the amount of \$100,000 in actual damages and \$300,000 in punitive damages and award costs and attorney's fees and for such other and further relief as the nature of the case may require.

Respectfully,  
Norman Paul Gray  
Norman Paul Gray  
Susan Gray  
Susan Gray  
Connor Gray  
Connor Gray  
Sarah Gray  
Sarah Gray

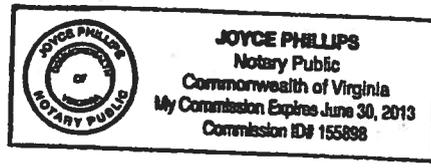
STATE OF VIRGINIA  
COUNTY/CITY OF Radford, to-wit:

This day personally appeared before me, Joyce Phillips, a Notary Public for the State of Virginia at Large, Norman Paul Gray, Susan Gray, Connor Gray and Sarah Gray, who, having been duly sworn, made oath to me that the allegations contained in Complaint are true and correct to the best of their knowledge and belief.

Taken, subscribed and sworn to before me this 6 day of February, 2013.

My Commission expires: 6-30-2013  
Joyce Phillips  
Notary Public

Kendall O. Clay (VSB #12702)  
1210 Grove Avenue  
Post Office Box 852  
Radford, Virginia 24143  
(540) 639-9623  
(540) 633-1275 Fax  
Counsel for Plaintiffs



CERTIFICATE

I, Kendall O. Clay of counsel for plaintiffs, do hereby certify I have this 6th day of February, 2013, mailed a copy of the foregoing Complaint to Mary Ann Capp 2660 Sugar Grove Rd., Christiansburg, VA 24073, and Karen Windham, 10544 Serenbe Lane, Palmetto, Georgia, 30268, defendants.

Kendall O. Clay  
Kendall O. Clay

A Copy - Teste:  
ERICA W. WILLIAMS  
Circuit Court Montgomery County, Virginia  
By: Clara A. Williams, Deputy Clerk

The first part of the report deals with the general situation of the country and the position of the various groups. It is followed by a detailed account of the work done during the year, and a summary of the results. The report concludes with a list of the members of the committee and a statement of the amount of the subscription.

The committee has the honor to acknowledge the generous contributions of the following gentlemen:

Mr. A. B. C. D. E. F. G. H. I. J. K. L. M. N. O. P. Q. R. S. T. U. V. W. X. Y. Z.

The total amount of the subscription is £100.00.

The committee has the honor to thank the following gentlemen for their kind and generous contributions:

Mr. A. B. C. D. E. F. G. H. I. J. K. L. M. N. O. P. Q. R. S. T. U. V. W. X. Y. Z.

The committee has the honor to thank the following gentlemen for their kind and generous contributions:

Mr. A. B. C. D. E. F. G. H. I. J. K. L. M. N. O. P. Q. R. S. T. U. V. W. X. Y. Z.



# EXHIBIT 1

February 4, 2013

BY HAND DELIVERY, POSTING ON GATE, AND BY U.S. MAIL

Norman Gray, Susan Gray, Conner Gray and Sarah Gray  
3000 Sugar Grove Road  
Christiansburg VA 24073

BY U.S. CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

and

Susan Gray  
New River Community Corrections  
P O Box 191  
43 East Main Street  
Pulaski, VA 24301

BY U.S. CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

The license for use of a driveway, dated March 27, 2008 Capp and Windham property off of Sugar Grove Road is now revoked. The driveway is hazardous and no longer available for use. The driveway no longer is a viable route for the purpose of ingress and egress to your property due to the recent flooding event that has washed out the culvert bridge.

This revocation of the license is also due to your violation of the terms in the license.

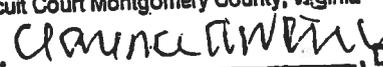
The bridge is impassable and damaged so as to create a nuisance and will be removed. Your vehicles must be removed from the property promptly or they will be towed. You do not have permission to park, walk or travel through the Capp and Windham property. This is a NO TRESPASS Notice.

  
Mary Ann Capp

  
Karen Windham

Cc: Sheriff Tommy Whitte, Montgomery County Sheriffs Department  
Tammy Belinsky, Environmental Law Group

Bcc:

A Copy - Teste:  
ERICA W. WILLIAMS  
Circuit Court Montgomery County, Virginia  
By:  Deputy Clerk



VIRGINIA: IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

NORMAN PAUL GRAY, SUSAN GRAY )  
CONNOR GRAY and SARAH GRAY, )  
Plaintiffs )

v. )

MARY ANN CAPP )  
and )  
KAREN WINDHAM, )  
Defendants )

Case No.: CL13-12272

ORDER

THIS cause came on to be heard upon the prayer for injunctive relief by the plaintiffs, which prayer is contained in the plaintiffs' Complaint, and the testimony of witnesses on behalf of the plaintiffs and was argued by counsel.

Upon consideration whereof, it appearing unto the court that the plaintiffs are entitled to temporary relief against the defendants to allow the plaintiffs free and unrestricted access to the use of the roadway known as Sugar Grove Road; that the plaintiffs have the right to restore and maintain the said roadway, that the defendants be enjoined from obstructing or, in any way, restricting the use and enjoyment of the roadway to the plaintiffs' property for access to Bow Hill Road on the property of the plaintiffs and that the defendants are restrained and enjoined from suing and having issued criminal warrants for trespass against the plaintiffs or any of them on account of the plaintiffs' use of the said roadway, all of which shall remain in effect until further order of the court.

This injunction Order shall be effective from 2:00 p.m. on Tuesday, February 19, 2013, until further Order of the court unless, prior thereto, it shall have been enlarged or a further injunction shall have been granted by further order of the court; but this Order shall not become effective until the plaintiffs enter into a bond before the Clerk of this Court in the sum of \$ 10,000 Cash conditioned according to law.

CO  
2-19-13

Enter: February 19<sup>th</sup> 2013  
[Signature]  
Judge

I ASK FOR THIS ORDER:

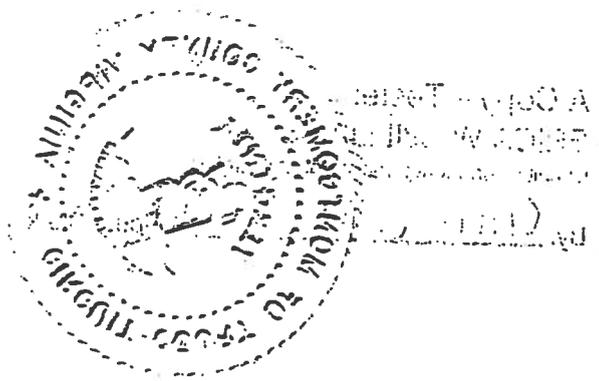
[Signature]  
Kendall O. Clay, Attorney  
VSB No: 12702  
Post Office Box 852  
Radford, Virginia 24143  
(540) 639-9623  
Fax: (540) 633-1275  
Counsel for Plaintiffs

SEEN AND OBJECTED TO: *for reasons set forth at hearing and in the responsive pleadings filed by Mr. Cogg and for lack of proper service to Defendant Karen Windham*

[Signature]  
Tammy L. Blinks, Attorney  
VSB No: 43424 *Belinsky*  
9544 Pine Forest Road  
Copper Hill, Virginia 24079  
(540) 929-4222  
Fax: (540) 929-9195  
Counsel for ~~Defendants~~

*Mary Ann Cogg*

A Copy - Teste:  
ERICA W. WILLIAMS  
Circuit Court Montgomery County, Virginia  
By: [Signature] Deputy Clerk



VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF MONTGOMERY

NORMAN PAUL GRAY, SUSAN GRAY,  
CONNER GRAY, and SARAH GRAY,

Plaintiffs,

v.

MARY ANN CAPP and  
KAREN WINDHAM,

Defendants.

Civil Action No. CL130-12272

ORDER

This cause came on to be heard upon the Motion for Rehearing filed by the defendant, Karen Windham, upon the objection to Motion for Rehearing filed by the plaintiffs, which motion and objection were heard by the Court and the objection to the rehearing was denied.

Whereupon, the plaintiffs and the defendants announced that they were ready to proceed and the Court heard evidence of the co-defendant, Karen Windham, and argument of counsel.

After brief recess during which the Court researched the elements for temporary injunctive relief, and upon consideration whereof, it appearing unto the Court that the standards for granting temporary injunctive relief are the likelihood of irreparable harm to each party, the balance of the equities, the likelihood that the party seeking the temporary injunction will succeed on the merits, and the public interest, the Court FINDS that the balance of the equities favors the plaintiffs in that requiring the plaintiffs to use the existing easement on the Musselman property could cause irreparable harm to the plaintiffs, that while not ruling on the merits, there is a likelihood that the plaintiffs could succeed, and that people having reasonable access to their

property is in the public interest. This Court additionally FINDS that the driveway depicted by the double-dashed lines on plaintiffs' Exhibit 1 is a private driveway and not a public road.

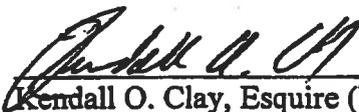
It is accordingly ORDERED that the injunction heretofore entered by the Court shall remain in effect. In addition to the conditions set forth in the Order entered on February 19, 2013, it is further ORDERED that the plaintiffs securely close the gates (latch gates) that the plaintiffs pass through in utilizing the private driveway in question, and that the bond heretofore ordered remain in effect until July 1, 2013, which bond may be extended or otherwise modified by further order of the Court.

The Clerk is directed to mail a copy of this Order to each counsel of record, and this matter is continued on the Court's docket.

ENTER: May 31, 2013

  
\_\_\_\_\_  
Colin R. Gobb, Judge

SEEN:

  
\_\_\_\_\_  
Kendall O. Clay, Esquire (VSB No. 12702)  
1210 Grove Avenue  
P. O. Box 852  
Radford, VA 24143  
Telephone: 540-639-9623  
Facsimile: 540-633-1275  
*Counsel for Plaintiffs*

A Copy - Teste:  
ERICA W. WILLIAMS  
Circuit Court Montgomery County, Virginia

By:   
\_\_\_\_\_  
Deputy Clerk



SEEN AND OBJECTED TO: *As attached by 2 page endorsement*

Tammy L. Belinsky, Esquire (VSB No. 43424)  
The Environmental Law Group, PLLC  
9544 Pine Forest Road  
Copper Hill, Virginia 24079  
Telephone: 540-929-4222  
Facsimile: 540-929-9195  
email: [tbelinsky@envirolawva.com](mailto:tbelinsky@envirolawva.com)

David S. Bailey, Esquire (VSB No. 24940; DC Bar 455518)  
Jennifer A. French (VSB No. 81395)  
The Environmental Law Group, PLLC  
5803 Staples Mill Road  
P.O. Box 6236  
Richmond, Virginia 23230  
Telephone: 804-433-1980  
Facsimile: 804-433-1980  
*Counsel for Defendant Mary Ann Capp*

*Signature obscured with per Rule 1.13*

John N. Spicer, Esquire (VSB No. 68845)  
Erin Byers, Esquire  
Frank, Spicer & Cox, P.C.  
504 South Main Street  
Blacksburg, Virginia 24060  
Telephone: 540-552-0007  
Facsimile: 540-951-3139  
*Counsel for Defendant Karen Windham*



Endorsement to Order of Court  
*Norman Gray, et al. v. Mary Ann Capp and Karen Windham;*  
Civil Action No. CL13-12272

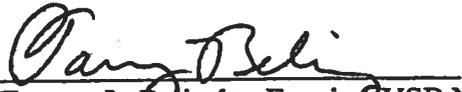
**SEEN AND OBJECTED TO:**

The Plaintiffs are not entitled to temporary injunctive relief because the Plaintiffs neither offered or proved actual evidence of any right of access to their property over the property owned individually by Mary Ann Capp, or over the property owned jointly by Mary Ann Capp and Karen Windham. The Plaintiffs have not proved any of the elements of a prescriptive right. Rather the only evidence presented is that the Plaintiffs made a culvert bridge in Rocky Branch, a creek bed owned by the Commonwealth, on the Defendants' property with permission granted by the Defendants' immediate predecessor in title, and that the Plaintiffs' use of Defendants' private driveway has been by license extended by the Defendants. The only basis upon which this Court has ruled that the Plaintiffs could succeed on the merits (March 21, 2013, hearing transcript, page 97, lines 14-15) is the Plaintiffs' proffer, by counsel, that at trial on the merits they will show that the private driveway at issue has been used since the 1930's, and not necessarily by these Plaintiffs' predecessors in title. Therefore, there is no evidence of likelihood of success on the merits of their claim based on prescription, necessity or implication.

Defendant Capp also objects to the Court's finding that any potential harm from using the express easement held by Plaintiffs over the Musselman property is irreparable where the only harm in evidence is that the use of the Musselman property is limited to access by four wheel drive vehicles which the evidence showed the Plaintiffs own such vehicles and that the condition of the road is the responsibility of the dominant estate holder who is the Plaintiffs in this case. There is no irreparable harm because the evidence is in fact that the Plaintiffs are, and have been, using the Musselman easement to access their property. Furthermore, any potential damage to a vehicle from using the Musselman easement, which the Plaintiffs have failed to maintain, is not irreparable. Therefore the balance of the equities is in the Defendants' favor in that enjoining Defendants from interfering with the construction of a bridge on Defendants' property interferes with the Defendants' property rights for which Plaintiffs have not proved they have any dominant interest while the Plaintiffs have an express right-of-way that does not require the construction of a bridge.

Defendant Capp further objects to the Court's finding that there is a public interest in a private landholder having access to his land for which finding is actually a ruling for which there is no basis in the law, and which ruling is contrary to well-settled law of real property which puts the burden on the vendee to assure and prove lawful access to property, and where such lawful access does not exist such right-of-access must be found elsewhere and/or purchased from a willing vendor.

~~Defendant Capp objects to the denial of the order to securely close the gates that the plaintiffs pass through in utilizing the private driveway.~~ TLB  
March 31, 2013



Tammy L. Belinsky, Esquire (VSB No. 43424)  
The Environmental Law Group, PLLC  
9544 Pine Forest Road  
Copper Hill, Virginia 24079  
Telephone: 540-929-4222  
Facsimile: 540-929-9195  
email: [tbelinsky@envirolawva.com](mailto:tbelinsky@envirolawva.com)

David S. Bailey, Esquire (VSB No. 24940; DC Bar 455518)  
Jennifer A. French (VSB No. 81395)  
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5803 Staples Mill Road  
P.O. Box 6236  
Richmond, Virginia 23230  
Telephone: 804-433-1980  
Facsimile: 804-433-1980  
*Counsel for Defendant Mary Ann Capp*

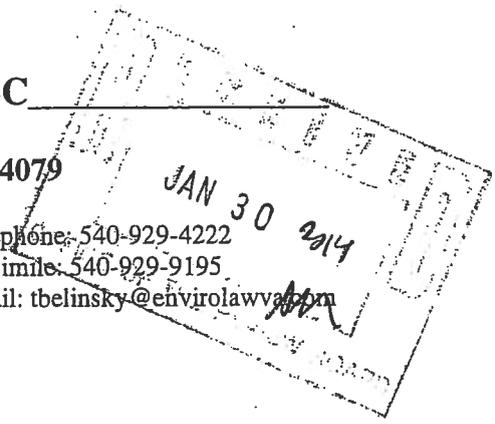
**REVIEW BOARD APPEAL 14-1  
CAPP VS. MONT. CO. ET AL.**

**ADDITIONAL DOCUMENTS  
SUBMITTED BY CAPP**

**The Environmental Law Group, PLLC**  
*Law and Science for the Environment*  
9544 Pine Forest Road, Copper Hill, Virginia 24079

David S. Bailey (VA & DC)  
General Manager & Senior Counsel  
Tammy L. Belinsky (VA) (Associate Counsel)  
Jeter M. Watson (VA) (Of Counsel)

Telephone: 540-929-4222  
Facsimile: 540-929-9195  
Email: [tbelinsky@envirolawva.com](mailto:tbelinsky@envirolawva.com)



January 27, 2014

Mr. Alan W. McMahan, Staff  
Virginia Department of Housing and Community Development  
State Building Code Technical Review Board  
600 East Main Street, Suite 300  
Richmond, Virginia 23219

Re: Appeal of Mary Ann Capp to the Review Board, Appeal No. 14-1

Dear Mr. McMahan:

In response to your letter of January 16, 2014, with this letter Ms. Capp is providing additional documents in support of the appeal.

Please find enclosed

1) the initial permit application with the drawing for culvert replacement submitted on May 24, 2013 by Gray, the initial permit, the initial permit appeal form submitted by Mary Ann Capp, and the notification of the applicants' withdrawal of the initial permit;

2) a collection of correspondence that was obtained by Mary Ann Capp from the office of the Montgomery County Building Official in the summer of 2013 while the initial permit was still in place; and

3) three color photographs of the bridge construction in the creek.

Thank you for your attention to this matter.

Sincerely,

  
Tammy L. Belinsky

copies: Mary Ann Capp  
Norman Gray  
Bill Yeager, Building Official, Montgomery County Dept. Of Building & Inspections

■ Land Use, Planning & Zoning ■ Natural Resource Protection ■ Wetlands ■ Water Quality & Quantity ■  
Environmental Exposures to Mold, Pesticides & Toxic Chemicals  
[www.envirolawva.com](http://www.envirolawva.com)



MONTGOMERY COUNTY DEPARTMENT OF  
PLANNING AND GIS SERVICES

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

**No Zoning Permit Required**

Date: 5/24/13

Applicant Name: Susan Gray

Phone number: 540-250-1432

Property Owner Name: Mary Ann Capp & Karen Windham

Tax Map Number: 109-A-45

Parcel ID Number: 020499

Parcel Address: Btwn 2732 & 2901 Sugar Grove Rd.

Proposed Project: Construct a 12'x16' clear span bridge with Steel I-beams  
above high water mark

Reason Zoning Permit not required: Not in regulated flood zone.

Signature of Zoning Administrator or Designee Steven M. Sandy

SCANNED

\*Please remember to attach this form to the subject parcel in LDO.\*

## RESIDENTIAL BUILDING PERMIT APPLICATION

### Montgomery County, Virginia

Residential Building Permit must be issued before construction begins. Application for this permit may be made to the Building Official or designate.

Application is hereby made for a Residential Building Permit in accordance with the description and for the purpose hereinafter set forth. This application is made subject to all local and state laws and ordinances and the undersigned hereby agrees to said laws and ordinances which shall be deemed a condition of applying for this permit.

Applications must be accompanied by ONE set of construction plans.

ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE

Application Date: 05/24/13 Applicant Type: Residential  
 Applicant Name: Norman P. Gray

Property Owner's Name: Mary Ann Capp & Karen Windham  
 Mailing Address: 2732 Sugar Grove Rd.  
 Phone (H): ( ) - - Phone (W) ( ) - - e-mail: \_\_\_\_\_

Contractor's Name: SELF - Norman Paul Gray DBA Name: \_\_\_\_\_ License#: \_\_\_\_\_  
 Address: 3000 Sugar Grove Rd. Town: Christiansburg State: VA Zip: 24073  
 Phone: (540) 381-6722 Mobile: (540) 322-0414 Fax: (540) 991-5050 Email: sgray@pulaski-county.org

Mechanic's Lien Agent: \_\_\_\_\_ Phone: ( ) - -  
 Address: \_\_\_\_\_

Project Site Address: Between 2732 & 2901 Sugar Grove Rd.

**Residential Building Information:**

New Construction: Stick Built?  or Modular?  Alterations/Repairs?  Addition?  Bridge  
 Foundation: Basement?  Crawl Space?  Piers?   
 Type of Activity: RESIDENTIAL IRC: 2009 Code Year: 2009 Use Group: R-5 Construction Type: 5B  
 Size: Height: \_\_\_\_\_ Width: 12' Length: 16' # Stories: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_ # Bathrooms: \_\_\_\_\_  
 Finished Area(sq ft): \_\_\_\_\_; Unfinished Area(sq ft): \_\_\_\_\_; Basement (sq. ft.) (if not already included in Finished/Unfinished area) \_\_\_\_\_  
 Attached Garage: (sq. ft.): \_\_\_\_\_  
 Accessory Building (sq. ft.): \_\_\_\_\_ Detached Garage (sq. ft.): \_\_\_\_\_ Addition(sq. ft.): \_\_\_\_\_ Alteration(sq. ft.): \_\_\_\_\_

Water Services: \_\_\_\_\_ Sewer Services: \_\_\_\_\_  
 Road Services:  Public  Private

Additional Comments: Clear span bridge using steel I-beams on concrete footer abutments  
 Estimated Project Cost: \$15,000 (Labor and Materials Only) Bridge Const on private property

I hereby certify that I have the authority to make the foregoing application, that the information given is correct and that the construction will conform to the regulations of the Virginia Uniform Statewide Building Code, Zoning Ordinance, and any private building restrictions that may be imposed upon the above property by the deed. Also, I hereby agree to restore all damages to sidewalks, streets, alleys, sewers, gas mains, and electrical installation that may result.

I further certify that I have or will contact Montgomery Co. Planning and GIS Services to discuss the proposed project to insure that it will comply with all applicable development and zoning codes.

SCANNED

\_\_\_\_\_  
 Printed Name of Permit Applicant

\_\_\_\_\_  
 Signature of Property Owner, Contractor, or Authorized Agent

MUST SATISFY ALL FIELD INSPECTIONS



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

**EXEMPTION AFFIDAVIT**

I (name) Susan Gray  
(PLEASE PRINT)

affirm that I am performing, managing or superintending work consisting of improvements to real property located at this address:

and that I am the person who has applied for a building permit.

In accordance with Title 54.1-1.1 of the Code of Virginia, any person applying for a permit shall furnish satisfactory proof that he is duly licensed to do the work, or file a written affidavit that he is not subject to licensure or certification as a contractor or subcontractor. The Code of Virginia 54.1-1101 exempts any person who performs or supervises the construction, removal, repair or improvement of (1) no more than one building for retail use, one building for commercial use, and one residence upon his own real property and for his own use during any twenty-four-month period, (2) a house upon his own real property as a bona fide gift to a member of his immediate family\* provided such member lives in the house, (3) industrial or manufacturing facilities for his own use. \*"Immediate family" includes one's mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law and father-in-law.

**NOTE TO PROPERTY OWNERS:** If you made arrangements with a contractor to do this work, Montgomery County strongly suggests that the contractor is the party to secure the necessary permit(s). When contractors obtain permits in their names, they indicate their responsibility for the work. When you sign this affidavit you are obtaining a permit(s) in your name that will be performed by the contractor. This should be avoided. When a permit is issued solely in the name of the property owner, enforcement actions against a contractor for code violations may become difficult. In addition, when the contractor applies for the permit, the contractor will be required to submit licensing information. Unwillingness on the part of the contractor to obtain the necessary permit(s) may be an indication that he contractor is not properly licensed. Ask the Building Official's office any questions you have regarding the matter before signing this form.

Signature: Susan Gray

(MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC)



County of Montgomery, Commonwealth of Virginia

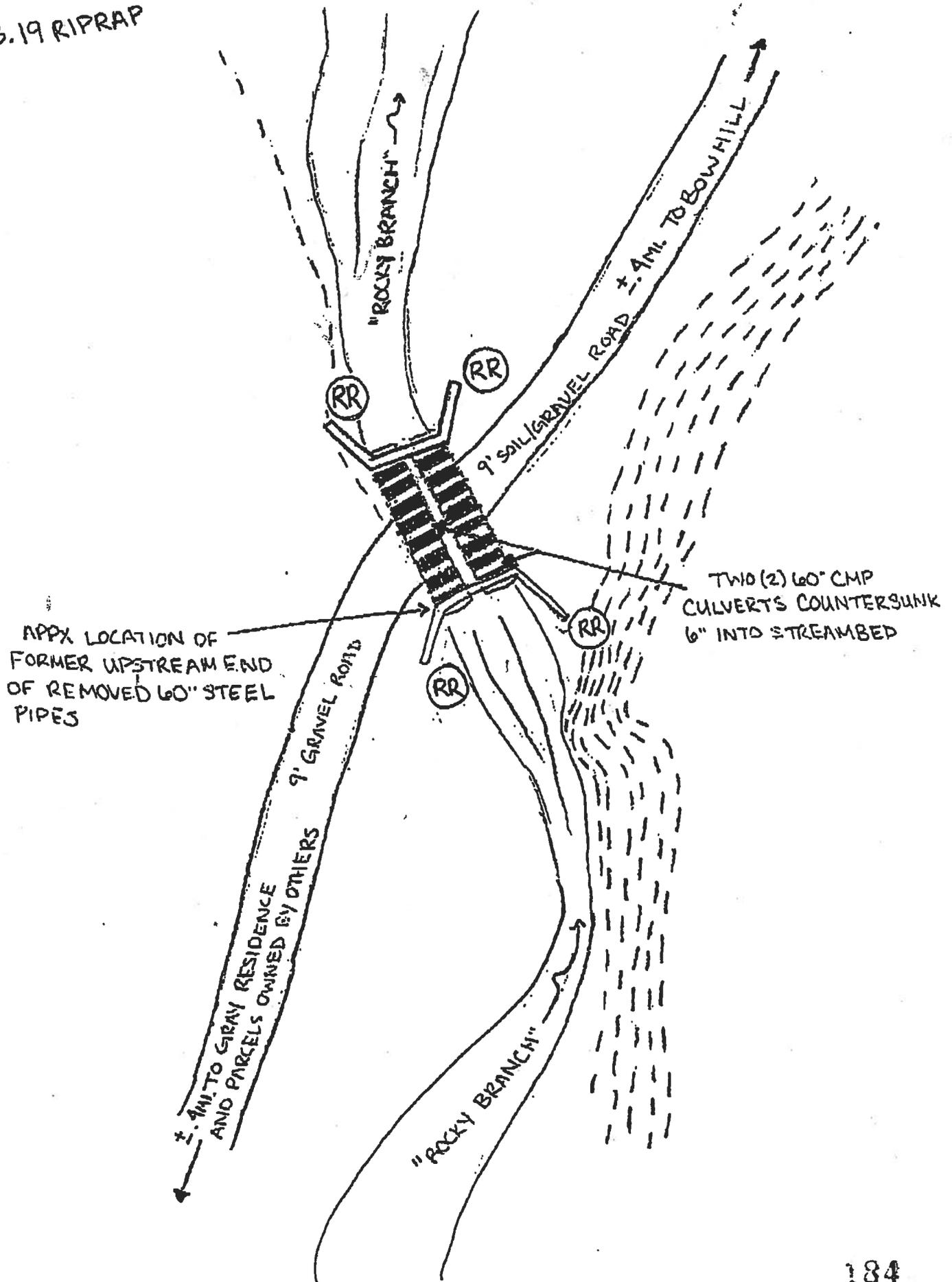
I Patty Jo Bandy, a Notary Public in and for the  
aforementioned State/County. I have executed this affidavit on the 24<sup>th</sup> day of  
May, 2013.

Patty Jo Bandy  
(Notary Public)  
Effective 09/2008

**SCANNED**  
May 31, 2013  
(Commission Expires)

# SUGAR GROVE CULVERT REPLACEMENT

(RR) = 3.19 RIPRAP



APPX LOCATION OF FORMER UPSTREAM END OF REMOVED 60" STEEL PIPES

TWO (2) 60" CMP CULVERTS COUNTERSUNK 6" INTO STREAMBED

Montgomery County, Virginia

RESIDENTIAL BUILDING/ZONING PERMIT APPLICATION

Residential Building/Zoning Permit must be issued before construction begins. Application for this permit may be made to the Building Official.

Application is hereby made for a Residential Building/Zoning Permit in accordance with the description and for the purpose hereinafter set forth. This application is made subject to all local and state laws and ordinances and the undersigned hereby agrees to said laws and ordinances which shall be deemed a condition of applying for this permit.

Applications must be accompanied by construction plans.

ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE

Application Date: 05 / 24 / 2013 Applicant Type: Contractor
Applicant Name: SUSAN GRAY

Property Owner's Name: CAPP MARY ANN
Mailing Address: 2732 SUGAR GROVE ROAD CHRISTIANSBURG , VA 24073-
Phone (H): Phone (W): Email:

Contractor's Name: SUSAN GRAY DBA Name: License#:
Address:3000 SUGAR GROVE ROAD CHRISTIANSBURG , VA 24073
Phone: Mobile: (540)320-4145 Fax: Email:
Mechanic's Lien Agent: NONE DESIGNATED Phone:
Address:



BY:.....

Project Site Address: 2732 SUGAR GROVE ROAD

Magisterial District: MS Parcel ID: 020499 Tax Map #: 109- A45 Deeded Acres: 73.900
Subdivision: Block: Lot #:
Driving Directions:

Property Zoning: Agricultural Building Setbacks: Front: 40 Side: 20 L/S: 15 R/S: 15 Rear: 40

Residential Building Information: Type of Activity: VB Wood Frame - Unprotected IBC: IRC: Year:
Use Group: R-5 Residential, Residential, 1&2 Family,IRC Structure: Basement
Description: PERMIT IS FOR A BRIDGE

Size - Height: Width: 12 Length: 16 # Stories: # Bedrooms: # Bathrooms:
Finished Area (sq ft): 192 Unfinished Area (sq ft):
Garage Attached(sq.ft.): #Existing Dwelling Units: #Other Units:
Water Services: Sewer Services: Septic Permit#:
Road Services:

SCANNED

Estimated Project Cost: \$10000.00 Residential Permit Fee (Estimated):\$56.00

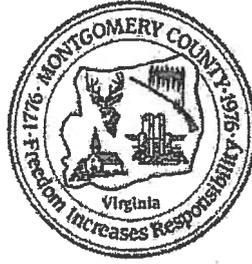
I hereby certify that I have the authority to make the foregoing application, that the information given is correct and that the construction will conform to the regulations of the Virginia Uniform Statewide Building Code, Zoning Ordinance, and any private building restrictions that may be imposed upon the above property by the deed. Also, I hereby agree to restore all damages to sidewalks, streets, alleys, sewers, gas mains, and electrical installation that may result.

I further certify that I have or will contact Montgomery Co. Planning and GIS Services to discuss the proposed project to insure that it will comply with all applicable development and zoning codes.

Susan Gray
Printed Name of Permit Applicant

Susan Gray
Signature of Permit Applicant

MUST SATISFY ALL FIELD INSPECTIONS



Montgomery County Inspections Department  
755 Roanoke St. Suite 1-D  
Christiansburg, Va. 24073  
Office: 540-382-5750  
Fax: 540-381-6880

**Project Name: Sugar Grove**

**May 30, 2013**

**Permit Holder: Mrs. Susan Grey**  
3000 Sugar Grove Rd  
Christiansburg, Va. 24073

**Property Owner: Mary Ann Capp**  
2732 Sugar Grove Rd  
Christiansburg, Va. 24073

Mrs. Grey,

The application submitted for the structure to replace the removed culverts has been approved. Because the original stamped plans has been changed, I need the following items:

- 1) A post construction inspection performed on the structure and a stamped approval document by the RIDP indicating that the structure meets the intent of the applicable codes.
- 2) A formal letter from the RIDP verifying the construction materials used are adequate for the use intended.

Respectfully,

John W. Broughton  
Building Inspector/  
Erosion and Sediment Control Inspector

R-Permit #: BP-2013-10893

Montgomery County, Virginia

### RESIDENTIAL BUILDING/ZONING PERMIT

Building Inspections, Dept. of General Services  
755 Roanoke Street, Suite 1D, Christiansburg, VA 24073-3173 Phone: 540-382-5750 Fax: 540-381-6880

This Permit becomes void if work is not commenced within six (6) months of issuance or work becomes inactive for a time period greater than six (6) months.

This permit includes the Virginia State Levy for continued education and training (2.0% of Building Permit Fee)

#### ALL BUILDING WORK MUST COMPLY WITH THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE

Permit Date: 05 / 24 / 2013 R-Permit Number: BP-2013-10893 Permit Fee: \$56.00

**Property Owner's Name:** CAPP MARY ANN Phone (H): Phone (W):

Mailing Address: 2732 SUGAR GROVE ROAD CHRISTIANSBURG , VA 24073-

**Contractor Name:** SUSAN GRAY License #:

Phone: Fax: Cell: (540)320-4145 eMail:

Mailing Address: 3000 SUGAR GROVE ROAD CHRISTIANSBURG , VA 24073

Mechanics Lien Agent (MLA): NONE DESIGNATED Phone:

Address:

**Project Site Address:** 2732 SUGAR GROVE ROAD

Magisterial Dist: MS Parcel ID: 020499 Tax Map #: 109- A 45 Deeded Acres: 73.900

Subdivision: Block: Lot #:

Driving Directions:

Property Zoning: Agricultural Building Setbacks: Front: 40 Side: 20 L/S: 15 R/S: 15 Rear: 40

**BUILDING INFORMATION:** Type of Activity: VB Wood Frame - Unprotected IBC: IRC: Year:

Use Group: R-5 Residential, Residential, 1&2 Family,IRC Structure: Basement

Description: PERMIT IS FOR A BRIDGE

Size - Height: Width: 12 Length: 16 # Stories: # Bedrooms: # Bathrooms:

Finished Area (sq ft): 192 Unfinished Area (sq ft):

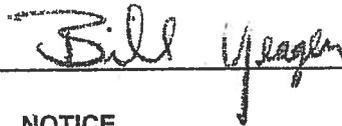
Garage Attached(sq.ft.): #Existing Dwelling Units: #Other Units:

Water Services: Sewer Services: Septic Permit#:

Road Services:

Estimated Construction Cost: \$10,000.00

MONTGOMERY COUNTY BUILDING OFFICIAL:



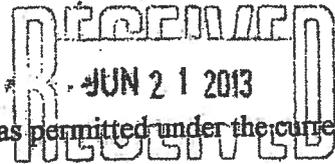
Date: 05/30/13

#### NOTICE

The permit holder shall be responsible for notifying Building Inspections for all inspections as required above.

Chairman  
Montgomery County Board of Building Code Appeals  
755 Roanoke Street, Suite 2E  
Christiansburg, VA 24073  
Attention: Secretary to the Board

Date: 6-21-13



I wish to appeal a decision of the Montgomery County Building Official as permitted under the current edition of the Virginia Uniform Statewide Building Code (USBC).

The subject of this appeal is located at:

2732 Sugar Grove Road, Christiansburg VA 24073  
Street Address Town

As the building  owner  owner's agent, I am hereby appealing the decision of the Montgomery County Building Official because of the following reason: (check one)

- The Building Official has refused to grant a modification to the USBC.
- Building Official has incorrectly interpreted the true intent of the USBC.
- The provisions of the USBC do not fully apply in this instance.

The Building Official determined that: (describe the decision; a copy of the decision must be attached)

A Building Permit be issued based on abandoned plans and an ineptible applicant that can be adverse to my interests and liability concerns

The decision of the Building Official was rendered on:

5-30-13

Date

The Building Official's decision was based on the following code and section(s):

Virginia Uniform Statewide Building Code 2009 Sec 108.4 AND  
The Code of Virginia Code Name Edition (Year) Section(s)  
Sec 54.1-1117

This appeal is being filed for the following reason or reasons: (add additional sheets if needed)

Only the landowner can self contract. The applicant, Susan Gray has no fee interest in the land. The applicant is not my authorized agent. The applicant has an adversarial position to the protection of my liability and interests. The applicant has no bridge construction supervision experience. The applicant has a claim of emotional distress.

The following points are relevant: Exemption Affidavit is invalid.

Concern for liability, the accepted plans are abandoned for a culvert bridge and the intent of the code is circumvented by not assuring the plans for a span bridge would meet all potential load and safety requirements. I am protecting liability concerns within the bounds of the permitting process. The permit application is inaccurate and with errors.

Owner's Name: Mary Ann Capp + Kavan Wick  
Signature:   
Address: 2732 Sugar Grove Rd  
City, State, Zip: Christiansburg VA 24073  
Telephone: 540 320-6001

Submitter's Name: Mary Ann Capp  
Signature:   
Address: 2732 Sugar Grove Rd  
City, State, Zip: Christiansburg VA 24073  
Telephone: 540-320-6001



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS  
755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

RECEIVED  
JUN 14 2013  
RECEIVED

**Request for Information**  
From the  
**Building Inspections Department**

Request Date: 6-14-13  
Need Date: 6-17-13

*Mary Ann Capp*  
540-320-6001

Please supply the following information.

1. Name of Applicant Susan Gray
2. Mailing Address 3000 Sugar Grove Rd Christiansburg VA 24073
3. Site address of requested information 2732 Sugar Grove Rd Christiansburg VA 24073
4. Parcel I.D. \_\_\_\_\_ Phone number 540-320-6001

What type of information are you requesting? copy of all documents on file  
for permit including engineering plans and specifications

Date of Issuance 5-30-13

Reason for requested information plans and specs and all documents on  
file for issuance of permit.

\*\*\*\*\*DO NOT WRITE BELOW THIS LINE. FOR OFFICIAL USE ONLY\*\*\*\*\*

The information requested as listed below or attached:

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Completion date for requested information \_\_\_\_\_

Completed by: \_\_\_\_\_

Revised 08/13/2007; 03/05/2009

WWW.MONTVA.COM • 540-382-5750 • FAX 540-381-6880

**From:** [mary.a.capp@cummins.com](mailto:mary.a.capp@cummins.com)  
**To:** [tbelinsky@envirolawva.com](mailto:tbelinsky@envirolawva.com);  
**cc:** [macapp@mindspring.com](mailto:macapp@mindspring.com);  
**Subject:** Fw: Permit for 2732 Sugar Grove Road  
**Date:** Monday, July 15, 2013 4:49:30 PM

---

----- Forwarded by Mary A Capp/Distributors/Cummins on 07/15/2013 04:48 PM -----

**From:** "Teresa A. Gantt" <[ganttta@montgomerycountyva.gov](mailto:ganttta@montgomerycountyva.gov)>  
**To:** "Jason Boyle ([jason@greenvalleybuildersinc.com](mailto:jason@greenvalleybuildersinc.com))" <[jason@greenvalleybuildersinc.com](mailto:jason@greenvalleybuildersinc.com)>, "Robert Pilkington ([rpilkington@balzer.cc](mailto:rpilkington@balzer.cc))" <[rpilkington@balzer.cc](mailto:rpilkington@balzer.cc)>, "swvaroot@shentel.net" <[swvaroot@shentel.net](mailto:swvaroot@shentel.net)>, "joel.donahue@comcast.net" <[joel.donahue@comcast.net](mailto:joel.donahue@comcast.net)>, "wag230@msn.com" <[wag230@msn.com](mailto:wag230@msn.com)>  
**Cc:** "mary.a.capp@cummins.com" <[mary.a.capp@cummins.com](mailto:mary.a.capp@cummins.com)>, "kwindham@mindspring.com" <[kwindham@mindspring.com](mailto:kwindham@mindspring.com)>, "sgray@pulaskicounty.org" <[sgray@pulaskicounty.org](mailto:sgray@pulaskicounty.org)>, "William C. Yeager" <[yeagerwc@montgomerycountyva.gov](mailto:yeagerwc@montgomerycountyva.gov)>, Marty McMahon <[mcmahonmm@montgomerycountyva.gov](mailto:mcmahonmm@montgomerycountyva.gov)>  
**Date:** 07/15/2013 04:36 PM  
**Subject:** RE: Permit for 2732 Sugar Grove Road

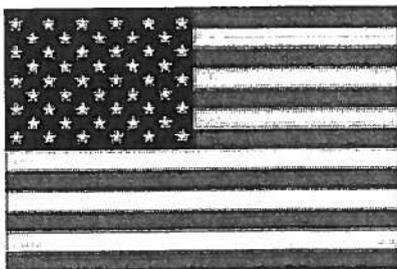
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I have received a letter confirming that Susan Gray has withdrawn permit no. BP-2013-10893. There won't be a meeting on Wednesday night as this turn of events means there is nothing to Appeal.

Thanks,  
Teresa

**Teresa Gantt**  
**Program Assistant**  
**Montgomery County**  
**Department of Building Inspections**  
**755 Roanoake Street, Suite 1D**  
**Christiansburg, VA 24073-3173**  
**P:(540) 382-5750 F:(540) 381-6880**

***We will not schedule any inspections for Thursday, July 18, 2013. Please plan accordingly.***



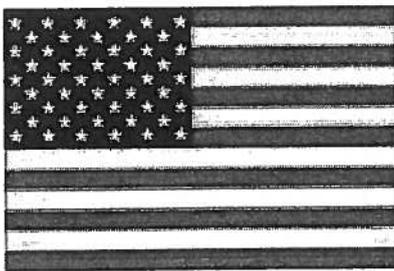
*All permit applications, including trades, require 7-10 business-days to process.*

**From:** Teresa A. Gantt  
**Sent:** Monday, July 15, 2013 12:34 PM  
**To:** Jason Boyle (jason@greenvalleybuildersinc.com); Robert Pilkington (rpilkington@balzer.cc); swvawindow@aol.com; joel.donahue@comcast.net; wag230@msn.com  
**Cc:** mary.a.capp@cummins.com; kwindham@mindspring.com; sgray@pulaskicounty.org; William C. Yeager (yeagerwc@montgomerycountyva.gov); Marty McMahon  
**Subject:** Permit for 2732 Sugar Grove Road

Mrs. Susan Gray has given me verbal notice to withdraw permit number BP-2013-10893. She will follow-up in writing this afternoon.  
As of 12:30pm today, the permit is no longer valid. Please inform those working with you (who are not on this e-mail list), of this decision by the Applicant.  
Thanks,  
Teresa

**Teresa Gantt**  
**Program Assistant**  
**Montgomery County**  
**Department of Building Inspections**  
**755 Roanoake Street, Suite 1D**  
**Christiansburg, VA 24073-3173**  
**P:(540) 382-5750 F:(540) 381-6880**

***We will not schedule any inspections for Thursday, July 18, 2013. Please plan accordingly.***



*All permit applications, including trades, require 7-10 business-days to process.*

---

This email has been scanned by the Symantec Email Security.cloud service.  
For more information please visit <http://www.symanteccloud.com>

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THE ENVIRONMENTAL LAW GROUP (VA) 340 3133 P. 0017003

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**The Environmental Law Group, PLLC**

*Law and Science for the Environment*

9544 Pine Forest Road, Copper Hill, Virginia 24079

David S. Bailey (VA & DC)  
General Manager & Senior Counsel  
Tammy L. Belinsky (VA) (Associate Counsel)  
Jeter M. Watson (VA) (Of Counsel)

Telephone: 540-929-4222  
Facsimile: 540-929-9195

**FAX COVER SHEET**

DATE: January 30, 2014

TOTAL PGS: 3  
(Includes Cover)

TO: Mr. Alan W. McMahan, Staff  
VA Dept of Housing Community Development  
State Building Code Technical Review Board

FAX: 804-371-7090 PHONE: 804-371-7175

HARD COPY ( WILL  ) ( WILL NOT  ) FOLLOW BY MAIL

RE: \_\_\_\_\_

FROM: Tammy L. Belinsky, Esquire

COMMENTS: Mr. McMahan's fax line is not working. Please deliver this facsimile to  
Mr. McMahan. Thank you.

**NOTICE OF CONFIDENTIALITY**

The information contained in this facsimile message may be legally privileged and/or confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, please do not disseminate, distribute or copy any of the information in this facsimile. Any such action is strictly prohibited and may violate legal privileges.

**The Environmental Law Group, PLLC**  
*Law and Science for the Environment*  
**9544 Pine Forest Road, Copper Hill, Virginia 24079**

David S. Bailey (VA & DC)  
General Manager & Senior Counsel  
Tammy L. Belinsky (VA) (Associate Counsel)  
Jeter M. Watson (VA) (Of Counsel)

Telephone: 540-929-4222  
Facsimile: 540-929-9195  
Email: tbelinsky@envirolawva.com

January 30, 2014

Mr. Alan W. McMahan, Staff  
Virginia Department of Housing and Community Development  
State Building Code Technical Review Board  
600 East Main Street, Suite 300  
Richmond, Virginia 23219

BY FACSIMILE ONLY

Re: Appeal of Mary Ann Capp to the Review Board, Appeal No. 14-1

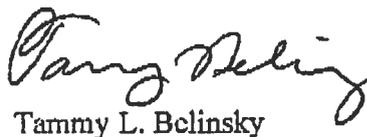
Dear Mr. McMahan:

By letter dated January 27, 2014, Ms. Capp mailed to your attention -- U.S. certified, return receipt requested -- additional documents in regard to Appeal No. 14-1. One document was inadvertently omitted from the package of documents.

A one page letter from the Building Official and addressed to Susan Grey [sic] is enclosed herewith, which letter is dated July 5, 2013. Please incorporate the letter into the documents associated with the initial building permit application.

Thank you for your attention to this matter.

Sincerely,

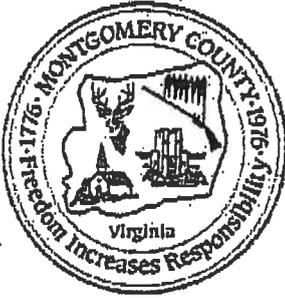


Tammy L. Belinsky

copies: Mary Ann Capp  
Norman Gray  
Bill Yeager, Building Official, Montgomery County Dept. Of Building & Inspections

Mary Ann Capp

COPY



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

July 5, 2013

Permit Holder: Mrs. Susan Grey  
3000 Sugar Grove Rd.  
Christiansburg, Va. 24073

Re: Sugar Grove Project

Mrs. Grey,

An official application of appeal has been filed, as of June 21, 2013, with the Montgomery County Board of Building Code Appeals concerning the issuance of the building permit for your court ordered injunction. As a result, the 2009 USBC requires that all work shall stop immediately, until a decision is confirmed from the Board.

The LBBCA will meet within 30 calendar days after receiving an application of appeal. A notice indicating the time and place of the hearing will be sent to the parties listed on the application at least 14 days before the meeting.

As of July 5, 2013, All Work Shall Stop on project: 2732 Sugar Grove Rd. until further notice from the appeals board.

If you have any questions, please feel free to contact me at 540-382-5750 or email: [broughtonjw@montgomerycountyva.gov](mailto:broughtonjw@montgomerycountyva.gov)

Sincerely,

John W. Broughton  
Building Inspector  
E&S Inspector

REVIEW BOARD APPEAL 14-10  
CAPP VS. MONT. CO. ET AL.

APPLICATION FOR APPEAL TO  
THE REVIEW BOARD BY CAPP

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: alan.mcmahan@dhcd.virginia.gov

AUG - 6 2014  
*[Handwritten signature]*

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations

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

Mary Ann Capp, 2732 Sugar Grove Road, Christiansburg, Virginia 24073, cell telephone 540-320-6001, email: macapp@mindspring.com and who is represented by counsel: Tammy L. Belinsky, Esquire, The Environmental Law Group, PLLC, 9544 Pine Forest Road, Copper Hill, Virginia 24079, telephone: 540-929-4222, email: tbelinsky@envirolawva.com.

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

Montgomery County Department of Building and Inspections, 755 Roanoke Street, Suite DI, Christiansburg, Virginia 24073, telephone 540-382-5750, www.MontVa.com; Norman Gray, 3000 Sugar Grove Road, Christiansburg, Virginia 24073, telephone number 540-381-0722, email address unknown; the Local Board of Building Code Appeals for which the only contact information the applicant has for the LBBCA is the Montgomery County Department of Building Inspections (see decision transmitted by the Montgomery County Department of Building Inspections.

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought
- Documents obtained from Fink Engineering by Subpoena duces tecum.

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of August, 2014, 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: *Mary Ann Capp*

Name of Applicant: Mary Ann Capp  
(please print or type)

000Y



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

**CERTIFICATE OF COMPLIANCE**

January 10, 2014

Norman Gray  
3000 Sugar Grove Road  
Christiansburg, VA 24073

Re: Certificate of Compliance for a Residential Bridge located at 2732 Sugar Grove Road,  
Christiansburg, VA

Building Permit(s) # BP-2013-10893  
Electrical Permit(s) #  
Plumbing Permit (s) #  
Mechanical Permit (s) #

Dear Mr. Gray:

This is to certify that all work under the above permit(s) has been completed in accordance with the requirements the 2009 Uniform Statewide Building Code (USBC).

Sincerely,

  
William Yeager,  
Certified Building Official  
Montgomery County, VA

Cc: File Copy

BY/tg

RESOLUTION UPHOLDING THE MONTGOMERY COUNTY BUILDING OFFICIALS  
DECISION TO ISSUE A CERTIFICATE OF COMPLIANCE THAT  
ALL WORK UNDER BUILDING PERMIT NUMBER BP-2013-10893  
CONSTRUCTION OF A RESIDENTIAL BRIDGE LOCATED AT  
2732 SUGAR GROVE ROAD WAS COMPLETED  
IN ACCORDANCE WITH THE REQUIREMENTS OF THE USBC

WHEREAS, on June 10, 2014, the Montgomery County Local Board of Building Code Appeals (LBBCA) considered the appeal filed by Mary Ann Capp, property owner residing at 2732 Sugar Grove Road in the County of Montgomery, Virginia; and

WHEREAS, Ms. Capp appealed the decision of the Montgomery County Building Official to issue a Certificate of Compliance to Norman Gray certifying that all work done under Building Permit BP-2013-10893 construction of a residential bridge located at 2732 Sugar Grove Road was completed in accordance with the requirements of the USBC alleging the rating assessment on the bridge that was done by the registered engineer who submitted and stamped plans violated the USBC; and

WHEREAS, the LBBCA conducted an open meeting providing all parties the opportunity to be heard and the LBBCA considered evidence presented by Ms. Capp and the Montgomery County building official; and

WHEREAS, a Motion was made and seconded for the LBBCA to uphold the decision of the Montgomery County Building Official to issue the Certificate of Compliance to Norman Gray certifying all work under Building Permit BP-2013-10893 construction of residential bridge located at 2732 Sugar Grove Road was completed in accordance with the requirement of the USBC based on Section 109.3 of the 2009 Virginia Construction Code.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Local Board of Building Code Appeals that the Board hereby unanimously uphold the decision of the Montgomery County Building Official to issue the Certificate of Compliance to Norman Gray certifying all work under Building Permit BP-2013-10893 construction of residential bridge located at 2732 Sugar Grove Road was completed in accordance with the requirements of the USBC based on Section 109.3 of the 2009 Virginia Construction Code.

BE IT FURTHER RESOLVED, by the Montgomery County Local Board of Building Code Appeals that "Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within twenty-one (21) 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, Virginia 23219, (804) 371-7150"

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: SECOND APPEAL FROM THE DECISION OF THE  
MONTGOMERY COUNTY  
LOCAL BOARD OF BUILDING CODE APPEALS  
TO UPHOLD THE ISSUANCE OF  
MONTGOMERY COUNTY BUILDING PERMIT NO. BP-2013-10893

**STATEMENT OF SPECIFIC RELIEF SOUGHT  
BY THE APPELLANT MARY ANN CAPP**

COMES NOW, Mary Ann Capp, by counsel, and states the relief sought in her appeal from the decision of the Montgomery County Local Board of Building Code Appeals (hereinafter "LBBCA") which decision upheld the issuance of a Certificate of Compliance for Building Permit No. BP-2013-10893 and was received by Mary Ann Capp on July 14, 2014. Appellant Capp asserts that the permit was issued violation of the Virginia Uniform Statewide Building Code (the "USBC") and Ms. Capp's rights of due process, and is thereby invalid and must be rescinded, and in support thereof states as follows:

1. On January 11, 2014, Mary Ann Capp filed an appeal to the State Technical Review Board of the same above-captioned permit of the decision of the LBBCA to issue Building Permit No. BP-2013-10893.
2. At an informal fact finding hearing for that first appeal, Mary Ann Capp learned that the Building Official had issued a Certificate of Compliance for the structure subject to BP-2013-10893.
3. Upon learning that Mary Ann Capp had not been informed of the issuance of the Certificate of Compliance by the Building Official, Vernon Hodge explained the opportunity and

procedure to appeal the issuance of the Certificate of Compliance to the LBBCA.

4. Mary Ann Capp agreed to continue the appeal of the issuance of the Building Permit in order to consider whether to appeal the issuance of the Certificate of Compliance. Mary Ann Capp understood from Mr. Hodge that if she appealed the issuance of the Certificate of Compliance, then this second appeal would be adjudicated with the initial appeal.

5. In this second appeal, Mary Ann Capp appeals the resolution of the LBBCA which resolution upholds the issuance of the Certificate of Compliance by the Building Official.

6. Mary Ann Capp incorporates by reference the Statement of Specific Relief Sought and the documents in the record in the appeal of the decision of the LBBCA which decision upheld the issuance of Building Permit No. BP-2013-10893 most particularly because those records provide context for this appeal.

7. The subject building permit authorizes Norman Gray to construct a bridge on Mary Ann Capp's property to replace a bridge that was washed out in a flood in early 2013, which damaged structure was constructed of used chemical storage tanks rather than culverts.

8. Generally, the subject of the first appeal in this matter is the issuance of the Building permit without requiring plans and specifications for the bridge structure.

9. The Certificate of Compliance at issue in this second appeal was issued after Norman Gray submitted to the Building Official a letter from an engineer that stated the engineer's assessment of the structural capacity of the bridge.

10. As built, after-the-fact assessment does nothing to afford Ms. Capp due process during the time that the issuance of the permit is under consideration by the Building Official, or even during the first administrative appeal which opportunity did not occur in this case. Rather,

the acceptance of an after the fact assessment of the bridge rewards the act of lawless construction.

11. Norman Gray and Mary Ann Capp are in litigation over his use of Mary Ann Capp's property to access his property, and although Norman Gray served his first action against Mary Ann Capp in February 2013, Gray has not yet to file a complaint that states a valid cause of action against Ms. Capp. The court granted injunctive relief to permit Gray to use Capp's property while the action moves forward based on the mere proffer by Gray's counsel that a prescriptive right can be proved at trial on the merits, however, Gray has yet to file a complaint setting forth facts sufficient to state a claim for prescriptive easement and Ms. Capp has not yet been compelled to answer any complaint. Though in litigation for seventeen months, the parties are not yet at issue.

12. Obviously, the civil access-dispute has no bearing on the legal requirements for a valid building permit, but the adversarial relationship of the parties is not normal in the application of section 108.3 of the Virginia USBC as Norman Gray is not Ms. Capp's authorized agent or contractor.

13. The rating assessment upon which the decision appealed from herein is based is inadequate to determine whether the bridge will "support safely the nominal loads in load combinations defined in [the] code without exceeding the appropriate specified allowable stresses for the materials of construction." Virginia USCB § 1604.2.

14. The rating assessment does not comply with USBC section 1604.6. The assessment fails to address: the size and location of foundation rebar, deck anchorage, reinforcing rods, metal deck description, the beam strength which are noted as reclaimed/reused,

concrete strength, soil bearing capacity, and scour and flood loads; and is supported by only a schematic drawing.

15. The capacity assessment is based on an estimated allowable deflection thereby backing into the load capacity.

16. The rating assessment is insufficient to comply with Section 1612.4 and Appendix G of the USBC where placement of the abutments in the creek bottom are open and obviously subject to scour regardless of the flood hazard classification.

17. Although the LBBCA relies upon section 109.3 of the Virginia USBC to uphold the decision of the Building Official, there are no "construction documents [that] include adequate detail of the structural . . . components." There is only an after-the-fact schematic and a letter stating a load assessment.

18. Ms. Capp continues to assert that the permitting process orchestrated by the locality has been abusive to her property rights, and her rights of due process and equal protection. Ms. Capp has never been given the opportunity to review actual and genuine plans and specifications for a bridge constructed on her land which has been constructed by an adverse party with whom she is in litigation, and for which bridge she will be exposed to liability -- whether from the soundness of the construction or the safety of foot traffic due to its height above the rocky creek bed. It was a done deal before the Building Official signed the first permit because he already knew that a span bridge was under construction when he accepted plans for a culvert bridge but he issued a permit anyway while knowing that he was not even qualified to inspect the construction of a span bridge -- with or without its foundation in the creek.

WHEREFORE, Mary Ann Capp requests the State Building Code Technical Review

Board to find upon review of this second appeal in the case of Building Permit No. BP-2013-10893 that the Certificate of Compliance was issued in violation of the Virginia Uniform Statewide Building Code, and to rescind Building Permit No. BP-2013-10893.

Respectfully submitted,

Mary Ann Capp  
By Counsel



Tammy L. Belinsky, Esquire (VSB No. 43424)  
The Environmental Law Group, PLLC  
9544 Pine Forest Road  
Copper Hill, Virginia 24079  
Telephone: 540-929-4222  
Facsimile: 540-929-9195  
email: tbelinsky@envirolawva.com

David S. Bailey, Esquire (Va Bar 24940; DC Bar 455518)  
The Environmental Law Group, PLLC  
5803 Staples Mill Road  
P.O. Box 6236  
Richmond, Virginia 23230  
Telephone: 804-433-1980  
Facsimile: 804-433-1981  
email: dbailey@envirolawva.com

### CERTIFICATE

I hereby certify that a true copy of the foregoing Statement was transmitted by U.S. First Class Priority Mail, Certified Return Receipt Requested, to the Montgomery County Department of Building and Inspections and the Local Board of Building Code Appeals, 755 Roanoke Street, Suite D1, Christiansburg, Virginia 24073, and to Norman Gray 3000 Sugar Grove Road, Christiansburg, Virginia 24073, this 2nd day of August, 2014.



Tammy L. Belinsky

**SUBPOENA DUCES TECUM (CIVIL) –**  
**ATTORNEY ISSUED** VA CODE §§ 8.01-413, 16.1-89, 16.1-265,  
Commonwealth of Virginia Supreme Court Rules 1.4, 4.9

Case No.: CL13-12272

HEARING DATE AND TIME

Circuit Court for the County of Montgomery

Court

55 East Main Street, Christiansburg, Virginia 24073

COURT ADDRESS

Norman Gray, et al.

v./In re:

Mary Ann Capp, et al.

**TO THE PERSON AUTHORIZED BY LAW TO SERVE THIS PROCESS:**

You are commanded to summon

Ronald B. Fink, Chief Engineer, Manager

NAME

Fink Engineering & Land Surveying, LLC, 16 East Main Street

STREET ADDRESS

Christiansburg

Virginia

24073

CITY

STATE

ZIP

**TO the person summoned:** You are commanded to make available the documents and tangible things designated and described below:

all documents, records, memoranda, electronically stored information, correspondence, email communications, telephone logs, writings, drawings, maps, graphs, charts, photographs, measurements, calculations and other data, or data compilations, proposals, estimates, and invoices related to and in support of the preparation of the schematic plan, residential access road bridge rating, and maximum load capacity for a bridge, for which such work was performed for Norman Gray and Susan Gray, 3000 Sugar Grove Road, Christiansburg, Virginia, and whose name may be misspelled as "Grey" in such records.

at 9544 Pine Forest Road, Copper Hill, Virginia 24079

LOCATION

at May 5, 2014 at 10:00 am

DATE AND TIME

to permit such party or someone acting in his or her behalf to inspect and copy, test or sample such tangible things in your possession, custody or control.

This Subpoena Duces Tecum is issued by the attorney for and on behalf of

Mary Ann Capp

PARTY NAME

Tammy L. Belinsky, Esq.

NAME OF ATTORNEY

43424

VIRGINIA STATE BAR NUMBER

The Environmental Law Group, PLLC

OFFICE ADDRESS

540-929-4222

TELEPHONE NUMBER OF ATTORNEY

9544 Pine Forest Road, Copper Hill, Virginia 24079

OFFICE ADDRESS

540-929-9195

FACSIMILE NUMBER OF ATTORNEY

April 16, 2014

DATE ISSUED

  
SIGNATURE OF ATTORNEY

**Notice to Recipient:** See page two for further information.

**RETURN OF SERVICE** (see page two of this form)

205

## Tammy Belinsky

---

**From:** Ron Fink <fink\_rb@hotmail.com>  
**Sent:** Monday, May 05, 2014 9:25 AM  
**To:** Tammy Belinsky  
**Subject:** Gray Vs. Capp  
**Attachments:** Scan\_20140503\_123231.pdf

Please find the attached pdf file with all documentation that you requested.

Ron Fink, P.E., L.S., P.S.  
Chief Engineer

### **Fink Engineering & Land Surveying**

16 East Main Street  
Christiansburg, Va  
24073  
540-381-2626 - Office  
540-577-9707 - Cell

414 Thorn Street  
Princeton, WV  
24740  
304-425-1605 - Office  
540-599-1363 - Cell

VIRGINIA: IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

NORMAN PAUL GRAY, SUSAN GRAY )  
CONNOR GRAY and SARAH GRAY, )  
Plaintiffs )

v. )

MARY ANN CAPP )  
and )  
KAREN WINDHAM, )  
Defendants )

Case No.: CL13-12272

ORDER

THIS cause came on to be heard upon the prayer for injunctive relief by the plaintiffs, which prayer is contained in the plaintiffs' Complaint, and the testimony of witnesses on behalf of the plaintiffs and was argued by counsel.

Upon consideration whereof, it appearing unto the court that the plaintiffs are entitled to temporary relief against the defendants to allow the plaintiffs free and unrestricted access to the use of the roadway known as Sugar Grove Road; that the plaintiffs have the right to restore and maintain the said roadway, that the defendants be enjoined from obstructing or, in any way, restricting the use and enjoyment of the roadway to the plaintiffs' property for access to Bow Hill Road on the property of the plaintiffs and that the defendants are restrained and enjoined from suing and having issued criminal warrants for trespass against the plaintiffs or any of them on account of the plaintiffs' use of the said roadway, all of which shall remain in effect until further order of the court.

This injunction Order shall be effective from 2:00 p.m. on Tuesday, February 19, 2013, until further Order of the court unless, prior thereto, it shall have been enlarged or a further injunction shall have been granted by further order of the court; but this Order shall not become effective until the plaintiffs enter into a bond before the Clerk of this Court in the sum of \$ 10,000 Cash, conditioned according to law.

Enter: February 19<sup>th</sup> 2013  
[Signature]  
Judge

I ASK FOR THIS ORDER:

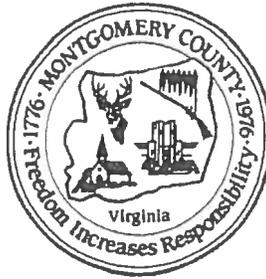
[Signature]  
K. Adatt O. Clay, Attorney  
VSB No: 12702  
Post Office Box 852  
Radford, Virginia 24143  
(540) 639-9623  
Fax: (540) 633-1275  
Counsel for Plaintiffs

SEEN AND OBJECTED TO: *for reasons set forth at hearing and in the responsive pleadings filed by Ms. Cypz and for lack of proper service to Defendant Karen Windham*

[Signature]  
Tammy L. Blinks, Attorney  
VSB No: 43424 *Belinsky*  
9544 Pine Forest Road  
Copper Hill, Virginia 24079  
(540) 929-4222  
Fax: (540) 929-9195  
Counsel for ~~Defendants~~

*Mary Ann Cypz*

A Copy - Teste:  
ERICA W. WILLIAMS  
Circuit Court Montgomery County, Virginia  
By: [Signature] Deputy Clerk



Montgomery County Inspections Department  
755 Roanoke St. Suite 1-D  
Christiansburg, Va. 24073  
Office: 540-382-5750  
Fax: 540-381-6880

**Project Name: Sugar Grove**

**May 30, 2013**

**Permit Holder: Mrs. Susan Grey**  
3000 Sugar Grove Rd  
Christiansburg, Va. 24073

**Property Owner: Mary Ann Capp**  
2732 Sugar Grove Rd  
Christiansburg, Va. 24073

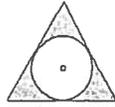
Mrs. Grey,

The application submitted for the structure to replace the removed culverts has been approved. Because the original stamped plans has been changed, I need the following items:

- 1) A post construction inspection performed on the structure and a stamped approval document by the RDP indicating that the structure meets the intent of the applicable codes.
- 2) A formal letter from the RDP verifying the construction materials used are adequate for the use intended.

Respectfully,

John W. Broughton  
Building Inspector/  
Erosion and Sediment Control Inspector



# **FINK ENGINEERING & LAND SURVEYING, LLC**

16 EAST MAIN ST.  
CHRISTIANSBURG, VA 24073  
540-381-2626

414 THORN ST.  
PRINCETON, WV 24740  
304-425-1605

November 21, 2013

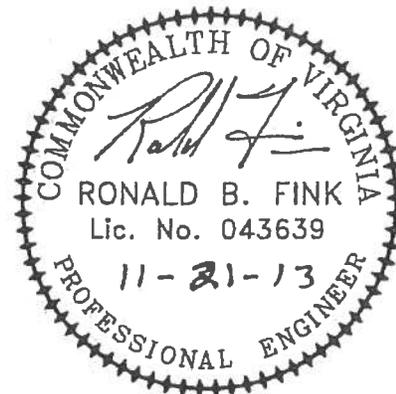
Norman Grey  
Susan Grey  
3000 Sugar Grove Road  
Christiansburg, Va

**Re: Residential Access Road Bridge Rating:**

Mr. and Mrs. Grey:

I have visited the newly constructed bridge accessing your property located at 3000 Sugar Grove Road. The bridge is not regulated by any direct AASHTO or other bridge code and has therefore been evaluated as a simple private access structure. I feel that the construction materials and workmanship is more than adequate for the required usage. I have analyzed the bridge for structural capacity and have determined a **MAXIMUM LOAD CAPACITY OF 12 TONS.**

If you have any questions do not hesitate to call.



Ronald B. Fink P.E., L.S., P.S.  
Chief Engineer, Manager

**RON FINK**

---

**From:** Ron Fink <fink\_rb@hotmail.com>  
**Sent:** Thursday, January 09, 2014 4:15 PM  
**To:** 'yeagerwc@montgomerycountyva.gov'  
**Subject:** Grey Bridge Load Rating  
**Attachments:** GREY LOAD RATING LETTER.pdf

Bill:

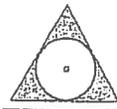
Please see the attached letter.

Ron Fink, P.E., L.S., P.S.  
Chief Engineer

**Fink Engineering & Land Surveying**

16 East Main Street  
Christiansburg, Va  
24073  
540-381-2626 - Office  
540-577-9707 - Cell

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**FINK ENGINEERING  
& LAND SURVEYING, LLC**

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November 21, 2013

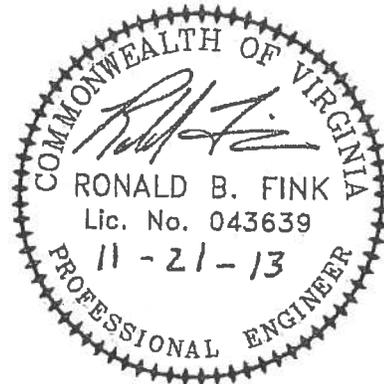
Norman Grey  
Susan Grey  
3000 Sugar Grove Road  
Christiansburg, Va

**Re: Residential Access Road Bridge Rating:**

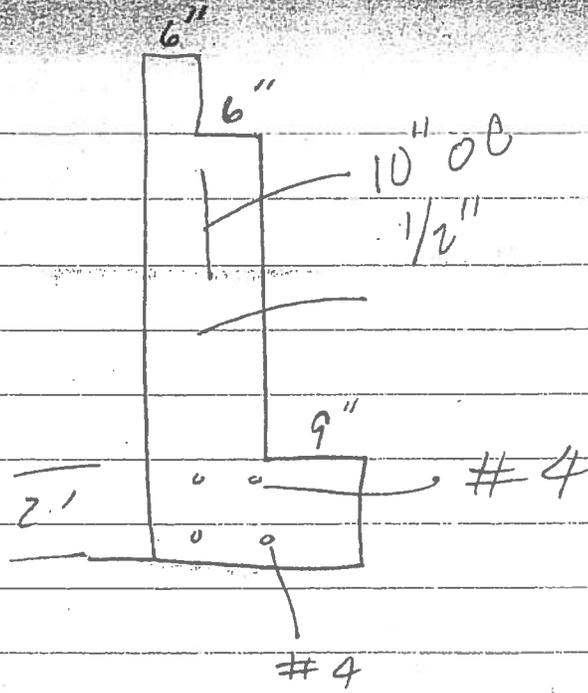
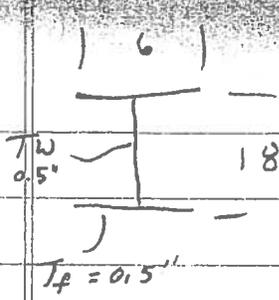
Mr. and Mrs. Grey:

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If you have any questions do not hesitate to call.



Ronald B. Fink P.E., L.S., P.S.  
Chief Engineer, Manager



11 YARD TRUCK

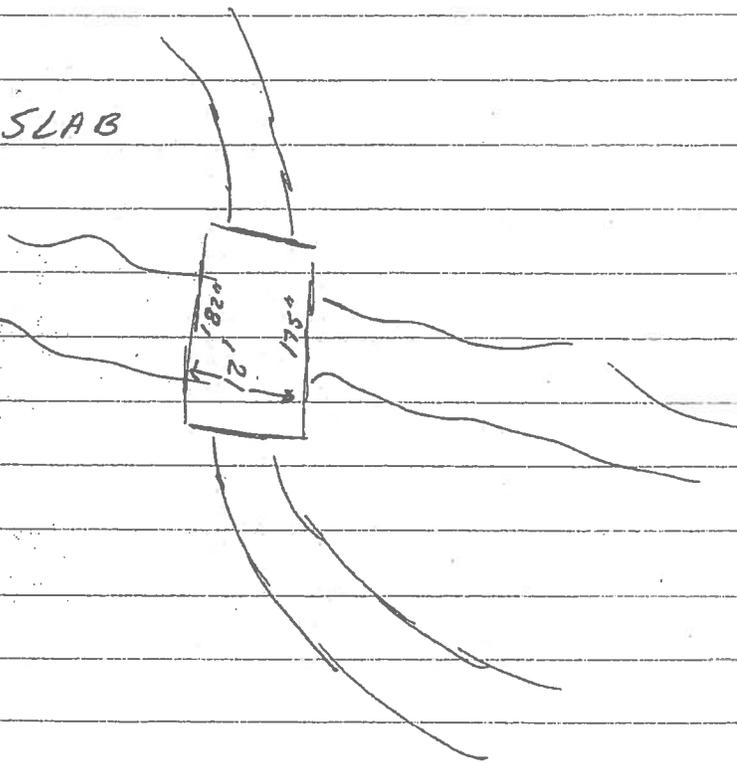
21' LONG

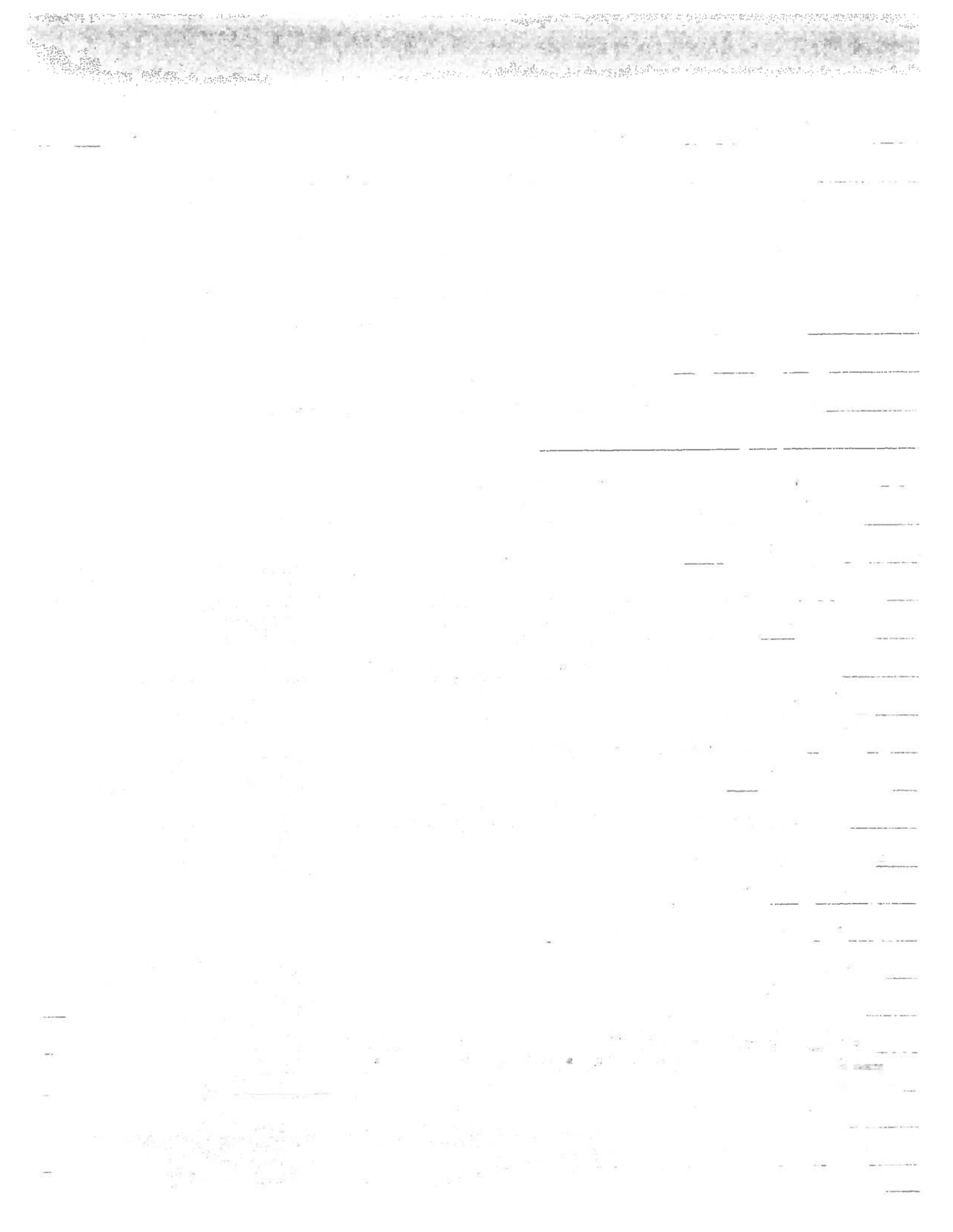
7+7+12

3.5 yds ON SLAB

BOLTS FROM FLANGE  
TO ABUTMENTS

BASSET RECY





$\xi_1 \rightarrow$  LL ONLY SHORT SPAN  $\rightarrow \frac{l}{360}$

$$\text{MAX } \xi_f = \frac{15(12)}{360} = 0.5'' = 0.04'$$

$$\xi_f = \frac{Pl^3}{48EI} = \frac{P(15 \times 12)^3}{48(29,000)(6)(612)} \therefore P = 35.05K$$



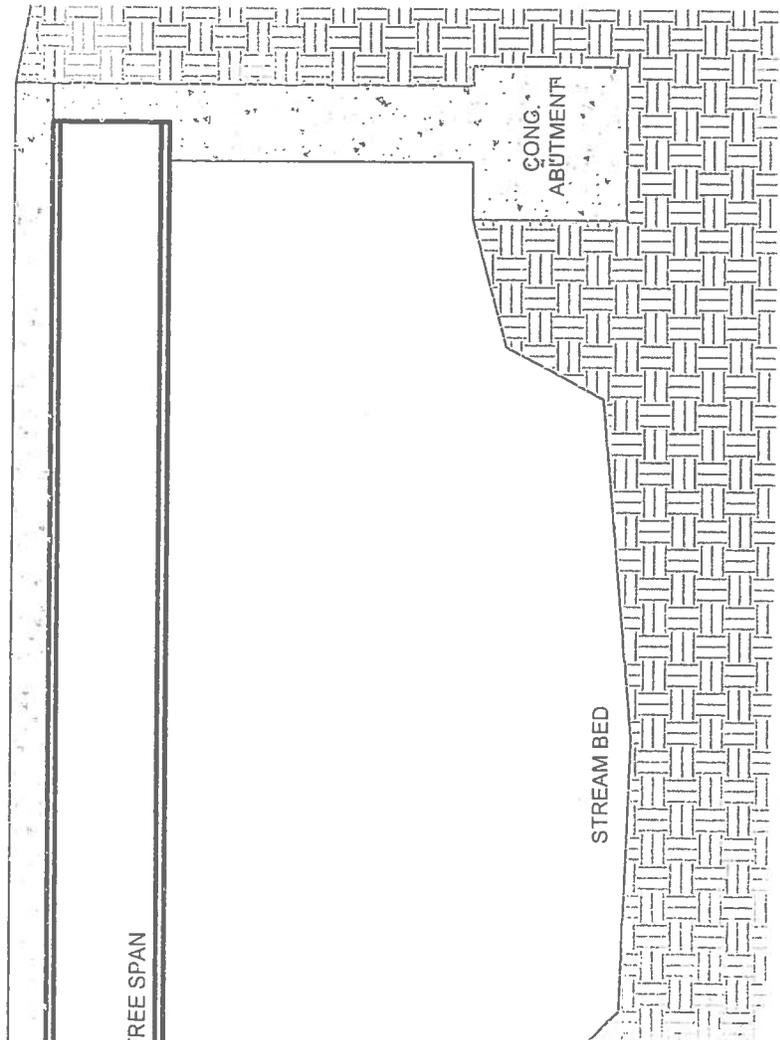
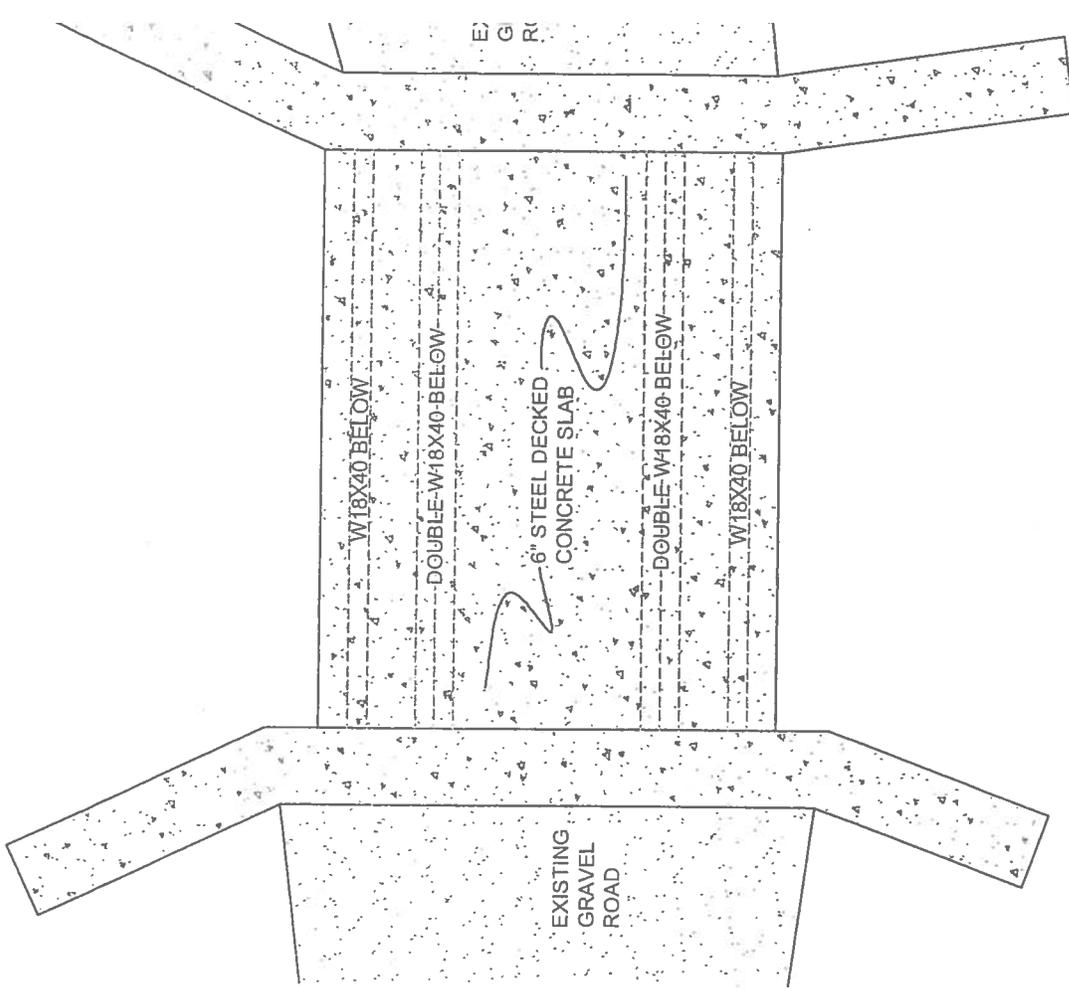
~~FACTORED LOAD~~

17 TONS

USE 12 TONS CAPACITY

$$\frac{K \cdot \text{IN}^3}{\text{IN}^2 \cdot \text{IN}^4}$$

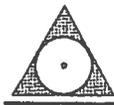
$$\frac{K \cdot \text{IN}^5}{K \cdot \text{IN}^4} \rightarrow \textcircled{IN}$$



EXISTING BRIDGE TYPICAL ELEVATION

EXISTING BRIDGE TYPICAL PLAN VIEW

NTS



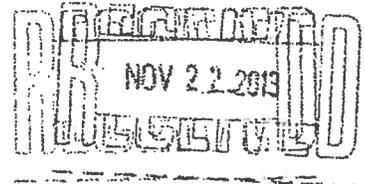
**FINK ENGINEERING  
& LAND SURVEYING, LLC**

16 EAST MAIN ST.  
CHRISTIANSBURG, VA 24073  
540-381-2626

414 THORN ST.  
PRINCETON, WV 24740  
304-425-1605

November 21, 2013

Norman Grey  
Susan Grey  
3000 Sugar Grove Road  
Christiansburg, Va

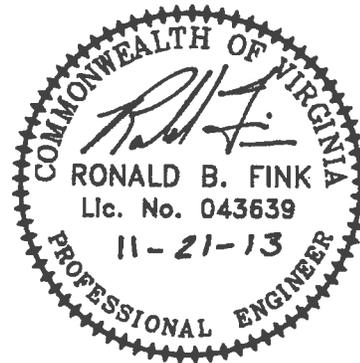


**Re: Residential Access Road Bridge Rating:**

Mr. and Mrs. Grey:

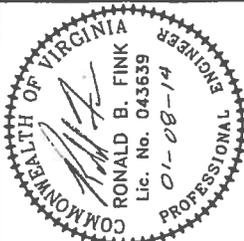
I have visited the newly constructed bridge accessing your property located at 3000 Sugar Grove Road. The bridge is not regulated by any direct AASHTO or other bridge code and has therefore been evaluated as a simple private access structure. I feel that the construction materials and workmanship is more than adequate for the required usage. I have analyzed the bridge for structural capacity and have determined a **MAXIMUM LOAD CAPACITY OF 12 TONS.**

If you have any questions do not hesitate to call.



Ronald B. Fink P.E., L.S., P.S.  
Chief Engineer, Manager





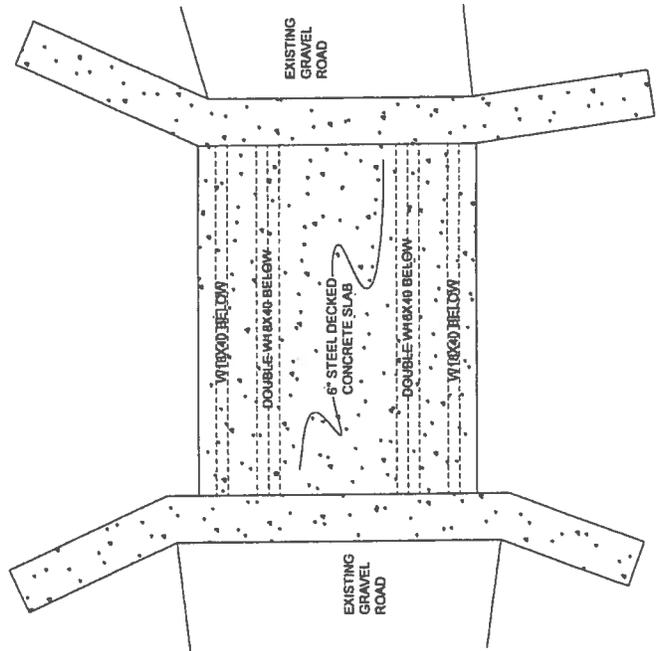
**FINK ENGINEERING & LAND SURVEYING, LLC**  
 16 EAST MAIN STREET  
 CHRISTIANBURG, VA 24073  
 (540)-381-2626

PREPARED FOR  
 SUSAN AND NORMAN GREY  
 3000 SUGAR GROVE ROAD  
 CHRISTIANBURG, VA  
 MONTGOMERY COUNTY, VIRGINIA

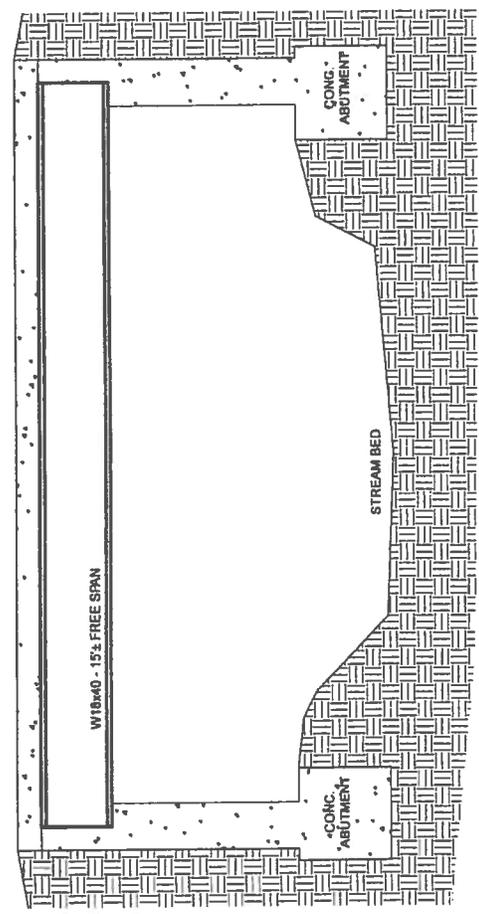
SUBMITTED TO: CLIENT  
 DATE: 01/08/14

DATE: 01/08/14  
 REVISED:  
 DRAWN BY: RBF  
 CHECKED BY: RBF  
 SCALE: NONE  
 SHEET NO. 1 OF 1

REVISION: \_\_\_\_\_ DATE: \_\_\_\_\_



EXISTING BRIDGE TYPICAL PLAN VIEW  
 NTS



EXISTING BRIDGE TYPICAL ELEVATION  
 NTS



# SUGAR GROVE CULVERT REPLACEMENT

## MONTGOMERY COUNTY, VIRGINIA

### SHEET NOTES:

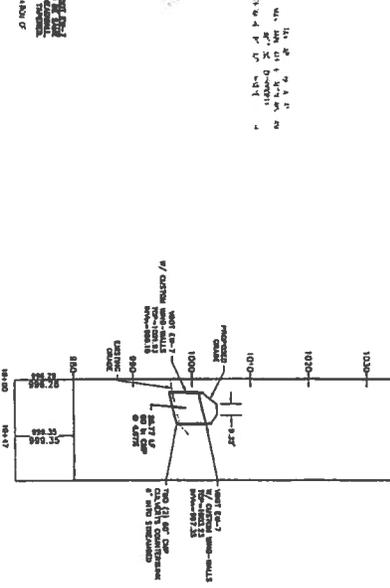
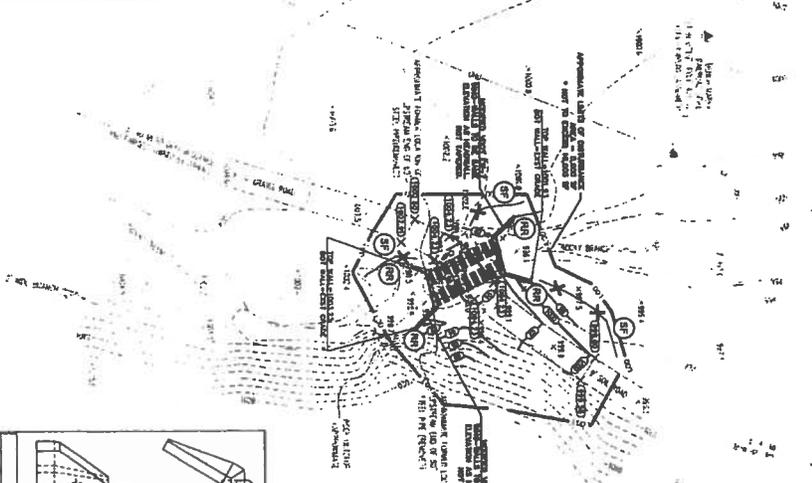
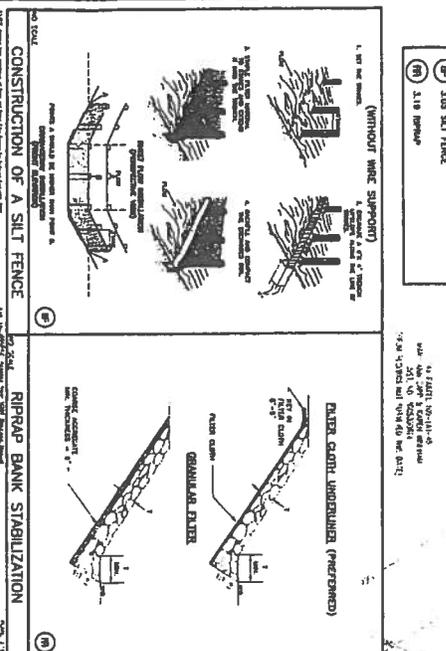
1. THIS SHEET WAS PREPARED FOR PROJECT P. CULVERT AND SHALL BE USED IN CONJUNCTION WITH THE OTHER SHEETS OF THIS PROJECT.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR OBTAINING ALL NECESSARY INFORMATION FROM THE MONTGOMERY COUNTY ENGINEERING DEPARTMENT.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE MONTGOMERY COUNTY ENGINEERING DEPARTMENT.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE MONTGOMERY COUNTY ENGINEERING DEPARTMENT.
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9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE MONTGOMERY COUNTY ENGINEERING DEPARTMENT.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE MONTGOMERY COUNTY ENGINEERING DEPARTMENT.

**GENERAL NOTES:**

1. ALL DIMENSIONS SHALL BE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS SHALL BE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS SHALL BE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
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10. ALL DIMENSIONS SHALL BE TO THE CENTERLINE UNLESS OTHERWISE NOTED.

**EROSION CONTROL SYMBOLS:**

(S) 2:1 SLOPE  
(M) 1:1 SLOPE



**STANDARD ENDWALLS FOR MULTIPLE PIPE CULVERTS**

48" - 48" CIRCULAR PIPES

NO.	DESCRIPTION	NO.	DESCRIPTION
1	ENDWALL FOR 48" CIRCULAR PIPES	1	ENDWALL FOR 48" CIRCULAR PIPES
2	ENDWALL FOR 48" CIRCULAR PIPES	2	ENDWALL FOR 48" CIRCULAR PIPES
3	ENDWALL FOR 48" CIRCULAR PIPES	3	ENDWALL FOR 48" CIRCULAR PIPES
4	ENDWALL FOR 48" CIRCULAR PIPES	4	ENDWALL FOR 48" CIRCULAR PIPES
5	ENDWALL FOR 48" CIRCULAR PIPES	5	ENDWALL FOR 48" CIRCULAR PIPES
6	ENDWALL FOR 48" CIRCULAR PIPES	6	ENDWALL FOR 48" CIRCULAR PIPES
7	ENDWALL FOR 48" CIRCULAR PIPES	7	ENDWALL FOR 48" CIRCULAR PIPES
8	ENDWALL FOR 48" CIRCULAR PIPES	8	ENDWALL FOR 48" CIRCULAR PIPES
9	ENDWALL FOR 48" CIRCULAR PIPES	9	ENDWALL FOR 48" CIRCULAR PIPES
10	ENDWALL FOR 48" CIRCULAR PIPES	10	ENDWALL FOR 48" CIRCULAR PIPES

**REVISIONS**

NO.	COMMENTS	DATE
1	ISSUED FOR PERMIT	08/15/11
2	ISSUED FOR CONSTRUCTION	08/15/11

**PROJECT TEAM**

NO.	NAME	DATE
1	JOHN T. NEEL, PE	08/15/11
2	MATT P. TOMLINSON, PE	08/15/11

**CLIENT INFORMATION**

CLIENT: MONTGOMERY COUNTY, VIRGINIA  
PROJECT: SUGAR GROVE CULVERT REPLACEMENT  
SHEET NO.: CS-01

**GAY AND NEEL, INC.**  
1350 Radford Street  
Christiansburg, Virginia 24073

Phone: (540) 381-4911  
Fax: (540) 381-7773  
Email: info@gayandneel.com  
Web: www.gayandneel.com

**SUGAR GROVE CULVERT REPLACEMENT**

MONTGOMERY COUNTY, VIRGINIA

**21**

REVIEW BOARD APPEAL 14-10  
CAPP VS. MONT. CO. ET AL.

DOCUMENTS SUBMITTED BY  
MONTGOMERY COUNTY



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

AUG 14 2014  
An

755 ROANOKE STREET, SUITE 100, CHRISTIANSBURG, VIRGINIA 24073-3173

August 11, 2014

Virginia State  
Technical Review Board  
Appeal No. 1410

Re: **Appeal No. 14-10**, a private road access bridge located at 2732 Sugar Grove Road in Montgomery County Virginia

Dear Office of Review Board

I am unaware of any prerequisite codes or laws that require the Building Official to seek approval of a property owner to issue permits as long as the terms of Chapter 11 (Section 54.1-1000 et seq.) of Title 54.1 of the Code of Virginia are satisfied. If we receive a valid license or a supported affidavit that he or she is not subject to licensure pursuant to Chapter 11 of Title 54.1 of the Code of Virginia, the intent of the code is satisfied. Contractors obtain permits daily throughout the jurisdiction and "owners" approvals are not generally requested or required.

The home owners affected by the private access bridge originally started construction without a building permit. Once notified on site that a permit was required they applied for a permit under an owner exemption of § 54.1-1101. (Exemptions; *failure to obtain certificate of occupancy; penalties.*) The permit was later withdrawn when we contacted the applicant that a question arose challenging the qualification requirements of the applicant. The project sat dormant until mid-October when Norman Graves re-applied as a class c contractor.

The Building Official refers to guidance to issue a building permit in accordance to *Section 108.4 of the USBC.*

- The individual is duly licensed or certified under the terms of Chapter 11 (Section 54.1-1000 et seq.) of Title 54.1 of the Code of Virginia to carry out or superintend the same (*Norman P. Gray, contractor class C, initial date 10/01/130, Exhibit 1*) or;
- (ii) File a written statement, supported by an affidavit that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Chapter 11 of Title 54.1 of the Code of Virginia. ("*Owner*" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building or structure. *Exhibit 2*)

During review of the stamped plan (*Exhibit 3*) submitted with the initial permit application, a deviation of the plan was observed. The applicant was sent a letter (*Exhibit 4*) notifying the applicant that the change in design would mandate (1) a post construction inspection performed on the structure and a stamped "approval" document by the "Registered Design Professional"



## MONTGOMERY COUNTY DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 100, CHRISTIANSBURG, VIRGINIA 24073-3173

indicating the structure meets the intent of the applicable codes and, (2) a formal letter from the "Registered Design Professional" verifying the construction materials used are adequate for the use intended.

The Building Officials acceptance of the Engineers compliance report. Section 1604.6 of the 2009 IBC, the building official is authorized to require an engineered analysis or a load test or both of any construction whenever there is a reason to question the safety of the construction for the intended occupancy. Engineering analysis and load tests shall be conducted in accordance to section 1714.

- Section 1714 of the IBC referenced in Section 101.2 of the Uniform Statewide Building Code 2009 Edition as follows;

### SECTION 1714 IN-SITU LOAD TESTS

**1714.1 General.** Whenever there is a reasonable doubt as to the stability or load-bearing capacity of a completed building, structure or portion thereof for the expected loads, an engineering assessment shall be required. The engineering assessment shall involve either a structural analysis or an in-situ load test, or both. The structural analysis shall be based on actual material properties and other as-built conditions that affect stability or load-bearing capacity, and shall be conducted in accordance with the applicable design standard. If the structural assessment determines that the load-bearing capacity is less than that required by the code, load tests shall be conducted in accordance with Section 1714.2. If the building, structure or portion thereof is found to have inadequate stability or load-bearing capacity for the expected loads, modifications to ensure structural adequacy or the removal of the inadequate construction shall be required.

- All Code references in accordance Virginia Uniform Statewide Building Code 2009 edition, effective March 1 2011.
- The bridge structure was constructed in an area that is not determined to be in a "regulated flood zone".

I have evaluated the compliance document ( *Exhibit 5* ) provided to me from Engineer Mr. Ron Fink who works legally in the Commonwealth of Virginia regarding the private road access bridge to the home of Susan and Norman Grey. My decision to issue a completion certificate based on structural capacity, safety, health and environment are to the best of my ability. I have considered section 102.1 of the Virginia Uniform Statewide Building Code 2009 edition in part reaching my decision. Section 36-99 of the Code of Virginia is to protect the health, safety and welfare of the



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

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755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

residence of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health safety, energy conservation, and water conservation.

Structural design outside the prescriptive printed code references are outside the skill set of most "Building Officials" the code allows officials to manage compliance through use of Design Professionals Licensed in the Commonwealth as required. I issued the completion certificate based on the information provided and my interpretations of the code.

I am unaware of any prerequisite codes or laws that require the Building Official to seek approval of a property owner to issue permits or completion certificates to permit holders.

Sincerely,

William C. Yeager C.B.O

## Details of license number 2705151449

Name:	NORMAN P GRAY	pri
License Number:	2705151449	
License Description:	Contractor Class C	
Class Definitions		
Business Type:	Sole Proprietorship	
Address:	3000 SUGAR GROVE RD CHRISTIANSBURG, VA 24073	
Specialties/Classifications:		
Classification Definitions	Building (BLD)	
Specialty Definitions		
Initial Certification Date:	2013-10-01	
Expiration Date:	2015-10-31	

**No Open Complaints**

"Open Complaints" reflect only those complaints against regulants for which a departmental investigation has determined that sufficient evidence exists to establish probable cause of a violation of the law or regulations. Only those cases that have proceeded through an investigation to the adjudication stage are displayed. State law exempts information about open cases from mandatory public disclosure [Code of Virginia Section 54.1-108]. Members of the public may review official records and obtain copies only after a complaint investigation is closed.

**No Closed Complaints**

"Closed Complaints" reflect complaints against regulants closed since 1990. Cases closed without disciplinary action are purged after three years in accordance with DPOR's record retention policy.

To inquire about closed complaints, see the department's Public Records Access or contact the department's Information Management Section at (804) 368583 or [publicrecords@dpor.virginia.gov](mailto:publicrecords@dpor.virginia.gov).

Recovery Fund Claims include claims against a licensee where a judgment has been obtained for improper or dishonest conduct in a court of law. The Contractors Transaction Recovery Fund and the Real Estate Transaction Recovery Fund provide monetary relief to consumers who incur losses through the improper and dishonest conduct of a licensed contractor or licensed real estate professional. The funds are supported entirely by assessments paid by licensed contractors and licensed real estate professionals, not by any tax revenues.

The information on this page was last updated on 2014-08-10.

**EXHIBIT 1**



MONTGOMERY COUNTY  
DEPARTMENT OF BUILDING INSPECTIONS

755 ROANOKE STREET, SUITE 1D, CHRISTIANSBURG, VIRGINIA 24073-3173

**EXEMPTION AFFIDAVIT**

I (name) Susan Gray  
(PLEASE PRINT)

affirm that I am performing, managing or superintending work consisting of improvements to real property located at this address:

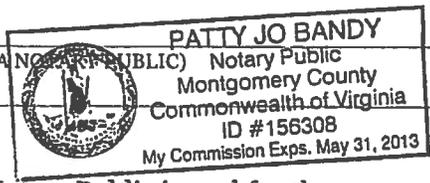
and that I am the person who has applied for a building permit.

In accordance with Title 54.1-1-1 of the Code of Virginia, any person applying for a permit shall furnish satisfactory proof that he is duly licensed to do the work, or file a written affidavit that he is not subject to licensure or certification as a contractor or subcontractor. The Code of Virginia 54.1-1101 exempts any person who performs or supervises the construction, removal, repair or improvement of (1) no more than one building for retail use, one building for commercial use, and one residence upon his own real property and for his own use during any twenty-four-month period, (2) a house upon his own real property as a bona fide gift to a member of his immediate family\* provided such member lives in the house, (3) industrial or manufacturing facilities for his own use. \*"Immediate family" includes one's mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law and father-in-law.

**NOTE TO PROPERTY OWNERS:** *If you made arrangements with a contractor to do this work, Montgomery County strongly suggests that the contractor is the party to secure the necessary permit(s). When contractors obtain permits in their names, they indicate their responsibility for the work. When you sign this affidavit you are obtaining a permit(s) in your name that will be performed by the contractor. This should be avoided. When a permit is issued solely in the name of the property owner, enforcement actions against a contractor for code violations may become difficult. In addition, when the contractor applies for the permit, the contractor will be required to submit licensing information. Unwillingness on the part of the contractor to obtain the necessary permit(s) may be an indication that he contractor is not properly licensed. Ask the Building Official's office any questions you have regarding the matter before signing this form.*

Signature: Susan Gray

(MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC)



County of Montgomery, Commonwealth of Virginia

I Patty Jo Bandy, a Notary Public in and for the  
aforementioned State/County. I have executed this affidavit on the 24<sup>th</sup> day of  
May, 2013.

Patty Jo Bandy  
(Notary Public)

May 31, 2013  
(Commission Expires)

Effective 09/2008

# SUGAR GROVE CULVERT REPLACEMENT

## MONTGOMERY COUNTY, VIRGINIA

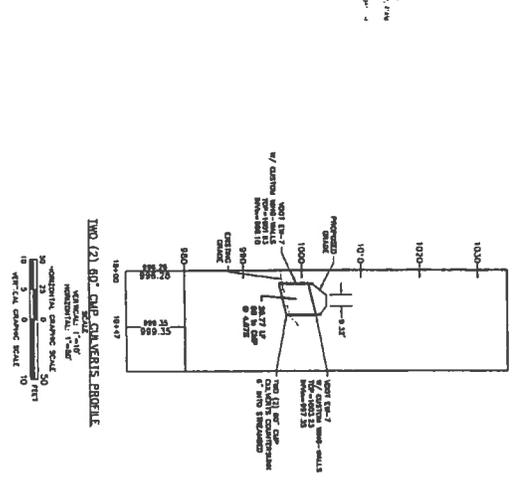
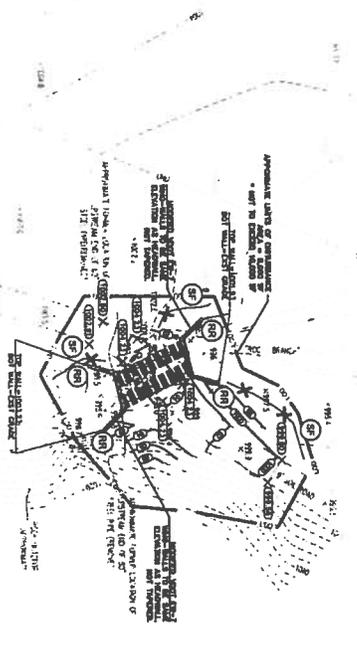
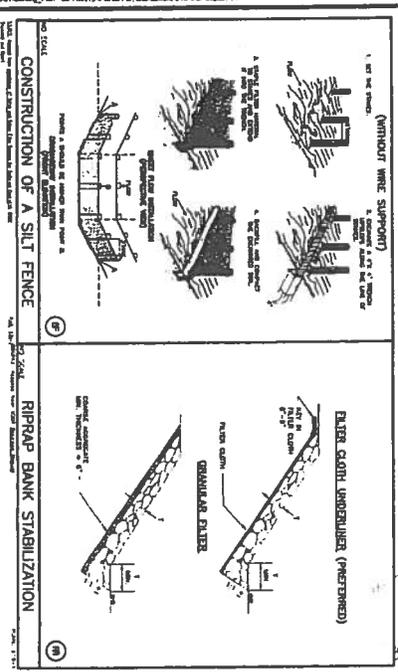
### SURVEY NOTES:

- THE SURVEY WAS PERFORMED BY GUY AND NEEL, INC. ON 04/11/11.
- ALL SURVEY POINTS WERE CHECKED AND FOUND TO BE CORRECT.
- THE EXISTING CULVERT WAS FOUND TO BE IN POOR CONDITION AND REQUIRED REPLACEMENT.
- THE PROPOSED CULVERT WILL BE CONSTRUCTED IN ACCORDANCE WITH THE MONTGOMERY COUNTY SPECIFICATIONS FOR CULVERTS.
- THE PROPOSED CULVERT WILL BE 12 FEET WIDE AND 10 FEET HIGH.
- THE PROPOSED CULVERT WILL BE CONSTRUCTED OF PRECAST CONCRETE.
- THE PROPOSED CULVERT WILL BE INSTALLED ON A GRADE OF 1.5%.
- THE PROPOSED CULVERT WILL BE INSTALLED IN A TRENCH 12 FEET WIDE AND 10 FEET DEEP.
- THE PROPOSED CULVERT WILL BE INSTALLED IN A TRENCH WITH 1:1 SLOPES.
- THE PROPOSED CULVERT WILL BE INSTALLED IN A TRENCH WITH 1:1 SLOPES AND A 2' WIDE SHOULDER.
- THE PROPOSED CULVERT WILL BE INSTALLED IN A TRENCH WITH 1:1 SLOPES AND A 2' WIDE SHOULDER.
- THE PROPOSED CULVERT WILL BE INSTALLED IN A TRENCH WITH 1:1 SLOPES AND A 2' WIDE SHOULDER.
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- THE PROPOSED CULVERT WILL BE INSTALLED IN A TRENCH WITH 1:1 SLOPES AND A 2' WIDE SHOULDER.

### GENERAL NOTES:

- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTGOMERY COUNTY SPECIFICATIONS FOR CULVERTS.
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### EROSION CONTROL SYMBOLS:



NO.	REVISIONS	COMMENTS	DATE
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10			

NO.	REVISIONS	COMMENTS	DATE
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8			
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EXHIBIT 3

**GUY AND NEEL, INC.**  
 1260 Redford Street  
 Christiansburg, Virginia 24073  
 Phone: (540) 381-6011  
 Fax: (540) 381-3777  
 Email: info@guyandneel.com  
 Web: www.guyandneel.com

SUGAR GROVE CULVERT REPLACEMENT

MONTGOMERY COUNTY, VIRGINIA

**COMMISSIONED BY**  
**509 N. T. NEEL**  
 L.P. No. 03580  
 03/11/11

NO.	REVISIONS	COMMENTS	DATE
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Montgomery County Inspections Department  
755 Roanoke St. Suite 1-D  
Christiansburg, Va. 24073  
Office: 540-382-5750  
Fax: 540-381-6880

**Project Name: Sugar Grove**

**May 30, 2013**

**Permit Holder: Mrs. Susan Grey**  
3000 Sugar Grove Rd  
Christiansburg, Va. 24073

**Property Owner: Mary Ann Capp**  
2732 Sugar Grove Rd  
Christiansburg, Va. 24073

Mrs. Grey,

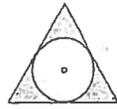
The application submitted for the structure to replace the removed culverts has been approved. Because the original stamped plans has been changed, I need the following items:

- 1) A post construction inspection performed on the structure and a stamped approval document by the RDP indicating that the structure meets the intent of the applicable codes.
- 2) A formal letter from the RDP verifying the construction materials used are adequate for the use intended.

Respectfully,

John W. Broughton  
Building Inspector/  
Erosion and Sediment Control Inspector

**EXHIBIT 4**



# **FINK ENGINEERING & LAND SURVEYING, LLC**

16 EAST MAIN ST.  
CHRISTIANSBURG, VA 24073  
540-381-2626

414 THORN ST.  
PRINCETON, WV 24740  
304-425-1605

November 21, 2013

Norman Grey  
Susan Grey  
3000 Sugar Grove Road  
Christiansburg, Va

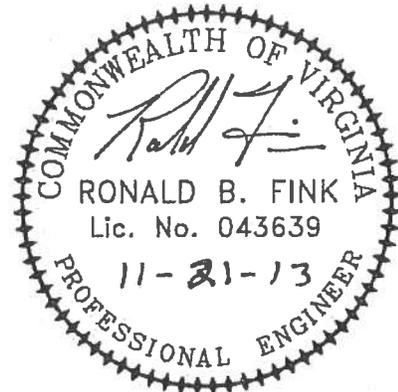
**Re: Residential Access Road Bridge Rating:**

Mr. and Mrs. Grey:

I have visited the newly constructed bridge accessing your property located at 3000 Sugar Grove Road. The bridge is not regulated by any direct AASHTO or other bridge code and has therefore been evaluated as a simple private access structure. I feel that the construction materials and workmanship is more than adequate for the required usage. I have analyzed the bridge for structural capacity and have determined a **MAXIMUM LOAD CAPACITY OF 12 TONS.**

If you have any questions do not hesitate to call.

**EXHIBIT 5**



Ronald B. Fink P.E., L.S., P.S.  
Chief Engineer, Manager

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of T. Chester Baker  
Appeal No. 14-8 (B)

CONTENTS

<u>Section</u>	<u>Page No.</u>
Review Board Staff Document	232
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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of T. Chester Baker  
Appeal No. 14-8(B)

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. The City of Danville Department of Community Development (DCD), the agency responsible for the enforcement of Part III of the Virginia Uniform Statewide Building Code, the Virginia Maintenance Code, issued a notice of demolition dated January 23, 2014 for a building at 1663 Piney Forest Road (the building), owned by T. Chester Baker (Baker). The building was vacant and its last known use was as an auto auction.

2. The notice of demolition issued by DCD was mailed to Baker's home address by certified mail, return receipt, but was not signed for. The notice was also posted on the building and a copy of the notice was published in a Danville newspaper on February 1, 2014.

3. Baker filed an appeal of the notice to the City of Danville Local Board of Building Code Appeals (City appeals board) on June 3, 2014 when filing another appeal with the City appeals board concerning adjacent property.

4. The City appeals board conducted a hearing on Baker's appeal and limited the hearing to only a consideration of whether Baker's appeal was timely. After deliberation, the City appeals board ruled to dismiss Baker's appeal as untimely.

5. Baker further appealed to the Review Board.

6. Review Board staff conducted an informal fact-finding conference in January of 2015, attended by Baker and representatives of DCD. At the conference, Baker was informed by Review Board staff that based on past rulings by the Review Board, the issue of whether his appeal to the City appeals board was timely would have to be considered first by the Review Board prior to consideration of the demolition order issued by DCD, and that if the Review Board determined that his appeal to the City appeals board was timely, then a determination would have to be made as to whether to remand the appeal back to the City appeals board for a hearing on the merits of the demolition order, or whether the Review Board itself could hear the appeal on the merits of the demolition order. Baker stated that he would prefer the Review Board to hear the merits of the appeal if the appeal was determined to be timely rather than remanding it back to the City appeals board.

7. Following the informal fact-finding conference, this staff document was drafted and distributed to the parties and timeframes were established for the submittal of objections; corrections or additions to the staff document; the submittal of additional documents for the record; and written arguments to be included in the record of the appeal prepared for the hearing before the Review Board.

#### Suggested Issue for Resolution by the Review Board

1. Whether Baker's appeal to the City appeals board was timely; and if ruling in the affirmative, whether to remand the appeal to the City appeals board for a hearing on the merits of the demolition order, or whether to accept jurisdiction of the appeal concerning the merits of the demolition order.

REVIEW BOARD APPEAL 14-8 (B)  
BAKER VS. CITY OF DANVILLE

COMBINED DOCUMENTS  
SUBMITTED BY THE PARTIES

Earl B. Reynolds, Jr.  
Director of  
Community Development

Kenneth C. Gilie, Jr.  
Division Director of Planning

Jerry D. Rigney  
Division Director of Inspections

John L. Moody, J.D.  
Division Director of Social Services



427 Patton Street  
P. O. Box 3300  
Danville, Virginia 24543  
Phone: (434) 799-5261  
TTY: (434) 778-3142  
Fax: (434) 797-8919  
www.danville-va.gov

## INSPECTIONS DIVISION NOTICE OF DEMOLITION

1/23/2014

BAKER T C JR  
3001 PINEY FOREST RD  
DANVILLE VA 24540

RE: 1663 PINEY FOREST RD  
Parcel ID: 50289  
Application Number: 124571

Dear Property Owner(s) and/or Occupant,

The City of Danville's Inspections Division has inspected the building on the above referenced property and found it to be in violation of the provisions of the Virginia Maintenance Code (PART III of the USBC-2009) for the maintenance of existing structures. Further, it has also been determined by the Building Maintenance Official that this building is unsafe, unfit for human occupancy or unlawful pursuant to Section 105 of the VMC, and is hereby deemed a dangerous structure as defined in Section 9-3 of the Code of the City of Danville, VA, 1986, as amended.

You are hereby notified that this building is **CONDEMNED**, and the Building Maintenance Official prohibits any use or occupancy.

### ORDER

The Building Maintenance Official has determined that in order to abate the unsafe or dangerous conditions on this property, this building must be demolished and removed. You are hereby ordered to complete the demolition and removal of this building within 30 days of receipt of this notice.

The specific violations, which exist, that cause the building to be declared unsafe, unfit for human occupancy or unlawful and a dangerous structure are as follows:

105 Unsafe structures: VMC Section 105 Unsafe and/or unfit for habitation.

301.3 Vacant structures and land: All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety

- 302.7 Accessory structure: All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
- 304.1 Exterior of Structure: The exterior of a structure shall be maintained in good repair, structurally sound and sanitary.
- 304.2 Protective treatment: Exterior wood and/or metal surfaces have peeling, flaking and/or chipped paint.
- 304.4 Exterior Structural Members: Structural members shall be maintained free from deterioration and capable of supporting imposed loads.
- 304.7 Roofs and drainage: Roof and flashing shall be sound, tight and not have defects that admit rain.
- 304.9 Overhang extensions: All overhand extensions shall be maintained in good repair and be properly anchored so as to be kept in sound condition.
- 304.13 Window, skylight and door frames: Windows, skylight, doors and frames shall be kept in sound condition, good repair and weather tight.
- 305.1 Interior of Structure: Interior of structure shall be maintained in good repair, structurally sound and sanitary conditions
- 305.2 Interior Structural Members: All structural members shall be maintained structurally sound and capable of supporting the imposed loads.
- 305.3 Interior surfaces: All interior surfaces including windows and doors shall be maintained in good and sanitary condition.

Failure to comply with this order to abate the unsafe and dangerous conditions will result in the City of Danville taking action to abate such conditions in accordance with the provisions of Virginia Code Section 15.2906 and/or the Virginia Maintenance Code, as the Building Maintenance Official deems appropriate. This may result in legal action against you, which would subject you to a fine of up to \$2,500.00, or the City may take the necessary action, up to and including the taking down and removal of the building, and charge the costs or expense thereof to you. Any charges assessed, which are unpaid, would constitute a lien in that amount against the property.

Right of Appeal

You have the right to appeal this decision of the Building Maintenance Official to the local Board of Building Code Appeals as provided for in Section 106.0 of the Virginia Maintenance Code, and in Section 9-3 of the Code of the City of Danville, Virginia, 1936, as amended. A written request for such an appeal shall be made on forms provided by the Building Maintenance Official, and filed with this office within 14 calendar days from receipt of this notice. At the time of filing, a fee of Two Hundred dollars (\$200.00) shall accompany the appeal request. Applications for appeal may be obtained in the Inspections Office located in Room 208 of the Municipal Building on Patton Street, Monday through Friday, 8:00 AM until 5:00 PM.

Compliance with this order may require a building permit from this office. Failure to obtain the proper permit(s) as required by the USBC shall constitute a separate violation. Should you have any questions or wish to discuss this matter, please contact me at (434) 799-5261. Thank you for your cooperation in promptly eliminating these violations.

Sincerely,



JAY THORNTON  
PROPERTY MAINTENANCE INSPECTOR



JERRY D RIGNEY  
Division Director of Inspections

CC: File  
Post on Property

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: alan.mcmahan@dhd.virginia.gov

JUL 21 2014  
M

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations

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

T. CHESTER BAKER, 3004 NORTH MAIN ST. DANVILLE, VA 24540  
434-836-6000 434-709-5225 (CELL)

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

BUILDING CODE OFFICIAL, CITY OF DANVILLE, VA 24543

Additional Information (to be submitted with this application)

434-799-5263

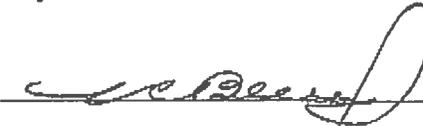
- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

NOT AVAILABLE PER CITY  
7-17-2014

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of JULY, 2014, 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: 

Name of Applicant: T. CHESTER BAKER  
(please print or type)

Copies to:

Ms Jeannise Galloway, Assistant City Attorney  
City of Danville  
PO Box 3300  
Danville, VA 24541-3300

Jerry D. Rigney, Division Director of Inspections  
Department of Community Development  
City of Danville  
427 Patton Street  
PO Box 3300  
Danville, VA 24543

Kenneth C. Gillie, Jr., Division Director of Planning  
Department of Community Planning  
City of Danville  
427 Patton Street  
PO Box 3300  
Danville, VA 24543

State Technical Review Board  
Main Street Center  
600 East Main Street, Suite 300  
Richmond, VA 23219

20/12

Earl B. Reynolds, Jr.  
Director of  
Community Development

Kenneth C. Gillie, Jr.  
Division Director of Planning

Jerry D. Rigney  
Division Director of Inspections

John L. Moody, J.D.  
Division Director of Social Services



427 Patton Street  
P. O. Box 3300  
Danville, Virginia 24543  
Phone: (434) 799-5261  
TTY: (434) 773-8142  
Fax: (434) 797-8919  
[www.danville-va.gov](http://www.danville-va.gov)

July 1, 2014

**CERTIFIED MAIL**

T. Chester Baker  
3004 N Main St  
Danville, VA 24540

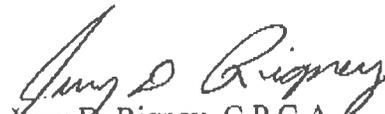
**RE: RESOLUTION – 1663 (now 3001) Piney Forest Rd, Danville, VA 24541**

To Whom It May Concern:

Please see the attached Local Board of Building Code Appeals *Resolution* that pertains to above mentioned address, adopted on July 26, 2014.

If you have any questions, please contact my office at (434) 799-5263.

Sincerely,

  
Jerry D. Rigney, C.P.C.A.

Attachment  
JDR/wbh

3 of 12

239



LOCAL BOARD OF BUILDING CODE APPEALS  
CITY OF DANVILLE, VIRGINIA

RESOLUTION

WHEREAS, The Local Board of Building Code Appeals (LBBCA) of the City of Danville, Virginia met on June 26, 2014 to consider an appeal request from T. Chester Baker, the appellant, for the building(s) or structure(s) located at 1663 (now 3001) Piney Forrest Road, Danville, Virginia 24541; and WHEREAS, the LBBCA, upon consideration of the facts and issues presented in this appeal, agrees (agrees/disagrees) with the Building Official (Building/Code Official) in this matter, for the following reasons:

- The Board agreed that the appeal was not filed within the 14 day appeal period required by the Virginia Maintenance Code §106.5.

THEREFORE, BE IT RESOLVED by the LBBCA, that the decision of the Building Official (Building/Code Official) in this matter is hereby upheld (upheld/reversed/modified), which results in the appellant having to take the following action(s): of the Notice of Demolition dated January 23, 2014. with the following stipulations and/or conditions (if any): none applicable.

ADOPTED: 6-26-14  
Date

  
Chairman

Upon receipt of this resolution, "Any person who was a party to the appeal may appeal to the State 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 St, Richmond, Virginia 23219, and (804) 371-7150.

Earl B. Reynolds, Jr.  
Director of  
Community Development

Kenneth C. Gillie, Jr.  
Division Director of Planning

Jerry D. Rigney  
Division Director of Inspections

John L. Moody, J.D.  
Division Director of Social Services



427 Patton Street  
P. O. Box 3800  
Danville, Virginia 24543  
Phone: (434) 799-5261  
TTY: (434) 778-8142  
Fax: (434) 797-8919  
www.danville-va.gov

July 1, 2014

**CERTIFIED MAIL**

T. Chester Baker  
3004 N Main St  
Danville, VA 24540

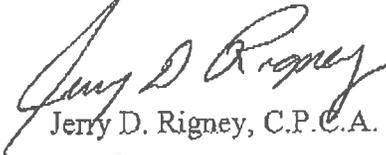
**RE: RESOLUTION – 1667 (now 3105) Piney Forest Rd, Danville, VA 24541**

To Whom It May Concern:

Please see the attached Local Board of Building Code Appeals *Resolution* that pertains to above mentioned address, adopted on July 26, 2014.

If you have any questions, please contact my office at (434) 799-5263.

Sincerely,



Jerry D. Rigney, C.P.C.A.

Attachment  
JDR/wbh

5 of 12

241



**LOCAL BOARD OF BUILDING CODE APPEALS  
CITY OF DANVILLE, VIRGINIA**

**RESOLUTION**

**WHEREAS**, The Local Board of Building Code Appeals (LBBCA) of the City of Danville, Virginia met on **June 26, 2014** to consider an appeal request from **T. Chester Baker**, the appellant, for the building(s) or structure(s) located at **1667 (now 3105) Piney Forest Rd, Danville, VA 24541**; and

**WHEREAS**, the LBBCA, upon consideration of the facts and issues presented in this appeal, **agrees** (agrees/disagrees) with the **Building Official** (Building/Code) Official in this matter, for the following reason(s):

- Numerous violations of the Virginia Maintenance Code which cause this building to have dangerous conditions and is unsafe and unfit for human occupancy.

**THEREFORE, BE IT RESOLVED** by the LBBCA, that the decision of the **Building Official** (Building/Code Official) in this matter is hereby **upheld** (upheld/reversed/modified), which results in the appellant having to take the following action(s): **demolish and remove the structure(s) as required in Notice of Demolition dated May 20, 2014.**

with the following stipulations and/or conditions (if any): **none**

ADOPTED: \_\_\_\_\_

6-26-14

Date

Chairman

Upon receipt of this resolution, "Any person who was a party to the appeal may appeal to the State 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 St, Richmond, Virginia 23219, and (804) 371-7150.

Virginia Maintenance Code, as the Building Maintenance Official deems appropriate. This may result in legal action against you, which would subject you to a fine of up to \$2,500.00, or the City may take the necessary action, up to and including the taking down and removal of the building, and charge the costs or expense thereof to you. Any charges assessed, which are unpaid, would constitute a lien in that amount against the property.

FOR INFORMATION CONTACT:  
**JERRY D. RIGNEY, CRCA, BUILDING MAINTENANCE OFFICIAL, (434) 799-5263**

**NOTICE OF DEMOLITION**

**BAKER T C JR  
 3001 PINEY FOREST RD  
 DANVILLE VA 24540**

**RE: 1663 PINEY FORST RD, DANVILLE VA 24540  
 PARCEL ID # 50289**

Dear Property Owner(s)

The City of Danville's Inspections Division has inspected the building on the above referenced property and found it to be in violation of the provisions of the Virginia Maintenance Code (PART III of the USBG-2009) for the maintenance of existing structures. Further, it has also been determined by the Building Maintenance Official that this building is unsafe, unfit for human occupancy by unlawful pursuant to Section 105 of the VMC, and is hereby deemed a dangerous structure as defined in Section 9-3 of the Code of the City of Danville, VA, 1986, as amended.

You are hereby notified that this building is **CONDEMNED**, and the Building Maintenance Official prohibits any use or occupancy.

**ORDER**

The Building Maintenance Official has determined that in order to abate the unsafe or dangerous conditions on this property, this building must be demolished and removed. You are hereby ordered to complete the demolition and removal of this building within 30 days of this notice dated (JANUARY 23, 2014)

Failure to comply with this order to abate the unsafe and dangerous conditions will result in the City of Danville taking action to abate such conditions in accordance with the provisions of Virginia Code Section 15.2-906 and/or the Virginia Maintenance Code, as the Building Maintenance Official deems appropriate. This may result in legal action against you, which would subject you to a fine of up to \$2,500.00, or the City may take the necessary action, up to and including the taking down and removal of the building, and charge the costs or expense thereof to you. Any charges assessed, which are unpaid, would constitute a lien in that amount against the property.

FOR INFORMATION CONTACT:  
**JERRY D. RIGNEY, CRCA, BUILDING MAINTENANCE OFFICIAL, (434) 799-5263**

include administrative and legal action deemed necessary to abate or remove a nuisance and charge the costs or expense thereof to you. Any charges assessed, which are unpaid, would constitute a lien in that amount against the property. The complete text of the notice is on file with the City of Danville's Inspections Division.

FOR INFORMATION CONTACT:  
**Jerry D. Rigney, CRCA, Building Maintenance Official, (434) 799-5263**

**NOTICE OF DERELICT BUILDING**

**GARRETT JOSEPH M &  
 MILLER TERESA YVETTE HAIRSTON  
 770 MAIN ST  
 DANVILLE VA 24541**

**KELVIN G. PERRY  
 GEARY DAVIS (TRUSTEES)  
 FIRST STATE BANK  
 201 N UNION ST  
 DANVILLE VA 24541**

**RE: 423 WORSHAM ST  
 PARCEL ID: 03604**

Dear Property Owner(s)

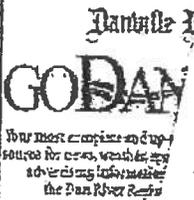
The City of Danville's Inspections Division inspected the building at the above re property. This correspondence will be official notification that the structure r above has been declared a derelict t accordance with Section 9-126 of th the City of Danville, Virginia, 1986, r

A notice has been sent to the prop and posted on the building declar ing to be derelict in accordance v 126 of the Code of the City of Dan 1986, as amended. As a result of tion, the owner(s) are hereby se mit a written plan to the Buildr Official at 427 Patton Street, D- to renovate or demolish the w the notice dated ( AUGUST 9,

If you fail to submit your p tioned date the city will ex as provided by Section 9-17 City of Danville, Virginia. I Include administrative and deemed necessary to abp sance and charge the cor to you. Any charges ass paid, would constitute a against the property. If notice is on file with th spections Division.

FOR INFORMATION C  
**Jerry D. Rigney, CRCA  
 Official, (434) 799-52**

**INSTRUMENT# 11,11  
 EXPRESS LINE US TEL  
 1614 RICHMOND BEN  
 DANVILLE VA 24540**



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 Call an Ad Representative Today for Rates and Service**

**NOTICE OF DEMOLITION**

**PRICE MARY L  
 510 WORSHAM ST  
 DANVILLE VA 24540  
 INSTRUMENT #96-91  
 COMMONWEALTH OF VIRGINIA  
 RICHMOND, VA 23282-1880  
 PARCEL ID: 00462  
 RE: 300 BELLEVUE ST, DANVILLE VA 24541  
 Dear Property Owner(s)**

Saturday, February 1, 2014

**NOTICE OF DEMOLITION**  
**JERRY D. RIGNEY, CRCA, BUILDING MAINTENANCE OFFICIAL, (434) 799-5263**

**FOR INFORMATION CONTACT:  
 JERRY D. RIGNEY, CRCA, BUILDING MAINTENANCE OFFICIAL, (434) 799-5263**

The Building Maintenance Official has determined that in order to abate the unsafe and dangerous conditions on this property, this building must be demolished and removed. You are hereby ordered to complete the demolition and removal of this building within 30 days of this notice dated (JANUARY 23, 2014)

You are hereby notified that this building is **CONDEMNED**, and the Building Maintenance Official prohibits any use or occupancy.

**NOTICE OF DEMOLITION**

243

B-9 21 Feb 14

Danville Register & Bee

STREETS

July 10, 2014

Statement of relief sought.

434-836-6000

434 - 709-5225 Cell

Re: Case I:  
Re: Case II:

Re: Case I: and Case II:

One or more words may describe my personal feelings definition of the referenced DEMOLITATION ORDERS issued for the Buildings on two parcels of my property, however, I will not comment further for fear of Retribution, however, my interest is to Gain and Retain all of my legal rightful interest in the subject property, both Real and Personal (including buildings) until such time as a major anchor occupier is secured for the site. At such time I propose emptyng the buildings of inventories and equipment, if not already done, and then vacate and remove the buildings as the need indicates.

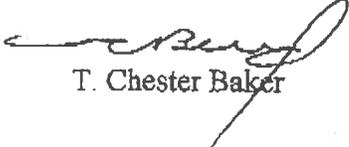
I cannot place a time frame on the development process. based greatly upon the economy.

Case I:

I, T. Chester Baker is requesting the LBBCA to dis-agree with the Building officials decision to demolish the structure and accessory structure upon the parcel called 1663 as detailed, based on the rule of unsafe structure and unfit for human occupancy. This request is supported by the detailed paper work being submitted. The damages not yet corrected in full on the larger structure is boarded up, properly placarded and secured from the public and is to remain so until minimum repairs are completed and approved by City of Danville Inspection Dept. The accessory structure will be sold off and moved off. See details submitted. The larger structure will remain sound and will have general maintenance.

Case II:

I, T. Chester Baker is requesting of the LBBCA to dis-agree with the Building officials decision to demolish the structure upon parcel called 1667 as detailed based on the rule of unsafe structure and unfit for human occupancy . This request is supported by the detailed paper work being submitted. The damage not yet corrected in full is boarded up, properly placarded and secured from the public and is to remain so until minimum repairs are completed and approved by City of Danville Inspection Dept.. See details submitted.

  
T. Chester Baker

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July 11, 2014

**TO: Department of Community Development, City of Danville, VA.**

**Attention: Kenneth C. Gillie, Division Director of Planning**

Proposed up-coming tasks: From Chester Baker RE: 1663 & 1667  
Piney Forest Road Commercial property.

1. As soon as I get masons lined up at skilled labor rates we can counter, I will replace the brick and block wall at 1663 (3001) 40 foot section regardless of the time frame of the outcome of the future re-development on this commercial site. *Look at the photo "Doss Business Center" in this package as an idea I might consider. I plan on re-designing this front as well as the glass front of the office for the current time frame.. (I have the brick, block and terra-cotta coping on the site as well as a scissors lift truck to put the masons up to the work) I also have the window material for the replacing the office frontage).*
2. *This 1663(3001) property is not vacant. I am redundantly still in business at and from this exact location: in the sale and/or auction of vehicles; heavy equipment; aircraft in the continental U.S; real estate and real estate rentals. I am a builder, developer in the Danville and Pittsylvania County areas and involved in auctions and electronic communications among other things. I am an auctioneer and a notary public at large licensed on all at the office at this subject site. This is my office for all. It has been my office location, continuous, for some 65years.*
3. *This 1667 (3005) property is not vacant. I own this business by default .I own the subject real estate and all of the personal property in the buildings on this subject site, including inventories for sale.*
4. *I propose the purchase of at least a 50+ foot highway worthy trailer and will box and transfer the contents from 1667 (all 35,000 movies and the operating equipment) into the trailer. This will enable the selling of the trailer with all of the contents via the media over the U.S.*

9 of 12

5. *This trailer will cost between \$1,000 and \$1,500 and adding it into the one time sale will be comfortable. Then adding a tractor owner service for transit at about \$1 per mile to make the delivery wherever it may be will complete the transaction.*
6. *We will not piece meal the inventory. It will be a sale, all or none sale of trailer plus inventory inside the trailer, properly cataloged.*
7. *Once this 1667 commercial building is empty, I propose taking it apart, selling the parts, and returning the space to a clean swept area. See early photo.*
8. *My promotion efforts for a major project or projects on this site are to equal to those projects next to or very near this site and compatible to the land and community. I have four (4) such companies with complete packages from me and awaiting communications and/or negotiations. Any one of which will surely be accepted and approved for them to come here. Incidentally, this site is the last open available commercial area at this city intersection of f U S highways and the highest elevation (650 ft. ASL) for a radius of 15 miles plus, excepting White Oak mountain.*
9. *In the meantime, to maintain my current position, I need to continue normal maintenance of these properties and continue the use thereof, until a re-development occurs. Please Note: I cannot readily get compatible skilled workers for re-construction work with "Condemned" Demolish" and threat of punishment signs posted on the properties.*
10. *I ask for your condolence and help in my work ahead.*
11. *Considering the facts and benefits to all, I request an exemption from the provisions of the Virginia Maintenance Code (Part III of the USBC-2009) for the maintenance of existing structures and Section 105 of the VMC and Section 9-3 of the code of the City of Danville, Virginia 1986 as amended, and that the owner (T. Chester Baker, Jr.), be grandfathered to the structures of 1663(now 3001), 1667(now 3005) Piney Forest Road and 3207 North Main Street, a combined commercial site dating back to the 1940s. We were in and under Pittsylvania County jurisdiction in the construction of the existing buildings on this complex. In the normal course of business the normal maintenance anticipated is to repair damages done by vandals; thieves; weather; adversaries and normal wear and tear. Nothing new is to be added by this request. There is nothing broken that I can't fix.*
12. *My prime goal and work load is finalizing the solicitation and placing of another anchor quality business on this subject site. I welcome your help.*

*I thank you for your consideration,*

*T. Chester Baker*

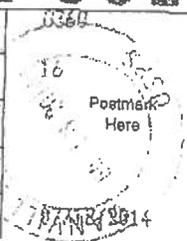
*11 of 12*

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Restricted Delivery Fee (Endorsement Required)	\$0.00
<b>Total Postage &amp; Fees</b>	<b>\$ 4.70</b>



Sent To \_\_\_\_\_  
 Street, Apt. No.,  
 or PO Box No. \_\_\_\_\_  
 City, State, ZIP+4 \_\_\_\_\_

PS Form 3800, August 2006 See Reverse for Instructions

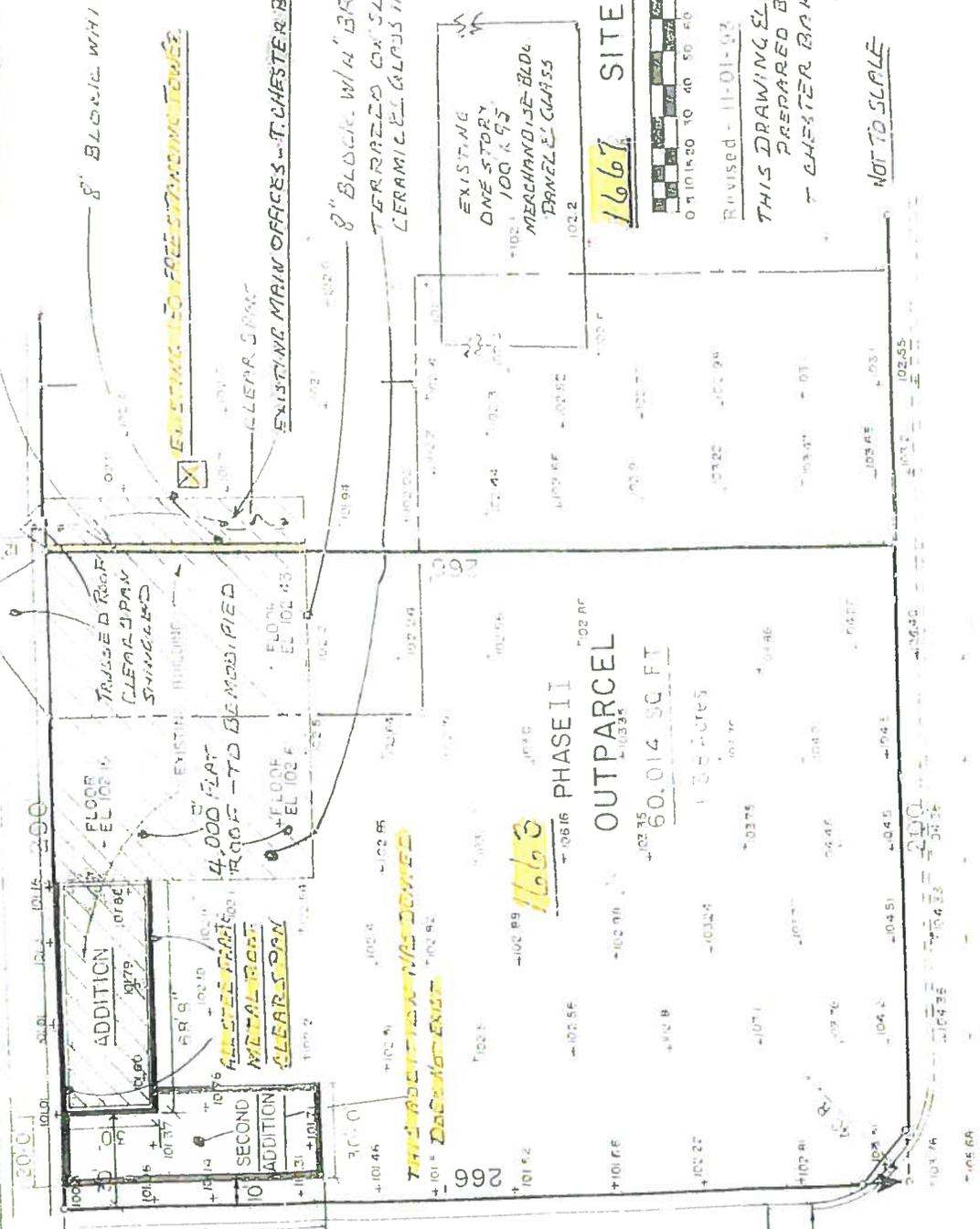
*ORIGINAL  
 IN  
 US MAIL  
 CB*

DANVILLE VA 24543 Zone-0 First-Class Mail Large Env 2.80 oz. Expected Delivery: Sat 07/19/14	\$1.40
Issue PVI:	=====
	\$1.40
DANVILLE VA 24541 Zone-0 First-Class Mail Large Env 2.80 oz. Expected Delivery: Sat 07/19/14	\$1.40
Issue PVI:	=====
	\$1.40
DANVILLE VA 24543 Zone-0 First-Class Mail Large Env 2.80 oz. Expected Delivery: Sat 07/19/14	\$1.40
Issue PVI:	=====
	\$1.40
RICHMOND VA 23219-1800 Zone-2 First-Class Mail Large Env 2.70 oz. Expected Delivery: Mon 07/21/14 Certified USPS Certified Mail #:	\$1.40 \$3.30

LEWIS AVENUE

(Proposed) CURB, GUTTER & PAVED

2' FOOT SPACE



TRAPEZOIDAL CLEAR SPAN SHINGLES

8" BLOCK WITH

EXISTING ALSO FREE STANDING TOWER

EXISTING MAIN OFFICES - T. CHESTER B

8" BLOCK WITH BR

TERRAZZO ON SL

CERAMIC TILE GLOUSH

EXISTING ONE STORY MERCHANDISE BLDG 100' x 95' PANELS GLASS

1667 SITE



Revised - 11-01-03  
THIS DRAWING PREPARED BY T. CHESTER BAK

NOT TO SCALE

642

EXISTING DOLLAR GENERAL MARKET - New 2012

18'

36'

(Proposed) CURB, GUTTER & PAVED

TIDEWATER STREET

PHASE II

OUTPARCEL

60,014 SQ FT

1.32 Acres

2100

3026

2100

3026

2100

3026

2100

3026



VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of T. Chester Baker  
Appeal No. 14-8 (A)

CONTENTS

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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of T. Chester Baker  
Appeal No. 14-8(A)

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. In May of 2014, the City of Danville's Department of Community Development (DCD), the agency responsible for the enforcement of Part III of the Virginia Uniform Statewide Building Code, the Virginia Maintenance Code, issued a notice of demolition for a building at 1667 Piney Forest Road (the building), owned by T. Chester Baker (Baker). The building was vacant and its last known use was as a video rental store.
2. Baker appealed the notice to the City of Danville Local Board of Building Code Appeals (City appeals board), which conducted a hearing in June of 2014 and ruled to uphold the notice.
3. Baker further appealed to the Review Board.
4. Review Board staff conducted an informal fact-finding conference in January of 2015, attended by Baker and representatives of DCD. At the conference, the parties agreed that Baker's appeal to the City appeals board and to the Review Board were timely and proper and that the only issue for resolution by the Review Board was whether the building needed to be demolished. Baker asserted that the building was structurally sound and only had minor roof leaks and other cosmetic issues. Neither party had any structural analysis or report conducted by experts to submit. DCD requested an opportunity to engage an engineer to evaluate the building

prior to the hearing before the Review Board and Baker agreed to permit DCD to engage an expert at their expense and to permit pictures to be taken to show the current condition of the building.

5. This staff document was drafted subsequent to the submittal of the engineer's report by DCD and distributed to the parties and timeframes were established for the submittal of objections; corrections or additions to the staff document; the submittal of additional documents for the record; and written arguments to be included in the record of the appeal prepared for the hearing before the Review Board.

Suggested Issue for Resolution by the Review Board

1. Whether to overturn both the decision of DCD that the building needs to be demolished and the upholding of that decision by the City appeals board.

REVIEW BOARD APPEAL 14-8 (A)  
BAKER VS. CITY OF DANVILLE

COMBINED DOCUMENTS  
SUBMITTED BY THE PARTIES

Earl B. Reynolds, Jr.  
Director of  
Community Development

Kenneth C. Gillie, Jr.  
Division Director of Planning

Jerry D. Rigney  
Division Director of Inspections

John L. Moody, J.D.  
Division Director of Social Services



497 Patton Street  
P. O. Box 3900  
Danville, Virginia 24543  
Phone: (434) 799-5261  
TTY: (434) 773-8142  
Fax: (434) 797-8919  
www.danville-va.gov

## *INSPECTIONS DIVISION*

# NOTICE OF DEMOLITION

5/20/2014

BAKER T C JR  
1667 PINEY FOREST RD  
DANVILLE VA 24540

BAKER T C JR  
3001 PINEY FOREST RD  
DANVILLE VA 24540

BAKER T C JR  
3004 N MAIN ST  
DANVILLE VA 24540

RE: 1667 PINEY FOREST RD  
Parcel ID: 50288  
Application Number: 120898

Dear Property Owner(s) and/or Occupant,

The City of Danville's Inspections Division has inspected the building on the above referenced property and found it to be in violation of the provisions of the Virginia Maintenance Code (PART III of the USBC-2009) for the maintenance of existing structures. Further, it has also been determined by the Building Maintenance Official that this building is unsafe, unfit for human occupancy or unlawful pursuant to Section 105 of the VMC, and is hereby deemed a dangerous structure as defined in Section 9-3 of the Code of the City of Danville, VA, 1986, as amended.

You are hereby notified that this building has been deemed an **UNSAFE STRUCTURE**, and the Building Maintenance Official prohibits any use or occupancy.

### ORDER

The Building Maintenance Official has determined that in order to abate the unsafe or dangerous conditions on this property, this building must be demolished and removed. You are hereby ordered to complete the demolition and removal of this building within 30 days of receipt of this notice.

The specific violations, which exist, that cause the building to be declared unsafe, unfit for human occupancy or unlawful and a dangerous structure are as follows:

105 Unsafe structures: VMC Section 105 Unsafe and/or unfit for habitation.

301.3 Vacant structures and land: Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety

304.1 Exterior of Structure: The exterior of a structure shall be maintained in good repair, structurally sound and sanitary.

304.2 Protective treatment: Exterior wood and/or metal surfaces have peeling, flaking and/or chipped paint.

304.4 Exterior Structural Members: Structural members shall be maintained free from deterioration and capable of supporting imposed loads.

304.5 Foundation walls: Foundation walls either not plumb or free of open cracks and breaks.

304.6 Exterior walls: All exterior walls shall be free from holes, breaks, and loose or rotting materials: and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage: Roof and flashing shall be sound, tight and not have defects that admit rain.

304.13 Window, skylight and door frames: Windows, skylight, doors and frames shall be kept in sound condition, good repair and weather tight.

305.1 Interior of Structure: Interior of structure shall be maintained in good repair, structurally sound and sanitary conditions

305.2 Interior Structural Members: All structural members shall be maintained structurally sound and capable of supporting the imposed loads.

305.3 Interior surfaces: All interior surfaces including windows and doors shall be maintained in good and sanitary condition.

Failure to comply with this order to abate the unsafe and dangerous conditions will result in the City of Danville taking action to abate such conditions in accordance with the provisions of Virginia Code Section 15.2906 and/or the Virginia Maintenance Code, as the Building Maintenance Official deems appropriate. This may result in legal action against you, which would subject you to a fine of up to \$2,500.00, or the City may take the necessary action, up to and including the taking down and removal of the building, and charge the costs or expense thereof to you. Any charges assessed, which are unpaid, would constitute a lien in that amount against the property.

#### Right of Appeal

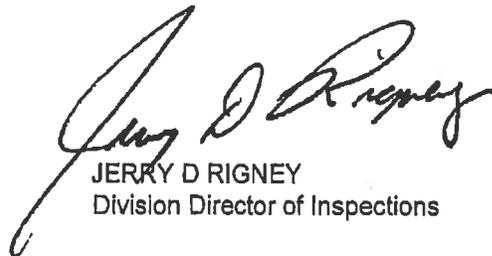
You have the right to appeal this decision of the Building Maintenance Official to the local Board of Building Code Appeals as provided for in Section 106.0 of the Virginia Maintenance Code, and in Section 9-3 of the Code of the City of Danville, Virginia, 1986, as amended. A written request for such an appeal shall be made on forms provided by the Building Maintenance Official, and filed with this office within 14 calendar days from receipt of this notice. At the time of filing, a fee of Two Hundred dollars (\$200.00) shall accompany the appeal request. Applications for appeal may be obtained in the Inspections Office located in Room 208 of the Municipal Building on Patton Street, Monday through Friday, 8:00 AM until 5:00 PM.

Compliance with this order may require a building permit from this office. Failure to obtain the proper permit(s) as required by the USBC shall constitute a separate violation. Should you have any questions or wish to discuss this matter, please contact me at (434) 799-5261. Thank you for your cooperation in promptly eliminating these violations.

Sincerely,



JAY S THORNTON  
Property Maintenance Inspector



JERRY D RIGNEY  
Division Director of Inspections

CC: File

Post on Property

Central Virginia Newspapers Review Order Confirmation for Ad #0003277634-01

Client CITY OF DANVILLE Payor Customer CITY OF DANVILLE Acct Exec dhubbardLYN  
 Client Phone 434-799-6528 Payor Phone 434-799-6528  
 Account# 3447566 Payor Account 3447566  
 Address 427 PATTON STREET Payor Address 427 PATTON STREET Ordered By Jacob Walker  
 DANVILLE VA 24542 USA DANVILLE VA 24542  
 Fax 434-797-8919  
 EMail moorema@ci.danville.va.us

Total Amount \$360.40 Status Materials  
 Payment Amt \$0.00 Tear Sheets 0 Proofs 0 Affidavits 1 PO Number Blind Box  
 Amount Due \$360.40 1

1667 Piney Forest Rd

Text: Order Notes: Production Color  
 Ad Number 0003277634-01 Ad Type CLP Legal Liner Color <NONE>  
 Pick Up Number Ad Size 1.0 X 73 Li Production Method AdBooker (liner) Production Notes  
 Product Placement/Class Position # Inserts  
 Run Schedule Invoice Text DAN Register Bee CLP: CLP Legal Ads - CLP Legal Notices-Legal-CLP 2  
 Run Dates 5/24/2014, 5/31/2014  
 Tag Line 1667 PINEY FOREST RD  
 DAN TN FeatCLP.com:Ont Any: Legal Ads - CLP Legal Notices-Legal-CLP 7

CLP  
6-3-14  
MG

5/24/2014, 5/25/2014, 5/26/2014, 5/27/2014, 5/28/2014, 5/29/2014, 5/30/2014  
 1667 PINEY FOREST RD  
 1667 PINEY FOREST RD

Central Virginia Newspapers Review Order Confirmation for Ad #0003277634-01

Ad Content Proof Actual Size

**NOTICE OF DEMOLITION**

BAKER T C JR  
1667 PINEY FOREST RD  
DANVILLE VA 24540

BAKER T C JR  
3001 PINEY FOREST RD  
DANVILLE VA 24540

BAKER T C JR  
3004 N MAIN ST  
DANVILLE VA 24540

RE: 1667 PINEY FOREST RD  
PARCEL ID# 50288

Dear Property Owner(s)

The City of Danville's Inspections Division has inspected the building on the above referenced property and found it to be in violation of the provisions of the Virginia Maintenance Code (PART III of the USBC-2009) for the maintenance of existing structures. Further, it has also been determined by the Building Maintenance Official that this building is unsafe, unfit for human occupancy or unlawful pursuant to Section 15.2 of the VMC, and is hereby deemed a dangerous structure as defined in Section 9-3 of the Code of the City of Danville, VA, 1986, as amended.

You are hereby notified that this building has been deemed an UNSAFE STRUCTURE, and the Building Maintenance Official prohibits any use or occupancy.

**ORDER**

The Building Maintenance Official has determined that in order to abate the unsafe or dangerous conditions on this property, this building must be demolished and removed. You are hereby ordered to complete the demolition and removal of this building within 30 days of this notice dated (MAY 20, 2014).

Failure to comply with this order to abate the unsafe and dangerous conditions will result in the City of Danville taking action to abate such conditions in accordance with the provisions of Virginia Code Section 15.2-906 and/or the Virginia Maintenance Code, as the Building Maintenance Official deems appropriate. This may result in legal action against you, which would subject you to a fine of up to \$2,500.00, or the City may take the necessary action, up to and including the taking down and removal of the building, and charge the costs or expense thereof to you. Any charges assessed, which are unpaid, would constitute a lien in that amount against the property. A copy of the full text of this notice is on file in the Inspections Division of the Department of Public Works.

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Home Print Data Analysis Import/Export Settings Configuration Diagnostics Documents

Search Ribbon People Businesses Master Project Activity List Search Search Bookmarks Feedback Window CityView

Code Activities

### Case Information

Case Number	CECODE2010000059	Description	Type	Property Alert
Type	Maintenance Code Enfor	1667 PINEY FOREST RD, DANVILLE, VA 24044	Property	Moderate
Status	Court	Address		
Inspector	Karl McGaughey			

View Master Project Add a new parking or business to Address Book

### Activity Tracking

Show Me All Code Enforcement Activities Refresh Generate EMSB Add Activity

Go Link	Activity	Assigned To	Priority	Date Required	Outcome	Date Complete
AAA	Re-Inspection - Code	Karl McGaughey	Routine	06/29/2011	Failed	04/29/2011
AAA	Re-Inspection - Code	Karl McGaughey	Routine	09/12/2011	Failed	09/12/2011
AAA	Re-Inspection - Code	Karl McGaughey	Routine	10/12/2011	Failed	10/14/2011
AAA	Set Court Date	Karl McGaughey	Routine	07/13/2011	Complete	10/14/2011
AAA	Record Court Decision - Code	Karl McGaughey	Routine	04/09/2011	Reschedule Court D	04/09/2011
AAA	Attend Court - Code Case	Karl McGaughey	Routine	04/04/2011	Complete	04/09/2011
AAA	Set Court Date	Karl McGaughey	Routine	03/09/2011	Complete	03/09/2011
AAA	Attend Court - Code Case	Karl McGaughey	Routine	01/08/2011	Complete	01/08/2011
AAA	Set Court Date	Karl McGaughey	Routine	09/08/2010	Complete	10/08/2010
AAA	Record Court Decision - Code	Karl McGaughey	Routine	08/08/2010	Reschedule Court D	09/08/2010
AAA	Attend Court - Code Case	Karl McGaughey	Routine	08/08/2010	Complete	08/08/2010
AAA	Close Case	Karl McGaughey	Routine	08/28/2010	Complete	08/28/2010
AAA	Set Court Date	Karl McGaughey	Routine	09/08/2010	Complete	08/08/2010
AAA	Record Court Decision - Code	Karl McGaughey	Routine	06/08/2010	Reschedule Court D	06/08/2010

Comments

REPAIRS DO NOT APPEAR TO BE TAKEN PLACE, STRUCTURE APPEARS TO BE GETTING WORSE AND MORE AND MORE WINDOWS HAVE BEEN BROKEN OUT.

Start Time 00:00 Responsible Department Maintenance Code

End Time Resource Group Building Code Enforcement Inspector

Hours Spent Date Requested

Completed By Karl McGaughey Requested Time Frame

Category Jurisdiction City of Danville

Show Activity Comments History

1:15 PM 11/18/2013

Catalog Help

Open Catalog Item

- Case General
- Recent Items
- 4 Today
  - Code Activities (Code Activities)
  - Case Setup (Case General)
- Monday
- Friday
- Bookmarks
  - Rental Housing Activities
- Catalog
  - Maps
  - Activities
  - Administration
  - All Locations
  - Code Enforcement
    - Case General
    - Code Activities
    - Code Enforcement Contracts
    - Code Enforcement Reports
  - Inspector
    - Licensing
    - Permits and Inspections
    - Property
    - Rental Housing
    - Reports

Search Catalog

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: alan.mcmahan@dhdcd.virginia.gov

JUL 21 2014

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations

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

T. CHESTER BAKER, 3004 NORTH MAIN ST. DANVILLE, VA 24540  
434-836-6000 434-709-5225 (CELL)

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

BUILDING CODE OFFICIAL, CITY OF DANVILLE, VA 24543  
434-749-5263

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
  - Copy of record and decision of local government appeals board (if applicable and available)
  - Statement of specific relief sought
- NOT AVAILABLE PER CITY  
7-17-2014

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of JULY, 2014, 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: 

Name of Applicant: T. CHESTER BAKER  
(please print or type)

Copies to:

Ms Jeannise Galloway, Assistant City Attorney  
City of Danville  
PO Box 3300  
Danville, VA 24541-3300

Jerry D. Rigney, Division Director of Inspections  
Department of Community Development  
City of Danville  
427 Patton Street  
PO Box 3300  
Danville, VA 24543

Kenneth C. Gillie, Jr., Division Director of Planning  
Department of Community Planning  
City of Danville  
427 Patton Street  
PO Box 3300  
Danville, VA 24543

State Technical Review Board  
Main Street Center  
600 East Main Street, Suite 300  
Richmond, VA 23219

Earl B. Reynolds, Jr.  
Director of  
Community Development

Kenneth C. Gillie, Jr.  
Division Director of Planning

Jerry D. Rigney  
Division Director of Inspections

John L. Moody, J.D.  
Division Director of Social Services



427 Patton Street  
P. O. Box 3300  
Danville, Virginia 24543  
Phone: (434) 799-5261  
TTY: (434) 778-8142  
Fax: (434) 797-8919  
www.danville-va.gov

July 1, 2014

**CERTIFIED MAIL**

T. Chester Baker  
3004 N Main St  
Danville, VA 24540

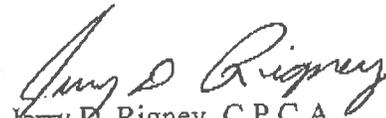
**RE: RESOLUTION – 1663 (now 3001) Piney Forest Rd, Danville, VA 24541**

To Whom It May Concern:

Please see the attached Local Board of Building Code Appeals *Resolution* that pertains to above mentioned address, adopted on July 26, 2014.

If you have any questions, please contact my office at (434) 799-5263.

Sincerely,

  
Jerry D. Rigney, C.P.C.A.

Attachment  
JDR/wbh



LOCAL BOARD OF BUILDING CODE APPEALS  
CITY OF DANVILLE, VIRGINIA

RESOLUTION

WHEREAS, The Local Board of Building Code Appeals (LBBCA) of the City of Danville, Virginia met on June 26, 2014 to consider an appeal request from T. Chester Baker, the appellant, for the building(s) or structure(s) located at 1663 (now 3001) Piney Forrest Road, Danville, Virginia 24541; and

WHEREAS, the LBBCA, upon consideration of the facts and issues presented in this appeal, agrees (agrees/disagrees) with the Building Official (Building/Code Official) in this matter, for the following reasons:

- The Board agreed that the appeal was not filed within the 14 day appeal period required by the Virginia Maintenance Code §106.5.

THEREFORE, BE IT RESOLVED by the LBBCA, that the decision of the Building Official (Building/Code Official) in this matter is hereby upheld (upheld/reversed/modified), which results in the appellant having to take the following action(s): of the Notice of Demolition dated January 23, 2014.

with the following stipulations and/or conditions (if any): none applicable.

ADOPTED: \_\_\_\_\_

6-26-14

Date

Chairman

Upon receipt of this resolution, "Any person who was a party to the appeal may appeal to the State 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 St, Richmond, Virginia 23219, and (804) 371-7150.

Earl B. Reynolds, Jr.  
Director of  
Community Development

Kenneth C. Gillie, Jr.  
Division Director of Planning

Jerry D. Rigney  
Division Director of Inspections

John L. Moody, J.D.  
Division Director of Social Services



427 Patton Street  
P. O. Box 3800  
Danville, Virginia 24543  
Phone: (434) 799-5261  
TTY: (434) 778-8142  
Fax: (434) 797-8919  
[www.danville-va.gov](http://www.danville-va.gov)

July 1, 2014

**CERTIFIED MAIL**

T. Chester Baker  
3004 N Main St  
Danville, VA 24540

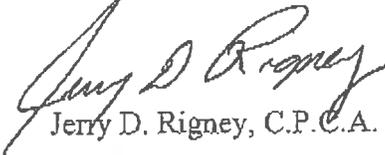
**RE: RESOLUTION – 1667 (now 3105) Piney Forest Rd, Danville, VA 24541**

To Whom It May Concern:

Please see the attached Local Board of Building Code Appeals *Resolution* that pertains to above mentioned address, adopted on July 26, 2014.

If you have any questions, please contact my office at (434) 799-5263.

Sincerely,



Jerry D. Rigney, C.P.C.A.

Attachment  
JDR/wbh



**LOCAL BOARD OF BUILDING CODE APPEALS  
CITY OF DANVILLE, VIRGINIA**

**RESOLUTION**

WHEREAS, The Local Board of Building Code Appeals (LBBCA) of the City of Danville, Virginia met on June 26, 2014 to consider an appeal request from T. Chester Baker, the appellant, for the building(s) or structure(s) located at 1667 (now 3105) Piney Forest Rd, Danville, VA 24541; and

WHEREAS, the LBBCA, upon consideration of the facts and issues presented in this appeal, agrees (agrees/disagrees) with the Building Official (Building/Code) Official in this matter, for the following reason(s):

- Numerous violations of the Virginia Maintenance Code which cause this building to have dangerous conditions and is unsafe and unfit for human occupancy.

THEREFORE, BE IT RESOLVED by the LBBCA, that the decision of the Building Official (Building/Code Official) in this matter is hereby upheld (upheld/reversed/modified), which results in the appellant having to take the following action(s): demolish and remove the structure(s) as required in Notice of Demolition dated May 20, 2014.

with the following stipulations and/or conditions (if any): none

ADOPTED: \_\_\_\_\_

6-26-14

Date

[Signature]

Chairman

Upon receipt of this resolution, "Any person who was a party to the appeal may appeal to the State 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 St, Richmond, Virginia 23219, and (804) 371-7150.



July 10, 2014

Statement of relief sought.

434-836-6000

434 - 709-5225 Cell

Re: Case I:

Re: Case II:

Re: Case I: and Case II:

One or more words may describe my personal feelings definition of the referenced DEMOLITATION ORDERS issued for the Buildings on two parcels of my property, however, I will not comment further for fear of Retribution, however, my interest is to Gain and Retain all of my legal rightful interest in the subject property, both Real and Personal (including buildings) until such time as a major anchor occupier is secured for the site. At such time I propose emptyng the buildings of inventories and equipment, if not already done, and then vacate and remove the buildings as the need indicates.

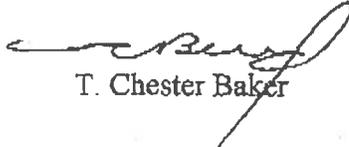
I cannot place a time frame on the development process. based greatly upon the economy.

Case I:

I, T. Chester Baker is requesting the LBBCA to dis-agree with the Building officials decision to demolish the structure and accessory structure upon the parcel called 1663 as detailed, based on the rule of unsafe structure and unfit for human occupancy. This request is supported by the detailed paper work being submitted. The damages not yet corrected in full on the larger structure is boarded up, properly placarded and secured from the public and is to remain so until minimum repairs are completed and approved by City of Danville Inspection Dept. The accessory structure will be sold off and moved off. See details submitted. The larger structure will remain sound and will have general maintenance.

Case II:

I, T. Chester Baker is requesting of the LBBCA to dis-agree with the Building officials decision to demolish the structure upon parcel called 1667 as detailed based on the rule of unsafe structure and unfit for human occupancy . This request is supported by the detailed paper work being submitted. The damage not yet corrected in full is boarded up, properly placarded and secured from the public and is to remain so until minimum repairs are completed and approved by City of Danville Inspection Dept.. See details submitted.

  
T. Chester Baker

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July 11, 2014

**TO: Department of Community Development, City of Danville, VA.**

**Attention: Kenneth C. Gillie, Division Director of Planning**

Proposed up-coming tasks: From Chester Baker RE: 1663 & 1667  
Piney Forest Road Commercial property.

1. As soon as I get masons lined up at skilled labor rates we can counter, I will replace the brick and block wall at 1663 (3001) 40 foot section regardless of the time frame of the outcome of the future re-development on this commercial site. *Look at the photo "Doss Business Center" in this package as an idea I might consider. I plan on re-designing this front as well as the glass front of the office for the current time frame..(I have the brick, block and terra-cotta coping on the site as well as a scissors lift truck to put the masons up to the work) I also have the window material for the replacing the office frontage)..*
2. *This 1663(3001) property is not vacant. I am redundantly still in business at and from this exact location: in the sale and/or auction of vehicles; heavy equipment; aircraft in the continental U.S; real estate and real estate rentals. I am a builder, developer in the Danville and Pittsylvania County areas and involved in auctions and electronic communications among other things. I am an auctioneer and a notary public at large licensed on all at the office at this subject site. This is my office for all. It has been my office location, continuous, for some 65years.*
3. *This 1667 (3005) property is not vacant. I own this business by default .I own the subject real estate and all of the personal property in the buildings on this subject site, including inventories for sale.*
4. *I propose the purchase of at least a 50+ foot highway worthy trailer and will box and transfer the contents from 1667 (all 35,000 movies and the operating equipment) into the trailer. This will enable the selling of the trailer with all of the contents via the media over the U.S.*

9 of 12

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5. *This trailer will cost between \$1,000 and \$1,500 and adding it into the one time sale will be comfortable. Then adding a tractor owner service for transit at about \$1 per mile to make the delivery wherever it may be will complete the transaction.*
6. *We will not piece meal the inventory. It will be a sale, all or none sale of trailer plus inventory inside the trailer, properly cataloged.*
7. *Once this 1667 commercial building is empty, I propose taking it apart, selling the parts, and returning the space to a clean swept area. See early photo.*
8. *My promotion efforts for a major project or projects on this site are to equal to those projects next to or very near this site and compatible to the land and community. I have four (4) such companies with complete packages from me and awaiting communications and/or negotiations. Any one of which will surely be accepted and approved for them to come here. Incidentally, this site is the last open available commercial area at this city intersection of f U S highways and the highest elevation (650 ft. ASL) for a radius of 15 miles plus, excepting White Oak mountain.*
9. *In the meantime, to maintain my current position, I need to continue normal maintenance of these properties and continue the use thereof, until a re-development occurs. Please Note: I cannot readily get compatible skilled workers for re-construction work with "Condemned" Demolish" and threat of punishment signs posted on the properties.*
10. *I ask for your condolence and help in my work ahead.*

11. Considering the facts and benefits to all, I request an exemption from the provisions of the Virginia Maintenance Code (Part III of the USBC-2009) for the maintenance of existing structures and Section 105 of the VMC and Section 9-3 of the code of the City of Danville, Virginia 1986 as amended, and that the owner (T. Chester Baker, Jr.), be grandfathered to the structures of 1663(now 3001), 1667(now 3005) Piney Forest Road and 3207 North Main Street, a combined commercial site dating back to the 1940s. We were in and under Pittsylvania County jurisdiction in the construction of the existing buildings on this complex. In the normal course of business the normal maintenance anticipated is to repair damages done by vandals; thieves; weather; adversaries and normal wear and tear. Nothing new is to be added by this request. There is nothing broken that I can't fix.

12. My prime goal and work load is finalizing the solicitation and placing of another anchor quality business on this subject site. I welcome your help.

*I thank you for your consideration,*

*T. Chester Baker*

11 of 12

**U.S. Postal Service**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$ 1.40
Certified Fee	\$3.30
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
<b>Total Postage &amp; Fees</b>	<b>\$ 4.70</b>



7014 0510 0000 4974 3542

Sent To \_\_\_\_\_  
 Street, Apt. No.,  
 or PO Box No. \_\_\_\_\_  
 City, State, ZIP+4 \_\_\_\_\_

PS Form 3800, August 2013 See Reverse for Instructions

DANVILLE VA 24543 Zone-0 \$1.40  
 First-Class Mail Large Env  
 2.80 oz.  
 Expected Delivery: Sat 07/19/14

Issue PVI: =====  
 \$1.40

DANVILLE VA 24541 Zone-0 \$1.40  
 First-Class Mail Large Env  
 2.80 oz.  
 Expected Delivery: Sat 07/19/14

Issue PVI: =====  
 \$1.40

DANVILLE VA 24543 Zone-0 \$1.40  
 First-Class Mail Large Env  
 2.80 oz.  
 Expected Delivery: Sat 07/19/14

Issue PVI: =====  
 \$1.40

RICHMOND VA 23219-1800 Zone-2 \$1.40  
 First-Class Mail Large Env  
 2.70 oz.  
 Expected Delivery: Mon 07/21/14

@@ Certified \$3.30  
 USPS Certified Mail #:

ORIGINAL  
 IN  
 US MAIL  
 CB

Earl B. Reynolds, Jr.  
Director of  
Community Development

Kenneth C. Gillie, Jr.  
Director of Planning

Jerry D. Rigney  
Director of Inspections

John L. Moody, J.D.  
Director of Social Services



427 Patton Street  
P. O. Box 3300  
Danville, Virginia 24543  
Phone: (434) 799-5261  
TTY: (434) 773-8142  
Fax: (434) 797-8919  
[www.danville-va.gov](http://www.danville-va.gov)

February 2, 2015

VERNON HODGE  
600 EAST MAIN ST, SUITE 300  
RICHMOND VA 23219

RE: 1667 PINEY FOREST RD (CHESTER BAKER)

Vernon,

Attached is a hardcopy of the Engineers Report for 1667 Piney Forest Rd and 1663 Piney Forest Rd. The following pictures on pages 1, 2, 3, 15, 16, 17, 18 are for 1667 Piney Forest Rd, and pictures 4-14 are for 1663 Piney Forest Rd

An email was also sent with the following information. If you have any questions or comments feel free to give me a call.

Sincerely,

Jay Thornton  
City of Danville Inspections



# City of Danville

## Legend

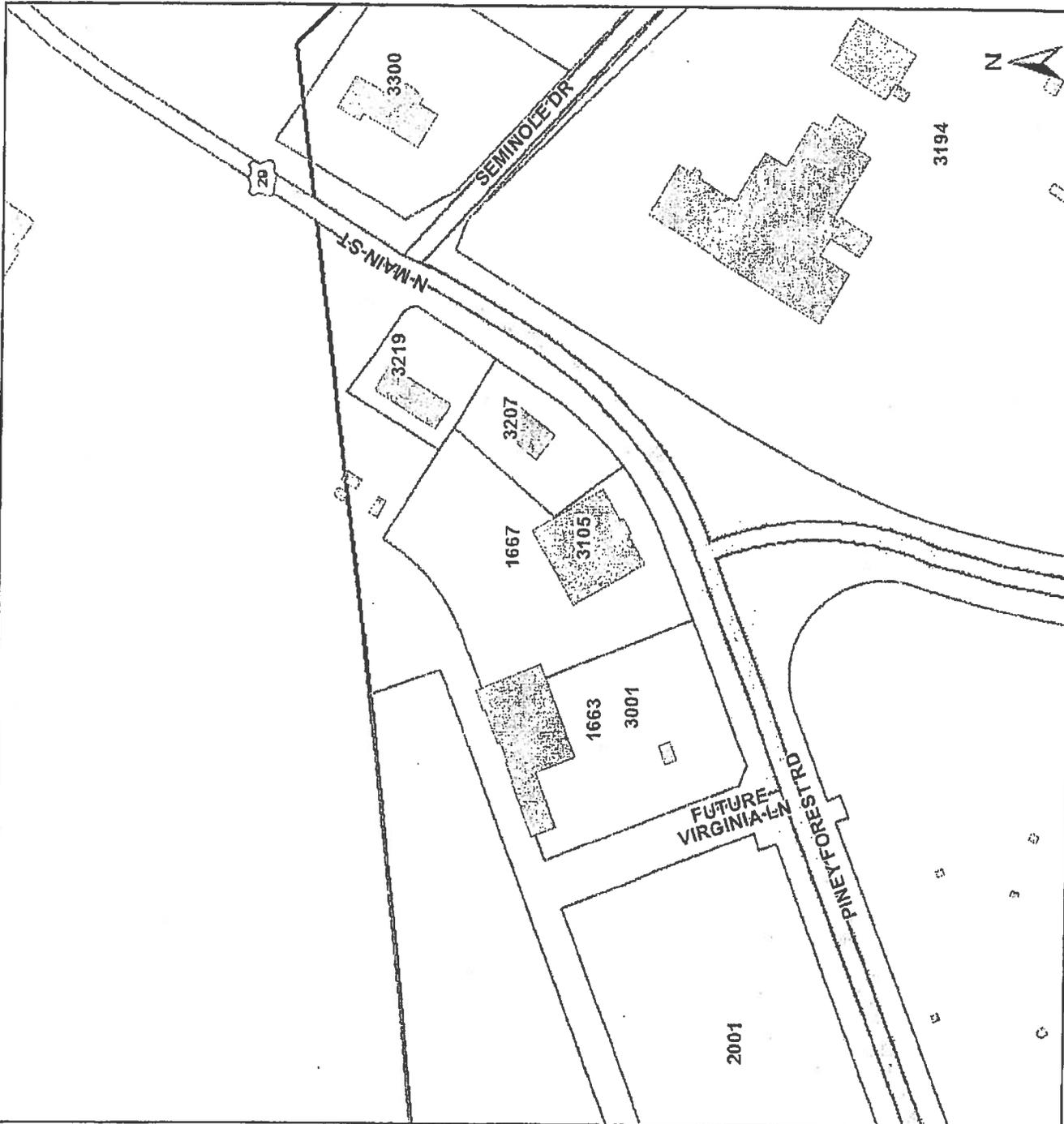
-  Buildings
-  Parcels
- Historic\_Districts**
-  Downtown
-  Holbrook Ross
-  North Danville
-  Old West End
-  Tobacco Warehouse
- Street Names**
- House Numbers**

Feet



Map Scale: 1:2,000

DISCLAIMER: Information contained on this map is to be used for reference purposes only and the City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



Title:

Date: 11/18/2013

**SUMMONS**

COMMONWEALTH OF VIRGINIA Va. Code § 19.2-73; Rule 3A: 4

Danville CITY OR COUNTY  
[x] General District Court [ ] Juvenile and Domestic Relations District Court  
401 Patton Street Danville, VA 24543  
STREET ADDRESS OF COURT  
[x] Commonwealth of Virginia [ ] City [ ] County [ ] Town of

**TO THE ACCUSED:**

You are hereby commanded to appear before this Court on

Nov 19, 2013 08:30 AM to answer the charge that on or about 10/16/2013 DATE

within this [ ] Town of Danville [ ] CITY [ ] COUNTY you did unlawfully  
Fail to correct violations of the Uniform Statewide Building Code sections 304.1, 304.7, 304.9, 604.3, 605.1.  
The city has sought since April 30, 2009 to have the owner of 1667 Piney Forest Road, Danville to correct these  
violations. The violations still exist.

in violation of Section 36-106, [x] Code of Virginia (OR)  
[ ] Ordinances of this City, County or Town.

**YOU MUST APPEAR** in court at the time and place shown above and appear at all other times and  
places and before any court or judge to which this case may be rescheduled, continued, transferred or  
appealed.

**WARNING TO THE ACCUSED:** You may be tried and convicted in your absence if you fail to appear  
in response to this summons. Willful failure to appear for a misdemeanor charge is a separate offense.

I, the undersigned, have found probable cause to believe that the Accused committed the offense charged,  
based on the sworn statements of Inspector Thornton, Jay Danville Publ., Complainant.

10/16/2013 11:45 AM  
DATE AND TIME ISSUED  
Shannon L. Cauley  
[ ] CLERK [x] MAGISTRATE [ ] JUDGE

CASE NO. C13-10699

**ACCUSED:**

Baker, T.C., Jr.  
LAST NAME, FIRST NAME, MIDDLE NAME  
3004 N Main Street  
ADDRESS/LOCATION  
Danville, VA 24540

To be completed upon service as Summons

Mailing address  Same as above

RACE	SEX	BORN	HT.	WGT.	EYES	HAIR
		MO. DAY YR.	FT. IN.			
SSN						
DL#						
STATE						

Commercial Driver's License

**CLASS U MISDEMEANOR**

EXECUTED by delivering a true copy of this summons to the Accused in person today.

For legal entities other than individuals, service pursuant to Va. Code § 19.2-76.

The Accused certified to me the above mailing address.

10/27/2013 5:45 pm  
DATE AND TIME OF SERVICE

A.M. Lane  
ARRESTING OFFICER

PD 280 DPD 107  
BADGE NO., AGENCY AND JURISDICTION

for

Attorney for the Accused:

Stuart Lawson  
Short Offense Description (Not a legal firm title)

**MAINTENANCE CODE**

Offense Tracking Number:  
590GM1300011763

FOR ADMINISTRATIVE USE ONLY

Virginia Crime Code:  
999-9999-99

10/16/2013

**S**

Nov 19, 2013  
08:30 AM  
Hearing Date/Time

C13-10699

09:45

SAVE Mr. Baker

6 months

it conveyed

No more

sent

It's not

carried

1,000 fm



**SUMMONS**

I impose the following Disposition:

- FINE [ ] CIVIL PENALTY of \$ \_\_\_\_\_ with \$ \_\_\_\_\_ suspended
- JAIL SENTENCE of \_\_\_\_\_ imposed, [ ] of which \_\_\_\_\_ days mandatory minimum with \_\_\_\_\_ suspended for a period of \_\_\_\_\_, conditioned upon being of good behavior, keeping the peace, obeying this order and paying fines and costs.
- Pursuant to § 53.1-187, credit is granted for pre-trial detention.
- Serve jail sentence beginning \_\_\_\_\_ [ ] on weekends only
- Work release [ ] authorized if eligible [ ] required [ ] not authorized
- Public work force [ ] authorized [ ] not authorized
- on PROBATION for \_\_\_\_\_
- VASAP [ ] local community-based probation agency
- Monitoring by GPS/other tracking device
- DRIVER'S LICENSE suspended for \_\_\_\_\_
- Restricted Driver's License per attached order
- Ignition Interlock for \_\_\_\_\_
- RESTITUTION of \$ \_\_\_\_\_ due by \_\_\_\_\_ payable to \_\_\_\_\_ with interest thereon from \_\_\_\_\_ ( ) DATE OF LOSS OR DAMAGE | TODAY'S DATE
- as condition of suspended sentence
- COMMUNITY SERVICE \_\_\_\_\_ hours to be completed by \_\_\_\_\_ and supervised by \_\_\_\_\_
- [ ] to be credited against fines and costs
- Contact prohibited between defendant and victim/victim's family or household members
- Reimburse Commonwealth for investigatory medical fees
- Pay \$50 fee to the Court for Trauma Center Fund
- Other: \_\_\_\_\_
- Bail on Appeal \$ \_\_\_\_\_
- Remanded for [ ] CCRE Report [ ] \_\_\_\_\_

\_\_\_\_\_ this day: \_\_\_\_\_ in absence [ ] present

- SECURING ATTORNEY PRESENT (NAME) \_\_\_\_\_
- DEFENDANT'S ATTORNEY PRESENT (NAME) \_\_\_\_\_
- NO ATTORNEY [ ] ATTORNEY WAIVED
- If convicted, no jail sentence will be imposed
- INTERPRETER PRESENT \_\_\_\_\_
- lead of Accused: \_\_\_\_\_
- not guilty [ ] Witnesses sworn
- nolo contendere
- guilty [ ] Plea voluntarily and intelligently entered after the defendant was apprised of his right against compulsory self-incrimination and his right to confront the witnesses against him.
- Plea and Recommendation \_\_\_\_\_ and was TRIED and FOUND by me: \_\_\_\_\_
- not guilty [ ] guilty as charged
- guilty of \_\_\_\_\_
- VCC \_\_\_\_\_
- facts sufficient to find guilt but defer adjudication/disposition to \_\_\_\_\_ DATE AND TIME \_\_\_\_\_ and place accused on probation, §§ 4.1-305, 18.2-57.3, 18.2-251 or 19.2-303.2.
- A separate order for First Offender is attached and incorporated in this order.
- Costs imposed upon defendant.

DATE \_\_\_\_\_ JUDGE \_\_\_\_\_

- was FOUND by me to be: \_\_\_\_\_
- driving a commercial motor vehicle
- carrying hazardous materials
- I ORDER a nolle prosequi on prosecution's motion
- I ORDER the charge dismissed [ ] with prejudice
- conditioned upon payment of costs [ ] accord and satisfaction, § 19.2-151 [ ] compliance with law, § 46.2-104 or § 46.2-1158.02.
- conditioned upon payment of costs and successful completion of traffic school, § 16.1-69.48.1.
- under §§ 4.1-305, 18.2-57.3, 18.2-251 or 19.2-303.2.

DATE \_\_\_\_\_ JUDGE \_\_\_\_\_

FINE

LOCALITY \$

COSTS

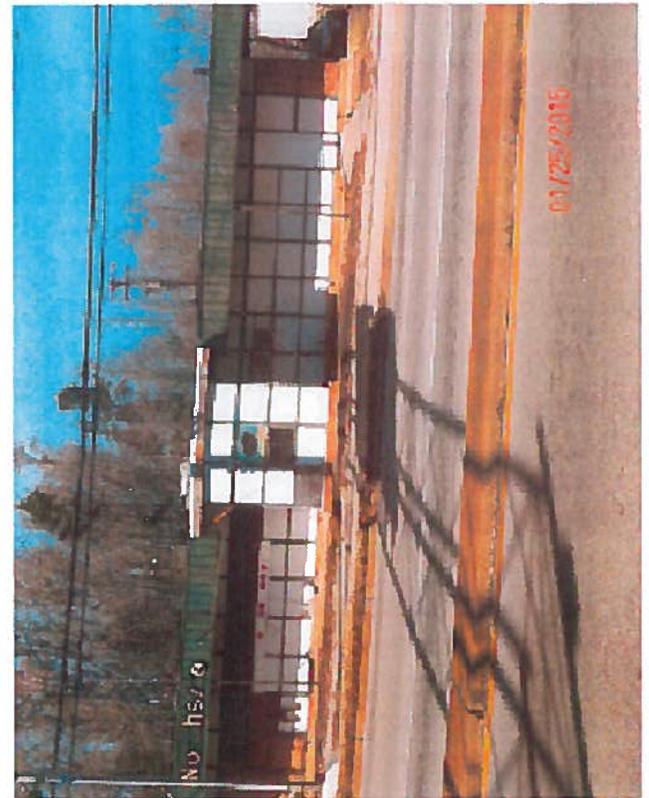
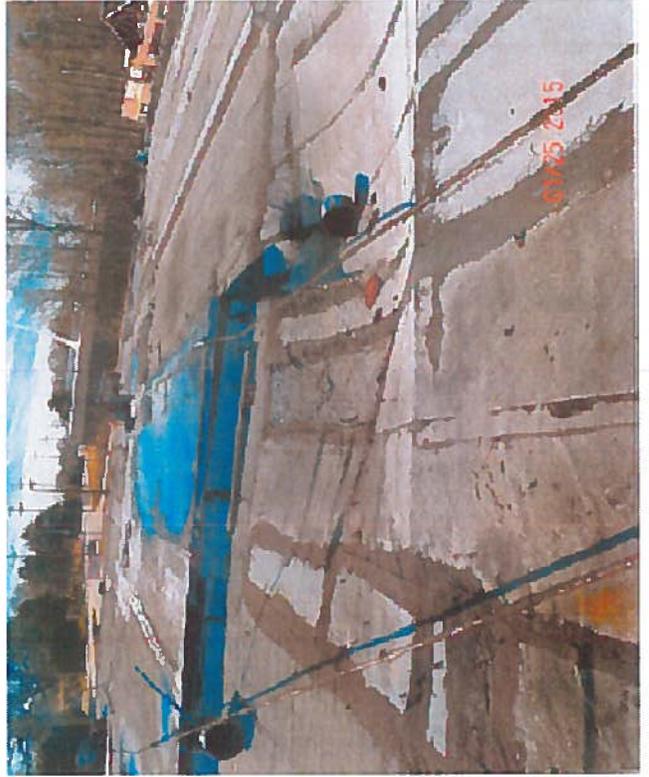
- 461 FIXED MISD FEE
- 462 FIXED DRUG MISD FEE
- 460 FIXED TRAFFIC INFRACTION FEE
- 001 INT CRIM CHILD FEE
- 113 WITNESS FEE
- 113 IGNITION INTERLOCK
- 113 DUI FEE
- 113
- 120 CT. APPT. ATTY
- 121 TRIAL IN ABSENCE FEE
- 125 WEIGHING FEE
- 133 BLOOD TEST FEE
- 137 TIME TO PAY
- 192 TRAUMA CENTER FEE
- 223 LIQUIDATED DAMAGES
- 234 JAIL ADMISSION FEE
- 243 LOCAL TRAINING ACADEMY FEE
- 244 COURTHOUSE SECURITY FEE
- OTHER (SPECIFY)

TOTAL \$

[ ] Stay of the proceedings pursuant to § 16.1-131.1

DATE \_\_\_\_\_ JUDGE \_\_\_\_\_

5-20-14 DATE \_\_\_\_\_ JUDGE \_\_\_\_\_



REVIEW BOARD APPEAL 14-8 (A)  
BAKER VS. CITY OF DANVILLE

ADDITIONAL DOCUMENTS  
SUBMITTED BY  
T. CHESTER BAKER

T. Chester Baker  
3004 North Main Street  
Danville, Virginia 24540



Alan McMahan, Staff  
Commonwealth of Virginia  
Department of Housing and Community Development  
State Building Code Technical Review Board  
Main Street Centre, 600 East Main Street, Suite 300  
Richmond, Virginia 23219

Reference: Appeal # 14-8(A) Application for specific relief sought

Dear Alan: *for The State Building Code Technical Review Board*

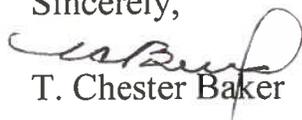
Herein are additional current photo pictures *(as dates camera printed on the photos)* of conditional details of the 1667 Piney Forest Road building (ID 1667) reference appeal # 14-8(A) above.

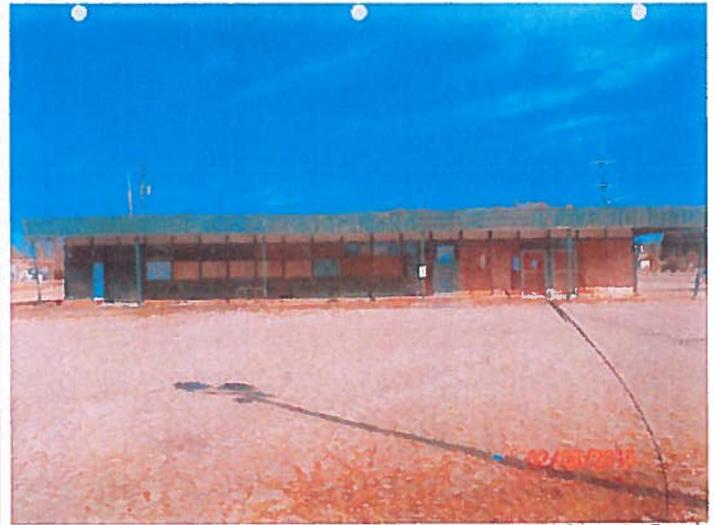
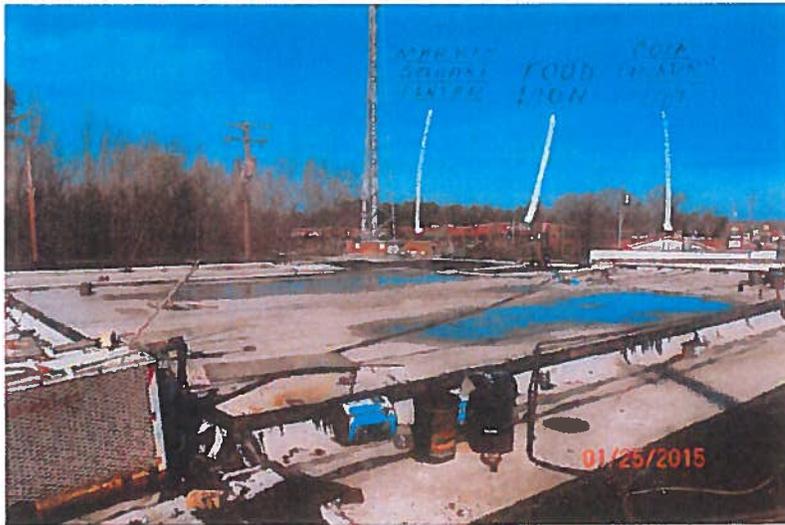
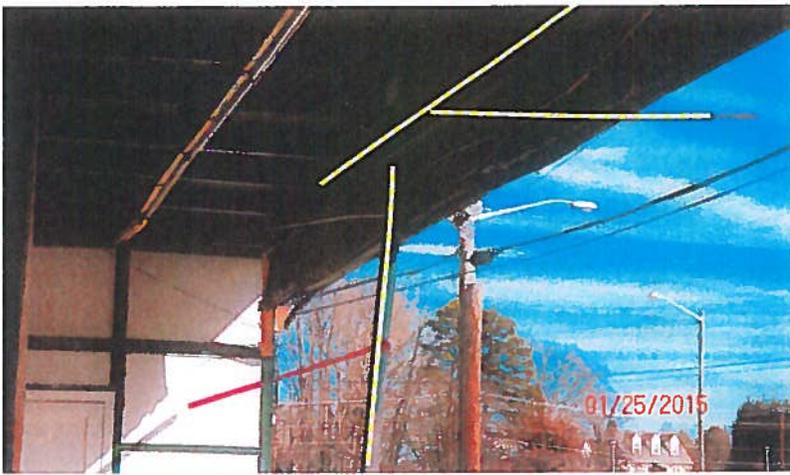
I personally certify to each picture herein as true and authentic in that I personally took each of the dated pictures and processed each of the prints in house personally.

I need to resume the maintenance on this parcel and bring it back up to par to reopen and close out inventories. I trust these photos current is what Secretary Hodge expected. If he needs more, please let me know.

Trust me to copy & quote a paragraph from an earlier letter to you Quote "13. Considering the facts and benefits to all, by this affidavit I request relief from the Case no. 1 and the Case no. 2 charges and an exemption from the provisions of the Virginia Maintenance Code (Part III of the USBC-2009) for the maintenance of existing structures and Section 105 of the VMC and Section 9-3 of the code of the City of Danville, Virginia 1986 as amended, and that the owner (T. Chester Baker, Jr.), be grandfathered to the structures of 1663(now 3001), 1667(now 3005) Piney Forest Road and 3207 North Main Street, all totaled, a combined commercial site dating back to the 1940s. This property was in and under Pittsylvania County jurisdiction in the construction of the existing buildings on this complex. Nothing new is to be added by this request. There is nothing broken here that I can't fix."

Sincerely,

  
T. Chester Baker



100-2693

CLOSED FOR REPAIRS  
1667

100-2697

NOTE - TYPICAL STORE CONTENTS



01/25/2015

100-2690



01/25/2015

100-2692



01/25/2015

100-2692



01/25/2015

100-2696

SOUTHERN SIDE VIDEO



01/25/2015

100-2653

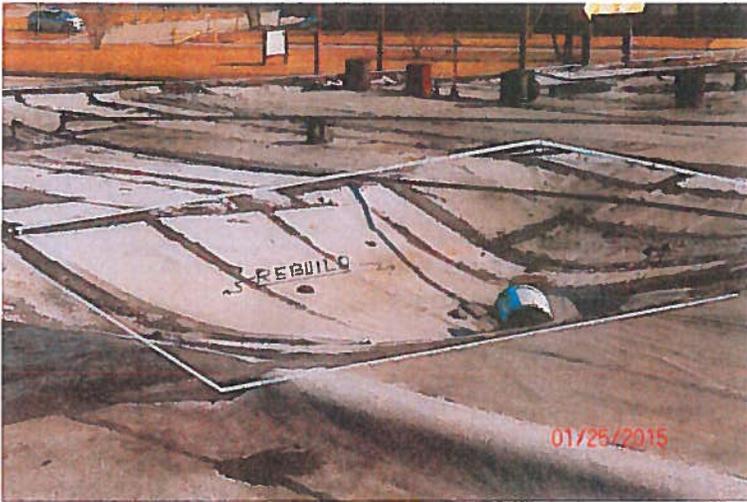
SCENE FROM TOP OF VIDEO (LWD 5406)



01/25/2015

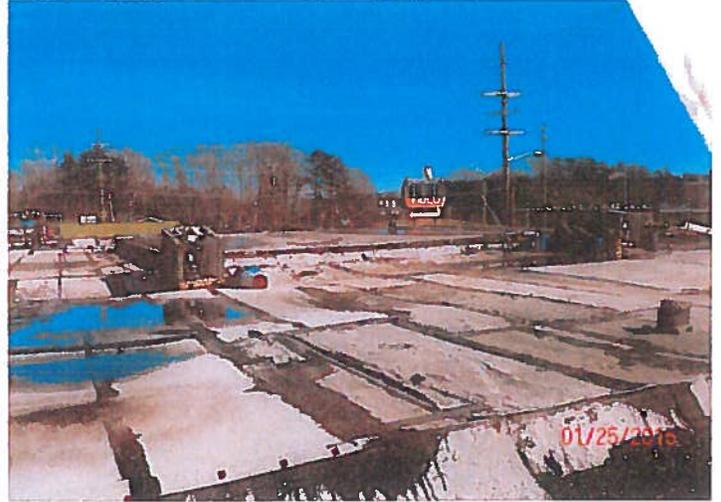
100-2647

No 1 ~~PL~~ Removal & Roof Repair

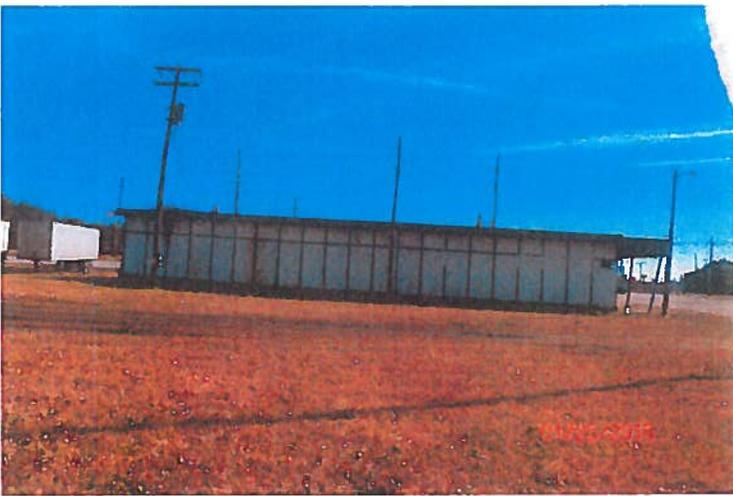


100-2648

NO. 2 - 10 x 15 REPAIR



100-2646



100-2687

NORTH WEST SIDE "VIDEO BLDG"

REVIEW BOARD APPEAL 14-8 (A)  
BAKER VS. CITY OF DANVILLE

ADDITIONAL DOCUMENTS  
SUBMITTED BY  
THE CITY OF DANVILLE

1109 Brookdale Street, Suite B  
Martinsville, Virginia 24112  
www.edenandassociates.com



Phone: 276-632-6231  
Fax: 276-632-3648  
jamie@edenandassociates.com

January 22, 2015

City of Danville  
Inspections Division Director  
Mr. Jerry D. Rigney  
P.O. Box 3300  
Danville, Virginia 24542-3300

Re: Buildings at 1667 & 1663 Piney Forest Rd – Danville, VA

Dear Mr. Rigney:

This letter report details results of our work related to 1667 & 1663 Piney Forest Road in Danville, VA.

**SCOPE:**

Our scope of work was to inspect the property for structural deficiencies and to report our findings.

**ACTIVITIES:**

Eden & Associates inspected the building on January 16, 2015. Pictures were taken of areas of the building where deficiencies were observed. We walked the interior and exterior of the building to the extent safety permitted. Neither of the roof areas were inspected, as they were very obviously unsafe. The inspection of the crawl space was deemed unnecessary and unsafe.

**OBSERVATIONS:**

There are large piles of deteriorated ceiling tiles, floor tiles, and debris throughout both buildings. There are numerous places where the roof and floor structure have deteriorated to the point that the structure could fall. There are several places where the roof is completely failed and open to the elements. There are signs of significant water damage throughout. There was areas of wet floors and ceiling drips, as well as buckets of standing water. Wooden beams were rotting throughout the ceiling areas. Some areas were attempted to be repaired, but the repairs were attached to currently rotting spans of wood. There are porch columns that are not adequately supported or anchored. Siding and overhangs were deteriorating throughout. Numerous cracks were visible in the concrete block wall of the buildings. One of the buildings had tree roots growing into the foundation. In the garage building, there was moss taking over the floor of one of the rooms, and debris throughout. The ceiling had severely failed in the main garage area. Some ceiling tiles appeared to have mold. There is outdated electrical and exposed wiring throughout both buildings. There are floor tiles broken and missing throughout that appear likely to be asbestos tiling. The roof truss area above the garage building show a span that is bent and bowing. All of these issues prove unstable conditions are present.

**CONCLUSIONS:**

It is evident the building remains unstable due to age, water damage, and exposure to the elements. I find that the building remains structurally unsafe in many areas. Unsafe conditions include the following:

1. Roof failure and deteriorated rafters, joists, and beams
2. Elevated crawl space joist and columns
3. Structural movement
4. Masonry deterioration
5. Ceiling failures
6. Foundation compromised due to root growth

The extent of hazardous areas is so extensive that construction workers making repairs would be in great danger from trying to do so.

**RECOMMENDATIONS:**

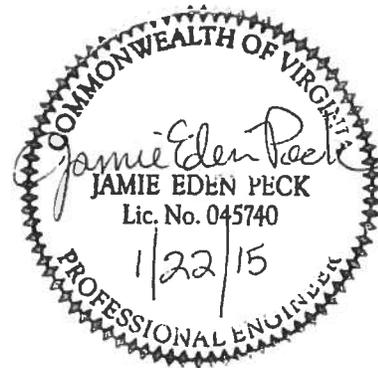
In my opinion, it is evident the building is an unsafe structure not fit for human occupancy. In its present condition, the building clearly needs to be demolished in the interest of safety to the public. Trespassers or homeless persons could be injured. Persons exploring or attempting to repair the building could easily be injured or killed from unexpected falling ceilings, roof damage, or debris from failure of the building structure.

Yours truly,

EDEN & ASSOCIATES, P.C.

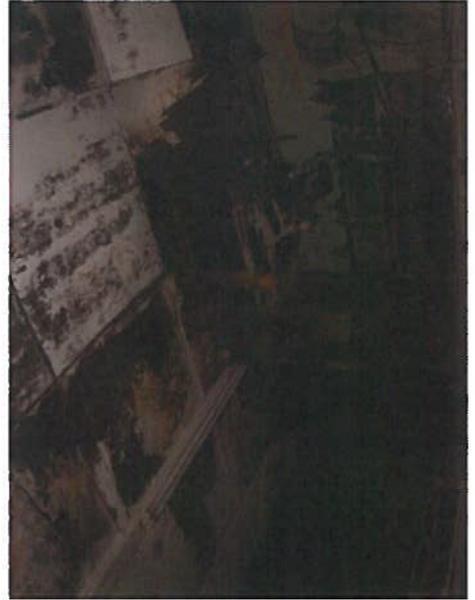
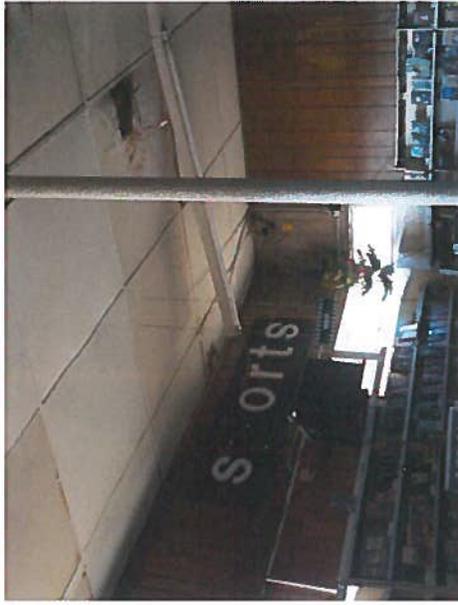


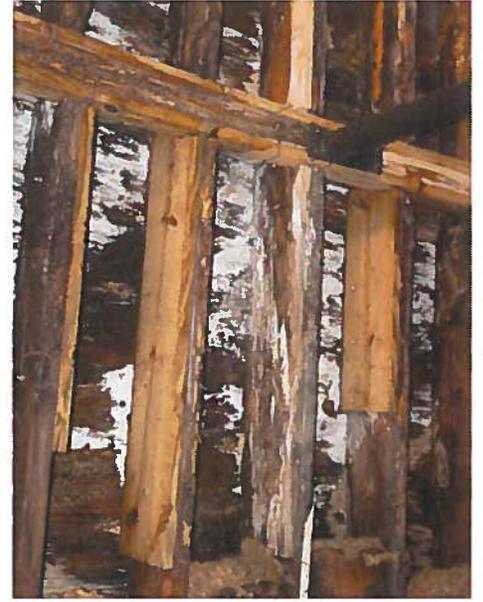
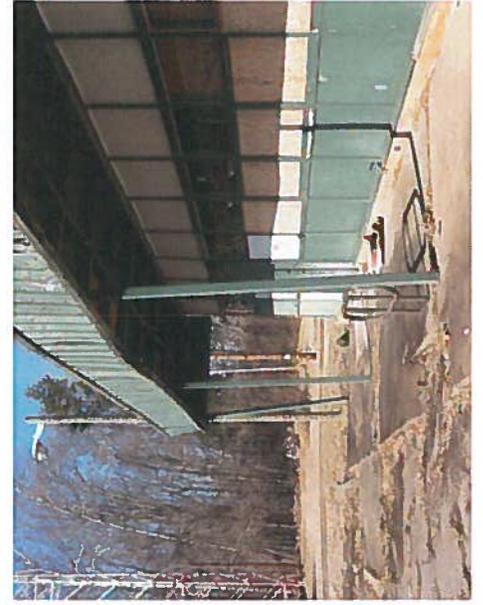
Jamie Eden Peck, P.E.  
President



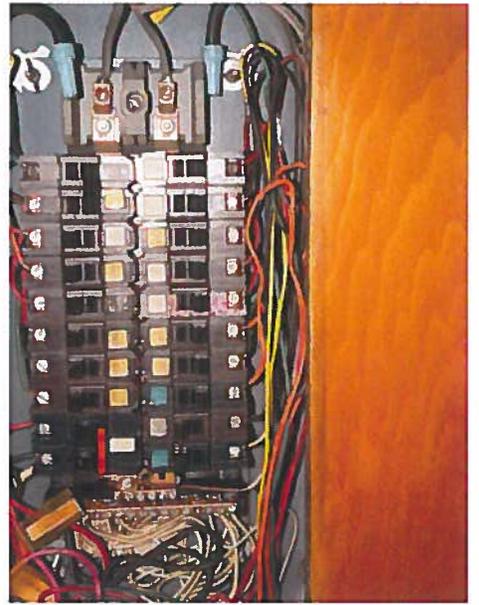
Attachments: Inspection photos (18 pages)

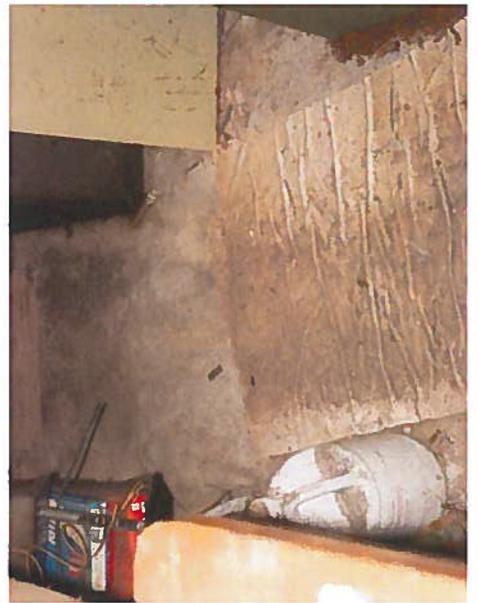


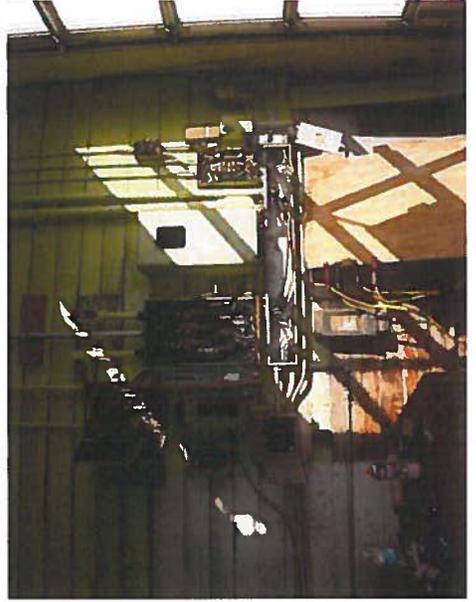




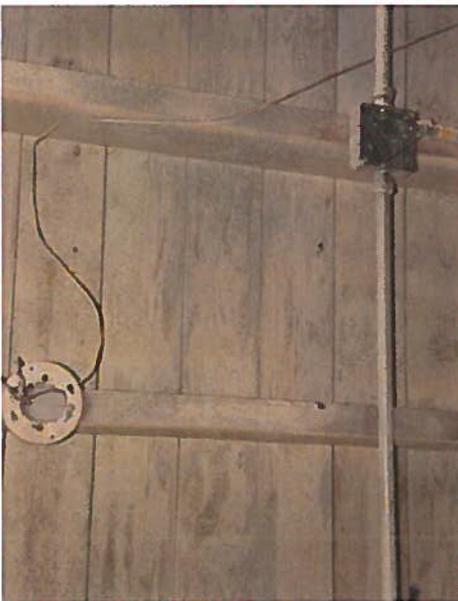
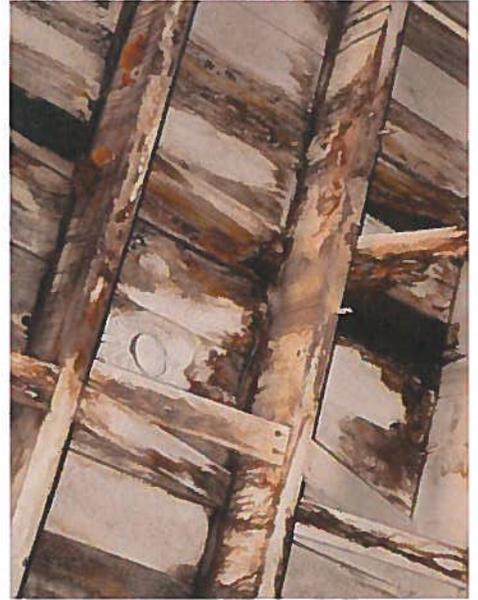
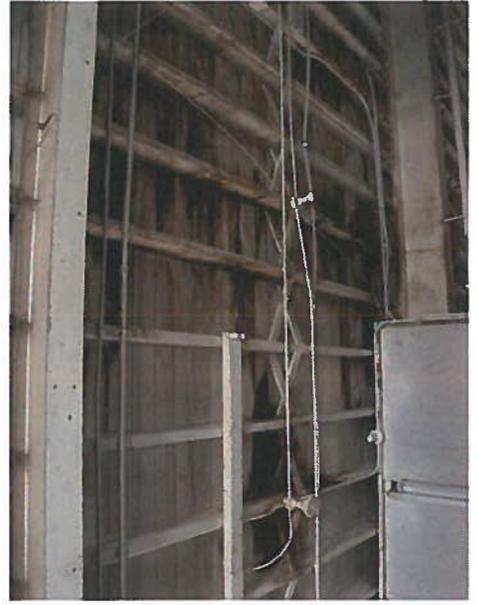




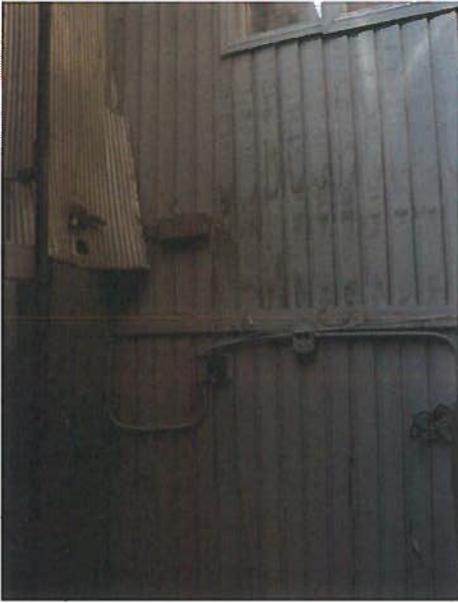


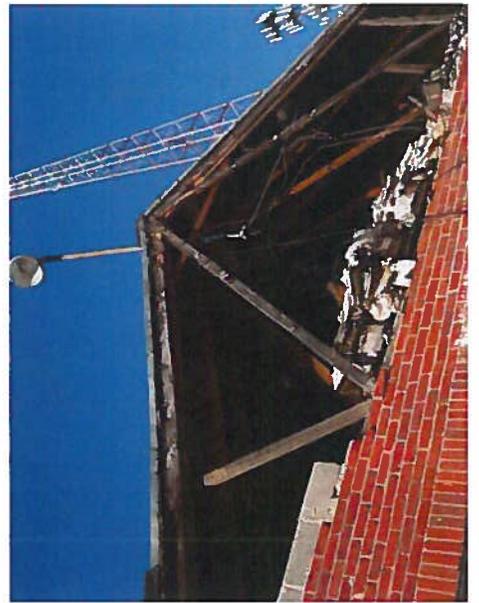


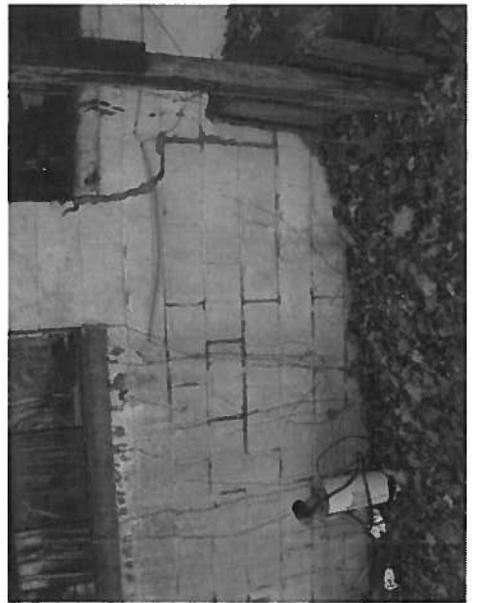
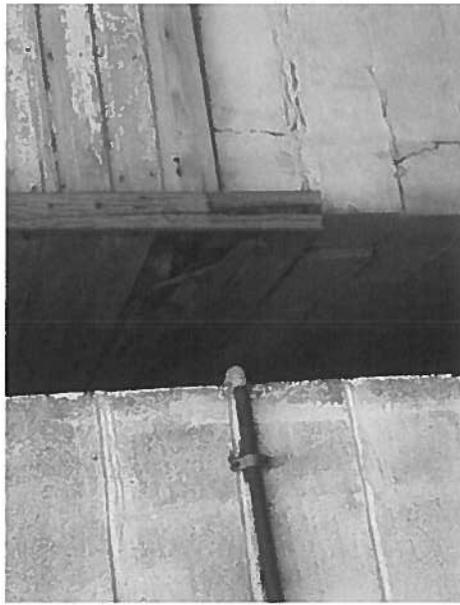


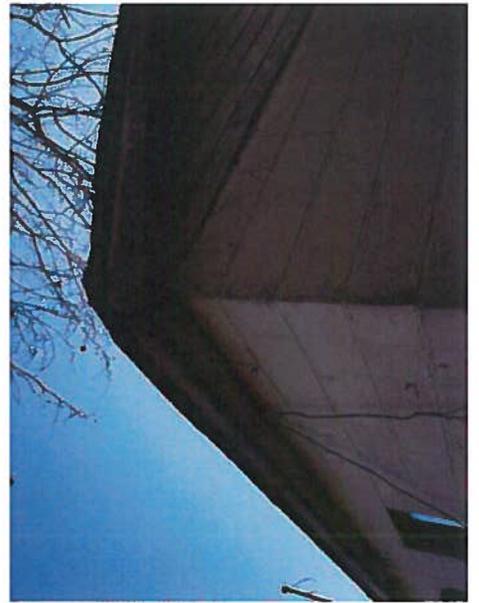
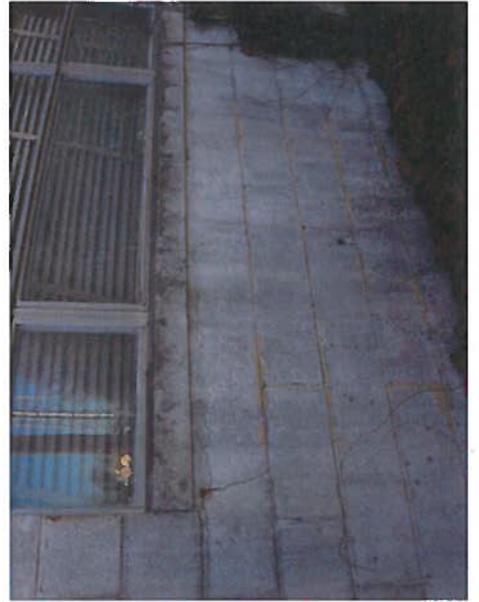


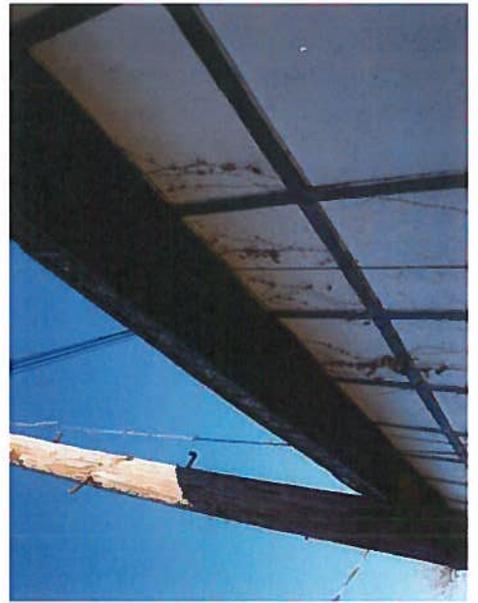


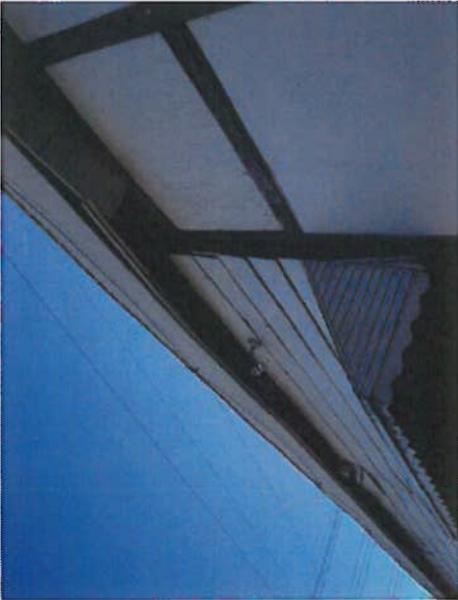


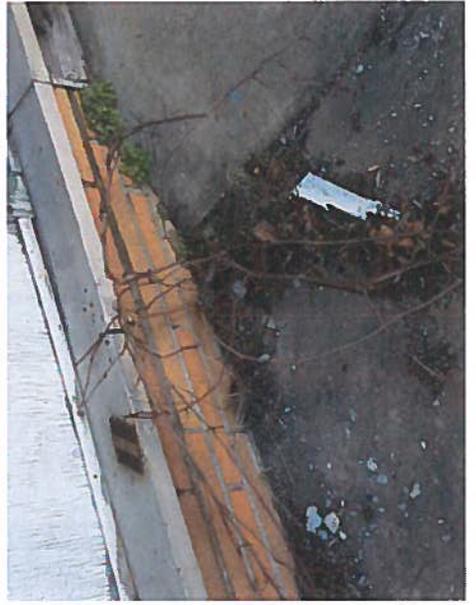














*Staff Report to the State Building Code Technical Review Board*

*Changes from the 2009 Interpretation Booklet to the 2012 Interpretation Booklet*

**VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

Division of Building and Fire Regulation  
State Building Codes Office  
Main Street Centre, 600 East Main Street, Suite 300  
Richmond, Virginia 23219

**STATE BUILDING CODE TECHNICAL REVIEW BOARD**

**INTERPRETATION BOOKLET**

Containing Interpretations Applicable to the ~~2009~~ 2012 Editions

of the

Virginia Uniform Statewide Building Code

and the

Virginia Statewide Fire Prevention Code

~~July 2011~~  
March 2015

## PREFACE

The Virginia State Building Code Technical Review Board (Review Board) is a governor-appointed board within the Virginia Department of Housing and Community Development. The board is responsible for hearing appeals arising under the application of the Virginia Uniform Statewide Building Code (USBC), the Virginia Statewide Fire Prevention Code (SFPC) and other building and fire-related regulations of the Department. As a secondary function, the Board interprets the provisions of the USBC and the SFPC and makes recommendations to the Virginia Board of Housing and Community Development for future modification, amendment or repeal of such provisions.

The interpretation booklet contains those interpretations of the Review Board which are still applicable to the code in effect at a given time, rather than a compilation of all interpretations ever issued by the Review Board. The older interpretation booklets and compilations may be reviewed in connection with existing buildings or situations and are therefore still available from the Department, on its website and on the websites of organizations involved in building and fire-code related activities. However, only the interpretations in this booklet are those applicable to the ~~2009~~ 2012 editions of the USBC and the SFPC. Interpretations which were issued under a previous edition of the code, but which are still applicable to the current code, have been editorially changed to correct section references and terminology.

As additional interpretations are issued by the Review Board, they will be posted on the Department's website. Interpretation requests may be submitted by any code enforcement personnel. If an appeal situation exists or potentially exists, then the Review Board may not consider the interpretation request. If requests are submitted by personnel other than a building or fire official, then the appropriate official will be contacted to assure the request is desired.

Interpretation requests may be submitted on a form available on the Department's website. Inquiries or assistance may be obtained by contacting the ~~Office of the Review Board,~~ staff within the Technical Assistance Services Office (TASO) State Building Codes Office, Department of Housing and Community Development, 600 East Main Street, Suite 300, Richmond, Virginia 23219, or by calling (804) ~~371-7140~~ or 371-7150.

**INTERPRETATIONS**  
**of the**  
**2009 2012 USBC Part I – Virginia Construction Code (VCC)**

~~VCC Section 103.1~~  
~~Code Interpretation No. 2/03~~  
~~First Issued: 08/17/07, 2003 Edition~~

~~**QUESTION:** Are the heavy metal storage or shipping containers that fit onto a tractor trailer or railcar when placed on the ground accessory to a business or residence regulated by the USBC?~~

~~**ANSWER:** Shipping containers are not regulated under the USBC unless they are constructed or altered on site or there is a change of occupancy in the use of the container.~~

~~*Reason for deletion: The Board of Housing and Community Development approved a proposal submitted by the Review Board addressing this interpretation.*~~

**VCC Section 104.1**  
**Code Interpretation No. 2/06**  
**First Issued: 06/20/08, 2006 Edition**

**QUESTION:** In jurisdictions which have not elected to enforce the Virginia Maintenance Code, does the third paragraph of Section 104.1 give authority to investigate complaints of immediate and imminent threats to the health and safety from any complainant rather than just complaints by a tenant of a residential rental unit that is the subject of such complaint?

**ANSWER:** No, this provision would only apply to enforcement actions under the previous paragraph unless the locality has elected to enforce the Virginia Maintenance Code.

~~VCC Section 113.6~~  
~~Code Interpretation No. 6/06~~  
~~First Issued: 10/15/10, 2006 Edition~~

~~**QUESTION:** Does Section 113.6 require a written inspection report on the jobsite if one is sent electronically to the permit holder?~~

~~**ANSWER:** No, Section 113.6 does not require a notice to be left on the jobsite. The use of an electronic method is written notice provided the notice is reasonably calculated to get to the permit holder, which should be based on legal advice.~~

~~*Reason for deletion: The Board of Housing and Community Development approved a proposal submitted by the Review Board addressing this interpretation.*~~

**VCC Section 113.8**  
**Code Interpretation No. 7/90**  
**First Issued: 07/19/91, 1990 Edition**

**QUESTION:** ~~Is the electrical service to a building (dwelling unit, etc.) required to be energized in order for an electrical inspector to perform a final inspection?~~

**ANSWER:** ~~The building official is authorized by Sections 113.1, 113.3 and 113.4 to perform various inspections of buildings under construction to determine compliance with the provisions of the USBC. In accordance with Section 113.8, the building official is required to perform a final inspection to insure that all work conforms with the USBC. The building official has authority to require that building electrical systems, components or devices be energized as part of the final inspection.~~

*Reason for deletion: The Board of Housing and Community Development approved a proposal submitted by the Review Board addressing this interpretation.*

**VCC Section 202 (Definition of "night club")**  
**Code Interpretation No. 1/09**  
**First Issued: 06/17/11, 2009 Edition**

**QUESTION:** How do you apply the "main use" terminology in the definition of night club?

**ANSWER:** Determining the main use of a structure is a factual question to be made at the discretion of the local official.

**VCC Sections 903.2.8 and 1021.2**  
**Code Interpretation No. 26/90**  
**First Issued: 11/20/92, 1990 Edition**

~~Table 1021.2 specifies the requirements for stories with one exit. A building of Group R-2 with four dwelling units per floor, three stories above grade and equipped throughout with a sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 would be allowed to have one exit.~~

**QUESTION:** ~~Does the USBC permit that same building to have one exit when it meets Exception No. 2 of Section 903.2.8, which eliminates the requirement for a sprinkler system?~~

**ANSWER:** ~~Yes. To achieve compliance with Section 1021.2, Section 903.2.8 equates a three-story building in which every two dwelling units are separated with a two-hour fire barrier to that of a three-story building provided with sprinklers in accordance with Section 903.3.1.1 or 903.3.1.2.~~

*Reason for deletion: The Board of Housing and Community Development approved a proposal submitted by the Review Board addressing this interpretation.*

**VCC Section 2701.1 (National Electrical Code Sections 230.40 and 230.70)**

**Code Interpretation No. 7/06**

**First Issued: 11/19/10, 2006 Edition**

~~**GIVEN:** When you have multiple tenants in a building such as apartments or retail shops, there will be one service drop coming to the building and it will connect to a row of meters. Often each meter will feed one disconnect or panel located at the individual tenant space as long as all of the service conductors are located on the exterior of the building. Each space will have fire separation. If there are ten tenant spaces then each would have its own disconnect located on the exterior of its space. This is more economical for the owners and tenants. All wiring ahead of the service disconnecting means is on the outside of the building.~~

~~**QUESTION:** Do all of the disconnects have to be grouped at the meters which will limit you to six disconnects at one location, or can one set of service conductors be run from each meter to each tenant space?~~

~~**ANSWER:** One set of service conductors may be run from each meter to each tenant space provided the service entrance conductors are on the outside of the building with disconnects in accordance with Section 230.70(A).~~

*Reason for deletion: The interpretation was issued under the 2005 edition on the National Electrical Code. The 2011 edition has language which clarifies that individual service conductors may be run to each tenant space with individual non-grouped disconnects.*

**VCC Section 2801.1 (International Mechanical Code Section 602.1)**

**Code Interpretation No. 20/90**

**First Issued: 07/17/92, 1990 Edition**

**QUESTION:** Does Section 602.1 prohibit completely sealed (combustion chamber and combustion air) fuel-fired mechanical appliances from being located in a return-air plenum?

**ANSWER:** Yes. Section 602.1 prohibits the installation of fuel-fired equipment in plenums. However, technical data, research reports or other information may be submitted to the code official to substantiate the approval of a modification request for the use of a specific unit listed for that purpose.

**INTERPRETATIONS**  
**of the**  
**2012 USBC Part III – Virginia Maintenance Code (VMC)**

**VMC Section 104.1**  
**Code Interpretation No. 3/09**  
**First Issued: 03/16/12, 2009 Edition**

**QUESTION:** Do all the provisions for unsafe structures in the Virginia Maintenance Code, wherever located, apply in enforcing the second paragraph of Section 104.1?

**ANSWER:** Yes.

*Reason for Inclusion: This interpretation was issued subsequent to the printing of the 2009 Interpretation Booklet and is still applicable to the 2012 VMC.*

**INTERPRETATIONS**  
**of the**  
**2009 2012 Virginia Statewide Fire Prevention Code**

**Section ~~602.4~~ 202 (Use of the term “building” in the definition of “commercial cooking appliance”)**  
**Code Interpretation No. 4/06**  
**First Issued: 11/20/09, 2006 Edition**

**QUESTION:** Is a trailer or panel-truck considered to be a building under the SFPC, irrespective of whether it’s immobilized or anchored?

**ANSWER:** No.

**Section 308.1.4**  
**Code Interpretation No. 4/09**  
**First Issued: 11/16/12, 2009 Edition**

**QUESTION:** Does Section 308.1.4, Exception 1 include townhouses?

**ANSWER:** Yes.

*Reason for Inclusion: This interpretation was issued subsequent to the printing of the 2009 Interpretation Booklet and is still applicable to the 2012 SFPC.*

**Section ~~315.3.1~~ 315.4.1**  
**Code Interpretation No. 3/06**  
**First Issued: 03/20/09, 2006 Edition**

**QUESTION:** Does Section ~~315.3.1~~ 315.4.1 mean that when a building is required by the code under which it was constructed to be protected by automatic sprinklers, outdoor storage of combustible materials under eaves is prohibited except where automatic sprinklers are installed under eaves?

**ANSWER:** It means that sprinklers under the eaves are only necessary to allow storage if specifically required by the code, including the sprinkler standard and its exceptions, under which the building was constructed.

*The following interpretation was issued after the 2009 Booklet and is not recommended for inclusion in the 2012 Booklet since a definition of sky lantern was added to the 2012 SFPC as well as a prohibition for untethered use.*

I N T E R P R E T A T I O N

**Interpretation Number:** 2/2009

**Code:** Virginia Statewide Fire Prevention Code (SFPC)

**Section No(s):** 302.1 and 307.5

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**QUESTION #1:** Does the definition of "recreational fire" include Kongming lanterns or sky lanterns?

**ANSWER:** Yes.

**Question #2:** Once released into the air, is the rise and drifting of Kongming lanterns or sky lanterns still considered as being constantly attended?

**ANSWER:** No.

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This Official Interpretation was issued by the State Building Code Technical Review Board at its meeting of August 19, 2011.

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Chairman, State Building Code Technical Review Board