

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, September 20, 2024 - 10:00am

Virginia Housing Center
4224 Cox Road Glen Allen, Virginia 23260

- I. Roll Call **(TAB 1)**
- II. Approval of August 16, 2024 Minutes **(TAB 2)**
- III. Approval of Final Order **(TAB 3)**
 - In Re: A10 Capital LLC
Appeal No. 24-05
- IV. Public Comment
- V. Appeal Hearing **(TAB 4)**
 - In Re: Hotel Street LLC
Appeal No. 24-06
- VI. Appeal Hearing **(TAB 5)**
 - In Re: Brittion Hall LLC
Appeal No. 24-07
- VII. Secretary's Report
 - a. Update on Schiano Reconsideration Order
 - b. October 2024 meeting update
 - c. Legal updates from Board Counsel

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

James R. Dawson, Chair

(Virginia Fire Chiefs Association)

W. Shaun Pharr, Esq., Vice-Chair

(The Apartment and Office Building Association of Metropolitan Washington)

Vince Butler

(Virginia Home Builders Association)

J. Daniel Crigler

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

Alan D. Givens

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

David V. Hutchins

(Electrical Contractor)

Christina Jackson

(Commonwealth at large)

Joseph A. Kessler, III

(Associated General Contractors)

R. Jonah Margarella, AIA, NCARB, LEED AP

(American Institute of Architects Virginia)

Eric Mays

(Virginia Building and Code Officials Association)

Joanne D. Monday

(Virginia Building Owners and Managers Association)

James S. Moss

(Virginia Building and Code Officials Association)

Elizabeth C. White

(Commonwealth at large)

Aaron Zdinak, PE

(Virginia Society of Professional Engineers)

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1 **STATE BUILDING CODE TECHNICAL REVIEW BOARD**
2 **MEETING MINUTES**
3 **August 16, 2024**
4 **Virginia Housing Center**
5 **4224 Cox Road Glen Allen, Virginia 23060**
6

Members Present

Members Absent

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

Ms. Christina Jackson

7
8 Call to Order

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

11
12 Roll Call

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

15
16 Approval of Minutes

The draft minutes of the July 19, 2024 meeting in the Review Board members’ agenda package were considered. Ms. Monday moved to approve the minutes as presented. The motion was seconded by Mr. Zdinak and passed with Mr. Margarella abstaining.

19
20
21 Public Comment

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

23
24
25 Request for
26 Reconsideration

Schiano (Appeal No. 24-03) Petition for Reconsideration:

27 A petition for reconsideration for Appeal No. 24-03 was distributed to
28 the board members. After discussion, Mr. Pharr moved to deny the
29 request for consideration. The motion was seconded by Mr. Butler and
30 passed with Mr. Margarella abstaining.
31
32

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33 *Note: Mr. Mays recused himself from participation as a Board member*
34 *in this petition for reconsideration due to his being the building official*
35 *for Prince William County and a party to this appeal.*

36
37 New Business

A10 Capital LLC: Appeal No. 24-05:

38
39 A hearing convened with Chair Dawson serving as the presiding
40 officer. The hearing was related to the property located at 2101, 2103,
41 2105, 2107, 2109, 2111, 2113, 2115, 2117, 2119, and 2121 Kecoughtan
42 Road, in the City of Hampton.

43
44 The following persons were sworn in and given an opportunity to
45 present testimony:

- 46
47 Kim Mikel, Deputy Director of Community Development and
48 Property Maintenance Official, City of
49 Hampton
50 Kyle R. Stephenson, President of KRS Holdings LLC (Court
51 appointed receiver for the real property
52 Andrew Levine, Property Manager, KRS Holdings LLC
53 Jennifer McLemore, Substitute Trustee for the Deed of Trust
54 from Colonial Landing Apartment LLC
55 Everett Mish, P.E., Principle Mish Engineering Concepts
56 P.L.C.
57 Steve Zorich, Vice-President, Head of Special Services, A10
58 Capital LLC

- 59
60 Also present were:
61 Anne Ligon, Attorney for the City of Hampton
62 Brandi Law, Attorney for the City of Hampton
63 Peter Ware, General Counsel for A10 Capital LLC
64 Scott Miller, Attorney for A10 Capital LLC

65
66 After testimony concluded, Chair Dawson closed the hearing and stated
67 a decision from the Review Board members would be forthcoming and
68 the deliberations would be conducted in open session. It was further
69 noted that a final order reflecting the decision would be considered at a
70 subsequent meeting and, when approved, would be distributed to the
71 parties, and would contain a statement of further right of appeal.

72
73 Decision: A10 Capital LLC: Appeal No. 24-05:

74
75 Motion Item #1:
76 After deliberations, Mr. Mays moved to uphold the City property
77 maintenance official and local appeals board decision that the
78 structures located at 2101-2121 Kecoughtan Road are unsafe structures
79 or structures unfit for human occupancy in accordance with VMC

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80 Section 106.1 *Unsafe Structure or Structures Unfit for Human*
81 *Occupancy*. The motion was seconded by Mr. Kessler and passed
82 unanimously.
83

84 Motion Item #2:

85 After deliberations, Mr. Mays moved to overturn the City property
86 maintenance official and local appeals board decision that the
87 structures located at 2101-2121 Kecoughtan Road must comply with
88 all recommendations of the four A10 expert reports (MISH
89 Engineering Concepts, PLC dated January 31, 2024, Complete Care
90 Plumbing LLC dated January 26, 2024, S&W Power Solutions, LLC
91 received January 31, 2024, and Partner Engineering and Science, INC.
92 dated January 31, 2024). The motion was seconded by Mr. Butler and
93 passed unanimously.
94

95 Motion Item #3:

96 After deliberations, Mr. Mays moved to uphold the City property
97 maintenance official and local appeals board decision that the
98 structures located at 2101-2121 Kecoughtan Road must be brought into
99 compliance; however, amending the timeline to comply from “within
100 30 days of issuance of the NOV” to “within nine (9) months to get all
101 building permits issued for the entire property from the date of the final
102 order”. The motion was seconded by Ms. Monday and passed
103 unanimously.
104

105 Motion Item #4:

106 After deliberations, Mr. Mays moved to uphold the City property
107 maintenance official and local appeals board decision that structures
108 located at 2101-2121 Kecoughtan Road must be demolished is
109 warranted under VMC Section 106.1 *Unsafe Structure or Structures*
110 *Unfit for Human Occupancy* and is the proper remedy and must be
111 demolished if all building permits for the entire property are not issued
112 within nine (9) months from the date of the final order. The motion was
113 seconded by Mr. Kessler and passed with Ms. Monday and Messrs.
114 Zdinak, Pharr, Moss, and Butler voting in opposition.
115

116 Motion Item #5:

117 After deliberations, Mr. Kessler moved to require the owner to turn off
118 all power to the property and provide additional safety measures such
119 as perimeter fencing, fence monitoring system, video monitoring, fire
120 alarm system or temporary fire watch, etc. The motion was seconded
121 by Mr. Givens and failed with Mses. Monday and White and Messrs.
122 Butler, Crigler, Hutchins, Margarella, Mays, Moss, Pharr, and Zdinak
123 voting in opposition.
124

125 Secretary’s Report

126 Mr. Luter informed the Review Board of the current caseload for the
upcoming meeting scheduled for September 20, 2024.

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127
128 Mr. Bell provided legal updates to the Review Board members.
129
130 Adjournment There being no further business, the meeting was adjourned by proper
131 motion at approximately 1:30 p.m.
132
133
134 Approved: September 20, 2024
135
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138

Chair, State Building Code Technical Review Board
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Secretary, State Building Code Technical Review Board
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1 VIRGINIA:
2

3 BEFORE THE
4 STATE BUILDING CODE TECHNICAL REVIEW BOARD
5

6
7 IN RE: Appeal of A10 Capital LLC
8 Appeal No. 24-05
9

10 DECISION OF THE REVIEW BOARD
11

12 I. Procedural Background
13

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

19 II. Case History

20 On February 20, 2024, the City of Hampton Community Development Department,
21 Property Maintenance and Zoning Enforcement Division (City), the agency responsible for the
22 enforcement of Part III of the 2018 Virginia Uniform Statewide Building Code (VUSBC or VMC),
23 issued Notices of Violation (NOV) to A10 Capital LLC (A10) as well as Colonial Landing
24 Apartments LLC, 2121 Kecoughtan Holdings LLC, Kyle R. Stephenson, and KRS Holdings LLC,
25 for the residential structures on the property located at 2101, 2103, 2105, 2107, 2109, 2111, 2113,
26 2115, 2117, 2119, and 2121 Kecoughtan Road, in the City of Hampton, for the unsafe structures,
27 citing VMC Section 106.1 *Unsafe structures or structures unfit for human occupancy* and
28 providing the following:

29 *“This section shall all apply to existing structures which are classified as unsafe or*
30 *unfit for human occupancy. All conditions causing unsafe or unfit for human*
31 *occupancy shall be remedied or as on alternative to correcting such conditions, the*
32 *structure may be vacated and secured against public entry or razed and removed.*

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33 *Vacant and secured structures shall still be subject to other applicable*
34 *requirements of this code. Notwithstanding the above, when the code official*
35 *determines that an unsafe structure or a structure unfit for human occupancy*
36 *constitutes such a hazard that it should be razed or removed, then the code official*
37 *shall be permitted to order the demolition of such structure in accordance with*
38 *applicable requirements of this code.*

39
40 *Note: Structures which become unsafe during construction are regulated under the*
41 *VCC.*

42
43 *Demolish the structure within 30 days or bring the entire structure up to code by*
44 *complying with the violations noted on the attached spreadsheet. Additionally,*
45 *complete all recommendations outlined in the following reports that are also*
46 *attached:*

47
48 *MISH Engineering Concepts, PLC dated January 31,2024, Complete Care*
49 *Plumbing LLC dated January 26,2024, S&W Power Solutions, LLC received*
50 *January 31, 2024, and Partner Engineering and Science, INC. dated January 31,*
51 *2024.”*

52
53 A10 filed an appeal to the City of Hampton Building Code Board of Appeals (local appeals
54 board). The local appeals board upheld the decision of the code official. A10 further appealed to
55 the Review Board on May 17, 2024.

56 Appearing at the Review Board meeting for A10 were Kyle L. Stephenson, President of
57 KRS Holdings LLC (Court appointed receiver for the real property); Andrew Levine, Property
58 Manager, KRS Holdings LLC; Jennifer McLemore, Substitute Trustee for the Deed of Trust from
59 Colonial Landing Apartment LLC; Everett Mish, Principle Mish Engineering Concepts P.L.C.;
60 Steve Zorich, Vice-President, Head of Special Services for A10; Peter Ware, General Counsel for
61 A10; and Attorney Scott Miller. Appearing at the Review Board meeting for the City were
62 Attorneys Anne Ligon and Brandi Law and Kim Mikel, Director of Community Development and
63 Property Maintenance Official.

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67 III. Findings of the Review Board

68 A. Whether to uphold the decision of the City and the local appeals board that the
69 structures located at 2101-2121 Kecoughtan Road are unsafe structures or structures unfit for
70 human occupancy in accordance with VMC Section 106.1 *Unsafe Structure or Structures Unfit*
71 *for Human Occupancy.*

72 A10 argued that the structures were not unsafe as defined by the VMC; furthermore, were
73 not in danger of partial or complete collapse as they have been standing since 1938. A10 argued
74 that the structures were vacant. A10 further argued that all windows, doors, and any other
75 openings in the structures on entire first floor were boarded preventing entry to the structures by
76 the public and eliminating any potential danger of contact with any equipment remaining within
77 the structures. A10 also argued that the electricity to all individual units had been shut off and
78 only the site lighting remained on to provide light around the property for security purposes. A10
79 further argued that the building with fire damage was secured behind pad locked fencing. Lastly,
80 A10 argued that all pest issues were resolved at the time the NOV's were issued and remain
81 resolved.

82 The City argued that 62 of the 80 units, which was over 75% of the units, had severe
83 water damage, which continues to be an issue, and had resulted in partial collapsed ceilings, wall
84 damage, and floor buckling. The City further argued that the exterior had water ponding on the
85 flat roofs which were soft and deteriorated, stair step cracking, general poor conditions on the
86 exterior and interior of the structures, and severe plumbing leaks throughout the structures. The
87 City also argued that without a proper evaluation by an engineer, as requested by the City and
88 conveyed was necessary in the MISH expert report, the structural integrity of the structure could
89 not be determined and/or verified. The City also argued that on several occasions the boarded
90 openings had been opened and vagrants and criminals had entered the buildings. The City

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91 further argued that the electricity to the entire property should be shut off, further arguing that
92 active electricity on the site coupled with numerous water leaks both from the weather and
93 leaking plumbing systems posed a fire hazard and danger to the public. The City argued that the
94 collective of these issues coupled with years of lack of maintenance led to the code official to
95 determine the structures were unsafe and demolition was necessary. The City concurred that the
96 structures are vacant.

97 The Review Board found that the buildings located at 2101-2121 Kecoughtan Road were
98 unsafe structures or structures unfit for human occupancy based on the overwhelming amount of
99 evidence provided in the record showing the unsafe condition of the structures on the property.

100 B. Whether to uphold the decision of the City and the local appeals board that the
101 structures located at 2101-2121 Kecoughtan Road must comply with all recommendations of the
102 four A10 expert reports (MISH Engineering Concepts, PLC dated January 31, 2024, Complete
103 Care Plumbing LLC dated January 26, 2024, S&W Power Solutions, LLC received January 31,
104 2024, and Partner Engineering and Science, INC. dated January 31, 2024).

105 A10 argued that the expert reports, which went far beyond the scope of the VMC, were
106 not properly included in the NOV as code violations because the recommendations in the expert
107 reports were not tied to a particular code section, as required in VMC Section 105.4; therefore,
108 should not be treated as code violations requiring compliance.

109 The City argued that the expert reports did not include a thorough investigation by means
110 of wall and ceiling removal requested by the City and conveyed was necessary in the MISH
111 expert report; however, the expert reports substantiated the 350 VMC violations cited by the
112 City. The City further argued that most of the recommendations listed on the expert reports were
113 related to stopping or addressing immediate concerns of water intrusion. The City also argued

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114 that the recommendations of the expert reports needed to be completed to make the structures
115 safe and habitable.

116 The Review Board found that the recommendations listed in the expert reports should not
117 have been included in the NOV without identifying the applicable VMC section for each
118 recommendation offered in the expert reports.

119 C. Whether to uphold the decision of the City and local appeals board that the
120 structures located at 2101-2121 Kecoughtan Road must be brought into compliance within 30 days
121 of issuance of the NOV.

122 A10 argued that 30 days from issuance of the NOV was not a sufficient timeframe to
123 complete the needed repairs. A10 further argued that the 30 day timeframe did not provide them
124 the necessary time to reach settlement, closing, and obtain the necessary building permits to
125 begin renovating the property. A10 further argued that they would need at least six (6) months to
126 reach permit issuance. A10 argued that the same consideration offered in a previous Review
127 Board ruling in the Sotos case¹ in 1995 should be extended to A10. The Sotos ruling in part:

- 128 • Required limited repairs to the exterior of the structure to meet code requirements
- 129 • Provided a timeframe of 90 days to complete the exterior repairs
- 130 • Set no requirements for interior code violations
- 131 • Allowed interior rehabilitation efforts to continue with no timeline for completion
- 132 provided the exterior of the building was and remained secure from the public

133
134 The City argued that 30 days was the normal timeline offered by the City. The City also
135 argued that A10 had conveyed to the City that they were not planning to make any repairs, rather
136 securing the structures from the public and moving to auction to sell the property.

137 The Review Board found that the structures located at 2101-2121 Kecoughtan Road must
138 be brought into compliance; however, amended the timeline to nine (9) month, from the date of

¹ Appeal No. 95-9

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139 this final order, to have the building permits issued for the entire property, because the allotted
140 time provided by the City was not sufficient to reach settlement, closing, and obtain the necessary
141 building permits to renovate the property.

142 D. Whether to uphold the decision of the City and local appeals board that the
143 structures located at 2101-2121 Kecoughtan Road must be demolished is warranted under VMC
144 Section 106.1 *Unsafe Structure or Structures Unfit for Human Occupancy* and is a proper remedy
145 given the structures are vacant and secure from public entry and must be demolished within 30
146 days of issuance of NOV.

147 A10 argued that demolition of the structures was not warranted because the structures
148 were vacant, secured from the public, and not in danger of partial or complete collapse. A10
149 further argued that their position was affirmed by previous Review Board rulings in the Sotos,
150 Rowson, Pitts, and Jennings cases². A10 also argued that they did not have a history of failure to
151 cooperate. Lastly, A10 argued that, based on the expert reports, the structures were prime
152 candidates for renovation and rehabilitation and that was the right course for the structures.

153 The City argued that VMC Section 106 was an “or” standard and not all three conditions
154 of the standard had to be met to result in a violation. The City further argued that as long as one
155 of the three conditions were met the code official could make the determination to raise and
156 remove the structure even if the structure was vacant and secure. The City further argued that
157 lacking all three conditions did not preclude the city from ordering demolition, which it is
158 authorized to do under VMC Section 106. The City argued that the condition of VMC Section
159 106 that applies was the danger to life, safety, and welfare of the occupants of the structure or the
160 public. The City also argued that due to the owner’s lack of cooperation with the code official,

² Appeal Nos. 95-9, 15-17, 00-17, and 11-11

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161 long history of non-compliance, inability to achieve compliance with the USBC, and the
162 potential buyer's lack of demonstration that the necessary financial mechanisms were in place to
163 facilitate the completion of the project, demolition was appropriate, which was also the ruling of
164 the Review Board in the Pitts case. The City argued that this was the exact situation that
165 currently existed as neither Colonial Landing Apartment, A10 Capital LLC, nor KRS Holdings
166 have complied. Lastly, the City argued that the condition of the structures was beyond the scope
167 of reasonable repair and warranted demolition.

168 The Review Board found that the structures located at 2101-2121 Kecoughtan Road must
169 be demolished is warranted under VMC Section 106.1 *Unsafe Structure or Structures Unfit for*
170 *Human Occupancy* and is a proper remedy; therefore, if, within nine (9) months, from the date of
171 this final order, the building permits for the entire property are not issued the structures must be
172 demolished.

173 IV. Conclusion

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

176 A. Whether to uphold the decision of the City and the local appeals board that the
177 structures located at 2101-2121 Kecoughtan Road are unsafe structures or structures unfit for
178 human occupancy in accordance with VMC Section 106.1 *Unsafe Structure or Structures Unfit*
179 *for Human Occupancy.*

180 The decision of the City and local appeals board that the structures located at 2101-2121
181 Kecoughtan Road are unsafe structures or structures unfit for human occupancy in accordance
182 with VMC Section 106.1 *Unsafe Structure or Structures Unfit for Human Occupancy*, is upheld,
183 because of the overwhelming amount of evidence provided in the record showing the unsafe
184 condition of the structures on the property.

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185 B. Whether to uphold the decision of the City and the local appeals board that the
186 structures located at 2101-2121 Kecoughtan Road must comply with all recommendations of the
187 four A10 expert reports (MISH Engineering Concepts, PLC dated January 31, 2024, Complete
188 Care Plumbing LLC dated January 26, 2024, S&W Power Solutions, LLC received January 31,
189 2024, and Partner Engineering and Science, INC. dated January 31, 2024).

190 The decision of the City and local appeals board that the structures located at 2101-2121
191 Kecoughtan Road must comply with all recommendations of the four A10 expert reports (MISH
192 Engineering Concepts, PLC dated January 31, 2024, Complete Care Plumbing LLC dated January
193 26, 2024, S&W Power Solutions, LLC received January 31, 2024, and Partner Engineering and
194 Science, INC. dated January 31, 2024), is overturned, because the recommendations listed in the
195 expert reports should not have been included in the NOV without identifying the applicable VMC
196 section for each recommendation offered in the expert reports.

197 C. Whether to uphold the decision of the City and local appeals board that the
198 structures located at 2101-2121 Kecoughtan Road must be brought into compliance within 30 days
199 of issuance of the NOV.

200 The decision of the City and local appeals board that the structures located at 2101-2121
201 Kecoughtan Road must be brought into compliance, is upheld; however, amending the timeline to
202 nine (9) month, from the date of this final order, to have the building permits issued for the entire
203 property, because the allotted time provided by the City was not sufficient to reach settlement,
204 closing, and obtain the necessary building permits to renovate the property.

205 D. Whether to uphold the decision of the City and local appeals board that the
206 structures located at 2101-2121 Kecoughtan Road must be demolished is warranted under VMC
207 Section 106.1 *Unsafe Structure or Structures Unfit for Human Occupancy* and is a proper remedy

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208 given the structures are vacant and secure from public entry and must be demolished within 30
209 days of issuance of NOV.

210 The decision of the City and local appeals board that the structures located at 2101-2121
211 Kecoughtan Road must be demolished is warranted under VMC Section 106.1 *Unsafe Structure*
212 *or Structures Unfit for Human Occupancy* and is a proper remedy, is upheld; therefore, if, within
213 nine (9) months, from the date of this final order, the building permits for the entire property are
214 not issued the structures must be demolished.

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Chair, State Building Code Technical Review Board

Date entered _____ September 20, 2024 _____

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

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Hotel Street LLC
Appeal No. 24-06

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Town of Warrenton Local Appeals Board March 27, 2024	179

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
**[Preliminary Hearing for Properness Before the Board (Possibility of Relief) and
Timeliness]**

IN RE: Appeal of Hotel Street LLC
 Appeal No. 24-06

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On June 24, 2021, December 8, 2023, and March 6, 2024 the Town of Warrenton Department of Community Development (Town), the agency responsible for the enforcement of Part III of the 2015 and 2018 Virginia Uniform Statewide Building Code (VUSBC or VMC), issued Notices of Violation (NOV) to Michael K. and Etsudo K. Macdonald (Macdonald), for the structure located at 3 Hotel Street in the Town of Warrenton, citing the following VMC Sections on the specified dates of the NOVs:

- 103.1 *General* (June 24, 2021; December 8, 2023)
- 103.2 *Maintenance requirements* (June 24, 2021; December 8, 2023)
- 106.1 *Unsafe Structure or Structures Unfit for Human Occupancy* (June 24, 2021; December 8, 2023)
- 302.3 *Sidewalks and driveways* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.1 *General* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.2 *Protective treatment* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.4 *Structural members* (June 24, 2021; March 6, 2024)
- 304.6 *Exterior walls* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.7 *Roofs and drainage* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.8 *Decorative features* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.9 *Overhang extensions* (June 24, 2021; March 6, 2024)

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- 304.13 *Window, skylight, and door frames* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.13.1 *Glazing* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.13.2 *Openable windows* (June 24, 2021; December 8, 2023; March 6, 2024)
- 304.15 *Doors* (June 24, 2021; December 8, 2023; March 6, 2024)
- 305.1 *General* (June 24, 2021)
- 305.2 *Structural members* (June 24, 2021)
- 305.3 *Interior surfaces* (June 24, 2021)
- 305.6 *Interior doors* (June 24, 2021)
- 605.1. *Electrical components* (December 8, 2023; March 6, 2024)

2. Macdonald filed an appeal to the Town of Warrenton Board of Building Code Appeals (local appeals board) on December 8, 2023 to the NOV issued December 8, 2023. On March 27, 2024, the local appeals board “*upheld the decision of the official*”.

3. On May 30, 2024, Macdonald further appealed to the Review Board. The statement of relief sought, submitted by Macdonald, raised the question of whether, even if properly before the Board, the Board can take any action on the relief sought by Macdonald.

4. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the preliminary hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether the Review Board can take any action on the relief sought by Macdonald.
2. Whether the appeal was untimely.

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Basic Documents

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TOWN OF WARRENTON

Department of Community Development

NOTICE OF VIOLATION – INQY 2020-1

June 24, 2021

The owner or person or persons responsible shall have to comply with this order.

Property Address: **Parcel Detail for PIN 6984-33-9515-000**

Street Address: Deane Street Warrenton, Virginia

Legal Description: A

Property Owner:

MACDONALD ETSUKO K

MACDONALD MICHAEL KEITH

Mailing Address : 45 Winchester St
WARRENTON VA 20186

Numerous inspections of the above listed property have been conducted on the above mentioned property; December 6, 2019 and April 2, 2021 by the Town of Warrenton Community Development staff and found many violations of the Virginia Property Maintenance Code, 2015 edition. These violations have been existing for years and continue to exist despite several attempts to gain voluntary compliance. The current conditions of this this property as it exists in a registered historic district constitutes a nuisance, qualifying the property as falling into neglect to the point of defining it as "demolition by neglect", and is adversely affecting property values and quality of life in the vicinity. Additionally, the degree of deterioration, lack of maintenance over many years, and number of these violations constitute a dangerous, unsafe and unsanitary structure by the following definitions from the VA Property Maintenance Code, 2015 edition:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY: An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because (i) of the

degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

UNSAFE STRUCTURE: An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.

The following list of violations found is intended to provide information intended for compliance with the codes listed. Recommended corrective actions are included after the list of violations.

VIOLATIONS:

1. The exterior of the entire structure on the property shows extensive signs of water damage, exposure to elements, and wood rot. The entire exterior of the structure has peeling paint and spalling of brick and mortar; rotting wood, exposed structural elements including siding; missing broken windows and glazing; decorative features deteriorating. There is spalling along all the walls, exposed and/or missing electrical outlets and fixtures, and exposure to the elements. The overall condition of this property constitutes a nuisance condition.
2. Windows and doors are broken, in disrepair and/or have inadequate covers on them which are deteriorating. Broken windows allow access into the structure. Broken lower level/basement windows allow access for rodents and/or other vermin and provide a harborage. Window and door frames have exposed wood showing signs of rot and signs of weakening to the point of failing to support proper loads as designed.
3. The roof structure is in disrepair from exposed underlayment being improperly installed and/or attached by improper methods like clamps to the entire fascia and soffit assembly in disrepair with rotted wood, water damage from intrusion, peeling paint and failure.
4. The area between structures on Culpeper is not being maintained. This area contains trash and debris. The windows along this area are in disrepair and open allowing harborage and entrance into the structure. The exterior walls along this area are consistent with the other exterior walls showing extensive paint peeling and other deterioration of wood and brick.

5. The main entrance ground level walk way to the structure from Hotel Street is covered by a tarp. The access way contains debris and materials creating a nuisance. The walls are in disrepair with peeling paint and exposed wood siding and rot. The main door is inoperable and is semi-boarded with exposed plywood. The door is in disrepair. The window is broken and allows a view into the structure.
6. The limited view of the interior shows extensive water intrusion, peeling paint; walls in disrepair and inhabitable spaces.

Corrective Action:

You are hereby ordered to begin correcting the violations described above within the period not to exceed fifteen (15) days from the date of this notice by engaging the following actions:

- **In order to avoid any escalation of enforcement, it is required to provide a plan for corrective action within five (5) days of receipt of this notice. The plan MUST include specific dates of completed activities within a three-month period with notable, visible improvements;**
- **Apply for ALL required permits and COA approvals PRIOR to any work requiring these approvals/permits;**
- **All repairs completed within six (6) months.**

Failure to address these violations as directed shall result in enforcement actions under the applicable proceedings in Article 11-5 Enforcement and Penalties of the Town Zoning Ordinance and applicable Virginia State Code.

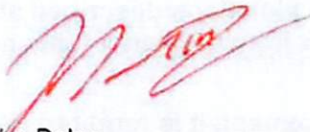
Given the extent of the overall conditions of the property, the visible blight and length of time without any improvements to the condition of this property, these actions must take place within 15 days of receipt of this notice.

The entire structure must be repaired to safe, sanitary condition by obtaining the services of licensed engineers, architects and contractors or the structure must be properly demolished. If you chose to demolish the structure, you must ensure the property is secured and the grounds maintained until demolition is complete. If you chose to repair the structure, you must notify this office within the 15 days stated above with a detailed plan and identified licensed design professionals listed. If you chose to demolish the structure, demolition must commence with 60 days of receipt of this notice.

If you refuse to take appropriate action to address the violations, the Town will take corrective action on the property and all charges and fees will be applied to the property owner. If you chose to appeal this notice, you must do so within fourteen (14) days of receipt of this notice as outlined in the Virginia Property Maintenance Code, 2015 edition, Section 106, attached below.

The Community Development Office is located at 21 Main Street. Warrenton, VA within Town Hall. Hours of operation are from 8 AM until 4:30 PM Monday through Friday. If you have any questions regarding this notice or would like additional information about the appeal process, please contact me at (540) 347-1101. EXT.234

Sincerely,



John Dolan
Fire Inspector and Property Maintenance & Housing Inspector

Applicable Code Provisions:

Virginia Property Maintenance Code, 2015 ed.:

**103
APPLICATION OF CODE**

103.1 General.

This code prescribes regulations for the maintenance of all existing buildings and structures and associated equipment, including regulations for unsafe buildings and structures.

103.2 Maintenance requirements.

Buildings and structures shall be maintained and kept in good repair in accordance with the requirements of this code and when applicable in accordance with the USBC under which such building or structure was constructed. No provision of this code shall require alterations to be made to an existing building or structure or to equipment unless conditions are present which meet the definition of an unsafe structure or a structure unfit for human occupancy.

**106
UNSAFE STRUCTURES OR STRUCTURES
UNFIT FOR HUMAN OCCUPANCY**

106.1 General.

This section shall apply to existing structures which are classified as unsafe or unfit for human occupancy. All conditions causing such structures to be classified as unsafe or unfit for human occupancy shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or razed and removed. Vacant and secured structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure or a structure unfit for human occupancy constitutes such a hazard that it should be razed or removed, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirements of this code.

**107
APPEALS**

107.5 Right of appeal; filing of appeal application.

Any person aggrieved by the local enforcing agency's application of this code or the refusal to grant a modification to the provisions of this code may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA

within 14 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and, in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a code official's decision

302 EXTERIOR PROPERTY AREAS

302.3 Sidewalks and driveways.

All sidewalks, walkways, stairs, driveways, parking spaces and similar spaces regulated under the VCC shall be kept in a proper state of repair, and maintained free from hazardous conditions. Stairs shall comply with the requirements of Sections 305 and 702

304 EXTERIOR STRUCTURE

304.1 General.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.2 Protective treatment.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.4 Structural members.

All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

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.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.

304.8 Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions.

All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weathercoating materials, such as paint or similar surface treatment.

304.13 Window, skylight and door frames.

Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing.

All glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows.

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.15 Doors.

All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

305
INTERIOR STRUCTURE

305.1 General.

The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

305.2 Structural members.

All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces.

All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.6 Interior doors.

Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

Sec. 11-20. - Nuisances, etc.; abatement, etc.

(a) Whenever it shall come to the attention of the town manager that a nuisance is being created or maintained within the town or that an unsanitary, unsafe or unhealthful condition exists in the town or that the nuisance or condition in question has been existing for some period of time, the town manager shall cause an immediate inspection of the premises in question to be made and, if a nuisance or unsanitary, unsafe or unhealthful condition is found, he shall cause to be served upon the occupant of the premises or if the premises be not occupied, then upon the owner thereof or his agent, a notice to abate such nuisance or to correct such unsanitary, unsafe or unhealthful condition within a specified time. If such notice is not complied with in the specified time, the recipient thereof shall be summoned to appear before the general district court and show cause why such notice should not be complied with. In the case of a known nonresident, having no agent in the town, such

notice shall be mailed to the last known address of the owner or his agent, and fifteen (15) days allowed for a reply.

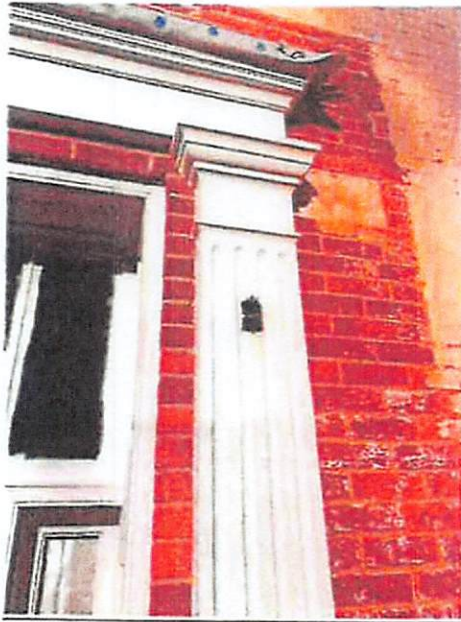
(b) If the nuisance or condition complained of as provided in the first paragraph of this section is such that immediate action is necessary for the protection of the public health and welfare, the town manager shall cause the same to be abated or corrected at once, without notice, and all costs incident thereto shall be assessed against the owner of the premises and collected in the same manner in which taxes or other assessments are collectible by law.

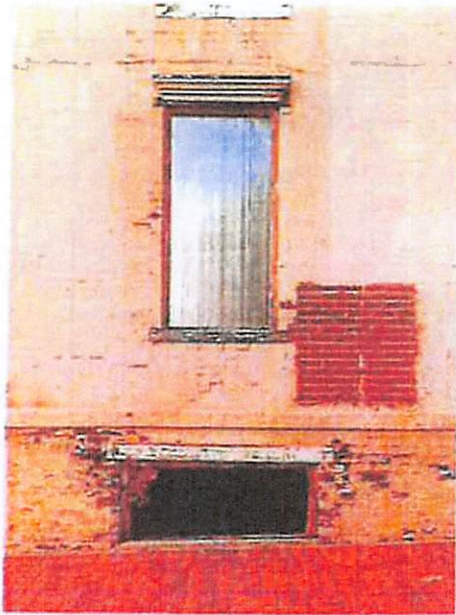
Pictures of Violations:

Main Exterior:



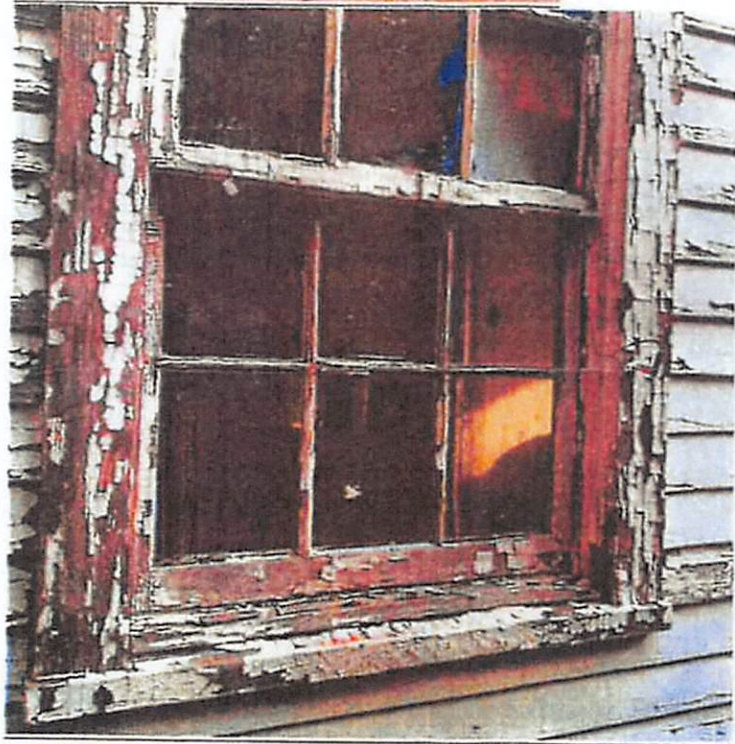


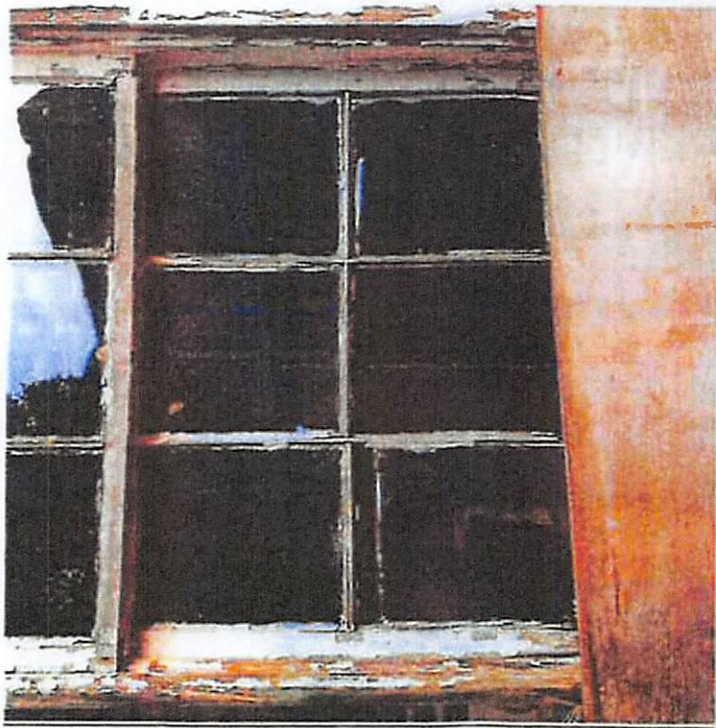


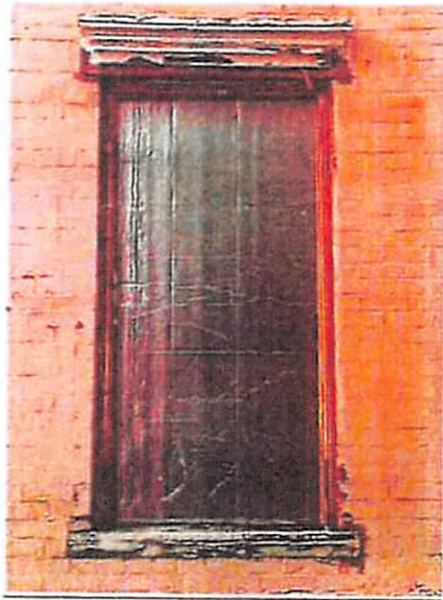
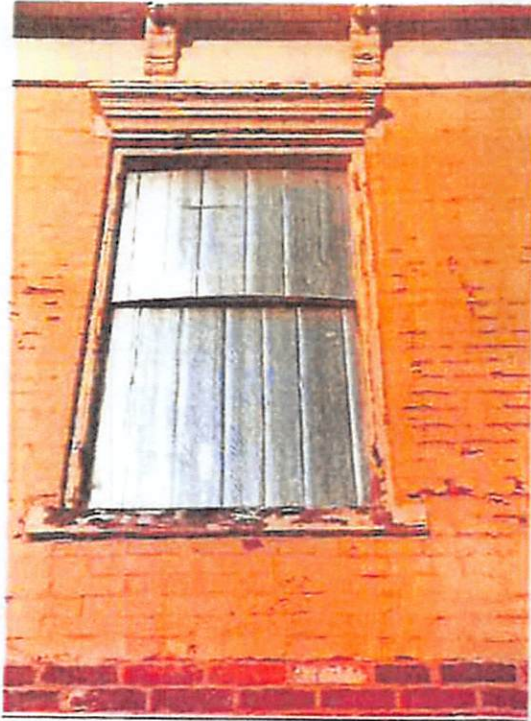


Windows and Doors:

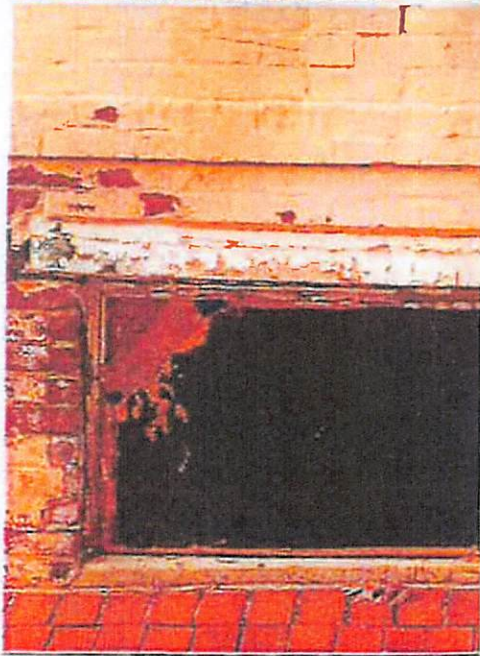




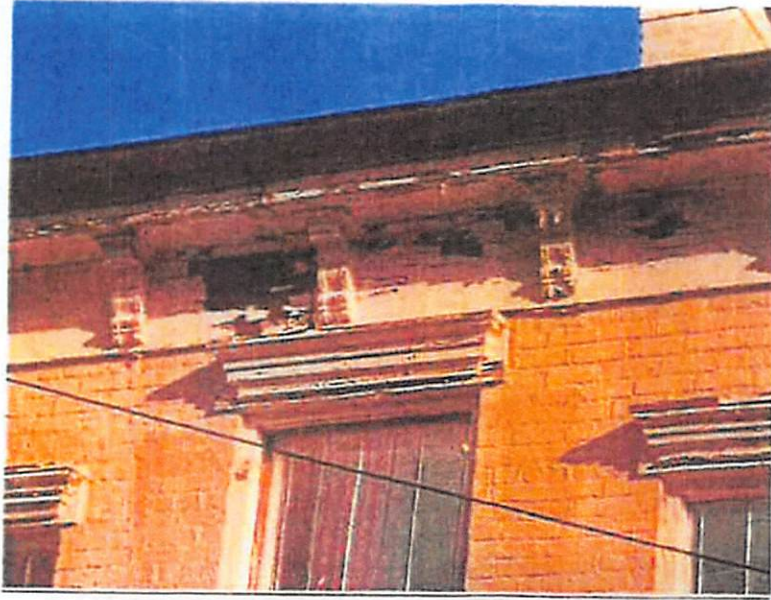


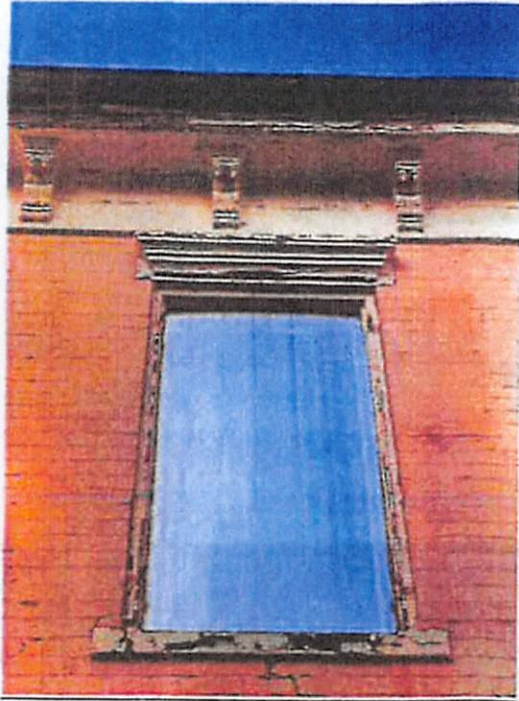


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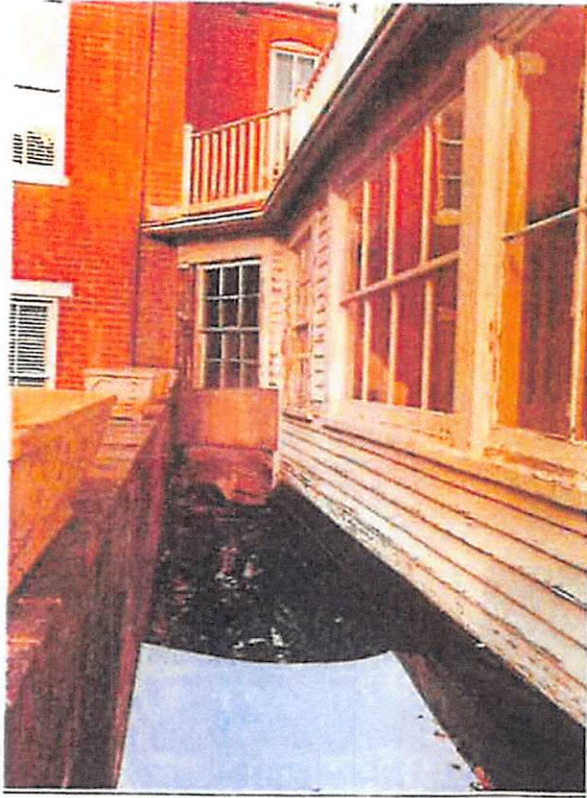


Roof Assembly- Fascia and Soffit:

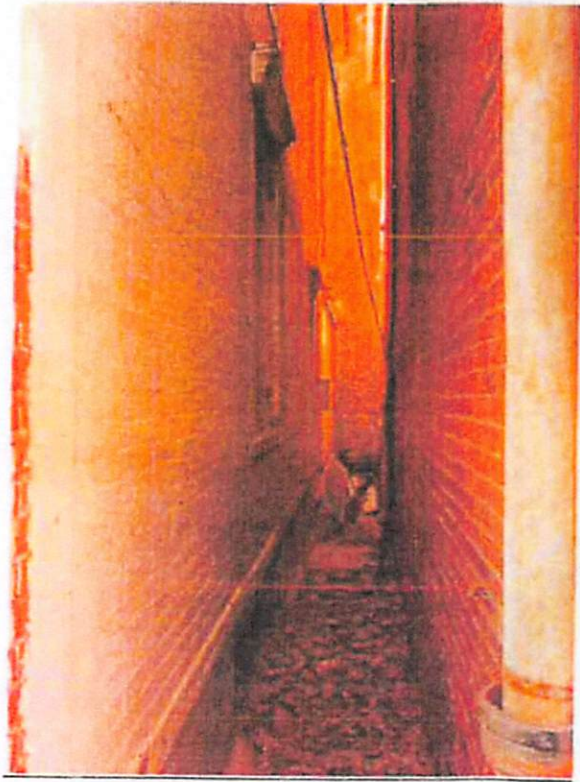


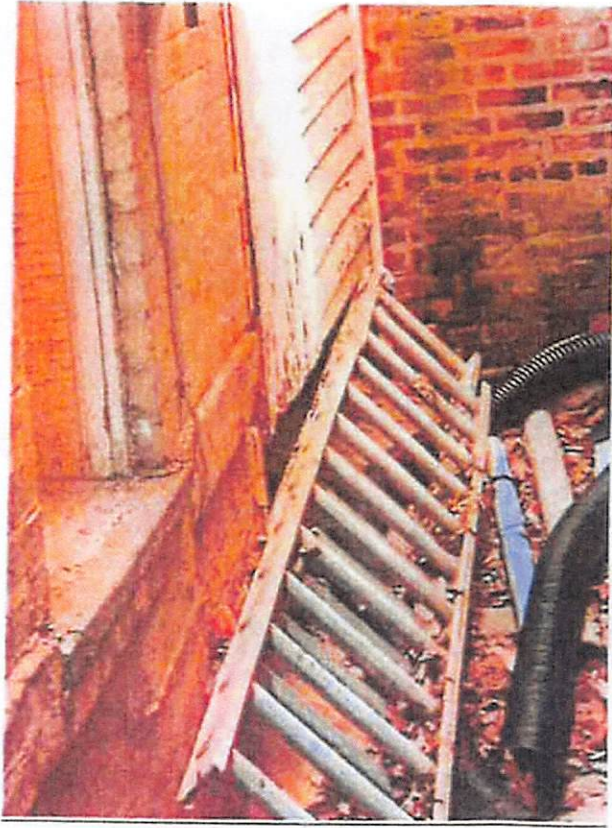


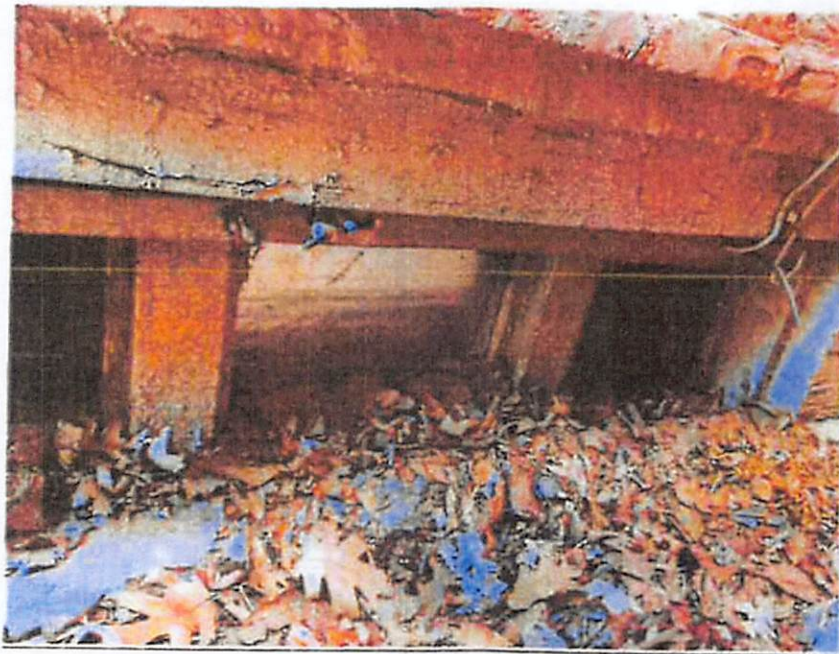
Main Entry Way:



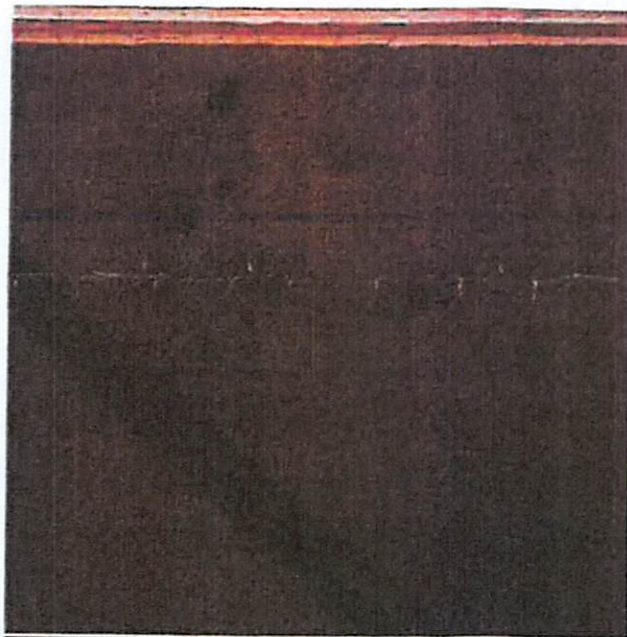
Space Between Buildings on Culpeper Street:

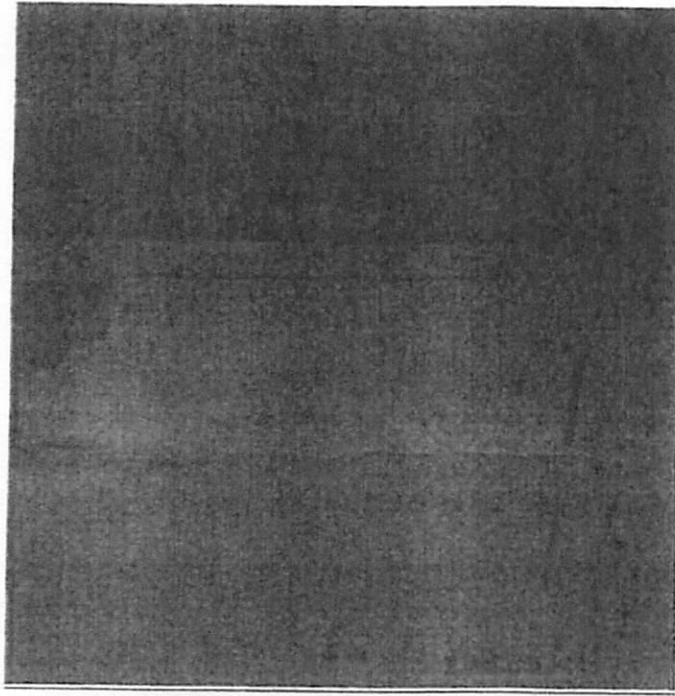






Interior:







TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20186
<http://www.warrentonva.gov>
TELEPHONE (540) 347-1101
FAX (540) 349-2414

OFFICIAL NOTICE OF VIOLATION

The owner or person(s) responsible shall have to comply with this order.

Notice Date: December 8, 2023

Property: 3 Hotel Street, Warrenton, VA 20186
PIN 6984-33-9515-000

Zoning: Central Business District

Property: Macdonald, Etsuko K
Owner: Macdonald, Michael Keith

Mailing Address: 45 Winchester Street
Warrenton, VA 20186

An inspection of the above listed property was conducted on November 17, 2023, by the Town of Warrenton Building Official, Hunter Digges, and Town of Warrenton Code Enforcement Officer, Heather Kincaid. Numerous violations of the 2018 Virginia Property Maintenance Code were found and are listed below. A site meeting with Keith Macdonald was held at 3 Hotel Street on October 30th, 2023. Mr. Macdonald stated that he would not be making any repairs to the structure.

These violations have been in existence for many years and continue to exist and have not been corrected, despite several attempts to gain voluntary compliance from the property owner.

The current condition of this structure, as it exists, in a registered historic district is adversely affecting property values and quality of life in the vicinity. The degree of deterioration, lack of maintenance, and the quantity of these violations constitute a dangerous, unsafe and unsanitary structure by the following definitions from the VA Property Maintenance Code, 2018 edition:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY: An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

UNSAFE STRUCTURE: An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.

DESCRIPTION OF VIOLATION

The following list of violations found is intended to provide information intended for compliance with the codes listed. Recommended corrective actions are included after the list of violations.

1. The entire exterior of the structure shows extensive signs of water damage, exposure to elements, wood rot and deteriorated mortar and bricks. The entire exterior of the structure has peeling paint, inadequate protection from the elements, exposed and rotted wood windows; and deteriorated decorative features.
(See Pictures 1-8, 11-14, 17-24)

All exterior walls must be repaired and shall be free from holes, breaks, and loose or rotting materials. Exterior walls must be weatherproof and properly surface coated.

2. Two electrical lighting fixtures are missing on either side of the front door leaving electrical connections exposed. (See Pictures 9 and 10)
Obtain the required permits and repair or replace the electrical lighting fixtures.
3. Roof rainwater drainage is inadequate and is not discharged in a manner that prevents deterioration, or harm to the structure, its foundation, or slab. Missing portions of downspouts were observed. (See Pictures 1,2,3, 15)
All roof water shall be discharged in a manner to protect the structure's foundation from the accumulation of rainwater.
4. Windows and doors are in disrepair and/or have inadequate/exposed covers on them which are deteriorating. Window and door frames have exposed wood, non

weatherproofed and wood showing signs of rot. There are windows with broken glazing.
(See Pictures 2-8, 11-13 and 20-22)

Ensure all doors and windows are kept in good repair and maintained weather tight. Exterior wood surfaces of doors and windows must be protected from the elements and decay by painting or other protective covering or treatment.

CORRECTIVE ACTION:

You are hereby ordered to begin correcting the violations described above within the period not to exceed fifteen (15) days of receipt this notice by engaging in the following actions:

- In order to avoid any escalation of enforcement, it is required to provide a plan for corrective action within fifteen (15) days of receipt of this notice. The plan MUST include specific dates of completed activities within a six month period with notable, visible improvements;
- Apply for ALL required permits and renew or obtain new permits for those expired PRIOR to any work requiring these approvals/permits.
- All repairs completed within six (6) months.

Failure to address these violations as directed shall result in enforcement actions under the applicable provisions of the Warrenton Town Code, the Virginia Maintenance Code, and the Virginia State Code.

Given the extent of the overall conditions of the property, and the length of time without any improvements to the condition of this property, these actions must commence within 15 days of receipt of this notice.

The entire structure must be repaired to safe, sanitary condition by obtaining the services of licensed engineers, architects, and contractors. you must notify this office within the 15 days stated above with a detailed plan and identified licensed design professionals listed.

If you choose to appeal this notice, you must do so within fourteen (14) days of receipt of this notice as outlined in the Virginia Property Maintenance Code, 2018 edition, Section 107, attached below.

The Community Development Office is located at 21 Main Street within Town Hall. Hours of operation are from 8:30 AM until 4:30 PM Monday through Friday. If you have any questions regarding this notice or would like additional information about the appeal process, please contact me at (540) 347-1101, Ext.314.

Sincerely,



Hunter Digges
Building Official

CC:

Eric Gagnon, Ward 5 Council Member
Frank Cassidy, Interim Town Manager
Rob Walton, Director of Community Development
Martin Crim, Town Attorney

Applicable Code Provisions:

Virginia Property Maintenance Code, 2018 ed.:

**103
APPLICATION OF CODE**

103.1 General.

This code prescribes regulations for the maintenance of all existing buildings and structures and associated equipment, including regulations for unsafe buildings and structures.

103.2 Maintenance requirements.

Buildings and structures shall be maintained and kept in good repair in accordance with the requirements of this code and when applicable in accordance with the USBC under which such building or structure was constructed. No provision of this code shall require alterations to be made to an existing building or structure or to equipment unless conditions are present which meet the definition of an unsafe structure or a structure unfit for human occupancy.

**106
UNSAFE STRUCTURES OR STRUCTURES
UNFIT FOR HUMAN OCCUPANCY**

106.1 General.

This section shall apply to existing structures which are classified as unsafe or unfit for human occupancy. All conditions causing such structures to be classified as unsafe or unfit for human occupancy shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or razed and removed. Vacant and secured structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure or a structure unfit for human occupancy constitutes such a hazard that it should be razed or removed, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirements of this code.

107 APPEALS

107.5 Right of appeal; filing of appeal application.

Any person aggrieved by the local enforcing agency's application of this code or the refusal to grant a modification to the provisions of this code may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA within 14 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and, in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a code official's decision

302 EXTERIOR PROPERTY AREAS

302.3 Sidewalks and driveways.

All sidewalks, walkways, stairs, driveways, parking spaces and similar spaces regulated under the VCC shall be kept in a proper state of repair and maintained free from hazardous conditions. Stairs shall comply with the requirements of Sections 305 and 702

304
EXTERIOR STRUCTURE

304.1 General.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.2 Protective treatment.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

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.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.

304.8 Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.13 Window, skylight and door frames.

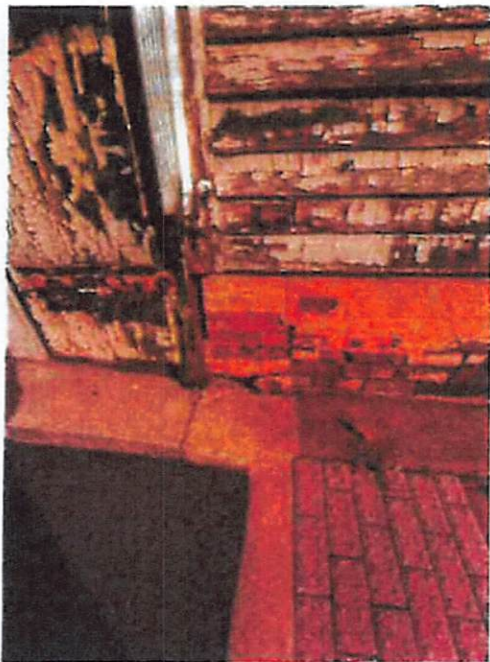
Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing.

Glazing materials shall be maintained free from cracks and holes.

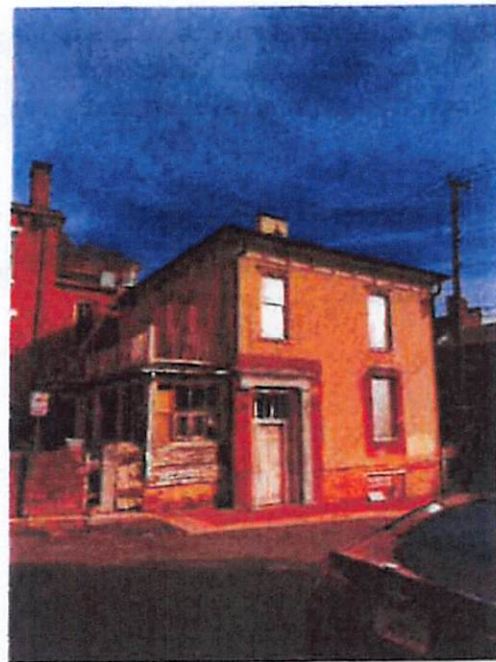
Pictures: Taken November 17th, 2023

Pictures 1-10 showing front of structure.



Picture 1:

Shows exposure to the elements, rotted wood. Inadequate roof drainage, missing piece of downspout and broken and missing bricks and mortar.



Picture 2:

Shows exposure to elements, rotted wood, broken, and boarded up windows, peeling paint, broken, missing and damaged brick and mortar.

304.13.2 Openable windows.

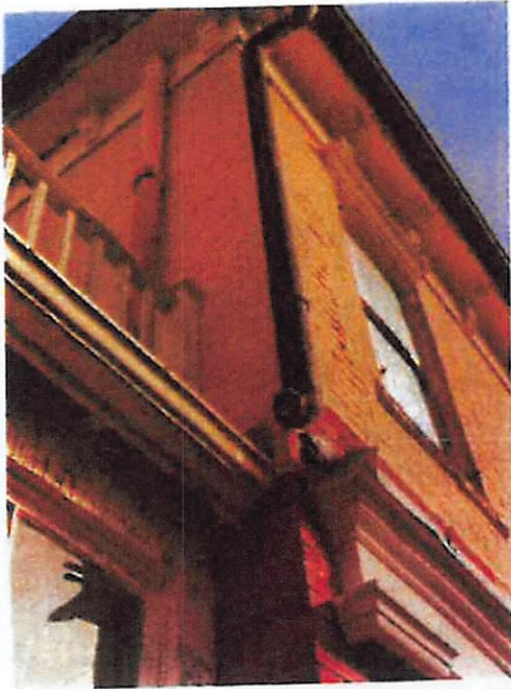
Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.15 Doors.

Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

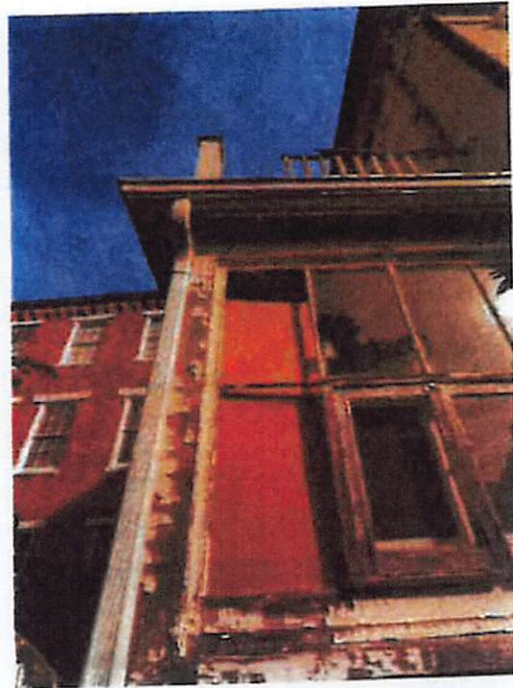
605.1 Electrical components.

Electrical equipment, wiring, and appliances shall be maintained in accordance with the applicable building code.



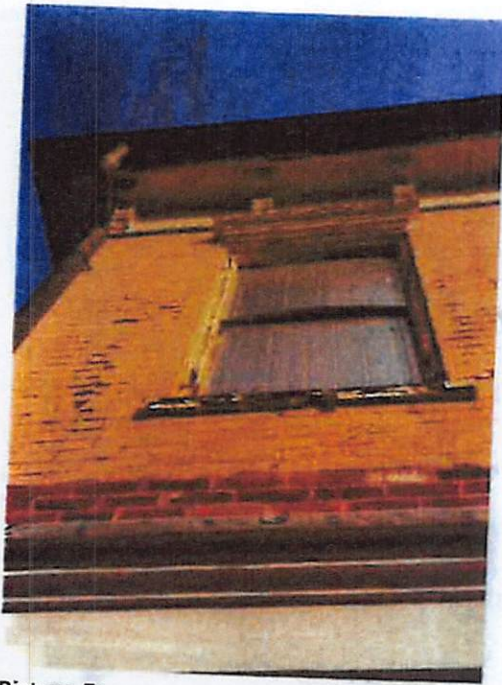
Picture 3:

Shows exposure to the elements, rotted wood. Inadequate roof drainage, missing piece of downspout, broken and missing bricks and mortar.



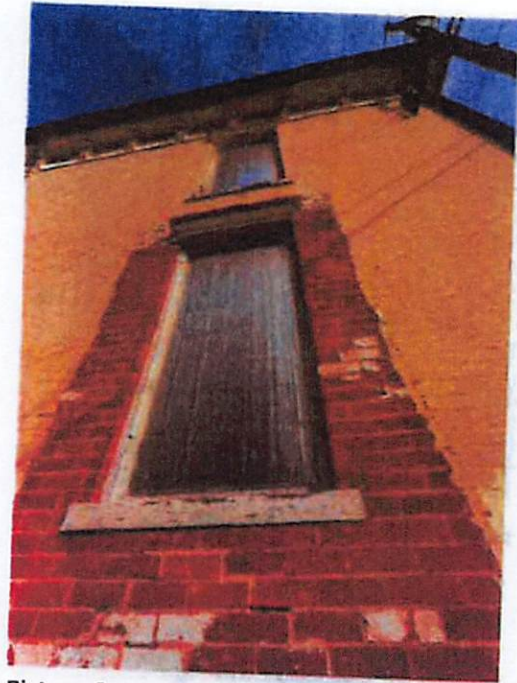
Picture 4:

Shows exposure to the elements, rotted wood, missing window glazing and broken and missing decorative piece.



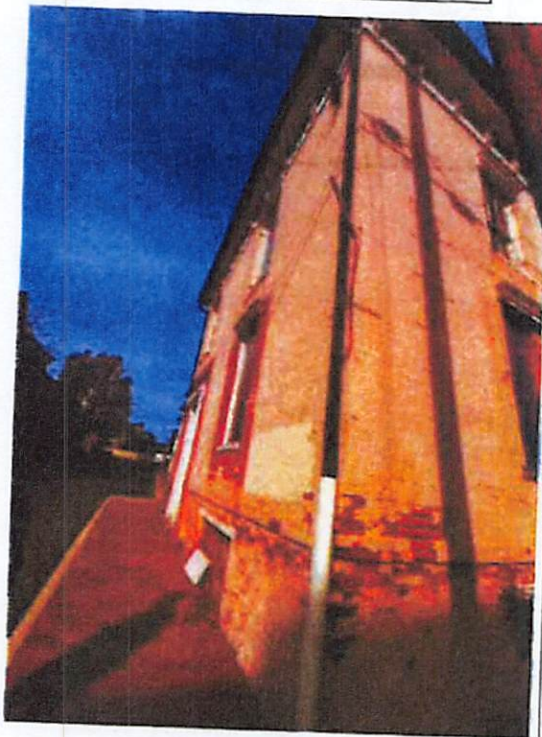
Picture 5:

Shows exposure to the elements, peeling paint, missing, and boarded up windows, deteriorated wood.



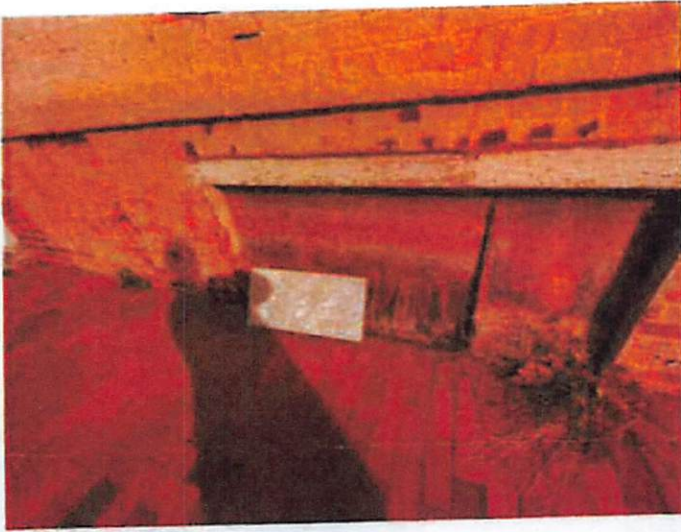
Picture 6:

Shows exposure to the elements, peeling paint, missing, and boarded up windows and deteriorated wood.



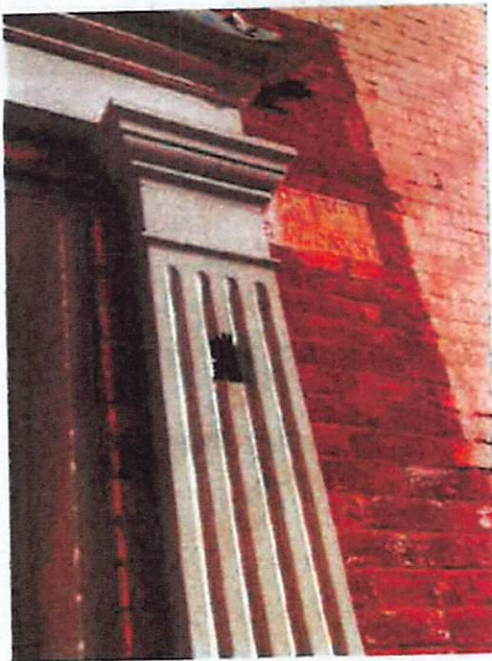
Picture 7:

Shows peeling paint; missing, damaged and deteriorated bricks and mortar; missing and boarded up windows.



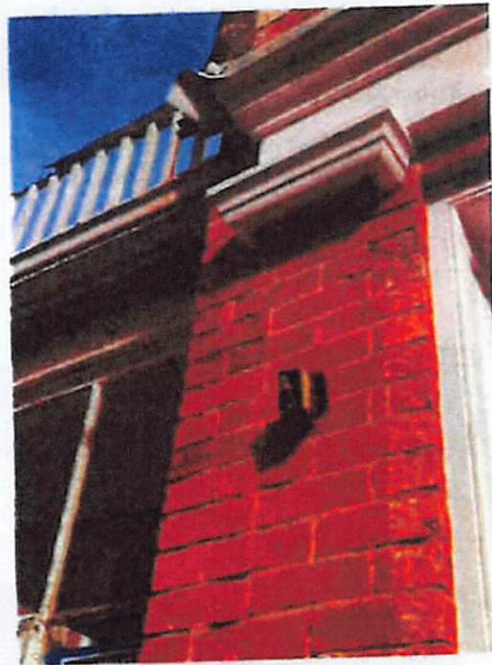
Picture 8:

Shows missing window, exposure to the elements, rotten wood, peeling paint and damaged bricks.



Picture 9:

Shows missing light fixture and exposed electrical wires.



Picture 10:

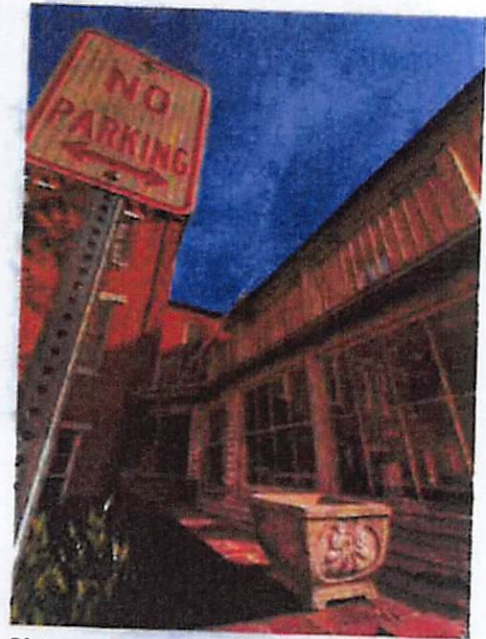
Shows missing light fixture and exposed electrical wires.

Pictures 11-13 Showing left side of structure



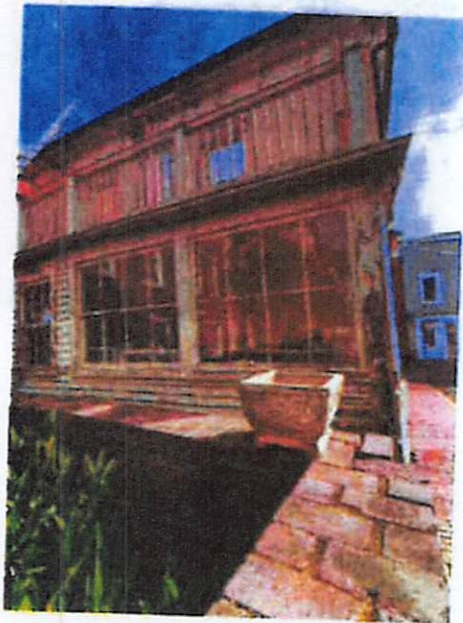
Picture 11:

Shows exposure to the elements, damaged and missing decorative pieces, missing, and boarded up



Picture 12:

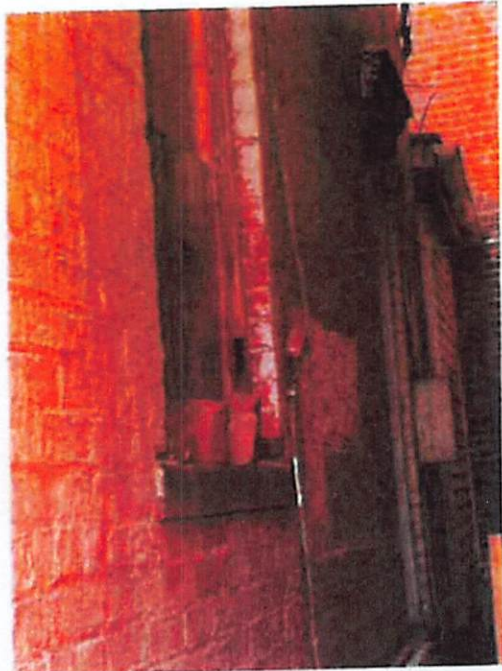
Shows exposure to the elements and rotted wood.



Picture 13:

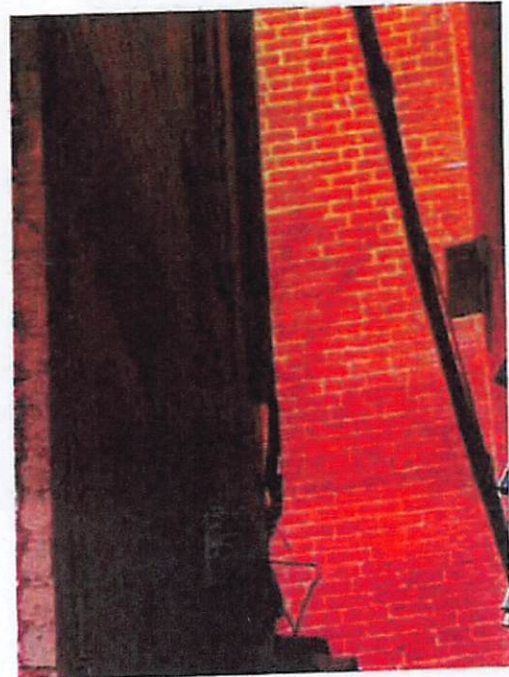
Shows exposure to the elements and rotted wood, damaged and missing bricks on wall.

Pictures 14- 16 Showing back of structure



Picture 14:

Damaged and missing bricks; missing window, exposure to the elements, peeling paint and rotted wood.



Picture 15:

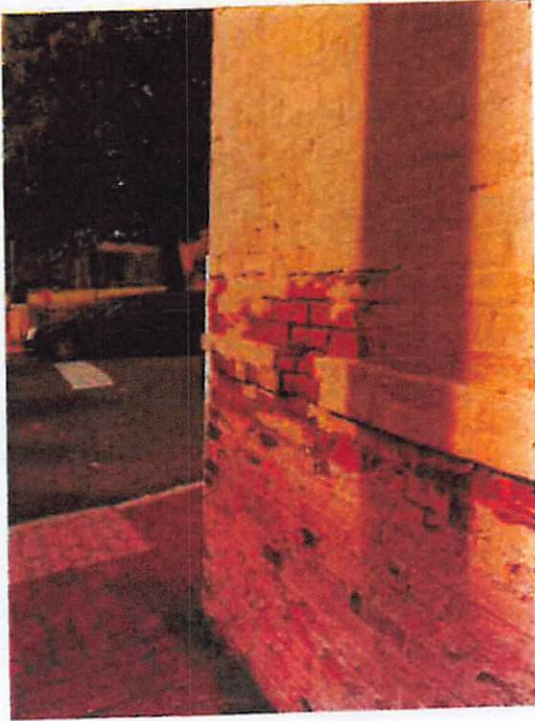
Shows missing window, broken downspout and peeling paint.



Picture 16:

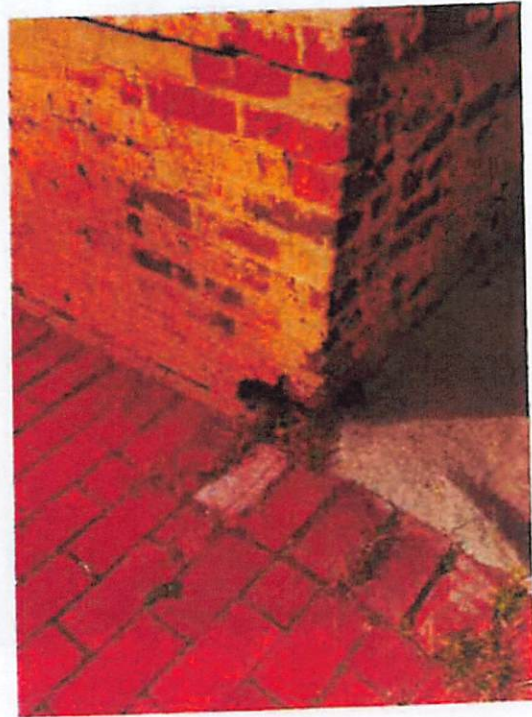
Damaged and missing bricks; missing window, exposure to the elements, peeling paint and rotted wood.

Pictures 17-24 Showing right side of structure



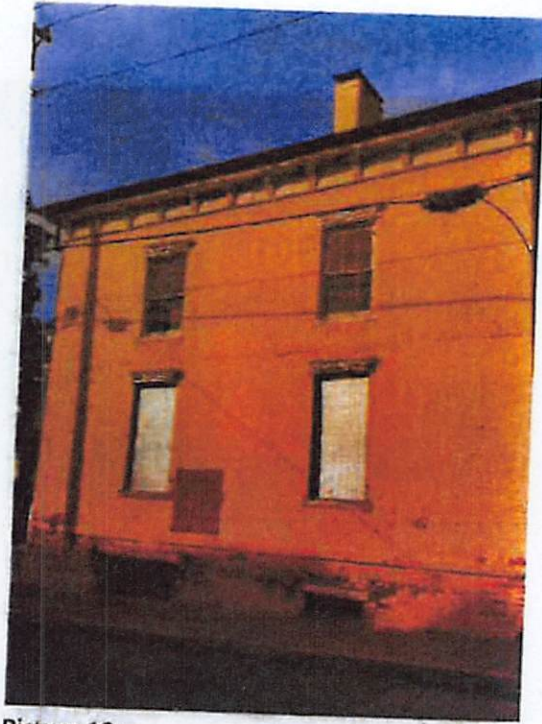
Picture 17:

Shows exposure to the elements;
peeling paint; missing, damaged and
deteriorated bricks and mortar.



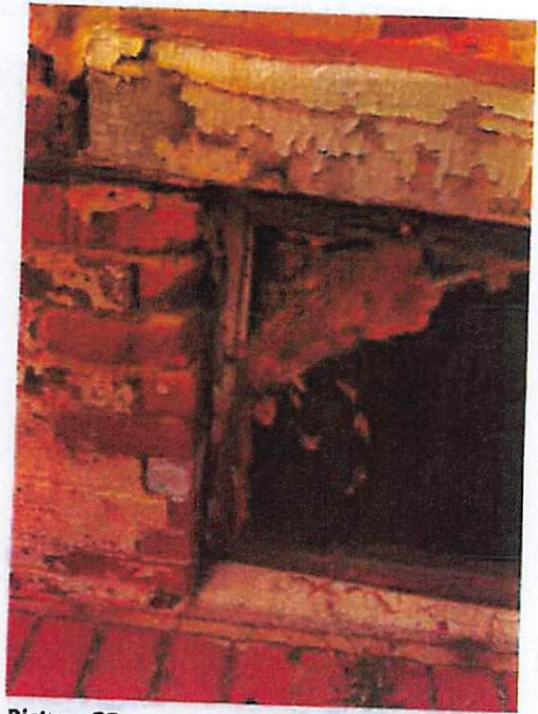
Picture 18:

Shows exposure to the elements;
peeling paint; missing, damaged and
deteriorated bricks and mortar.



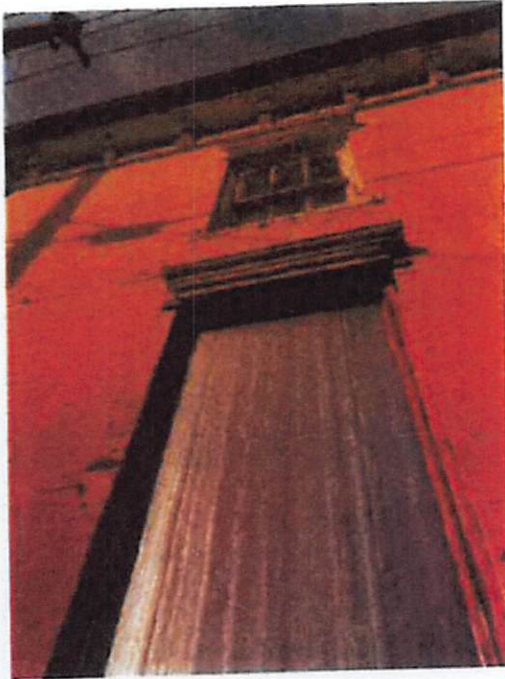
Picture 19:

Shows exposure to the elements;
peeling paint; missing, damaged and
deteriorated bricks and mortar;
missing windows.



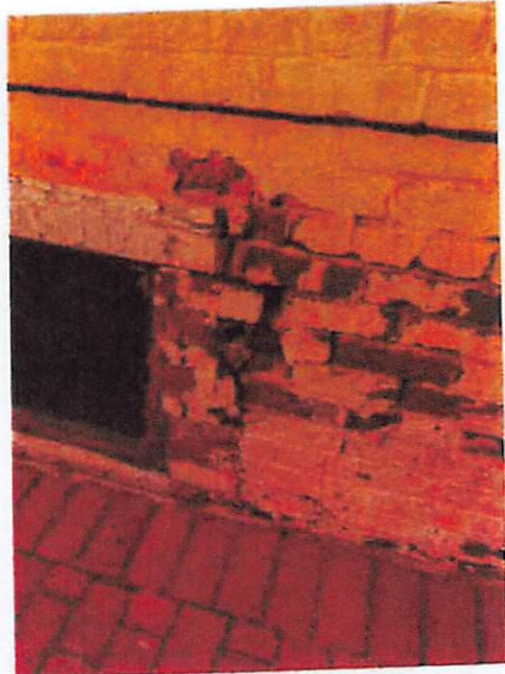
Picture 20:

Shows exposure to the elements;
peeling paint and rotten wood;
missing, damaged and deteriorated
bricks and mortar; missing windows.



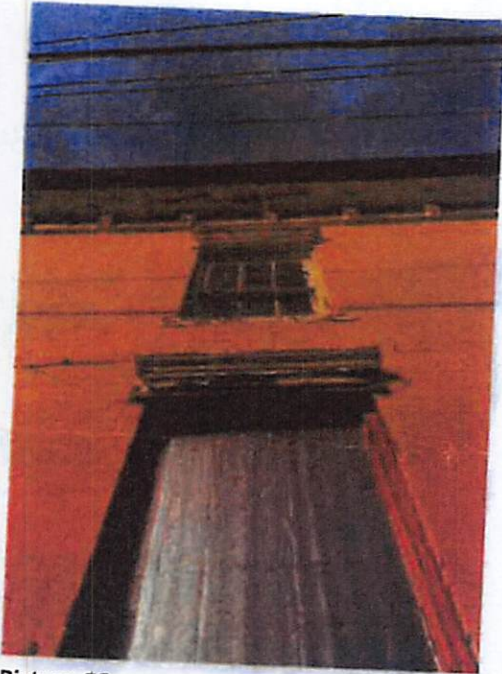
Picture 21:

Shows exposure to the elements;
peeling paint; missing, damaged and
deteriorated bricks and mortar;
missing windows.



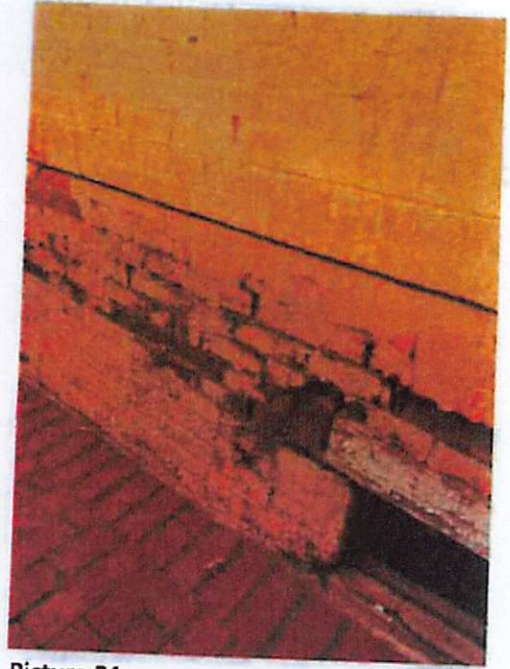
Picture 22:

Shows exposure to the elements;
peeling paint; missing, damaged and
deteriorated bricks and mortar.



Picture 23:

Shows exposure to the elements;
peeling paint; missing, damaged and
deteriorated bricks and mortar:



Picture 24:

Shows exposure to the elements;
peeling paint; missing, damaged and
deteriorated bricks and mortar.



TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
LandDevelopment@warrentonva.gov
(540) 347-2405

Updated Notice of Violation Pursuant to 2018 Virginia Property Maintenance Code 105.4

Date: March 6, 2024

Property: 3 Hotel Street, Warrenton, VA 20186
PIN: 6984-33-9515-000
Legal Description:

Property Owner: Macdonald, Etsuko K
Macdonald, Michael Keith¹

Mailing Address: 45 Winchester Street
Warrenton, VA 20186

Case Number: ENFC-23-99

This is a Notice of Violation pursuant to Virginia Property Maintenance Code 105.4. Building Official Hunter Digges and Town of Warrenton Code Enforcement Officer Heather Kincaid inspected the property identified above on November 17th, 2023. Based on this inspection, I find the following violations:

1. Violation 1

- a. The entire exterior of the structure shows extensive signs of water damage, exposure to elements, and wood rot and deteriorated mortar and bricks. The entire

¹ Warrenton issued the original Notice of Violation, dated December 8th, 2023, to Michael and Etsuko Macdonald. I have included a copy of the original Notice of Violation as an attachment. In the interim, Michael and Etsuko Macdonald transferred ownership to Hotel LLC. Pursuant to Va. Code 36-105(C)(4), this enforcement action shall continue to be enforced against Michael and Etsuko Macdonald.

exterior of the structure has peeling paint, inadequate protection from the elements, and exposed and rotted wood windows; and deteriorated decorative features.

b. This violates Virginia Property Maintenance Code: 304.1, 304.2, 304.4, 304.6, 304.7.

c. Necessary Corrective Action:

i. All exterior walls must be repaired and shall be free from holes, breaks, and loose or rotting materials. Exterior walls must be weatherproof and properly surface coated.

d. Pictures of this violation are appended to this Notice of Violation.

2. Violation 2

a. Two electrical lighting fixtures are missing on either side of the front door leaving electrical connections exposed.

b. This violates Virginia Property Maintenance Code: 605.1

c. Necessary Corrective Action:

i. Obtain the required permits and repair or replace electrical lighting fixtures.

d. Pictures of this violation are appended to this Notice of Violation.

3. Violation 3

- a. Roof rainwater drainage is inadequate and is not discharged in a manner that prevents deterioration, or harm to the structure, its foundation, or slab. Missing portions of downspouts were observed,
- b. This violates Virginia Property Maintenance Code 304.7
- c. Necessary Corrective Action:
 - i. All roof water shall be discharged in a manner to protect the structure's foundation from accumulation of rainwater.
- d. Pictures of this violation are appended to this Notice of Violation.

4. Violation 4

- a. Windows and doors are in disrepair and/or have inadequate/exposed covers on them which are deteriorating. Windows and door frames have exposed non-weatherproofed wood showing signs of rot. There are windows with broken glass.
- b. This violates Virginia Property Maintenance Codes 304.13, 304.13.1, 304.13.2, 304.15.
- c. Necessary Corrective Action:
 - i. Ensure all doors and windows are kept in good repair and maintained weather tight. Exterior wood surfaces of doors and windows must be protected from the elements and decay by painting or other protective covering or treatment.
- d. Pictures of this violation are appended to this Notice of Violation.

Time to Comply

The deadline to comply with the original Notice of Violation, dated December 8th, 2023 was December 23rd, 2023.

Appeal

If you disagree with this Notice of Violation or any part of it, you may address your disagreement as part of your appeal from the original Notice of Violation, dated December 8th, 2023. That appeal is currently scheduled for March 27th, 2024.

A copy of VPMC 107, which governs your appeal rights, is attached to this Notice of Violation.

This Notice of Violation constitutes the Town of Warrenton Code Official's final decision regarding these violations.

Sincerely,



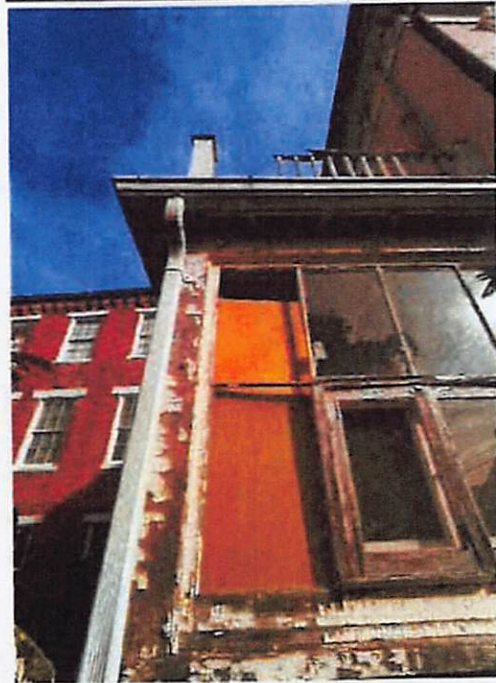
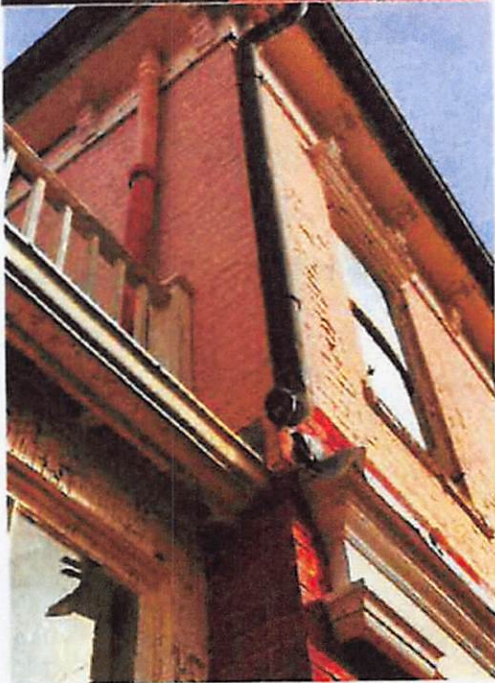
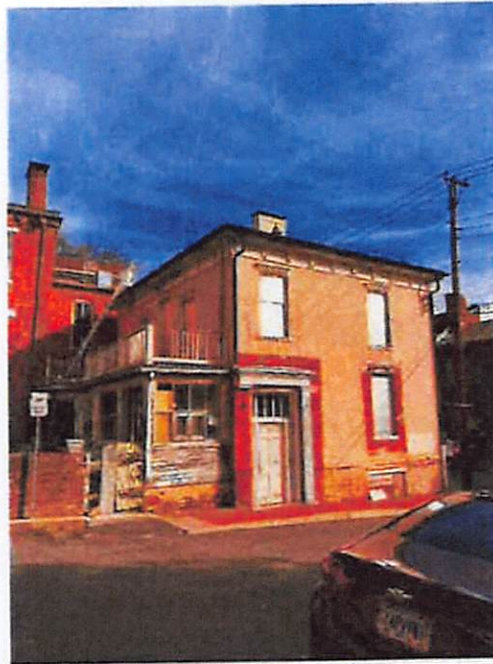
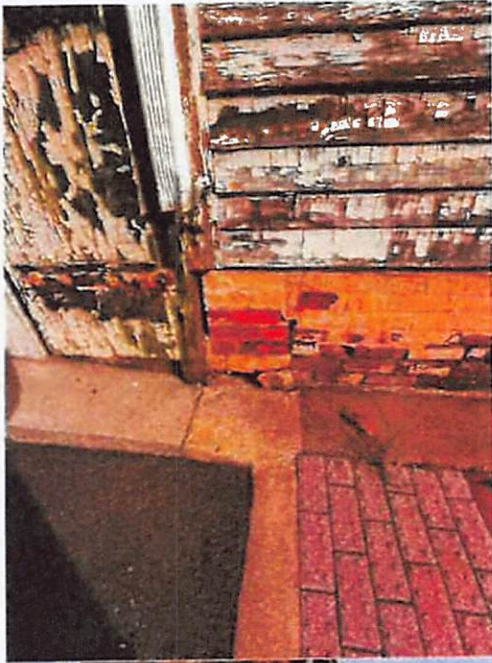
Hunter Digges
Building Official
Town of Warrenton
21 Main Street
Warrenton, VA 20186
Phone: 540-347-1101
hdigges@warrentonva.gov

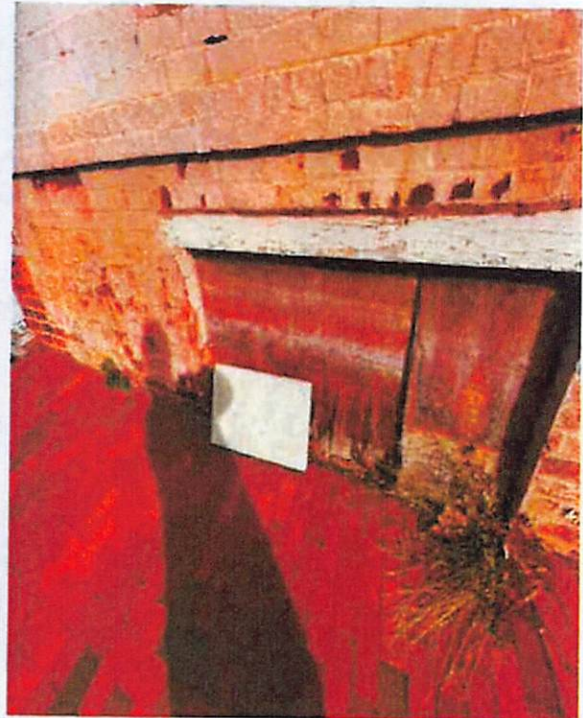
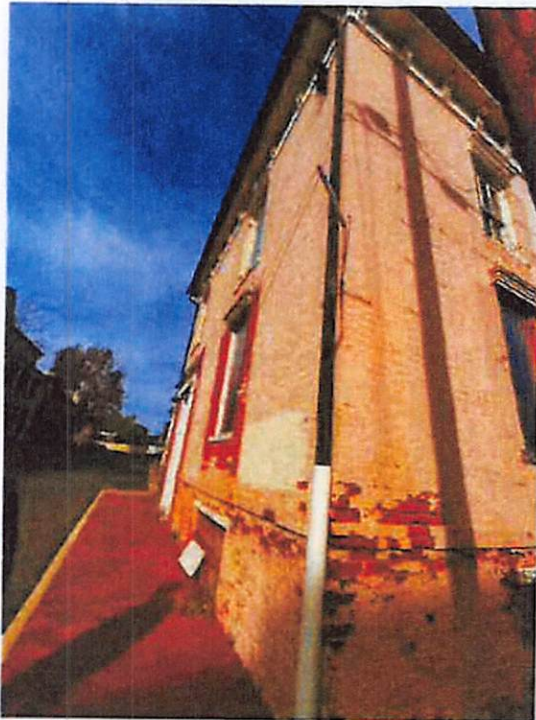
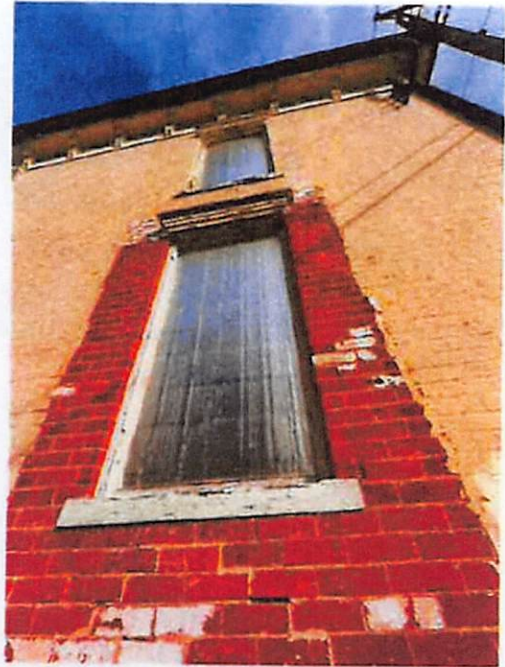
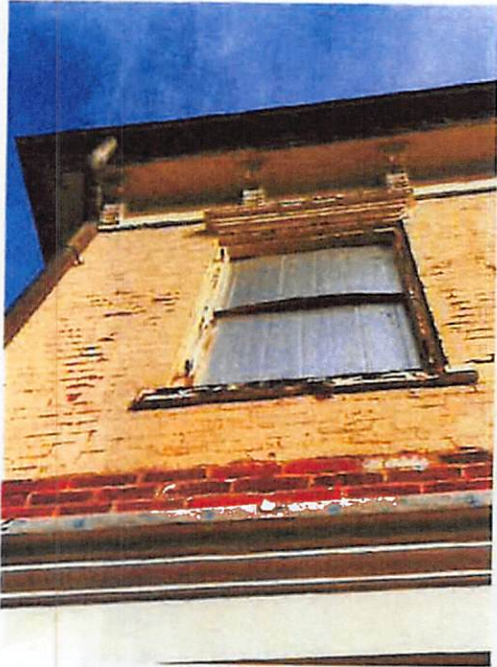
CC:

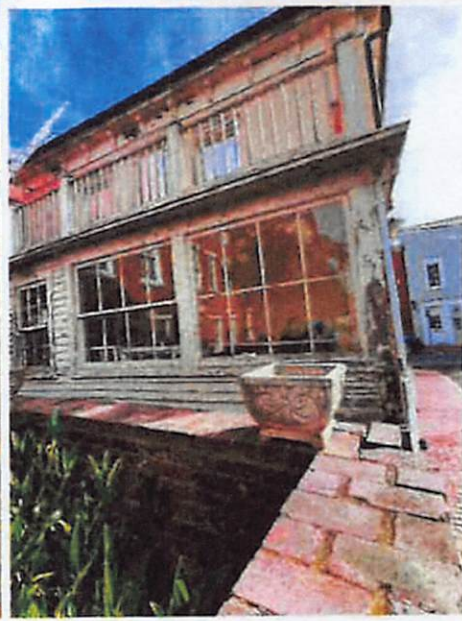
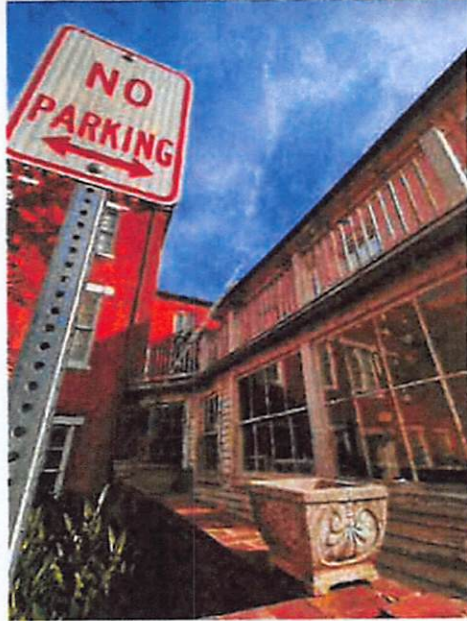
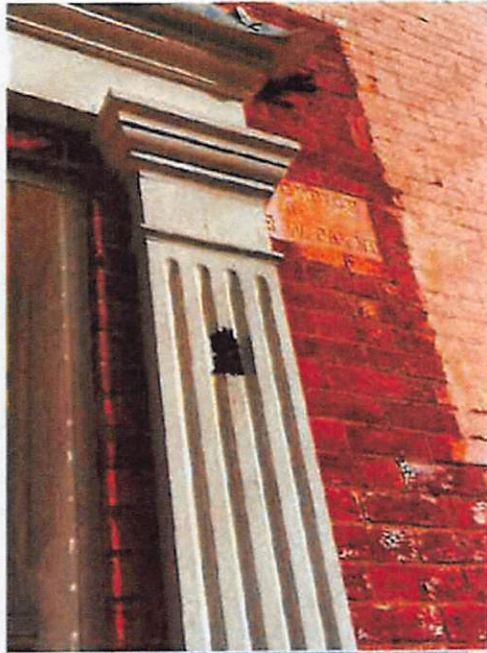
Eric Gagnon, Ward 5 Council Member
Frank Cassidy, Town Manager
Rob Walton, Director of Community Development
M. Tolley Gwinn, Sands Anderson

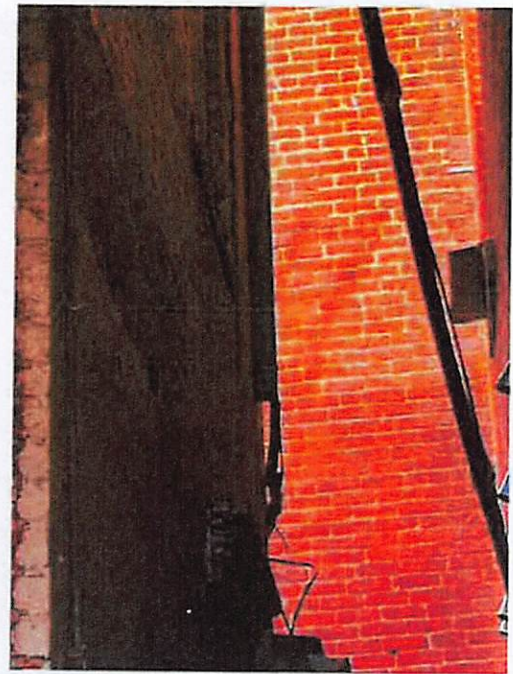
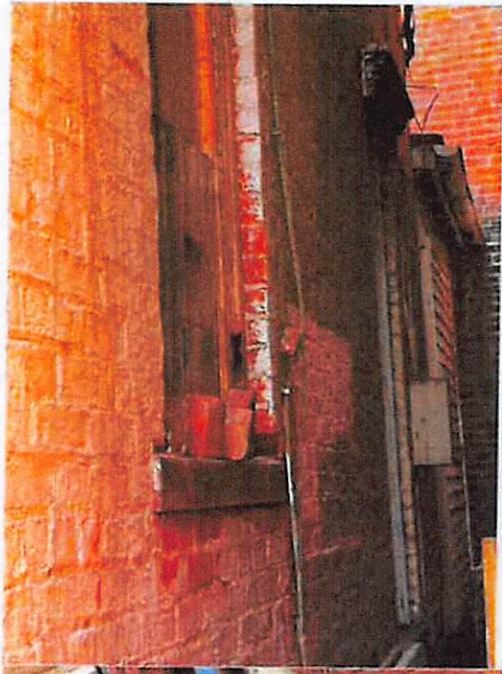
Photos of Violation

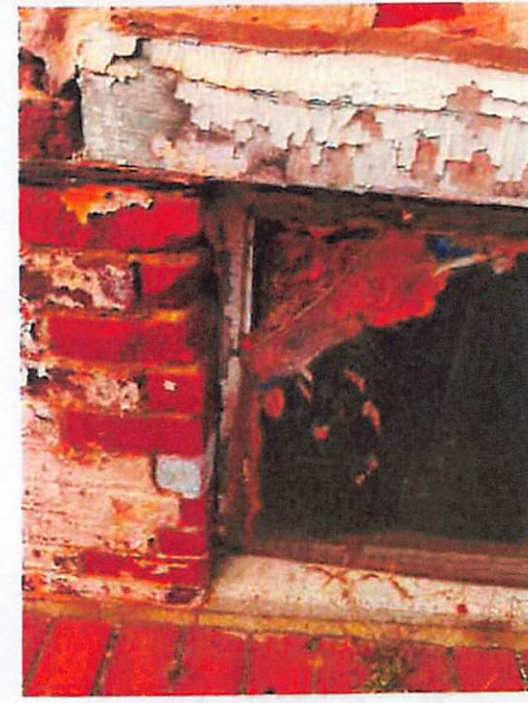
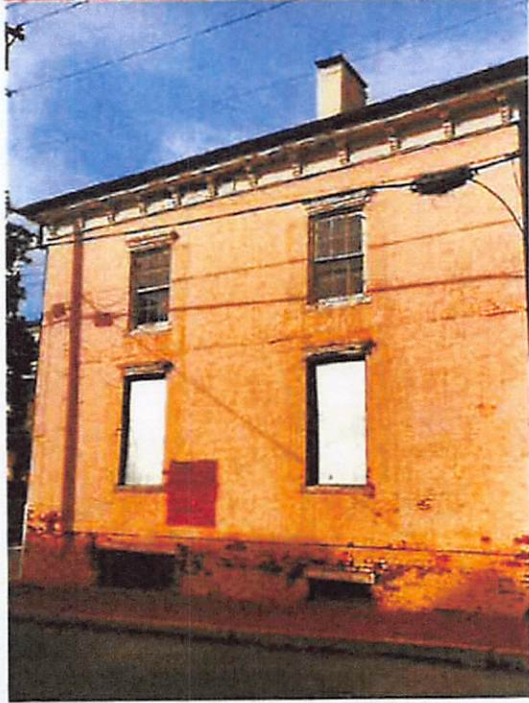
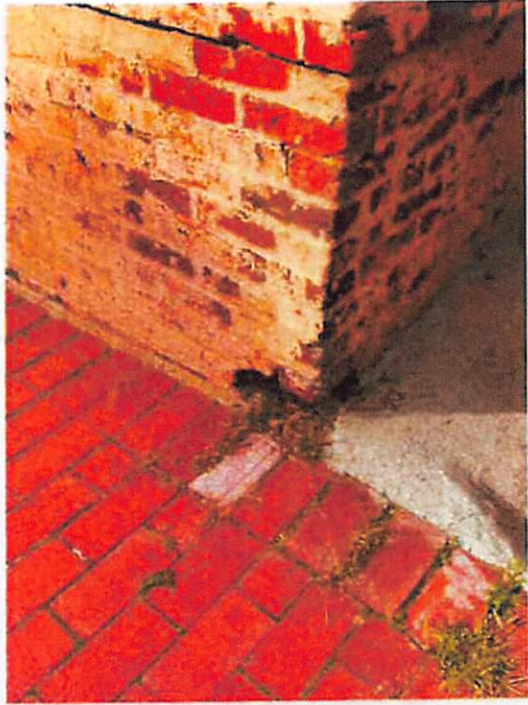
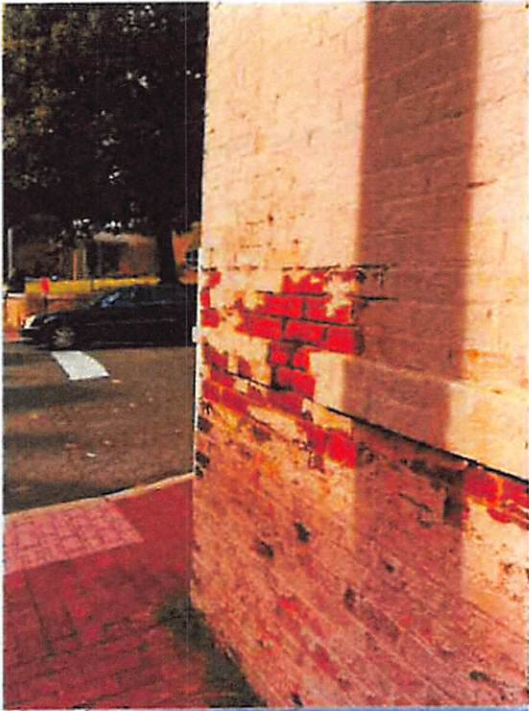
Pictures: Taken November 17th, 2023

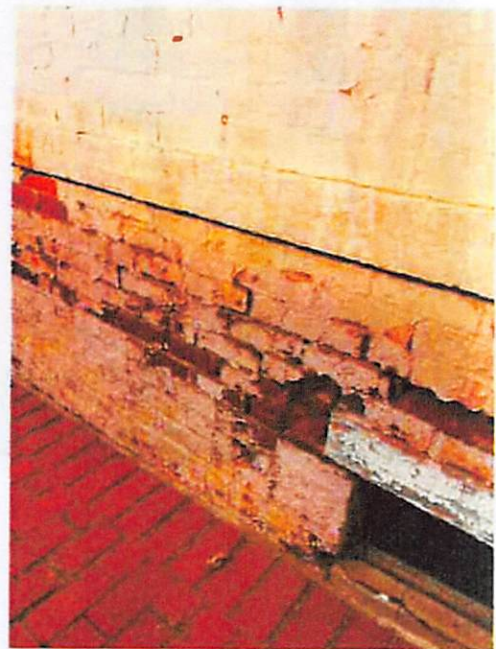
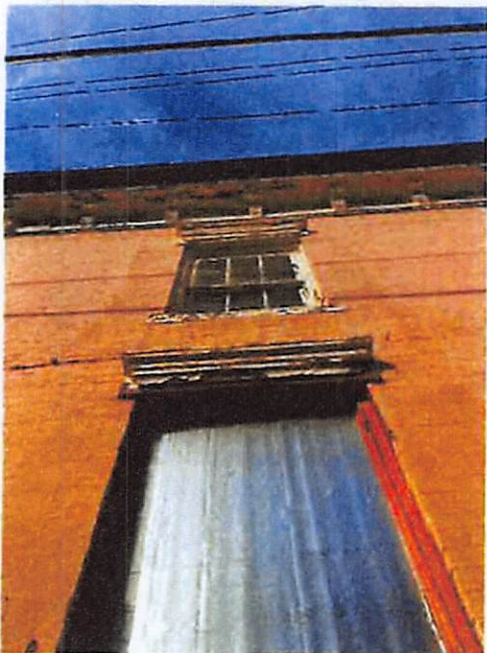
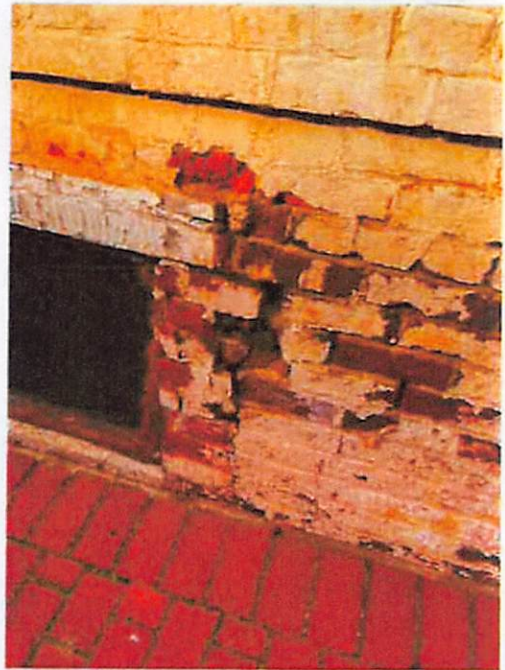
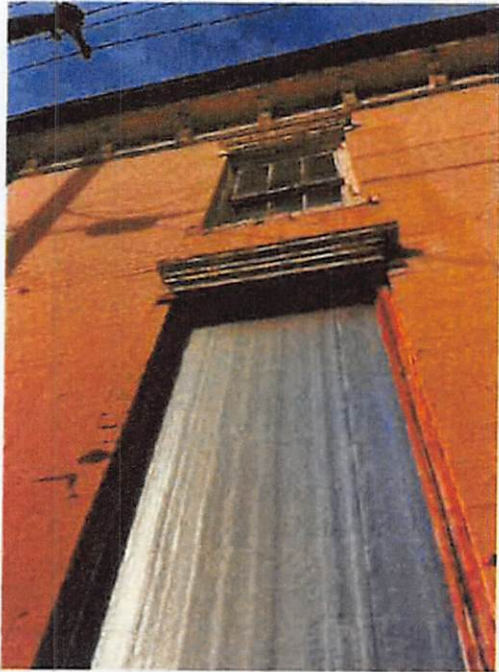












107
APPEALS

107.5 Right of appeal; filing of appeal application.

Any person aggrieved by the local enforcing agency's application of this code or the refusal to grant a modification to the provisions of this code may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA within 14 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and, in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a code official's decision.

107.6 Meetings and postponements.

The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a period of up to 45 calendar days shall be permitted where the LBBCA has regularly scheduled monthly meetings. A longer time period shall be permitted if agreed to by all the parties involved in the appeal. A notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

107.7 Hearings and decision.

All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the code official's decision in question shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The LBBCA shall have the power to uphold, reverse, or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be explained in writing, signed by the chairman and retained as part of the record of the appeal. Copies of the written decision shall be sent to all parties by certified mail. In addition, the written decision shall contain the following wording:

“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 the written

decision. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 3717150.”

107.8 Appeals to the State Review Board.

After final determination by the LBBCA in an appeal, any person who was a party to the appeal may further appeal to the State Review Board. In accordance with § 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the code official for state-owned buildings or structures shall be made directly to the State Review Board. The application for appeal shall be made to the State Review Board within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the code official’s decision. For appeals from a LBBCA, a copy of the code official’s decision and the written decision of the LBBCA shall be submitted with the application for appeal to the State Review Board. Upon request by the Office of the State Review Board, the LBBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the code official’s decision and other relevant information with the application for appeal to the State Review Board. Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no further appeal is made.

302

EXTERIOR PROPERTY AREAS

302.3 Sidewalks and driveways.

All sidewalks, walkways, stairs, driveways, parking spaces and similar spaces regulated under the VCC shall be kept in a proper state of repair and maintained free from hazardous conditions. Stairs shall comply with the requirements of Sections 305 and 702

304

EXTERIOR STRUCTURE

304.1 General.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety, or welfare.

304.2 Protective treatment.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood

surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and watertight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.4 Structural members.

Structural members shall be maintained free from *deterioration* and shall be capable of safely supporting the imposed dead and live loads.

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.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.

304.8 Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions.

Overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.13 Window, skylight, and door frames.

Every window, skylight, door, and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing.

Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows.

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.15 Doors.

Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

605.1 Electrical components.

Electrical equipment, wiring, and appliances shall be maintained in accordance with the applicable building code.

STRUCTURE UNFIT FOR HUMAN OCCUPANCY: An existing structure determined by the code official to be dangerous to the health, safety, and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

UNSAFE STRUCTURE: An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.



TOWN OF WARRENTON

Community Development Department

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
permittech@warrentonva.gov
(540) 347-2405

LOCAL BOARD OF BUILDING CODE APPEALS BUILDING CODE APPEAL REQUEST

Return the completed form, a copy of the Building Officials decision, and all supporting documentation to the address above.

PROJECT INFORMATION

Project Name: Stop the Injustics. Lower the sidewalk and stop the flooding
Project Address: 3 Hotel Street
Permit Number or Case Number: _____
Tax Map or PIN#: _____

APPLICANT INFORMATION

Applicant Name: Hotel Street, LLC
Street Address: 3 Hotel Street, WarrentonVa 20186
State: _____
Zip Code: _____
Phone: 703-869-0096
Email: October121492@icloud.com

OWNER INFORMATION

Check if same as applicant

Owner: _____
Street Address: _____
State: _____
Zip Code: _____
Phone: _____
Email: _____

APPEAL INFORMATION

Appealing decision made by the: Building Official Fire Official Property Maintenance Official

On (date): 12/8/2023

Codes (IBC, IMC, IPMC, Etc.) and edition year: 2018

Code Section: _____

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision: (Attach and number any additional pages as needed.)

27 Pages Attached. Plus Nine Pages - Town's notice 12/8/2023

NAME Macdonald, Michael

ADDRESS 5A1

PERSONAL SERVICE

Being unable to make personal service, a copy was delivered in the following manner

Delivered to person found in charge of usual place of business or employment during business hours and giving information of its purport.

Served _____

Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.

Posted on front door or such other door as appears to be the entrance of usual place of abode, address listed above. Other authorized recipient not found.

NOT FOUND Reason _____

MOS D. Teitelbaum
SERVING OFFICER

JEREMY A. FALLS
SHERIFF

4-9-24
DATE



TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
Landdevelopment@warrentonva.gov
(540) 347-2405

January 23, 2024

Dear Property Owner:

The Board of Building Code Appeals of the Town of Warrenton held an appeal hearing for 45 Winchester Street on January 12, 2024. The applicant was not present therefore the board deferred the meeting to a later date. The Board of Building Code Appeals will hold an appeal hearing for 45 Winchester Street and 3 Hotel Street at the following time and location:

Wednesday, March 27, 2024
5:00 PM
Warrenton Town Hall
Council Chambers (First Floor)
21 Main Street, Warrenton, VA

Respectfully,

Hunter Digges
Building Official
Town of Warrenton



TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
Landdevelopment@warrentonva.gov
(540) 347-2405

March 7, 2024

Dear Property Owner:

The Board of Building Code Appeals of the Town of Warrenton held an appeal hearing for 45 Winchester Street on January 12, 2024. The applicant was not present therefore the board deferred the meeting to a later date. The Board of Building Code Appeals will hold an appeal hearing for 45 Winchester Street and 3 Hotel Street at the following time and location:

***Wednesday, March 27, 2024
5:00 PM
Warrenton Town Hall
Council Chambers (First Floor)
21 Main Street, Warrenton, VA***

Respectfully,

Hunter Digges
Building Official
Town of Warrenton



TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
TELEPHONE (540) 347-1101
FAX (540) 349-2414

VIRGINIA PROPERTY MAINTENANCE CODE 107.7 DESCRIPTION OF DECISION OF THE TOWN OF WARRENTON BOARD OF BUILDING CODE APPEALS

TO: Michael and Etsuko Macdonald
FROM: The Town of Warrenton Board of Building Code Appeals
DATE: 3/29/2024
RE: Case Number ENFC-23-99 (3 Hotel Street, Warrenton, VA 20186)

Mr. and Ms. Macdonald,

On March 27, 2024, the Town of Warrenton Board of Building Code Appeals met to hear your appeal of Case Number ENFC-23-99. Once available, copies of the minutes will be available online at the Town of Warrenton's website.

At the hearing, the Town of Warrenton Board of Building Code Appeals **upheld** the decision of the official by a unanimous vote of those present. You must perform the corrective action the Town of Warrenton's Building Official directed in the Updated Notice of Violation Pursuant to 2018 Virginia Property Maintenance Code 105.4, dated March 7, 2024. I have attached a copy of all relevant documents to this document.

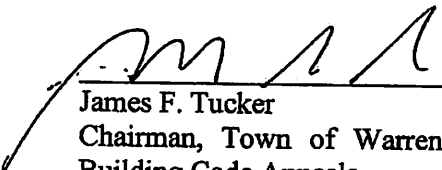
Pursuant to Virginia Property Maintenance Code 107.7, your appeal rights are as follows:

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 the written decision. Application forms are available from the

March 29, 2024
ENFC-23-99

Office of the State Review Board, 600 East Main Street, Richmond, Virginia
23219, (804) 371-7150.

Respectfully,



James F. Tucker
Chairman, Town of Warrenton Board of
Building Code Appeals

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

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

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



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

Hotel Street, LLC
92 Winchester Street
Warrenton Va 20186, 703-869-0096, Keith.macdonald@plural-us.com

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

Town of Warrenton
Hunter Diggs
21 Main Street, warrenton Va 20186, 540-347-1101, hdigges@warrentonva.gov

Additional Information (to be submitted with this application)

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

CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of May, 2024, 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: Keith Macdonald

Name of Applicant: Keith Macdonald
(please print or type)

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision. (Attach and number any additional pages as needed.)

1. Town to pay damages:

Lost Rents	\$950,000.00
Expenses	\$75,000.00
Punitive Damages	\$2,000,000.00
Discrimination	\$1,500,000.00
Defamation	\$1,500,000.00
Property Damage	\$200,000.00

Place a full-page notice in the paper for six months apologizing for discriminating, defaming, harassing, and causing harm to the property owners.

The Board shall direct the Town to make these reparations and payments:

Town steps to remedy their faulty infostructure at its expense:

2. The Town Shall remove sidewalks and road grades and return the grading of Court Street, Wall Street, Hotel Street, and Culpeper Street to the original grading when 3 Hotel Street building was built.
3. Allow Hotel Street, LLC to excavate down to the building footers to replace frozen/cracked bricks and install water barriers and drain tile as required.
4. Allow Hotel Street, LLC to reinstall removed window boxes on Hotel and Culpeper Streets.
5. Allow Hotel Street, LLC to reinstall the front porch fronting onto Hotel Street should it be desired.
6. The town shall install water run-off capture heads as required on Court Street, Wall Street, Hotel Street, and Culpeper Street.
7. The town shall reinstall a grouted brick walkway where it was removed for remediation work.
8. The town shall use permeable concrete in the construction of the sidewalk.

9. The town shall install weep holes every 6” along the curb to allow drainage.
10. The town shall install the sidewalk a minimum of 4” below the lowest point of any windowsill.
11. The town shall install the sidewalk with a minimum slope of ¼” per-foot away from the building.
12. The town shall install proper watertight expansion joints along the sidewalk and building interface.
13. The town shall move the water meter out of the street.
14. The town shall continue the sidewalk along Hotel Street up to Court Street
15. The town shall make Hotel Street one-way from Court Street to Culpeper and Ashby Street.

The Board shall direct the Town to make these repairs, modifications, and alterations.

Documents Submitted
by
Hotel Street LLC
via Keith MacDonald

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REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision: (Attach and number any additional pages as needed.)

1. Town to pay damages:

Lost Rents	\$950,000.00
Expenses	\$50,000.00
Punitive Damages	\$2,000,000.00
Defamation	\$1,500,000.00
Property Damage	\$150,000.00

Place a full-page notice in the paper for six months apologizing for discriminating, defaming, harassing, and causing harm to Keith Macdonald and Etsuko Macdonald.

The Board shall direct the Town to make these reparations and payments:

Town steps to remedy their faulty infrastructure:

2. The Town Shall remove sidewalks and road grades and return the grading of Court Street, Wall Street, Hotel Street, and Culpeper Street to the original grading when 3 Hotel Street building was built.
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4. Allow Hotel Street, LLC to reinstall removed window boxes on Hotel and Culpeper Streets
5. Allow Hotel Street, LLC to reinstall the front porch fronting onto Hotel Street should it so choose.
6. The town shall install water run-off capture heads as required on Court Street, Wall Street, Hotel Street, and Culpeper Street
7. The town shall reinstall a grouted brick walkway where it was removed for remediation work.
8. The town shall install weep holes in the curb to allow for drainage.
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14. The town shall make Hotel Street one-way from Court Street to Culpeper and Ashby Street.

The Board shall direct the Town to make these repairs, modifications, and alterations.

1. Permit filed with the town on 2/11/2016
2. Sent email to mayor & council 29 days and not getting a permit / Run around 3/10/2016
3. Sent email to mayor & council 49 days and not getting a permit / Run around 4/10/2016
4. 4/13/2016 Whitson Robinson, (Attorney) Sarah Sitterle, Roger Mercer (building official), Bob Hale, (building official), Brandie Shafer (Director of Public Works) meeting to discuss permit & sidewalk
 - i. "New process & requirements" for **ALL NEW** building permits and "I am the first one." Requiring a full set of architectural & engineering drawings for the renovation.
 - ii. Town will not issue a permit to address the sidewalk or flooding
5. Hired MEP Engineering to produce Mechanical, Electrical, and Plumbing drawings on 4/29/2016
6. MEP deliver first preliminary drawings 08/04/2016
7. MEP deliver Final drawings 09/30/2016
8. Check Status of building permit 2/1/2017 Kelly Machen more delay tactics
9. Red Line on drawings back from town 02/13/2017 - Drawing approved
10. **A limited permit Issued on June 19th 2017 that did not allow for any steps to address the water leaks and flooding Via the sidewalk. The Town took 494 Days to Issue the permit.**
11. **08/05/2020 Sent email to Brandi Shafer, Whit Robinson, CC Brad Polack regarding flooding & water runoff – DID NOT GET A REPLY**
12. **On June 24th 2021 the Town sends a "Notice of Violation" UN-FUCKING BELIEVABLE.**
13. **Sent VIA Attorney on February 6, 2022 Engineering report to the town attorney, town manager, and town building official did not receive a response. Until May 12 2022**
14. **The Towns response was TOTAL BULLSHIT – Written by the unqualified town staffer, "I'm Going to Get you" Frank Cassidy**

Frank's less than eloquent, unqualified, bullshit opinion follows:

From: Frank Cassidy <fcassidy@warrentonva.gov>
Sent: Thursday, May 12, 2022 2:06 PM
To: Martin Crim <mcrim@vfnlaw.com>
Cc: Brandie Schaeffer <BSchaeffer@warrentonva.gov>
Subject: RE: Hotel Street - Site Report - Water Flooding

Good afternoon.

Please accept this as a brief report and response as result of a site inspection of the property as requested:

Our Superintendent and I inspected the property today after reviewing the report and pictures.

In short, the Town took steps to better the drainage and sidewalk approximately 10 to 15 years ago. Our observations are the water is directed away from the building as follows and indicated in the attached photos:

- The sidewalk along Culpeper St is angled towards the curb- water flows outward from the structure- Photo "Hotel St- culpeper 1"
- The water is diverted away from the sidewalk on Hotel St, near the property line with an asphalt ramping from the drainpipe to the outside curbs edge along Hotel St- Photo "Hotel ST- hotel side 4"

During our inspection, it was obvious there are several areas along the base of this structure where water can be entering the building. These areas are through windows or other open areas of the structure, and other sections of the structure not properly maintained and not part of any of the sidewalk. For example:

- Window along Culpeper St, Photo- Hotel St- culpeper side 2, there is a "plexi-glass" or plastic cover with old and inadequate sealant. This has been there for several years. Window area not properly sealed.
- The window along Hotel St, Photo- Hotel St- hotel side 2, there is a rotting board covering a window. There is a gap between the sidewalk brick and the structure and a slight rise of what appears to be a windowsill. Window area is not properly sealed.
- There are areas adjacent to the structure where bricks were removed exposing earth. These bricks were not removed by the Town. Photos- Hotel St- hotel side 1 and 3.
- The alley area along Culpeper St, between this structure and the structure at 12 Culpeper St is not being maintained. There is a rain gutter which drains directly into the alley way; there are two access points into the structure which are not secured and will allow intrusion not only by water, but vermin and other items as well; and there are leaves and equipment which interfere with proper drainage on this area. Photos- Hotel St- Alley 1, 2, 3, and 4.

There are several areas of the entire exterior of this structure which are in disrepair from lack of maintenance and neglect. The remaining photos show some of these items.

It is obvious if there is water going into this structure, there are several entry points well beyond the alleged issues "caused" by the sidewalk improvements.

Given this, we do not see what actions we can take to address the concerns from a Town perspective.

Please let me know if you require additional.

Thank you

Keith Macdonald



TO: BRUCE FORD



Details

11/15/2020 at 4:02 PM

3 Hotel Street / Pending Suite

Dear Brandie, Frank, & Whit,

I know you are all well, as I have not heard otherwise, which is a good thing.

I need to move forward on 3 Hotel Street and get that property producing money and more taxes. I have repeatedly asked for the proper zoning and use for my building at 3 Hotel Street. Most recently, March 29th, 2020, to which I yet to receive a reply.

Property Classification:

I need the town to provide me a letter stating the use of 3 Hotel Street is suitable as a single-family home. I am tired of your misinterpretations of the zoning ordinances regarding this property. Buildings built 75 plus years before the invention of cars do not need driveway and garages to function as single-family homes – there are tens of dozens of examples in the CBD and Historic District of this. Failure to produce such a letter will result in litigation to find a remedy. Time is of the essence – if you would like to meet to resolve this issue, my calendar is open.

Sidewalk & Road Way Grading:

I have conclusive documented evidence that the town has raised the grade several times on the land adjacent to 3 Hotel Street on both street facings. This has caused extensive property damage to 3 Hotel Street. I have conclusive documented evidence that the town removed three window boxes, which has again caused extensive property damage to 3 Hotel Street. The removal of the window boxes has also lowered the property, safety, utility, and value.

I have conclusive documented evidence that the town contractor, when last installing the sidewalk, penetrated the vault basement roof and failed to seal it from water. Since that time a constant flooding has occurred in the basement of 3 Hotel Street.

I have conclusive documented evidence that the town's scheme to run rainwater run-off from Court Street and Hotel Street to the nearest sewer drain on Lee Street fails to meet design guidelines and causes the routine flooding thru the front door of 3 Hotel Street.

I will require the town at its expense to remedy these issues. Remove and lower the sidewalk back to its original 1840 level. Lowering the roadway accordingly, and extending the Lee Street sewer line to place a sewer drain box in Culppeper and Hotel Street vicinity. Property seal the vaulted basement roof area to eliminate water penetration into the shell of 3 Hotel Street.

I hope this letter will focus your attention on these matters and that we can work together to quickly address and remedy the problems so that litigation will be avoided. Please feel free to call to discuss or clarify. My calendar is open to meeting at your convenience, or we can zoom/skype if preferred.

Regards,
M. Keith Macdonald



610 Professional Drive # 108
Gaithersburg, Maryland 20879
Ph: (301) 637.2510
Fax: (240) 252.5612



February 6, 2022

Mr. Keith McDonald
Investment Property Management
3 Hotel Street Warrenton, VA 20186

RE: 3 Hotel Street
Warraton, VA
Street Drainage Concerns
CV # 20221005

Mr. McDonald:

A field meeting was held at the subject address on January 24, 2022 to evaluate and provide plausible solutions to decrease the volume of stormwater flowing against the building. The area of focus was limited to the building line fronting Hotel Street.

It's reported that storm water draining from the intersection of Main Street and Court Street flows down Hotel Street and up the depressed brick ramp in front of and then flows against the building for its full length. Other possible contributing drainage areas (although insignificant in volume) include the roof gutter systems from both the subject property and the adjacent 7 Hotel Street.

Stormwater does enter 3 Hotel Street in three generally locations; the at-grade stoop, the English (basement) window and at through various points along the building/ sidewalk's grade interface (see attached photos).

There are significant concerns that the continuous water intrusion is having a deleterious structural effect on the basement walls, adjacent wooden beams/joists and, the construction of the sidewalk may have accelerated the rate of inflow.

The field evaluation and interior review of the structure, as well as a video and pictures of the storm water flowing as described (provide by the owner) tend to verify the owners' noted concerns.

This report will outline the evaluator's findings and recommend corrective actions to mitigate the water intrusions. It's important to note that the Town was contacted and record drawings or other plans that may have been used for the sidewalk's construction where not available. Historical building inspections and or pre/post streetscape inspection documents are unavailable as well.

This report is not intended to provide architectural or structural evaluations, methods or recommendations to repair or modify the building, assign fault, or pass professional judgment against those involved with the design, construction, and inspection of the brick streetscape on Hotel Street. This report of finding will make recommendations to decrease the volume of surface flows against the building and suggest various methods to decrease infiltration.

EVALUATION

Streetscape improvements by the Town included the installation of brick pavers installed on a concrete base. It appears that the sidewalk grades along Hotel Street were raised to provide an ADA accessible route in front of the subject property. The sidewalk was installed flush to the edge of the existing entrance's door stoop and encased the bottom 3-1/2" of the door's exterior butted casings. The concrete base appears to have been poured directly against the building without the benefit of flashing, flexible expansive materials or sealants.

Without the benefit of pre-streetscape inspection of the building foundations or streetscape construction plans, it is difficult to determine to what extent the improvements may have affected the structure. Nevertheless, storm water flowing against the building should be addressed to prevent further deterioration of the circa 1870 foundation and related assemblages.

SUGGESTED STREETScape MODIFICATIONS

Diverting the storm water around the brick sidewalk is critical. This may be accomplished with the removal of the existing curb and ramp and installing a higher concrete curb. The installed curb should tie back to the existing curb in the vicinity of the brick wall at the wood fence.

The roof's downspouts should continue to discharge up stream of the noted new curbing. Care should be taken to avoid the water meter and its vault. It may also be necessary to slightly modify the street paving to channel the higher flows away from the curbing.

The brick sidewalk abutting the building should be lowered approximately 4" and sloped toward the street to decrease the volume of water flowing against the building. The reinstalled sidewalks should be constructed with the maximum cross slope permitted by ADA regulations. The new section should include, at a minimum the installation of a flexible expansive material between the walk and the building to allow for expansion and contraction of the dissimilar materials while providing a 'gasketed' joint at their interface.

To improve aesthetics, a ground based decorative concrete planter box/seat bench with two protective traffic bollards (on its west side) could be installed. The decorative 'greenscaping' could be constructed on top of or incorporated within the curb to provide public seating with seating oriented toward the reinstalled sidewalk.

DESIGN PLAN RECOMMENDATIONS

An architect with significant experiences with building foundations comparable to 3 Hotel Street should be consulted to inspect the envelope focusing on the basement/ground level and its interface with the sidewalk. An existing condition survey should be performed as part of the design. Detailed photographs and measurements (vertical and horizontal) should be taken to document the existing conditions both interior and exterior of the subject property. These records will serve as benchmarks to monitor potential settlement and document the effectiveness of the installed barrier system(s).

An architect and CV Inc. can provide a reconstruction plan that includes detailed elevations, sidewalk cross slope adjustments and the "greenscape" barrier system. The plans should also include detailed construction drawings specific to the English basement window area.

During construction, any exposed/degraded foundation joints should be repaired as directed by a qualified architect or mason. The architect should recommend an appropriate barrier system to provide the maximum protection from expansion and contraction of the sidewalk section and the natural movement of the building while preventing water intrusion.

The Town maintains the sidewalks. Any invasive inspections of the sidewalks or building foundation from the exterior should be approved by and permitted the Town. Conversely, any proposed improvements and or restoration of the 'public' infrastructure should review and approved and permitted by the Town.

Although this report focused on the frontage of 3 Hotel Street, the entire envelope should be inspected including the concrete walk/drainage area within the alley between 3 Hotel Street and 12 Culpeper Street to determine if similar factors are impacting the foundation in these areas.

CV. Inc. is prepared to discuss this report further with you, your architect and or the Town if requested for an additional fee.

Thank you for your continued trust.
Sincerely, CV. Inc.

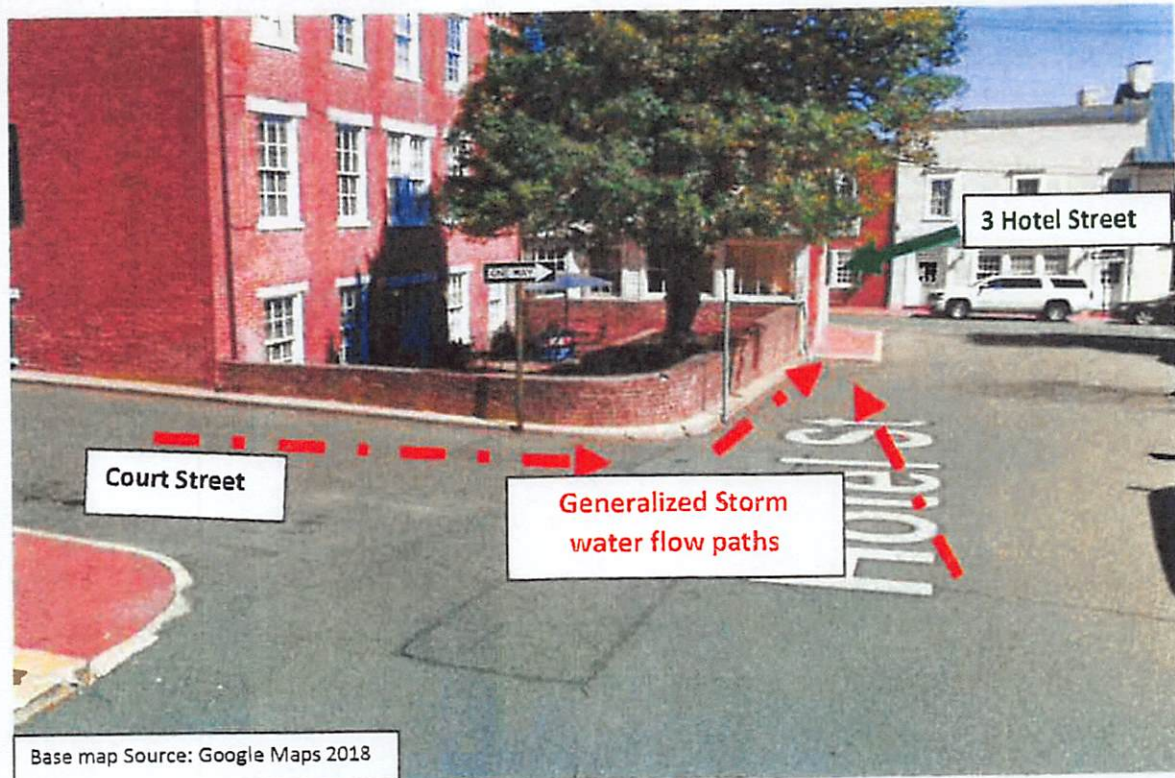
Michael F. Schramm
Project Manager -Special Projects

Attachments

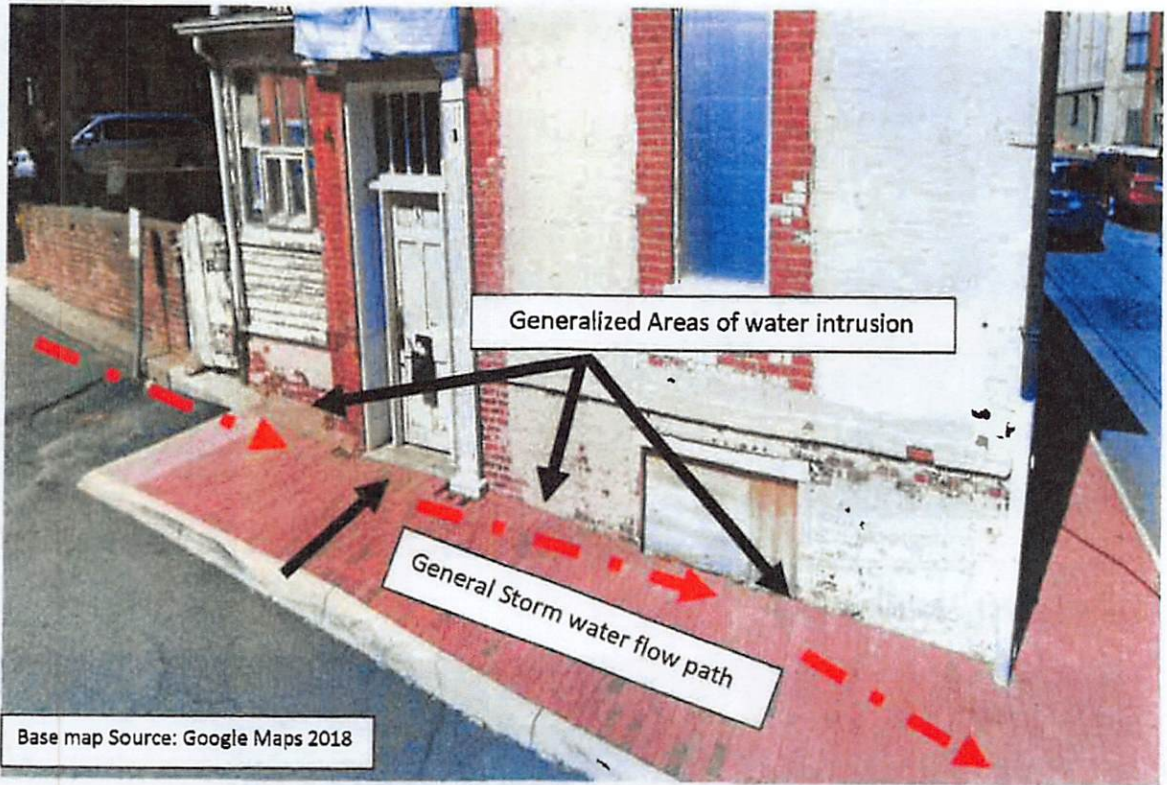
**3 HOTEL STREET WARRENTON VA
PROJECT PHOTOS
SITE VISIT JANUARY 23, 2022**



Hotel Street (Looking East)



3 HOTEL STREET WARRENTON VA
PROJECT PHOTOS
SITE VISIT JANUARY 23, 2022









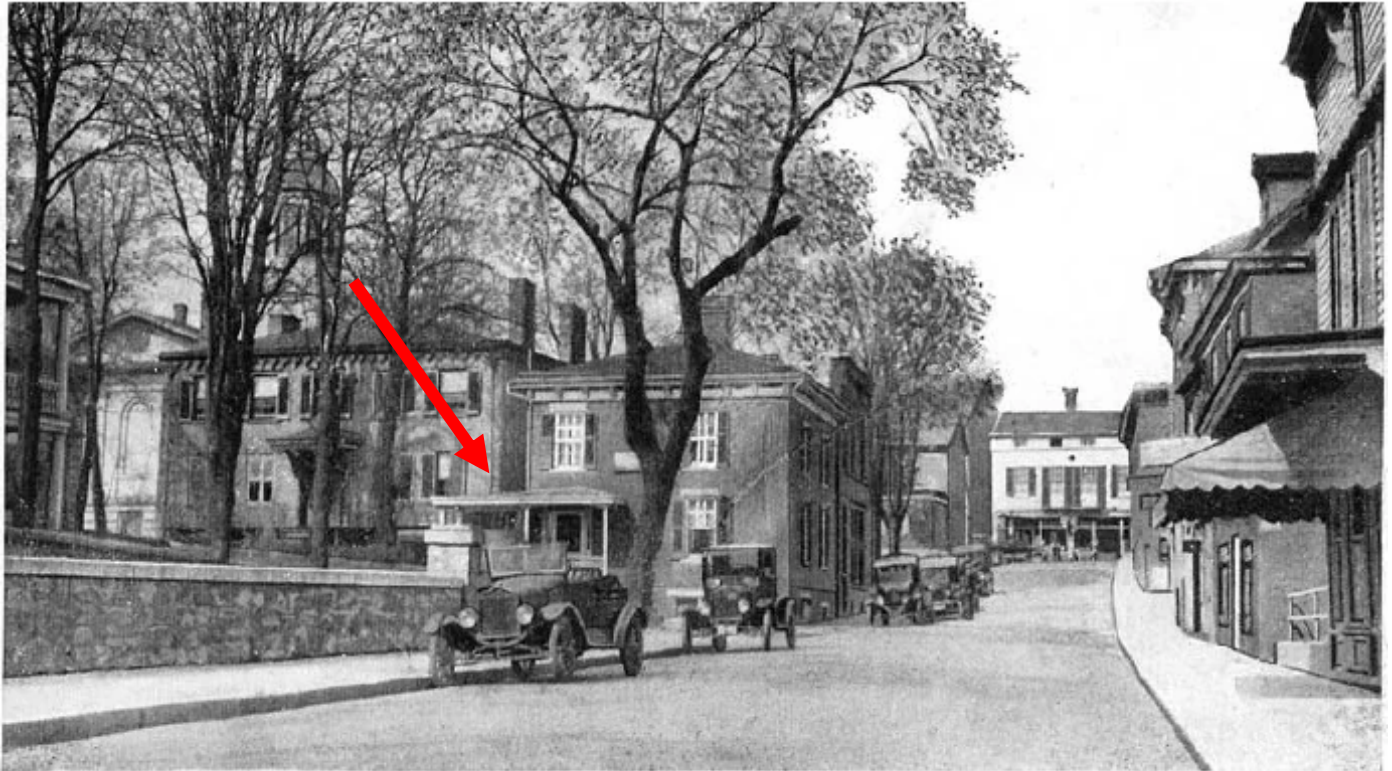




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A SAD LITTLE TOWN
RUN BY CROOKS AND IMBECILS

Part 1



Culpeper Street, Warrenton, Va.

110926

3 Hotel Street
Circa 1920

Note the Front Porch
Which extends 8' out from the front of the building into
the current street?

In June of 1948. Harcourt Lees purchases 3 Hotel Street. He ran his realty and insurance business out of the building until about 2010.

D. Harcourt Lees seen here at age 90 on his birthday.



From 1948 to 2015, when the estate of Harcourt Lee sold the property to the current owner, 3 Hotels Street sat prominently at the corner of Hotel and Culpepper Street.

IN A STATE OF DISREPAIR

For over 35 years



Photographs were taken one month before the current owner purchased the property.

It was a promising little slum in the heart of town.
Many who drove by aspired to have it.

IN A STATE OF DISREPAIR
For over 35 years





IN A STATE OF DISREPAIR
For over 35 years





ANSWER THE QUESTION:

In the 35+ years that this building sat in the condition shown here, did the Town of Warrenton ever take action or send notice to D. Harcourt Lees regarding the condition of his property?

FACT:

In the first 30 days of ownership, The current owner did more to improve the property than their prior owner did in twenty years.





FACT:
MORE improvements
and more investment in the first
30 days Than the past owner did in 30 years ●



QUALITY WORK



Unlimited Budget



Infinite Quality

UNTIL: the
town of
Warrenton's,
Crooks and
Imbeciles get
involved.

AKA, the mayor, the town manager, the town attorney, and a lazy, stupid town council that doesn't ask any questions and lives in fear and ignorance of town staff acts.

OBSTRUCTION
DISCRIMINATION
CONSPIRACY
COLLUSION
DEFAMATION
HARASSMENT

FACT:

The town acts have caused the property owner to lose over \$1.5 million in income since 2015 on his Hotel Street Property.

OBSTRUCTION DISCRIMINATION

The building owner applied for a building permit on
February 11, 2016

The building owner sent an email to the mayor and
Town Council 29 days later, on March 10, 2016,
noting that a permit had not been issued on time.

The building owner sent an email to the mayor and
Town Council 49 days later, on April 10, 2016,
noting that a permit had not been issued on time.

On April 13, 2016, a meeting was held in the building
Department downstairs conference room @ 2:30 PM.

OBSTRUCTION
DISCRIMINATION
CONSPIRACY

After 62 days of delays, town staff had sufficient time to devise and coordinate a plan to OBSTRUCT. Now a meeting is held.

At the meeting are:

Whitson Robinson, (Attorney)

Brandie Shafer (Director of Public Works)

Bob Hale (Building Official)

Sarah Sitterle

Roger Mercer (Building Official)

1. Whit Robinson clearly states that the town does not / will not issue a permit for the sidewalk because of liability issues.
2. Whit Robinson clearly states that the town does not want to address the water issue because it is “unnecessary.”

3. Brandie Shafer clearly states that the town is implementing a “New Building Department Policy” and that I am the first “Implementation” (aka FIRST PIGGY TAKEN TO SLAUGHTER)
 - a. The NEW POLICY... A full set of architectural and engineering drawings is NOW REQUIRED with ALL building applications.
4. Brandie Shafer clearly asked about funding for the project. I answered that the build-out budget was 250K, and I had more than enough cash in hand, but I would borrow the money as it was cheaper to borrow and keep my other investments in place.
5. Brandie Shafer clearly asked who I was banking with. I replied with my bank and banker’s name.

Meeting takeaways:

1. The town will not address the water runoff or lower the sidewalks.
2. The town *NOW* requires a full set of architectural drawings.
3. Brandy Shaffer knows who my banker is.

I hired a licensed engineering firm and delivered their work product to the town building department on August 4, 2016.

182 Days later, after delivering the finished Engineering drawings to the town, I asked On February 1, 2017...

I enquired with the town building department, Kelly Machen, where the permit is – The Town response was the typical delay Bull Shit...

February 2, 2017

Good Morning Mr. Macdonald,

I have taken a look at your permit application. At this time, in order to complete the review of your building permit for 3 Hotel street, we need to see the following items:

1. Show on the plans how the Certificate of Appropriateness is to be met
2. The location and description of all exterior work needs to be shown on the plans
3. Full building plans, as per the building official

Please let me know if you have any questions.

Thank you,
Kelly

At this point, the town had the application for a permit since February 11, 2016, or 356 Days.

Why has it taken 356 days to ask these questions?
Why has it taken 356 days to issue a permit?
The FINISHED Engineering drawings covered all of
her questions!

A: The town engages in a tactic that I call *Moving the Goalpost*. Let's play moving the goalpost Ready!

Step 1. Submit application.

Step 2. Wait, wait for the town to reply.

Step 3. Follow up on the application.

Step 4. The town will reply with one simple question.
“who is the general contractor?”

Step 5. Answer with the name of the general
contractor or tell the town that you self-perform.

Step 6. The town will reply. You need a licensed
contractor.

Step 7. You give a GC name.

Step 8. The town asks for the GC license #

Step 7. You reply I don't need a general contractor; I
can self-perform.

Step 8. The town will now ask you about your subcontractors. Repeat processes 1 through 7 for every different license type – ONE by ONE by ONE....

Step 9. The town will then ask you for information you've already given them, such as the type and location of work being done on the exterior of the building.

Step 10. The town will create a new set of requirements – Like requiring a full set of architectural drawings – *YOUR screwed don't collect \$200. Hire an attorney... or* Start OVER and GO BACK TO step ONE.

Moving the Goalpost

February 6, 2017

The town stated in an email that a COA is needed for this project but can't be issued until the building plans are approved.

Fact: The COA was already issued over a year ago but has now expired because of the length of time the town has taken to produce a building permit.

The town's permit tech software dropped the COA from the system one year after the issuance date.

Fact: The town already had all the information needed to answer the February 2nd email's question.

Town Crooks and Imbeciles

CONSPIRACY COLLUSION

February 9, 2017

Brandie Shaffer asks for a site survey plat and documents as to the easement.

Why?

Fact: Individual #1 and Individual #2 partner sought real estate to accommodate a new specialty retail venture.

Fact: Individual #1 asked my bank manager to change my bank loan from a favorable 2.5% drawdown loan to a 5.5% structured loan with additional fees.

Fact: I received an offer through a realtor from an anonymous buyer... Guess Who?

OBSTRUCTION
DISCRIMINATION
CONSPIRACY
COLLUSION DEFAMATION
HARASSMENT

On March 20, 2017, I told the Town of Warrenton Building Official, Bob Hale, that if I did not have a building permit by the end of the week, I would board up the property and move on with other work.



June 19, 2017

The Town of Warrenton issued a partial permit on June 19, 2017. It did not allow exterior work to excavate the sidewalks, lower the sidewalk 4” below the windows, install window boxes, install drain tile, waterproof the basement, address the water runoff, or install drain heads in the area.



IT TOOK THE TOWN 494 DAYS TO ISSUE A USELESS PERMIT.



The economic LOSS to the owner to obtain a useless permit on day 494 is \$179,251.00¹.

1. \$101,150 in lost rent, \$15,000.00 to produce the engineering documents, \$6,400 in property taxes, \$10,000.00 in legal fees, \$1,400.00 in property & liability insurance, \$12,801 wasted labor, \$32,000 in administrative overhead. Useless permit \$400.00, COA PAID TWICE \$100.00

The windows and shutters were removed, stripped, and painstakingly rebuilt with polished antique glass, glazed, and painted with marine grade polyurethane, and were ready for re-installation in September 2016 - The owner has been waiting 2,760 days, or 7.516 Years, for the Town of Warrenton to

STOP_{the}

OBSTRUCTION

DISCRIMINATION

DEFAMATION

HARASSMENT

AND

ADDRESS THE FLOODING,
THE LEAKING, AND
EXTENSIVE PROPERTY
DAMAGE TO THE
INTERIOR

March 29th, 2020

1st email sent to Brandie, Frank, & Whit – NO REPLY

August 5, 2020

2nd email sent to Brandie, Frank, & Whit – NO REPLY

August 5, 2020

Dear Brandie, Frank, & Whit,

I know you are all well, as I have not heard otherwise, which is a good thing.

I need to move forward on 3 Hotel Street and get that property producing money and more taxes. I have repeatedly asked for the proper zoning and use for my building at 3 Hotel Street. Most recently, on March 29th, 2020, I have yet to receive a reply.

Property Classification:

I need the town to provide me a letter stating that 3 Hotel Street is suitable as a single-family home. I am tired of your misinterpretations of the zoning ordinances regarding this property. Buildings built 75-plus years before the invention of cars do not need driveways and garages to function as single-family homes – there are tens of dozens of examples in the CBD and Historic District of this. Failure to produce such a letter will result in litigation to find a remedy. Time is of the essence – If you would like to meet to resolve this issue, my calendar is open.

Sidewalk & Roadway Grading:

I have conclusive documented evidence that the town has raised the grade several times on the land adjacent to 3 Hotel Street on both street facings. This has caused extensive property damage to 3 Hotel Street. I have conclusive documented evidence that the town removed three window boxes, which has again caused extensive property damage to 3 Hotel Street. Removing the window boxes has also lowered the property, safety, utility, and value.

I have conclusive documented evidence that the town contractor, when last installing the sidewalk, penetrated the vault basement roof and failed to seal it from water. Since that time a, constant flooding has occurred in the basement of 3 Hotel Street.

I have conclusive documented evidence that the town's scheme to run rainwater run-off from Court Street and Hotel Street to the nearest sewer drain on Lee Street fails to meet design guidelines and causes routine flooding through the front door of 3 Hotel Street.

I will require the town to remedy these issues at its expense. Remove and lower the sidewalk back to its original 1840 level. Lowering the roadway accordingly and extending the Lee Street sewer line to place a sewer drain box in the Culpeper and Hotel Street vicinity. Properly seal the vaulted basement roof area to eliminate water penetration into the shell of 3 Hotel Street.

I hope this letter will focus your attention on these matters and that we can work together to quickly address and remedy the problems so that litigation will be avoided. Please feel free to call to discuss or clarify. My calendar is open to meeting at your convenience, or we can Zoom/skype if preferred.

Regards,

THIS IS HOW A CORRUPT TOWN GOVERNMENT OPERATES:

They won't address their malfeasance.

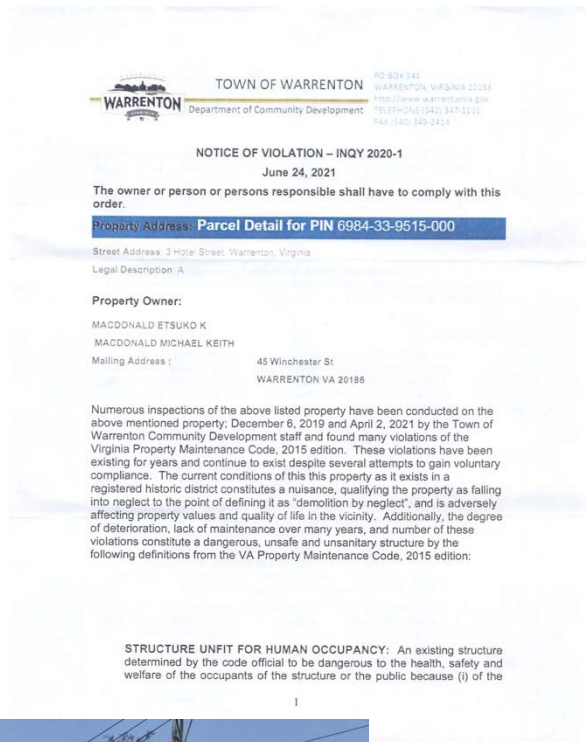
Just ... Fabricate false charges and
use the powers of the state to

OBSTRUCT

DISCRIMINATE

DEFAME AND HARASS... The LBCCA board sitting here tonight
is all part of the town's power to cast legitimacy on its acts using a board comprised of
Carefully chosen people.

On June 24, 2021 the town had the **audacity** to file a NOTICE OF VIOLATION on the same building that sat for 35 years.



IN A STATE OF DISREPAIR BY THE PRIOR OWNER



HARASSMENT pure and simple

A NOTICE OF VIOLATION ON THE SAME BUILDING THE town TOOK 494 DAYS TO ISSUE A USELESS PERMIT.



THE SAME BUILDING THAT ROUTINELY FLOODS DUE TO THE TOWN'S BUILDING AND CODE VIOLATIONS!

THE TOWN HAS REFUSED TO DO ANYTHING TO RESOLVE THE FLOODING

The owner has been working for 7.516 YEARS to get the town to address their improper and incorrectly installed infrastructure.

NOW, THE TOWN STARTS USING THE NOTICE OF VIOLATION AS A REASON FOR WHY THEY *CAN'T* ADDRESS THE FLOODING

The NOV is a tool for furthering the economic and social damage against the property owner, and the town looks great while doing it!

On Wed, Aug 18, 2021 at 12:25 PM Whitson Robinson <whit@wwrobinson.com> wrote:

Brad

I just sent it to staff. But he's got to get into compliance with his current NOV's before we can work on anything else. I'm about to go through everything with staff to file with the Court. Plus I've got to deal with Jim Carson and the possible plan Keith's family is looking at regarding Neptune Lodge given the cases pending in Circuit Court. I could spend a month on Keith's issues alone. I know he enjoys tying up staff time, but Council is now beating me up about trying to work with him. I've tried, but he's just not cooperating at all, and we could've had all of his issues resolved if he just tried to work with us. It's simply never ending. So now I'm given direction to spend time in Court and let Judges deal with him. Let's plan a time you and I can actually talk. But look into the family's plan with Neptune before we do please. Thanks so much Brad.

Whit, **REALLY?** *Whit, I'm the problem?*



Brad Pollack

Re: Hotel Street Water Issue

To: Keith

Arlington Avenue October 3, 2021, 5:11PM

No need. He has said nothing. He never called.

On Sun, Oct 3, 2021, 4:15 PM Keith Macdonald <1k@plural-us.com> wrote:

Brad,

Please call me about what whit said on the water issue.

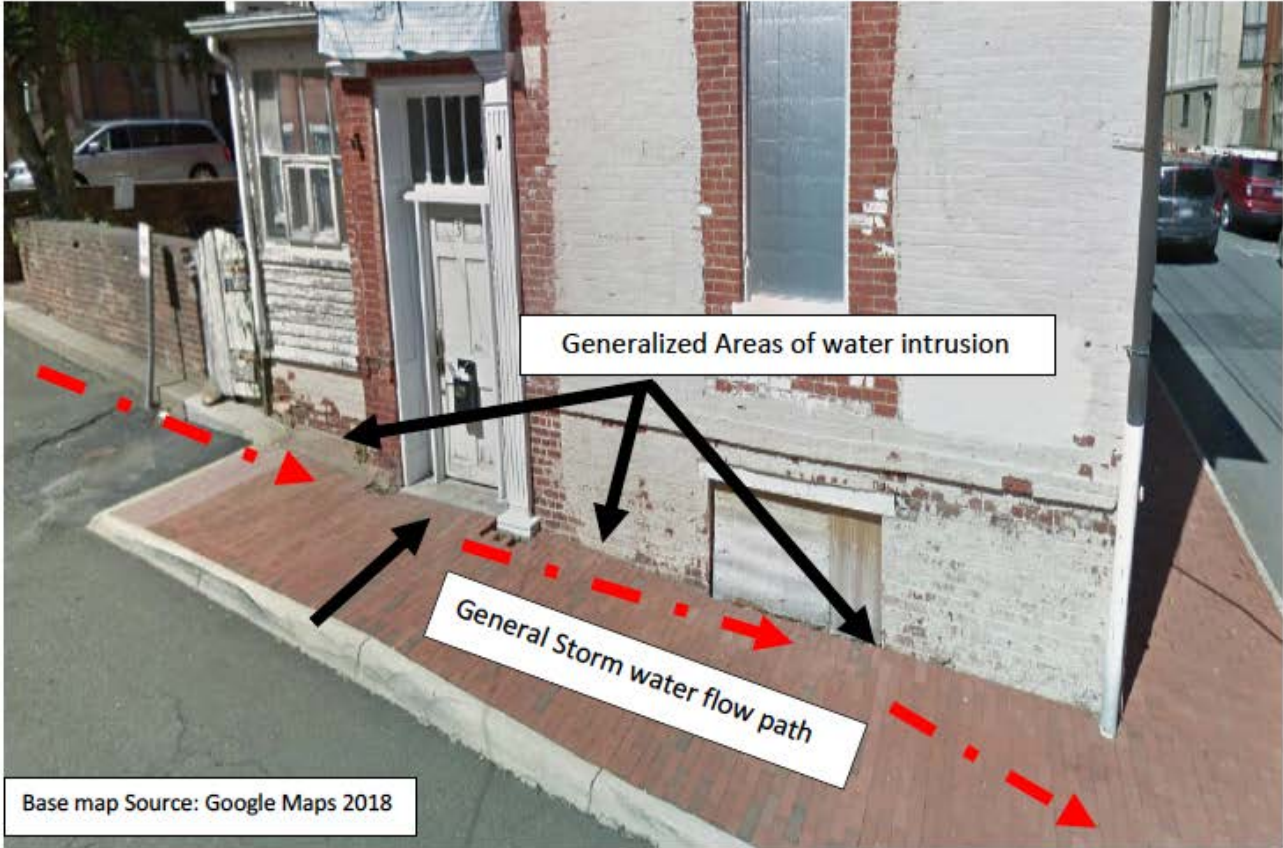
Keith

THE INFORMATION CONTAINED IN THIS E-MAIL AND ANY ATTACHMENTS IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ADDRESSEE(S) NAMED ABOVE. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE IMMEDIATELY NOTIFY ME BY TELEPHONE OR E-MAIL AT THE NUMBER OR ADDRESS ABOVE. THANK YOU.

NOW, the property owner ***IS*** the problem.

On February 8, 2022, the property owner delivered a licensed engineering report on the street water run-off and the damages to the Hotel Street property. As part of the owner's preparation for a lawsuit for damages.

**3 HOTEL STREET WARRENTON VA
PROJECT PHOTOS
SITE VISIT JANUARY 23, 2022**



FINALLY, AFTER 2,282 DAYS or 6.52
YEARS

On May 12, 2022, the town responded with its first communication on the issue...

FINALLY, a “REPORT”

the town responds with a “*REPORT*” from an

Unqualified, Unlicensed town staffer, Frank
Cassidy

The one and only

FRANK CASSIDY TA-DA, I'M

TOWN MANAGER NOW – MOM! – AKA “I'm
going to get you,” Frank Cassidy.” That
guy. *The jackass at the top is
the problem.* *Alone with several other sycophants*

AND... Wait for it. I know I had to for **6.52**
YEARS.

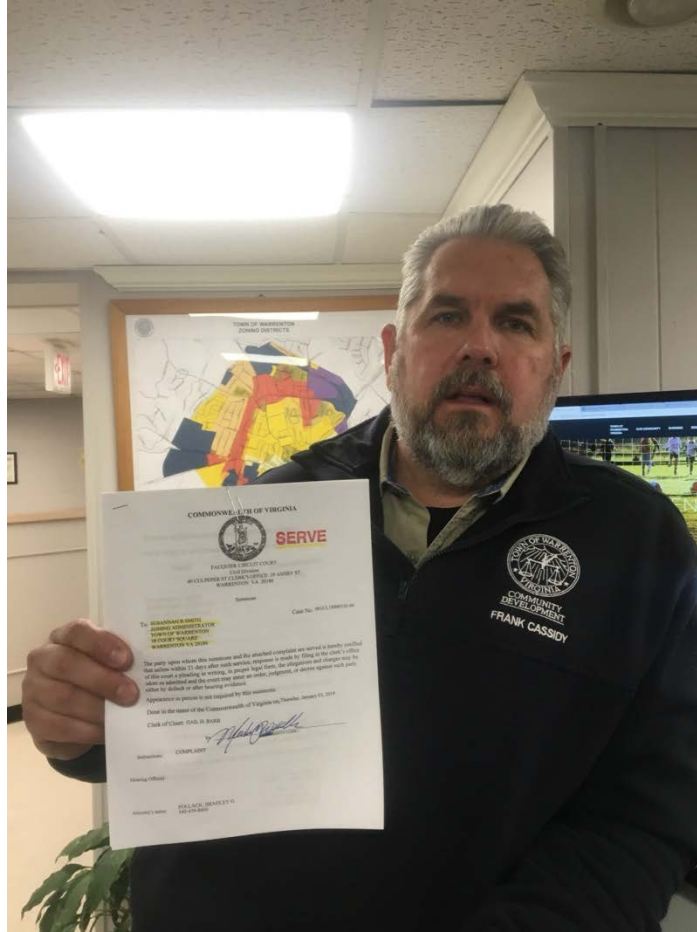
What did Frank Cassidy
SAY?

“ We do not see what actions we can take to address the concerns from a Town perspective.”

“ We do not see what actions we can take to address the concerns from a Town perspective.”

“ We do not see what actions we can take to address the concerns from a Town perspective.”

“ We do not see what actions we can take to address the concerns from a Town perspective.”



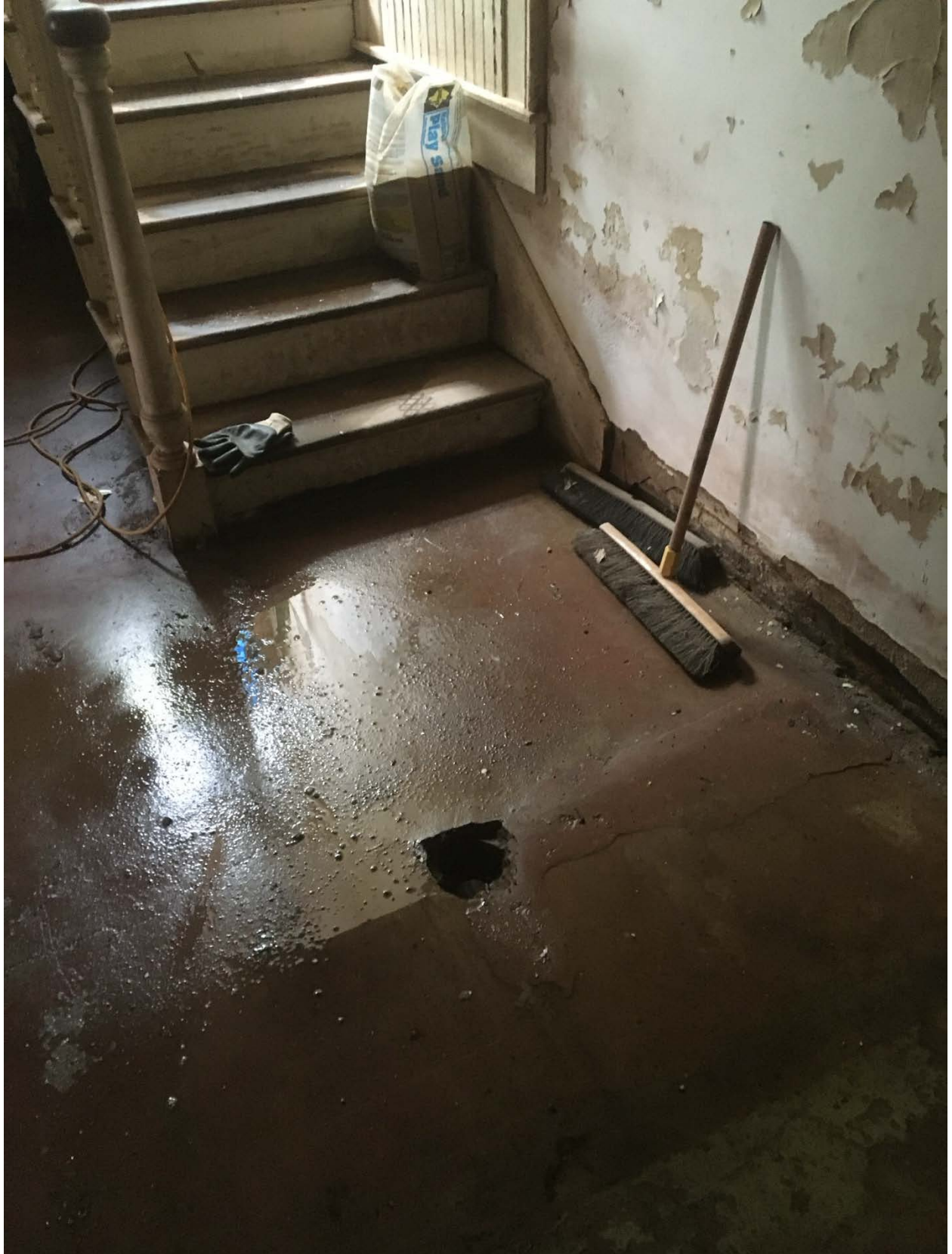
For two weeks, Frank hid. We tried to serve the town building official, but Frank wouldn't come out of his office.

But finally..., I get him.

It turns out Frank WASN'T the building official. It was someone else. FRANK HAD LIED as to his license when he told me it was his job to "GET ME," and that was why he was now hiding in his office.









Run
the flooding
Video... Taken July 3, 2022

Run
the flooding
Video... Taken August 12, 2022

Run
the flooding
Video... Taken July 9, 2023, etc. etc. etc.

Documents Submitted
By
Town of Warrenton

(Page left blank intentionally)

From: [Gwinn, M. Tolley](#)
To: [Luter, Travis \(DHCD\)](#)
Cc: [Keith Macdonald](#); [Hunter Digges](#); [Potts, Richard \(DHCD\)](#); [Moldovan, Florin \(DHCD\)](#); [Messplay Iv, Paul \(DHCD\)](#)
Subject: Appeal to the Review Board for Hotel Street LLC (Keith Macdonald) (Appeal No. 24-06)
Date: Tuesday, June 25, 2024 10:58:23 AM
Attachments: [image001.png](#)
[LBBCA Draft - Friday March 27 2024 -DRAFT MINUTES. PDF.pdf](#)
[2024-05-31 Complaint.pdf](#)

Good morning!

I am counsel for the Town of Warrenton and will be handling these proceedings. Please direct further communications to me but cc Mr. Digges. Attached to this email is a draft of the minutes from the March 27, 2024, hearing. The LBBCA has not had another meeting since then to approve the minutes. I have also included the Town's pleadings in the enforcement action currently pending in Fauquier Circuit Court, which should explain the Town's position in the matter.

I would like to take the opportunity to state the Town's position that Mr. Macdonald's appeal is untimely and that he has not challenged Mr. Digges determinations of Building Code violations.

Best,

Tolley



M. Tolley Gwinn

Attorney

Sands Anderson PC

PO Box 1998, Richmond, VA 23218-1998

Direct: [\(804\) 783-7244](tel:8047837244) | Main: (804) 648-1636

www.sandsanderson.com | tgwinn@sandsanderson.com | [Bio](#) | [vCard](#)

Sands Anderson is delighted to share that we moved our Richmond office!

Effective February 1, 2024, our Richmond office is located at 919 East Main Street, Suite 2300, Richmond, Virginia 23219

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VIRGINIA: IN FAUQUIER CIRCUIT COURT

TOWN OF WARRENTON, VIRGINIA)
)
Plaintiff,)
v.)
HOTEL STREET, LLC)
)
Serve: Michael Keith Macdonald)
92 Winchester Street)
Warrenton, VA 20186)
)
Defendant.)

Case No. _____

COMPLAINT

Plaintiff, TOWN OF WARRENTON, VIRGINIA, by and through undersigned counsel, hereby states its Complaint against defendant HOTEL STREET, LLC, seeking temporary and permanent injunctive relief against Defendant for its continuing violations of the Town’s ordinances and an order compelling abatement of the unsafe, dangerous, and unsanitary structures at 3 Hotel Street. In support of its complaint, the Town states as follows:

Parties

1. Town of Warrenton, Virginia (“the Town”) is a municipal corporation of the Commonwealth of Virginia.
2. Hotel Street, LLC is a Virginia limited liability company and the current owner of the property located at 3 Hotel Street, Warrenton, VA (“the Property”).

Jurisdiction

3. All parties and properties involved are located or domiciled within Fauquier County.
4. Va. Code §§ 8.01-620, 15.2-1115, 15.2-1432, and 36-106 grant this Court subject matter jurisdiction.

Venue

5. Fauquier Circuit Court is the preferred venue under Va. Code § 8.01-261(c) and permissible venue under Va. Code § 8.01-262(1), (2), (3), and (4).

Facts

6. On December 8, 2023, the Town issued a Notice of Violation of the Virginia Property Maintenance Code to Michael Keith MacDonald and Etsuko MacDonald, the then owners of the property. Ex. A at 23. The Notice of Violation identified numerous violations of the Virginia Property Maintenance Code on the Property.

7. Michael Keith MacDonald appealed the Notice of Violation to the Town of Warrenton Board of Building Code Appeals.

8. On December 19, 2023, the MacDonalds transferred the property to Hotel Street, LLC.

9. On March 6, 2024, the Town issued an updated Notice of Violation to the MacDonalds. Ex. A at 5. The enforcement action continued against the MacDonalds due to Va. Code § 36-105(C)(4), which states:

4. Transfer of ownership. If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50 percent, the pending enforcement action shall continue to be enforced against the owner.

10. Michael Keith MacDonald is the sole principal of Hotel Street, LLC.

11. On March 27, 2024, the Town of Warrenton Board of Building Code Appeals met to hear MacDonald's appeal.

12. MacDonald did not appear.

13. The Town of Warrenton Board of Building Code Appeals voted to uphold the Notices of Violation. Ex. A at 3. The Town notified the MacDonalds of the decision on April 2, 2024. Ex. D at 85.

14. The period to appeal the Town of Warrenton Board of Building Code Appeals decision ended, at the latest, on April 24, 2024. VPMC § 107.7.

15. On April 30, 2024, the Town Attorney sent a letter to Mr. and Mrs. MacDonald, renewing the need to correct the Maintenance Code violations at the Property. Ex. A at 1.

16. On May 9, 2024, the Secretary to the State Review Board confirmed that no appeals had been made from decisions in the Town. Ex. B at 83.

17. On May 23, 2024, MacDonald dropped off a document at the Town's offices, claiming he had emailed an appeal on April 30. Ex. C at 84. MacDonald's May 23rd document shows A) he failed to follow the appeals process explained to him in the Warrenton Board of Building Code Appeals decision notice and B) would have been untimely had he followed the process since the deadline to appeal would have run six days earlier on April 24. *Id.*

18. Hotel Street, LLC has made no discernible effort to abate the violations at the Property.

Count I – Injunctive Relief

19. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 18 hereof, with the same force and effect as if fully set forth herein.

20. The Property's condition, as described in the Town's Notice of Violation, are continuous violations of the Uniform Statewide Building Code. Ex. A at 5.

21. The Town has adopted the Uniform Statewide Building Code in its ordinances. Warrenton Town Code § 4-17, 4-31.

22. This Court has the power to enjoin continuing violations of Town ordinances without any further showing of irreparable harm. Va. Code § 15.2-1432; *Ticonderoga Farms, Inc. v. County of Loudoun*, 242 Va. 170, 176 (1991).

Count II – Nuisance Abatement

23. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 22 hereof, with the same force and effect as if fully set forth herein.

24. The Town of Warrenton has adopted the Virginia Maintenance Code, as amended. Warrenton Town Code § 4-31.

25. Virginia Property Maintenance Code § 105.6 provides:
Further action when violation not corrected. If the responsible party has not complied with the notice of violation, or notice of unsafe structure, the code official may request the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality or legal counsel so authorizes, the code official may issue or obtain a summons or warrant.

26. Hotel Street, LLC has not complied with the notice of violation.

27. The Town's Code Official has requested legal counsel to institute the appropriate legal proceedings to restrain, correct, or abate the violations.

28. Va. Code § 15.2-1115 allows a municipal corporation to compel the abatement or removal of all nuisances, including but not limited to... the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or

structures which constitute a menace to the health and safety of the occupants thereof or the public. If after such reasonable notice as the municipal corporation may prescribe the owner or owners, occupant or occupants of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance, the municipal corporation may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state or local taxes.

29. The Town of Warrenton has provided notice to Hotel Street, LLC of the “unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public” located on the Property and the consequences if left unabated. ¶ 6-18, *supra*.

30. Hotel Street, LLC has failed to abate or obviate the condition or nuisance. ¶ 18, *supra*.

31. An action under Va. Code § 15.2-1115 is an appropriate legal proceeding to restrain, correct, or abate the violations on the Property.

Prayer for Relief

WHEREFORE, **TOWN OF WARRENTON, VIRGINIA**, prays for an order:

1. Enjoining and/or ordering Hotel Street, LLC, to abate the violations on the Property within 45 days of the entry of this Court’s order;
2. Authorizing the Town to abate or obviate the violations on the Property and charge and collect the cost thereof from the owner or owners of the property in any manner provided by law for the collection of state or local taxes if Hotel

Street, LLC fails to abate or obviate the violations within 45 days of entry of this

Court's order; and

3. Granting such other relief as the court deems necessary to affect the ends of justice.

Respectfully submitted,

TOWN OF WARRENTON, VIRGINIA

By Counsel



M. Tolley Gwinn (VSB No. 94780)

Sands Anderson PC

919 East Main Street, Floor 23 (23219)

P.O. Box 1998

Richmond, Virginia 23218-1998

(804) 783-7265 (telephone)

tgwinn@sandsanderson.com

Counsel for Town of Warrenton, Virginia



M. Tolley Gwinn
Attorney

Direct: (804) 783-7244
TGwinn@SandsAnderson.com

RICHMOND | CHRISTIANSBURG | FREDERICKSBURG
DURHAM | WILLIAMSBURG

SANDSANDERSON.COM

919 East Main Street
Post Office Box 1998
Richmond, VA 23218-1998
Main: (804) 648-1636
Fax: (804) 783-7291

April 30, 2024

SENT VIA EMAIL

Mr. & Mrs. Macdonald
45 Winchester Street
Warrenton, VA 20186
Keith.macdonald@plural-us.com

RE: VPMC Violations at 45 Winchester Street (ENFC-23-73) and 3 Hotel Street (ENFC-23-99)

Mr. and Mrs. Macdonald:

My firm represents the Town of Warrenton, Virginia (the "Town"). I write to provide notice of pending enforcement action intended to prosecute and abate violations of the Virginia Property Maintenance Code (VPMC) at your above-referenced properties.

On March 27, 2024, the Town of Warrenton Board of Building Code Appeals met to hear your appeals of the VPMC Notices of Violation issued against 45 Winchester Street (ENFC-23-73) and 3 Hotel Street (ENFC-23-99). You did not appear. The Board reviewed the Notices of Violation and unanimously upheld the Building Official's decisions.

On March 29, 2024, James Tucker, the Chairman of the Town of Warrenton Board of Building Code Appeals, signed the VPMC 107.7 description of the Board's decision for both appeals. Both of those descriptions included the mandatory appeal language:

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 the written decision. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150.

Hunter Digges, the Town's Building Official, provided you a copy of the written description by certified mail on April 2, 2024, and a copy by email by April 3, 2024. You left a voice mail with Hunter Digges confirming receipt on April 3. This meant your deadline to appeal to the State Technical Review Board was, at the latest, **April 24, 2024**. We have not received any

notice of you perfecting an appeal; if you did, please provide me evidence of such as soon as possible.

If you did not perfect an appeal to the State Technical Review Board, the Notices of Violation stand, and you need to bring the properties into compliance. If you have already remedied the issue or if you are currently remediating the issue, please let me know by **May 16, 2024**. If not, the Town has directed me to prosecute the violations under the relevant provisions of the Town's Ordinances and the Virginia Code. **This could result in substantial fines and a court order directing you to abate the violations.**

Thank you for your prompt attention to this matter. I have attached a copy of all referenced correspondence for your convenience. Please contact me with any questions. If you have retained an attorney for this matter, please have the attorney contact me.

Sincerely,

A handwritten signature in cursive script that reads "Mahal Tolley Gwinn".

M. Tolley Gwinn

Enclosures

cc: Hunter Digges, Town of Warrenton

Gwinn, M. Tolley

From: Luter, Travis (DHCD) <travis.luter@dhcd.virginia.gov>
Sent: Thursday, May 9, 2024 1:27 PM
To: Gwinn, M. Tolley; SBCO
Cc: Potts, Richard (DHCD); Hunter Digges
Subject: RE: Warrenton LBBCA Appeals

Categories: Filed to ND
FilingIndicator: -1

CAUTION: External Message

To date Review Board staff has not received an appeal application related to the Town of Warrenton.

W. Travis Luter, Sr., CBO
Secretary to the State Building Code Technical Review Board
Code and Regulation Specialist
Virginia Department of Housing and Community Development (DHCD)
804-371-7163
travis.luter@dhcd.virginia.gov



From: Gwinn, M. Tolley <tgwinn@sandsanderson.com>
Sent: Thursday, May 9, 2024 1:09 PM
To: SBCO <sbco@dhcd.virginia.gov>
Cc: Luter, Travis (DHCD) <travis.luter@dhcd.virginia.gov>; Potts, Richard (DHCD) <richard.potts@dhcd.virginia.gov>; Hunter Digges <hdigges@warrentonva.gov>
Subject: Warrenton LBBCA Appeals

Good afternoon,

I am one of the Town Attorneys for the Town of Warrenton. Could you confirm for me whether you have received any appeals of a decision by the Warrenton LBBCA?

Please call with any questions!

Thank you,

Tolley

M. Keith Macdonald

EXHIBIT

C

Notice to appeal the Town of Warrenton's LBBCA act.
TO: THE STATE LBBCA BOARD:

NOTICE OF APPEAL HAS BEEN GIVEN PREVIOUSLY VIA Email on Apr 30, 2024 for the following properties:

Hotel Street, LLC
3 Hotel Street, LLC
C/O 92 Winchester Street
Warrenton VA.20186

Brittton Hall, LC
C/O 92 Winchester Street
Warrenton VA.20186

92 Winchester Street
Warrenton VA.20186

As of Wednesday, May 22, 2024, no response has been received from the Town of Warrenton or Richmond.

Received by

DATE

EXHIBIT
D

9589 0710 5270 0307 0787 47

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

Certified Mail Fee
\$ 4.40

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ 3.15

Return Receipt (electronic) \$

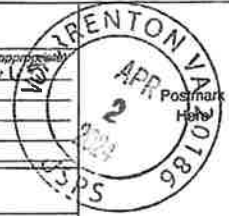
Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$ 3.55

Total Postage and Fees \$ 11.60



Sent To Michael K. Macdonald
Street and Apt. No., or PO Box No. 92 Winchester St
City, State, ZIP+4® Warrenton, VA 20186

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

WARRENTON 085

Town of Warrenton
Local Appeals Board
March 27, 2024
Meeting Minutes

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Local Board of Building Code Appeals

21 Main St

Friday, March 27, 2024, at 5:00 PM

MINUTES

A REGULAR MEETING OF THE LOCAL BOARD OF BUILDING CODE APPEALS OF THE TOWN OF WARRENTON, VIRGINIA, WAS HELD ON March 27, 2024, at 5:08 PM

Regular Meeting

PRESENT Mr. James Tucker, Chairman ; Mr. Frank Foley; Mr. Fred Austin; Mr. Tolley Gwinn , Attorney; Mr. Hunter Digges, Building Official.

ABSENT Mr. Wayne Carson; Mr. Bryan Black.

The minutes laid out will be a brief recap of the agenda items. Please see recorded video for more In-depth information.

REGULAR MEETING - 5:00 PM

CALL TO ORDER

At 5:00 PM on Friday, March 27, 2024. Mr. James Tucker, Chairman called the local Board of Building Code Appeals to order.

Mr. Tucker questioned Mr. Hunter Digges, Building Official; why Mr. Keith Macdonald and his counsel are not present.

Mr. Digges explained Mr. Macdonald's counsel informed our counsel Mr. Macdonald fell ill and will not be present.

Mr. Digges explains we would like to proceed.

Mr. Tucker questions Mr. Tolley Gwinn Attorney for Town of Warrenton - inaudible.

Mr. Tolley Gwinn Attorney explains we refer to this as a default. All the notice requirements have been met. Mr. Macdonald did retain legal counsel but decided not to have his counsel appear tonight.

Mr. Gwinn Attorney explains Mr. Macdonald has access to a denovo by-right appeal to the state Technical Review Board after the board renders a decision tonight. Mr. Macdonald has procedural protections for this.

Mr. Gwinn Attorney explains the board is within its rights to continue without Mr. Macdonald since he has been given adequate notice.

Mr. Tucker questions Codes and violations which do not appear in the online version.

Mr. Digges explains this is pursuant to the 2018 Code and it is in this copy.

Mr. Tucker questions why it does not show up online.

Mr. Digges explains it has been provided in the package and a copy of the code was provided with the notice.

Mr. Tucker asked if any of the board members have any comments on these violations.

Mr. Frank Foley states this has been going on for a long time.

Mr. Fred Austin states no.

45 Winchester St, Warrenton VA 20186 - Case Number ENFC-23-73

Violation number 1.

The entire exterior of the structure shows extensive signs of water damage, exposure to elements, and wood rot. The entire exterior of the structure has peeling paint, inadequate protection from the elements, and exposed and rotted wood siding; exposed structural elements including posts, beams and supports; inadequate chimney protection; and decorative features deteriorating.

Mr. Tucker asked if Mr. Foley and Mr. Austin would like to make a motion in violation number 1 and the Building Officials determination.

Mr. Frank Foley moved to approve the Building Officials recommendations for the violations listed in his report. Mr. Frank Foley Seconds the motion.

Mr. Tucker Ayes and states violation 1 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 2.

Multiple doors above ground level in the rear of the structure without a landing, porch or fall protection which creates an unsafe condition.

Mr. Tucker asked Mr. Foley and Mr. Austin if with would like to make a motion in violation number 2.

Mr. Frank Foley moved to approve the motion in the Towns observation of violation 2. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation 2 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 3.

The structural supports of the breezeway are not properly supporting the loads.

Mr. Tucker asked Mr. Foley and Mr. Austin if with would like to make a motion in violation 3.

Mr. Frank Foley moved to approve the motion regarding the towns observation and what is needed to have violation 3 corrected. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation number 3 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 4.

The roof of the breezeway and right side of the structure is in disrepair from exposed underlayment being installed as the only roof covering on those sections of the structure.

Mr. Tucker asked Mr. Foley and Mr. Austin if with would like to make a motion on violation 4.

Mr. Frank Foley moved to approve the motion regarding the towns observation and what is needed to have violation 4 corrected. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation number 4 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 5.

Roof rainwater drainage is inadequate and is not discharged in a manner that prevents deterioration, or harm to the structure, its foundation, or slab.

Mr. Tucker asked Mr. Foley and Mr. Austin if with would like to make a motion on violation 5

Mr. Frank Foley moved to approve the motion regarding the towns observation and what is needed to have violation 5 corrected. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation number 5 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

3 Hotel Street, Warrenton, VA 20186- Case Number ENFC-23-99

Violation number 1.

The entire exterior of the structure shows extensive signs of water damage, exposure to elements, and wood rot and deteriorated mortar and bricks. The entire exterior of the structure has peeling paint, inadequate protection from the elements, and exposed and rotted wood windows; and deteriorated decorative features.

Mr. Tucker asked Mr. Foley and Mr. Austin if they had both read the 3 Hotels Streets violations and appeal.

Mr. Frank Foley states yes.

Mr. Austin states yes.

Mr. Tucker presents violation 1.

Mr. Frank Foley moved to approve the towns recommendation for violation 1 listed in his report. Mr. Fred Austin Second. The vote was unanimous.

Mr. Tucker Ayes and states violation number 1 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 2.

Two electrical lighting fixtures are missing on either side of the front door leaving electrical connections exposed.

Mr. Tucker asked Mr. Foley and Mr. Austin if they had both read 3 Hotel Streets violations and appeal.

Mr. Frank Foley states yes.

Mr. Austin states yes.

Mr. Tucker presents violation 2.

Mr. Frank Foley moved to approve the recommendations for the violations 2 listed. The electrical lighting fixtures and necessary corrective action . Mr. Fred Austin Seconds the motion. The vote was unanimous.

Mr. Tucker Ayes and states violation number 2 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 3.

Roof rainwater drainage is inadequate and is not discharged in a manner that prevents deterioration, or harm to the structure, its foundation, or slab. Missing portions of downspouts were observed,

Mr. Tucker asked Mr. Foley and Mr. Austin if they had both read 3 Hotel Streets violations and appeal.

Mr. Frank Foley states yes.

Mr. Austin states yes.

Mr. Tucker presents violation number 3.

Mr. Frank Foley moved to approve the towns corrective action of the roof draining water being discharged incorrectly. That the towns recommendations be followed for the violations 3. Mr. Fred Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation 3 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black;

The motion passed 3-3.

Violation number 4.

Windows and doors are in disrepair and/or have inadequate/exposed covers on them which are deteriorating. Windows and door frames have exposed non-weatherproofed wood showing signs of rot. There are windows with broken glass.

Mr. Tucker asked Mr. Foley and Mr. Austin if they had both read 3 Hotel Streets violations and appeal.

Mr. Frank Foley states yes.

Mr. Austin states yes.

Mr. Tucker presents violation number 4.

Mr. Frank Foley moved to approve the towns corrective recommendations for violation 4, windows, door frames to be corrected to code. listed in this report. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation number 4 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Mr. Tucker States all the points on 3 hotel street as included in the appeal have been approved by the board unanimously.

Mr. Tucker states having read documentation on this property between the owner of the property and the Town of Warrenton that appears to reference areas of the property outside of what would appear to be the property owners property.

Mr. Tucker states there is no recorded survey of said property so you cannot determine whose land is where but for the record.

Mr. Tucker states for record the State of Virginia Construction Code does not give this board authority to have any jurisdiction outside of the building and its appurtenances. We have nothing regarding anything beyond the property lines.

NEW BUSINESS

None

UNFINISHED BUSINESS

Adoption of revised By-laws

Mr. Tucker states we were presented with and reviewed a draft of the proposed by-laws for this board.

Mr. Tucker states do we have a motion to either amend or approve the by-laws as submitted.

Mr. Frank Foley motioned to approve the proposed by-laws. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A
Abstention: N/A
Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

DETERMINATION OF QUORUM.

Election of Officers.

Mr. Tucker asks Mr. Gwinn, if the Chairman is present do we need to elect a Vice Chairman.

Mr. Gwinn states No.

APPROVAL OF THE MINUTES.

Mr. James Tucker motions to approve the Minute from January 12th, 2024.

Mr. Frank Foley moved to approve the by-laws as submitted. Mr. Fred Austin Seconds. The vote was unanimous.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

UPDATES

Mr. Tucker noted in reviewing the town's by-laws the town has established the third Thursday of the month at 5pm for the regular meeting date of this board on an as needed basis. That this board has accepted a recent motion.

BOARD MEMBERS TIME

None

BUILDING OFFICIAL'S TIME

Mr. Digges thanked the board for attending and supporting the town.

Mr. Tucker asks the board if they have anything to say.

Mr. Frank Foley states No

Mr. Austin states No.

ADJOURN.

Mr. James Tucker; Chairman moves to adjourn. Mr. Frank Foley first, seconded by Mr. Fred Austin with no further business, this meeting was adjourned at 5:24 PM.

I hereby certify that this is a true and exact record of actions taken by the Local Board of Building Code Appeals of the Town of Warrenton on.

Signed,

Mr. James Tucker, Chairman

DRAFT

DRAFT

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Brittion Hall LLC
Appeal No. 24-07

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
[Preliminary Hearing for Completeness of the Appeal and Timeliness]

IN RE: Appeal of Brittion Hall LLC
 Appeal No. 24-07

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On November 13, 2023, and March 7, 2024 the Town of Warrenton Department of Community Development (Town), the agency responsible for the enforcement of Part III of the 2018 Virginia Uniform Statewide Building Code (VUSBC or VMC), issued Notices of Violation (NOV) to Michael K. and Etsudo K. Macdonald (Macdonald), for the structure located at 45 Winchester Street in the Town of Warrenton, citing the following VMC Sections on the specified dates of the NOVs:

- 103.1 *General* (November 13, 2023)
- 103.2 *Maintenance requirements* (November 13, 2023; March 7, 2024)
- 106.1 *Unsafe Structure or Structures Unfit for Human Occupancy* (November 13, 2023)
- 302.3 *Sidewalks and driveways* (November 13, 2023)
- 304.1 *General* (November 13, 2023; March 7, 2024)
- 304.2 *Protective treatment* (November 13, 2023; March 7, 2024)
- 304.4 *Structural members* (November 13, 2023; March 7, 2024)
- 304.6 *Exterior walls* (November 13, 2023; March 7, 2024)
- 304.7 *Roofs and drainage* (November 13, 2023; March 7, 2024)
- 304.8 *Decorative features* (November 13, 2023; March 7, 2024)
- 304.9 *Overhang extensions* (November 13, 2023; March 7, 2024)
- 304.13 *Window, skylight, and door frames* (November 13, 2023; March 7, 2024)
- 304.13.1 *Glazing* (November 13, 2023; March 7, 2024)

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- 304.13.2 *Openable windows* (November 13, 2023; March 7, 2024)
- 304.15 *Doors* (November 13, 2023; March 7, 2024)
- 305.4 *Stairs and walking surfaces* (March 7, 2024)

2. Macdonald filed an appeal to the Town of Warrenton Board of Building Code Appeals (local appeals board). On March 27, 2024, the local appeals board “*upheld the decision of the official*”.

3. On May 30, 2024, Macdonald further appealed to the Review Board. Macdonald did not submit a statement of relief sought with his appeals application. Staff notified Macdonald both via telephone conversation on June 4, 2024 and email on June 17, 2024 that a statement of relief sought was needed to complete his appeals application. Staff additionally advised Macdonald that without a statement of relief sought the Board would likely not be able to grant relief as the Board would not know what relief Macdonald sought. Staff further advised Macdonald that if the statement of relief sought was not submitted by the June 19, 2024 deadline, staff would proceed with processing the appeal with the information provided. No statement of relief sought was submitted.

4. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the preliminary hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether Macdonald’s appeals application is complete given no statement of relief sought was submitted.

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2. Whether the Review Board can take any action since no relief sought was requested by Macdonald.

3. Whether the appeal was untimely.

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Basic Documents

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TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
TELEPHONE (540) 347-1101
FAX (540) 349-2414

OFFICIAL NOTICE OF VIOLATION

The owner or person(s) responsible shall have to comply with this order.

Notice Date: November 13, 2023

Property: 45 Winchester Street, Warrenton, VA 20186
PIN 6984-34-8278-000

Zoning: Central Business District

Property Owner: Macdonald, Etsuko K
Macdonald, Michael Keith

Mailing Address: 45 Winchester Street
Warrenton, VA 20186

An inspection of the above listed property was conducted on October 30th, 2023, by the Town of Warrenton Building Official, Hunter Digges, and Building Inspector Mike Rhodes. Numerous violations of the 2018 Virginia Property Maintenance Code were found and are listed below. A site meeting with Keith Macdonald was held at 45 Winchester on October 30th, 2023. Mr. Macdonald stated that he would not be making any repairs to the structure.

These violations have been in existence for many years and continue to exist and have not been corrected, despite several attempts to gain the voluntary compliance from the property owner.

The current condition of this structure, as it exists, in a registered historic district is adversely affecting property values and quality of life in the vicinity. The degree of deterioration, lack of maintenance, and the quantity of these violations constitute a dangerous, unsafe and unsanitary structure by the following definitions from the VA Property Maintenance Code, 2018 edition:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY: An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

UNSAFE STRUCTURE: An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.

DESCRIPTION OF VIOLATION

The following list of violations found is intended to provide information intended for compliance with the codes listed. Recommended corrective actions are included after the list of violations.

1. The entire exterior of the structure shows extensive signs of water damage, exposure to elements, and wood rot. The entire exterior of the structure has peeling paint, inadequate protection from the elements, and exposed and rotted wood siding; exposed structural elements including posts, beams and supports; inadequate chimney protection; and decorative features deteriorating. (See Pictures 1-13)
All exterior walls must be repaired and shall be free from holes, breaks, and loose or rotting materials. Exterior walls must be weatherproof and properly surface coated.
2. Multiple doors above ground level in the rear of the structure without a landing, porch or fall protection which creates an unsafe condition. (See Picture 11)
Obtain the required permits and complete the construction of the landings/porches or install guard rails for fall protection.
3. The structural supports of the breezeway are not properly supporting the loads. (See Pictures 2,3, and 5)
Obtain the required permits and have the breezeway properly supported.
4. The roof of the breezeway and right side of the structure is in disrepair from exposed underlayment being installed as the only roof covering on those sections of the structure. (See Pictures 2 and 5)
The roof and flashing shall be sound, tight, and not have defects that admit rain.
5. Roof rainwater drainage is inadequate and is not discharged in a manner that prevents deterioration, or harm to the structure, its foundation, or slab. (See Pictures 1,6,8,9 and 11)
All roof water shall be discharged in a manner to protect the structure's foundation from the accumulation of rainwater.
6. Windows and doors are in disrepair and/or have inadequate/exposed covers on them which are deteriorating. Window and door frames have exposed non weatherproofed wood showing signs of rot. There are windows with broken glass. (See Pictures 2,4,5,9 and 11)
Ensure all doors and windows are kept in good repair and maintained weather tight. Exterior wood surfaces of doors and windows must be protected from the elements and decay by painting or other protective covering or treatment.

CORRECTIVE ACTION:

You are hereby ordered to begin correcting the violations described above within the period not to exceed fifteen (15) days of receipt this notice by engaging in the following actions:

- **In order to avoid any escalation of enforcement, it is required to provide a plan for corrective action within fifteen (15) days of receipt of this notice. The plan MUST include specific dates of completed activities within a six month period with notable, visible improvements;**
- **Apply for ALL required permits and renew or obtain new permits for those expired PRIOR to any work requiring these approvals/permits.**
- **All repairs completed within six (6) months.**

Failure to address these violations as directed shall result in enforcement actions under the applicable provisions of the Warrenton Town Code, the Virginia Maintenance Code, and the Virginia State Code.

Given the extent of the overall conditions of the property, and the length of time without any improvements to the condition of this property, these actions must commence within 15 days of receipt of this notice.

The entire structure must be repaired to safe, sanitary condition by obtaining the services of licensed engineers, architects, and contractors. you must notify this office within the 15 days stated above with a detailed plan and identified licensed design professionals listed.

If you choose to appeal this notice, you must do so within fourteen (14) days of receipt of this notice as outlined in the Virginia Property Maintenance Code, 2018 edition, Section 107, attached below.

The Community Development Office is located at 21 Main Street within Town Hall. Hours of operation are from 8:30 AM until 4:30 PM Monday through Friday. If you have any questions regarding this notice or would like additional information about the appeal process, please contact me at (540) 347-1101, Ext.314.

Sincerely,



Hunter Digges
Building Official

CC:

John B. Heroux, Ward 5 Council Member
Frank Cassidy, Interim Town Manager
Rob Walton, Director Of Community Development
Martin Crim, Town Attorney

Applicable Code Provisions:

Virginia Property Maintenance Code, 2018 ed.:

**103
APPLICATION OF CODE**

103.1 General.

This code prescribes regulations for the maintenance of all existing buildings and structures and associated equipment, including regulations for unsafe buildings and structures.

103.2 Maintenance requirements.

Buildings and structures shall be maintained and kept in good repair in accordance with the requirements of this code and when applicable in accordance with the USBC under which such building or structure was constructed. No provision of this code shall require alterations to be made to an existing building or structure or to equipment unless conditions are present which meet the definition of an unsafe structure or a structure unfit for human occupancy.

**106
UNSAFE STRUCTURES OR STRUCTURES
UNFIT FOR HUMAN OCCUPANCY**

106.1 General.

This section shall apply to existing structures which are classified as unsafe or unfit for human occupancy. All conditions causing such structures to be classified as unsafe or unfit for human occupancy shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or razed and removed. Vacant and secured structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure or a structure unfit for human occupancy constitutes such a hazard that it should be razed or removed, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirements of this code.

**107
APPEALS**

107.5 Right of appeal; filing of appeal application.

Any person aggrieved by the local enforcing agency's application of this code or the refusal to grant a modification to the provisions of this code may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA within 14 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and, in addition, the name and address of the person appealing, when the applicant is not the owner.

A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a code official's decision

302 EXTERIOR PROPERTY AREAS

302.3 Sidewalks and driveways.

All sidewalks, walkways, stairs, driveways, parking spaces and similar spaces regulated under the VCC shall be kept in a proper state of repair and maintained free from hazardous conditions. Stairs shall comply with the requirements of Sections 305 and 702

304 EXTERIOR STRUCTURE

304.1 General.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.2 Protective treatment.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.4 Structural members.

Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

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.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and

downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.

304.8 Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions.

Overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.13 Window, skylight and door frames.

Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing.

Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows.

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.15 Doors.

Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

Pictures: Taken September 21st, 2023

Front of structure showing exposure to elements; improper roofing; rotting wood and siding; improper protection of walls, failing structural members for breezeway, and other issues:



(Picture 1:
Shows exposure to the Elements, rotted wood and inadequate roof drainage)



(Picture 2:
Shows faulty structural supports, inadequate roofing and exposure to the elements)



(Picture 3:
Shows faulty structural supports, Inadequate roofing on right side, wood rot, and peeling paint)



(Picture 4:
Shows exposure to the Elements, wood rot, peeling Paint, and inadequate roof Drainage)



(Picture 5:
Shows faulty structural supports, inadequate roofing, and exposure to the elements)



(Picture 6:
Shows inadequate roof drainage, and inadequate protection from the elements)



(Picture 7:
Shows inadequate protection
From the elements)



(Picture 8:
Shows inadequate roof drainage,
and inadequate protection from
the elements)

Rear of structure showing improper roofing; rotting wood and siding; structural failures in the porch; improperly covered windows and doors;



(Picture 9:
Shows inadequate roof
Drainage, rotted wood
And broken windows)



(Picture 10:
Shows inadequate structural
supports, and inadequate
protection from the elements)



(Picture 11:
Shows multiple doors with no
fall protection, windows not maintained
in good condition, wood rot and inadequate
Roof drainage)



(Picture 12:
Shows inadequate protection
From elements and inadequate
Structural supports on porch)



(Picture 13:
Shows inadequate protection
from elements)



Picture 1: Shows exposure to the elements, rotted wood and inadequate roof drainage.



Picture 2: Shows faulty structural supports, inadequate roofing and exposure to the elements.



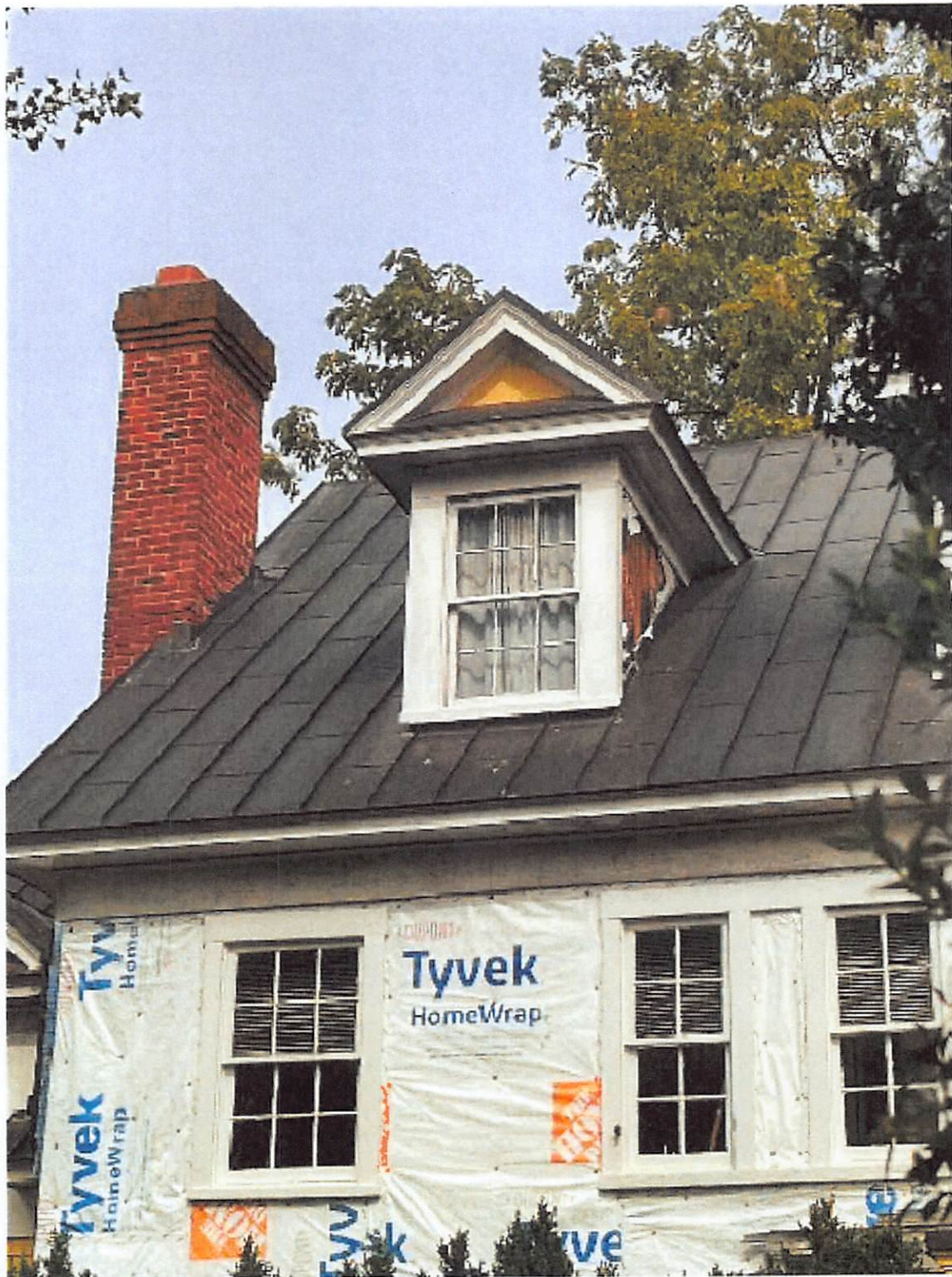
Picture 3: Shows faulty structural supports, inadequate roofing on right side, wood rot, and peeling paint.



Picture 4: Shows exposure to the elements, wood rot, peeling paint, and inadequate roof drainage.



Picture 5: Shows faulty structural supports, inadequate roofing, and exposure to the elements.



Picture 6: Shows inadequate roof drainage, and inadequate protection from the elements.



Picture 7: Shows inadequate protection from elements.



Picture 8: Shows inadequate roof drainage, and inadequate protection from the elements.



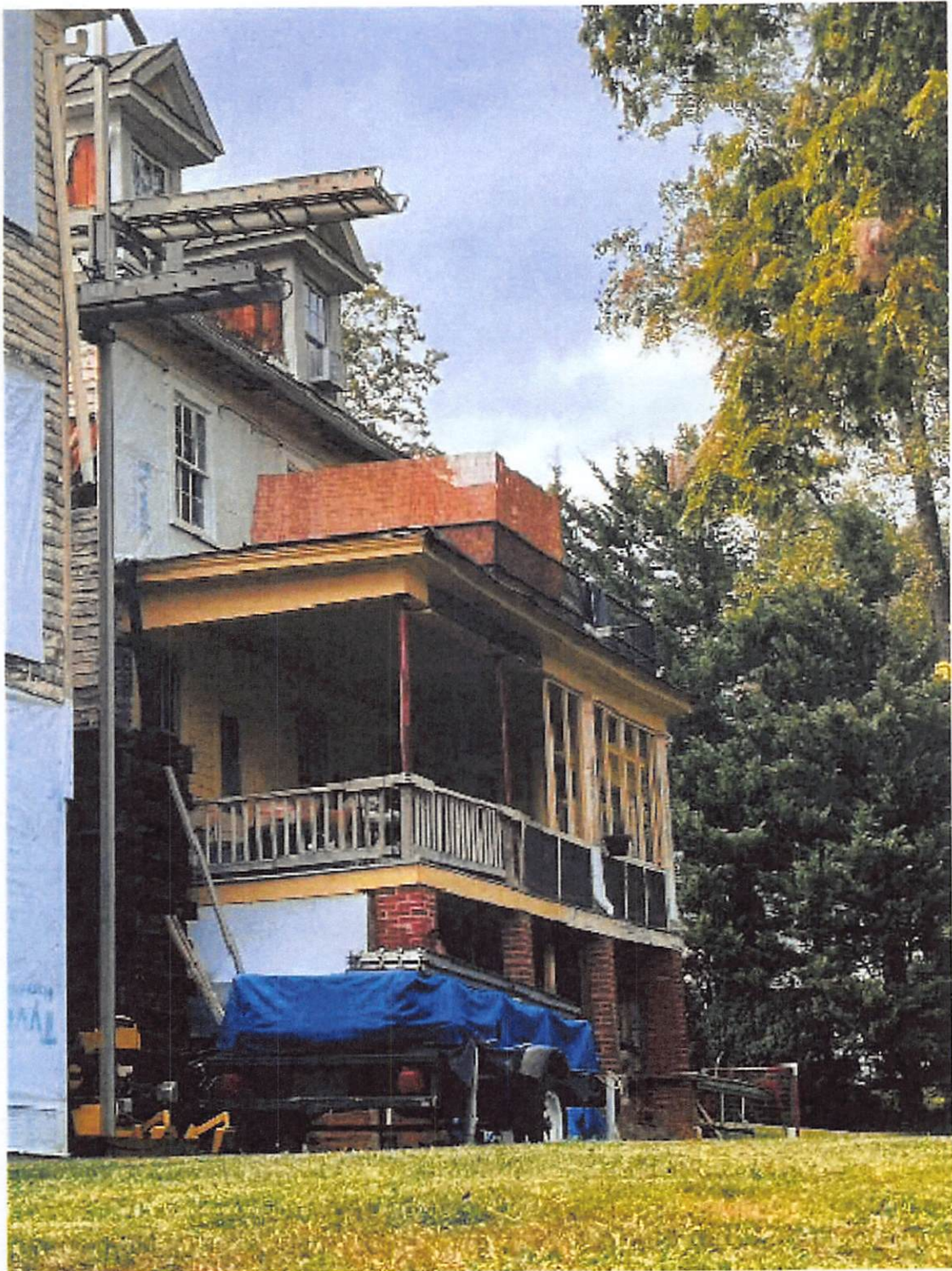
Picutre 9: Shows inadequate roof drainage, rotted wood and broken windows.



Picture 10: Shows inadequate structural supports, and inadequate protection from the elements.



Picture 11: Shows multiple doors with no fall protection, windows not maintained in good condition, wood rot and inadequate roof drainage.



Picture 12: Shows inadequate protection from the elements and inadequate structural supports on porch.



Picture 13: Shows inadequate protection from the elements.



PO, DRAWER 341
20188-0341

ADDRESS SERVICE REQUESTED

NOVA 220
14 NOV 23 PM 03



Etsuko K Macdonald
Michael Keith Macdonald
92 Winchester Street
Warrenton, VA 20186

20186-261732



We ^{Re} Deliver for You!

Download Informed Delivery APP to manage your redeliveries.

Sorry we missed you while you were out.

Date: 11/16

The item was sent by: Town

It was sent to: Ftsuko & Michael Monday

At this address: 215 Winchester St

About the missed delivery:

It was a:
 Package Letter Large envelope

Parcel Locker Eligible

Available for pickup date: 11/17

This is the:
 First attempt Final notice

To Schedule a Redelivery:



Scan the QR Code or go to usps.com/redelivery

Article Number:
5293 0630 4752 3911

We have item/s for you which we could not deliver because:

It requires a payment of \$ _____ for:
_____ Postage due _____ Customs

Receptacle full/item oversized

No secure location available

No authorized recipient available

Signature required
_____ must be 18+ years old _____ must be 21+ years old

Other: _____

Please see reverse to schedule redelivery or pickup.

PS Form 3849, February 2021

Choose one option for redelivery or pickup.

1. Go online to usps.com/redelivery.
2. Parcel Locker Delivery (optional) If Parcel Locker Eligible is checked on the front of the form, you may request the pickup of your items at [uspsparcellocker.com/pickup](https://parcellocker.com/pickup). Your items will be delivered to the parcel locker located at the address listed in section 4.
3. Let your carrier know when and where you'd like them to leave the item, then leave this form in your mailbox.
(Sorry, not an option for Restricted Delivery or Adult Signature items)

Please redeliver on this date: _____ and leave at (check one):

- Front door Back door Porch Garage
 Other: _____

4. Go to your local Post Office™, located at:

Warrenton Main Post Office
53 Main Street
Warrenton VA 20186
M-F 0900-1700 ; SAT 0900-1300

5. Sign up to manage your redeliveries at [Informadelivery.com](https://informadelivery.com).

provide the name of the person you want to pick up your item at your local Post Office listed in section 4. See option 3 for restrictions.

Addressee signature: _____

Name of representative: _____

7. Call us at 800-ASK-USPS (800-275-8777).

Delivery Section	
Signature	X
Printed Name	
Delivery Address	

USPS



5293 0630 4762 3911

We ^{PS} Deliver for You!
PS Form 3849, February 2021 (Reverse)





TOWN OF WARRENTON
Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
LandDevelopment@warrentonva.gov
(540) 347-2405

Updated Notice of Violation Pursuant to 2018 Virginia Property Maintenance Code 105.4

Date: March 7, 2024

Property: 45 Winchester Street, Warrenton, VA 20186
PIN: 6984-34-8278-000
Legal Description: Tract 2A

Property Owner: Macdonald, Etsuko K
Macdonald, Michael Keith¹

Mailing Address: 45 Winchester Street
Warrenton, VA 20186

Case Number ENFC-23-73

This is a Notice of Violation pursuant to Virginia Property Maintenance Code 105.4. Building Official Hunter Digges and Building Inspector Mike Rhodes inspected the property identified above on October 30th, 2023. Based on this inspection, I find the following violations:

1. Violation 1
 - a. The entire exterior of the structure shows extensive signs of water damage, exposure to elements, and wood rot. The entire exterior of the structure has peeling paint, inadequate protection from the elements, and exposed and rotted wood

¹ Warrenton issued the original Notice of Violation, dated November 13th, 2023, to Michael and Etsuko Macdonald. I have included a copy of the original Notice of Violation as an attachment. In the interim, Michael and Etsuko Macdonald transferred ownership to Brittion Hall LC. Pursuant to Va. Code 36-105(C)(4), this enforcement action shall continue to be enforced against Michael and Etsuko Macdonald.

siding; exposed structural elements including posts, beams and supports; inadequate chimney protection; and decorative features deteriorating.

b. This violates Virginia Property Maintenance Code: 304.1, 304.2, 304.4, 304.6, 304.7.

c. Necessary Corrective Action:

i. All exterior walls must be repaired and shall be free from holes, breaks, and loose or rotting materials. Exterior walls must be weatherproof and properly surface coated.

d. Pictures of this violation are appended to this Notice of Violation.

2. Violation 2

a. Multiple doors above ground level in the rear of the structure without a landing, porch or fall protection which creates an unsafe condition.

b. This violates Virginia Property Maintenance Code 305.4

c. Necessary Corrective Action:

i. Obtain the required permits and complete the construction of the landings/porches or install guard rails for fall protection.

d. Pictures of this violation are appended to this Notice of Violation.

3. Violation 3

a. The structural supports of the breezeway are not properly supporting the loads.

b. This violates Virginia Property Maintenance Code: 304.4

c. Necessary Corrective Action:

i. Obtain the required permits and have the breezeway properly supported.

d. Pictures of this violation are appended to this Notice of Violation.

4. Violation 4

a. The roof of the breezeway and right side of the structure is in disrepair from exposed underlayment being installed as the only roof covering on those sections of the structure.

b. This violates Virginia Property Maintenance Code 304.2

c. Necessary Corrective Action:

i. The roof and flashing shall be sound, tight, and not have defects that admit rain.

d. Pictures of this violation are appended to this Notice of Violation.

5. Violation 5

a. Roof rainwater drainage is inadequate and is not discharged in a manner that prevents deterioration, or harm to the structure, its foundation, or slab.

b. This violates Virginia Property Maintenance Code 304.7

c. Necessary Corrective Action:

i. All roof water shall be discharged in a manner to protect the structure's foundation from the accumulation of rainwater.

d. Pictures of this violation are appended to this Notice of Violation

6. Violation 6

- a. Windows and doors are in disrepair and/or have inadequate/exposed covers on them which are deteriorating. Windows and door frames have exposed non-weatherproofed wood showing signs of rot. There are windows with broken glass.
- b. This violates Virginia Property Maintenance Codes 304.13, 304.13.1, 304.13.2, 304.15.
- c. Necessary Corrective Action:
 - i. Ensure all doors and windows are kept in good repair and maintained weather tight. Exterior wood surfaces of doors and windows must be protected from the elements and decay by painting or other protective coverings or treatment.
- d. Pictures of this violation are appended to this Notice of Violation.

Time to Comply

The deadline to comply with the original Notice of Violation, dated November 13, 2023 was November 28th, 2023.

Appeal

If you disagree with this Notice of Violation or any part of it, you may address your disagreement as part of your appeal from the original Notice of Violation, dated November 13th, 2023. That appeal is currently scheduled for March 27th, 2024

A copy of VPMC 107, which governs your appeal rights, is attached to this Notice of Violation.

This Notice of Violation constitutes the Town of Warrenton Code Official's final decision regarding these violations.

Sincerely,



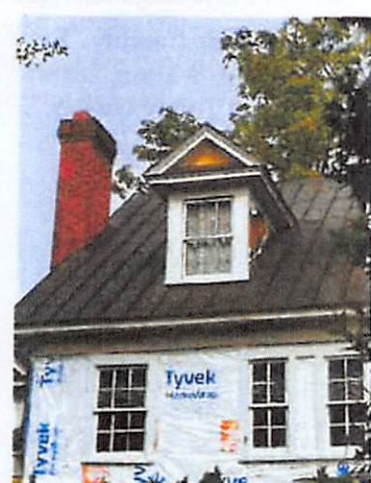
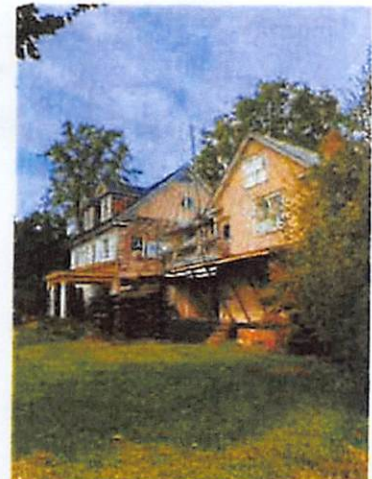
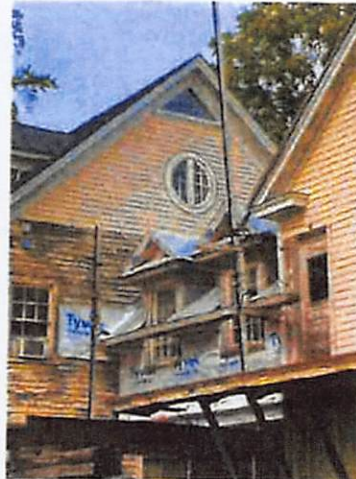
Hunter Digges
Building Official
Town of Warrenton
21 Main Street
Warrenton, VA 20186
Phone: 540-347-1101
hdigges@warrentonva.gov

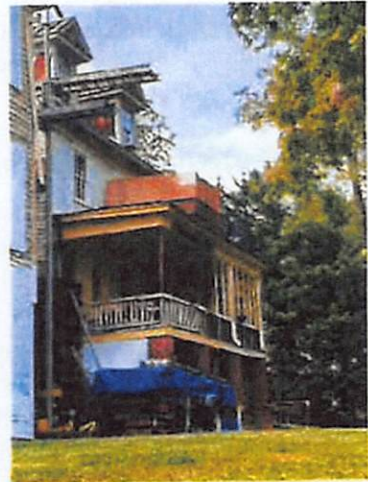
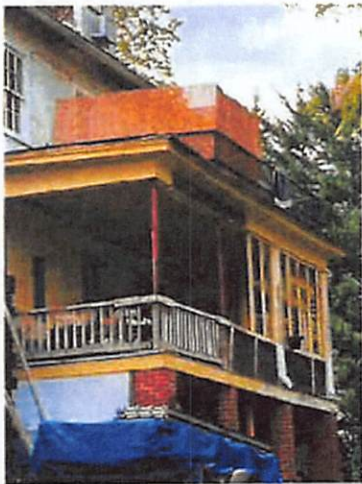
CC:

Eric Gagnon, Ward 5 Council Member
Frank Cassidy, Town Manager
Rob Walton, Director of Community Development
M. Tolley Gwinn, Sands Anderson

Photos of Violation

Pictures: Taken September 21st, 2023





107
APPEALS

107.5 Right of appeal; filing of appeal application.

Any person aggrieved by the local enforcing agency's application of this code or the refusal to grant a modification to the provisions of this code may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA within 14 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and, in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a code official's decision.

107.6 Meetings and postponements.

The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a period of up to 45 calendar days shall be permitted where the LBBCA has regularly scheduled monthly meetings. A longer time period shall be permitted if agreed to by all the parties involved in the appeal. A notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

107.7 Hearings and decision.

All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the code official's decision in question shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The LBBCA shall have the power to uphold, reverse, or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be explained in writing, signed by the chairman and retained as part of the record of the appeal. Copies of the written decision shall be sent to all parties by certified mail. In addition, the written decision shall contain the following wording:

“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 the written decision. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 3717150.”

107.8 Appeals to the State Review Board.

After final determination by the LBBCA in an appeal, any person who was a party to the appeal may further appeal to the State Review Board. In accordance with § 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the code official for state-owned buildings or structures shall be made directly to the State Review Board. The application for appeal shall be made to the State Review Board within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the code official’s decision. For appeals from a LBBCA, a copy of the code official’s decision and the written decision of the LBBCA shall be submitted with the application for appeal to the State Review Board. Upon request by the Office of the State Review Board, the LBBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the code official’s decision and other relevant information with the application for appeal to the State Review Board. Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no further appeal is made.

302

EXTERIOR PROPERTY AREAS

302.3 Sidewalks and driveways.

All sidewalks, walkways, stairs, driveways, parking spaces and similar spaces regulated under the VCC shall be kept in a proper state of repair and maintained free from hazardous conditions. Stairs shall comply with the requirements of Sections 305 and 702

304

EXTERIOR STRUCTURE

304.1 General.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety, or welfare.

304.2 Protective treatment.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood

surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and watertight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.4 Structural members.

Structural members shall be maintained free from *deterioration* and shall be capable of safely supporting the imposed dead and live loads.

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.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.

304.8 Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions.

Overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.13 Window, skylight, and door frames.

Every window, skylight, door, and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing.

Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows.

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.15 Doors.

Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

305.4 Stairs and walking surfaces.

Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

STRUCTURE UNFIT FOR HUMAN OCCUPANCY: An existing structure determined by the code official to be dangerous to the health, safety, and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

UNSAFE STRUCTURE: An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.



TOWN OF WARRENTON

Community Development Department

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
permittech@warrentonva.gov
(540) 347-2405

LOCAL BOARD OF BUILDING CODE APPEALS BUILDING CODE APPEAL REQUEST

Return the completed form, a copy of the Building Officials decision, and all supporting documentation to the address above.

PROJECT INFORMATION

Project Name: Various
Project Address: Various
Permit Number or Case Number: _____
Tax Map or PIN#: _____

APPLICANT INFORMATION

Applicant Name: Hotel Street, LLC, Britton Hall, LC, Michale G. Macdonald Trust
Street Address: 92 Winchester Street
State: VA
Zip Code: 20186
Phone: 703-869-0096
Email: Keith.Macdonald@plural-US.com

OWNER INFORMATION

XX

Check if same as applicant

Owner: _____
Street Address: _____
State: _____
Zip Code: _____
Phone: _____
Email: _____

APPEAL INFORMATION

Appealing decision made by the: Building Official Fire Official Property Maintenance Official

On (date): June 2021 & November

Codes (IBC, IMC, IPMC, Etc.) and edition year: _____

Code Section: _____

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision: (Attach and number any additional pages as needed.)

See attached :Four PDF files, totaling 42 pages, one video of 4:29 in length, one email titled: "Frank Cassidy's Stupid Bull Shit Email from an Unqualified Moron - 5-2022", five PDF images



TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
Landdevelopment@warrentonva.gov
(540) 347-2405

January 23, 2024

Dear Property Owner:

The Board of Building Code Appeals of the Town of Warrenton held an appeal hearing for 45 Winchester Street on January 12, 2024. The applicant was not present therefore the board deferred the meeting to a later date. The Board of Building Code Appeals will hold an appeal hearing for 45 Winchester Street and 3 Hotel Street at the following time and location:

Wednesday, March 27, 2024
5:00 PM
Warrenton Town Hall
Council Chambers (First Floor)
21 Main Street, Warrenton, VA

Respectfully,

Hunter Digges
Building Official
Town of Warrenton



TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
Landdevelopment@warrentonva.gov
(540) 347-2405

March 7, 2024

Dear Property Owner:

The Board of Building Code Appeals of the Town of Warrenton held an appeal hearing for 45 Winchester Street on January 12, 2024. The applicant was not present therefore the board deferred the meeting to a later date. The Board of Building Code Appeals will hold an appeal hearing for 45 Winchester Street and 3 Hotel Street at the following time and location:

Wednesday, March 27, 2024
5:00 PM
Warrenton Town Hall
Council Chambers (First Floor)
21 Main Street, Warrenton, VA

Respectfully,

Hunter Digges
Building Official
Town of Warrenton



TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
TELEPHONE (540) 347-1101
FAX (540) 349-2414

VIRGINIA PROPERTY MAINTENANCE CODE 107.7 DESCRIPTION OF DECISION OF THE TOWN OF WARRENTON BOARD OF BUILDING CODE APPEALS

TO: Michael and Etsuko Macdonald
FROM: The Town of Warrenton Board of Building Code Appeals
DATE: 3/29/2024
RE: Case Number ENFC-23-73 (45 Winchester Street, Warrenton, VA 20186)

Mr. and Ms. Macdonald,

On March 27, 2024, the Town of Warrenton Board of Building Code Appeals met to hear your appeal of Case Number ENFC-23-73. Once available, copies of the minutes will be available online at the Town of Warrenton's website.

At the hearing, the Town of Warrenton Board of Building Code Appeals **upheld** the decision of the official by a unanimous vote of those present. You must perform the corrective action the Town of Warrenton's Building Official directed in the Updated Notice of Violation Pursuant to 2018 Virginia Property Maintenance Code 105.4, dated March 7, 2024. I have attached a copy of all relevant documents to this document.

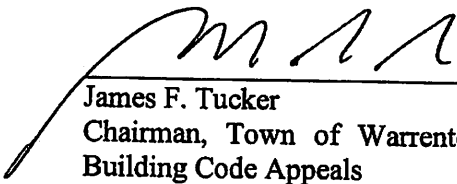
Pursuant to Virginia Property Maintenance Code 107.7, your appeal rights are as follows:

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 the written decision. Application forms are available from the

March 29, 2024
ENFC-23-73

Office of the State Review Board, 600 East Main Street, Richmond, Virginia
23219, (804) 371-7150.

Respectfully,



James F. Tucker
Chairman, Town of Warrenton Board of
Building Code Appeals

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

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

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



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

Brittton Hall, LLC
45- 49 Winchester Street
Warrenton Va 20186, 703-869-0096, Keith.macdonald@plural-us.com

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

Town of Warrenton
Hunter Diggs
21 Main Street, warrenton Va 20186, 540-347-1101, hdigges@warrentonva.gov

Additional copy of information to be submitted with application

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

CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of May, 2024, 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: Keith Macdonald

Name of Applicant: Keith Macdonald
(please print or type)

Documents Submitted
by
Brittton Hall LLC
via Keith MacDonald

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45 WINCHESTER ST

Location 45 WINCHESTER ST

City, State, Zip WARRENTON, VA 20186

Mblu 6984/ 34/ 8278/ 000/

GPIN 6984348278000

Owner BRITTON HALL LC

Assessment \$409,500

PID 25059

Building Count 1

Legal Description TRACT 2A

Total Acres 0.3408

Assessing District CENTER-WARRENTON

District 7: CENTER-WARRENTON

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$186,800	\$222,700	\$409,500

Parcel Addresses

Additional Addresses
No Additional Addresses available for this parcel

Owner of Record

Owner BRITTON HALL LC

Sale Price \$0

Co-Owner

Book & Page 1760/669

Care Of

Sale Date 12/07/2023

Address 92 WINCHESTER ST
WARRENTON, VA 20186

Instrument 99

Ownership History

Ownership History				
Owner	Sale Price	Book & Page	Instrument	Sale Date
BRITTON HALL LC	\$0	1760/669	99	12/07/2023
MACDONALD, MICHAEL KEITH	\$0	1392/12	00	04/09/2012
MACDONALD, MICHAEL KEITH	\$0	919/1661	00	10/15/2001

From: Frank Cassidy <fcassidy@warrentonva.gov>
Sent: Thursday, May 12, 2022 2:06 PM
To: Martin Crim <mcrim@vfnlaw.com>
Cc: Brandie Schaeffer <BSchaeffer@warrentonva.gov>
Subject: RE: Hotel Street - Site Report - Water Flooding

Good afternoon.

Please accept this as a brief report and response as result of a site inspection of the property as requested:

Our Superintendent and I inspected the property today after reviewing the report and pictures.

In short, the Town took steps to better the drainage and sidewalk approximately 10 to 15 years ago. Our observations are the water is directed away from the building as follows and indicated in the attached photos:

- The sidewalk along Culpeper St is angled towards the curb- water flows outward from the structure- Photo "Hotel St- culpeper 1"
- The water is diverted away from the sidewalk on Hotel St, near the property line with an asphalt ramping from the drainpipe to the outside curbs edge along Hotel St- Photo "Hotel ST- hotel side 4"

During our inspection, it was obvious there are several areas along the base of this structure where water can be entering the building. These areas are through windows or other open areas of the structure, and other sections of the structure not properly maintained and not part of any of the sidewalk. For example:

- Window along Culpeper St, Photo- Hotel St- culpeper side 2, there is a "plexi-glass" or plastic cover with old and inadequate sealant. This has been there for several years. Window area not properly sealed.
- The window along Hotel St, Photo- Hotel St- hotel side 2, there is a rotting board covering a window. There is a gap between the sidewalk brick and the structure and a slight rise of what appears to be a windowsill. Window area is not properly sealed.
- There are areas adjacent to the structure where bricks were removed exposing earth. These bricks were not removed by the Town. Photos- Hotel St- hotel side 1 and 3.

- The alley area along Culpeper St, between this structure and the structure at 12 Culpeper St is not being maintained. There is a rain gutter which drains directly into the alley way; there are two access points into the structure which are not secured and will allow intrusion not only by water, but vermin and other items as well; and there are leaves and equipment which interfere with proper drainage on this area. Photos- Hotel St- Alley 1, 2, 3, and 4.

There are several areas of the entire exterior of this structure which are in disrepair from lack of maintenance and neglect. The remaining photos show some of these items.

It is obvious if there is water going into this structure, there are several entry points well beyond the alleged issues "caused" by the sidewalk improvements.

Given this, we do not see what actions we can take to address the concerns from a Town perspective.

Please let me know if you require additional.

Thank you

Frank

7020 2450 0001 2933 7245

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USPS™

Certified Mail Fee \$ 4.35

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ 3.55

Return Receipt (electronic) \$ _____

Certified Mail Restricted Delivery \$ _____

Adult Signature Required \$ _____

Adult Signature Restricted Delivery \$ _____

Postage \$ 0.33

Total Postage and Fees \$ 8.53

Sent To *Elyuko K. McDonald, Michael Kevin McDonald*

Street and Apt. No., or PO Box No. *45 Winchester Street*

City, State, ZIP+4® *Warrenton WA 97146*

PS Form 3800, April 2015 5917 (50) 260-0307 See Reverse for Instructions



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To: Martin Crim <mcrim@vfnlaw.com>
Cc: Brandie Schaeffer <BSchaeffer@warrentonva.gov>
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Thank you

Frank

DATE	4.9.24
SHERIFF	JEREMY A. FALLS
SERVING OFFICER	Mrs. D. Reichel
<input type="checkbox"/> NOT FOUND Reason	
<input checked="" type="checkbox"/> Posted on front door or such other door as appears to be the entrance of usual place of abode, address listed above. Other authorized recipient not found.	
<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.	
<input type="checkbox"/> Delivered to person found in charge of usual place of business or employment during business hours and giving information of its purport.	
<input type="checkbox"/> Being unable to make personal service, a copy was delivered in the following manner	
<input type="checkbox"/> PERSONAL SERVICE	
NAME	Mcdonald, Michael
ADDRESS	575

A SAD LITTLE TOWN
RUN BY CROOKS AND IMBECILS

Part 2

The George Fitch and Kenneth Lawless Years 1998-2014,

A black DOT ●

On the town's permanent RECORD.

In 1998, I purchased Britton Hall and gave it to my first wife.

Shortly after the purchase, Town Folk, AKA The Chattering Classes, told me I had “gotten in the way of George Fitch.”

“Interfered with the Fitch property.”

I did not know who George Fitch was, nor did I care.

During this time, while working to correct the many, many, many issues – issues that the town did not regulate properly at Britton Hall, I got a visitor at the Britton Hall.

A lady approached me while I was working at Britton Hall. She wanted to know if I would sell her the property.

It turns out she was George Fitch's wife.

In 2003, I contracted to sell a small portion of land for \$1.2 Million to the Middleburg Bank.

As part of the bank's due diligence, they went to the town for a verbal pre-approval. And even though the CBD zoning gave a BY RIGHT authority for the bank to build a bank building, George Fitch and Kenneth LAWLESS told the bank they would be better off buying A DIFFERENT LOT OF LAND.

A parcel of land They had an interest in...

MIDDLEBURG BANK, READING THE WRITING ON THE WALL, purchased the lot the mayor **directed** "suggested" them to buy.

The bank was then unable to get approval to build on that land. The Bank held that \$1.5 Million "Investment" for 20 years. Paying Taxes, Insurance, and Upkeep, only to sell it at a loss.

MIDDLEBURG BANK LOST OVER \$1.8 MILLION ON THAT TRANSACTION

Fact: Had Middleburg Bank made a modest return of 4% over the 20 years they held the property, they should have grossed **\$3,338,165.17**

What is the cost of the Town's Corruption?

**FACT:
Middleburg Bank lost over \$1.8 Million.**

What is the cost of the Town's Corruption?

FACT: Had the town not interfered in my land contract, Britton Hall would have been finished in 2005

FACT: The loss of the land sale has cost me over \$40 Million in wealth today.

FACT: If the Town of Warrenton and George Fitch had not illegally interfered in my private land sale, we would not be here today.

FACT: If the Town of Warrenton had not obstructed my peaceful enjoyment at 3 Hotel Street, I would be \$2.5 Million better off today than I am.

NOT satisfied with screwing me out of \$1.2 Million George Fitch and His Crony Kenneth Lawless

Filed a frivolous Lawsuit in 2011

Frivolous

Because the town's "SPECIAL PROSECUTOR" lawsuit was for violations that were not part of the town's ordinances.

Any ten-cent second-year law student would know that you can't file a lawsuit if the law does not support your action.

FACT: The town's "SPECIAL PROSECUTOR," without a warrant, went into my Office and Workspace at Britton Hall and searched the property.

FACT: The town's "SPECIAL PROSECUTOR threatened criminal charges to FORCE A CIVIL remedy.

FACT: The town illegally revoked the building permits at Britain Hall for three years while they pursued a frivolous lawsuit.

FACT: The town's illegal actions cost the building owner hundreds of thousands of dollars in business overhead legal fees and lost rent and income.

FACT: The building owner counter SUEd the town. And within weeks of the countersuit, the town withered and went away. Now, after the statute of limitations from the illegal actions of the town has passed, the town wants to take a second bite at Apple.

FACT: Since the 2011 lawsuit, the town has withheld all information – when asked either by a subpoena or through FOIA, that would allow the building owner to pursue the town for damages.

FACT: The town's "SPECIAL PROSECUTOR" was never approved by the Town Council. In fact, the Town Council had no knowledge of the special prosecutor or of the lawsuit that George Fitch brought against the owner of Britton Hall.

FACT: The town's "SPECIAL PROSECUTOR" was in fact, a friend of George Fitch, and Kenneth Lawless, and misrepresented his special status as a prosecutor. His legal fees were mostly paid by George Fitch.

THIS IS WHAT CORRUPTION LOOKS LIKE



Tyvek Hall ca. 2024

For three years, the town illegally took away my building permits while they pursued their frivolous lawsuit, all in the hopes of pushing me out of my property, depleting my capital, and forcing me into bankruptcy.

During that time, the Town's odious lawyer by the name of Mark Dicyo, insisted that the siding on the front of the house must come down. "It had too much tired paint."

Eventually, To shut the dumb SOB up, we took the siding down. MANY, MANY, Times we told him. "Now is not the time to take it down".

We told the town attorney **THAT IT was not going** to go back up until the bushes went away. The remaining front porch gets taken away. The ground in front of the building gets excavated to the footers. The foundation gets waterproofed and drain tiled installed, the base of the front porch gets rebuilt, the new windows go in, the porch roof goes on, and then, and only then, after many other additional items, will the Front Siding be Re-installed. UNDERSTAND?

TYVEK IS MY FREE SPEECH

This is my daily reminder to the community about the damages that Jorge Fitch did to me and the consequence of the crappy government.

FACT: The town attorney's "special prosecutor" is solely responsible for removing the front siding at Britain Hall. He argued with my attorney for three years to take the siding down. He was told now is not the time to do it.

And the dumb SOB wouldn't shut up for three years about it.

The Town of Warrenton has made its bed, and I'm letting the town lie in it.

Tyvek Hall is a free speech statement!

When the town addresses the millions of dollars in damages they have caused and makes a public apology. We can move forward.

Other Creative Harassment by the town

IN 2013, the town came up with yet another novel approach to further harass the building owner. Their attention suddenly changes to a flight of stairs leading to the fourth-floor apartment.

The stairs in question were installed by the prior owner of Britain Hall. The fourth-floor apartment had been in constant occupation during the prior owner's ownership and the current owner's ownership.

The town of Warrenton decided that this apartment did not have an occupancy permit and the work done by the prior owner was a building violation.

11 YEARS AFTER My Ownership and 15 Years after the prior owner did the work.

This little ROUND of BS **Cost the Owner \$45,900.00** in lost rent and thousands more in wasted time and expenses.

Other Creative Harassments

AKA Damages Caused

In the old building department in the basement of the bank, the town posted a large sign at the front counter.

“No building permits are to be issued to Keith Macdonald.”

It seems innocuous, but in fact, it is discrimination and defamation, pure and simple. And it has real-life consequences and financial costs.

Financial costs that just keep adding up

one thing after another

Everything the town does steals your life and money,

They steal your time.

They steal your livelihood.

They steal your money.

In 2008, I hired a well-known WARRENTON HVAC contractor to install a new gas boiler at Briton Hall. He gave me an estimate. I wrote him a check for the full amount as I knew that business was bad during the economic turndown, and his business was suffering.

I Said to him “You must get a building permit as this is a commercial multifamily property. You must because of the constant harassment by the Town. You must not, and I cannot, have work performed without a permit. Is that Clear?”

After a considerable delay, he starts working. At first, the work was done according to the scope.

However, as his work progresses, black piping suddenly becomes Ward flexible piping; furthermore, the flexible piping is attached to a nearby gas pipeline of insufficient size for the volume of gas required by the boiler and would have starved the boiler for gas. Other work was not done to a standard or a level of professionalism that one would expect or had been paid for.

I asked the contractor for a copy of the building permit. He informed me that the Town of Warrenton refused to issue Him a permit for my property.

This contractor failed to meet the scope of work and code. After trying to get the contractor to perform properly, I spoke with an attorney, who advised me to go to the professional licensing board to seek redress.

The consequence of not having a permit is that when I went to seek redress through the Board of Professional Licensing, I could not pursue my case because I did not have a building permit.

SO YES,

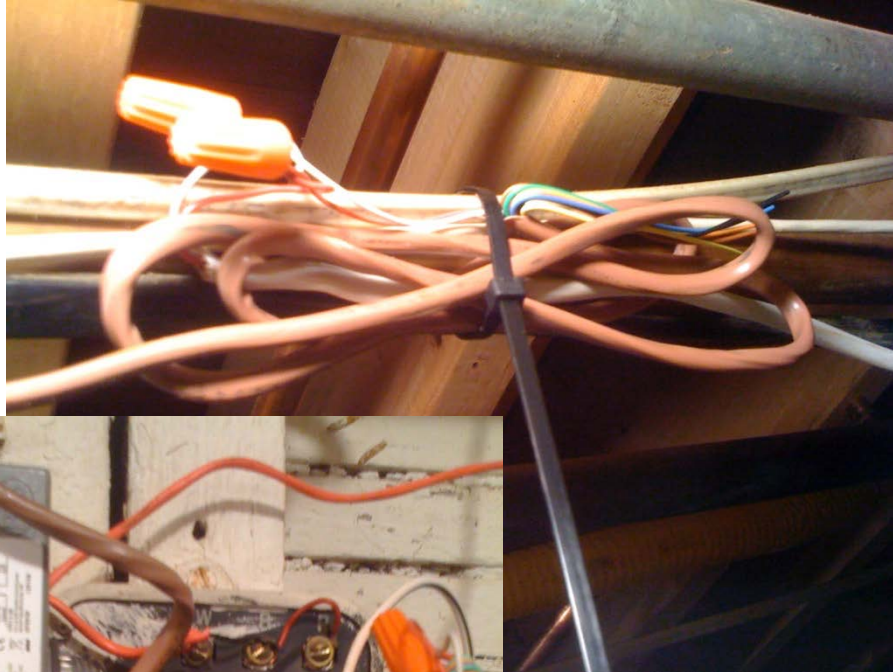
The harassment and discrimination are real, and it has real consequences.

Just one more cut, one more loss

Just add this to all the other CRAP the town spews out.



The Blue "X" is the location and level at which the vent pipes should have exited the building. The Yellow Ward-Flexi pipe should have been a Black Iron Pipe run all the way back to the incoming manifold with shut-off.



The HVAC contractor didn't replace the original 1942 transformer and relay, which failed on a Friday morning on one of the year's coldest days. It took two hours to diagnose the failure and identify the part number and three hours to find a replacement part. It took three hours to drive to Charlottesville and back for the part. The system was back online by 5:30 PM.

Britton Hall is a well-maintained and managed property.





The Constant drip, drip, drip of the town illegally interfering in your business, illegally obstructing your business, illegally performing warrantless searches on your property, illegally using its powers to harass and defame. A constant drip of loss followed by loss, loss, and loss.

And people want to know why the Town of Warrenton is at the bottom rank compared to all the nearby towns.

Lower Property Values
Lower Rents
Lower Income for Merchants
Lower Sales Revenue
Lower town Revenue
Near Zero Growth
Near Zero Investment

When people ask me about WARRENTON, I say don't come here. Don't invest here. Go anywhere else, and you will have a better, more rewarding life.

Britton Hall - Model			
AREA		COST SQFT	SPEND
Gross SQFT - Building	7424.79662	\$ 400.00	\$ 2,969,918.65
Gross SQFT - Porch	2953.28881	\$ 250.00	\$ 738,322.20
		Total Renovation COST Building & Porch	\$ 3,708,240.85
		Total Renovation COST - PER SQFT	\$ 499.44
		Total Renovation COST Building & Porch	\$ 3,708,240.85
		Building Cost	\$ 375,000.00
		Building Improvements Made	\$ 1,750,000.00
TOTAL PROJECT COST			\$ 5,833,240.85

10 Courthouse Square (BANK, LAND, PARKING)		
SQFT		Cost Per Square Foot
36,000.00		\$ 177.00

Building Utility % (Rentable Area)			
% Utilization	SQFT	Building Utility % (Rentable Area)	Cost Per Square Foot
100	7424.79662	7424.797	\$ 499.44
80	7424.79662	5939.837	\$ 624.30
75	7424.79662	5568.597	\$ 665.92
65	7424.79662	4826.118	\$ 768.37
60	7424.79662	4454.878	\$ 832.40

The Square Foot rental rates in the CBD are lower today than they were in 1992

In 1992, Retail /Office space in the Historic District ran between \$14.00 and \$22.00 a square foot.

Today, 22 Years Later, Retail /Office space in the Historic District **ASKING** is between **\$12.00 and \$16.00**.

ADJUSTED FOR INFLATION.

It should RUN \$25.74 to \$40.45

Guess what? It is ~~hard~~ **impossible** to find any available commercial space in Middleburg for **less than \$45** a square foot.

DITTO Culpeper
DITTO Leesburg

Most commercial buildings in Warrenton's CBD are less than 50% occupied. Many 2000-3000 SGFT buildings have two or three occupancies – part-time at best.

MAIN STREET IS A FOURTH-TIER DESTINATION

All thanks to the TOWN OF WARRENON'S decades-long policies that have destroyed the town's economic heart.

The **last** commercial capital **investment made** in the historic district **was** in 1979.

AND YOU WANT ME TO SPEND \$4.0 Million to fix up a building where no capital investment has happened in 45 YEARS and **where the rents have dropped in real Dollar terms.**

But you must admit WARRENTON has the **best parking lots.**

Have you ever wondered what happened to the buildings that used to sit on that land?

A: The town tore them down.

Watergate Office Building Owner Delinquent On \$73M CMBS Loan

January 2, 2024 | Emily Wishingrad, Washington, D.C. ✉



Google Maps
The Watergate Office Building, the site of the 1972 break-in to the Democratic National Committee headquarters.

The same office space at the Watergate complex that played a role in the downfall of then-President **Richard Nixon** is contributing to worsening distress in the D.C. office market.

A \$73M **CMBS** loan tied to the 11-story Watergate Office Building at 2600 Virginia Ave. NW has fallen delinquent, according to a notice from **Morningstar** last week, **first reported by Commercial Observer**.

The 215K SF property is owned by D.C.-based private investment company **Friedman Capital**. The firm purchased the property in September 2019 for \$101.5M from **Rockwood Capital**. Rockwood had owned the building for less than three years.

Friedman Capital didn't respond to *Bisnow's* request for comment.

The delinquency comes as the building's occupancy took a plunge over the last two years. At the beginning of 2022, the property was 100% occupied. That figure slid to 78% as of September.

Sage Publications, which departed when its lease expired in October 2022, contributed "a good bit" to the rise in vacancy, Morningstar said. The tenant had occupied 26K SF in the space where the 1972 break-in of the Democratic National Committee headquarters occurred.

The property's most recent servicer commentary in November said the borrower hadn't made its October and November debt payments. Tenants were directed to send rent checks directly to the lender-controlled lockbox in September due to the owner's failure to meet the required 6.25% debt yield hurdle, according to Morningstar.

The building is part of a six-tower complex which includes a hotel, multifamily units and another office property.

An **October 2019 filing** with the **Securities and Exchange Commission** said the National Trust for Historic Preservation is the largest tenant, with a 38K SF lease expiring in December 2028. The second largest is **George Washington University**, which occupies 37K SF, and that lease is set to expire in July 2027.

Other tenants include Centennial Group International, the headquarters for KIPP DC Public Schools, coworking company **Launch Workplaces** and Blossom Dentistry, according to their websites.

During the fourth quarter, the D.C. office market posted a record-high vacancy rate of 22.4%, according to **Savills**. The high vacancy **has contributed** to a series of **distressed situations** over the last year as office owners struggle to pay back their debt.

Coming to Warrenton Right About NOW

IN A STATE OF DISREPAIR
For over 35 years



ANSWER THE QUESTION:

In the 40+ years that this building sat in the condition shown here, did the Town of Warrenton ever take action or send notice to the owner regarding the condition of his property?

IN A STATE OF DISREPAIR
For over 35 years



ANSWER THE QUESTION:

In the 35+ years that this building sat in the condition shown here, did the Town of Warrenton ever take action or send notice to the owner regarding the condition of his property?

An inspection of the above listed property was conducted on October 30th, 2023, by the Town of Warrenton Building Official, Hunter Digges, and Building Inspector Mike Rhodes. Numerous violations of the 2018 Virginia Property Maintenance Code were found and are listed below. A site meeting with Keith Macdonald was held at 45 Winchester on October 30th, 2023. Mr. Macdonald stated that he would not be making any repairs to the structure.

These _violations have been in existence for many years and continue to exist and have not been corrected, despite several attempts to gain the voluntary compliance from the property owner.

The current condition of this structure, as it exists in a registered historic district, is adversely affecting property values and quality of life in the vicinity. The degree of deterioration, lack of maintenance, and the quantity of these violations constitute a dangerous, unsafe and unsanitary structure by the following definitions from the VA Property Maintenance Code, 2018 edition:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY: An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

UNSAFE STRUCTURE: An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.

The Town Says:

“The current condition of this structure, as it exists in a registered historic district, is adversely affecting property values and quality of life in the vicinity.”

Just Not So...

The town FALSELY CLAIMS THAT Britton Hall’s “Condition” is hurting property values.
 That’s complete rubbish and is utterly false.

Let’s take a look at the **Facts:** **Directly** across the street from Britain Hall sits **54 Winchester Street**

Sparky Lewis Old Place Sold for:

6-Dec-21	Sold (MLS) (Closed)
Date	BRIGHT MLS #VAFQ2001412 \$427,500

AND SOLD AGAIN

11-Nov-23	Sold (MLS) (Closed)
Date	BRIGHT MLS #VAFQ2010314 \$625,000

PERCENT CHANGE - INCREASE	46%	DAYS	706
			1 year, 11 months, 6 days

\$625,000	Sold
\$427,500	Bought
\$197,500	Profit in less than 2 years

ROI with 20% Down... A WHOPPING 230.99%

Amount Invested

Amount Returned

Investment Time:
 Use Dates Use Length

From

To

Calculate

Result

Investment Gain	\$197,500.00
ROI	230.99%
Annualized ROI	53.15%
Investment Length	2.808 years



The Town Says:

“The degree of deterioration, lack of maintenance, and the quantity of these violations constitute a dangerous, unsafe and unsanitary structure by the following definitions from the VA Property Maintenance Code, 2018 edition:”

Just Not So...

Even the Towns own building Official – Bob Hale said otherwise:



TOWN OF WARRENTON

POST OFFICE DRAWER 341
WARRENTON, VIRGINIA 20188-0341
<http://www.warrentonva.gov>
TELEPHONE (540) 347-1101
FAX (540) 349-2414
TDD 1-800-828-1120

MEMORANDUM

TO:

FROM: Bob Hale

DATE: July 26, 2017

SUBJECT: Macdonald Projects

Met with Keith Macdonald this date to discuss his projects at 92 Winchester Street, 47 Winchester Street, and 3 Hotel Street.

92 Winchester Street:

At this time, Mr. MacDonald is working at pointing up the masonry chimney at the house. He estimates that he has one more week and the chimney will be completed and all scaffolding and related materials will be removed.

All of the windows missing from 3 Hotel Street have been re-conditioned and are being stored at this location. All the windows, sashes, & frames have been rebuilt and he anticipates moving them to 3 Hotel Street in the next couple of weeks and re-installing them.

The basement area is being used for storage and minor shop work.

The first floor is fully habitable, but a third of the floor area is currently being refurbished, including a full lead paint abatement and millwork restoration.

The second floor is generally clean and cleared of construction materials.

One ceiling area on the second floor and the ceiling of the front porch are temporarily covered with "R-Max", an insulating foam sheathing board.

This material is not allowed by the code to be used as an interior wall or ceiling finish as noted in R316, but is being used as a temporary thermal barrier in the locations noted.

SECTION R316; FOAM PLASTIC

R316.4 Thermal barrier.

Unless otherwise allowed in Section R316.5 or Section R316.6, foam plastic shall be separated from the interior of a building by an approved thermal barrier of minimum 1/2 inch (12.7 mm) gypsum wallboard or a material that is tested in accordance with and meets the acceptance criteria of both the Temperature Transmission Fire Test and the Integrity Fire Test of NFPA 275.

45 Winchester Street:

The exterior of this building has been under construction for more than 11 years. The interior of the main building is aged, but well maintained and fully habitable.

Though currently working on other projects, the next phase of work on this structure is to include the replacement of the finished roof surface with associated trim & siding on the breezeway connecting the R-2 area of the main structure to the B-use area to the right of the main structure.

LVL's were added to each side to support the breezeway with a temporary center post in the span. A permanent post will be added once the below grade supporting wall has been re-built. The LVL's are let into the existing walls and supported by new posts in the walls.

From there, the owner hopes to complete the siding and trim of the front wall of the main R-2 structure and then move to the rear elevation.

The B-use structure has had the roof framing replaced and new roofing material will be added.

3 Hotel Street:

Work on this structure has come to a halt at this time.

The reconditioned windows will be reinstalled once the chimney at 92 Winchester is completed.

Permits have been issued and interior work is planned for the winter months once labor is reemployed.

March 11, 2024

From
Mary Beth Jobe
1249 New Grenada Hwy
Waterfall, PA 16689

Re: Britton Hall
47 Winchester Street
Warrenton, VA 20186

To Whom It May Concern:

My husband Kevin Jobe and I, Mary Beth Jobe, rented Unit 1 of Britton Hall from April 2011 until March 2014, and our landlord was Keith Macdonald, owner of Britton Hall.

I also worked for Keith Macdonald, and one of my responsibilities on this property was thoroughly cleaning the three other units after tenant moves out and/or after any cleanup when work is done to unit before new tenant moves in. I also maintained the main hallway and stairs of the building.

I can personally attest that the building was sanitary, and a safe working environment.

I also mowed the lawn on the Britton Hall property during my lease. I knew the house and property quite well. That being said...

Neither I nor my husband have ever felt unsafe while living on the Britton Hall property.

The property was well maintained. Anything that needed immediate addressing was addressed and solved, i.e. plumbing, electrical, etc.

Our rental experience at the Britton Hall property(47 Winchester Street, Unit 1, Warrenton VA 20186) was truly a very positive experience.

Sincerely,
Mary Beth Jobe
Kevin Jobe

TO: Town of Warrenton

FROM: Patrick Lynch

RE: 47 Winchester Street

DATE: 3-20-24

I am the current tenant at 47 Winchester Street, Apartment 1, and have lived there since March 2021. In the time that I have lived in this apartment, I have found it to be comfortable and accommodating for me, my young daughter, and my dog. While it is an older house, it does provide the necessary and habitable accommodations one would expect for the present day. During the winter the home is warm, and during the summer it is cool. It is clean inside, insect and rodent free, and not once has there been a leak or flooding. The home has plentiful hot water, a newer washer/dryer, and is set on two majestic acres of fields and woods that my family enjoys daily. In the three years I have been at 47 Winchester Street I have seen other tenants come and go, and every single one of them I found to be upstanding citizens and not once has there been a noise disturbance; quite the opposite, it has always been very peaceful. In summary, 47 Winchester Street has been a blessing to my family as we have enjoyed living here and hope to remain here for a long time to come.

If the town has any questions and would like to speak to me further, feel free to email or call me at the below contact information. Thank you.

V/r

Patrick Lynch
plynch8541@gmail.co
m 540-680-9816

To whom it may concern:

We lived at 47 Winchester Street, Apartment 1, for approximately 14 months, from June, 2018 to August, 2019. We moved there in order to live near Main Street during our youngest child's last year with us, since it was her desire to live in town before going off to UVA. A previous resident we had spoken to before moving there was an architecture student who spoke well of Keith and his restoration work.

We met Keith Macdonald and signed the lease on this historic house, later learning that Keith's father had worked for one of the Presidents, and his mother was active in historic preservation. Keith had a workshop in the basement where we sometimes viewed beautiful custom wood and copper pieces he was making as he restored older and historic buildings.

The interior of our two-bedroom apartment was sunny and clean and safe. All the electric outlets were in good operating order. The heat was radiator heat and Keith had the radiators flushed while we were living there. He contacted us in the spring to give the date the window AC units would be installed. The lawn was mowed regularly, and matching outdoor trash cans were provided for the apartments. When our refrigerator ceased functioning, Keith replaced it with a large new refrigerator almost immediately.

The exterior of 47 Winchester Street always seemed to be paused during reconstruction, which seemed odd for a historic building owned by such an excellent restorer of historic buildings. I was always saddened to think that perhaps the Town of Warrenton would have had a more beautiful building at that address if the town officials had worked harder to develop a good working relationship with the building's talented owner.

Dianne Kwiatkowski

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Documents Submitted
By
Town of Warrenton

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VIRGINIA: IN FAUQUIER CIRCUIT COURT

TOWN OF WARRENTON, VIRGINIA)
)
Plaintiff,)
v.)
BRITTION HALL, LC)
Serve: Michael Keith Macdonald)
92 Winchester Street)
Warrenton, VA 20186)
Defendant.)

Case No. _____

COMPLAINT

Plaintiff, TOWN OF WARRENTON, VIRGINIA, by and through undersigned counsel, hereby states its Complaint against defendant BRITTION HALL, LC, seeking temporary and permanent injunctive relief against Defendant for its continuing violations of the Town’s ordinances and an order compelling abatement of the unsafe, dangerous, and unsanitary structures at 45 Winchester Street. In support of its complaint, the Town states as follows:

Parties

1. Town of Warrenton, Virginia (“the Town”) is a municipal corporation of the Commonwealth of Virginia.
2. Brittion Hall, LC is a Virginia limited liability company and the current owner of the property located at 45 Winchester Street, Warrenton, VA (“the Property”).

Jurisdiction

3. All parties and properties involved are located or domiciled within Fauquier County.
4. Va. Code §§ 8.01-620, 15.2-1115, 15.2-1432, and 36-106 grant this Court subject matter jurisdiction.

Venue

5. Fauquier Circuit Court is the preferred venue under Va. Code § 8.01-261(c) and permissible venue under Va. Code § 8.01-262(1), (2), (3), and (4).

Facts

6. On November 13, 2023, the Town issued a Notice of Violation of the Virginia Property Maintenance Code to Michael and Etsuko MacDonald, the then owners of the property.

Ex. A at 18. The Notice of Violation identified numerous violations of the Virginia Property Maintenance Code on the Property.

7. Michael MacDonald appealed the Notice of Violation to the Town of Warrenton Board of Building Code Appeals.

8. On December 6, 2023, the MacDonalds transferred the property to Brittion Hall LC.

9. On March 7, 2024, the Town issued an updated Notice of Violation to Michael and Etsuko. Ex. A at 5. The enforcement action continued against the MacDonalds due to Va. Code 36-105(C)(4), which states:

4. Transfer of ownership. If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50 percent, the pending enforcement action shall continue to be enforced against the owner.

10. Michael MacDonald is the sole principle of Brittion Hall LC.

11. On March 27, 2024, the Town of Warrenton Board of Building Code Appeals met to hear MacDonald's appeal.

12. MacDonald did not appear.

13. The Town of Warrenton Board of Building Code Appeals voted to uphold the Notices of Violation. Ex. A at 3. The Town notified the MacDonalds of the decision on April 2, 2024. Ex. D at 94.

14. The period to appeal the Town of Warrenton Board of Building Code Appeals decision ended, at the latest, on April 24, 2024. VPMC § 107.7.

15. On May 9, 2024, the Secretary to the State Review Board confirmed that no appeals had been made from decisions in the Town. Ex. B at 92.

16. On April 30, 2024, the Town Attorney sent a letter to Mr. and Mrs. MacDonald, renewing the need to correct the Maintenance Code violations at the Property. Ex. A at 1.

17. On May 23, 2024, MacDonald dropped off a document at the Town's offices that claimed to have emailed an appeal on April 30. Ex. C. MacDonald's May 23rd document shows A) he failed to follow the appeals process explained to him in the Warrenton Board of Building Code Appeals decision notice and B) would have been untimely had he followed the process since the deadline to appeal would have run six days earlier on April 24. *See*, Ex. C at 93.

18. Brittion Hall, LC has made no discernible effort to abate the violations at the Property.

Count I – Injunctive Relief

19. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 16 hereof, with the same force and effect as if fully set forth herein.

20. The Property's condition, as described in the Town's Notice of Violation, are continuous violations of the Uniform Statewide Building Code. Ex. A at 5.

21. The Town has adopted the Uniform Statewide Building Code in its ordinances. Warrenton Town Code § 4-17, 4-31.

22. This Court has the power to enjoin continuing violations of Town ordinances without any further showing of irreparable harm. Va. Code § 15.2-1432; *Ticonderoga Farms, Inc. v. County of Loudoun*, 242 Va. 170, 176 (1991).

Count II – Nuisance Abatement

23. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 20 hereof, with the same force and effect as if fully set forth herein.

24. The Town of Warrenton has adopted the Virginia Maintenance Code, as amended. Warrenton Town Code § 4-31.

25. Virginia Property Maintenance Code § 105.6 provides:

Further action when violation not corrected. If the responsible party has not complied with the notice of violation, or notice of unsafe structure, the code official may request the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality or legal counsel so authorizes, the code official may issue or obtain a summons or warrant.

26. Brittion Hall, LC has not complied with the notice of violation.

27. The Town's Code Official has requested legal counsel to institute the appropriate legal proceedings to restrain, correct, or abate the violations.

28. Va. Code § 15.2-1115 allows a municipal corporation to

compel the abatement or removal of all nuisances, including but not limited to... the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. If after such reasonable notice as the municipal corporation may prescribe the owner or owners, occupant or occupants of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance, the municipal corporation may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the

property affected in any manner provided by law for the collection of state or local taxes.

29. The Town of Warrenton has provided more than adequate notice to Brittion Hall, LC of the “unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public” located on the Property and the consequences if left unabated. ¶ 6-15, *supra*.

30. Brittion Hall, LC has failed to abate or obviate the condition or nuisance. ¶ 18, *supra*.

31. An action under Va. Code § 15.2-1115 is an appropriate legal proceeding to restrain, correct, or abate the violations on the Property.

Prayer for Relief

WHEREFOR, **TOWN OF WARRENTON, VIRGINIA**, prays for:

1. Enjoining and/or ordering Brittion Hall, LC, to abate the violations on the Property within 45 days of the entry of this Court’s order;
2. Authorize the Town to abate or obviate the violations on the Property and charge and collect the cost thereof from the owner or owners of the property in any manner provided by law for the collection of state or local taxes if Brittion Hall, LC fails to abate or obviate the violations within 45 days of entry of this Court’s order; and
3. Such other relief as the court deems necessary to affect the ends of justice.

Respectfully submitted,

TOWN OF WARRENTON, VIRGINIA

By Counsel



M. Tolley Gwinn (VSB No. 94780)
Sands Anderson PC
919 East Main Street, Floor 23 (23219)
P.O. Box 1998
Richmond, Virginia 23218-1998
(804) 783-7265 (telephone)
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Attorney

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RICHMOND | CHRISTIANSBURG | FREDERICKSBURG
DURHAM | WILLIAMSBURG

SANDSANDERSON.COM

919 East Main Street
Post Office Box 1998
Richmond, VA 23218-1998
Main: (804) 648-1636
Fax: (804) 783-7291

April 30, 2024

SENT VIA EMAIL

Mr. & Mrs. Macdonald
45 Winchester Street
Warrenton, VA 20186
Keith.macdonald@plural-us.com

RE: VPMC Violations at 45 Winchester Street (ENFC-23-73) and 3 Hotel Street (ENFC-23-99)

Mr. and Mrs. Macdonald:

My firm represents the Town of Warrenton, Virginia (the "Town"). I write to provide notice of pending enforcement action intended to prosecute and abate violations of the Virginia Property Maintenance Code (VPMC) at your above-referenced properties.

On March 27, 2024, the Town of Warrenton Board of Building Code Appeals met to hear your appeals of the VPMC Notices of Violation issued against 45 Winchester Street (ENFC-23-73) and 3 Hotel Street (ENFC-23-99). You did not appear. The Board reviewed the Notices of Violation and unanimously upheld the Building Official's decisions.

On March 29, 2024, James Tucker, the Chairman of the Town of Warrenton Board of Building Code Appeals, signed the VPMC 107.7 description of the Board's decision for both appeals. Both of those descriptions included the mandatory appeal language:

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 the written decision. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150.

Hunter Digges, the Town's Building Official, provided you a copy of the written description by certified mail on April 2, 2024, and a copy by email by April 3, 2024. You left a voice mail with Hunter Digges confirming receipt on April 3. This meant your deadline to appeal to the State Technical Review Board was, at the latest, **April 24, 2024**. We have not received any

notice of you perfecting an appeal; if you did, please provide me evidence of such as soon as possible.

If you did not perfect an appeal to the State Technical Review Board, the Notices of Violation stand, and you need to bring the properties into compliance. If you have already remedied the issue or if you are currently remediating the issue, please let me know by **May 16, 2024**. If not, the Town has directed me to prosecute the violations under the relevant provisions of the Town's Ordinances and the Virginia Code. **This could result in substantial fines and a court order directing you to abate the violations.**

Thank you for your prompt attention to this matter. I have attached a copy of all referenced correspondence for your convenience. Please contact me with any questions. If you have retained an attorney for this matter, please have the attorney contact me.

Sincerely,

A handwritten signature in cursive script that reads "Mahal Tolley Gwinn". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

M. Tolley Gwinn

Enclosures

cc: Hunter Digges, Town of Warrenton

Gwinn, M. Tolley

From: Luter, Travis (DHCD) <travis.luter@dhcd.virginia.gov>
Sent: Thursday, May 9, 2024 1:27 PM
To: Gwinn, M. Tolley; SBCO
Cc: Potts, Richard (DHCD); Hunter Digges
Subject: RE: Warrenton LBBCA Appeals

Categories: Filed to ND
FilingIndicator: -1

CAUTION: External Message

To date Review Board staff has not received an appeal application related to the Town of Warrenton.

W. Travis Luter, Sr., CBO
Secretary to the State Building Code Technical Review Board
Code and Regulation Specialist
Virginia Department of Housing and Community Development (DHCD)
804-371-7163
travis.luter@dhcd.virginia.gov



From: Gwinn, M. Tolley <tgwinn@sandsanderson.com>
Sent: Thursday, May 9, 2024 1:09 PM
To: SBCO <sbco@dhcd.virginia.gov>
Cc: Luter, Travis (DHCD) <travis.luter@dhcd.virginia.gov>; Potts, Richard (DHCD) <richard.potts@dhcd.virginia.gov>; Hunter Digges <hdigges@warrentonva.gov>
Subject: Warrenton LBBCA Appeals

Good afternoon,

I am one of the Town Attorneys for the Town of Warrenton. Could you confirm for me whether you have received any appeals of a decision by the Warrenton LBBCA?

Please call with any questions!

Thank you,

Tolley

M. Keith Macdonald

Notice to appeal the Town of Warrenton's LBBCA act.
TO: THE STATE LBBCA BOARD:

NOTICE OF APPEAL HAS BEEN GIVEN PREVIOUSLY VIA Email on Apr 30, 2024 for the following properties:

Hotel Street, LLC
3 Hotel Street, LLC
C/O 92 Winchester Street
Warrenton VA.20186

Brittton Hall, LC
C/O 92 Winchester Street
Warrenton VA.20186

92 Winchester Street
Warrenton VA.20186

As of Wednesday, May 22, 2024, no response has been received from the Town of Warrenton or Richmond.

Received by

DATE

EXHIBIT
D

9589 0710 5270 0307 0787 47

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

Certified Mail Fee	\$ 4.40
Extra Services & Fees (check box, add fee as appropriate)	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$ 3.00
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$ 3.55
Total Postage and Fees	\$ 11.40

Sent To: Michael K. Macdonald
Street and Apt. No., or PO Box No.: 92 Winchester St
City, State, ZIP+4®: Warrenton, VA 20186

WARRENTON VA APR 2 2011 9810 9810 9810 PS

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

WARRENTON 094

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Town of Warrenton
Local Appeals Board
March 27, 2024
Meeting Minutes

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Local Board of Building Code Appeals

21 Main St

Friday, March 27, 2024, at 5:00 PM

MINUTES

A REGULAR MEETING OF THE LOCAL BOARD OF BUILDING CODE APPEALS OF THE TOWN OF WARRENTON, VIRGINIA, WAS HELD ON March 27, 2024, at 5:08 PM

Regular Meeting

PRESENT Mr. James Tucker, Chairman ; Mr. Frank Foley; Mr. Fred Austin; Mr. Tolley Gwinn , Attorney; Mr. Hunter Digges, Building Official.

ABSENT Mr. Wayne Carson; Mr. Bryan Black.

The minutes laid out will be a brief recap of the agenda items. Please see recorded video for more In-depth information.

REGULAR MEETING - 5:00 PM

CALL TO ORDER

At 5:00 PM on Friday, March 27, 2024. Mr. James Tucker, Chairman called the local Board of Building Code Appeals to order.

Mr. Tucker questioned Mr. Hunter Digges, Building Official; why Mr. Keith Macdonald and his counsel are not present.

Mr. Digges explained Mr. Macdonald's counsel informed our counsel Mr. Macdonald fell ill and will not be present.

Mr. Digges explains we would like to proceed.

Mr. Tucker questions Mr. Tolley Gwinn Attorney for Town of Warrenton - inaudible.

Mr. Tolley Gwinn Attorney explains we refer to this as a default. All the notice requirements have been met. Mr. Macdonald did retain legal counsel but decided not to have his counsel appear tonight.

Mr. Gwinn Attorney explains Mr. Macdonald has access to a denovo by-right appeal to the state Technical Review Board after the board renders a decision tonight. Mr. Macdonald has procedural protections for this.

Mr. Gwinn Attorney explains the board is within its rights to continue without Mr. Macdonald since he has been given adequate notice.

Mr. Tucker questions Codes and violations which do not appear in the online version.

Mr. Digges explains this is pursuant to the 2018 Code and it is in this copy.

Mr. Tucker questions why it does not show up online.

Mr. Digges explains it has been provided in the package and a copy of the code was provided with the notice.

Mr. Tucker asked if any of the board members have any comments on these violations.

Mr. Frank Foley states this has been going on for a long time.

Mr. Fred Austin states no.

45 Winchester St, Warrenton VA 20186 - Case Number ENFC-23-73

Violation number 1.

The entire exterior of the structure shows extensive signs of water damage, exposure to elements, and wood rot. The entire exterior of the structure has peeling paint, inadequate protection from the elements, and exposed and rotted wood siding; exposed structural elements including posts, beams and supports; inadequate chimney protection; and decorative features deteriorating.

Mr. Tucker asked if Mr. Foley and Mr. Austin would like to make a motion in violation number 1 and the Building Officials determination.

Mr. Frank Foley moved to approve the Building Officials recommendations for the violations listed in his report. Mr. Frank Foley Seconds the motion.

Mr. Tucker Ayes and states violation 1 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 2.

Multiple doors above ground level in the rear of the structure without a landing, porch or fall protection which creates an unsafe condition.

Mr. Tucker asked Mr. Foley and Mr. Austin if with would like to make a motion in violation number 2.

Mr. Frank Foley moved to approve the motion in the Towns observation of violation 2. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation 2 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 3.

The structural supports of the breezeway are not properly supporting the loads.

Mr. Tucker asked Mr. Foley and Mr. Austin if with would like to make a motion in violation 3.

Mr. Frank Foley moved to approve the motion regarding the towns observation and what is needed to have violation 3 corrected. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation number 3 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 4.

The roof of the breezeway and right side of the structure is in disrepair from exposed underlayment being installed as the only roof covering on those sections of the structure.

Mr. Tucker asked Mr. Foley and Mr. Austin if with would like to make a motion on violation 4.

Mr. Frank Foley moved to approve the motion regarding the towns observation and what is needed to have violation 4 corrected. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation number 4 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 5.

Roof rainwater drainage is inadequate and is not discharged in a manner that prevents deterioration, or harm to the structure, its foundation, or slab.

Mr. Tucker asked Mr. Foley and Mr. Austin if with would like to make a motion on violation 5

Mr. Frank Foley moved to approve the motion regarding the towns observation and what is needed to have violation 5 corrected. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation number 5 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

3 Hotel Street, Warrenton, VA 20186- Case Number ENFC-23-99

Violation number 1.

The entire exterior of the structure shows extensive signs of water damage, exposure to elements, and wood rot and deteriorated mortar and bricks. The entire exterior of the structure has peeling paint, inadequate protection from the elements, and exposed and rotted wood windows; and deteriorated decorative features.

Mr. Tucker asked Mr. Foley and Mr. Austin if they had both read the 3 Hotels Streets violations and appeal.

Mr. Frank Foley states yes.

Mr. Austin states yes.

Mr. Tucker presents violation 1.

Mr. Frank Foley moved to approve the towns recommendation for violation 1 listed in his report. Mr. Fred Austin Second. The vote was unanimous.

Mr. Tucker Ayes and states violation number 1 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 2.

Two electrical lighting fixtures are missing on either side of the front door leaving electrical connections exposed.

Mr. Tucker asked Mr. Foley and Mr. Austin if they had both read 3 Hotel Streets violations and appeal.

Mr. Frank Foley states yes.

Mr. Austin states yes.

Mr. Tucker presents violation 2.

Mr. Frank Foley moved to approve the recommendations for the violations 2 listed. The electrical lighting fixtures and necessary corrective action . Mr. Fred Austin Seconds the motion. The vote was unanimous.

Mr. Tucker Ayes and states violation number 2 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Violation number 3.

Roof rainwater drainage is inadequate and is not discharged in a manner that prevents deterioration, or harm to the structure, its foundation, or slab. Missing portions of downspouts were observed,

Mr. Tucker asked Mr. Foley and Mr. Austin if they had both read 3 Hotel Streets violations and appeal.

Mr. Frank Foley states yes.

Mr. Austin states yes.

Mr. Tucker presents violation number 3.

Mr. Frank Foley moved to approve the towns corrective action of the roof draining water being discharged incorrectly. That the towns recommendations be followed for the violations 3. Mr. Fred Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation 3 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black;

The motion passed 3-3.

Violation number 4.

Windows and doors are in disrepair and/or have inadequate/exposed covers on them which are deteriorating. Windows and door frames have exposed non-weatherproofed wood showing signs of rot. There are windows with broken glass.

Mr. Tucker asked Mr. Foley and Mr. Austin if they had both read 3 Hotel Streets violations and appeal.

Mr. Frank Foley states yes.

Mr. Austin states yes.

Mr. Tucker presents violation number 4.

Mr. Frank Foley moved to approve the towns corrective recommendations for violation 4, windows, door frames to be corrected to code. listed in this report. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes and states violation number 4 is accepted as presented.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

Mr. Tucker States all the points on 3 hotel street as included in the appeal have been approved by the board unanimously.

Mr. Tucker states having read documentation on this property between the owner of the property and the Town of Warrenton that appears to reference areas of the property outside of what would appear to be the property owners property.

Mr. Tucker states there is no recorded survey of said property so you cannot determine whose land is where but for the record.

Mr. Tucker states for record the State of Virginia Construction Code does not give this board authority to have any jurisdiction outside of the building and its appurtenances. We have nothing regarding anything beyond the property lines.

NEW BUSINESS

None

UNFINISHED BUSINESS

Adoption of revised By-laws

Mr. Tucker states we were presented with and reviewed a draft of the proposed by-laws for this board.

Mr. Tucker states do we have a motion to either amend or approve the by-laws as submitted.

Mr. Frank Foley motioned to approve the proposed by-laws. Mr. Austin Seconds. The vote was unanimous.

Mr. Tucker Ayes.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A
Abstention: N/A
Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

DETERMINATION OF QUORUM.

Election of Officers.

Mr. Tucker asks Mr. Gwinn, if the Chairman is present do we need to elect a Vice Chairman.

Mr. Gwinn states No.

APPROVAL OF THE MINUTES.

Mr. James Tucker motions to approve the Minute from January 12th, 2024.

Mr. Frank Foley moved to approve the by-laws as submitted. Mr. Fred Austin Seconds. The vote was unanimous.

The vote was as follows:

All were in favor:

Ayes: Mr. Tucker; Mr. Frank Foley; Mr. Austin.

Nays: N/A

Abstention: N/A

Absent: Mr. Wayne Carson; Mr. Bryan Black

The motion passed 3-3.

UPDATES

Mr. Tucker noted in reviewing the town's by-laws the town has established the third Thursday of the month at 5pm for the regular meeting date of this board on an as needed basis. That this board has accepted a recent motion.

BOARD MEMBERS TIME

None

BUILDING OFFICIAL'S TIME

Mr. Digges thanked the board for attending and supporting the town.

Mr. Tucker asks the board if they have anything to say.

Mr. Frank Foley states No

Mr. Austin states No.

ADJOURN.

Mr. James Tucker; Chairman moves to adjourn. Mr. Frank Foley first, seconded by Mr. Fred Austin with no further business, this meeting was adjourned at 5:24 PM.

I hereby certify that this is a true and exact record of actions taken by the Local Board of Building Code Appeals of the Town of Warrenton on.

Signed,

Mr. James Tucker, Chairman

DRAFT

DRAFT