

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, January 24, 2020 - 9:00am

Virginia Housing Center
4224 Cox Road Glen Allen, Virginia

- I. Roll Call **(TAB 1)**
- II. Approval of November 15, 2019 Minutes **(TAB 2)**
- III. Approval of Final Order **(TAB 3)**
 - In Re: Appeal of Janett Fisher Pakravan
Appeal No 19-03
- IV. Approval of Interpretation 02/2019 **(TAB 4)**
 - In Re: Jamie Wilks (Mathews County)
Interpretation No 06-19
- V. Approval of Interpretation 03/2019 **(TAB 5)**
 - In Re: Brian Foley and Lee Craft (Fairfax County)
Interpretation No 05-19
- VI. Public Comment
- VII. Preliminary Hearing **(TAB 6)**
 - In Re: Kristie Sours Atwood
Appeal No 19-05 and 19-06
 - In Re: Buracker Construction
Appeal No. 19-07
- VIII. Secretary's Report
 - a. 2015 Interpretation Booklet **(TAB 7)**
 - b. March 2020 meeting update

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

James R. Dawson, Chairman
(Virginia Fire Chiefs Association)

W. Shaun Pharr, Esq., Vice-Chairman
(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)

Christina Jackson
(Commonwealth at large)

Joseph A. Kessler, III
(Associated General Contractors)

Eric Mays
(Virginia Building and Code Officials Association)

Joanne D. Monday
(Virginia Building Owners and Managers Association)

Patricia S. O'Bannon
(Commonwealth at large)

J. Kenneth Payne, Jr., AIA, LEED AP BD+C
(American Institute of Architects Virginia)

Richard C. Witt
(Virginia Building and Code Officials Association)

Aaron Zdinak, PE
(Virginia Society of Professional Engineers)

Vacant
(Electrical Contractor)

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36 Final Orders (cont.)

Appeal of Oscar and Olga Marroquin

37 Appeal No. 19-04:

38
39 After review and consideration of the final order presented in the
40 Review Board members' agenda package, Mr. Witt moved to approve
41 the final order as presented. The motion was seconded by Mr. Mays
42 and passed with Mr. Crigler abstaining.

43
44 Public Comment

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

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48 Interpretation Request

Interpretation Request of Brian Foley and Lee Craft (Fairfax County);
Interpretation Request No. 05-19:

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51 An interpretation request from Brian Foley and Lee Craft of Fairfax
52 County was considered concerning the 2015 Virginia Plumbing Code
53 (VPC), on Section 410.4 and definition of water dispenser in Chapter
54 2 concerning whether a pantry sink could be used as a substitute for a
55 water dispenser.

56
57 After deliberations, Mr. Witt moved that the answer is No, the term
58 water dispenser is used in the drinking fountain section of the code and
59 is specific to that use so it needs to be accessible; therefore, a sink with
60 a faucet is not an appropriate means of substituting for a required
61 drinking fountain. The motion was seconded by Mr. Crigler and passed
62 unanimously.

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64 Interpretation Request of Jamie Wilks (Mathews County);
65 Interpretation Request No. 06-19:

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67 An interpretation request from Jamie Wilks, Building Official for
68 Mathews County, was considered concerning the 2015 Virginia
69 Uniform Statewide Building Code (USBC), on Section 102.3
70 Exemption 1 concerning whether a permit was required to add,
71 upgrade, or replacement an antenna on an existing tower.

72
73 After deliberations, Mr. Witt moved that the answer is No, a permit is
74 not required to add, upgrade, or replace an antenna on an existing cell
75 tower because it is exempted from the code, as long as it does not create
76 an unsafe condition prohibited by the USBC. The motion was
77 seconded by Mr. Mays and passed unanimously.

78
79 A note was added to the interpretation that reads: *For example, if you*
80 *are increasing the structural load on an existing tower by adding,*
81 *upgrading, or replacing an antenna on an existing cell tower, you may*
82 *be creating an unsafe condition prohibited by the USBC.*

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83 New Business

Appeal of Janett Fisher Pakravan; Appeal No. 19-03:

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85 A hearing convened with Chairman Dawson serving as the presiding
86 officer. The appeal involved citations under Virginia Maintenance
87 Code related to the property leased by Janett Pakravan located at 309
88 Cedarwood Court 102, in the City of Virginia Beach.

89
90 The following persons were sworn in and given an opportunity to
91 present testimony:

92
93 Robert Lee Etheredge, City of Virginia Beach
94 Randy Blake, City of Virginia Beach
95 Wells Freed, City of Virginia Beach

96
97 Also present was:

98
99 B.K. "Kay" Wilson, Esq., legal counsel for the City of Virginia
100 Beach

101
102 Janett Fisher Pakravan was not present; however, she was given proper
103 notice of the hearing.

104
105 After testimony concluded, Chairman Dawson closed the hearing and
106 stated a decision from the Review Board members would be
107 forthcoming and the deliberations would be conducted in open session.
108 It was further noted that a final order reflecting the decision would be
109 considered at a subsequent meeting and, when approved, would be
110 distributed to the parties and would contain a statement of further right
111 of appeal.

112
113 Decision: Janett Fisher Pakravan; Appeal No. 19-03:

114
115 After deliberations, Mr. Witt moved to uphold the decision of the local
116 appeals board in denying the appeal because no violations are present.
117 Mr. Witt further moved to direct the city of Virginia Beach to file a
118 letter that the violation to the Virginia Maintenance Code are
119 specifically and explicitly rescinded. The motion was seconded by Ms.
120 Jackson and passed unanimously.

121
122 Secretary's Report

Mr. Luter presented the proposed 2020 meeting calendar to the Review Board members. The calendar was approved as presented.

123
124
125 Mr. Luter informed the Board of the caseload for the upcoming meeting
126 scheduled for January 24, 2020.

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128 Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 1:30 p.m.

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131 Approved: January 24, 2020

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Chairman, State Building Code Technical Review Board

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 IN RE: Appeal of Janett Fisher Pakravan
7 Appeal No. 19-03
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9 DECISION OF THE REVIEW BOARD
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11 Procedural Background
12

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

18 Case History

19 On January 25, 2019, City of Virginia Beach, Department of Housing and Neighborhood
20 Preservation, (Virginia Beach), conducted an inspection of the property leased by Janett Fisher
21 Pakravan, located at 309 Cedarwood Court 102 in the City of Virginia Beach. On January 28,
22 2019, in enforcement of the HUD Housing Quality Standards and Part III of the Uniform Statewide
23 Building Code (Virginia Maintenance Code or VMC), Virginia Beach issued a Notice of Violation
24 (NOV) to Ms. Pakravan. The NOV cited three violations of the VMC for Sections 605.1 Electrical
25 components, 305.1 General, and 702.1 General; the NOV did not contain a statement of right of
26 appeal.

27 Ms. Pakravan filed an appeal to the City of Virginia Beach Local Board of Appeals (local
28 appeals board) in February of 2019; however, in a March 2019 letter, Virginia Beach informed
29 Ms. Pakravan that the city would not pursue enforcement under the VMC but confirmed the cited

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30 violation remained fully enforceable under the HUD Housing Quality Standards and that she could
31 not appeal the cited violation under HUD's Housing Quality Standards to the local appeals board.
32 Ms. Pakravan filed an appeal to the Review Board.

33 After review of Ms. Pakravan's application for appeal, Review Board staff contacted
34 Virginia Beach to discuss the appeal; subsequently, a local appeals board hearing was conducted
35 in August of 2019 where the appeal was denied due to lack of jurisdiction because the cited
36 violations had been rescinded. On August 12, 2019 Review Board staff received a copy of the
37 local appeals board decision; thus, began to process Ms. Pakravan's application for appeal to the
38 Review Board.

39 A Review Board hearing was held on November 15, 2019. Appearing at the Review Board
40 hearing for Virginia Beach were Robert Lee Etheredge, Randy Blake, Wells Freed and Kay
41 Wilson, legal counsel. Ms. Pakravan did not attend; however, she was given proper notice of the
42 hearing.

43 Findings of the Review Board

44 A. Whether to dismiss the appeal as not properly before the Board since Virginia Beach
45 rescinded the violations to the VMC, based on previous rulings of the Review Board
46 which hold that no right of appeal exists where the violations have been resolved.¹

47 Virginia Beach argued that the appeal was not properly before the Review Board because
48 the cited violations in the January 28, 2019 NOV were rescinded in the March 8, 2019 letter.

49 **107.5 Right of appeal; filing of appeal application.** *Any person aggrieved by the local*
50 *enforcing agency's application of this code or the refusal to grant a modification to the provisions*
51 *of this code may appeal to the LBBCA.*

¹ See Review Board Case No. 14-11, 17-9, and 18-14. See also Review Board Case Nos. 98-8, 98-16, 00-2, 00-14, 03-3, 11-9&10, and 16-6.

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52 The Maintenance Code clearly states that the right of appeal is for applications of the code and
53 being aggrieved by those applications of the code. The Review Board consistently interpreted that
54 the right to appeal is tied to applications of the code and the aggrievement by applications of the
55 code.² In other words, without applications of the code or being aggrieved by applications of the
56 code, there is no right to appeal.

57 When Virginia Beach rescinded the violations, which is the application of the code, it removed
58 the application of the code. The removal of the application also ended whatever aggrievement
59 there was against Ms. Pakravan. Therefore, without the cited violations there is no right to appeal.
60 The Review Board finds that by rescinding the violations, Virginia Beach rescinded the application
61 of the code. So, Ms. Pakravan no longer has a right to appeal in this case.

62 Final Order

63 The appeal having been given due regard, and for the reasons set out herein, the Review
64 Board orders the appeal to be dismissed.

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² *Id.*

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80 Date entered: _____ January 24, 2020 _____

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Certification

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

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VIRGINIA STATE BUILDING CODE TECHNICAL REVIEW BOARD

I N T E R P R E T A T I O N

Interpretation Number: 2/2019

Code: USBC, Part 1, Virginia Construction Code/2015

Section No(s): Section 102.3

102.3 Exemptions. The following are exempt from this code:

1. Equipment and wiring used for providing utility, communications, information, cable television, broadcast or radio service in accordance with all of the following conditions:

1.1. The equipment and wiring are located on either rights-of-way or property for which the service provider has rights of occupancy and entry.

1.2. Buildings housing exempt equipment and wiring shall be subject to the USBC.

1.3. The equipment and wiring exempted by this section shall not create an unsafe condition prohibited by the USBC.

2. Support structures owned or controlled by a provider of publicly regulated utility service or its affiliates for the transmission and distribution of electric service in accordance with all of the following conditions:

2.1. The support structures are located on either rights-of-way or property for which the service provider has rights of occupancy and entry.

2.2. The support structures exempted by this section shall not create an unsafe condition prohibited by the USBC.

3. Direct burial poles used to support equipment or wiring providing communications, information or cable television services. The poles exempted by this section shall not create an unsafe condition prohibited by the USBC.

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4. Electrical equipment, transmission equipment, and related wiring used for wireless transmission of radio, broadcast, telecommunications, or information service in accordance with all of the following conditions:

4.1. Buildings housing exempt equipment and wiring and structures supporting exempt equipment and wiring shall be subject to the USBC.

4.2. The equipment and wiring exempted by this section shall not create an unsafe condition prohibited by the USBC.

5. Manufacturing, processing, and product handling machines and equipment that do not produce or process hazardous materials regulated by this code, including those portions of conveyor systems used exclusively for the transport of associated materials or products, and all of the following service equipment:

5.1. Electrical equipment connected after the last disconnecting means.

5.2. Plumbing piping and equipment connected after the last shutoff valve or backflow device and before the equipment drain trap.

5.3. Gas piping and equipment connected after the outlet shutoff valve. Manufacturing and processing machines that produce or process hazardous materials regulated by this code are only required to comply with the code provisions regulating the hazardous materials.

6. Parking lots and sidewalks, that are not part of an accessible route.

7. Nonmechanized playground or recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment where no admission fee is charged for its use or for admittance to areas where the equipment is located.

8. Industrialized buildings subject to the Virginia Industrialized Building Safety Regulations (13VAC5-91) and manufactured homes subject to the Virginia Manufactured Home Safety Regulations (13VAC5-95); except as provided for in Section 427 and in the case of demolition of such industrialized buildings or manufactured homes.

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9. Farm buildings and structures, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in Section 35.1-1 of the Code of Virginia and licensed as such by the Virginia Board of Health pursuant to Chapter 2 (Section 35.1-11 et seq.) of Title 35.1 of the Code of Virginia. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

10. Federally owned buildings and structures unless federal law specifically requires a permit from the locality. Underground storage tank installations, modifications and removals shall comply with this code in accordance with federal law.

11. Off-site manufactured intermodal freight containers, moving containers, and storage containers placed on site temporarily or permanently for use as a storage container.

12. Automotive lifts.

QUESTION #1: Is a permit required to add, upgrade, or replace an antenna on an existing cell tower?

ANSWER: No, a permit is not required to add, upgrade, or replace an antenna on an existing cell tower because it is exempted from the code, as long as it does not create an unsafe condition prohibited by the USBC.

Note: For example, if you are increasing the structural load on an existing tower by adding, upgrading, or replacing an antenna on an existing cell tower, you may be creating an unsafe condition prohibited by the USBC.

This Official Interpretation was issued by the State Building Code Technical Review Board at its meeting of November 15, 2019.

Chairman, State Building Code Technical Review Board

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VIRGINIA STATE BUILDING CODE TECHNICAL REVIEW BOARD

I N T E R P R E T A T I O N

Interpretation Number: 3/2019

Code: Virginia Plumbing Code/2015

Section No(s): Section 410.4

410.4 Substitution.

Where restaurants provide drinking water in a container free of charge, drinking fountains shall not be required in those restaurants. In other occupancies where drinking fountains are required, water dispensers shall be permitted to be substituted for not more than 50 percent of the required number of drinking fountains.

QUESTION #1: May the faucet of a pantry sink be used as a required water dispenser?

ANSWER: No, the term water dispenser is used in the drinking fountain section of the code and is specific to that use so it needs to be accessible; therefore, a sink with a faucet is not an appropriate means of substituting for a required drinking fountain.

This Official Interpretation was issued by the State Building Code Technical Review Board at its meeting of November 15, 2019.

Chairman, State Building Code Technical Review Board

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Kristie Sours Atwood
Appeal No. 19-05 and 19-06

Appeal of Buracker Construction
Appeal No. 19-07

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Kristie L. Sours Atwood
Appeal No. 19-05 and 19-06

Appeal of Buracker Construction
Appeal No. 19-07

REVIEW BOARD STAFF DOCUMENT
(For Preliminary Hearing as to Jurisdiction and Timeliness and Merits)

Suggested Statement of Case History and Pertinent Facts

1. In July of 2016, the County of Warren Department of Building Inspections (County building official), the agency responsible for the enforcement of Part 1 of the 2009 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), issued a final inspection and a subsequent Certificate of Occupancy to Buracker Construction, a licensed Class A contractor, for a single-family dwelling located at 1255 Pilgrims Way owned by Kristie L. Sours Atwood (Atwood).

2. In September of 2017, Atwood hired David Rushton of ABLE Building Inspection, Inc. (ABLE) to perform a home inspection. ABLE issued a new construction defect inspection report in December of 2017. In the report, ABLE identified 126 defective items of which sixty-eight (68) were identified as potential code violations.

3. In March of 2018, at the request of Atwood, the County building official performed a re-inspection of the property subsequently issuing a Notice of Violation (NOV) to Buracker Construction citing five (5) violations.

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4. In May of 2018, Atwood filed an appeal to the County of Warren Local Board of Building Code Appeals (local appeals board) asking the local appeals board to review the remaining sixty-three (63) potential code violations, listed in the ABLE report, not cited in the March 30, 2018 NOV. The local appeals board heard Atwood's appeal on June 7, 2018. Of the sixty-three (63) potential violations from the ABLE report, twelve (12) were identified as violations. The remaining fifty-one (51) potential violations listed in the ABLE report were further appealed to the Review Board in August of 2018 in the Atwood Appeal No. 18-08.

5. Subsequent to the June 7, 2018 decision of the local appeals board, the County building official issued a second NOV that was dated June 13, 2018 citing the twelve (12) violations identified in the local appeals board decision.

6. On June 28, 2018, Buracker Construction filed an appeal to the local appeals board of the twelve (12) violations cited in the June 13, 2018 NOV. The local appeals board heard the appeal on July 26, 2018 whereby the local appeals board overturned six (6) of the violations and upheld six (6) of the violations.

7. On August 10, 2018, Atwood further appealed to the Review Board the six (6) cited violations overturned by the local appeals board (Atwood Appeal No. 18-12).

8. On August 17, 2018, Buracker Construction further appealed to the Review Board the six (6) violations upheld by the local appeals board (Buracker Construction Appeal No. 18-13).

9. Review Board staff conducted an informal fact-finding conference (IFFC) on August 13, 2018 for the Atwood appeal (Appeal No. 18-08), which was attended by all parties. The first issue addressed was clarifying precisely which potential violations listed in the ABLE

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report Atwood was appealing. Once the fifty-one (51) potential violations being appealed were identified, Review Board staff reviewed the record of the appeal with the parties whereby duplicate pages as well as all pages not related to the identified potential violations being appealed were eliminated.

10. Subsequent to the August 2018 informal fact finding conference, Review Board staff processed the Atwood Appeal (Appeal No. 18-12) and the Buracker Construction Appeal (Appeal No. 18-13) and drafted staff documents for each of the three appeals. The three staff documents were forwarded to the parties along with a copy of all documents and opportunity was given for the submittal of additions, corrections or objections to the staff documents as well as opportunity for submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the appeal hearing before the Review Board.

11. All three (3) appeals, Atwood No. 18-08 and 18-12, and Buracker Construction No. 18-13, were presented to the Review Board for consideration at the January 11, 2019 Review Board meeting. The Review Board remanded all three appeals back to the local appeals board and ordered that the potential conflict of interest issue be addressed. The Review Board ordered that all local appeals board members that participated in the hearings for these cases to seek written opinion from the Warren County Commonwealth's Attorney, or a formal opinion from the Virginia and Conflict of Interest and Ethics Advisory Council (COIA Council), whether their participation in the proceedings to that point constituted a violation of State and Local Government Conflict of Interest Act (COIA). The Review Board further ordered that for any of the three cases (18-08, 18-12, and 18-13) where local appeals board members are advised by

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either the Commonwealth's Attorney or the COIA Council that they have a conflict of interest or might have already committed a COIA violation, the local appeals board is to re-hear the case on its merits after members with conflicts recuse themselves in accordance with the Uniform Statewide Building Code (USBC) and COIA.

12. On July 18, 2019, the local appeals board re-heard LBBCA Appeal No. 1-2018, filed by Atwood. Mr. Cline recused himself from the hearing due to a conflict of interest. The attorney for Buracker Construction filed a "Memorandum in Opposition of Appeal Number 1-2018", where he pointed out three potential jurisdictional issues related to timeliness, jurisdiction, and authority of the local appeals board. The local appeals board identified six (6) code violations. The new decision vacated the June 13, 2018 NOV and, subsequently, LBBCA Appeal 2-2018 by Buracker Construction as it was an appeal of the June 13, 2018 NOV. In the decision for Appeal No. 1-2018, the local appeals board erroneously referenced the June 13, 2018 NOV.

13. Buracker Construction filed a new appeal to the local appeals board. The local appeals board heard LBBCA Appeal No. 1-2019, on September 10, 2019, and upheld five (5) identified violations and overturned one (1) identified violation of its decision of Appeal No. 1-2018. In the decision for Appeal No. 1-2019, the local appeals board erroneously referenced Appeal 2-2018.

14. On July 29, 2019, Atwood further appealed to the Review Board the one (1) identified violation overturned by the local appeals board.

15. On October 7, 2019, Buracker Construction further appealed to the Review Board the five (5) identified violations upheld by the local appeals board.

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16. Review Board staff conducted an informal fact-finding conference (IFFC) on November 7, 2019 attended by all parties. The first issue addressed was clarifying precisely which potential violations listed in the ABLE report Atwood was appealing. Once those fifty-seven (57) potential violations being appealed were identified, Review Board staff proceeded to the next issue of clarifying that each of the six (6) violations cited in the LBBCA Appeal No. 1-2018 decision were all being further appealed to the Review Board, one (1) by Atwood that was overturned and five (5) by Buracker Construction that were upheld in the LBBCA Appeal No. 1-2019. The five (5) cited violations being appealed by Buracker Construction are #11, #12, #23, #92, and #101 of the ABLE report. Due to the nature of the three appeals (Atwood Appeal Nos. 19-05 and 19-06 and Buracker Construction Appeal No. 19-07), the fact that all of the identified violations are being further appealed, and the errors listed in the written decisions of the local appeals board as well as for the simplicity of presenting the cases to the Review Board, Review Board staff has presented all sixty-three (63) identified potential violations in the ABLE report as issues for resolution in this staff document. After identifying and clarifying all violations being further appealed to the Review Board, Review Board staff reviewed the record of the appeal with the parties whereby duplicate pages as well as all pages not related to the identified potential violations being appealed were eliminated.

17. Review Board staff highlighted (in orange) the potential violations being appealed in the ABLE report making it easier to identify the sixty-three (63) potential violations. The numbering in the ABLE report was also used to identify the potential violations being appealed in the Issues for Resolution of this staff document.

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18. Subsequent to the November 7, 2019 informal fact finding conference, Review Board staff processed the Atwood Appeals (Appeal No. 19-05 and 19-06) and the Buracker Construction Appeal (Appeal No. 19-07) and drafted a staff document for the three appeals. The staff document was forwarded to the parties along with a copy of all documents and opportunity was given for the submittal of additions, corrections or objections to the staff documents as well as opportunity for submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the appeal hearing before the Review Board.

Suggested Issue for Resolution by the Review Board
(For Preliminary Hearing as to Timeliness and Jurisdiction)

1. Whether the appeal is timely.
2. Whether the appeal is properly before the Board.
3. Whether the local appeals board acted outside of its authority by identifying violations from the ABLE Building Inspection, Inc. report.

Suggested Issue for Resolution by the Review Board
(Merits)

4. Whether item #2 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections 105.8, 106.2, and/or 108.4.
5. Whether item #5 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections 106.4, 109.2, 109.4 and/or 109.5.
6. Whether item #6 of the ABLE Building Inspection, Inc. report is a violation of R802.10.3.

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7. Whether item #8 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R406.1, R406.2, and/or R404.1.2.3.8.

8. Whether item #9 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R406.1, R406.2, and/or R404.1.2.3.8.

9. Whether item #10 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R602.10.8 and/or Table 602.10.1.3.

10. Whether item #11 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R502.2.2.2. (Buracker Construction)

11. Whether item #12 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R502.6. (Buracker Construction)

12. Whether item #14 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R502.2.2.2, R502.6, R507.1 and/or R507.2.2.

13. Whether item #15 of the ABLE Building Inspection, Inc. report is a violation of VCC Table R301.5.

14. Whether item #16 of the ABLE Building Inspection, Inc. report is a violation of VCC Table R301.5.

15. Whether item #17 of the ABLE Building Inspection, Inc. report is a violation of VCC Table R301.5.

16. Whether item #18 of the ABLE Building Inspection, Inc. report is a violation of VCC Table R301.5.

17. Whether item #19 of the ABLE Building Inspection, Inc. report is a violation of VCC Section R807.1.

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18. Whether item #20 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R802.9.

19. Whether item #21 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R703.3.2 and/or 112.2.

20. Whether item #22 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections 112.1.

21. Whether item #23 of the ABLE Building Inspection, Inc. report is a violation of VCC Table 301.5. (Buracker Construction)

22. Whether item #31 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R903.2 and/or R903.2.1

23. Whether item #33 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R703.4

24. Whether item #37 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R311.5.1, R507.13, R507.13.1, R507.13.2, and/or Table 301.5.

25. Whether item #38 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R311.5.1, R507.13, R507.13.1, R507.13.2, and/or Table 301.5.

26. Whether item #40 of the ABLE Building Inspection, Inc. report is a violation of VCC Section R301.5.

27. Whether item #41 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R403.1, R403.1.4.1, and/or R404.1.2.3.8.

28. Whether item #43 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 703.7.6.

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29. Whether item #48 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 109.5.

30. Whether item #49 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 109.5.

31. Whether item #50 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 109.5.

32. Whether item #52 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections 1405.12 and/or 1405.12.1.

33. Whether item #53 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections 1405.12 and/or 1405.12.1.

34. Whether item #55 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R401.3, R403.1, and/or R506.2.1.

35. Whether item #56 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R403.1 and/or 506.2.1.

36. Whether item #57 of the ABLE Building Inspection, Inc. report is a violation of VCC Section R1001.15.

37. Whether item #58 of the ABLE Building Inspection, Inc. report is a violation of VCC Section R903.2.1.

38. Whether item #59 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 406.1.

39. Whether item #61 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 112.1.

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40. Whether item #63 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections 109.2, 117.0, and/or 506.2.1.

41. Whether item #69 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 109.5.4.

42. Whether item #76 of the ABLE Building Inspection, Inc. report is a violation of VCC Section P2708.3.

43. Whether item #79 of the ABLE Building Inspection, Inc. report is a violation of VCC Section P2719.1.

44. Whether item #80 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections P2603.3, P2603.4, P2603.5, and/or P3001.2.

45. Whether item #82 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections E3402.2 and/or E3402.3.

46. Whether item #84 of the ABLE Building Inspection, Inc. report is a violation of VCC Section E3902.5.

47. Whether item #85 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R1004.1, R1004.2, R1004.3, R1005.1, R1005.2, R1005.3, R1005.4, and/or R1005.5.

48. Whether item #87 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R1004.1, R1004.2, R1004.3, R1005.1, R1005.2, R1005.3, R1005.4, and/or R1005.5.

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49. Whether item #88 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R1004.1, R1004.2, R1004.3, R1005.1, R1005.2, R1005.3, R1005.4, and/or R1005.5.

50. Whether item #89 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R1004.1, R1004.2, R1004.3, R1005.1, R1005.2, R1005.3, R1005.4, and/or R1005.5.

51. Whether item #90 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R1004.1, R1004.2, R1004.3, R1005.1, R1005.2, R1005.3, R1005.4, and/or R1005.5.

52. Whether item #92 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R1005.1, R1005.2, R1005.3, R1005.4, and/or R1005.5. (Buracker Construction)

53. Whether item #93 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections R1001.15 and/or 112.3.1

54. Whether item #94 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections M1401.1 and/or M1411.3

55. Whether item #95 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections M141.5 and/or M1401.4.

56. Whether item #96 of the ABLE Building Inspection, Inc. report is a violation of VCC Sections M1401.1 and/or M1401.3.

57. Whether item #99 of the ABLE Building Inspection, Inc. report is a violation of VCC Section R311.7.5.1.

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58. Whether item #100 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 109.5.4.

59. Whether item #101 of the ABLE Building Inspection, Inc. report is a violation of VCC Section R302.12. (Buracker Construction)

60. Whether item #102 of the ABLE Building Inspection, Inc. report is a violation of VCC Section R807.1.

61. Whether item #103 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 109.5.4.

62. Whether item #111 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 109.5.4.

63. Whether item #116 of the ABLE Building Inspection, Inc. report is a violation of VCC Section 112.1.

64. Whether item #119 of the ABLE Building Inspection, Inc. report is a violation of VCC Section M1507.2.

65. Whether item #120 of the ABLE Building Inspection, Inc. report is a violation of VCC Section.

66. Whether item #125 of the ABLE Building Inspection, Inc. report is a violation of VCC Section R 316.2, R316.3, R316.4, R316.5, and/or P2601.2.

67. Consideration of any other issue that may be ripe in this case.

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Timeline of Relevant Events

September 11, 2017 – ABLE Building Inspection, Inc. Report

March 30, 2018 – Notice of Violation (NOV)

May 3, 2018 – Atwood LBBCA Appeal (No. 1-2018)

June 7, 2018 – LBBCA Resolution for Atwood Appeal 1-2018

June 13, 2018 – Notice of Violation (NOV) Based on June 7th Resolution

June 22, 2018 – Atwood Appeal to the Review Board (Appeal No. 18-08)

January 11, 2019 – Review Board Final Order for Atwood Appeal (No. 18-08)

REMANDED TO LBBCA FOR POTENTIAL COIA VIOLATION

May 14, 2019 – Re-hearing for Atwood LBBCA Appeal 1-2018 (not heard due to lack of notice; rescheduled to July 18, 2019)

July 18, 2019 – Atwood LBBCA re-hearing for Appeal 1-2018

July 23, 2019 – LBBCA Resolution for re-hearing of Atwood Appeal 1-2018

September 10, 2019 – Buracker Construction LBBCA Appeal 1-2019 (Not a re-hearing for 2-2018 as indicated in the Resolution)

September 10, 2019 – LBBCA Resolution for Buracker Construction Appeal 1-2019

July 30 and September 13, 2019 – Atwood Appeal to the Review Board

October 7, 2019 – Buracker Construction Appeal to the Review Board

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Basic Documents
for the
Following Appeals:

Atwood Appeal No. 19-05

Atwood Appeal No. 19-06

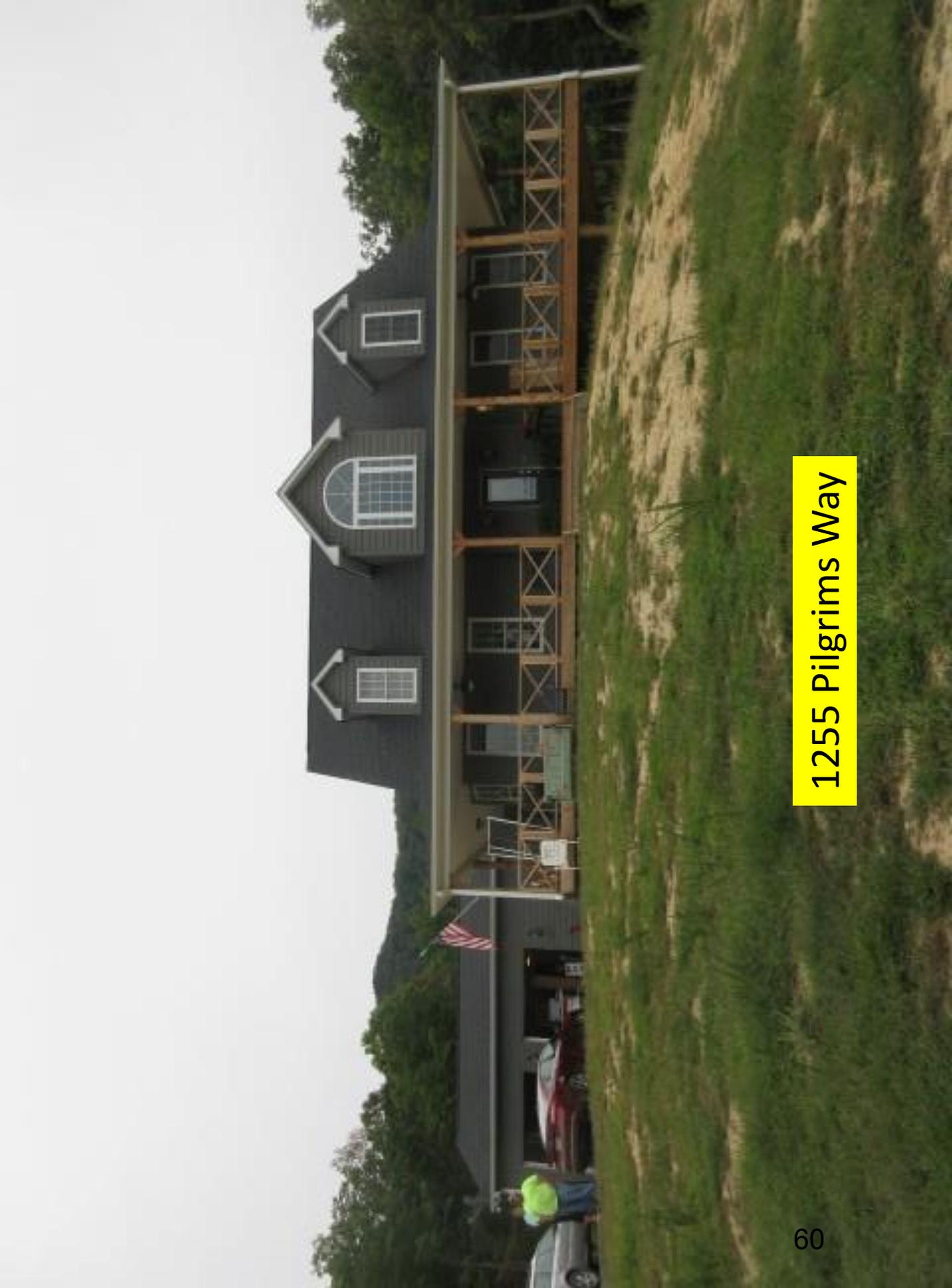
Buracker Construction Appeal No. 19-07

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1255 Pilgrims Way
Bentonville, VA 22610
September 11, 2017

ABLE Building Inspection, Inc.
David P. Rushton
540-636-6200

Numbers in photos refer to line item numbers
of inspection report.



1255 Pilgrims Way



Left



Right



Rear

GENERAL NOTES & CONTRACT ADMINISTRATION



B



B

FINAL APPROVAL
DEPARTMENT OF BUILDING INSPECTIONS
WARREN COUNTY, VIRGINIA
942-856-5872

PERMIT # 493-15 INSPECTOR WJML
LOCATION 1255 Piccasinns Way
OCCUPIED BY 4 Bedroom SFD
DATE 7/18/16
OCCUPANCY 6 Person
I shall be obliged to approve this notice
if all the above conditions, or change of use shall be made
in accordance with the approval of this department.

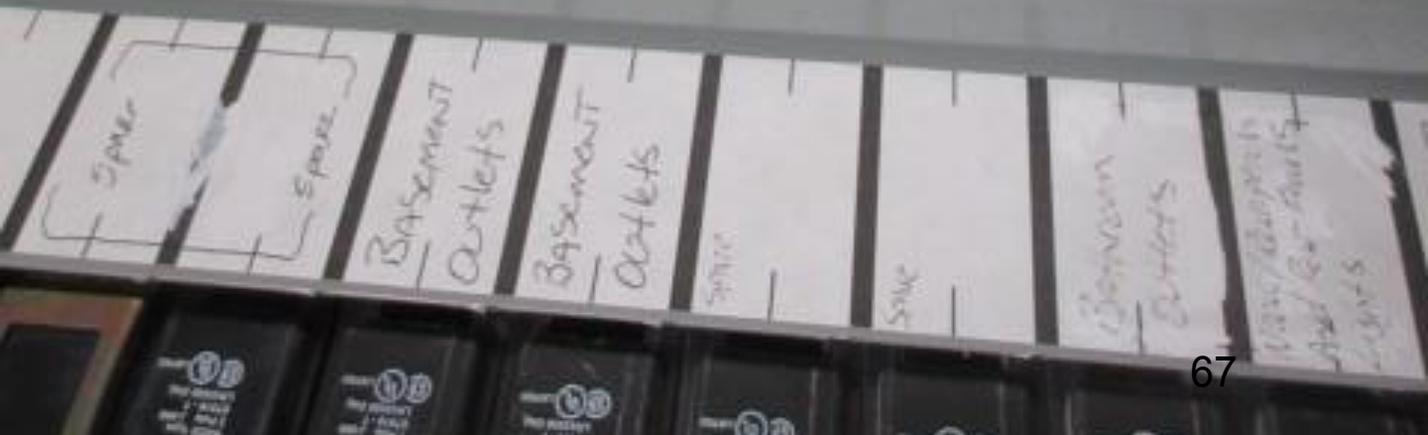
MIDDLE DEPARTMENT INSPECTION AGENCY

DATE 7/18/16
TYPE ELECTRICAL

INSPECTOR JM

D

Visual approval covers the equipment
recorded on application
and is subject to the conditions of the permit.



STRUCTURE



5, 50



5, 6



7

8, 115



8, 9



9



10



1 1

1 2

11, 12

1 1

12





13

78



1 3

1 4

13, 14



15

A close-up photograph of wooden framing, likely for a roof or deck. The image shows several wooden planks and beams joined together with screws. A yellow rectangular callout box is positioned on the right side of the image, containing the text '16, 37, 40'. The wood is light-colored with visible grain and knots. The background shows more wooden planks and some sand or gravel at the bottom right.

16, 37, 40

A close-up photograph of several wooden planks. The planks are light-colored with a prominent, wavy grain pattern. They are arranged in a way that shows their thickness and how they are joined together. A yellow rectangular label with the text "16, 40" is positioned on the right side of the image, partially overlapping one of the planks. The background is a textured, light-colored surface, possibly a wall or ceiling.

16, 40

A close-up photograph of several wooden planks. The planks are light-colored with a visible wood grain. One plank in the foreground has a dark circular mark. A yellow rectangular label is placed on the right side of the image. The background shows more planks and a white object partially visible.

16, 23, 40

17, 62



17, 27

A close-up photograph of a wooden beam joint. The beam is made of light-colored wood with a visible grain. It is connected to a white, perforated metal structure. The joint is a simple lap joint. The background is a bright, overexposed sky.

17, 27

17, 27



18



19



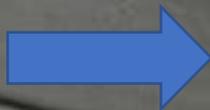
348

106a

20, 106a

EXTERIOR, INCLUDING DOORS & WINDOWS

22a, 25





22b, 22f, 22g, 67



22b, 22f, 22g, 22h, 67



22b, 22f, 35

22b, 22c



22b

A close-up photograph of a dark grey door with a window. The door has a textured, wood-grain-like finish. A yellow rectangular label is placed over the window area, containing the text '22c, 22d, 22f'. The window is partially visible, showing a dark frame and a white interior. The door is set into a wall of similar dark grey siding.

22c, 22d, 22f

22c, 22d, 22f, 60

22c, 22d, 22f



22c, 22f

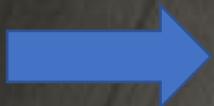
22c, 22f, 34



22c, 22f



22e



22f

22f, 22g

22f, 22g

22f, 22g



22f, 22i, 22j



22g, 22h, 22k



22g



22g



22l, 58



221, 58



23

SHEN
GOOD, CLEAN



23



26, 50



28



28



28, 29



30

A close-up photograph showing a concrete curb on the right, a wooden plank on the left, and a bed of dark gravel below. A yellow rectangular label with the number '30' is positioned on the concrete curb. The concrete shows some staining and texture. The wood has a visible grain. The gravel consists of small, dark, angular stones.

30



31, 32, 57



31, 32, 57



31, 32



32, 42, 54



32, 43, 44



32, 57

34



35



37, 38, 39



37, 38, 39



37, 38, 39



37, 38

37, 38





41



45



46



51



52



56



59



59

59





63



63



63

A photograph of a dirt path or clearing. Several tree roots are visible, extending from the left side across the path. The ground is composed of light brown soil, small rocks, and some sparse green vegetation. A yellow rectangular label with the number '63' is positioned on the right side of the path.

63



64

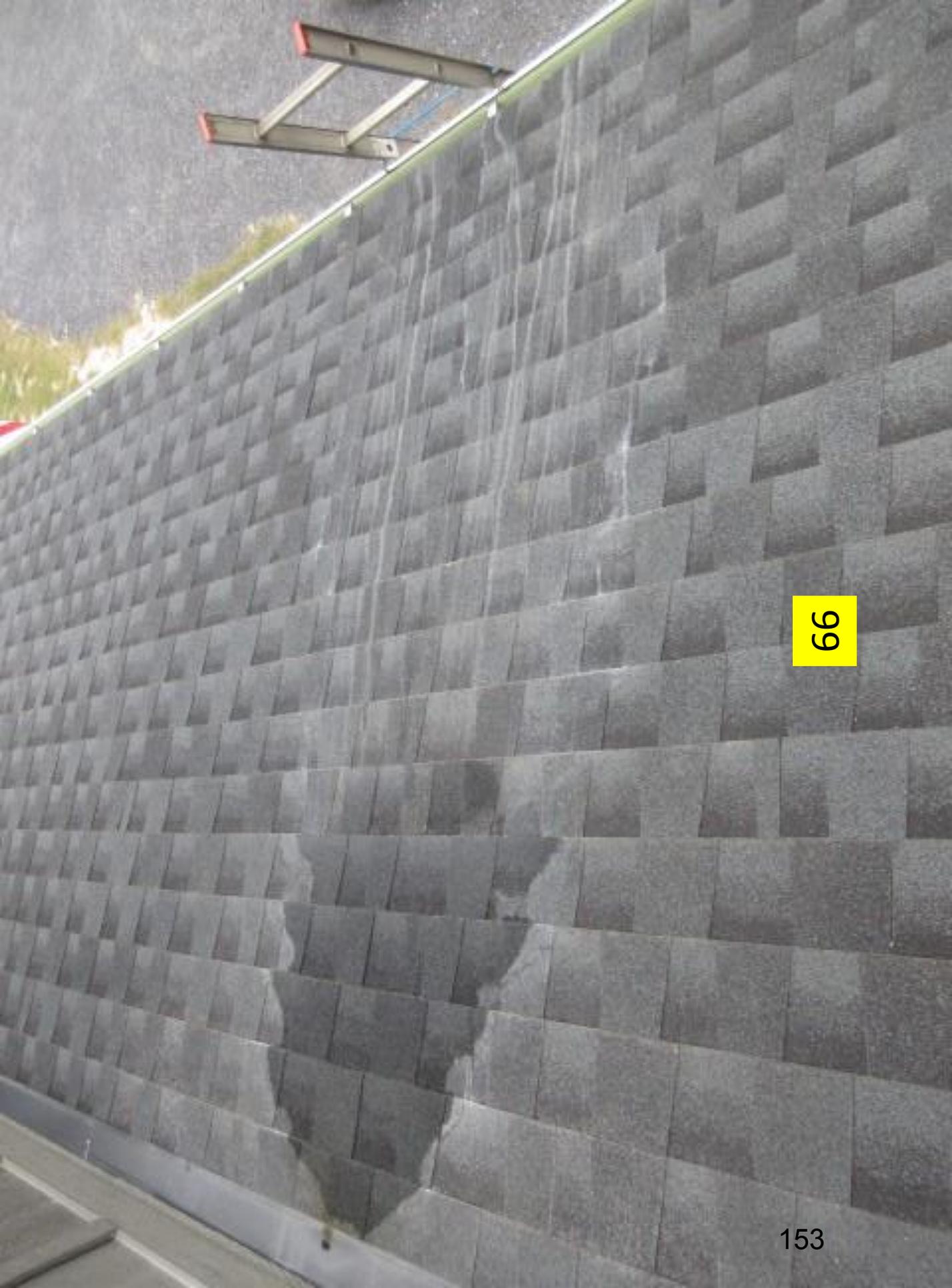


65

ROOF AND RELATED ITEMS



66



66

68

PLUMBING



70



70



72

73



74



76



79



81

ELECTRICAL



82





84

HEATING, VENTILATION, AND COOLING (HVAC)



85



88

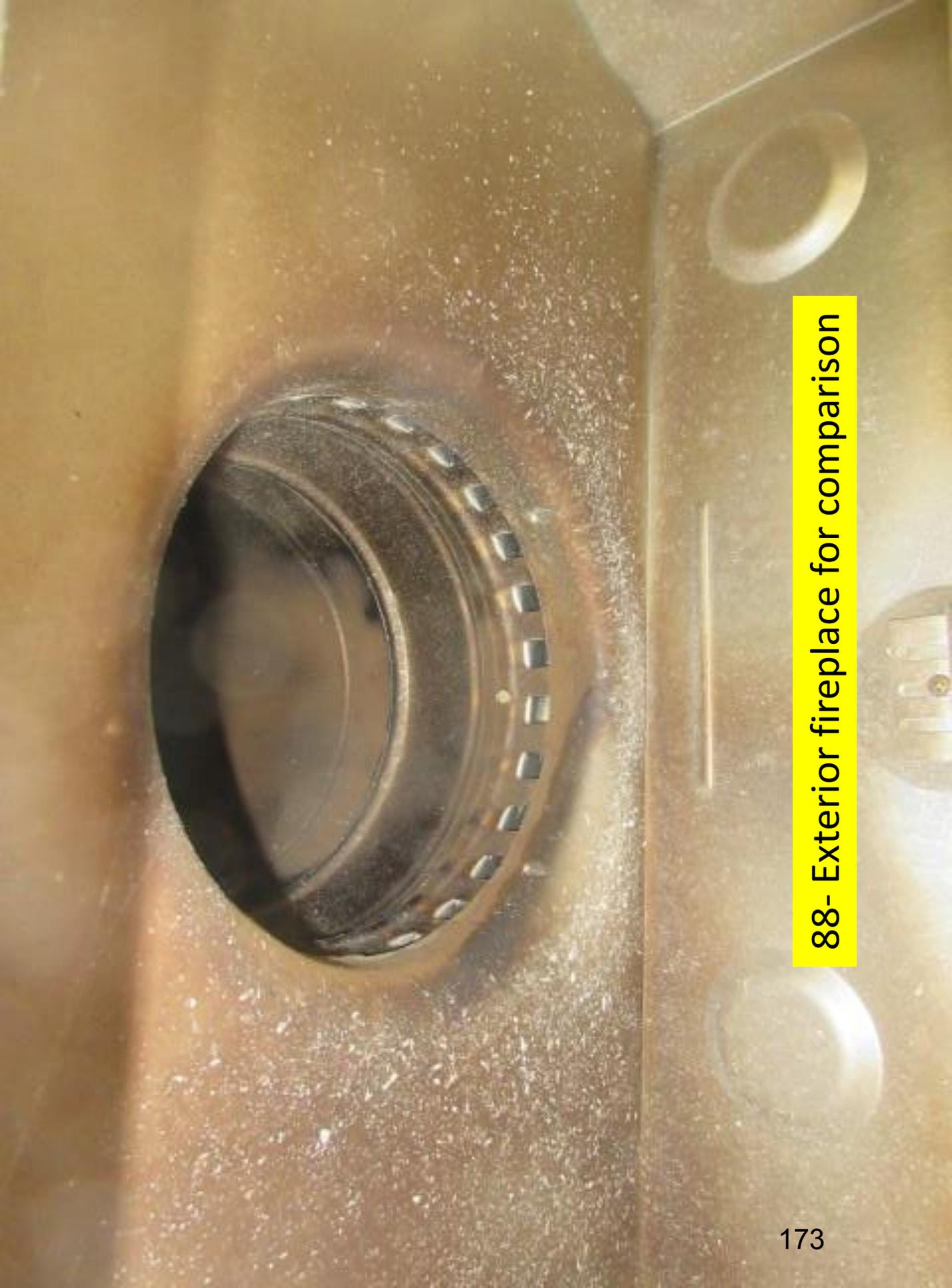
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88

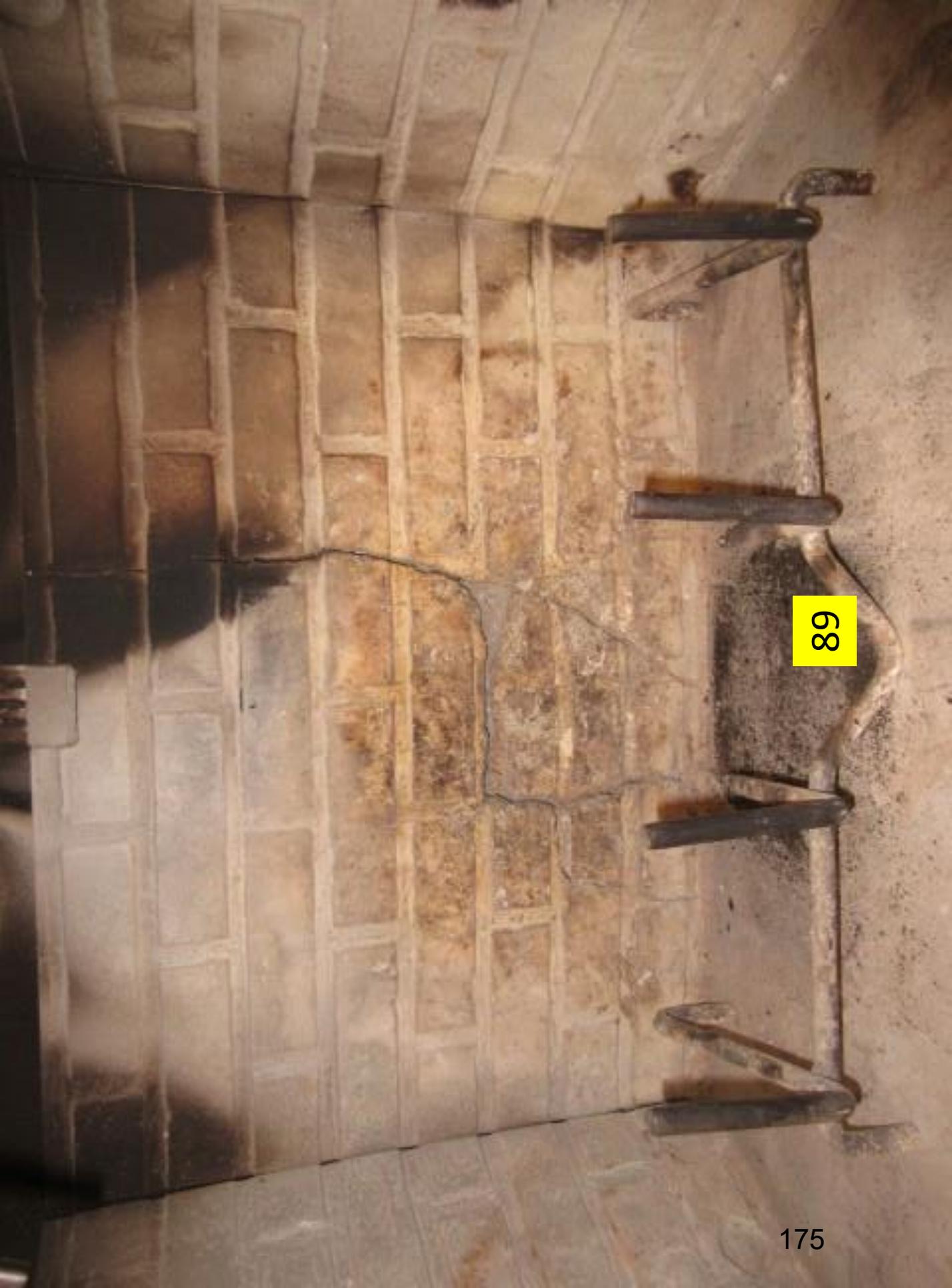




88- Exterior fireplace for comparison



89, 90, 91, 92



89



96



LISTED

REPLACE PART

554E760

0000256

MIN 85044

Health & Home Technologies
7571 215th Street West, Lakeville, MN 55044

112415

CAUTION MAINTAIN 2 INCH

MINIMUM AIR SPACE CLEARANCE
TO COMBUSTIBLES AND
BUILDING INSULATION.

ATTENTION À MAINTENIR 2 POUCES
D'ÉPACEMENT MINIMUM D'ESPACE
D'AIR POUR COMBUSTIBLES ET DE
L'ISOLATION DU BÂTIMENT.

SL318

SEE MANUAL FOR
OPERATING INSTRUCTIONS
CONSULTEZ LES INSTRUCTIONS
D'OPÉRATION DU MANUEL



114

INSTALLATION AND
OPERATING INSTRUCTIONS
FOR THIS PART.
CONSULTEZ LES INSTRUCTIONS
D'OPÉRATION ET LES INSTRUCTIONS
D'INSTALLATION POUR CETTE UNITÉ.
PH: 33287 REY E

93



93

WARNING
HOT

- Fire Risk
- Isolatorien sind corrosiv. Alle mit ihnen in Kontakt kommenden Materialien müssen für diesen Zweck geeignet sein.
- Etsäily- ja paljoit- vaarat.

AVERTISSEMENT
CHAUD

- Risque d'incendie
- Les isolants sont corrosifs. Tous les matériaux en contact avec eux doivent être adaptés à cet usage.
- Vaara paljoituksesta.

ADVERTENCIA
CALENTE

- Peligro de incendio
- Los aislantes son corrosivos. Todos los materiales que entren en contacto con ellos deben ser adecuados para este uso.
- Vaara paljoituksesta.



93

• For the
insulation
does not
determine
proper
connections
Consult
manual
for
requirements



93

<p>WARNING</p> <p>HOT</p> <ul style="list-style-type: none"> • Fire Risk • Installation must comply with local codes and regulations • Consult manual for clearance requirements • Ensure proper connection 	<p>AVERTISSEMENT</p> <p>CHAUD</p> <ul style="list-style-type: none"> • Risque d'incendie • L'isolation et les combustibles ne doivent pas toucher les tuyaux • Consultez le manuel pour les exigences de dégagement • Assurez une bonne connexion 	<p>ADVERTENCIA</p> <p>CALIENTE</p> <ul style="list-style-type: none"> • Riesgo de incendio • El aislamiento y los combustibles no deben tocar los tubos • Consulte el manual de instrucciones de las exigencias de ventilación • Asegure una buena conexión
---	---	---



93



93



94



94



95



96



96

97





97

INTERIOR, INCLUDING DOORS & WINDOWS

99





100



100



101

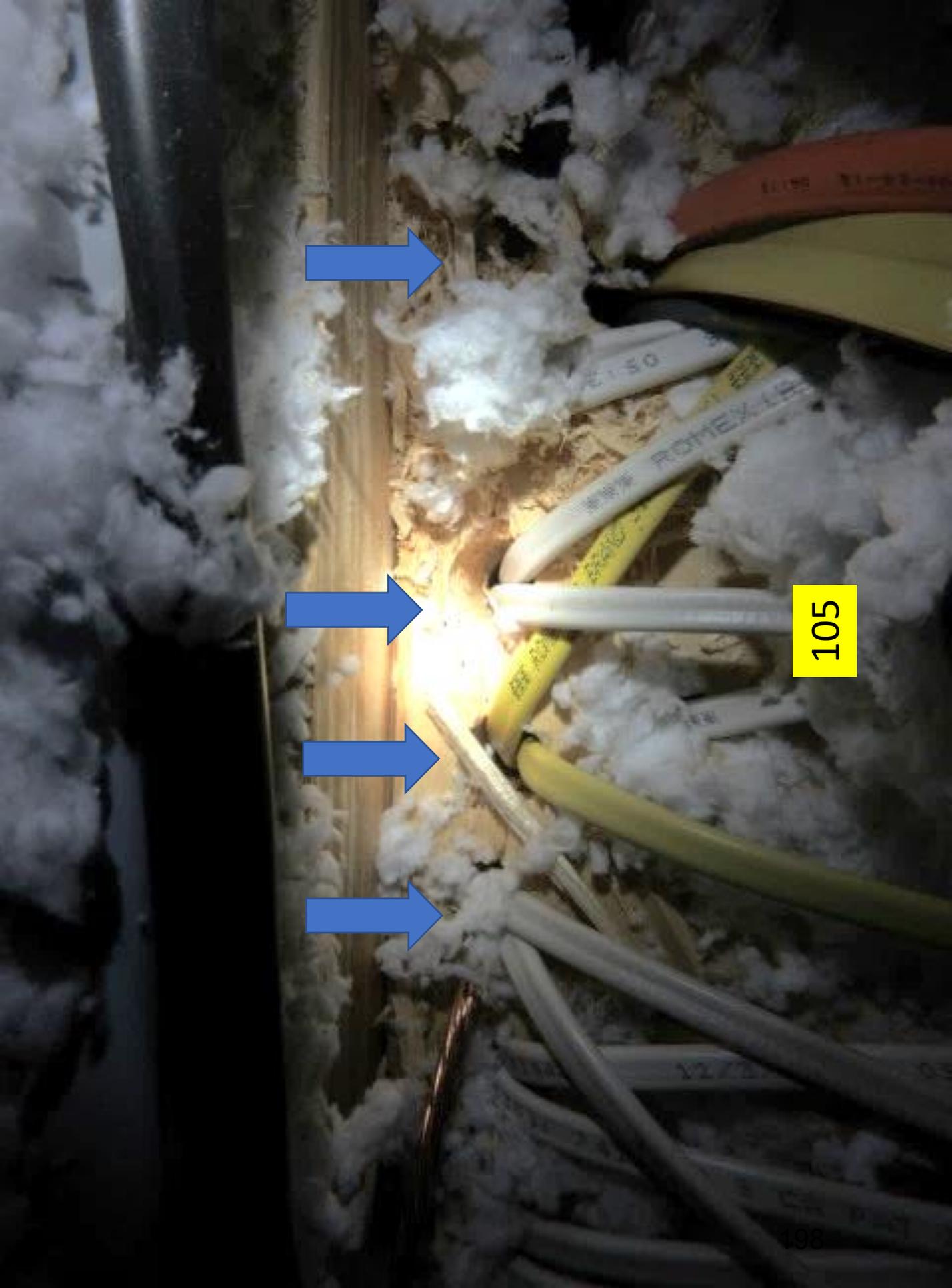


101

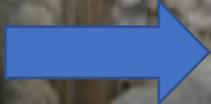
101



102, 103

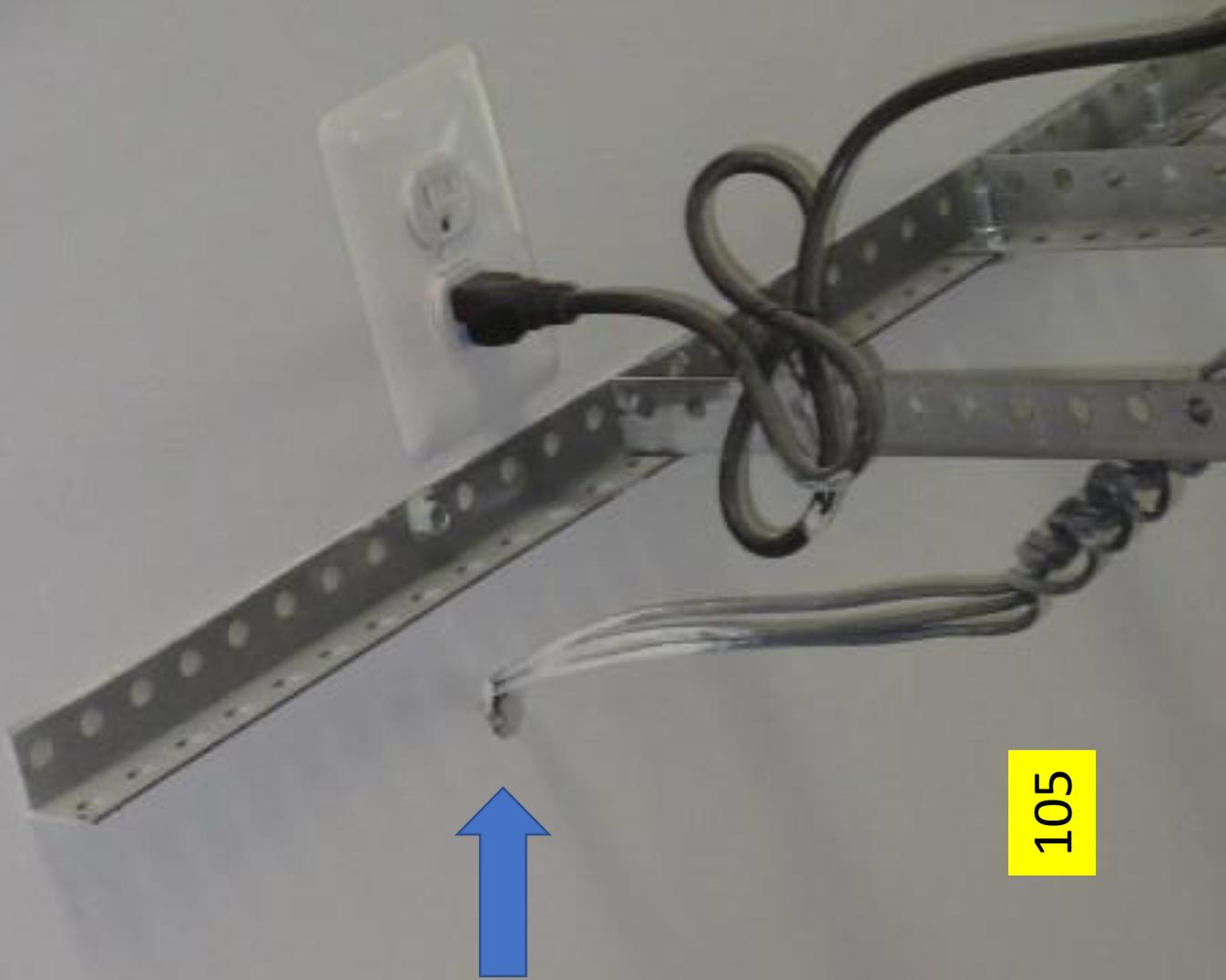


105





105



105



106a



106c

107

107



107



107

107

107



108

109





111

116

212



116

KITCHEN, BATH, UTILITY, INSULATION & VENTILATION

117



117



118



118



120



120

121



122



124



125



GENERAL

- At the time of manufacture, siding meets or exceeds the performance standards set forth in ICC-ES-AC321 and has achieved code recognition under ESR-1301, CCNC 11826, APA recognition under PR-N124, and HUD recognition under HUD-MR-1318. For copies of ESR-1301, call LP Customer Support at 1-800-648-6893 or go online at http://www.ice-es.org/reports/pdf_files/ICC-ES/ESR-1301.pdf or <http://www.apawood.org>.
- Minimum 6 in. clearance must be maintained between siding and finish grade.
- Siding applied adjacent to porches, patios, walks, etc. must have a clearance of at least 1 in. above any surface.
- Minimum 1 in. clearance at intersection with roof line
- Apply siding in a manner that prevents moisture intrusion and water buildup.
- All exposed wood substrate must be sealed in a manner that prevents moisture intrusion and water buildup.
- See alternate fastening options for fastening lap siding to SIP, ICF and Steel Frame assemblies.
- DO NOT USE STAPLES
- SIDING MUST NOT BE IN DIRECT CONTACT WITH MASONRY, CONCRETE, BRICK, STONE, STUCCO OR MORTAR.

STORAGE

- Store off the ground well supported, on a flat surface, under a roof or separate waterproof covering
- Keep siding clean and dry. Inspect prior to application.

STUD SPACING

- Precision 38 Series lap may be installed on studs spaced a maximum of 16 in. O.C. See alternate fastening option for fastening 38 series 6 in. and 8 in. lap on studs spaced a maximum of 24 in. O.C.
- Precision 76 Series lap may be installed on studs spaced a maximum of 24 in. O.C.
- In all installations over masonry or concrete walls, the wall shall be furred out and open at the top and bottom of the wall to allow for convective ventilation between framing spaced 16 in. O.C. The framing shall be of adequate thickness to accept 1-1/2 inches of nail penetration. A properly installed breathable water-resistant barrier is required between the siding and masonry or concrete walls.

MOISTURE

- Moisture control and moisture vapor control are critical elements of proper housing design. Check your local building codes for application procedures for handling moisture and water vapor in your area.
- When using wet blown cellulose insulation, the insulation must not be in direct contact with the siding and it must be allowed to dry a minimum of 24 hours or longer if specified by the insulation manufacturer.
- As with all wood products, do not apply engineered wood siding to a structure having excessive moisture conditions such as drying concrete, plaster or wet blown cellulose insulation. If such conditions exist, the building should be well ventilated to allow it to dry prior to the application of the siding.
- Siding must not be applied to green or crooked structural framing members. Do not apply siding over rain-soaked or buckled sheathing materials.
- Gutters are recommended for control of roof water run off.

SECONDARY WATER-RESISTANT BARRIER

- A properly installed breathable water-resistive barrier is required behind the siding. Consult your local building code for details.
- LP will assume no responsibility for water penetration.

GAPS & SEALANTS

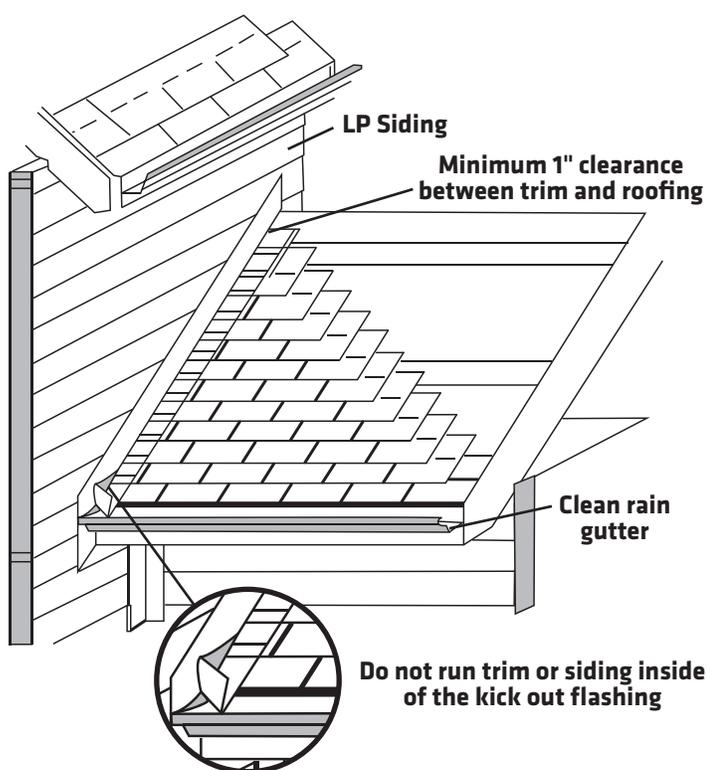
- Seal all gaps with a high-quality, non-hardening, paintable sealant. Follow the sealant manufacturer's instructions for application.
- Use a high-quality exterior sealant meeting the ASTM C920, minimum Class 25 sealant.

FLASHING, WINDOWS, DOORS & OPENINGS

- All openings must be properly sealed or flashed in a manner that prevents moisture intrusion or buildup. Several examples that accomplish this are shown on the following pages.

KICK-OUT FLASHING

- Install kick-out flashing to direct the water into the gutter
- Install step flashing with minimum 4 in. upper leg
- Properly integrate flashing with the secondary water-resistive barrier. Use housewrap, flashing tape, z-flashing, or other items as needed to maintain the counterflashing principle.
- DO NOT extend the siding or trim into the kick-out flashing or gutter
- Maintain a clearance between the end of the gutter and the adjoining wall to allow for proper maintenance of the siding
- Prime and paint ALL exposed cut edges



TRIM

Trim should be thick enough so the siding does not extend beyond the face of the trim.

- Trim and fascia must be applied in a manner that will not allow moisture intrusion or water buildup.
- LP® SmartSide® siding is not designed and/or manufactured to be used as trim or fascia. LP SmartSide trim and fascia are available in a variety of dimensions.
- LP SmartSide lap siding is not designed and/or manufactured to be installed vertically.

FINISHING INSTRUCTIONS

DO

- **Prime and paint all exposed surfaces including all drip edges or where water will hang.**
- Apply finish coat as soon as possible or within 180 days of application.
- High-quality acrylic latex paint, specially formulated for use on wood and engineered wood substrates, is highly recommended. Semi-gloss or satin finish oil or alkyd paints are acceptable. For flat alkyd paint, please check with the coating manufacturer for their recommendations for use on composite wood siding.
- Follow the coating manufacturer's application and maintenance instructions.

DO NOT USE

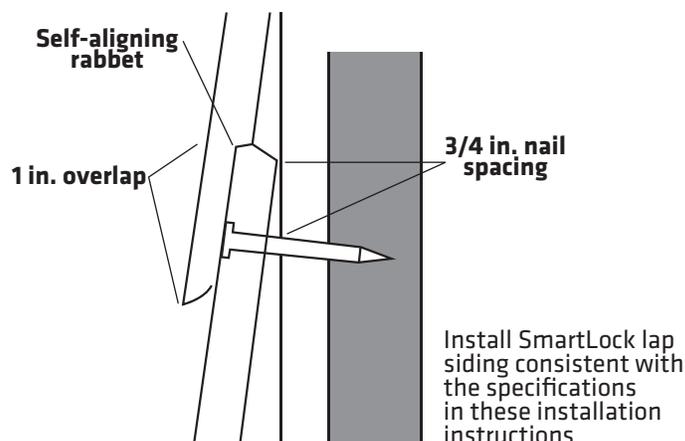
- Semi-transparent and transparent stains.
- Shake and shingle paints.
- Vinyl-based resin formulas such as vinyl acetate, PVA, vinyl acetate/acrylic copolymer paints.

HANDLE PREFINISHED LP SMARTSIDE PRODUCTS WITH EXTREME CARE DURING STORAGE AND APPLICATION. TOUCH UP ANY DAMAGE TO THE FINISH THAT MAY OCCUR DURING APPLICATION PER PREFINISHERS SPECIFICATIONS.

NAILING INSTRUCTIONS

- LP SmartSide 76 Series lap siding may be attached directly to framing members spaced up to a maximum of 24 in. O.C.
- LP SmartSide 38 Series lap siding may be attached directly to framing members that are spaced up to a maximum of 16 in. O.C.
- Check your local building code before starting to install the siding to confirm if wall sheathing is required.
- Siding joints should be staggered over successive courses. For installation with or without wood structural panels, joints must occur over stud locations.
- Siding shall be installed with top (blind) nailing, with the nails placed 3/8 in. from either end and a minimum of 3/4 in. from the top edge of the board. Fasteners will be exposed on siding located immediately below window sills, fascia boards, and horizontal trim. Fasteners below window sill shall be spaced a maximum of 8 in. O.C.
- Overlap successive courses of siding a minimum of 1 in.

SmartLock Overlap & Blind Fastening



APPLICATION INSTRUCTIONS (CONT.)

CONDITION		CORRECTION	
Snug		OK	
Flush		OK	
Visible fiber		Paint	
Countersunk 1/16-1/8 IN.		Apply sealant	
Countersunk more than 1/8 in.		Apply sealant and re-nail	

- Use minimum 8d (0.113 in. shank diameter), hot-dipped galvanized nail with a 0.297 in. diameter head.
- All exposed face nails must be caulked and sealed in a manner that prevents moisture intrusion and water buildup.
- Penetrate structural framing or wood structural panels and structural framing a minimum of 1-1/2 in.
- Nail from the center of the siding toward the ends, or from one end to the other end. NEVER nail from the ends of the siding toward the middle.
- Shim siding at studs as needed, to avoid drawing siding against uneven walls. Do not overdrive nails. Nail head should seat firmly to face of siding but not be overdriven to distort the siding surface.
- For information on fastening LP SmartSide products in high wind speed areas, refer to ICC-ES Report ESR-1301 or APA PR-N124.

Alternative Fastening Option for (strand) over Wood Structural Panels and 24 in. O.C. Stud Spacing

- Limited to 6 in. and 8 in. wide lap siding.
- Wood structural panels must be a minimum 7/16 Category with an APA Trademark that contains the consensus Standard DOC PS 2.
- 38 Series Precision lap must be fastened with:
 - Minimum #8 hot dip galvanized tapered head wood screw with a 0.270 in. diameter head, spaced a maximum of 12 in. O.C. with 1-1/2 in. screw penetration into each stud or...
 - Minimum 6d (0.091 in. shank diameter) hot dip galvanized ring shank nail with a 0.200 in. diameter head, spaced a maximum of 8 in. O.C. with 1-1/2 in. nail penetration into each stud.

Alternative Fastening Options over SIP Assemblies

- Wood structural panels must be a minimum 7/16 Category with an APA Trademark that contains the consensus standard DOC PS 2.
- 38 Series Precision lap must be fastened with:
 - Minimum #8 hot dip galvanized tapered head wood screw with a 0.270 in. diameter head, spaced a maximum of 12 in. O.C. or...
 - Minimum 6d (0.091 in. shank diameter) hot dip galvanized ring shank nail with a 0.200 in. diameter head, spaced a maximum of 8 in. O.C.
- 76 Series Precision lap must be fastened with:
 - Minimum #8 hot dip galvanized tapered head wood screw with a 0.270 in. diameter head, spaced a maximum of 16 in. O.C. or...

- Minimum 6d (0.091 in. shank diameter) hot dip galvanized ring shank nail with a 0.200 in. diameter head, spaced a maximum of 12 in. O.C.

Alternative Fastening Option over ICF Assemblies

- 38 and 76 Series Precision lap must be fastened with:
 - Minimum #8 hot dip galvanized tapered head self-drilling screw with a 0.270 in. diameter head.
 - Minimum penetration of 3/8 in. beyond the thickness of the nailing flange.
 - Larger screws may be required by the ICF Manufacturer based on the following minimum withdrawal requirements.
- Minimum withdrawal value of the ICF nailing flange must be 50 lbs. with a maximum 12 in. O.C. screw spacing.
- Minimum withdrawal value of the ICF nailing flange must be 31 lbs. with a maximum 6 in. O.C. screw spacing.

Alternative Fastening Options over Corrosion Resistant Steel Stud Framing

- Minimum withdrawal value of the steel framing must be 50 lbs. Refer to the framing manufacturer's evaluation report.
- 38 Series Precision lap must be fastened with:
 - Steel stud spacing a maximum spacing of 16 in. O.C.
 - Minimum #8 hot dip galvanized tapered head self-drilling screw with 0.270 in. diameter head.
 - Minimum of 5 threads beyond the combined thickness of the siding and framing
 - Minimum steel framing thickness 0.032 in. or 20 gauge.
- 76 Series Precision lap must be fastened with:
 - Steel stud spacing a maximum spacing of 24 in. O.C.
 - Minimum #8 hot dip galvanized tapered head self-drilling screw with a 0.270 in. diameter head.
 - Minimum of 5 threads beyond the combined thickness of the siding and framing.
 - Minimum steel framing thickness 0.032 in. or 20 gauge.

CAUTION

- Do not force siding into place.
- DO NOT USE STAPLES.
- Climb cut the surface of the siding such that the rotation of the blade cuts downward on the primed or prefinished surface.
- Where siding butts window trim, door casings and masonry, etc. leave a 3/16 in. gap and seal.

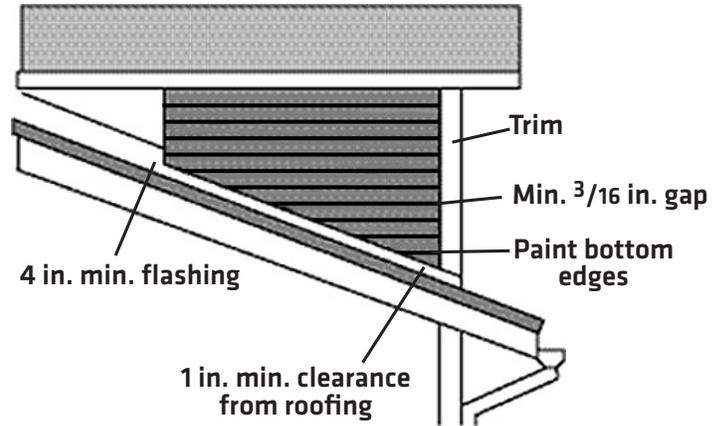
Insulated Sheathings

LP SmartSide Siding may be installed over low-compression rigid foam or exterior gypsum. The following precautions must be followed:

- Adequate bracing of the wall in accordance with the International Codes or other ruling building code is required.
- For rigid foam sheathing up to 1 in. (25.4 mm) thick, siding may be nailed directly to the foam sheathing unless a drainage

1 IN. ROOF & CHIMNEY CLEARANCE

Figure 4



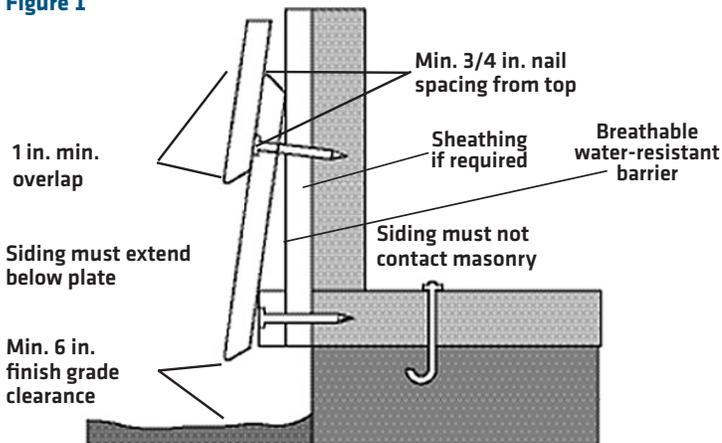
plane is required by the local building code. Nail length must be increased to ensure a minimum 1-1/2 in. (38.1 mm) fastener penetration into the structural framing.

- For rigid foam sheathing greater than 1 in. (25.4 mm), a minimum 1-1/2 in. (38.1 mm) thick by 3-1/2 in. (88.9 mm) wide vertical strapping or furring strip must be installed over the sheathing to provide a solid, level nailing base for the siding. The strapping must be securely fastened to structural framing spaced no greater than 16 in. O.C. (406 mm) with a minimum nail penetration of 1-1/2 in. (38.1 mm) and a maximum nail spacing no greater than the width of the siding.

Louisiana-Pacific will assume no responsibility for any damage or condition arising from the use of rigid foam or exterior gypsum.

OVERLAP, CLEARANCE & NAILING SPACE

Figure 1



LP Precision Lap siding may also be installed in compliance with category 8140- Exterior wall siding and sheathing for Wildland Urban Interface (WUI) applications atop LP FlameBlock sheathing. Refer to FlameBlock installation instructions and product data sheets. All LP lap sidings (both Foundations and Precision) may be installed as exterior siding in Wildland Urban Interface (WUI) applications installed over one layer 5/8" Type X gypsum sheathing applied behind the exterior covering or cladding on the exterior side of the framing. They may also be installed over the exterior portion of a 1-hour fire-resistive exterior wall assembly designed for exterior fire exposure including assemblies using the gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual.

The Louisiana-Pacific Corporation ("LP") LP SmartSide Siding (the "Products") limited warranty (the "Warranty") applies only to structures on which the Products have been applied, finished and maintained in accordance with the published application, finishing and maintenance instructions in effect at the time of application. The failure to follow such application, finishing or maintenance instructions will void the Warranty as to the portion of the Products affected by the variance (the "Affected Products").

LP assumes no liability for any loss or damage sustained by the Affected Products and is expressly released by the purchaser or owner from any such loss or liability.

Any modification of the Warranty's application, finishing or maintenance requirements is void and unenforceable unless approved in writing prior to application by the siding general manager or his designee and a member of the LP Legal Department.

For a copy of the warranty or for installation and technical support, visit the LP SmartSide product support Web site at:

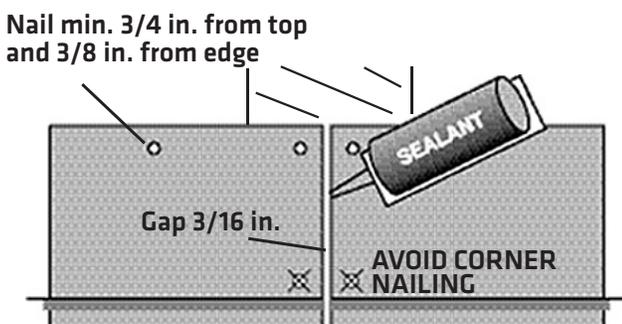
www.lpsmartside.com

or for additional support call 800-450-6106.

WARRANTY REMEDIES ARE NOT AVAILABLE IF REQUIREMENTS ARE NOT FOLLOWED.

BUTT JOINTS

Figure 2



- Joints must occur over studs.
- A minimum 3/16 in. gap is required at ALL butt joints.
- If joint caulking option is selected, seal all gaps at butt joints with a high-quality exterior sealant meeting the ASTM C920, minimum Class 25 sealant.
- If joint moulding option is selected, add the thickness of the web to the gap allowing a net 3/16 in. space for expansion.
- If siding is prefinished by an approved or preferred prefinisher it does not require sealant or joint moulding when backed with minimum 4 in. wide flashing and the ends of the siding are factory finished.

Cal. Prop 65 Warning: Use of this product may result in exposure to wood dust, known to the State of California to cause cancer.



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NOTE: Louisiana-Pacific Corporation periodically updates and revises its product information. To verify that this version is current, call 800-450-6106.

Figure 3

Over Openings

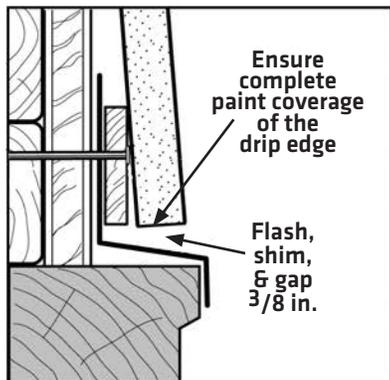


Figure 3A

Alternate Butt Joint Treatments

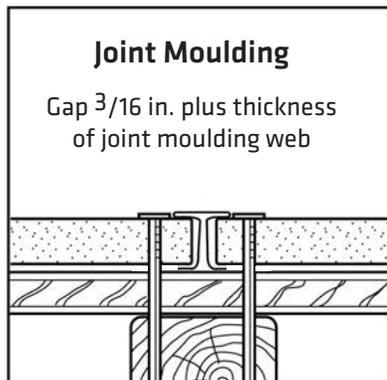


Figure 3B

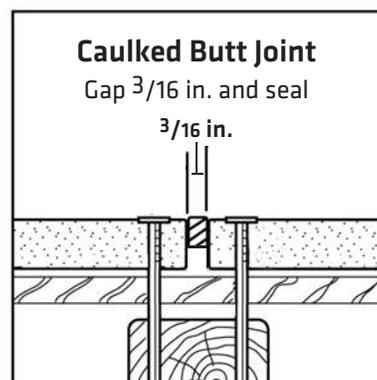


Figure 3C

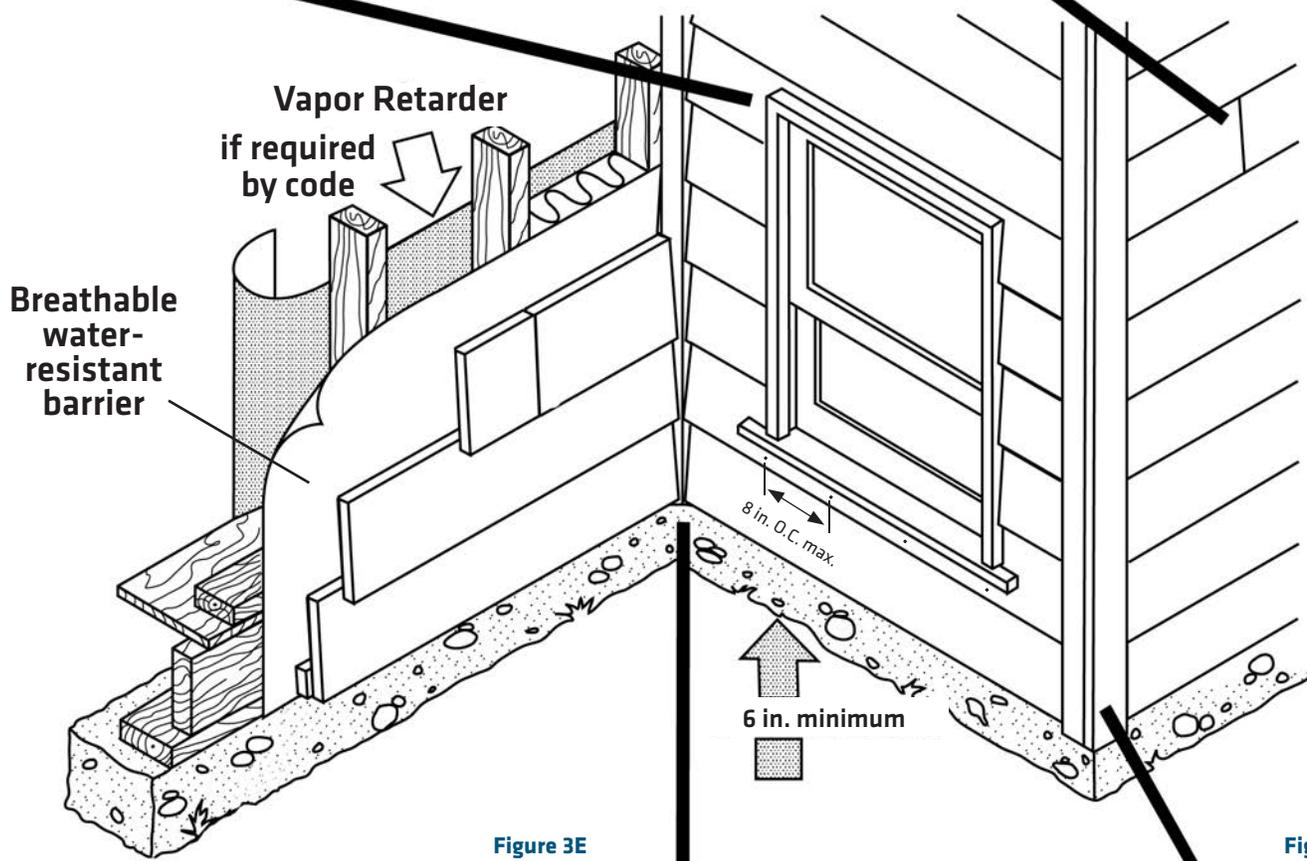
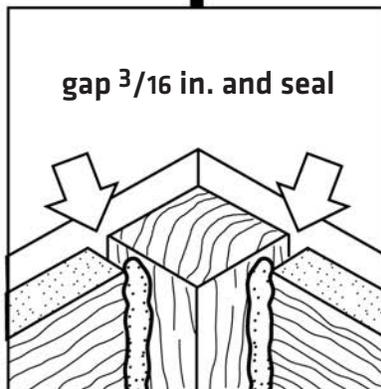
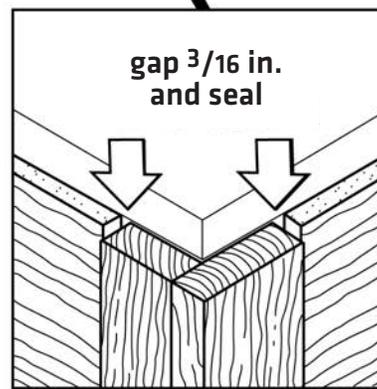


Figure 3E

Figure 3D



Inside Corner Detail



Outside Corner Detail

ABLE

Building Inspection, Inc.

761 Harmony Orchard Road
Front Royal, VA 22630-5213

(540) 636-6200

December 22, 2017

Kristi Sours Brown
1255 Pilgrims Way
Front Royal, VA 23630

Inspection Date: September 11, 2017

Time Start: 9:45 AM Time Finish: 6:15 PM

Weather: Cloudy, temperature about 65° F.

General Notes

- A. Directions, e.g. front, rear, left and right, are as viewed from the street facing the front of the house.
- B. The inspection was limited by belongings and storage in the home and garage.
- C. This report was prepared with the following information:
 - i. Meeting with Kristie Sours Brown on September 20, 2017,
 - ii. Copy of construction plans provided by Ms. Sours Brown,
 - iii. Copy of construction plans files and approved by Warren County, VA,
 - iv. LP SmartSide Install Instructions Strand,
 - v. LP SmartSide Trim and Soffit Install Instructions, and
 - vi. The 2009 Virginia Residential Code.
- D. The final building inspection was issued on July 18, 2016.

Contract Administration

1. The construction contract was issued by Buracker Construction, LLC, and signed by Martha A. Buracker. Buracker Construction, LLC, is not registered as a licensed contractor in Virginia.



3. The construction contract calls for written and signed change orders for all contract changes. There were numerous plan and material specification changes through the course of the contract. No written changes orders were provided by Buracker Construction, LLC.
4. The construction contract specifies an initial draw payment, a payment when the house is one half complete and a final draw upon completion. Overages or refunds were to be adjusted at closing. Eight actual draws were provided during the course of construction.

Structure and Framing

[Redacted text block]

6. [Redacted text block]

7. The upper roof framing is 16" on center. 24" on center was specified for the framing in the plans.

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

13. The support for the ends of the diagonal beam under the front deck is inadequate.

[REDACTED]

Exterior

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 24. The porch floor trim boards are loose and twisting.
- 25. Siding batten spacing is 24" apart. Ms. Sours Brown was shown several houses by Martha Buracker and was told that the siding and trim installation would match that of the other houses. The example houses had the battens spaced 16" apart per Ms. Sours Brown.
- 26. Board and batten siding was not installed on the right garage gable wall. Horizontal siding was installed on this gable wall.
- 27. The aluminum cap trim is not cut tightly to the wood posts. The gaps have not been caulked.

28. The aluminum trim is wavy and loose.

29. The cap trim repair where the posts were relocated on the rear and right side porches does not match the other trim.

30. The aluminum trim is buckled and dented on the garage door frames.

[REDACTED]

32. The stone veneer and mortar on the chimney is bleeding onto the chimney and the adjacent roof shingles. The stone veneer is bleeding onto the porch floor.

[REDACTED]

34. The pre-finish on the LP siding has been damaged in numerous locations.

35. The touch ups of the LP siding paint do not match the original finish.

36. Sealant is missing on the left side of the right front dormer.

[REDACTED]

39. The front porch steps do not flare out as specified in the construction contract addendum.

[REDACTED]

42. The right side porch floor does not overhang the concrete block foundation wall. Water is running from the floor and wall above down the foundation wall. The parging on the wall is subject to freeze/thaw damage in this area.

[REDACTED]

44. The cap has not been installed on the right side rear porch wall.

45. The front entry door latch is broken.

46. The master bathroom exterior door knob handle is loose and comes off.

47. The master bathroom exterior door deadbolt does not lock.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

51. The basement entry door lock is damaged.

[REDACTED]

[REDACTED]

[REDACTED]

54. The rear porch concrete slab projects past the end of the side deck.

[REDACTED]

60. The rear entry door is scratched.

[REDACTED]

62. The contract plans call for cedar ceiling on the porch. Vinyl ceiling panels were installed.

[REDACTED]

64. The driveway does not have the final grading completed. The front lawn drains across the driveway causing erosion and chronic maintenance in this area.

65. Final grading, seeding and straw cover were completed but the grass failed to grow. The final grading was not completed per the discussion between David Buraker, George Cline, the excavating subcontractor, Vincent Atwood, Jr. and Kenny Sours, Kristie's father. The yard has areas that remain wet in spring and wet weather.

Roofing

66. The left side porch roof shingles are stained from the air conditioning condensate draining onto the shingles. Replace the stained shingles is recommended.

67. The roof flashing has been sealed with roof cement at the lower ends of the front dormers.

68. The downspout is dented at the front left corner of the garage.

[REDACTED]

Plumbing

70. The plumbing vent pipes should be supported every 4' through the main attic and pitched to drain down into the drain system.

71. The tub faucet spout is loose in the upstairs right bathroom.

72. The front shower handle is loose in the master bathroom.

73. An access panel was not found for the tub motor.

74. The toilet seat is broken in the master bathroom.

75. The laundry and whirlpool tub plumbing are located on exterior walls and subject to freezing.

[REDACTED]

77. The two stage toilet in the powder room does not refill properly.

78. The upstairs bathroom toilet was running during the inspection. It needed the handle to be jiggled to stop the water flow.

[REDACTED]

[REDACTED]

81. The foundation drain outlet is damaged and restricted in the right side yard.

Electrical

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

83. The electrical panels were installed in the side wall of the garage rather than in the basement per plan/contract reference.

HVAC

[REDACTED]

86. The fireplace in family room is different manufacturer and model than shown on the receipt from Acme Fireplaces.

[REDACTED]

91. The glass doors are not installed on the family room fireplace. The doors were damaged during the second use of the fireplace.

[REDACTED]

97. The heat pump disconnects are located behind the exterior equipment. Access to the disconnects is restricted.

98. The wood fired boiler noted in the extra cost addendum was not installed.

Interior

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

104. 7/16" thick oriented strand board has been installed for storage across the garage ceiling trusses spaced 24" apart. This material is not intended for use as flooring. It may break under storage or personnel loads creating a safety concern.

105. No shelving was installed in the basement or garage.

106. Firesafing material has not been installed in the following locations:
a. At the fireplace chimney firestops in the attic, and
b. The electrical cables into the attic (visible above the main panel), and
c. At the tub drain in the basement.

107. The interior drywall finishing and painting is incomplete at the upstairs left bathroom and the upstairs family room wall. Touch up of all drywall and paint was to be provided by Buracker Construction LLC per Kristie's conversation with Martha Buracker.

108. A square shoe molding has been installed throughout the house at the base

moldings on the hardwood and tile floors. This square profile is difficult to clean. A ½ x ¾" tapered shoe molding is typically installed at this location.

109. The entry foyer wood floor is stained in front of the powder room wall from a toilet that was stored on the wood floor.

110. The ceramic tile is loose at the rear of the master bathtub platform.

[REDACTED]

112. Several windows are stuck and/or binding. Adjustments are recommended.

113. Three pocket doors were specified in the contract. No pocket doors were installed in the home.

114. The tile work in all the bathrooms was repaired several times during the final completion of the home. The tile in the master bath shower is misaligned and out of square. The niche in the shower wall has a joint at the sill that will permit water to enter the wall behind the tile.

115. The root cellar in the basement measured 6 x 6 ½'. The contract calls for a 6 x 8'6" room.

[REDACTED]

Kitchen, Baths, Insulation and Ventilation

117. The insulation has been displaced in the garage and upper attics. This lessens the performance of the insulation and increases the heating and cooling costs of the home.

118. The bathroom fans from both upstairs baths vent into the upper attic. Exterior terminations are required for both fans.

[REDACTED]

[REDACTED]

Kristi Sours Brown
New construction defect inspection report
1255 Pilgrims Way, Front Royal, VA 22630
Date of inspection: September 11, 2017
Page 12 of 12

- 121. The floor is loose in the kitchen cabinet mounted over the refrigerator.
- 122. The right side of the kitchen cabinet over the refrigerator is damaged by a nail.
- 123. An anti-tip bracket should be installed on the kitchen range. This is a safety concern.
- 124. The flexible dryer vent is restricted behind the dryer.



- 126. Foam insulation should be installed on the ceiling and walls of the root cellar and covered with 1/4" tile backer board to provide a non-combustible, water and mold resistant finished surface.

If you have any questions about the above information, please do not hesitate to contact me.

Sincerely,

David P. Rushton
President
ABLE Building Inspection, Inc.
(540) 636-6200
Virginia Licensed Home Inspector
New Residential Structures License #3380 000161 NRS

ABLE

Building Inspection, Inc.

761 Harmony Orchard Road

Front Royal, VA 22630-5213

(540) 636-6200

March 14, 2018

Kristi Sours Brown
1255 Pilgrims Way
Front Royal, VA 23630

Kristi,

The following list is the report item numbers that I believe will be of concern to Mr. Beahm. He is not interested in cosmetic or aesthetic concerns as a building official. He will be primarily concerned with construction deficiencies and possible code violations.

[REDACTED]

[REDACTED]

[REDACTED] 70, [REDACTED]

[REDACTED]

106, [REDACTED] 118, [REDACTED]

Of course, Mr. Beahm will have his own thoughts about the issues in your home. This is just my idea of the issues that may be of concern to him.

I am sorry that I cannot attend your meeting with Mr. Beahm due to a scheduling conflict. Please let me know the results of the meeting.

I will have original copies of the report and estimate mailed out to you.

Best,

Dave

David P. Rushton
President
ABLE Building Inspection, Inc.

Department of Building Inspections County of Warren

220 N. Commerce Ave., Suite 400
Front Royal, Virginia, 22630
540-636-9973
Fax 540-636-4698
E-Mail: dbeahm@warrencountyva.net

Notice of Violation

Name: Kristie Brown	Address: 1255 Pilgrims Way, Bentonville, VA 22610
Contractor: Buracker Construction	Address: 2594 Stonewall Jackson Hwy., Bentonville, VA 22610
Job location: 1255 Pilgrims Way, Bentonville, VA	Date of Inspection: March 16, 2018
Permit Number: 493-2015	Certified Mail: 7016 3010 0000 5123 5893
Inspector: David C. Beahm	

Pursuant to the Code of Virginia, Title 36, Virginia Uniform Statewide Building Code, Section 36-105; the following code violations of the 2009 USBC have been detected to exist on the job site location described above. All violations shall be corrected and re-inspected within thirty (30) working days from receipt of this noticed. **Failure to comply with this Notice of Violation within the time period specified will necessitate further actions being taken.**

You have the right to appeal (2012 USBC Section 119.5) all decisions of the Building Official to the Warren County Board of Building Code Appeals. Such appeals must be filed in writing with this board by no later than thirty (30) days from receipt of this notice. Please contact the Building Inspections Office to speak with the Warren County Board of Building Code Appeals' secretary, Paula Fristoe, for assistance with any questions regarding the appeals process.



March 30, 2018

David C. Beahm, Building Official/ Date

Code ref:	Location:	Condition Observed
<p>R502.2.2.2 Alternate deck ledger connections. Deck ledger connections not conforming to Table R502.2.2.1 shall be designed in accordance with accepted engineering practice. Girders supporting deck joists shall not be supported on deck ledgers or band joists. Deck ledgers shall not be supported on stone or masonry veneer. And: R502.6</p>	<p>Front porch on the north west corner of house.</p> <ul style="list-style-type: none"> • The connection of the floor joists need to have a proper connection made with either a mechanical fastener or documentation from a RDP indicating it meets structural requirements. • The connection of the beam that the shorter joists attach to requires either a mechanical fastener or documentation from a RDP indicating it meets structural requirements. 	

<p>R302.12 Draftstopping. In combustible construction where there is usable space both above and below the concealed space of a floor/ceiling assembly, draftstops shall be installed so that the area of the concealed space does not exceed 1,000 square feet (92.9 m²). Draftstopping shall divide the concealed space into approximately equal areas. Where the assembly is enclosed by a floor membrane above and a ceiling membrane below, draftstopping shall be provided in floor/ceiling assemblies under the following circumstances:</p>	<p>Basement near exterior door on the west side of house.</p> <ul style="list-style-type: none"> The area of floor that is directly behind the water line has an area that is not fire stopped where the waste line (also shown in the picture) penetrates the floor. 	
<p>TABLE P2605.1 PIPING SUPPORT</p> <p>PVC pipe;</p> <p>MAXIMUM HORIZONTAL SPACING (feet)</p> <p>4'</p>	<p>Attic close to the access opening from the room on 2nd floor and on the east side of the house.</p> <ul style="list-style-type: none"> The vent pipe is supported, as shown here, but it is not supported every four (4) feet as required. 	

<p>M1507.2 Recirculation of air. Exhaust air from bathrooms and toilet rooms shall not be recirculated within a residence or to another <i>dwelling unit</i> and shall be exhausted directly to the outdoors. Exhaust air from bathrooms and toilet rooms shall not discharge into an <i>attic</i>, crawl space or other areas inside the building.</p>	<p>Attic close to the access opening from the room on 2nd floor and on the east side of the house.</p> <ul style="list-style-type: none"> The bathroom exhaust fan duct shall not terminate in the attic space. 	
<p>M1801.1 Venting required. Fuel-burning <i>appliances</i> shall be vented to the outdoors in accordance with their <i>listing and label</i> and <i>manufacturer's installation</i> instructions except <i>appliances</i> listed and <i>labeled</i> for unvented use. Venting systems shall consist of <i>approved chimneys</i> or vents, or venting assemblies that are integral parts of <i>labeled appliances</i>. Gas-fired <i>appliances</i> shall be vented in accordance with Chapter 24.</p>	<p>Attic access opening from the room on 2nd floor and on the east side of the house and in the reverse gable area adjacent to it.</p> <ul style="list-style-type: none"> Manufacturer requires a minimum of two (2) inches from combustibles. 	



APPLICATION FOR APPEAL
COUNTY OF WARREN
WARREN COUNTY BUILDING CODE APPEAL BOARD

APPEAL# 1-2018

PROPERTY OWNER NAME: Kristie Sours Atwood

PERSON REQUESTING APPEAL: Kristie Sours Atwood

MAILING ADDRESS: 1255 Pilgrims Way Bentonville, VT 05610

LOCATION OF PROPERTY BEING APPEALED: Same as mailing

DESCRIPTION OF DECISION BEING APPEALED:
Review of possible code violations
& construction deficiencies.
More importantly home built does not
match county approved plans. Review was
sent to Bracker Construction LLC.
See attached 3rd party inspection

RELIEF SOUGHT:
I want the Warren County building
dept. to recognize the errors of their
inspectors including David Beahm &
force the contractor Bracker Construction LLC,
to fund a viable plan for completion
& repair of issues to my home.

PLEASE ATTACH THE DECISION OF THE CODE OFFICIAL AND ANY PERTINENT DOCUMENTS.

THE WARREN COUNTY BUILDING CODE APPEAL BOARD MAY MAKE A SITE VISIT TO THE PROPERTY. PLEASE INDICATE TWO DATES AND TIMES THAT THE PROPERTY WILL BE AVAILABLE FOR THIS VISIT.

1ST CHOICE: May 18 AT 10 am

2ND CHOICE: May 21 AT 10 am

Kristie L. Atwood
SIGNATURE OF APPLICANT

FILED AT Warren County, VIRGINIA, THIS 3rd DAY OF May, 2018.

RESOLUTION

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

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

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

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

RESOLVED; That in the matter of

Appeal No. 1-2018

IN RE: Atwood v. Warren County

The appeal is hereby approved / denied.

^{PST} For items 6, 10, 11, 12, 20, 22, 23, 37, 38, 92, 93, 101

DATE: 6-7-18

SIGNATURE: Paul Thomson
Paul Thomson, Chairman, Warren County Building Code Appeals Board

NOTE: Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 501 North Second Street, Richmond, VA 23219, (804)-371-7150.

Hand Delivered this 7 day of June, 2018 at Warren County Government Center.

Received by: Kristie L Atwood

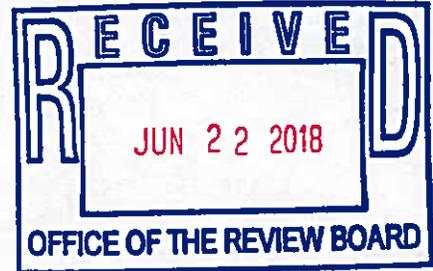
Printed: Kristie L Atwood

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

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

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



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

Kristie L. Sours Atwood
1255 Pilgrims Way, Bentonville, VA 22610
C 540-244-5520 H 540-635-5544
Kristiesours@gmail.com

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

David Beahm, Warren County VA Building Official
220 N. Commerce Ave, Suite 400
Front Royal, VA 22630 540-636-4698
dbeahm@warrencountyva.net

Additional Information (to be submitted with this application)

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

CERTIFICATE OF SERVICE

I hereby certify that on the 21 day of June, 2018 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: Kristie L. Atwood

Name of Applicant: Kristie L. Atwood
(please print or type)

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
(Preliminary Hearing For Potential Conflict of Interest by the Local Appeals Board)

IN RE: Appeal of Kristie L. Sours Atwood
 Appeal No. 18-08
 Appeal of Kristie L. Sours Atwood
 Appeal No. 18-12
 Appeal of Buracker Construction
 Appeal No. 18-13

DECISION OF THE REVIEW BOARD

I. Procedural Background

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

II. Case History

The three referenced cases presented to the Review Board for consideration at the January 11, 2019 for Kristie L. Sours Atwood (Atwood) and Buracker Construction (Buracker) have not been merged and remain independent of each other; however, the three cases originate from the same nexus of facts and all have similar questions related to a potential conflict of interest pursuant to the Conflicts of Interest Act (COIA) and the 2012 Virginia Construction Code Section 119.4 stemming from the County of Warren Local Board of Building Code Appeals (local appeals board) hearings.

A. The Inspection of the Dwelling

In July of 2016, the County of Warren Department of Building Inspections (County building official), the agency responsible for the enforcement of Part 1 of the 2009 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), issued a final inspection and a subsequent Certificate of Occupancy to Buracker, a licensed Class A contractor, for a single-family dwelling located at 1255 Pilgrims Way owned by Atwood.

Atwood believed there were multiple issues with her new home; therefore, in September of 2017, Atwood hired David Rushton of ABLE Building Inspection, Inc. (ABLE) to perform a home inspection. ABLE issued a new construction defect inspection report in December of 2017 identifying 126 defective items of which sixty eight (68) were identified as potential code violations. In March of 2018, at the request of Atwood, the County building official performed a re-inspection of the property subsequently issuing a Notice of Violation (NOV) to Buracker citing five (5) violations.

B. The Local Appeals Hearings

In May of 2018, Atwood filed an appeal to the local appeals board asking the local board to review the remaining sixty three (63) potential code violations, listed in the ABLE report, not cited in the March 30, 2018 NOV. The local appeals board heard Atwood's appeal and identified 12 additional violations from the ABLE report. Atwood further appealed to the Review Board the remaining fifty one (51) potential violations listed in the ABLE report that were not cited by the county building official.

Subsequent to the June 7, 2018 decision of the local appeals board, the County building official issued a second NOV that was dated June 13, 2018 citing the 12 violations identified in

the local appeals board decision. On June 28, 2018, Buracker filed an appeal to the local appeals board of the 12 violations cited in the June 13, 2018 NOV.¹ The local appeals board has six (6) total members. Of that 6, at least two (2) members worked as a contractor on Atwood's dwelling that is the subject of this appeal. One of the members, Buracker recused himself from the hearings. The other member who also was a contractor on the Atwood dwelling participated in the hearings and was the chair of the board during one of the hearings.

The local appeals board heard the appeal on July 26, 2018 whereby the local appeals board overturned six of the violations and upheld the other six violations. On August 10, 2018, Atwood further appealed the six cited violations overturned by the local appeals board to the Review Board. On August 17, 2018, Buracker further appealed to the Review Board the six cited violations upheld by the local appeals board.²

III. Findings of the Review Board

After hearing testimony from Atwood, Buracker, and David Beahm, County building official, the Review Board members find that there is evidence of a potential conflict of interest issue. The Board wants the issue sufficiently addressed prior to the Board hearing the merits of the case(s). Section 119.4 of the USBC states that no local appeals board member "shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq. of the Code of Virginia)." This language is clear – local appeals board members must not participate in hearings when they have a conflict. If one of the local appeals board members has a conflict as envisioned by § 119.4 of the USBC then it potentially taints all of the proceedings in which that member participates.

¹ This was the second of the two hearings before the local appeals board.

² At the August 17, 2018 local appeals board hearing Atwood asserted that a conflict of interest existed and objected to the members involved participating in the hearing.

IV. Final Order

For the reasons set out herein, the Review Board members order all three appeals to be, and hereby by are, remanded in part to the local appeals board to address the potential conflict of interest issue. All members of the local appeals board who participated in hearings regarding this case must seek a written opinion, from the Warren County Commonwealth Attorney or a formal opinion from the Virginia Conflict of Interest and Ethics Advisory Council (COIA Council), whether their participation in the proceedings thus far constituted a violation of the State and Local Government Conflict of Interests Act (COIA).

In addition, the Review Board orders that for any of the three appeals (Appeal Nos. 18-08, 18-12, and 18-13) where local appeals board members are advised by either the Commonwealth Attorney or the COIA Council that they have a conflict of interest or might have already committed a COIA violation, the local appeals board is to re-hear the case on its merits after the members with conflicts recuse themselves in accordance with the USBC and COIA.

The Review Board members further order that any of the three appeals where no local appeals board members have been advised by either the Commonwealth Attorney or the COIA Council that they do not have a conflict of interest issue or have not violated COIA to be, and hereby are, to be brought back to the Review Board, as presented in the January 11, 2019 agenda package, for a hearing on its merits at the earliest the Review Board hearing schedule allows.



Chairman, State Building Code Technical Review Board

Date entered: ____February 15, 2019____

Certification

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



AGENDA

WARREN COUNTY BUILDING CODE APPEALS BOARD

3:00 P.M.

Tuesday May 14, 2019

- I. Call to Order
- II. Adoption of Agenda
- III. Approval of Meeting Minutes of November 8, 2018
- IV. Public Hearing: *Re-Hearing*
 1. Appeal # 1-2018—Kristie Sours Atwood-Appeal a matter concerning enforcement of the 2009 Virginia Uniform Statewide Building Code. The property involved is located at 1255 Pilgrims Way, Bentonville, VA 22610.
- V. Discussion
- VI. Old Business
- VII. New Business
- VIII. Adjournment



AGENDA

WARREN COUNTY BUILDING CODE APPEALS BOARD

3:30 P.M.

Thursday, July 18, 2019

- I. Call to Order
- II. Adoption of Agenda
- III. Approval of Meeting Minutes of May 14, 2019
- IV. Public Hearing: *Re-Hearing*
 1. Appeal #1-2018—Kristie Sours Atwood—Appeal a matter concerning enforcement of the 2009 Virginia Uniform Statewide Building Code. The property involved is located at 1255 Pilgrims Way, Bentonville, VA 22610.
- V. Discussion
- VI. Old Business
- VII. New Business
- VIII. Adjournment

RESOLUTION

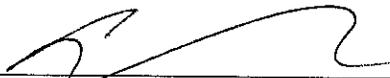
WHEREAS, at a meeting of the Warren County Board of Building Code Appeals held on July 18, 2019 to consider appeal No. 1-2018 of Kristy Sours Atwood, the following motion was made by Mr. Hatcher and seconded by Mr. McFadden:

To find for the appellant, that there are violations, and that those violations are as described in the Notice of Violation, dated June 13, 2018 and they are numbers 3, 4, 6, 7, 10 and 12.

Mr. McFadden, Mr. Saffelle, Mr. Hotek and Mr. Hatcher voted in approval and the motion passed 4-0.

Chairman Cline had recused himself because of a conflict of interest and did not participate in the hearing nor vote. Mr. Buracker had previously recused himself because of a conflict of interest and was not present.

DATE: 7/23/19

SIGNATURE: 
Arthur Saffelle, acting Chairman and Vice-Chairman,
Warren County Board of Building Code Appeals

ATTEST: 
Recording Secretary

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

Certified Mail 7018 0360 0002 2172 1699

David Silek
Sandground, West, Silek, Raminpour PLC
8500 Leesburg Pike, Suite 400
Vienna, VA 22182

Relief Sought from State Technical Review Board

1. The Warren County, Virginia Local Board of Building Code Appeals met on July 18, 2019. I, the property owner was the appellant and David Beahm, Warren County Building Official was the Appellee. Mr. Beahm did not give testimony as he states “this appeal was going back to Richmond”. The LBBCA have had no formal training and conducted the meeting with little to no regard the Manual produced by the SBCTRB. The LBBCA allowed the contractor’s attorney to testify on his clients behalf as if the Contractor was a party to the appeal. The Contractor had submitted a memorandum of Opposition to try and stop the appeal from happening and tainted the LBBCA members.
2. Of the list of over 60 potential code violations, the LBBCA agreed with 6 items, included in numbers 11-14, 21-22, 23, 85-92, and 101-106. I ask the SBCTRB review the remaining unaddressed issues and find if they are or are not code violations. I am attaching the list with pictures.
3. Every decision made, action taken or not by David Beahm has affected my home and family. Beahm gave an unlicensed applicant the building permit for my home and allowed the unlicensed entity to build an unsafe and shoddy house. Beahm and Warren County has given this entity permits since 2002. I ask the SBCTRB investigate David Beahm and charge him to the fullest extent of the law.
4. During the first hearing before the SBCTRB on January 11, 2019, Dan Whitten, attorney for Warren County committed perjury. I ask the SBCTRB investigate Mr. Whitten and charge him to the fullest extent of the law. I have the video showing the lie and you have the audio of his sworn testimony.

I ask the State Building Code Technical Review Board to thoroughly investigate or bring in the Virginia Attorney General, Virginia State Police who can investigate the Warren County Building Official, David Beahm, the building department, and Warren County Government. Mr. Beahm does not enforce the code nor interpret per the State Technical Review Board. It is past time that our County needs a State Receivership and a major clean-up. I ask the SBCTRB to

bring in a qualified building official and revamp Warren County's building department and government.

I have went through the channels, Building Official, County Administrator, Board of Supervisors, Commonwealth Attorney, please help this citizen. My voice is not loud enough.

Basic Documents
Specifically for
Atwood Appeal 19-06

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APPLICATION FOR APPEAL
COUNTY OF WARREN
WARREN COUNTY BUILDING CODE APPEAL BOARD

APPEAL# 1-2019

PROPERTY OWNER

NAME: Kristie Sours Atwood

PERSON REQUESTING

APPEAL: MARTHA Buracker - Buracker Construction

MAILING ADDRESS: 2452 Bentonville Rd, Bentonville, VA 22610

LOCATION OF PROPERTY

BEING APPEALED: 1255 Pilgrims Way, Bentonville, VA 22610

DESCRIPTION OF DECISION BEING APPEALED:

I am appealing the decision of the Board based on the Resolution dated 7/23/19 and the NOV dated June 13, 2018. I believe the items remaining from the NOV specifically # 3, 4, 6, 7, 10 & 12 are not code violations

RELIEF SOUGHT:

Reversal of the remaining 6 items from the NOV dated June 13, 2018. Items in this NOV are not numbered but it is assumed that the items are in consecutive order. In my copy I have numbered the items.

PLEASE ATTACH THE DECISION OF THE CODE OFFICIAL AND ANY PERTINENT DOCUMENTS.

THE WARREN COUNTY BUILDING CODE APPEAL BOARD MAY MAKE A SITE VISIT TO THE PROPERTY. PLEASE INDICATE TWO DATES AND TIMES THAT THE PROPERTY WILL BE AVAILABLE FOR THIS VISIT.

1ST CHOICE: _____ AT _____

2ND CHOICE: _____ AT _____

SIGNATURE OF APPLICANT _____

FILED AT Warren County, VIRGINIA, THIS 16 DAY OF Aug.
2019



AGENDA

WARREN COUNTY BUILDING CODE APPEALS BOARD

3:30 P.M.

Tuesday, September 10, 2019

- I. Call to Order
- II. Adoption of Agenda
- III. Approval of Meeting Minutes of July 18, 2019
- IV. Public Hearing: *Re-Hearing*
 1. Appeal #2-2018--Martha Buracker--Buracker Construction—Appeal a matter concerning enforcement of the 2009 Virginia Uniform Statewide Building Code. The property involved is located at 1255 Pilgrims Way, Bentonville, VA 22610
- V. Discussion
- VI. Old Business
- VII. New Business
- VIII. Adjournment

RESOLUTION

WHEREAS, at a meeting of the Warren County Board of Building Code Appeals held on September 10, 2019 to consider the rehearing of appeal No. 2-2018 of Martha Buracker-Buracker Construction, the following motion was made by Mr. Hotek and seconded by Mr. Hatcher:

To find against the appellant, that there are violations, and that those violations are as described in the Notice of Violation, dated June 13, 2018 and they are numbers 3, 4, 7, 10 and 12.

Mr. Hotek and Mr. Hatcher voted in approval and the motion passed 2-1. Mr. Saffelle voted against.

Chairman Cline, Mr. Buracker and Mr. McFadden were not present.

DATE: 9/10/19

SIGNATURE: _____

Arthur Saffelle, acting Chairman and Vice-Chairman,
Warren County Board of Building Code Appeals

ATTEST: _____

Recording Secretary

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

Martha Buracker
3452 Bentonville Rd.
Bentonville, VA 22610

Sent Certified Mail 9-11-19

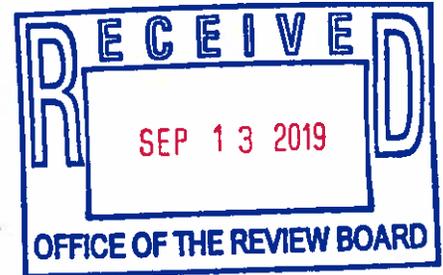
7019 0700 0001 9189 1272

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

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

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



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

Kristie L. Atwood 540 244-5526
1255 Pilgrims Way
Bentonsville, VA 22610 Kristiesours@gmail.com

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

David Beahm, Warren County Building Official
220 N. Commerce Ave
Frost Royal, VA 22630 540-636-9973
dbeahm@warrencountyva.net

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 12 day of September, 2019 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: Kristie L. Atwood

Name of Applicant: Kristie L. Atwood
(please print or type)

Statement of relief sought

I am asking the State Technical Building and Code Review Board uphold the resolution of the Local Board of Building Code appeals dated July 23, 2019, Item 6;" The siding and trim installation problems will affect the manufacturer's warranty on the products." and David Beahm, Building Official stated "Code R703.3.2 Horizontal Siding Horizontal lap siding shall be installed in accordance with the manufacturer's recommendations. Where there are no recommendations the siding shall be lapped a minimum of 1 inch (25 mm) or ½ inch (13 mm) if rabbeted and shall have the ends calked, covered with batten or sealed an installed over a strip of flashing."

However, my home inspector stated:

" The installation of the exterior LP Smartside siding and trim materials does not comply with the manufacturer's installation instructions.

The concerns with the LP Smartside installation are:

- a. Flashing is missing at the horizontal siding joints on the gable ends,
- b. Some fasteners do not appear to be galvanized or stainless steel in an exterior installation,
- c. The fastener installation for the trim does not comply with the manufacturer's nailing instructions,
- d. The fasteners for the trim were not installed flush but were overdriven in past flush,
- e. 1" minimum space was not provided between the concrete patio, the siding and trim,
- f. The required 3/8" space at butt joints in the siding and at joints between the siding and window and door trim, and inside and outside corner trim has not been provided,
- g. The cut ends of the siding and trim have not been sealed,
- h. The siding and trim joints have not all been caulked,
- i. A minimum clearance of 6" between the siding and grade has not been provided,
- j. The siding projects past the corner trim on the garage,
- k. The siding trim is in direct contact with the stone veneer of the fireplace chimney, and
- l. The gutters do not terminate at least 1" away from the siding.

The siding and trim installation problems will affect the manufacturer's warranty on the products. "

*LP Smartside Siding Instruction Sheet is included in scan

This Code may also apply. 112.1 General. It shall be the duty of any person performing work covered by this code to comply with all applicable provisions of this code and to perform and complete such work so as to secure the results intended by the USBC. Damage to regulated building components caused by violations of this code or by the use of faulty materials or installations shall be

considered as separate violations of this code and shall be subject to the applicable provisions of Section 115.

This is another fine example of Warren County Building Official, David Beahm, not performing his job, even after the LBBCA has called an issue to his attention.

Basic Documents
Specifically for
Buracker Appeal 19-07

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APPLICATION FOR APPEAL
COUNTY OF WARREN
WARREN COUNTY BUILDING CODE APPEAL BOARD

APPEAL# 1-2019

PROPERTY OWNER

NAME: Kristie Sours Atwood

PERSON REQUESTING

APPEAL: MARtha Buracker - Buracker Construction

MAILING ADDRESS: 2452 Bentonville Rd, Bentonville, VA 22610

LOCATION OF PROPERTY

BEING APPEALED: 1255 Pilgrims Way, Bentonville, VA 22610

DESCRIPTION OF DECISION BEING APPEALED:

I am appealing the decision of the Board based on the Resolution dated 7/23/19 and the NOV dated June 13, 2018. I believe the items remaining from the NOV specifically # 3, 4, 6, 7, 10 & 12 are not code violations

RELIEF SOUGHT:

Reversal of the remaining 6 items from the NOV dated June 13, 2018. Items in this NOV are not numbered but it is assumed that the items are in consecutive order. In my copy I have numbered the items.

PLEASE ATTACH THE DECISION OF THE CODE OFFICIAL AND ANY PERTINENT DOCUMENTS.

THE WARREN COUNTY BUILDING CODE APPEAL BOARD MAY MAKE A SITE VISIT TO THE PROPERTY. PLEASE INDICATE TWO DATES AND TIMES THAT THE PROPERTY WILL BE AVAILABLE FOR THIS VISIT.

1ST CHOICE: _____ AT _____

2ND CHOICE: _____ AT _____

SIGNATURE OF APPLICANT _____

FILED AT Warren County, VIRGINIA, THIS 16 DAY OF Aug.
2019

August 16, 2019

My copy
appeal to
local board

Dear Warren County Board of Build Code Appeals,

I am making this appeal to you after my appeal to the State Technical Review Board returned it back to the local board. On July 18, 2019 Mrs. Atwood made another appeal to the local board and the resolution I received were the same ones that were "felt to be violations" by the board at the June 13, 2018 hearing. I did not receive another NOV as I should have, but am responding to the NOV from June 13, 2018.

I wanted to give you a brief history followed by my appeal and documentation.

My company built a home for Kristie Sours Brown (now Atwood) after her first home burned. We obtained a Certificate of Occupancy for the home on July 19, 2016. At the time of the walk through with Mrs. Atwood, prior to occupancy there was a punch list made. We completed all but two items within a few days. Of the two remaining, one was for a cap for her outdoor porch woodbox that was special order and the other was for some parging around the basement windows and actually reparging the whole side of the basement wall so that it would match. The stone mason planned to do this when he came back to set the cap for the woodbox. The reason for the parging was because Mrs. Atwood was not happy with the trim around the basement windows so we removed it and were going to parge instead. When the stone cap came in from Frederick Block in Winchester we noticed that it had been broken and put back together with hydraulic cement which to us was unacceptable. We refused the order and asked Mrs. Atwood if she wanted to wait for another one to be ordered, or select a piece of granite. She refused to let us re-order the flagstone or to order a piece of granite. So those were the only two items that remained from the walk-through punch list (*Punch list included in documents*)

Fourteen months later Mrs. Atwood had a Home Inspector provide an inspection on her home. She did not do this prior to moving in as would have been standard procedure. She used this report to ask for another inspection of her home, which Chief Building Official David Beahm, County Attorney Dan Whitten, and Deputy Building Official Mark Robinson (*see attached letter from Doug Stanley, County Administrator*) I believe the inspection occurred on March 16, 2018.

The inspection generated an NOV to us for 5 items which we agreed to complete. As Mrs. Atwood would not allow us to come back and work on the house, we obtained the engineering requested on one of the items and got an estimate from Cline Construction Inc for doing the work. Mr. Cline is a respected builder in our community and the President of the Warren County Builders Association. In addition, his excavating company did work on the house so he was familiar with the project. We also offered to put money into an escrow account so that she could have a contractor of her choice. She refused either and we ended up in court with the judge determining that she had to let the work be done.

Mrs. Atwood then files and appeal to you the local board and Appeal was set for May 22, 2018. At the Appeal, Mr. Buracker who is a member of the BBKA recused himself for conflict of interest but was not allowed to speak on behalf of Buracker Construction. After a lengthy and confusing Appeal Hearing the board decided to continue the hearing until June 7 with a work session prior to the hearing. Again, Mr. Buracker was not allowed any input of any kind. At the hearing the board picked 12 items from the Home Inspector List (not Code Official) and determined that they might be Code Violations (no Code Section was stated at the time of selection) and directed Building Official David Beahm to issue an NOV to Buracker Construction for 12 more items. (See attached NOV).

After receiving this NOV I decided I had to appeal on my own behalf as we were not afforded an opportunity to discuss anything up to this point. At our appeal to the Board on July 26, several items were rescinded but we were denied on items 3,4,6,7,10, and 12.

Those remaining items I appealed to the State Technical Review Board, but they kicked it back to the local BBCA.

I am appealing on two different points of view.

1. First, the local board of whom my husband is a member has until the appeal by Mrs. Atwood only heard appeals from citizens or contractors who were cited by the Building Official and either the homeowner or builder disagreed with his decision. The Code Violation is listed on the Violations. Then the Board would review the Code Section and discuss its application and whether or not the Building Official had made the correct application of the Building Code.

In Mrs. Atwoods appeal, she was asking for review of possible code violations based on a private Home Inspectors report. (Appeal application by Mrs. Atwood previously supplied and is available for review). There were no violations cited by the Building Official. As per the Code of Virginia, the role of the local BBCA is to render a decision based on the Violation cited by the Building Official or the refusal of a modification request. The Violations needed to be attached to the Appeal. There were no violations cited by the County Building Official, and so there were none attached to her appeal. The Appeal should never have made it to the floor for discussion. It was an invalid appeal. The Boards job is not to go back after Occupancy Permits are issued and start overseeing the job of the County Building Official. I feel the decision to accept the original appeal was wrong.

In addition, Mrs. Atwood also included in her appeal a report by Able Home Inspections and he's referred to as a 3rd party inspector. In Warren County, a 3rd Party Inspector also has to be licensed and approved by the county. Mr.s Rushton is not. A 3rd Party Inspector for Warren County would be the inspectors from Middle Department Inspection Agency which conducts all the electrical inspections for the county, or for Mr. Hotek who sits on the local BBCA Board who is a licensed structural engineer and often inspects footers and foundations. But Mr. Rushton is neither. He is a licensed Home Inspector by DPOR which gives him a very limited scope of what he can inspect. He is by no means a Building Code Official or a 3rd Party County Inspector. The Board allowed his report to be considered the basis the appeal and that was also incorrect. The Code of Appeals clearly states that a copy of the Building Officials decision shall be submitted with the application. **BUILDING OFFICIAL.** Mr. Rushton is not a Building Official. The role of the Board is to allow a homeowner or contractor to dispute a decision that was made by Building Code Official with a specific Code Violation that has been cited. **Mrs. Atwood's appeal was not valid and should have been turned down upon first review by the Board.**

I feel that the Board by allowing a back door or invalid appeal to be heard has not only jeopardized this Contractor, but puts the county in a very difficult position. By allowing this appeal you have now opened the doors for the other 50,000 homes in Warren County to come before the BBCA and appeal things they no longer like in their house. I just don't see how something not cited by the Building Code Official can become an NOV. I feel the appeal was wrong from the start and the remaining items on the NOV issued to us should be rescinded based on the invalid appeal by Mrs. Atwood.

2. If the BBCA does feel that the appeal by Mrs. Atwood is valid and the items denied during my appeal remain, I have listed each remaining item by number as on the NOV issued to us on June 13, 2018 and my reasons that I feel they are not Code Violations.

NOV Dated June 13, 2018

Attachment #1

Items # 1, 2, 5, 8, 9, and 11 were rescinded at Appeal on July 26, 2018.

Items # 3, 4, 6, 7 and 10 were denied.

We are appealing the items that were denied.

Item #3 – The original construction had the posts spaced exactly the same distance apart as per plans. The final inspection was completed and passed. The customer did not like the posts as installed as she felt it blocked her basement door and insisted after inspection that they be moved. We were reluctant to do this, but she insisted so we did. We feel that what was done would still pass inspection and the change is structurally sound. However, if it is determined that we are incorrect we would return them to their original location. We do feel that as this work was done after inspection it was not part of any approval process.

Item #4 – This house was built under the 2009 Building Code. Deck ledgers at that time were an acceptable construction method under that code. In addition, this is the same location as Item 3. This work was done after inspection at the request of the homeowner and was not part of any approval process.

Item #6 – This material does not meet the Code Section that is provided. The items noted are solely for manufacturers warranty purposes.

Item #7 – The attachments that are showing in the picture provided and the others that have been viewed by the Local Appeals Board are not required to be anything more than decorative. Please note the following requirements for it to be anything more than decorative:

2009 Virginia Uniform Statewide Building Code

R312.1 Where required. Guards shall be located along open-sided walking surfaces, including stairs, ramps and landings, that are located more than 30 inches measured vertically to the floor or grade below at any point within 36 inches horizontally to the edge of the open side. Insect screening shall not be considered as a guard.

Please note that in all of these pictures that the walking surface is NOT more than 30" off the grade below it, nor is it within 36" of it. These are purely decorative and not intended to be "guards" per the Code.

In addition, the fastener used was TIMBERLOK which is an approved fastener by the IRC for this application and approved by Building Inspector (Bill Miller) at the time of installation.

Item #10 – The fireplace and chimney system do indeed match. The manufacturer lists that approved chimney and that was installed. *See attached documentation.* Fireplace was damaged by Homeowner who overheated the fireplace, which voids the warranty. Fireplace supplier offered to replace the refractory and grate even though they said it was operator error. Homeowner refused their offer. If you look at the picture you can see that the stone above the firebox is also blackened from overheating. Upon

inspection by myself at the request of the homeowner who reported that the polyurethane on the mantle was sticky and never dried (months after application) I found that that the poly was not sticky from "not drying", but in fact was melted from overheating. I had a chimney inspector come to assess the fireplace and his report was also that the fireplace was damaged from overheating. I don't know if homeowner uses some type of fuel to start the fire or just burns too hot of a fire, but the damage was not because of a faulty firebox, but overheating by user. In addition, at my request the local Fire Marshall and Fire Chief came to inspect as homeowner continued to use the fireplace in the damaged condition. He determined that she needed to stop using it and also notated that the smoke detector in that room had been disabled. *See attached letter from Fire Marshall.* Finally, the homeowner turned in a claim to builders insurance company. Insurance company said that even though the fireplace issue was not our fault, they would cover it under my policy to have the firebox fixed and offered \$2,500 which the homeowner refused.

Item #12 – Code Section R302.12 does not apply, not does any other Code Section for the condition that exists within this area. The garage is 610 square feet and does not exceed the 1,000 square foot required by this Code Section. There is no requirement to have any separation or draftstopping or fire separation between the garage area and the attic above it. If you feel that there is, please provide the code reference. In addition, the cover to the access panel was apparently removed sometime after inspection. It was installed with a cover. It was there for final inspection.

Thank-you for your consideration in this matter and I look forward to answering any questions you might have.

Sincerely,

A handwritten signature in cursive script that reads "Martha Buracker". The signature is written in black ink and is positioned above the printed name and company information.

Martha Buracker, Owner

Buracker Construction

Kristie Brown
Punch List

<u>Item</u>	<u>Estimated Completion</u>	<u>Complete</u>
Adjust upper kitchen cabinet with gap	I have shims and also check door size per Mike	
Change the TP holder in Hunters Bath and 1/2 bath to pivi today		x
Remove paint at top of fireplace		15-Aug x
Caulk between fireplace stone and wall	today	x
Check for hole under cabinet by under cabinet lighting	today	x
Additional Door Stops	today	x
Cover insulation that is exposed	Reviewing August 11	
Granite Sealing	waiting on date from A'Bella Stone	x
Install Door to cool room	today	x
Culligan	Install August 24	
X Figure out more attractive exterior for basement door wa	Stevie removed and prepped, Charlie Parging	
Install Laney Mirrors	today	x
★ Stone Woodbox on back porch - <i>needs top</i>	Week of August 15	
Screens for Slider	Waiting for shipment from Norandex	
change faucet handles in master shower		15-Aug
Septic tank cover	order from May Supply	
Need Lock for cool room	take one back that didn't work	

All items on punch list completed except for the two with ★ beside them



AGENDA

WARREN COUNTY BUILDING CODE APPEALS BOARD

3:30 P.M.

Tuesday, September 10, 2019

- I. Call to Order
- II. Adoption of Agenda
- III. Approval of Meeting Minutes of July 18, 2019
- IV. Public Hearing: *Re-Hearing*
 1. Appeal #2-2018--Martha Buracker--Buracker Construction—Appeal a matter concerning enforcement of the 2009 Virginia Uniform Statewide Building Code. The property involved is located at 1255 Pilgrims Way, Bentonville, VA 22610
- V. Discussion
- VI. Old Business
- VII. New Business
- VIII. Adjournment

RESOLUTION

WHEREAS, at a meeting of the Warren County Board of Building Code Appeals held on September 10, 2019 to consider the rehearing of appeal No. 2-2018 of Martha Buracker-Buracker Construction, the following motion was made by Mr. Hotek and seconded by Mr. Hatcher:

To find against the appellant, that there are violations, and that those violations are as described in the Notice of Violation, dated June 13, 2018 and they are numbers 3, 4, 7, 10 and 12.

Mr. Hotek and Mr. Hatcher voted in approval and the motion passed 2-1. Mr. Saffelle voted against.

Chairman Cline, Mr. Buracker and Mr. McFadden were not present.

DATE: 9/10/19

SIGNATURE: _____

Arthur Saffelle, acting Chairman and Vice-Chairman,
Warren County Board of Building Code Appeals

ATTEST: _____

Recording Secretary

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

Martha Buracker
3452 Bentonville Rd.
Bentonville, VA 22610

Sent Certified Mail 9-11-19

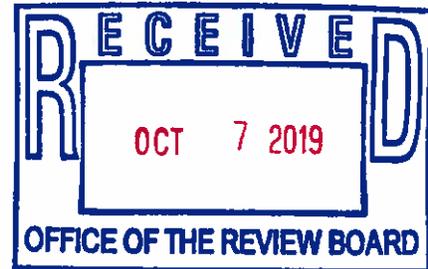
7019 0700 0001 9189 1272

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):

Buracker Construction (Martha Buracker)
3452 Bentonville Rd
Bentonville, VA 22610
marthaburacker@gmail.com
540-671-6349 cell 540-636-3264 (home)

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

David Beahm - Building Official - County of Warren
220 N. Commerce Ave, Suite 400
Front Royal, VA 22630
540-636-9973
dbeahm@warrencountyva.net

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 7th day of October, 2019, 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: Martha Buracker, Buracker Construction

Name of Applicant: Martha Buracker, Buracker Construction
(please print or type)

October 7, 2019

Dear State Technical Review Board,

On July 18, 2019 Mrs. Atwood made another appeal to the local board and the resolution I received was for the same items that were "felt to be violations" by the board at the June 13, 2018 NOV. No new NOV was issued after her appeal, only a Resolution. I made my appeal to the Local Board of Building Code Appeals on September 10, 2019 in and only item 6 was rescinded. I received a new Resolution dated September 10, 2019, still no new NOV so I will continue working off the NOV dated June 13, 2018. The numbers written in to the NOV correspond with the numbers given in the Resolution.

First, I want to give you a brief history followed by my appeal and documentation.

My company built a home for Kristie Sours Brown (now Atwood) after her first home burned. We obtained a Certificate of Occupancy for the home on July 19, 2016. At the time of the walk through with Mrs. Atwood, prior to occupancy there was a punch list made. We completed all but two items within a few days. Of the two remaining, one was for a cap for her outdoor porch woodbox that was special order and the other was for some parging around the basement windows and actually reparging the whole side of the basement wall so that it would match. The stone mason planned to do this when he came back to set the cap for the woodbox. The reason for the parging was because Mrs. Atwood was not happy with the trim around the basement windows so we removed it and were going to parge instead. When the stone cap came in from Frederick Block in Winchester we noticed that it had been broken and put back together with hydraulic cement which to us was unacceptable. We refused the order and asked Mrs. Atwood if she wanted to wait for another one to be ordered, or select a piece of granite. She refused to let us re-order the flagstone or to order a piece of granite. So those were the only two items that remained from the walk-through punch list (*Punch list included in documents*)

Fourteen months later Mrs. Atwood had a Home Inspector provide an inspection on her home. She did not do this prior to moving in as would have been standard procedure. She used this report to ask for another inspection of her home, which Chief Building Official David Beahm, County Attorney Dan Whitten, and Deputy Building Official Mark Robinson (*see attached letter from Doug Stanley, County Administrator*) I believe the inspection occurred on March 16, 2018.

The inspection generated an NOV to us for 5 items which we agreed to complete. As Mrs. Atwood would not allow us to come back and work on the house, we obtained the engineering requested on one of the items and got an estimate from Cline Construction Inc for doing the work. Mr. Cline is a respected builder in our community and the President of the Warren County Builders Association. In addition, his excavating company did work on the house so he was familiar with the project. We also offered to put money into an escrow account so that she could have a contractor of her choice. She refused either and we ended up in court with the judge determining that she had to let the work be done.

Mrs. Atwood then files and appeal the local board and Appeal was set for May 22, 2018. At the Appeal, Mr. Buracker who is a member of the BBCA recused himself for conflict of interest but was not allowed to speak on behalf of Buracker Construction. After a lengthy and confusing Appeal Hearing the board decided to continue the hearing until June 7 with a work session prior to the hearing. Again, Mr. Buracker was not allowed any input of any kind. At the hearing the board picked 12 items from the Home Inspector List (not Code Official) and determined

that they might be Code Violations (no Code Section was stated at the time of selection) and directed Building Official David Beahm to issue an NOV to Buracker Construction for 12 more items. (See attached NOV).

After receiving this NOV I decided I had to appeal on my own behalf as we were not afforded an opportunity to discuss anything up to this point. At our appeal to the Board on July 26, several items were rescinded but we were denied on items 3,4,6,7,10, and 12.

Those remaining items I appealed to the State Technical Review Board, but they kicked it back to the local BBBCA.

I am appealing on two different points of view.

1. First, the local board of whom my husband is a member has until the appeal by Mrs. Atwood only heard appeals from citizens or contractors who were cited by the Building Official and either the homeowner or builder disagreed with his decision. The Code Violation is listed on the Violations. Then the Board would review the Code Section and discuss its application and whether or not the Building Official had made the correct application of the Building Code.

In Mrs. Atwoods appeal, she was asking for review of possible code violations based on a private Home Inspectors report. (Appeal application by Mrs. Atwood previously supplied and is available for review). There were no violations cited by the Building Official. As per the Code of Virginia, the role of the local BBBCA is to render a decision based on the Violation cited by the Building Official or the refusal of a modification request. The Violations needed to be attached to the Appeal. There were no violations cited by the County Building Official, and so there were none attached to her appeal. The Appeal should never have made it to the floor for discussion. It was an invalid appeal. The Boards job is not to go back after Occupancy Permits are issued and start overseeing the job of the County Building Official. I feel the decision to accept the original appeal was wrong.

In addition, Mrs. Atwood also included in her appeal a report by Able Home Inspections and he's referred to as a 3rd party inspector. In Warren County, a 3rd Party Inspector also has to be licensed and approved by the county. Mr. Rushton is not. A 3rd Party Inspector for Warren County would be the inspectors from Middle Department Inspection Agency which conducts all the electrical inspections for the county, or for Mr. Hotek who sits on the local BBBCA Board who is a licensed structural engineer and often inspects footers and foundations. But Mr. Rushton is neither. He is a licensed Home Inspector by DPOR which gives him a very limited scope of what he can inspect. He is by no means a Building Code Official or a 3rd Party County Inspector. The Board allowed his report to be considered the basis the appeal and that was also incorrect. The Code of Appeals clearly states that a copy of the Building Officials decision shall be submitted with the application. **BUILDING OFFICIAL.** Mr. Rushton is not a Building Official. The role of the Board is to allow a homeowner or contractor to dispute a decision that was made by Building Code Official with a specific Code Violation that has been cited. **Mrs. Atwood's appeal was not valid and should have been turned down upon first review by the Board.**

I feel that the Board by allowing a back door or invalid appeal to be heard has not only jeopardized this Contractor, but puts the county in a very difficult position. By allowing this appeal they have now opened the doors for the other 50,000 homes in Warren County to come before the BBBCA and appeal things they no longer like in their house. I just don't see how something not cited by the Building Code Official can become an NOV. I feel the appeal was wrong from the start and the remaining items on the NOV issued to us should be rescinded based on the invalid appeal by Mrs. Atwood.

2. If the State Technical Review Board does feel that the appeal by Mrs. Atwood is valid and the items denied during my appeal remain, I have listed each remaining item by number as on the NOV issued to us on June 13, 2018 and my reasons that I feel they are not Code Violations.

NOV Dated June 13, 2018
Attachment #1

Items # 1, 2, 5, 8, 9, and 11 were rescinded at Appeal on July 26, 2018.

Items # 3, 4, 6, 7, 10 and 12 were denied.

Item # 7 was rescinded at Appeal on September 10, 2019

We are appealing the items that were denied. (3,4,7,10 and 12)

The local board's decision was made only by the pictures provided by Able Building Inspections which are barely readable and the more times the NOV is copied the less you can see from the pictures. At no time did any member of the Board go up and do a site visit at the house. Had they done this they would have had a different perspective. There were however site visits during construction by the Warren County Building Inspectors and to reiterate, the house passed final inspection and an Occupancy Permit was issued on July 19, 2016. The house was re-inspected per Mrs. Atwoods's request on March 16, 2018 and 5 items were found by Chief Building Official David Beahm. Those 5 items were fixed. The below items are what remain from the Appeal on September 10, 2019. I am asking that the State Technical Review Board rescind Items #3,4,7, 10 and 12.

Item #3 – The original construction had the posts spaced exactly the same distance apart as per plans. The final inspection was completed and passed. The customer did not like the posts as installed as she felt it blocked her basement door and insisted after inspection that they be moved. We were reluctant to do this, but she insisted so we did. We feel that what was done would still pass inspection and the change is structurally sound. However, if it is determined that we are incorrect we would return them to their original location. We do feel that as this work was done after inspection it was not part of any approval process.

Item #4 – This house was built under the 2009 Building Code. Deck ledgers at that time were an acceptable construction method under that code. In addition, this is the same location as Item 3. This work was done after inspection at the request of the homeowner and was not part of any approval process.

Item #7 – The porch posts and guardrail posts do not extend through the decking because there is a triple beam underneath. The fastener used was TIMBERLOK which is an approved fastener by the IRC for this application and approved by Building Inspector (Bill Miller) at the time of installation. The guardrail would easily withstand 200 lbs of horizontal force at any location and 50 pounds of horizontal force per linear foot of railing as per table 301.5. Again this passed two inspections by Warren County.

Item #10 – The fireplace and chimney system do indeed match. The manufacturer lists that approved chimney and that was installed. Mrs. Atwood contends that the two fireplaces are not the same and have different flue pipe specs are not accurate. Vermont Castings was bought out by HNI Corporation in October of 2014. Both the Majestic BE42 Royalton and the Vermont Castings BE42 Fireplace are the same.

Same quality, same price, same parts, same series of flue pipe. In addition, I have included in the documentation information from both. *See attached documentation.*

Fireplace was damaged by Homeowner who overheated the fireplace, which voids the warranty. Fireplace supplier offered to replace the refractory and grate even though they said it was operator error. Homeowner refused their offer. If you look at the picture you can see that the stone above the firebox is also blackened from overheating. Upon inspection by myself at the request of the homeowner who reported that the polyurethane on the mantle was sticky and never dried (months after application) I found that that the poly was not sticky from "not drying", but in fact was melted from overheating. I had a chimney inspector come to assess the fireplace and his report was also that the fireplace was damaged from overheating. I don't know if homeowner uses some type of fuel to start the fire or just burns too hot of a fire, but the damage was not because of a faulty firebox, but overheating by user. In addition, at my request the local Fire Marshall and Fire Chief came to inspect as homeowner continued to use the fireplace in the damaged condition. He determined that she needed to stop using it and also notated that the smoke detector in that room had been disabled. *See attached letter from Fire Marshall.* Finally, the homeowner turned in a claim to builders insurance company. Insurance company said that even though the fireplace issue was not our fault, they would cover it under my policy to have the firebox fixed and offered \$2,500 which the homeowner refused.

Item #12 – Code Section R302.12 does not apply, not does any other Code Section for the condition that exists within this area. The garage is 610 square feet and does not exceed the 1,000 square foot required by this Code Section. There is no requirement to have any separation or draftstopping or fire separation between the garage area and the attic above it. If you feel that there is, please provide the code reference. The wall and space between the house and the garage was firestopped and inspected. We put drywall on the walls of this garage. What if they owner had chosen to leave the perimeter walls unfinished. In addition, the cover to the access panel was apparently removed sometime after inspection. It was installed with a cover. It was there for final inspection.

Thank-you for your consideration in this matter and I look forward to answering any questions you might have.

Sincerely,

A handwritten signature in cursive script that reads "Martha Buracker". The signature is written in black ink and has a long, sweeping tail that extends to the right.

Martha Buracker, Owner

Buracker Construction

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Documents Submitted
By
Buracker Construction

(Page left blank intentionally)

Kristie Brown
Punch List

<u>Item</u>	<u>Estimated Completion</u>	<u>Complete</u>
Adjust upper kitchen cabinet with gap	I have shims and also check door size per Mike	
Change the TP holder in Hunters Bath and 1/2 bath to pivot today	today	x
Remove paint at top of fireplace		15-Aug x
Caulk between fireplace stone and wall	today	x
Check for hole under cabinet by under cabinet lighting	today	x
Additional Door Stops	today	x
Cover insulation that is exposed	Reviewing August 11	
Granite Sealing	waiting on date from A'Bella Stone	x
Install Door to cool room	today	x
Culligan	Install August 24	
X Figure out more attractive exterior for basement door w/	Stevie removed and prepped, Charlie Parging	
Install Laney Mirrors	today	x
★ Stone Woodbox on back porch - needs top	Week of August 15	
Screens for Slider	Waiting for shipment from Norandex	
change faucet handles in master shower		15-Aug
Septic tank cover	order from May Supply	
Need Lock for cool room	take one back that didn't work	

All items on punch list completed except for the two with ★ beside them

4 Chimney and Termination Requirements

A. Chimney Requirements

Vertical distances are measured from the base of the fireplace as shown in Figure 4.1.

Table 4.1 Chimney Requirements

• Minimum overall straight height	13	(3.96 m)
• Minimum height with offset/return	14.5 ft	(4.42 m)
• Maximum height	90 ft	(27.43 m)
• Maximum chimney length between an offset and return	20 ft	(6.1 m)
• Maximum distance between chimney stabilizers	35 ft	(10.67 m)
• Double offset/return minimum height	20 ft	(6.1 m)
• Maximum unsupported chimney length between the offset and return	6 ft	(1.83 m)
• Maximum unsupported chimney height above the fireplace	35 ft	(10.67 m)
• Maximum unsupported chimney above roof	6 ft	(1.83 m)

NOTICE: A maximum of two pairs of offsets and returns may be used.

WARNING! Risk of Fire! You must maintain 2 in. (51 mm) air space clearance to insulation and other combustible materials around the chimney system. Failure to do so may cause overheating and fire.

NOTICE: You must provide support for the pipe during construction and check to be sure inadvertent loading has not dislodged the chimney section from the fireplace or at any chimney joint.

Table 4.2 Chimney Component Dimensions

HEIGHT OF CHIMNEY COMPONENTS		in.	mm
Chimney Stabilizer			
SL3		4-3/4	121
Offsets/Returns			
SL315		13-3/8	340
SL330		15-1/2	394
Chimney Sections*			
SL306		4-3/4	121
SL312		10-3/4	273
SL318		16-3/4	425
SL324		22-3/4	578
SL336		34-3/4	883
SL348		46-3/4	1187

* Dimensions reflect effective height.

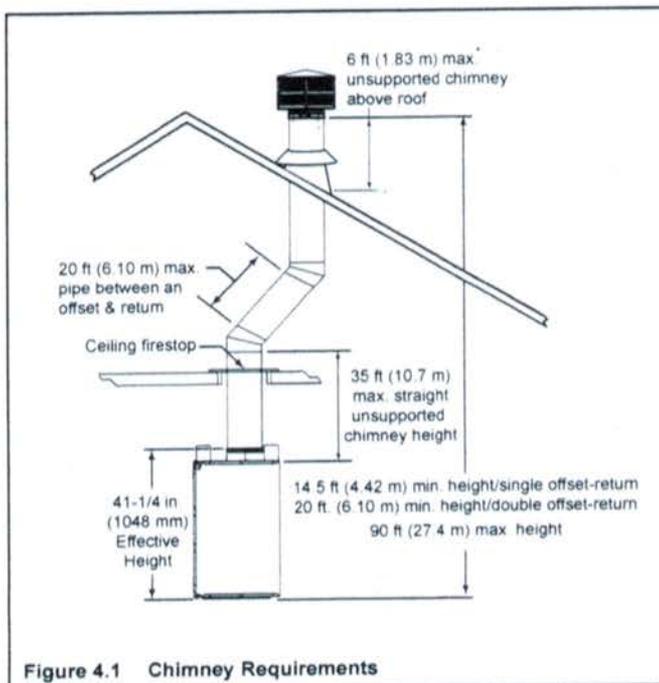


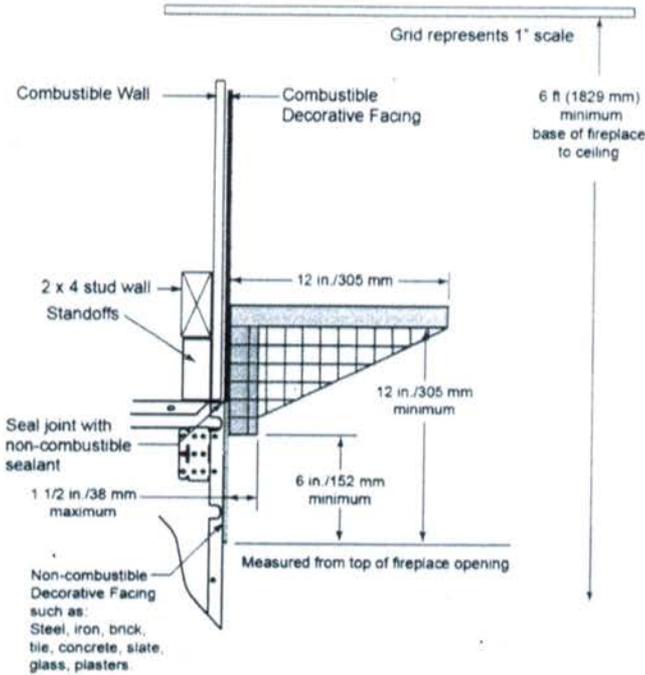
Figure 4.1 Chimney Requirements

PRODUCT SPECIFICATIONS

BE42 Royalton Radiant Wood Burning Fireplace



MANTEL CLEARANCES



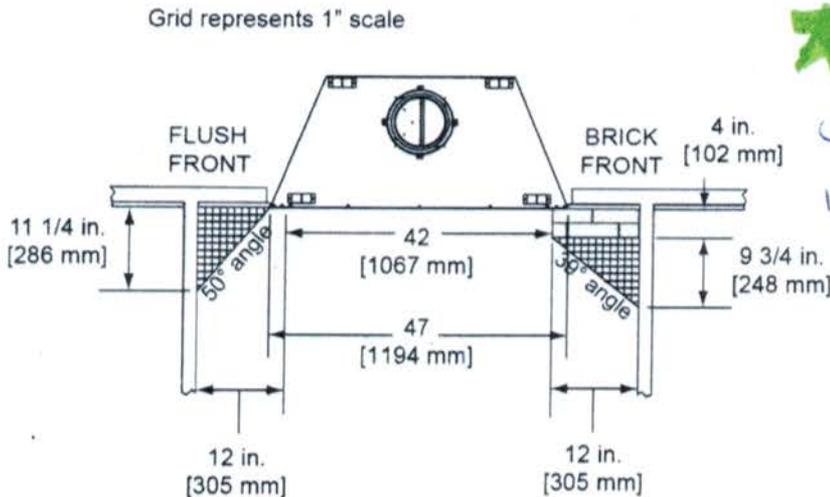
TECHNICAL SPECIFICATIONS

- Flue series: SL300 series pipe
- Flue size: 8" (203 mm) inner; 10 1/2" (267 mm) outer
- Clearance to flue: 2" (51 mm)
- Firestop framing: 1 1/2" x 1 1/2" (368 mm x 368 mm)
 - 15° - 1 1/2" x 1 3/4" (368 mm x 467 mm)
 - 30° - 1 1/2" x 2 3/4" (368 mm x 584 mm)
- Minimum flue height: 13' (4 m)
- Maximum flue height: 90' (27.4 m)
- Minimum height with single offset/return: 14 1/2' (4.4 m)
- Minimum height with double offset/return: 20' (6.1 m)
- Minimum hearth size: 20" D x 66" L (508 mm x 1676 mm)
- UL/ULC design certified

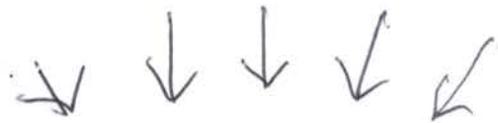
CLEARANCES

- Clearance to fireplace: 1/2" (13 mm) to sides and back
- Maximum mantel depth: 12" (305 mm) from top of fireplace opening
- Minimum mantel height: 6" (152 mm) from top of fireplace opening
- Adjacent combustible sidewalls: minimum 12" (305 mm) from fireplace opening
- Mantel leg, surround, stub wall, whether combustible or non-combustible may be constructed as shown in the second drawing.

SURROUND, STUB WALL, MANTEL LEG CLEARANCES



this is the series pipe specified. If you look at the picture in the 4/13 NOV it shows the pipe series on the picture. We clearly used the correct one



A Brand of Vermont Castings Group
149 Cleveland Drive, Paris, Kentucky 40361
www.majesticproducts.com

To avoid personal injury or property damage, the product described by this brochure must be installed, operated and maintained in strict compliance with the instructions packaged with the product and all applicable building or fire codes. Contact local building or fire officials about restrictions and installation inspection requirements. All photographs and drawings on this brochure are for illustrative purposes only and are not intended for, nor should they be used as a substitute for the instructions packaged with the unit. Appearance and specifications of the product are subject to change without notice. © 2015 Vermont Castings Group 0415v1

PRODUCT SPECIFICATIONS

BE42 Royalton Radiant Wood Burning Fireplace



DIMENSIONS

Actual size: 47" W x 39½" H x 21½" D x 29¾" RW
(1194 mm x 1003 mm x 543 mm x 756 mm)

Viewing area: 42" W x 21" H (882 sq. in.)
(1067 mm X 533 mm, 5691 cm²)

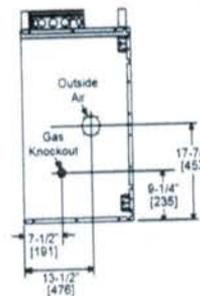
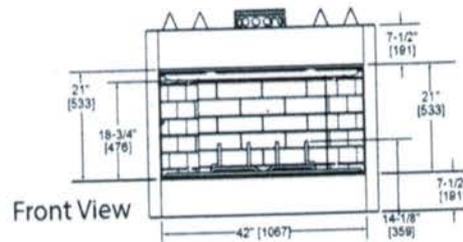
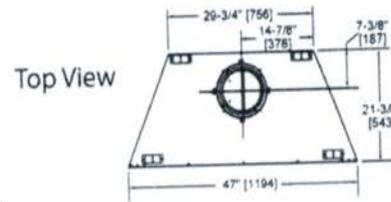
Framing Dimensions: 48" W x 39¾" H x 21½" D
(1219 mm x 1010 mm x 546 mm)

STANDARD FEATURES

- Uninsulated radiant fireplace
- Traditional full refractory lining
- Powder coated finish
- Safety firescreen
- Dual gas knockouts
- Steel grate
- Front access damper handle
- Attic insulation shield standard
- Ash lip
- UL/ULC Listed

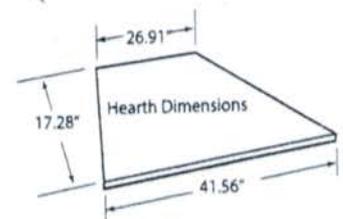
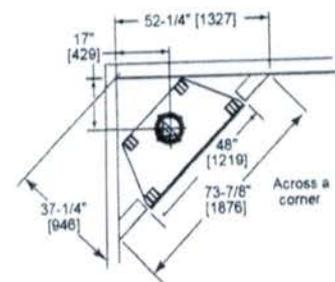
OPTIONAL FIELD INSTALLED ACCESSORIES

- Bi-fold glass doors with Black trim (DM1042) or Stainless trim (DM1042S)
- SL300 series termination caps
- Heat wrap insulated blanket (HW8040)
- 4" insulated flex duct for outside air (ID4)
- 4" uninsulated flex duct for outside air (UD4)
- Chimney air kit (CAK4A)(required in Canada)
- Outside air kit (AK24m)



Left Side View

Right Side View



Installation Manual

Installation and Fireplace Setup

INSTALLER: Leave this manual with party responsible for use and operation.
OWNER: Retain this manual for future reference.

This fireplace uses SL300 Series Chimney

2" CLEARANCE TO COMBUSTIBLES AND BUILDING INSULATION FROM CHIMNEY REQUIRED.

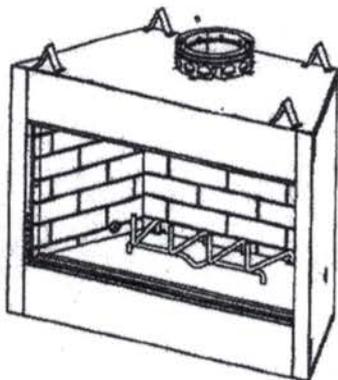
NOTICE: DO NOT discard this manual!



Model(s):

BE36

BE42

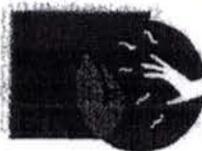


WOODBURNING FIREPLACE

⚠ WARNING: If the information in these instructions is not followed exactly, a fire or explosion may result causing property damage, personal injury, or death.

- **DO NOT** store or use gasoline or other flammable vapors and liquids in the vicinity of this or any other appliance.
- **DO NOT** overfire. Overfiring will void your warranty.
- Comply with all minimum clearances to combustibles as specified. Failure to comply may cause house fire.

⚠ WARNING



HOT SURFACES!

Glass and other surfaces are hot during operation AND cool down.

Hot glass will cause burns.

- **DO NOT** touch glass until it is cooled
 - **NEVER** allow children to touch glass
 - Keep children away
 - **CAREFULLY SUPERVISE** children in same room as fireplace.
 - Alert children and adults to hazards of high temperatures.
- High temperatures may ignite clothing or other flammable materials.**
- Keep clothing, furniture, draperies and other flammable materials away.



Installation and service of this fireplace should be performed by qualified personnel. Vermont Castings Group recommends NFPA certified professionals, or technicians supervised by an NFPA certified professional.



⚠ WARNING



Fire Risk.

For use with solid wood fuel only. Other fuels may overfire and generate poisonous gases (i.e. carbon monoxide).

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NEWS PROVIDED BY

HNI Corporation →

Oct 01, 2014, 01:09 ET

MUSCATINE, Iowa, Oct. 1, 2014 /PRNewswire/ -- **HNI Corporation** (NYSE: HNI) and its Hearth & Home Technologies business announced the acquisition of the Vermont Castings Group, a leading manufacturer of free standing hearth stoves and fireplaces. The Vermont Castings Group has annual revenue of approximately \$100 million.

"We're excited about the Vermont Castings Group joining HNI Corporation as part of our Hearth business. Their unique brands, strong customer relationships and quality products are a great fit with our Hearth and Home business," said Stan Askren, Chairman, President and CEO of HNI Corporation.

"We look forward to working with the entire Vermont Castings team and leveraging our lean and marketing expertise to achieve outstanding customer support, and profitable growth for Vermont Castings' channel partners and end-users. We are pleased to welcome the employees and customers of the Vermont Castings Group to the Hearth & Home Technologies family," said Brad Determan, President of Hearth & Home Technologies. "The Vermont Castings Group brands have long and proud histories and we are excited to add these to our industry-leading family of hearth brands."

Ricardo León, President, Vermont Castings Group will continue in his role and report to Brad Determan. The transaction was completed as an all cash transaction and is expected to provide nominal profit contribution in 2014 and positively contribute to 2015 earnings.

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Corporation's strong brands have leading positions in their markets. More information can be found on the Corporation's website at www.hnicorp.com.

Forward-looking Statements

This release contains "forward-looking" statements that refer to future events and expectations. These statements address future plans, outlook, objectives and financial performance including expectations for Vermont Castings Group acquisition will be accretive to earnings in 2015. In addition, forward-looking statements may be identified by words such as "anticipate," "believe," "could," "confident," "estimate," "expect," "forecast," "hope," "intend," "likely," "may," "plan," "possible," "potential," "predict," "project," "should," "will," "would" and variations of such words and similar expressions. Forward-looking statements involve known and unknown risks, which may cause the Corporation's actual future results to differ materially from expected results. These risks include, without limitation: the Corporation's ability to realize financial benefits from its (a) price increases, (b) cost containment and business simplification initiatives, (c) investments in strategic acquisitions, new products and brand building, (d) investments in distribution and rapid continuous improvement, (e) ability to maintain its effective tax rate, (f) repurchases of common stock and (g) consolidation and logistical realignment initiatives; uncertainty related to the availability of cash and credit, and the terms and interest rates on which credit would be available, to fund operations and future growth; lower than expected demand for the Corporation's products due to uncertain political and economic conditions; slow or negative growth rates in global and domestic economies or in the domestic housing market; lower industry growth than expected; major disruptions at key facilities or in the supply of any key raw materials, components or finished goods; competitive pricing pressure from foreign and domestic competitors; higher than expected costs and lower than expected supplies of materials; higher costs for energy and fuel; changes in the mix of products sold and of customers purchasing; relationships with distribution channel partners, including the financial viability of distributors and dealers; restrictions imposed by the terms of the Corporation's revolving credit facility and note purchase agreement; currency fluctuations and

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Matthew D. McGough, Vice President, Corporate Finance (563) 272-7563

Kurt A. Tjaden, Vice President and Chief Financial Officer (563) 272-7400

SOURCE HNI Corporation

424010

Old Town Chimney Sweeps

CUSTOMER'S ORDER NO.	DEPARTMENT	DATE
NAME		4-19-17
ADDRESS		
CITY, STATE, ZIP		
SOLD BY	CASH	C.O.D.
CHARGE	CN. ACCT.	MOSE. RETD.
PAID OUT		

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1			
2	Inspect factory		
3	built fire place.		
4	Back panel severely		
5	cracked, log grate		
6	center milted out		
7	and had some crack in		
8	fire place bottom.		
9	Smoke stains above		
10	fire place opening.	Total	60 ⁰⁰
11	Only one year of use	paid	60 ⁰⁰
12	too big for a fire, too	check	17671
13	Thanks, long amount of time		
14	Jesse		
15			
16			
17			
18			
RECEIVED BY			

Cathy Ruff

adams RDC5805

KEEP THIS SLIP FOR REFERENCE

01-11

Martha Buracker

From: Gerry Maiatico <Gmaiatico@Warrencountyfire.com>
Sent: Friday, April 21, 2017 1:14 PM
To: buracker@comcast.net; 'Kristie Sours'
Cc: Chief Mabie
Subject: Fireplace Inspection

All,

At the request of Martha Buracker and the consent of Kristie Sours, I completed a courtesy fire and life safety evaluation of the fire place at the home of Kristie Sours. It was noted at the time of my visit (Wednesday, 4/19/2017 at 11:15am) a detailed inspection was just completed by a licensed chimney professional. The involvement of my position included the evaluation of the damages to the fireplace and immediate around the fireplace.

Upon my assessment, the fireplace was noted to have sustained damages to the protective "fire brick" which left large cracks and a hole. It was and remains my opinion that the usage of the fireplace would present a risk to a hazardous condition and increase the chances of fire spread into the adjoining wall assembly. The usage of this device should be discontinued until the device can meet the requirements as set forth by the manufacture and/or is fixed and inspected by a licensed chimney professional.

At the time of my inspection, it was also noted that the smoke alarm in the immediate area was removed, this should also be replaced to provide the early detection and warning in the event of a fire emergency.

Both parties had indicated by question as to the responsible party in the presented situation of the fire place. As discussed, my involvement would not indicate a responsible party and/or place fault or blame for the condition of the fire place. I would recommend consultation with your respective legal counsel and/or insurance carrier for a more detailed as it relates to this area of concern.

Should you require any additional information/assistance, please feel free to contact me,

Gerry R. Maiatico, Fire Marshal
Warren County Department of Fire and Rescue Services
200 Skyline Vista Drive, Suite 200
Front Royal, VA 22630
www.warrencountyfire.com

gmaiatico@warrencountyfire.com

Office: 540.636.3830

Fax: 540.636.9986

Cell: 540.327.1397

 **Think Green! Please do not print this e-mail unless absolutely necessary.**

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Documents Submitted By Warren County

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

RE: Appeal to the Review Board for Kristie Sours Atwood (Appeal No. 19-05)

David Beahm <Dbeahm@warrencountyva.net>

Fri, Aug 16, 2019 at 4:54 PM

To: "travis.luter@dhcd.virginia.gov" <travis.luter@dhcd.virginia.gov>

Cc: "Potts, Richard" <richard.potts@dhcd.virginia.gov>, "Caitlin W. Jordan" <Cjordan@warrencountyva.net>

Mr. Luter,

Please find attached the additional documents that I would like to have attached to this new appeal:

- Attachment "IFF Chart" is one of the only two documents that was provided for the latest hearing that was scheduled for May 14, 2019 and then rescheduled for July 18, 2019.
- Attachment "Buracker Construction LLC's Memorandum In Opposition To Appeal Number 1-2018" is the second of the two documents that was provided for the latest hearing that was scheduled for May 14, 2019 and then rescheduled for July 18, 2019.
- Attachment "2019.05.14_AGENDA_1-2018_Atwood Re Hearing" is the published agenda for the scheduled meeting.
- Attachment "2019.07.18_Agenda" is the published agenda for the scheduled meeting.
- Attachments that were previously supplied to your office on July 16, 2018 again are as follows:

Attached are additional items that are pertinent to this appeal:

With regards to the appeal of Code of Virginia, Title 54.1. Professions and Occupations, Chapter 11. Contractors, § 54.1-1111. Prerequisites to obtaining license; building, etc., permit.

1. Attached "[http__www.dpor.virginia.pdf](http://www.dpor.virginia.pdf)" indicates that Buracker Construction, to whom the permit was issued, has been licensed since 1999-03-16 and is currently licensed until 2019-03-31.

a. As shown on the previously submitted documents that were sent out, page 10 shows that the permit was issued to "Buracker Construction."

b. When a permit is issued, the information is supplied to the Warren County Commissioner of Revenue to determine if they are properly licensed with an appropriate business license. The Commissioner of Revenue had not provided any information up to, including the issuance of this permit and others after that any issue was indicated.

2. Attached "[RE_Contractor License Inquiry.pdf](#)" is an email from the Eric L. Olson, Executive Director, Board for Contractors indicating that the current license "would certainly be within the

299

scope of the law to perform work, allowed by the license,” but the LLC is not. He goes on to indicate that “liability issues that may surface if a permit is knowingly issued to a licensed contractor that is going to perform work as an unlicensed entity.” This last statement is assuming that we can verify how a business conducts its affairs with a customer, which is contrary to a past STRB Interpretation 12/87. Question, Can a building official require a copy of the contract between the contractor and the home owner, as a requisite to issue a building permit? Answer, No.

a. Attached “Orders.pdf” is the complete Report of Findings by the Virginia Department of Professional and Occupational Regulation regarding the contract that was entered into between the contractor and the homeowner in which it levied a charge against the contractor.

b. Attached “Fwd_RE_Urgent Concern.pdf” indicates that “As a licensing agency for the regulatory boards, violations are often administrative in nature. In your case, the name used on the contract, Buracker Construction LLC, was not licensed with the Board and therefore not subject to the Board’s regulation. The Consent order reflects that Buracker Construction was doing business in a name not licensed with the Board.” It would appear that Mr. Franchok and DPOR are indicating that Buracker Construction is a licensed entity to which the permit was issued.

3. Attached “2-2018_Buracker Construction_Appeal Application and Supporting Documentation.pdf” is the upcoming Local Appeals Board request made by the contractor with regards to the second Notice of Violation that was sent do the Local Appeals Board decision that is part of this appeal.

- Attachment “Document – Final Order – Preliminary Hearing – SIGNED – Kristie L. Sours Atwood (No. 18-08 and 18-12) and Buracker Construction (No. 18-13)” for reference given that it was specifically stated that this is a “new” appeal before the Review Board and therefore would not be made apart of this unless provided now.

Thank you.

Respectfully,



David C. Beahm, CBO

Building Official

County of Warren

540-636-9973

Fax 540-636-4698

dbeahm@warrencountyva.net

www.warrencountyva.net

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From: Luter, William <travis.luter@dhcd.virginia.gov>
Sent: Wednesday, July 31, 2019 3:27 PM
To: Kristie Sours <kristiesours@gmail.com>; David Beahm <Dbeahm@warrencountyva.net>
Cc: Potts, Richard <richard.potts@dhcd.virginia.gov>
Subject: Appeal to the Review Board for Kristie Sours Atwood (Appeal No. 19-05)

Parties,

On July 30, 2019, Kristie Sours Atwood filed an appeal to the Review Board. Review Board staff has prepared a package of the documents for the appeal submitted thus far by Ms. Atwood. Please find the documents attached.

Please note this is a new appeal with a new appeal number and will be treated as though the three previous appeals (18-08; 18-12; and 18-13) had never been filed. All parties will need to submit all documentation relative to this appeal. No documentation submitted from any of the three previous appeals will be carried over to this appeal by Review Board staff. Do not rely on any submittal prior to today or any submittal NOT under the heading of Appeal to the Review Board for Kristie Sours Atwood (Appeal No. 19-05).

Review Board staff reviewed the documents submitted and found that the local appeals board application was not included. Please submit the local appeals board application along with any additional documents and/or photographs you have relative to the appeal, by end of business Friday August 16, 2019, so Review Board staff may begin the processing of the appeal. If you submit any photographs, please correlate them to the applicable cited code violations in your submittal.

Once we receive all the documents, Review Board staff will determine how best to process the appeal. It would generally be either by drafting a summary of the appeal for the parties to review, or by conducting an informal fact-finding conference to meet with the parties to clarify the facts and issues in the appeal.

Should you have any questions or concerns, please do not hesitate to contact me.

W. Travis Luter Sr., C.B.C.O.
Secretary to the State Building Code Technical Review Board
Code and Regulation Specialist
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Codes Office
600 East Main Street, Suite 300
Richmond, Virginia 23219
(804) 371-7163 - phone
(804) 371-7092 - fax

10 attachments



IFF Chart.docx
3007K



Buracker Construction LLC's Memorandum In Opposition To Appeal Number 1-2018.pdf
5038K



2019.05.14_AGENDA_1-2018_Atwood Re Hearing.pdf
242K

-  **2019.07.18_Agenda.pdf**
221K

-  **http___www.dpor.virginia.pdf**
120K

-  **Orders.pdf**
2466K

-  **RE_ Contractor License Inquiry.pdf**
80K

-  **Fwd_ RE_ Urgent Concern.pdf**
124K

-  **2-2018_Buracker Construction_Appeal Application and Supporting Documentation.pdf**
11247K

-  **Document - Final Order - Preliminary Hearing - SIGNED - Kristie L. Sours Atwood (No. 18-08 and 18-12) and Buracker Construction (No. 18-13).pdf**
97K

2. I have been alerted by a County Insider that David Beahm's absence during the time my home was built was due to the fact he was named President of the Virginia Building and Code Officials, it was reported to me during his term 2015-16, he was out of the office approx. 1/3 of time for his presidential duties leaving the county and my home without the proper supervision or someone with his same qualifications to oversee day to day operations. Beahm is liable for his delegation of authority and his negligence of duty.

In First Va. Bank-Colonial v. Baker, 225 Va.72, 80 (1983):

A building official who delegates a discretionary (subjective) act under the code may be liable under the doctrine of respondeat superior for any wrong committed by his deputy, whether that wrong is ministerial or discretionary in character. The Court's rationale for this holding is: ... Now, with the advent of comprehensive personal liability insurance and the growth of the employees as well as their superiors in the risk insured in performance bonds (a practice followed here), financial considerations have become a concern of secondary importance. As we have recently observed, government can function only through its servants, and certain of those servants must enjoy the same immunity in the performance of their discretionary duties as the government enjoys; but there is "no justification for treating a present day government employee as absolutely immune from tort liability, just as if he were an employee of an eighteenth century sovereign." James v. Jane, 221 Va. 43, 53, 282 S.E.2d 864, 869 (1980). Therefore, although the building official himself may not be liable for wrongs committed by himself in the exercise of sovereign immunity, he may be liable for all wrongs committed by deputies under the doctrine of respondeat superior.

Code of Virginia

106.2 Delegation of Authority. The building official may delegate powers

USBC 108.4 Prerequisites to obtaining permit. In accordance with **Section 54.1-1111 of the Code of Virginia**, any person applying to the building department for the construction, removal or improvement of any structure shall furnish prior to the issuance of the permit either (i) satisfactory proof to the building official that he is duly licensed or certified under the terms of Chapter 11 (Section 54.1-1000 et seq.) of Title 54.1 of the Code of Virginia to carry out or superintend the same or (ii) file a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Chapter 11 of Title 54.1 of the Code of Virginia. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied.

Code of Virginia

RESIDENTIAL BUILDING PERMIT APPLICATION Warren County Department of Building Inspections 220 North Commercial Ave., Suite 400 Front Royal, VA 22630 (540) 636-9973 www.warrencountyva.net		CODE COMPLIANCE X2009 USBC X2013 USBC XRESIDENTIAL XNON RESIDENTIAL	PERMIT # 493-15 RECEIVED BY: MPM DATE: 7-5-15 TIME: 12:18
OWNER/APPLICANT NAME: Kristie Brown	CONTRACTOR NAME: Buracker Construction LLC		
ADDRESS: 1255 Pilgrims Way	ADDRESS: 2594 Stonewall Jackson Hwy		
CITY/ST/ZIP: Bentonville, VA 22610	CITY/ST/ZIP: Bentonville, VA 22610		
PHONE: 540-244-5526	PHONE: 606-1879		
ADDITIONAL PHONE:	ADDITIONAL PHONE: 601-3388 Dave		
MECHANIC'S LIEN AGENT:	STATE CONTRACTOR LICENSE # 8705 048817A		
	EXPIRATION DATE: 3/31/17		
JOB SITE LOCATION: 1255 Pilgrims Way, Bentonville, VA			

**Title 54.1. Professions and Occupations
Chapter 11. Contractors**

§ 54.1-1111. Prerequisites to obtaining business license; building, etc., permit
A. Any person applying to the building inspector or any other authority of a county, city, or town in this Commonwealth, charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, or structure, or any removal, grading or improvement shall furnish prior to the issuance of the permit, either (i) satisfactory proof to such inspector or authority that he is duly licensed or certified under the terms of this chapter to carry out or superintend the same, or (ii) file a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to this chapter. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied. It shall be unlawful for the building inspector or other authority to issue or allow the issuance of such permits unless the applicant has furnished his license or certificate number issued pursuant to this chapter or evidence of being exempt from the provisions of this chapter.

The building inspector, or other such authority, violating the terms of this section shall be guilty of a Class 3 misdemeanor.

COUNTY OF WARREN FRONT ROYAL VA 22630 LIEN AGENT:	ZONING PERMIT	PERMIT NUMBER: 0000493 - 2015 USBC: 2009 APPLICATION DATE: 7/08/2015 ISSUANCE DATE: 8/4/2015 RENEWAL DATE: 2/4/2016 DATE: 7/23/2015
OWNER NAME/ADDRESS BROWN, KRISTIE L 1255 PILGRIMS WAY BENTONVILLE, VA 22610	SITE ADDRESS 1255 PILGRIMS WAY BENTONVILLE, VA 22610	CONTRACTOR NAME/ADDRESS BURACKER CONSTRUCTION 2594 STONEWALL JACKSON HW BENTONVILLE, VA 22610
PHONE: 540-244-5526		PHONE: 540 636 1879

B. Any contractor applying for or renewing a business license in any locality in accordance with Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall furnish prior to the issuance or renewal of such license either (i) satisfactory proof that he is duly licensed or certified under the terms of this chapter or (ii) a written

and duties except where such authority is limited by the local government ... When such delegations are made, the building official shall be responsible for assuring that they are carried out in accordance with the provisions of this code

statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to this chapter. No locality shall issue or renew or allow the issuance or renewal of such license unless the contractor has furnished his license or certificate number issued pursuant to this chapter or evidence of being exempt from the provisions of this chapter.

Code 1950, § 54-138; 1970, c. 319; 1980, c. 634; 1988, c. 765; 1990, c. 911; 1991, c. 151; 1992, c. 713; 1995, c. 771; 1998, c. 754; 2010, cc. 82, 755.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

18 VAC 50-22-210. Change of business entity requires a new license.

Licenses are issued to firms as defined in this chapter and are not transferable. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void and shall be returned to the board within 30 days of the change. Additionally, the firm shall apply for a new license, on a form provided by the board, within 30 days of the change in the business entity. Such changes include but are not limited to:

1. Death of a sole proprietor;
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and
3. Conversion, formation, or dissolution of a corporation, a limited liability company, or an association or any other business entity recognized under the laws of the Commonwealth of Virginia.

R105.8 Responsibility*****

5. The garage roof trusses are not 12 in 12 pitch as shown on the building plans. OSB flooring was installed on the roof trusses for storage accessed by pull down stairs into the garage. Per information from Ms. Sours Brown, the attic storage room and stairway shown in the original plan were to be installed with conventional framing. The finishes for the garage storage room were the only items that were to be deleted from the construction specifications. All other construction in this area was to remain as originally specified. No change orders were provided to document this construction change.

***OSB was not installed until after the CO was given and there was no available access to this section until then. How was it even inspected?

**On CHECKLIST County w/ site plan is marked, where is site plan?

109.5 Approval of construction documents. The approval of construction documents shall be limited to only those items within the scope of the USBC. Either the word "Approved" shall be stamped on all required sets of approved construction documents or an equivalent endorsement in writing shall be provided. One set of the approved construction documents shall be retained for the records of the local building department and one set shall be kept at the building site and shall be available to the building official at all reasonable times.

109.2 Site plan. When determined necessary by the building official, a site plan shall be submitted with the application for a permit. The site plan shall show to scale the size and location of all proposed construction, including any associated wells, septic tanks or drain fields. The site plan shall also show to scale the size and location of all existing structures on the site, the distances from lot lines to all proposed construction, the established street grades and the proposed finished grades.

When determined necessary by the building official, the site plan shall contain the elevation of the lowest floor of any proposed buildings. The site plan shall also be drawn in accordance with an accurate boundary line survey. When the application for a permit is for demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures that are to remain on the site.

109.4 Examination of documents. The building official shall examine or cause to be examined all construction documents or site plans, or both, within a reasonable time after filing. If such documents or plans do not comply with the

“One set of the approved construction documents... shall be kept at the building site and shall be available to the building official at all reasonable times (Section 109.5 of the 2012 Virginia Uniform Statewide Building Code).” The word “approved” in this context means approved by the building official (or his designated technical assistant – typically this is the plans examiner). The intent is to assure that the building inspector has access to the approved plans when he/she is conducting inspections. –Tom Coghill, CBO, CFM
 Director of Building Safety & Permits
 County of James City
 101 Mounts Bay Rd., Building E
 Williamsburg, VA 23185
 office: (757) 253-6628
 Cell: (757) 592-6190

provisions of this code, the permit applicant shall be notified in writing of the reasons, which shall include any adverse construction document review comments or determinations that additional information or engineering details need to be submitted. The review of construction documents for new one- and two-family dwellings for determining compliance with the technical provisions of this code not relating to the site, location or soil conditions associated with the dwellings shall not be required when identical construction documents for identical dwellings have been previously approved in the same locality under the same edition of the code and such construction documents are on file with the local building department.

Site plan

A site plan is an architectural plan, landscape architecture document, and a detailed engineering drawing of proposed improvements to a given lot. A site plan usually shows a building footprint, travelways, parking, drainage facilities, sanitary sewer lines, water lines, trails, lighting, and landscaping and garden elements. Such a plan of a site is a "graphic representation of the arrangement of buildings, parking, drives, landscaping and any other structure that is part of a development project". A site plan is a "set of construction drawings that a builder or contractor uses to make improvements to a property. Counties can use the site plan to verify that development codes are being met and as a historical resource. Site plans are often prepared by a design consultant who must be either a licensed engineer, architect, landscape architect or land survey".

***In a nut shell the house built does NOT match the plans approved by Warren County Building Official, David Beahm.

R106.4 Amended Construction Documents

*A basement was to be constructed with a 9' x 6' cool room (cellar). I do not find that drawn in the approved plans nor was it built to match contract. The room dimensions are incorrect with the room being basically 6' x 6'.

*The right side back porch, footer was placed approx. 15" too far out and construction continued with a wall to no-where.

***Negligence is failure to take proper care in doing something

6. Diagonal bracing is recommended for the garage roof truss system and the upper, main attic conventional framing system

NOV ITEM JUNE 13, 2018

R802.10.3 Bracing.

Trusses shall be braced to prevent rotation and provide lateral stability in accordance with the requirements specified in the construction documents for the building and on the individual truss design drawings. In the absence of specific bracing requirements, trusses shall be braced in accordance with accepted industry practice such as the SBCA Building Component Safety Information (BCSI) Guide to Good Practice for Handling, Installing & Bracing of Metal Plate Connected Wood Trusses.

R602.10.8

Table 602.3(1)

VCC 112.3.1

8. There were signs of moisture through the foundation walls in the cold cellar. The foundation insulation installed on the inside of the basement walls limited the

406.1Concrete and masonry foundation dampproofing. Except where required by Section R406.2 to be waterproofed, foundation walls that retain earth and enclose interior spaces and floors below grade shall be dampproofed from the top of the footing to the finished grade. Masonry walls shall have not less than

<p>inspection of these walls for moisture penetration concerns.</p> <p>9. Cardboard was visible under the cold cellar roof structure steel pans. This may cause settling of the concrete slab above and be an attractant for termites. The cardboard should be removed and metal shims or non-shrink grout installed in any openings created by the cardboard removal.</p> <p>**This space contains a drain that was used to daylight the wash machine, laundry sink, and HVAC condensation. The drainage pipe was then covered with dirt and caused drain to collapse sending grey water back into the house. Once homeowner, discovered the wash machine and utility sink was re-routed to septic. However, the collapsed pipe was not fixed or properly installed. Mold is growing in this cold room and room is unusable.***</p>	<p>3/8 inch (9.5 mm) portland cement parging applied to the exterior of the wall. The parging shall be dampproofed in accordance with one of the following:</p> <ol style="list-style-type: none"> 1.Bituminous coating. 2.Three pounds per square yard (1.63 kg/m²) of acrylic modified cement. 3.One-eighth inch (3.2 mm) coat of surface-bonding cement complying with ASTM C 887. 4.Any material permitted for waterproofing in Section R406.2. 5.Other approved methods or materials. <p>Exception: Parging of unit masonry walls is not required where a material is approved for direct application to the masonry.</p> <p>Concrete walls shall be dampproofed by applying any one of the above listed dampproofing materials or any one of the waterproofing materials listed in Section R406.2 to the exterior of the wall.</p> <p>R406.2 Concrete and masonry foundation waterproofing.</p> <p>In areas where a high water table or other severe soil-water conditions are known to exist, exterior foundation walls that retain earth and enclose interior spaces and floors below grade shall be waterproofed from the top of the footing to the finished grade. Walls shall be waterproofed in accordance with one of the following:</p> <ol style="list-style-type: none"> 1.Two-ply hot-mopped felts. 2.Fifty-five-pound (25 kg) roll roofing. 3.Six-mil (0.15 mm) polyvinyl chloride. 4.Six-mil (0.15 mm) polyethylene. 5.Forty-mil (1 mm) polymer-modified asphalt. 6.Sixty-mil (1.5 mm) flexible polymer cement. 7.One-eighth-inch (3 mm) cement-based, fiber-reinforced, waterproof coating. 8.Sixty-mil (1.5 mm) solvent-free liquid-applied synthetic rubber. <p>R403.1.4.1Frost protection.</p> <p>Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:</p> <ol style="list-style-type: none"> 1.Extended below the frost line specified in Table R301.2.(1); 2.Constructing in accordance with Section R403.3; 3.Constructing in accordance with ASCE 32; or 4.Erected on solid rock. <p>R404.1.2.3.8Exterior wall coverings.</p> <p>Requirements for installation of masonry veneer, stucco and other wall coverings on the exterior of concrete walls and other construction details not covered in this section shall comply with the requirements of this code.</p>
<p>10. The joist hangers are missing fasteners and adhesive at the basement stairway.</p>	<p>NOV JUNE 13, 2018</p> <p>R602.10.8</p> <p>TABLE 602.10.1.3</p>
<p>11. The floor and roof support beam bearing is inadequate at the right side porch. The design size of this beam should be confirmed by a registered design</p> <p>12. The post for the porch roof is not properly supported on the beam below the porch floor.</p>	<p>NOV March 16, 2018</p> <p>R502.2.2.2</p> <p>Alternate deck ledger connections. Deck ledger connections not conforming to Table R502.2.2.1 shall be designed in accordance with accepted engineering practice. Girders supporting deck joists shall not be supported on deck ledgers or band joists. Deck ledgers shall not be supported on stone or masonry veneer.</p> <p>And:</p> <p>R502.6 Bearing Joist, beam, or girder bearing on masonry or concrete shall be direct, or a sill plate of 2- inch-minimum (51 mm) nominal thickness shall be provided under the joist, beam or girder. The sill plate shall provide a minimum nominal bearing area of 48 square inches (30 865 square mm).</p>

13.
The support for the ends of the diagonal beam under the front deck is inadequate.

14.
Joist hangers are missing at the diagonal beam at the front right corner of the porch floor.

15.
The porch posts have no restraint against vertical uplift or horizontal forces at their connection to the patio slab.

16.
The porch posts have structural screws installed diagonally as restraint against vertical uplift at the lower connections to the deck. Are these screws rated for uplift in this installation? Evaluation by a registered design professional is recommended.

17.
The porch posts and diagonal bracing are secured to the roof beam with finish nails. No structural fasteners are visible in these connections. Evaluation by a registered design professional is recommended.

18.
One support post was cut too short for the beam under the front porch. Shims were installed under the beam. These shims were not installed vertically and will shrink allowing the beam to settle more at this post than the others.

R507.2.2 Alternate deck ledger connections.
Deck ledger connections not conforming to Table R507.2 shall be designed in accordance with accepted engineering practice. Girders supporting deck joists shall not be supported on deck ledgers or band joists. Deck ledgers shall not be supported on stone or masonry veneer.

R507.1 Decks.
Wood-framed decks shall be in accordance with this section or Section R301 for materials and conditions not prescribed herein. Where supported by attachment to an exterior wall, decks shall be positively anchored to the primary structure and designed for both vertical and lateral loads. Such attachment shall not be accomplished by the use of toenails or nails subject to withdrawal. Where positive connection to the primary building structure cannot be verified during inspection, decks shall be self-supporting. For decks with cantilevered framing members, connections to exterior walls or other framing members, shall be designed and constructed to resist uplift resulting from the full live load specified in Table R301.5 acting on the cantilevered portion of the deck.

TABLE 301.5 NOV ITEM JUNE 13, 2018

TABLE R301.5
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

USE	LIVE LOAD
Attics without storage ^b	10
Attics with limited storage ^{b, g}	20
Habitable attics and attics served with fixed stairs	30
Balconies (exterior) and decks ^c	40
Fire escapes	40
Guardrails and handrails ^d	200 ^h
Guardrail in-fill components ^f	80 ^h
Passenger vehicle garages ^a	80 ^h
Rooms other than sleeping room	40
Sleeping rooms	30
Stairs	40 ^c

*Timberlok documents
<https://www.fastenmaster.com/products.html>

Same as #23
I contacted the Timberlok Company, and spoke with Mr. Mark Guthrie. I sent him pictures of the connections and the porch areas of concern. Here is his information:
Mark Guthrie
Senior Technical Specialist
FastenMaster / OMG, Inc.
(800) 518-3569 Ext 1090
mguthrie@olyfast.com
<http://www.FastenMaster.com>

	<p>Mr. Guthrie stated installation was faulty and did not meet code. The Timberlok fasteners were not properly used.</p>
<p>19. The access to the rear attic is not a minimum of 20" wide.</p> <p>This is a large area and the picture represent the only access to the area.</p>	<p>R807.1Attic access. Buildings with combustible ceiling or roof construction shall have an attic access opening to attic areas 30 square feet (2.8 m2) or larger having a vertical height of not less than 30 inches (762 mm). The vertical height shall be measured from the top of the ceiling framing members to the underside of the roof framing members.</p> <p>The rough-framed opening shall not be less than 22 inches by 30 inches (559 mm by 762 mm) and shall be located in a hallway or other readily accessible location. When located in a wall, the opening shall be a minimum of 22 inches wide by 30 inches high (559 mm wide by 762 mm high). When the access is located in a ceiling, minimum unobstructed headroom in the attic space shall be 30 inches (762 mm) at some point above the access measured vertically from the bottom of ceiling framing members. See Section M1305.1.3 for access requirements where mechanical equipment is located in attics.</p>
<p>20. A ceiling joist is cut with no header at the fireplace chimney through the rear attic.</p>	<p>R 802.9 Framing of Openings NOV Item June 13, 2018 Openings in roof and ceiling framing shall be framed with header and trimmer joists...</p>
<p>21. The installation of the exterior LP Smartside siding and trim materials does</p>	<p>NOV Item June 13, 2018 R703.3.2 Horizontal siding.</p>

not comply with the manufacturer's installation instructions.

22.

The concerns with the LP Smartside installation are:

- a. Flashing is missing at the horizontal siding joints on the gable ends,
- b. Some fasteners do not appear to be galvanized or stainless steel in an exterior installation,
- c. The fastener installation for the trim does not comply with the manufacturer's nailing instructions,
- d. The fasteners for the trim were not installed flush but were overdriven in past flush,
- e. 1" minimum space was not provided between the concrete patio, the siding and trim,
- f. The required 3/8" space at butt joints in the siding and at joints between the siding and window and door trim, and inside and outside corner trim has not been provided,
- g. The cut ends of the siding and trim have not been sealed,
- h. The siding and trim joints have not all been caulked,
- i. A minimum clearance of 6" between the siding and grade has not been provided,
- j. The siding projects past the corner trim on the garage,
- k. The siding trim is in direct contact with the stone veneer of the fireplace chimney, and
- l. The gutters do not terminate at least 1" away from the siding.

The siding and trim installation problems will affect the manufacturer's warranty on the products.

Horizontal lap siding shall be installed in accordance with the manufacturer's recommendations. Where there are no recommendations the siding shall be lapped a minimum of 1 inch (25 mm), or 1/2 inch (13 mm) if rabbeted, and shall have the ends caulked, covered with a batten or sealed and installed over a strip of flashing

*LP Smartside Siding Instruction Sheet

112.1 General. It shall be the duty of any person performing work covered by this code to comply with all applicable provisions of this code and to perform and complete such work so as to secure the results intended by the USBC. Damage to regulated building components caused by violations of this code or by the use of faulty materials or installations shall be considered as separate violations of this code and shall be subject to the applicable provisions of Section 115.

23.

The porch guardrail posts do not extend through the decking and are not fastened to the structure except with diagonal finish nails. Finish nails are not considered to be structural connectors in guardrail applications. The wood members of the guardrail have shrunk and are no longer tight. The guardrail should be designed to withstand 200 pounds of horizontal force

NOV ITEM JUNE 13, 2018
TABLE 301.5

*Timberlok documents
<https://www.fastenmaster.com/products.html>

<p>at any location and 50 pounds of horizontal force per linear foot of railing.</p>	
<p>31. The flashing is lifted and loose at the chimney.</p>	<p>R 903.2 Flashings R 903.2.1 Locations Flashings shall be installed at wall and roof intersections, wherever there is a change in roof slope or direction and around roof openings. A kick-out flashing shall be installed to divert the water away from where the eave of a sloped roof intersects a vertical sidewall. The kick-out flashing on the roof shall be a minimum of 2 1/2 inches (63.5 mm) long. Where flashing is of metal, the metal shall be corrosion-resistant with a thickness of not less than 0.019 inch (0.5 mm) (No. 26 galvanized sheet).</p>
<p>33. Head flashing was not found above the front circle head window. Water stains are visible in the interior finishes around this window.</p>	<p>R703.4 requires flashing to be in accordance with the following:</p> <ul style="list-style-type: none"> ☑ Flashing shall be applied shingle-fashion in a manner to prevent water intrusion into the wall assembly and building. ☑ Flashing at exterior window/door openings shall extend to the surface of the exterior wall finish (for face-sealed wall assemblies such as stucco on solid masonry) or to the water resistive barrier (commonly behind siding/cladding). ☑ Flashing at exterior window/door openings shall be installed according to the window/door manufacturer installation instructions or those of a flashing manufacturer. Where not addressed by the manufacturer, pan flashing shall be installed at the sill of exterior window and door openings, be sealed or sloped to direct water out, and shall incorporate flashing or protection at the head and sides. ☑ Flashing shall be installed continuously above all projecting wood trim. ☑ Products used as flashing must comply with specific standards: self-adhered membranes with AAMA 711; fluid-applied membranes with AAMA 714; mechanically attached flexible flashing with AAMA 712.
<p>37. The stair stringer attachment at the both porch steps is inadequate. The front porch steps are settling and pulling away from the porch. Metal stair hangers are recommended. This is a safety concern.</p> <p>38. No foundation was provided at the stair stringers to support the stairs.</p>	<p>NOV June 13, 2018 TABLE 301.5 Maximum Live Load 40 301.1 R311.5.1 Attachment. Exterior landings, decks, balconies, stairs and similar facilities shall be positively anchored to the primary structure to resist both vertical and lateral forces or shall be designed to be self-supporting. Attachment shall not be accomplished by use of toenails or nails subject to withdrawal. R507.13 Deck stairs. Deck stairs shall be constructed in accordance with this section and Section R311.7. Where a flight of stairs</p>

	<p>has a vertical rise greater than that required per Section R311.7.3, an intermediate landing shall be provided in accordance with Section R311.7.6 and designed as a free-standing deck in accordance with Section R507.10.</p> <p>R507.13.1 Stair stringers. Stair stringers shall be constructed of sawn nominal 2x12 members at 18 inches (457 mm) on center with a throat dimension of 5 inches (127 mm) and a maximum span length as shown in Figure R507.13.1. Stairs with a width equal to 36 inches (914 mm) shall be permitted to be constructed with two solid 2x12 stringers with a maximum span length as shown in Figure R507.13.1.</p> <p>R507.13.2 Stringer bearing. Stringers shall bear on joist hangers attached to the deck structure and on footings at grade in accordance with Figure R507.13.2. Joist hangers shall be specifically designed to accommodate sloped connections and shall have a minimum capacity of 625 pounds (2780 N). Reinforcing angles at rim joist locations only shall have a minimum capacity of 325 pounds (1446 N).</p>
<p>40. Some fasteners in the cedar porch posts and trim appear to be corroding prematurely. Stainless steel or double dipped galvanized fasteners are recommended with cedar due to the natural acids in the wood that contribute to its' weather resistance</p>	<p>NOV June 13, 2018 TABLE 301.5</p> <p>*Timberlok documents https://www.fastenmaster.com/products.html</p>
<p>41. No foundation to frost line was found below the rear patio slab that was poured between the basement cool storage room and the garage.</p>	<p>403.1.4.1Frost protection. Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods: 1.Extended below the frost line specified in Table R301.2.(1); 2.Constructing in accordance with Section R403.3; 3.Constructing in accordance with ASCE 32; or 4.Erected on solid rock.</p> <p>R403.1 R404.1.2.3.8Exterior wall coverings. Requirements for installation of masonry veneer, stucco and other wall coverings on the exterior of concrete walls and other construction details not covered in this section shall comply with the requirements of this code.</p>
<p>43. No drain holes were found at the base of the masonry wall on the rear porch.</p>	<p>703.7.6 Weepholes. Weepholes shall be provided in the outside wythe of masonry walls at a maximum spacing of 33 inches (838 mm) on center. Weepholes shall not be less than 3/16 inch (5 mm) in diameter. Weepholes shall be located immediately above the flashing.</p>
<p>48. The rear porch has no screened in section as shown in the plans. 49.</p>	<p>109.5 Approval of construction documents. The approval of construction documents shall be limited to only those items within the scope of the USBC. Either the word "Approved" shall be stamped on all required sets of approved construction documents or an equivalent endorsement in writing shall be provided. One set of the approved construction documents shall be retained for the records of the local building department and one set shall be kept at the</p>

<p>The rear porch has no bay style bump out for the roof and floor as shown in the plans.</p> <p>50. No windows were installed in the garage upstairs gable end walls.</p>	<p>building site and shall be available to the building official at all reasonable times.</p> <p>House did not match approved plans.</p>
<p>52. The basement door threshold has not been secured or sealed to the concrete floor.</p> <p>53. The rear garage entry door threshold has not been secured or sealed to the floor.</p>	<p>ICC 1405.12 ICC 1405.12.1</p>
<p>55. The rear left corner of the patio by the garage is settling excessively.</p>	<p>R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard to the dwelling unit. Lots shall be graded to drain surface water away from foundation walls. The grade shall fall a minimum of 6 inches (152 mm) within the first 10 feet (3048 mm).</p> <p>R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, wood foundations, or other approved structural systems which shall be of sufficient design to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil. Footings shall be supported on undisturbed natural soils or engineered fill.</p> <p>R506.2.1 Fill. Fill material shall be free of vegetation and foreign material and shall be natural nonorganic material that is not susceptible to swelling when exposed to moisture. The fill shall be compacted to assure uniform support of the slab, and except where approved, the fill depth shall not exceed 24 inches (610 mm) for clean sand or gravel and 8 inches (203 mm) for earth.</p>
<p>56. Grading and drainage at the front does not slope away from the foundation a minimum of 6" in the first 10' especially under the front porch.</p>	<p>R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard to the dwelling unit. Lots shall be graded to drain surface water away from foundation walls. The grade shall fall a minimum of 6 inches (152 mm) within the first 10 feet (3048 mm).</p> <p>R506.2.1 Fill. Fill material shall be free of vegetation and foreign material and shall be natural nonorganic material that is not susceptible to swelling when exposed to moisture. The fill shall be compacted to assure uniform support of the slab, and except where approved, the fill depth shall not exceed 24 inches (610 mm) for clean sand or gravel and 8 inches (203 mm) for earth.</p>
<p>57. The stone veneer is set tightly to the roof shingles at the chimney. A minimum space of 1" is recommended in these intersections. Weep screeds were not found at this location.</p>	<p>R703.6.2.1 Weep screeds. A minimum 0.019-inch (0.5 mm) (No. 26 galvanized sheet gage), corrosion-resistant weep screed or plastic weep screed, with a minimum vertical attachment flange of 3 1/2 inches (89 mm) shall be provided at or below the foundation plate line on exterior stud walls in accordance with ASTM C 926. The weep screed shall be placed a minimum of 4 inches (102 mm) above the earth or 2 inches (51 mm) above paved areas and shall be of a type that will allow trapped water to drain to the exterior of the building. The weather-resistant</p>

	<p>barrier shall lap the attachment flange. The exterior lath shall cover and terminate on the attachment flange of the weep screed.</p> <p>R1001.15 Chimney Clearances</p>
<p>58. Kick out flashings are missing at the breezeway roof into the garage and house walls.</p> <p>67. The roof flashing has been sealed with roof cement at the lower ends of the front dormers.</p>	<p>R903.2.1 Locations</p> <p>Flashings shall be installed at wall and roof intersections, wherever there is a change in roof slope or direction and around roof openings. A kick-out flashing shall be installed to divert the water away from where the eave of a sloped roof intersects a vertical sidewall. The kick-out flashing on the roof shall be a minimum of 21/2 inches (63.5 mm) long. Where flashing is of metal, the metal shall be corrosion-resistant with a thickness of not less than 0.019 inch (0.5 mm) (No. 26 galvanized sheet).</p>
<p>59. The openings in the basement foundation wall at the door and windows have not been covered with stucco. The stucco mesh does not extend over the joints between the foundation wall and wood frame. This joint will crack immediately and re-crack after every repair.</p>	<p>R406.1</p> <p>Concrete and masonry foundation dampproofing.</p> <p>Except where required by Section R406.2 to be waterproofed, foundation walls that retain earth and enclose interior spaces and floors below grade shall be dampproofed from the top of the footing to the finished grade. Masonry walls shall have not less than 3/8 inch (9.5 mm) portland cement parging applied to the exterior of the wall. The parging shall be dampproofed in accordance with one of the following:</p> <ol style="list-style-type: none"> 1.Bituminous coating. 2.Three pounds per square yard (1.63 kg/m2) of acrylic modified cement. 3.One-eighth inch (3.2 mm) coat of surface-bonding cement complying with ASTM C 887. 4.Any material permitted for waterproofing in Section R406.2. 5.Other approved methods or materials. <p>Exception: Parging of unit masonry walls is not required where a material is approved for direct application to the masonry.</p> <p>Concrete walls shall be dampproofed by applying any one of the above listed dampproofing materials or any one of the waterproofing materials listed in Section R406.2 to the exterior of the wall.</p>
<p>61. A concrete form board has not been removed outside the basement entry doors</p>	<p>112.1 General. It shall be the duty of any person performing work covered by this code to comply with all applicable provisions of this code and to perform and complete such work so as to secure the results intended by the USBC. Damage to regulated building components caused by violations of this code or by the use of faulty materials or installations shall be considered as separate violations of this code and shall be subject to the applicable provisions of Section 115.</p>
<p>63. The dirt and masonry demolition and construction debris was pushed over a hill. It does not appear to be buried. Large</p>	<p>Section 117.0 Demolition of structures.</p> <p>117.1. General: Demolition permits shall not be issued until the code official receives certification from the owner or the owner's agent that the</p>

pieces of concrete and concrete block are visible in the debris.

following actions have been completed:

1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building or structure stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.

2. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.

117.2. Hazard prevention: When a structure is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Chapter 33 of this code.

<https://codes.iccsafe.org/public/document/VRC2012/chapter-30-sanitary-drainage>

<https://codes.iccsafe.org/public/document/VRC2012/chapter-33-storm-drainage>

109.2 Site plan. When determined necessary by the building official, a site plan shall be submitted with the application for a permit. The site plan shall show to scale the size and location of all proposed construction, including any associated wells, septic tanks or drain fields. The site plan shall also show to scale the size and location of all existing structures on the site, the distances from lot lines to all proposed construction, the established street grades and the proposed finished grades. When determined necessary by the building official, the site plan shall contain the elevation of the lowest floor of any proposed buildings. The site plan shall also be drawn in accordance with an accurate boundary line survey. When the application for a permit is for demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures that are to remain on the site.

R506.2.1 Fill. Fill material shall be free of vegetation and foreign material and shall be natural nonorganic material that is not susceptible to swelling when exposed to moisture. The fill shall be compacted to assure uniform support of the slab, and except where approved, the fill depth shall not exceed 24 inches (610 mm) for clean sand or gravel and 8 inches (203 mm) for earth.

69.
A roof/ wall vent has not been installed at the front porch per the plans.

109.5.4. Approved construction documents:

The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times.

70.
The plumbing vent pipes should be supported every 4' through the main attic and pitched to drain down into the drain system.

Table P2605.1 Piping Support PVC Pipe Maximum Horizontal Spacing (feet) 4' NOV Item March 30, 2018

<p>76. A tempering valve was not found for the master-bath tub shower. This is a potential scald hazard.</p>	<p>P2708.3 Shower control valves. Individual shower and tub/shower combination valves shall be equipped with control valves of the pressure-balance, thermostatic-mixing or combination pressure-balance/thermostatic-mixing valve types with a high limit stop in accordance with ASSE 1016 or ASME A112.18.1/CSA B125.1. The high limit stop shall be set to limit the water temperature to not greater than 120°F (49°C). In-line thermostatic valves shall not be used for compliance with this section.</p>
<p>79. The basement floor drain is not accessible under the heat pump air handler. This is a maintenance concern.</p>	<p>P2719.1Floor drains. Floor drains shall have waste outlets not less than 2 inches (51 mm) in diameter and a removable strainer. The floor drain shall be constructed so that the drain can be cleaned. Access shall be provided to the drain inlet. Floor drains shall not be located under or have their access restricted by permanently installed appliances</p>
<p>80. The frost-free hose bib near the basement entry door freezes in winter. The bib is not pitched to drain water down and out of the fixture</p> <p>**Master bath tub drain and facet located on exterior wall and "P" trap freezes</p>	<p>P2603.3Breakage and corrosion. Pipes passing through concrete or cinder walls and floors, cold-formed steel framing or other corrosive material shall be protected against external corrosion by a protective sheathing or wrapping or other means that will withstand any reaction from lime and acid of concrete, cinder or other corrosive material. Sheathing or wrapping shall allow for movement including expansion and contraction of piping. The wall thickness of material shall be not less than 0.025 inch (0.64 mm).</p> <p>P2603.4Pipes through foundation walls. A pipe that passes through a foundation wall shall be provided with a relieving arch, or a pipe sleeve shall be built into the foundation wall. The sleeve shall be two pipe sizes greater than the pipe passing through the wall.</p> <p>P2603.5Freezing. In localities having a winter design temperature of 32°F (0°C) or lower as shown in Table R301.2(1) of this code, a water, soil or waste pipe shall not be installed outside of a building, in exterior walls, in attics or crawl spaces, or in any other place subjected to freezing temperature unless adequate provision is made to protect it from freezing by insulation or heat or both. Water service pipe shall be installed not less than 12 inches (305 mm) deep and not less than 6 inches (152 mm) below the frost line.</p> <p>****P3001.2Protection from freezing. No portion of the above grade DWV system other than vent terminals shall be located outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other place subjected to freezing temperatures unless adequate provision is made to protect them from freezing by insulation or heat or both, except in localities having a winter design temperature above 32°F (0°C) (ASHRAE 97.5 percent column, winter, see Chapter 3).</p>
<p>81. The foundation drain outlet is damaged and restricted in the right side yard. *Contractor connected main floor utility sink, washing machine,(Gray Water) and floor drains to this outlet. The contractor then covered this drain causing it to stop</p>	<p>P2601.2 Connections. Plumbing fixtures, drains and appliances used to receive or discharge liquid wastes or sewage shall be directly connected to the sanitary drainage system of the building or premises, in accordance with the requirements of this code. This section shall not be construed to prevent indirect waste systems.</p>

<p>up and then collapse putting water back into house. [REDACTED] Washing machine and utility sink have been rerouted, but outlet has collapsed and pushed drainage and water back into "cool" room and basement. [REDACTED]</p>	<p>*81 goes hand in hand with 125*</p>
<p>82. A single, small gauge copper wire is running through the garage attic to the electrical panel. This may be a bonding wire for the whirlpool tub. Small gauge wires are required to be protected with running boards when installed across framing members through an accessible attic. [REDACTED]</p>	<p>E3402.2 Penetrations of fire-resistance-rated assemblies. Electrical installations in hollow spaces, vertical shafts and ventilation or air-handling ducts shall be made so that the possible spread of fire or products of combustion will not be substantially increased. Electrical penetrations into or through fire-resistance-rated walls, partitions, floors or ceilings shall be protected by approved methods to maintain the fire-resistance rating of the element penetrated. Penetrations of fire-resistance-rated walls shall be limited as specified in Section R317.3.</p> <p>E3402.3 Penetrations of firestops and draftstops. Penetrations through fire blocking and draft stopping shall be protected in an approved manner to maintain the integrity of the element penetrated</p>
<p>83. The electrical panels were installed in the side wall of the garage rather than in the basement per plan/contract reference</p>	<p>109.5.4. Approved construction documents: The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times</p>
<p>84. A GFCI receptacle is recommended in the basement for the water conditioning equipment. [REDACTED]</p>	<p>E3902.5 Unfinished basement receptacles. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in unfinished basements shall have ground-fault circuit-interrupter protection for personnel. For purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.</p>
<p>85. The exterior fireplace glass doors were binding and not closing. The fireplace doors shattered during the third use of the fireplace. [REDACTED]</p> <p>86. The fireplace in family room is different manufacturer and model than shown on the receipt from Acme Fireplaces.</p> <p>87. Family room fireplace damper is damaged and not closing tightly. [REDACTED]</p> <p>88. The interior of the family room fireplace is damaged and bent at the damper/ chimney pipe connection at the top of the firebox. This is an unsafe condition (fire hazard). [REDACTED]</p> <p>89. The family room fireplace refractory lining is significantly damaged and cracked. [REDACTED]</p> <p>90.</p>	<p>NOV ITEM JUNE 13, 2018</p> <p>R1004.1 General. Factory-built fireplaces shall be listed and labeled and shall be installed in accordance with the conditions of the listing. Factory-built fireplaces shall be tested in accordance with UL 127.</p> <p>R1004.2 Hearth extensions. Hearth extensions of approved factory-built fireplaces shall be installed in accordance with the listing of the fireplace. The hearth extension shall be readily distinguishable from the surrounding floor area. Listed and labeled hearth extensions shall comply with UL 1618.</p> <p>R1004.3 Decorative shrouds. Decorative shrouds shall not be installed at the termination of chimneys for factory-built fireplaces except where the shrouds are listed and labeled for use with the specific factory-built fireplace system and installed in accordance with the manufacturer's installation instructions.</p> <p>R1005.1 Listing. Factory-built chimneys shall be listed and labeled and shall be installed and terminated in accordance with the manufacturer's installation instructions.</p> <p>R1005.2 Decorative shrouds.</p>

<p>Significant smoke evidence and heat damage is visible on the exterior metal and stone veneer of the family room fireplace.</p> <p>91. The glass doors are not installed on the family room fireplace. The doors were damaged during the second use of the fireplace.</p> <p>92. The family room fireplace chimney system does not match fireplace itself but is made by a different manufacturer. Metal fireplace and chimney systems are tested and listed as complete systems. This is an inappropriate installation and an unsafe condition.</p>	<p>Decorative shrouds shall not be installed at the termination of factory-built chimneys except where the shrouds are listed and labeled for use with the specific factory-built chimney system and installed in accordance with the manufacturer’s installation instructions.</p> <p>R1005.3Solid-fuel appliances. Factory-built chimneys installed in dwelling units with solid-fuel-burning appliances shall comply with the Type HT requirements of UL 103 and shall be marked “Type HT and “Residential Type and Building Heating Appliance Chimney.”</p> <p>Exception: Chimneys for use with open combustion chamber fireplaces shall comply with the requirements of UL 103 and shall be marked “Residential Type and Building Heating Appliance Chimney.”</p> <p>Chimneys for use with open combustion chamber appliances installed in buildings other than dwelling units shall comply with the requirements of UL 103 and shall be marked “Building Heating Appliance Chimney” or “Residential Type and Building Heating Appliance Chimney.”</p> <p>R1005.4Factory-built fireplaces. Chimneys for use with factory-built fireplaces shall comply with the requirements of UL 127.</p> <p>R1005.5Support. Where factory-built chimneys are supported by structural members, such as joists and rafters, those members shall be designed to support the additional load.</p>
<p>93. There is less than the 2” required minimum spacing between the living room fireplace metal chimney system, the roof framing and fiberglass insulation in the attic.</p>	<p>NOV ITEM JUNE 13, 2018 R1001.15 Chimney Clearances VCC 112.3.1</p> <p>*Manufacturer Instructions and Installation Guide, reference inside and out.</p>
<p>94. The upstairs heat pump primary condensate drain in the attic discharges through the attic side wall and onto the porch roof below. The condensate drain line should be brought down through the interior of the home and discharge into the sump pump or outside onto the ground</p>	<p>M1401.1Installation. Heating and cooling equipment and appliances shall be installed in accordance with the manufacturer’s installation instructions and the requirements of this code.</p> <p>M1411.3.1Auxiliary and secondary drain systems. In addition to the requirements of Section M1411.3, a secondary drain or auxiliary drain pan shall be required for each cooling or evaporator coil where damage to any building components will occur as a result of overflow from the equipment drain pan or stoppage in the condensate drain piping. Such piping shall maintain a minimum horizontal slope in the direction of discharge of not less than 1/8 unit vertical in 12 units horizontal (1-percent slope). Drain piping shall be a minimum of 3/4-inch (19 mm) nominal pipe size. One of the following methods shall be used:</p> <p>1.An auxiliary drain pan with a separate drain shall be installed under the coils on which condensation will occur. The auxiliary pan drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The pan shall have a minimum depth of 1.5 inches (38 mm), shall not be less than 3 inches (76 mm) larger than the unit or the coil</p>

	<p>dimensions in width and length and shall be constructed of corrosion-resistant material. Galvanized sheet steel pans shall have a minimum thickness of not less than 0.0236-inch (0.6010 mm) (No. 24 Gage). Nonmetallic pans shall have a minimum thickness of not less than 0.0625 inch (1.6 mm).</p> <p>2.A separate overflow drain line shall be connected to the drain pan installed with the equipment. This overflow drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The overflow drain line shall connect to the drain pan at a higher level than the primary drain connection.</p> <p>3.An auxiliary drain pan without a separate drain line shall be installed under the coils on which condensation will occur. This pan shall be equipped with a water level detection device conforming to UL 508 that will shut off the equipment served prior to overflow of the pan. The pan shall be equipped with a fitting to allow for drainage. The auxiliary drain pan shall be constructed in accordance with Item 1 of this section.</p> <p>4.A water level detection device conforming to UL 508 shall be installed that will shut off the equipment served in the event that the primary drain is blocked. The device shall be installed in the primary drain line, the overflow drain line or the equipment-supplied drain pan, located at a point higher than the primary drain line connection and below the overflow rim of such pan.</p>
<p>95. The insulation is incomplete at the refrigerant line to the air handler in the attic</p>	<p>M1411.5Insulation of refrigerant piping. Piping and fittings for refrigerant vapor (suction) lines shall be insulated with insulation having a thermal resistivity of at least R-4 and having external surface permeance not exceeding 0.05 perm [2.87 ng/(s · m² · Pa)] when tested in accordance with ASTM E 96</p> <p>M1401.4Exterior installations. Equipment and appliances installed outdoors shall be listed and labeled for outdoor installation. Supports and foundations shall prevent excessive vibration, settlement or movement of the equipment. Supports and foundations shall be in accordance with Section M1305.1.4.1.</p>
<p>96. The flexible duct in the basement was not fully extended. This is a manufacturer's installation instruction and system efficiency concern</p>	<p>M1401.1Installation. Heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's installation instructions and the requirements of this code.</p> <p>M1401.3Equipment and appliance sizing. Heating and cooling equipment and appliances shall be sized in accordance with ACCA Manual S or other approved sizing methodologies based on building loads calculated in accordance with ACCA Manual J or other approved heating and cooling calculation methodologies. Exception: Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with Manual S or other approved sizing methodologies where any of the following conditions apply: 1.The specified equipment or appliance utilizes multi-stage technology or variable refrigerant flow technology and the loads calculated in accordance with the approved heating and cooling methodology fall within the range of the manufacturer's published capacities for that equipment or appliance.</p>

	<p>2.The specified equipment or appliance manufacturer’s published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the approved heating and cooling methodology and the next larger standard size unit is specified.</p> <p>3.The specified equipment or appliance is the lowest capacity unit available from the specified manufacturer</p>
<p>OUTDOOR WOODBURNING FURNACE</p> <p>**Site work, concrete pad placement, electrical wire insertion, and conduit were install for an exterior outdoor wood burning furnace.</p> <p>Was this outdoor area ever inspected?</p> <p>Did the inspector question where this furnace was at the time the Certificate of Occupancy was given?</p>	<p>M1401.4Exterior installations. Equipment and appliances installed outdoors shall be listed and labeled for outdoor installation. Supports and foundations shall prevent excessive vibration, settlement or movement of the equipment. Supports and foundations shall be in accordance with Section M1305.1.4.1.</p>
<p>99.</p> <p>The stair riser heights differ by more than 3/8” from the house into the garage. The top riser height exceeds 8 ½” measured to the top of the door threshold.</p>	<p>R311.7.5.1Risers.</p> <p>The maximum riser height shall be 8 1/4 inches (210 mm). The riser shall be measured vertically between the leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the opening between treads does not permit the passage of a 4-inch-diameter (102 mm) sphere.</p>
<p>100.</p> <p>The attic pull down stairs are missing fasteners to secure the stair frame to the garage ceiling framing. This is a safety concern.</p>	<p>**Certificate of Occupancy received months prior to attic access being given, opening moved and cut into place and steps were installed.</p> <p>109.5.4. Approved construction documents: The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times.</p> <p><i>Space intended for possible future use, This section defines "uninhabitable attics with limited storage" as follows:</i></p> <p>B. Uninhabitable attics with limited storage.</p> <ol style="list-style-type: none"> 1. Unfinished walls. 2. Not more than one-third of the attic space to have a maximum 5' head height (Section 1208.2.1), or code complying egress (Section 1009). 3. Designed for a minimum 20 psf live load applied to those portions of the bottom chord where there are two or more adjacent trusses capable of containing a rectangle 42" high by 2' wide or greater, located within the plane of the truss. 4. Minimum ceiling lights and convenience outlets.

	<p>and in a later section we read <i>... If a stairway is installed the space should be considered usable and be developed accordingly.</i></p>
<p>101. The attic stairs, wood corner trim and plastic access panel breach the fire separation between the garage and the attic. This is a fire safety concern.</p>	<p>R302.12 Draftstopping NOV ITEM JUNE 13, 2018</p>
<p>102. The access to the rear portion of the upper attic should be at least 20" wide. **Same as #19</p>	<p>R807.1Attic access. Buildings with combustible ceiling or roof construction shall have an attic access opening to attic areas 30 square feet (2.8 m2) or larger having a vertical height of not less than 30 inches (762 mm). The vertical height shall be measured from the top of the ceiling framing members to the underside of the roof framing members. The rough-framed opening shall not be less than 22 inches by 30 inches (559 mm by 762 mm) and shall be located in a hallway or other readily accessible location. When located in a wall, the opening shall be a minimum of 22 inches wide by 30 inches high (559 mm wide by 762 mm high). When the access is located in a ceiling, minimum unobstructed headroom in the attic space shall be 30 inches (762 mm) at some point above the access measured vertically from the bottom of ceiling framing members. See Section M1305.1.3 for access requirements where mechanical equipment is located in attics</p>
<p>103. Have the garage roof trusses been designed to accommodate anticipated storage loads? 104. 7/16" thick oriented strand board has been installed for storage across the garage ceiling trusses spaced 24" apart. This material is not intended for use as flooring. It may break under storage or personnel loads creating a safety concern.</p>	<p>109.5.4. Approved construction documents: The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times</p>
<p>106. Firesafing material has not been installed in the following locations: a. At the fireplace chimney firestops in the attic, and b. The electrical cables into the attic (visible above the main panel), and c. At the tub drain in the basement</p>	<p>R302.12 Draftstopping NOV ITEM March 30, 2018</p>

<p>111. The master walk-in closet does not have adequate space between the rods and shelves to hang clothes and walk between the clothes</p>	<p>109.5.4. Approved construction documents: The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times</p> <p>1014.2 Exit Access Closet</p>
<p>116. The door thresholds were not cut out in the basement interior walls. This is a trip hazard.</p>	<p>112.1 General. It shall be the duty of any person performing work covered by this code to comply with all applicable provisions of this code and to perform and complete such work so as to secure the results intended by the USBC. Damage to regulated building components caused by violations of this code or by the use of faulty materials or installations shall be considered as separate violations of this code and shall be subject to the applicable provisions of Section 115.</p>
<p>118. The bathroom fans from both upstairs baths vent into the upper attic. Exterior terminations are required for both fans.</p> <p>119. No exterior termination was found for the master bathroom exhaust fans</p> <p>***No exterior termination found for powder room half-bath</p>	<p>M1507.2 Recirculation of Air NOV ITEM MARCH 30, 2018</p> <p>*Incomplete NOV, no exterior termination for any bathroom.</p>
<p>125. Foam insulation is exposed on the basement wall behind the heat pump air handler. Foam insulation should be covered per the manufacturer's requirements.</p> <p>*Original insulation behind air handler was saturated with gray water. Gray water from the above laundry room was plumbed to daylight, the pipe was covered up forcing water back into the basement and flooded area under air handler and ruined insulation.</p>	<p>R316.2 Labeling and identification. Packages and containers of foam plastic insulation and foam plastic insulation components delivered to the job site shall bear the label of an approved agency showing the manufacturer's name, the product listing, product identification and information sufficient to determine that the end use will comply with the requirements.</p> <p>R316.3 Surface burning characteristics. Unless otherwise allowed in Section R316.5 or R316.6, all foam plastic or foam plastic cores used as a component in manufactured assemblies used in building construction shall have a flame spread index of not more than 75 and shall have a smoke-developed index of not more than 450 when tested in the maximum thickness intended for use in accordance with ASTM E 84 or UL 723. Loose-fill-type foam plastic insulation shall be tested as board stock for the flame spread index and smoke-developed index.</p> <p>Exception: Foam plastic insulation more than 4 inches (102 mm) thick shall have a maximum flame spread index of 75 and a smoke-developed index of 450 where tested at a minimum thickness of 4 inches (102 mm), provided the end use is approved in accordance with Section R316.6 using the thickness and density intended for use.</p> <p>R316.4 Thermal barrier.</p>

	<p>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.</p> <p>R316.5 Specific requirements. The following requirements shall apply to these uses of foam plastic unless specifically approved in accordance with Section R316.6 or by other sections of the code or the requirements of Sections R316.2 through R316.4 have been met.</p>
<p>COOL ROOM Basement</p> <p>8. There were signs of moisture through the foundation walls in the cold cellar. The foundation insulation installed on the inside of the basement walls limited the inspection of these walls for moisture penetration concerns.</p> <p>9. Cardboard was visible under the cold cellar roof structure steel pans. This may cause settling of the concrete slab above and be an attractant for termites. The cardboard should be removed and metal shims or non-shrink grout installed in any openings created by the cardboard removal.</p> <p>115. The cool in the basement measured 6 x 6 1/2'. The contract calls for a 6 x 8'6" room.</p> <p>126. Foam insulation should be installed on the ceiling and walls of the root cellar and covered with 1/4" tile backer board to provide a non-combustible, water and mold resistant finished surface</p>	<p>R406.1 Concrete and masonry foundation dampproofing. Except where required by Section R406.2 to be waterproofed, foundation walls that retain earth and enclose interior spaces and floors below grade shall be dampproofed from the top of the footing to the finished grade. Masonry walls shall have not less than 3/8 inch (9.5 mm) portland cement parging applied to the exterior of the wall. The parging shall be dampproofed in accordance with one of the following:</p> <ol style="list-style-type: none"> 1. Bituminous coating. 2. Three pounds per square yard (1.63 kg/m²) of acrylic modified cement. 3. One-eighth inch (3.2 mm) coat of surface-bonding cement complying with ASTM C 887. 4. Any material permitted for waterproofing in Section R406.2. 5. Other approved methods or materials. <p>Exception: Parging of unit masonry walls is not required where a material is approved for direct application to the masonry. Concrete walls shall be dampproofed by applying any one of the above listed dampproofing materials or any one of the waterproofing materials listed in Section R406.2 to the exterior of the wall.</p> <p>R406.2 Concrete and masonry foundation waterproofing. In areas where a high water table or other severe soil-water conditions are known to exist, exterior foundation walls that retain earth and enclose interior spaces and floors below grade shall be waterproofed from the top of the footing to the finished grade. Walls shall be waterproofed in accordance with one of the following:</p> <ol style="list-style-type: none"> 1. Two-ply hot-mopped felts. 2. Fifty-five-pound (25 kg) roll roofing. 3. Six-mil (0.15 mm) polyvinyl chloride. 4. Six-mil (0.15 mm) polyethylene. 5. Forty-mil (1 mm) polymer-modified asphalt. 6. Sixty-mil (1.5 mm) flexible polymer cement. 7. One-eighth-inch (3 mm) cement-based, fiber-reinforced, waterproof coating. 8. Sixty-mil (1.5 mm) solvent-free liquid-applied synthetic rubber. <p>***THERE IS NO EXTERIOR VENTILATION IN THIS AREA*****</p>

VIRGINIA: WARREN COUNTY LOCAL BOARD OF BUILDING CODE APPEALS

**IN RE: APPEAL OF KRISTIE SOURS BROWN (ATWOOD)
APPEAL NUMBER 1-2018**

**BURACKER CONSTRUCTION LLC'S MEMORANDUM IN OPPOSITION TO
APPEAL NUMBER 1-2018**

Introduction

On May 14, 2019, the Warren County Local Board of Building Code Appeals (the "Local Board") gathered for a re-hearing on Kristie S. Brown's ("Brown") appeal, identified as Appeal Number 1-2018 (the "Appeal"), that had previously been heard by the Local Board on May 21, 2018, further appealed to the State Technical Review Board (the "State Board"), and subsequently remanded back to the Local Board on January 11, 2019. Present before the Local Board was Brown, Buracker Construction, LLC ("Buracker Construction") and its counsel, and the Warren County Building Department (the "Department"), by David Beahm, the Building Official, and the Department's counsel. Before the Local Board could hear the merits of Brown's Appeal, Brown raised an objection to the proceeding on the grounds that she was not properly notified of the date and time of the Appeal (despite her presence at the Appeal) and that she was not able to have her attorney present at the Appeal (despite her admission that she had previously informed her attorney of the date and time of the Appeal). The Local Board granted Brown's request for a continuance, but welcomed comment from the other parties present.

During the comment period on May 14, 2019, Buracker Construction raised an objection to the Local Board's jurisdiction and authority to hear the Appeal for reasons stated in greater detail below. Upon Buracker Construction's objection, the Local Board ordered the parties to brief the jurisdictional issue raised at the hearing. Buracker Construction hereby submits this Memorandum in Opposition to Appeal Number 1-2018.

Statement of Facts

On or about July 6, 2015, Brown and Buracker Construction executed a contract for the construction of Brown's home located at 1255 Pilgrims Way, Bentonville, Virginia 22610 (the "Property"). On July 19, 2016, the Department inspected and issued a certificate of occupancy for the Property and Brown subsequently moved in to the Property. After living in the Property for approximately 14 months, Brown hired a private home inspector, namely, David Rushton of ABLE Building Inspection, Inc. (ABLE), to inspect her Property. ABLE inspected the Property on September 11, 2017 and produced a report of its findings on December 22, 2017. On March 14, 2018, ABLE identified approximately 68 items in its report that were "possible" code violations. ABLE is not a building official, as that term is defined by § 105 of the 2009 Virginia Uniform Statewide Building Code (the "VUSBC"), nor is it an "approved inspection agency" or a "third-party inspector" for the County of Warren, as those terms are respectively defined by §§ 113.7 and 113.7.1 of the VUSBC.

Later in March 2018, the Department re-inspected Brown's Property approximately 19 months after a certificate of occupancy had been issued and Brown took possession. Of course, during that time, Brown had subjected the Property to wear and tear and altered portions of the Property. Following its March 2018 re-inspection, the Department issued a notice of violation ("NOV") to Buracker Construction on March 30, 2018, identifying five code violations which Buracker Construction agreed to remedy. Brown refused to allow Buracker Construction to remedy the five code violations, whether by cash payment or by services.

On May 3, 2018, Brown filed this Appeal with the Local Board, asking for a "Review of possible code violations and construction deficiencies. More importantly home built does not match county approved plans. Review NOV sent to Buracker Construction LLC. See attached 3rd

party inspection." She also stated: "I want the Warren County building dept. to recognize the errors of their inspectors including David Beahm and force the contractor, Buracker Construction LLC, to find a viable plan for completion and repair of the issues to my home."

The Local Board heard Brown's appeal on May 21, 2018. It did not provide Buracker Construction the opportunity to be heard, despite the plain language of § 119.7 of the VUSBC ("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 building official's decision in question* shall have the opportunity to be heard."). At the May 21, 2018 Local Board hearing, the Local Board also considered the report from ABLE and otherwise heard testimony from Brown.

The Local Board decided to continue the May 21, 2018 hearing until June 7, 2018 and held a work session prior to the June 7 hearing. On June 7, 2018, the Local Board reconvened and, despite the fact that the Department had not issued any additional NOV's, found that twelve more code violations existed at the Property and *ordered* the Department to issue an NOV to Buracker Construction citing the twelve code violations.

Buracker Construction subsequently appealed the NOV that was the result of the June 7, 2018 Local Board hearing, and, on July 26, 2018, successfully overturned six of the twelve code violations. The six alleged violations were overturned because the Department failed to cite to an applicable VUSBC code section for the alleged violation, such citation being required for each alleged violation by the VUSBC. When asked by the Local Board why the Department did not cite to the VUSBC, the Department simply responded that a VUSBC section did not exist for the certain violations that the Local Board "found" and directed the Department to issue.

Brown appealed the June 7, 2018 results of this Appeal to the State Board, and Buracker Construction LLC appealed the results of its July 26, 2018 appeal to the State Board. The State Board convened on January 11, 2019, but refused to hear the merits of either party's appeal because of various conflict of interest issues present in each appeal. The State Board remanded this Appeal back to the Local Board for a re-hearing (pending the resolution of the conflict of interest issues identified by the State Board). The re-hearing on this Appeal occurred on May 14, 2019.

Question Presented

The question presented to the Local Board via Buracker Construction's objection is as follows:

In the absence of a finding of a code violation and notice of violation by the Department, whether the Local Board has the authority to enforce the VUSBC by "finding" that code violations exist, and "ordering" the Department to issue notices of violations.

Analysis

I. Authority of the Department

Virginia Code § 36-105, which is the statute governing the enforcement of the VUSBC, provides in subsection (A) that "[e]nforcement of the Building Code for construction and rehabilitation shall be the responsibility of the local building department." Thus, the plain language of the statute provides that the only entity with the authority to enforce the VUSBC is the Department, not the Local Board. This assertion is further corroborated by the VUSBC itself. For example, § 104.1 of the VUSBC provides "[e]nforcement of the provisions of the USBC for construction and rehabilitation shall be the responsibility of the local building department." The same section also cites back to Virginia Code § 36-105.

Moreover, § 105.1 of the VUSBC provides that every local building department shall have a building official as the executive official in charge of the department. VUSBC §§ 105.1.1 and 105.1.2 further elaborate on the qualifications, training, education, and certifications that a building official must possess or achieve in order to be qualified to be the executive official in charge of the local building department. The Local Board has no such training, education, or certification requirements. (See VUSBC § 199.3)

VUSBC § 106 provides that the building official shall enforce the VUSBC and regulates how the building official may delegate the authority solely vested in him by the Virginia Code and by the VUSBC. The Local Board is not granted the authority to "enforce" the code in § 106.

In VUSBC § 113, a building official's duties to inspect are outlined. § 113.1.3 only grants the Department, or its designee, the authority to conduct home inspections. Moreover, § 113.6 vests in the building official and the Department the discretion to "approve of the work in writing or give written notice of defective work to the permit holder." § 113.8 governs a building official's duties for a final inspection and the issuance of a certificate of occupancy, providing that the final inspection shall be conducted "to ensure that any defective work has been corrected and that all work complies with the USBC." Unless an approved inspection agency (see VUSBC § 113.7) or a third-party inspector (see VUSBC § 113.7.1) has been designated by the building official, the building official alone has the authority and discretion to perform a final inspection and issue a certificate of occupancy. On the off-chance that a certificate of occupancy is issued in error, only the building official has the authority to revoke or suspend it upon his finding that such certificate was issued in error. See VUSBC § 116.3.

In the event that a code violation exists on a project, the VUSBC continues in § 115.2 by providing that a building official shall issue an NOV if any code violation or directive of the

building official has not been corrected or complied with in a reasonable time. The VUSBC does not authorize the Local Board to issue NOVs, much less to find *de novo* that a code violation exists.

The VUSBC is laid out in a straight-forward, logical manner. It begins with the authority of a local building department, designates the building official as the chief executive of the local building department, provides the qualifications a building official must have to perform his duties, and then provides the authority that the building official possesses and the duties he must honor and uphold. It is plain to see that the building official is granted significant authority and wide discretion in the performance of his duties, the most important of which is his duty to inspect and identify VUSBC violations. In this context, the Department is the local building department, and Mr. David Beahm is the building official.

II. The Authority of the Local Board

Virginia Code § 36-105 also establishes the local board of building code appeals, referred to herein as the Local Board. § 36-105 provides that the Local Board's "composition, duties and responsibilities shall be prescribed by the Building Code." It further provides that "[a]ny person aggrieved by the local building department's application of the Building Code . . . may appeal to the local board of building code appeals."

Turning next to the VUSBC, § 119.3 outlines the qualifications for members of the Local Board, which are markedly different from the qualification requirements for a building official. In fact, there are no education requirements, no training requirements, and no certification requirements in the VUSBC for Local Board members. The reason is plain to see: the Local Board does not inspect property for code violations, nor do they *find* code violations or order NOVs.

Rather, VUSBC § 119.7 states that the only power the Local Board has is to "uphold, reverse, or modify the decision of the official." No other power is vested in the Local Board.

Moreover, the Local Board only exercises this power pursuant to an appeal being properly brought before it pursuant to VUSBC § 119.5.

In order for the Local Board to have the authority to hear an appeal and "uphold, reverse, or modify" a building official's application of the VUSBC, the person must be "aggrieved by the local building department's application of the USBC" The person must then "submit a written request for appeal to the [Local Board] *within 30 calendar days of the receipt of the decision being appealed.*" (Emphasis added). This section manifests two threshold rules for the Local Board to hear an appeal: (1) there must be a *decision* by the building official that the person has *received* and which has aggrieved the person; and (2) the person has requested an appeal within 30 days of the person's receipt of the building official's decision. These two threshold rules are consistent with the Local Board's powers: to uphold, reverse, or modify a building official's *decision*.

It is plain to see that the Local Board has significantly less authority and power than the Department. The scope of its authority is limited to hear appeals that are properly before the Local Board, and that are based on a decision made by the Department.

III. Appeal Number 1-2018 Was Not Based Upon Any Decision Made By the Department

In this case, Brown filed her application for appeal May 3, 2018 asking the Local Board to perform a review of possible code violations. She then asked for the Local Board to have the Department recognize its errors and force Buracker Construction to repair the alleged issues. Despite the fact that a heading on the application for appeal requests a "Description of Decision Being Appealed," Brown never cited to a specific Department "decision." Why? Because she was not appealing a Department decision as required by the VUSBC.

Recall that she had been living in her house for approximately 14 months after the Department issued a certificate of occupancy for the Property and before she hired ABLE to

perform an inspection on the Property. ABLE then provided Brown with an extensive report of "possible" code violations. She then asked the Department to re-inspect the Property, which it did, and which found five additional code violations and notified Buracker Construction of such violations. At no point, however, did the Department, the only entity permitted to find code violations, make a "decision" which Brown could appeal.

Brown's appeal in this case was, essentially, that the Department did not find *enough* code violations. However, the Department is the only institution with the qualifications and authority to actually find code violations and issue NOV's (See VUSBC §§ 106.1; 113.6; 113.8; 115.2; 116.3). Thus, its failure to declare that code violations exist is not an appealable "decision" as that term is contemplated by the VUSBC.¹ Why? Because the Local Board does not have the authority to check behind the Department and *find* that something is a code violation and thereafter order the Department to issue an NOV² — it only has the authority to uphold, reverse, or modify the Department's decision that a code violation exists. If the Local Board was equipped with such authority, it would obviate the need for the Department. The members of the Local Board could simply walk around town and issue its own NOV's, thus rendering the VUSBC's heightened qualification, training, and education requirements for the Department moot.

That is, however, essentially what Brown has done here. She hired ABLE, which is not trained in accordance with the VUSBC to be a building official, to find code violations that it is

¹ This assertion is consistent with Virginia case law holding that building officials are entitled to sovereign immunity because their duty is a governmental function that is exercised with broad discretion. *See Wilson v. Bd. of Supervisors*, 66 Va. Cir. 427, 428 (Bedford County, July 30, 1998). *See also Opinion of the Attorney General of Virginia to the Honorable Ed Eck*, 1990 Op. Gen Va. 172 (1990).

² While an existing circuit court case states that a local board can order a county building department to issue an NOV, a close reading of the case suggests two things: (1) that the decision was based upon an older version of the VUSBC; and (2) that the county building department had already notified the builder of certain code violations but failed to enforce the code violations with an NOV. *See Chesterfield County v. Karnes*, 36 Va. Cir. 186, 187 (Chesterfield County, April 4, 1995). *See also Strawbridge v. County of Chesterfield*, 23 Va. App. 493, 500 (1996) for another example of local boards being granted greater authority by older versions of the VUSBC than they have under the applicable 2009 VUSBC.

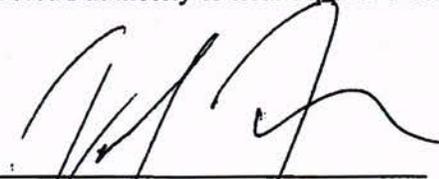
not strictly qualified to find (which is why it referred to the violations as "possible" violations). The Local Board is not equipped to review "possible" violations, however, because the Department does not find "possible" violations — it either finds that violations exist or do not exist. When code violations do exist, then a person may appeal to the Local Board.

IV. Brown's Appeal was not Timely

VUSBC § 119.5 provides that "an applicant shall submit a written request for appeal to the [Local Board] within 30 calendar days of the receipt of the decision being appealed. Buracker Construction contends that because there was no "decision" to appeal, no appeal could have been timely made. However, if Brown contends that the Department's issuance of a certificate of occupancy was an appealable decision, then Brown's appeal was untimely, as the certificate of occupancy for the Property was issued on July 19, 2016, nearly two years prior to Brown's May 3, 2018 application for appeal. If Brown contends further that the March 30, 2018 NOV issued to Buracker Construction was an appealable decision, her appeal was filed on May 3, 2018 outside of the 30 day window, therefore making it untimely.

Conclusion

Wherefore, for the reasons stated above, Buracker Construction LLC objects to this Local Board's authority to hear Appeal Number 1-2018 and respectfully requests that it be dismissed.



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Specialties	Commercial Building (CBC) Residential Building (RBC)
Initial Certification Date	1999-03-16
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Re: Martha T Buracker, t/a Buracker Construction
Bentonville, VA 22610

File Number 2017-01477
License Number 2705048817

CONSENT ORDER

Respondent Martha T Buracker, t/a Buracker Construction ("Martha T Buracker") recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

Martha T Buracker knowingly and voluntarily waives any proceedings for this matter under the Administrative Process Act, §§ 2.2-4019, 2.2-4020, and 2.2-4021 of the 1950 Code of Virginia, as amended.

Board's Regulations provides:

18 VAC 50-22-200. Remedial education, revocation or suspension; fines.

The board may require remedial education, revoke or suspend a license or fine a licensee when a licensee has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or any regulation of the board.

The Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

By signing this Consent Order, Martha T Buracker acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings. Martha T Buracker consents to the following term(s):

Count 1:	18 VAC 50-22-260.B.18	\$	800.00

SUB-TOTAL (MONETARY PENALTIES)		\$	800.00
BOARD COSTS		\$	150.00
TOTAL		\$	950.00

Further, for violation of Count 1, Martha T Buracker agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class.

Any monetary penalties, costs, and/or sanctions are to be paid/performed within ninety days of the effective date of this Consent Order unless otherwise specified above. Martha T Buracker acknowledges any monetary penalty and/or costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Martha T Buracker will be responsible for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of any funds due.

Martha T Buracker acknowledges that failure to pay any monetary penalty or costs and/or to comply with all terms of this Order within the noted time period shall result in the suspension, unless otherwise specified above, of Martha T Buracker's license until such time as there is compliance with all terms of this Order. Martha T Buracker understands the right to have this license action considered in an informal conference pursuant to the Administrative Process Act §§ 2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§ 2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
9960 MAYLAND DRIVE, SUITE 400
RICHMOND, VA 23233

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: May 1, 2017 (Revised May 31, 2017 – SST)

FILE NUMBER: 2017-01477
RESPONDENT: Martha T. Buracker dba Buracker Construction
LICENSE NUMBER: 2705048817
EXPIRATION: March 31, 2019

SUBMITTED BY: Robert A. Franchok, Jr., Investigator
APPROVED BY: Christine J. Bourcy, Investigations Supervisor

COMMENTS:

None

Martha T. Buracker dba Buracker Construction ("Buracker") was at all times material to this matter subject to the Board's regulation as an applicant for licensure and/or a licensed Class A Contractor in Virginia (No. 2705048817).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On December 14, 2016, the Department of Professional and Occupational Regulation ("the Department") received a written complaint from Kristie L. Sours Brown ("Brown") regarding Buracker. (Exh. C-1)

On March 16, 1999, Buracker was issued a Class A Contractor license as a Sole Owner/Proprietorship. Buracker is the Responsible Manager and Designated Employee. David L. Buracker is the Qualified Individual for Buracker. Buracker's license has the Commercial Building (CBC) and Residential Building (RBC) classifications. (Exh. I-1)

On July 6, 2015, Buracker entered into a written Construction Agreement ("Contract") with Brown in the amount of \$431,000.00 to rebuild a home following a fire at 1255

Pilgrims Way, Bentonville, VA 22610 ("subject property"). The Contract was signed by Brown and Buracker on July 6, 2015. (Exh. R-2)

The scope of work in the Contract stated, in part:

- Donald Gardner plans #W-268 The Thornhill (Mirror Reverse) (Exh. R-3)
 - Changes from original plans
 - Garage
 - Change garage location to left of house with front load
 - Take breezeway space and adding to mudroom
 - No finished bonus room over garage
 - Pull down stairs to access over garage storage
 - Main House
 - No cathedral ceiling – make finished room over great room on 2nd floor
 - Make island in kitchen larger 8'
 - Make open floor plan between kitchen and great room
 - Taller cabinets
 - Walk-in Tile Shower in Master
 - Upgrade Heat System to 15 Seer
 - Change from 200 amp to 400 amp service
 - Add cabinets to laundry room
 - Added window to basement
 - Add second bathroom on second floor for Hunter
 - Add 9'X6' cool room under back porch
 - Add fireplace to back porch
 - Change to concrete floor on back porch
 - Make sure front porch steps flare out (wider at bottom)
 - Two front porch piers in stone 3' tall on front porch with regular post to ceiling (may be carved bear post)
 - Covered Porch
 - Screened Porch (115' Included in Covered Porch footage)
- 3 Bedrooms, 3 ½ Baths

House Specifications

- Concrete Block Basement Foundation
- Garage
 - 2 Car Garage
- Framing:
- Insulation:
- Exterior
- Covered Porch (As per construction plans except no bump out or skylights in rear screen area)
- Architectural Shingles (30 year): GAF or Certainteed Brand – choice on standard colors
- 5" Seamless Gutters with 3" x 4" downspouts
- HVAC

- Door and Window Schedule
- Fireplace in Great Room:
- Fireplace on Back Porch
- Plumbing
 - 80 Gallon Electric Hot Water Heater
- Well: replace upper casing and cap to well (existing one is melted), dig new water line and connect to house
- Gravity fed three bedroom conventional septic system – reconnecting to existing field
- Underground electrical connection
- Electrical:
- Flooring:
- Kitchen:
- Laundry Room:
- Master Bath:
- Second floor bath – Laney:
- Second floor bath – Hunter:
- Drywall finish in all rooms – ceiling finish to be determined
- Oak stairs to second floor stained to match hardwood flooring
- Interior Trim: Colonial Style or Farmhouse Style
- Interior doors: Colonial Style (or choice of five standard selections) – solid core
- Door Knobs
- Interior Paint
- Driveway
- Grade, seed and straw all disturbed areas from construction
- Provide dumpster and portable bathroom during construction
- Clean house upon completion
- Cost of outdoor wood burning furnace added and credit will be given for removing basement woodstove flue and \$300 credit was given on no shower door for Hunter. The cost will be done after all allowances are calculated and settled at the end. (Exh. R-2)

The Contract stated:

Modifications

Any modifications to this Contract, which change the cost, materials, work to be performed or estimated completion date, must be in writing and signed by all parties. (Exh. R-2)

The Contract stated that the construction of the house was to follow the Donald Gardner Plans #W-268, The Thornhill (Mirror Reverse), except for the changes as described within the Contract. (Exhs. R-2 and R-3)

During the construction, Buracker constructed a master bathroom that was different than the Contract for the master bathroom design. Buracker and Brown reconfigured

the master bathroom and closet. Buracker stated there was no change order completed for the master bathroom. (Exh. I-5)

Brown stated she authorized an altered layout of the master bathroom which reduced the size of the master closet. She authorized the elimination of the pocket door between the master bedroom and bathroom due to the reconfiguration of the master bathroom and closet. (Exh. I-2)

Brown stated that she authorized the removal of the wall between the kitchen and dining area. . (Exh. I-2)

According to Buracker, additional changes were made during the framing walk-through which included the elimination of two pocket doors, as well as the rear bay window and door in exchange for a really large slider. (Exh. R-7)

The Contract stated, in part:

- Make sure front porch steps flare out (wider at bottom). (Exh. R-2)

During the construction, Buracker eliminated the flare out at the bottom of the front porch stairs. Buracker stated that Brown wanted the grade raised to prevent the front porch from being so high off the ground. This resulted in no place for the front steps to flare. (Exhs. R-8 and I-5)

Brown stated to Investigator Franchok that Buracker told her that the steps could not flare out due to the change in the grade. (Exh. I-2)

The Contract stated, in part:

- Two front porch piers in stone 3' tall on front porch with regular post to ceiling (may be carved bear post). (Exh. R-2)

During the construction, Buracker eliminated the two 3 foot tall stone porch piers because Brown decided she wanted larger front posts and that Brown opted for a credit of \$350.00 with this change. (Exh. R-8)

The list of allowances submitted by Buracker shows under the Credits column:

credit for no stone on front porch posts	\$350.00
--	----------

(Exh. R-9)

Brown stated to Investigator Franchok there is not an explanation for the piers not being there, per the Contract. (Exh. I-2)

The Contract stated, in part:

- 80 Gallon Electric Hot Water Heater (Exh. R-2)

During the construction, Buracker installed a 50 gallon electric hot water heater. Brown stated when she questioned Buracker about the electric hot water heater, Buracker told her that they do not make 80 gallon electric hot water heaters any longer unless a hybrid model is special ordered which costs three times as much. Brown stated Buracker had an additional 50 gallon electric hot water heater installed to remedy the lack of the 80 gallon electric hot water heater. (Exh. I-2).

Buracker stated to Investigator Franchok that the building code changed, not allowing the 80 gallon electric hot water heater to be installed. Buracker stated that the insurance company paid for a second 50 gallon electric hot water heater. Buracker stated that she paid for the plumbing and installation. (Exh. I-5)

On or about August 10, 2015 and August 11, 2015, Buracker dug the footers for the garage and back porch for the subject property. (Exh. R-10)

The Contract stated, in part:

Owner to pay contractor in draws based on lender draw schedule.
Currently per Wells Fargo split equally, into 1 initial draw, one when the house is one half complete and one upon completion. (Exh. R-2)

Payments were disbursed to Buracker as follows:

1.	July 7, 2015	\$129,426.13
2.	October 27, 2015	\$140.70
3.	November 30, 2015	\$63,963.07
4.	January 3, 2016	\$20,750.00
5.	January 7, 2016	\$44,724.22
6.	April 26, 2016	\$51,770.46
7.	August 2, 2016	\$77,655.68
8.	August 11, 2016	\$48,032.60 ¹
Total payments:		\$436,462.86 (Exh. R-5)

On July 19, 2016, the Certificate of Occupancy was issued for the subject property. (Exh. R-6)

¹Alfa Alliance issued the final payment amount of \$48,032.60 to Buracker. The final payment included \$43,197.60 in recoverable depreciation and an electrical supplement of \$2,830.00. An additional \$2,005.00 was also included in the final payment for a well pump, additional outlets and an extra 50 gallon electric hot water heater. (Exh. R-4)

Brown moved into the subject property sometime in August of 2016. (Exh. I-2)

1. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

18. Assisting another to violate any provision of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or this chapter; or combining or conspiring with or acting as agent, partner, or associate for another.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001; Volume 22, Issue 8, eff. February 1, 2006, Volume 29, Issue 3, eff. December 1, 2012; amended, Volume 31, Issue 3, eff. December 1, 2014. Emergency Regulations eff. July 1, 2013, and until replaced by final regulations as provided in the third enactment of Chapter 865 of the 2011 Acts of Assembly.

Print Date: December 1, 2014

FACTS:

Section 54.1-1103 of the Code of Virginia states, "No person shall engage in, offer to engage in, contracting work in the Commonwealth unless he has been licensed under the provisions of this chapter."

Board Regulation 18 VAC 50-22-210 states, "Licenses are issued to firms as defined in this chapter and are not transferable. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the firm shall apply for a new license, on a form provided by the board, within 30 days of the change in the business entity."

Buracker stated to Investigator Robert A. Franchok, Jr. ("Investigator Franchok"), the Board's agent, that Buracker became a limited liability company on February 12, 2002. Buracker stated that she contacted the Department at that time and was advised that in order to have a license change, she would have to have a new federal tax identification number. Buracker stated to Investigator Franchok that when she contacted the Internal Revenue Service, she was advised that she would not be issued a new federal tax identification number for becoming an LLC. (Exh. I-4)

On May 31, 2017, a search of the licensing records of the Board for Contractors revealed Buracker Construction LLC is not a licensed contractor in Virginia. (Exh. I-7)

Buracker assisted Buracker, LLC to violate Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia.

From: [Olson, Eric \(DPOR\)](#)
To: [Emily Mounce](#)
Cc: [David Beahm](#); [Doug Stanley](#)
Subject: RE: Contractor License Inquiry
Date: Monday, January 29, 2018 1:45:41 PM

Ms. Mounce:

This is a follow-up email to our telephone conversation from earlier today regarding the licensing requirements for contractors in Virginia.

Contractors licensed by the Board for Contractors are required to transact business in the name that is on their license. Failure to do so is a violation of the regulations and could result in disciplinary action being taken against that license by the Board. The situation involving Martha Buracker t/a Buracker Construction, license number 2705-048817 is, however, a different situation.

Contractor licenses in Virginia are issued to business entities, not to individuals, although it does get a little confusing when dealing with a sole proprietorship, the license is still issued to the business. The Board for Contractors Regulations in, 18 VAC 50-22-210 provides that licenses are not transferrable from one entity to another and that when a business is converted from one form of business entity to another, the business must submit an application for its own license, within 30 days of that conversion.

Based on our conversation, it appears that Ms. Buracker has, on the advice of an attorney, CPA, or other business owner, decided to form an LLC for her contractor business. It is also likely that she has formed a sole member LLC in order to take advantage of current IRS regulations. These sole member LLC are sometimes called sole proprietor LLCs, which can confuse some business owners into believing that they are still a sole proprietor and not a true LLC. This is, however, incorrect, in that while they are a "sole proprietor" for the purposes of income tax, they are still an LLC, especially in the eyes of the Virginia State Corporation Commission. So, while Ms. Buracker has properly registered her LLC with the State Corporation Commission, she has not yet submitted an application and meet the current eligibility criteria for her new company to become licensed.

While her sole proprietorship is current licensed, she would certainly be within the scope of the law to perform work, allowed by the license, as a sole proprietorship. The LLC is not, however, currently licensed, and is, technically, operating outside the scope of the law. I am not an attorney and it would be inappropriate to provide legal advice, so I can only recommend that your locality exercise caution when looking to issue a construction permit to this contractor as there could be some legal and liability issues that may surface if a permit is knowingly issued to a licensed contractor that is going to perform work as an unlicensed entity.

I hope that this answers your questions regarding this matter. If you have any additional questions or require further assistance, please do not hesitate to contact me.

Eric L. Olson

Executive Director, Board for Contractors
c/o Department of Professional and Occupational Regulation
9960 Mayland Drive Suite 400
Richmond, Virginia 23233

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From: Emily Mounce [mailto:Emounce@warrencountyva.net]
Sent: Wednesday, January 24, 2018 2:14 PM
To: Olson, Eric (DPOR)
Cc: David Beahm; Doug Stanley
Subject: Contractor License Inquiry

Good afternoon, Mr. Olson,

Please see attached a letter from Doug Stanley, County Administrator for Warren County, inquiring about licensing procedures and requesting a response. Thank you for your time.

Emily Mounce

Deputy Clerk of the Board
Warren County Administration
(540) 636-4600

THIS MESSAGE IS INTENDED SOLELY FOR THE INDIVIDUAL(S) NAMED IN THE HEADER. THIS MESSAGE MAY CONTAIN MATERIAL THAT IS PRIVILEGED OR CONFIDENTIAL. IF YOU ARE NOT ONE OF THE INTENDED RECIPIENTS, PLEASE DO NOT READ, COPY, USE, OR DISCLOSE THIS MESSAGE TO OTHERS; PLEASE NOTIFY THE SENDER BY REPLYING TO THIS MESSAGE; AND THEN PLEASE DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU.

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To:	Message Score: 1	High (60): Pass
dbeahm@warrencountyva.net	My Spam Blocking Level: High	Medium (75): Pass
From:		Low (90): Pass
eric.olson@dpor.virginia.gov	Block this sender	
	Block dpor.virginia.gov	

This message was delivered because the content filter score did not exceed your filter level.

From: [Kristie Sours](#)
To: [GEORGE](#); [Dan Whitten](#); [Doug Stanley](#); [David Beahm](#)
Subject: Fwd: RE: Urgent Concern
Date: Thursday, December 14, 2017 2:59:38 PM

Please see below, Mr Franchok, incestigator from DPOR, explains exactly why Martha Buracker dba Buracker Construction was cited. Every permit that is and has been issued through your building office to Buracker Construction LLC puts the person in the same boat I am in. No recourse with the recovery fund.

Kristie Sours Brown

----- Forwarded message -----

From: "Franchok, Robert (DPOR)" <Robert.Franchok@dpor.virginia.gov>
Date: Dec 14, 2017 1:42 PM
Subject: RE: Urgent Concern
To: "Kristie Sours" <kristiesours@gmail.com>
Cc:

Dear Ms. Sours-Brown:

Martha T. Buracker dba Buracker Construction is a licensed Class A contractor in Virginia (No. [2705048817](#)). As a licensing agency for the regulatory boards, violations are often administrative in nature. In your case, the name used on the contract, Buracker Construction LLC, was not licensed with the Board and therefore not subject to the Board's regulations. The Consent order reflects that Buracker Construction was doing business in a name not licensed with the Board.

The recovery fund may be eligible for any person who has been awarded a judgment in a court of competent jurisdiction in the Commonwealth of Virginia. The court judgment must be obtained against a licensed contractor and must be based upon the improper or dishonest conduct of the contractor. Any language in the judgment supporting the conclusion that the court found the conduct of the licensed contractor involved improper or dishonest conduct may be used by the Board to determine eligibility for recovery from the Fund.

The Board for Contractor's cannot require any individual or business to refund money, correct deficiencies, or provide other personal remedies. In some cases, legal action may be your only recourse to resolve a matter. Should you feel that you have cause for a civil action, you may wish to consult an attorney.

The Department regrets not being able to assist you further in this matter.

Respectfully,

Robert A. Franchok, Jr.

Investigator

Compliance & Investigations Division

Department of Professional & Occupational Regulation

[9960 Mayland Drive, Suite 400](#)

[Richmond, Virginia 23223](#)

Mailing address:

P.O. Box 651, Stephens City, VA 22655

Cell: [\(540\)336-8799](tel:5403368799) ***Does not accept texts***

eFax: [\(877\)208-8363](tel:8772088363)

Governmental email is generally subject to disclosure pursuant to the Virginia Freedom of Information Act. However, if you have received this message in error, please notify the sender and delete this message as well as all of the attachments.

From: Kristie Sours [mailto:kristiesours@gmail.com]

Sent: Thursday, December 14, 2017 11:50 AM

To: Franchok, Robert (DPOR)

Subject: Urgent Concern

Hello, I am not sure if I am reaching out to the correct person, but I have an issue regarding our local building office/official. I experienced a horrific house fire in March of 2015. I

hired a local contractor to rebuild my house. Problems ensued and I was forced to report the contractor to DPOR and the Board of Contractors. The contractor was found not to be properly licensed and I cannot use the transaction recovery fund. I notified the local head of Building Inspections, David Beahm, for Warren County, VA. I sent him a copy of the consent order and board findings as his office had issued the building permits for my home. They are still giving this company, Buracker Construction LLC building permits and jeopardizing fellow Virginia citizens. Mr. Beahm has taken a stance not recognizing the DPOR finding and saying the contractor is properly licensed. The Warren office is not doing their duty to protect citizens, their due diligence by verifying licensure nor following the Uniform Building Codes by giving an unlicensed entity permits to build. What can I do? Who should I call?

Kristie Sours Brown
[540-244-5526](tel:540-244-5526)

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To: [Remove](#) this sender from my allow list

dbeahm@warrencountyva.net

From: kristiesours@gmail.com

You received this message because the sender is on your allow list.



MiTek USA, Inc.

14515 North Outer Forty Drive
Suite 300
Chesterfield, MO 63017-5746
314-434-1200

Re: 727692
Buracker/Brown

The truss drawing(s) referenced below have been prepared by MiTek USA, Inc. under my direct supervision based on the parameters provided by ProBuild East (Winchester, VA).

Pages or sheets covered by this seal: I25183453 thru I25183455

My license renewal date for the state of Virginia is July 31, 2017.

Lumber design values are in accordance with ANSI/TPI 1 section 6.3
These truss designs rely on lumber values established by others.



October 27, 2015

Garcia, Juan

IMPORTANT NOTE: The seal on these truss component designs is a certification that the engineer named is licensed in the jurisdiction(s) identified and that the designs comply with ANSI/TPI 1. These designs are based upon parameters shown (e.g., loads, supports, dimensions, shapes and design codes), which were given to MiTek. Any project specific information included is for MiTek's customer's file reference purpose only, and was not taken into account in the preparation of these designs. MiTek has not independently verified the applicability of the design parameters or the designs for any particular building. Before use, the building designer should verify applicability of the design parameters and properly incorporate these designs into the overall building design per ANSI/TPI 1, Chapter 2.

Job 727692	Truss BUR1	Truss Type FINK	Qty 14	Ply 1	Burracker/Brown Burracker/Brown Job Reference (optional)	125183453
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Probuild-East, Winchester, VA 22602

7.640 s Sep 29 2015 MiTek Industries, Inc. Tue Oct 27 14:29:48 2015 Page 1
ID sP8?DAMrTdq3hsQB13CCizdMKV-CYCCoec86RzVJzDe7?oAN4NCQ83ZEVVN3SxLyPBFH



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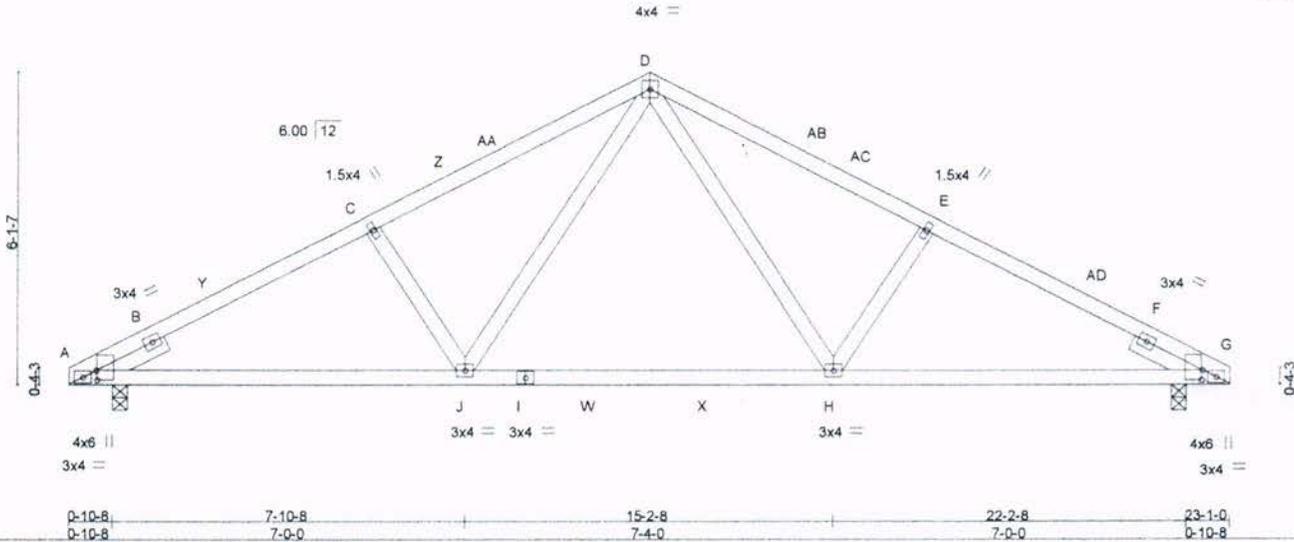


Plate Offsets (X,Y)- [A:0-2-5,0-0-4], [G:0-2-5,0-0-4]								
LOADING (psf)	SPACING- 2-0-0	CSI.	DEFL.	in (loc)	l/defl	L/d	PLATES	GRIP
TCLL (roof) 30.0	Plate Grip DOL 1.15	TC 0.95	Vert(LL) -0.18	H-J	>999	240	MT20	244/190
Snow (Pf/Pg) 26.9/35.0	Lumber DOL 1.15	BC 0.74	Vert(TL) -0.36	H-J	>770	180		
TCDL 10.0	Rep Stress Incr YES	WB 0.13	Horz(TL) 0.06	G	n/a	n/a		
BCLL 0.0 *	Code IRC2012/TPI2007	(Matrix-M)					Weight: 107 lb	FT = 20%
BCDL 10.0								

LUMBER-
 TOP CHORD 2x4 SP No.2
 BOT CHORD 2x4 SP No.2
 WEBS 2x4 SP No.2
 SLIDER Left 2x4 SP No.2 1-6-0, Right 2x4 SP No.2 1-6-0

BRACING-
 TOP CHORD Sheathed or 2-2-0 oc purlins.
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

REACTIONS. (lb/size) A=1084/0-3-8, G=1084/0-3-8
 Max Horz A=75(LC 20)
 Max Uplift A=-28(LC 15), G=-28(LC 17)
 Max Grav A=1154(LC 2), G=1154(LC 2)

FORCES. (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.
 TOP CHORD A-B=-315/0, B-Y=-1677/52, C-Y=-1541/75, C-Z=-1488/69, Z-AA=-1396/79, D-AA=-1376/92,
 D-AB=-1376/92, AB-AC=-1396/79, E-AC=-1488/69, E-AD=-1541/75, F-AD=-1677/52,
 F-G=-315/0
 BOT CHORD A-J=-68/1422, I-J=0/965, I-W=0/965, W-X=0/965, H-X=0/965, G-H=-12/1422
 WEBS C-J=-384/140, D-J=-38/521, D-H=-38/521, E-H=-384/140

- NOTES-**
- 1) Unbalanced roof live loads have been considered for this design.
 - 2) Wind: ASCE 7-10: Vult=115mph (3-second gust) V(IRC2012)=91mph; TCDL=6.0psf; BCDL=6.0psf; h=30ft; Cat. II, Exp B; enclosed; MWFRS (envelope) automatic zone and C-C Exterior(2) 0-0-0 to 3-0-0, Interior(1) 3-0-0 to 11-6-8, Exterior(2) 11-6-8 to 14-6-8 zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
 - 3) TCLL: ASCE 7-10; Pr=30.0 psf (roof live load; Lumber DOL=1.15 Plate DOL=1.15); Pg=35.0 psf (ground snow); Pf=26.9 psf (flat roof snow; Lumber DOL=1.15 Plate DOL=1.15); Category II, Exp B; Partially Exp.; Ct=1.1
 - 4) Unbalanced snow loads have been considered for this design.
 - 5) This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
 - 6) * This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-6-0 tall by 2-0-0 wide will fit between the bottom chord and any other members, with BCDL = 10.0psf.
 - 7) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 100 lb uplift at joint(s) A, G.
 - 8) "Pin all pitchbreaks" Member end fixity model was used in the analysis and design of this truss.



October 27, 2015

WARNING - Verify design parameters and READ NOTES ON THIS AND INCLUDED MITEK REFERENCE PAGE MI-7473 rev. 10/03/2015 BEFORE USE.
 Design valid for use only with MiTek® connectors. This design is based only upon parameters shown, and is for an individual building component, not a truss system. Before use, the building designer must verify the applicability of design parameters and properly incorporate this design into the overall building design. Bracing indicated is to prevent buckling of individual truss web and/or chord members only. Additional temporary and permanent bracing is always required for stability and to prevent collapse with possible personal injury and property damage. For general guidance regarding the fabrication, storage, delivery, erection and bracing of trusses and truss systems, see ANSI/TPI1 Quality Criteria, D58-89 and BCSI Building Component Safety Information available from Truss Plate Institute, 218 N. Lee Street, Suite 312, Alexandria, VA 22314.



Job 727692	Truss BUR2	Truss Type GABLE	Qty 1	Ply 1	Buracker/Brown	I25183454
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Probuild-East, Winchester, VA 22602

7.640 s Sep 29 2015 MiTek Industries, Inc. Tue Oct 27 14:29:51 2015 Page 1
ID: sP8?DAMrTdq3hsQB13CCizdMKV-c7ukqqgUR1pYzY2YvmhiQo7m7QcEGwdxBLH6YgyPBFE



Scale = 1:42.9

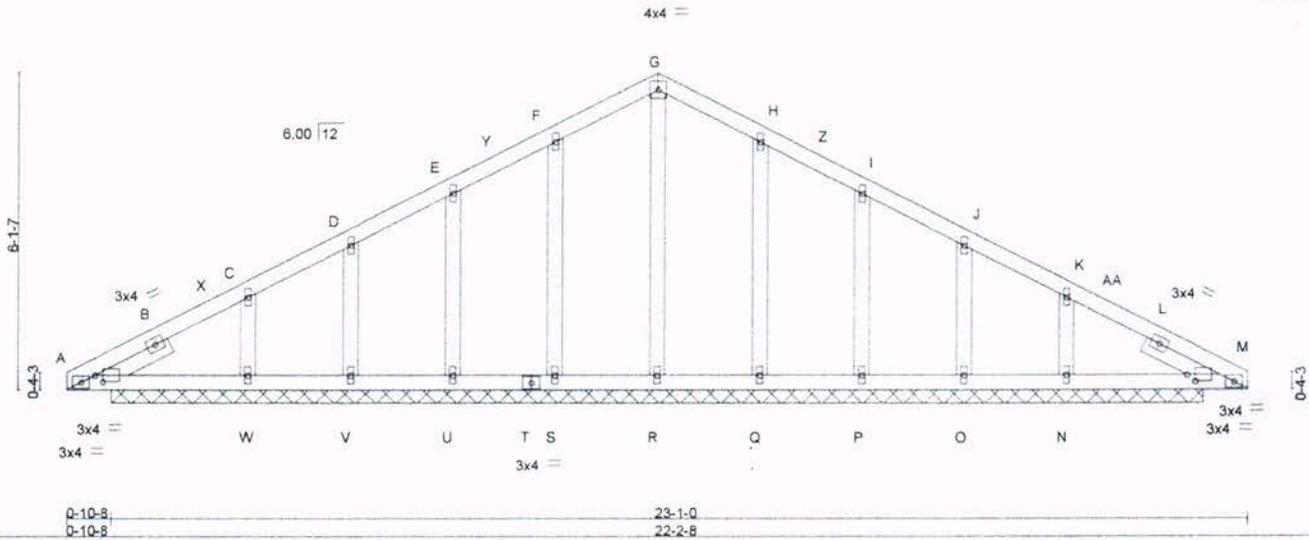


Plate Offsets (X,Y) - [A:0-1-15,0-1-8], [M:0-1-15,0-1-8]									
LOADING (psf)		SPACING-		CSI.		DEFL.		PLATES	GRIP
TCLL (roof)	30.0	Plate Grip DOL	2-0-0	TC	0.21	Vert(LL)	n/a	MT20	244/190
Snow (Pf/Pg)	26.9/35.0	Lumber DOL	1.15	BC	0.08	Vert(TL)	n/a		
TCDL	10.0	Rep Stress Incr	YES	WB	0.09	Horz(TL)	0.00		
BCLL	0.0	Code IRC2012/TPI2007		(Matrix)					
BCDL	10.0							Weight: 123 lb	FT = 20%

LUMBER-
TOP CHORD 2x4 SP No.2
BOT CHORD 2x4 SP No.2
OTHERS 2x4 SP No.2
SLIDER Left 2x4 SP No.2 1-7-2, Right 2x4 SP No.2 1-7-2

BRACING-
TOP CHORD Sheathed or 6-0-0 oc purlins.
BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

REACTIONS. All bearings 21-4-0.
(lb) - Max Horz A=76(LC 16)
Max Uplift All uplift 100 lb or less at joint(s) S, U, V, W, Q, P, O, N
Max Grav All reactions 250 lb or less at joint(s) A, M, R, S, U, V, Q, P, O except
W=345(LC 33), N=345(LC 34)

FORCES. (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.
WEBS C-W=-264/133, K-N=-264/133

NOTES-

- Unbalanced roof live loads have been considered for this design.
- Wind: ASCE 7-10; Vult=115mph (3-second gust) V(IRC2012)=91mph; TCDL=6.0psf; BCDL=6.0psf; h=30ft; Cat. II; Exp B; enclosed; MWFRS (envelope) automatic zone and C-C Corner(3) 0-0-0 to 3-0-0, Exterior(2) 3-0-0 to 11-6-8, Corner(3) 11-6-8 to 14-6-8 zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
- Truss designed for wind loads in the plane of the truss only. For studs exposed to wind (normal to the face), see Standard Industry Gable End Details as applicable, or consult qualified building designer as per ANSI/TPI 1.
- TCLL: ASCE 7-10; Pr=30.0 psf (roof live load; Lumber DOL=1.15 Plate DOL=1.15); Pg=35.0 psf (ground snow); Pf=26.9 psf (flat roof snow; Lumber DOL=1.15 Plate DOL=1.15); Category II; Exp B; Partially Exp.; Ct=1.1
- Unbalanced snow loads have been considered for this design.
- All plates are 1.5x4 MT20 unless otherwise indicated.
- Gable studs spaced at 2-0-0 oc.
- This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
- * This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-6-0 tall by 2-0-0 wide will fit between the bottom chord and any other members.
- Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 100 lb uplift at joint(s) S, U, V, W, Q, P, O, N.
- Non Standard bearing condition. Review required.



October 27, 2015

WARNING - Verify design parameters and READ NOTES ON THIS AND INCLUDED MITEK REFERENCE PAGE MII-7473 rev. 10/03/2015 BEFORE USE.
Design valid for use only with MiTek® connectors. This design is based only upon parameters shown, and is for an individual building component, not a truss system. Before use, the building designer must verify the applicability of design parameters and properly incorporate this design into the overall building design. Bracing indicated is to prevent buckling of individual truss web and/or chord members only. Additional temporary and permanent bracing is always required for stability and to prevent collapse with possible personal injury and property damage. For general guidance regarding the fabrication, storage, delivery, erection and bracing of trusses and truss systems, see ANSI/TPI1 Quality Criteria, D58-89 and BCSI Building Component Safety Information available from Truss Plate Institute, 218 N. Lee Street, Suite 312, Alexandria, VA 22314.

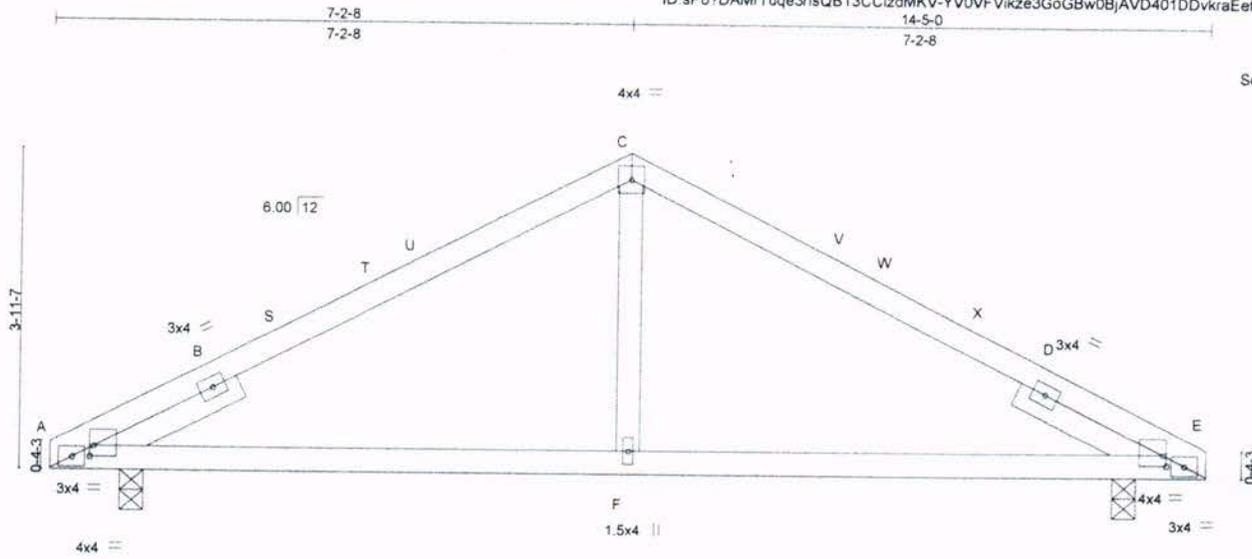


14515 N. Outer Forty, Suite #300
Chesterfield, MO 63017

Job 727692	Truss BUR3	Truss Type KINGPOST	Qty 8	Ply 1	Buracker/Brown	I25183455
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Probuild-East, Winchester, VA 22602

Job Reference (optional)
7.640 s Sep 29 2015 MiTek Industries, Inc. Tue Oct 27 14:29:53 2015 Page 1
ID sP8?DAMrTdq3hsQB13CCizdMKV-YV0VFVikze3GoGBw0BjAVD401DDvkraEefmDcYyPBFC



Scale = 1:27.4

0-10-8	7-2-8	13-6-8	14-5-0
0-10-8	6-4-0	6-4-0	0-10-8

LOADING (psf)		SPACING-		CSI.		DEFL.		PLATES		GRIP	
TCLL (roof)	30.0	Plate Grip DOL	2-0-0	TC	0.63	Vert(LL)	-0.03	F-Q	>999	MT20	244/190
Snow (Pf/Pg)	26.9/35.0	Lumber DOL	1.15	BC	0.32	Vert(TL)	-0.06	F-Q	>999		
TCDL	10.0	Rep Stress Incr	YES	WB	0.06	Horz(TL)	0.01	E	n/a		
BCLL	0.0	Code IRC2012/TPI2007		(Matrix-M)							
BCDL	10.0									Weight: 57 lb	FT = 20%

LUMBER-
 TOP CHORD 2x4 SP No.2
 BOT CHORD 2x4 SP No.2
 WEBS 2x4 SP No.2
 SLIDER Left 2x4 SP No.2 1-11-12, Right 2x4 SP No.2 1-11-12

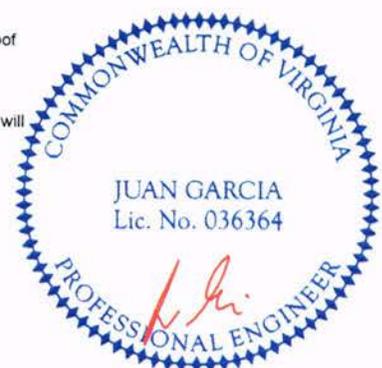
BRACING-
 TOP CHORD Sheathed or 5-11-1 oc purlins.
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

REACTIONS. (lb/size) A=677/0-3-8, E=677/0-3-8
 Max Horz A=47(LC 16)
 Max Uplift A=-23(LC 16), E=-23(LC 17)
 Max Grav A=721(LC 2), E=721(LC 2)

FORCES. (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.
 TOP CHORD A-B=-417/569, B-S=-671/117, S-T=-596/123, T-U=-577/126, C-U=-568/136, C-V=-568/136, V-W=-577/126, W-X=-596/123, D-X=-671/117, D-E=-417/569
 BOT CHORD A-F=0/508, E-F=0/508

- NOTES-**
- Unbalanced roof live loads have been considered for this design.
 - Wind: ASCE 7-10; Vult=115mph (3-second gust) V(IRC2012)=91mph; TCCL=6.0psf; BCDL=6.0psf; h=30ft. Cat. II; Exp B, enclosed. MWFRS (envelope) automatic zone and C-C Corner(3) 0-0-0 to 3-0-0, Exterior(2) 3-0-0 to 7-2-8, Corner(3) 7-2-8 to 10-2-8 zone, cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
 - TCLL: ASCE 7-10; Pr=30.0 psf (roof live load); Lumber DOL=1.15 Plate DOL=1.15; Pg=35.0 psf (ground snow); Pf=26.9 psf (flat roof snow); Lumber DOL=1.15 Plate DOL=1.15; Category II, Exp B, Partially Exp.; Ct=1.1
 - Unbalanced snow loads have been considered for this design.
 - This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
 - * This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-6-0 tall by 2-0-0 wide will fit between the bottom chord and any other members.
 - Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 100 lb uplift at joint(s) A, E.
 - "Pin all pitchbreaks" Member end fixity model was used in the analysis and design of this truss.



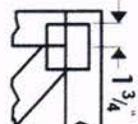
October 27, 2015

WARNING - Verify design parameters and READ NOTES ON THIS AND INCLUDED MITEK REFERENCE PAGE MI-7473 rev. 10/03/2015 BEFORE USE.
 Design valid for use only with MiTek® connectors. This design is based only upon parameters shown, and is for an individual building component, not a truss system. Before use, the building designer must verify the applicability of design parameters and properly incorporate this design into the overall building design. Bracing indicated is to prevent buckling of individual truss web and/or chord members only. Additional temporary and permanent bracing is always required for stability and to prevent collapse with possible personal injury and property damage. For general guidance regarding the fabrication, storage, delivery, erection and bracing of trusses and truss systems, see ANSI/TPI1 Quality Criteria, D58-89 and BCSI Building Component Safety Information available from Truss Plate Institute, 218 N. Lee Street, Suite 312, Alexandria, VA 22314.

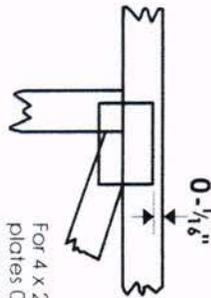


Symbols

PLATE LOCATION AND ORIENTATION



Center plate on joint unless x, y offsets are indicated. Dimensions are in 1/16-in-sixteenths. Apply plates to both sides of truss and fully embed teeth.



For 4 x 2 orientation, locate plates 0- $\frac{1}{8}$ " from outside edge of truss.



This symbol indicates the required direction of slots in connector plates.

*** Plate location details available in Mitek 20/20 software or upon request.**

PLATE SIZE

4 X 4

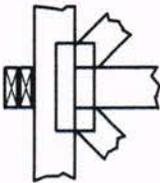
The first dimension is the plate width measured perpendicular to slots. Second dimension is the length parallel to slots.

LATERAL BRACING LOCATION



Indicated by symbol shown and/or by text in the bracing section of the output. Use T or I bracing if indicated.

BEARING

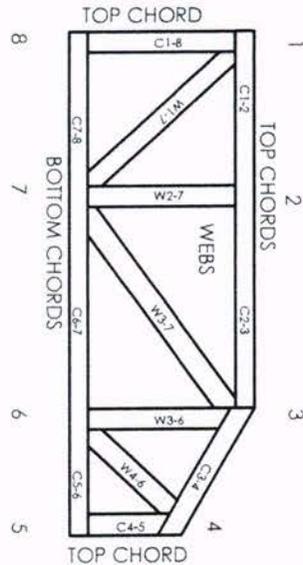


Indicates location where bearings (supports) occur. Icons vary but reaction section indicates joint number where bearings occur. Min size shown is for crushing only.

Industry Standards:

ANSI/FP11: National Design Specification for Metal Plate Connected Wood Truss Construction.
DSB-89: Design Standard for Bracing.
BCSI: Building Component Safety Information, Guide to Good Practice for Handling, Installing & Bracing of Metal Plate Connected Wood Trusses.

Numbering System



JOINTS ARE GENERALLY NUMBERED/LETTERED CLOCKWISE AROUND THE TRUSS STARTING AT THE JOINT FAREST TO THE LEFT.

CHORDS AND WEBS ARE IDENTIFIED BY END JOINT NUMBERS/LETTERS.

PRODUCT CODE APPROVALS

ICC-ES Reports:

ESR-1311, ESR-1352, ESR1988
ER-3907, ESR-2362, ESR-1397, ESR-3282

Trusses are designed for wind loads in the plane of the truss unless otherwise shown.

Lumber design values are in accordance with ANSI/TPI 1 section 6.3. These truss designs rely on lumber values established by others.

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Mitek Engineering Reference Sheet: ML-7473 rev. 10/03/2015

General Safety Notes

Failure to Follow Could Cause Property Damage or Personal Injury

1. Additional stability bracing for truss system, e.g. diagonal or X-bracing, is always required. See BCSI.
2. Truss bracing must be designed by an engineer. For wide truss spacing, individual lateral braces themselves may require bracing, or alternative Tor I bracing should be considered.
3. Never exceed the design loading shown and never stack materials on inadequately braced trusses.
4. Provide copies of this truss design to the building designer, erection supervisor, property owner and all other interested parties.
5. Cut members to bear tightly against each other.
6. Place plates on each face of truss at each joint and embed fully. Knots and wane of joint locations are regulated by ANSI/FP 1.
7. Design assumes trusses will be suitably protected from the environment in accord with ANSI/FP 1.
8. Unless otherwise noted, moisture content of lumber shall not exceed 19% at time of fabrication.
9. Unless expressly noted, this design is not applicable for use with the retardant, preservative treated, or green lumber.
10. Carber is a non-structural consideration and is the responsibility of truss fabricator. General practice is to comb for dead load deflection.
11. Plate type, size, orientation and location dimensions indicated are minimum plating requirements.
12. Lumber used shall be of the species and size, and in all respects, equal to or better than that specified.
13. Top chords must be sheathed or purlins provided at spacing indicated on design.
14. Bottom chords require lateral bracing at 10 ft. spacing, or less, if no ceiling is installed, unless otherwise noted.
15. Connections not shown are the responsibility of others.
16. Do not cut or alter truss member or plate without prior approval of an engineer.
17. Install and load vertically unless indicated otherwise.
18. Use of green or treated lumber may pose unacceptable environmental, health or performance risks. Consult with project engineer before use.
19. Review all portions of this design (front, back, words and pictures) before use. Reviewing pictures alone is not sufficient.
20. Design assumes manufacture in accordance with ANSI/FP 1 Quality Criteria.

Burraeker Construction
2594 Stonewall Jackson Hwy
Bentonsville, VA 22610

**RETURN RECEIPT
REQUESTED**

WARREN COUNTY
JUN 28 2018
BUILDING INSPECTIONS

3:30 pm

CERTIFIED MAIL



7017 2620 0000 7749 2594



UNITED STATES POSTAGE
PITNEY BOWES
\$ 006.910
02 1P JUN 26 2018
0001992981
MAILED FROM ZIP CODE 22010

County of Warren - Building Inspections Dept
attn: Paula Feistoe
220 N. Commerce Ave
Front Royal, VA 22630

22630-441225





Department of Professional and Occupational Regulation

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- Contact



LICENSE LOOKUP

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- Disciplinary Action Search

License Details [Complaints](#)

Name	MARTHA T BURACKER
DBA Name	BURACKER CONSTRUCTION
License Number	2705048817
License Description	Contractor
Firm Type	Sole Owner/Proprietorship
Rank	Class A
Address	3452 BENTONVILLE ROAD, BENTONVILLE, VA 22610
Specialties	Commercial Building (CBC) Residential Building (RBC)
Initial Certification Date	1999-03-16
Expiration Date	2021-03-31

The license information in this application was last updated at Mon Sep 30 02:50:18 EDT.

[License Lookup legal disclaimer](#)

LBBCA Minutes 2018

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Warren County Building Code Appeals

Tuesday, May 22, 2018—Appeal Hearing

Thursday, June 7, 2018—Work Session

Thursday, June 7, 2018—Appeal Hearing

Tuesday, May, 2018—Appeal Hearing

At an appeal hearing of the Warren County Board of Building Code Appeals, held in the Warren County Government Center on Tuesday, May 22, 2018 at 3:00 p.m.

Present at the meeting: Paul Thomson, Chairman; George Cline, Vice Chairman; David Buracker, Board Member; Wendell Hatcher, Board Member; Dan Hotek, Board Member; Paula Fristoe, Board Secretary

Mr. Thomson, Chairman, called the meeting to order at 3:00 p.m.

Mr. Cline made a motion to approve the meeting agenda for the May 22, 2018 meeting of the Warren County Board of Building Code Appeals. It was seconded by Mr. Hotek. All voted to approve the agenda.

Mr. Hatcher made a motion to approve the minutes from the meeting on Tuesday, October 3, 2017 of the Warren County Board of Building Code Appeals. It was seconded by Mr. Cline. All voted to approve the minutes.

Mr. Thomson called for any recusals.

Mr. Buracker read a Conflict of Interests Disclosure Statement, dated May 22, 2018, incorporated as part of these minutes, disqualifying him from participation in the matter. (Disclosure attached)

Mr. Cline read a Conflict of Interests Disclosure Statement, dated May 22, 2018, incorporated as part of these minutes, disclosing that he performed work on the property that is involved in this appeal, but that he believes that he is able to discuss and vote on these issues fairly, objectively, and in the public interest of the citizens of the County. He will participate fully in the discussing and vote on this item. (Disclosure attached)

The public hearing portion of the meeting was opened. Mr. Thomson explained the public hearing process.

Appeal #1-2018—Kristie Sours Atwood—Appeal a matter concerning enforcement of the 2009 Virginia Uniform Statewide Building Code. The property involved is located at 1255 Pilgrims Way, Bentonville, VA 22610.

Appellant Kristie Sours Atwood's Attorney, David Silek presented the appeal for Mrs. Atwood.

Mr. Silek stated that his client requested the appeal regarding issues concerning her home located at 1255 Pilgrims Way, Bentonville, VA 22610.

There was a fire on March 16, 2015 that completely destroyed the house. Mrs. Atwood contracted with Buracker Construction to perform debris removal and then to rebuild her home. The contract for rebuild was signed July 6, 2015. A copy of the contract was passed out to board members.

Mr. Silek stated that permits were issued to Buracker Construction LLC, and that Buracker Construction LLC is an unlicensed entity and has never held a contractor's license in the Commonwealth of Virginia, since its formation. Mrs. Atwood notified the building inspector of the problem and also notified the Department of Professional and Occupational Regulation (DPOR). DPOR conducted an investigation and Martha T. Buracker T/A Buracker Construction and/or Buracker Construction LLC was given a Notice of Violation and entered into a consent order. Mrs. Atwood then notified Warren County Building Department that DPOR had made its findings.

Mrs. Atwood hired a third party inspector, David Rushton, to conduct an inspection of the home. Mr. Rushton is a certified inspector and licensed home inspector by DPOR. He is a licensed electrical contractor and a licensed building contractor. Mr. Rushton found over 125 items wrong with the home, and that is what is visible.

The County Administrator advised Mrs. Atwood to request a re-inspection. Mr. Beahm, Mr. Whitten and Mr. Robinson conducted a re-inspection on March 16, 2018. After that re-inspection, Mr. Beahm issued a Notice of Violation.

Mr. David Rushton was introduced to provide additional details regarding the inspection that he performed and the list of items that he compiled.

Mr. Rushton completed an inspection of the home on September 11, 2017. Mr. Rushton prepared a report, dated December 22, 2017 with the findings from that inspection. Mr. Silek and Mr. Rushton reviewed the report in detail, explaining many items on the report. A letter dated March 14, 2018, containing items that Mr. Rushton feels are code violations and are not cosmetic issues and a chart with code references, coinciding with that letter were submitted to the board and requested to be attached to the minutes. (Copy attached)

Mr. David Beahm, Building Official for Warren County presented the county's case.

Mr. Beahm stated that while Mr. Rushton does have an impressive resume, he is unfortunately not certified with the Department of Housing and Community Development (DHCD). The USBC specifically designates third party inspectors to be required to have DHCD certifications and be approved by the Warren County Building Inspections Department or the jurisdiction where they work. The DHCD certification search for David Rushton was presented to the board, showing no record of David Rushton. (Copy attached)

Mr. Beahm provided an interpretation from the State Building Code Technical Review Board, dated May 27, 1988, regarding Building Inspections Departments not requiring a copy of the contract. (Copy attached)

Mr. Beahm addressed the March 14, 2018 letter, from Able Building Inspections, which states possible code violations, but does not cite any code sections. The notice of violation issued by Mr. Beahm, specifically gives this code section, depicts what the item is and provides the explanation as to what needs to be repaired.

Mr. Beahm stated that change orders are not addressed in the Uniform Statewide Building Code. An amendment can be done, but is not required and the building code allows you to mirror plans.

Mr. Beahm stated that the contract and permit was issued to Buracker Construction, LLC. The permit was issued to Buracker Construction with the appropriate DPOR license. The application, a paper form that the building inspections office uses as a guideline, says Buracker Construction LLC, which can be representative of an agent for the builder. A copy of the actual building permit was presented to the board. (Copy attached)

Mr. Beahm stated that DPOR never contacted the Warren County Building Inspections Department. Mr. Beahm knows Eric Olsen, the Secretary of DPOR Review Board, and knows that he would have contacted him directly, if Warren County had done something incorrect in issuing the permit.

Mr. Beahm addressed some of the items on the list and reported that they are more quality issues and not all building code violations. Quality issues are not enforceable by the building code.

Mr. Silek spoke in rebuttal for the appellant

Mr. Silek addressed some of the items on the list that Mr. Beahm addressed as quality issues and not building code issues.

Mr. Silek stated that Mr. Rushton is a paid consultant. He does not have to be an approved third party inspector and that he is licensed through DPOR.

Mr. Beahm was allowed rebuttal.

Mr. Beahm stated that DPOR is a licensing agency, not a certification agency. DHCD issues certifications to building inspectors and regulates inspections. He reported that Mrs. Atwood contacted the Director of DHCD, and asked for assistance and the director referred it back to the local level.

Mr. Beahm addressed items on the list that were discussed by the appellant.

Mr. Silek was allowed rebuttal for the appellant.

Mr. Silek reported that the county office was on notice of the consent order issued by DPOR, yet on July 24, 2017, after the notice, the Warren County Building Inspections Department issued a Certificate of Exemption to Buracker Construction LLC. A copy of the Certificate of Exemption Application for Approval was submitted to the board. (Copy attached)

The appellant asks that the board over turn Mr. Beahm's decision and find that the 60 item list prepared by Mr. Rushton be found to be building code violations, and hold the building department responsible.

Mr. Beahm was allowed a rebuttal, due to new documentation being presented in the form of the Certificate of Exemption.

The consent order was finalized with revision on May 31, 2017. The first complaint from the appellant, sent to the County Administrator and Mr. Beahm was on November 27, 2017, not immediately after.

Mr. Silek rebutted and Mrs. Atwood confirmed that the consent order was delivered to the Building Inspections office and her husband delivered it to a county official in June, 2017 and it was signed by the board in August, 2017.

The meeting was closed for public comment and opened to discussion of the board.

Mr. Hatcher stated that he had no particular questions. He has reviewed the documentation in depth. He feels that the appellant has legitimate concerns and that there are several code violations in the report. A lot of the items could have and should have been corrected and resolved between the owner and builder before the final payment was made to the builder.

It was confirmed that questions could be asked to the involved parties.

Mr. Hotek asked the appellant if she was familiar with USBC Section 119 on Appeals. He read from that section that a copy of the building official's decision shall be submitted with the application. He stated that this was only provided today. The appellant stated that they were submitted with the appeal application. The board secretary confirmed that the building official's decision was not submitted with the appeal. Mr. Hotek stated that section 119.7 states that the Local Board of Building Code Appeals shall have the power to up hold, reverse or modify the decision of the official by concurring vote of the majority of those present. Being in receipt of the actual violations, being 60, is a daunting task for this

board. The board cannot make ruling on application of the code, only take that what has been stated in writing by the code official and approve or disapprove. Mr. Silek explained that this appeal is on those items that Mr. Beahm did not find as code violations.

Mr. Cline inquired for clarification on item number 5 regarding the garage roof trusses not being 12 in 12 pitch. Mrs. Atwood replied that what is there does not match the approved plans and there are no changes to the approved plans. She inquired on this item to Tom Coghill, CBO, CFM; Director of Building Safety and Permits for County of James City, and is a Public Relations Officer for the Association of Building Officials. He sent her the following answer: "One set of the approved construction documents...shall be kept at the building site and shall be available to the building official at all reasonable times (Section 109.5 of the 2012 Virginia Uniform Statewide Building Code)" The word "approved" in this context means approved by the building official (or his designated technical assistant-typically this is the plans examiner). The intent is to assure that the building inspector has access to the approved plans when he/she is conducting inspections. Mr. Beahm answered that this answer states that the building plans have to be on site, not match. Mr. Beahm, as President of the Virginia Building Code Officials Association, appointed Mr. Coghill as the Public Information Officer of the Virginia Building Code Officials Association. Mr. Cline does not feel that the pitch is part of the approval, only that the span meet the code. He feels that this is an item between the owner and the contractor.

Mrs. Atwood feels that she was ignored numerous times. She had asked for an re-inspection many times and it was never done. She wants a third party inspector, paid for by the county, to inspect her house. She does not feel that the Building Official and Building Department was doing their job.

Mr. Thomson is appreciative of the case presented, but feels that there are many issues that are not code issues and could have been resolved between the owner and the contractor. He stated that he is trying to understand what violations, named on paper by the building official, are being disputed. Mr. Silek answered that the dispute is with the remaining items that were found by Mr. Beahm to not be violations.

Mr. Silek reviewed items on the list that were being disputed as code violations.

Mrs. Atwood discussed some of the issues that she has experienced.

Mr. Cline asked Dan Whitten questions regarding procedure on giving a vote or tabling the matter. Mr. Whitten responded that the meeting could be postponed and rescheduled.

A motion was made by Mr. Hatcher to postpone and reschedule the meeting. Mr. Cline seconded the motion. All voted in favor to postpone and reschedule the meeting to June 7, 2018 at 3:30 p.m.

Mr. Thomson reminded the board that there be no discussion of the matter, with anyone.

No Old Business

No New Business

Mr. Hatcher made a motion to adjourn the meeting. It was seconded by Mr. Cline. The meeting was adjourned at 4:35 p.m.

Thursday, June 7, 2018—Work Session

Present at the work session: Paul Thomson, Chairman; George Cline, Vice Chairman; Wendell Hatcher, Board Member; Dan Hotek, Board Member; Thomas McFadden, Board Member; Paula Fristoe, Board Secretary

Mr. Thomson called the work session to order at 2:30 p.m.

Mr. Thomson stated that the procedure for the work session would be that the board members were the only allowed speakers, no public input would be allowed. There would be a time frame for questions during the appeal hearing.

Mr. Thomson reminded board members to stay focused on what the responsibility of the board is and what limitations they have.

Mr. Cline stated that he feels that the board is designed to hear appeals of the Building Official's decision and a copy of that decision was not included in the original appeal application. They cannot hear an appeal on "possible" code violations. The Building Code is the minimum standard and required inspections are listed in the code. He researched and provided documents from surrounding counties and their required inspections are the same as Warren County's, which are listed in the code.

Mr. McFadden questioned the item regarding licensure. Mr. Cline and Mr. Thomson do not feel that this is a matter for this board. Mr. Hatcher feels the application is not correct but that the County issued the permit to the correct entity.

Mr. Hotek asked if he could ask questions to individuals. Mr. Thomson said that there would be time allowed during the appeal hearing for questions to be asked to the parties involved.

Mr. Hotek is wondering if there is a written guideline that an inspector follows for each of the required inspections, such as the inspector will look at these particular items on this inspection. The VUSBC required inspection list is not very specific and he is wondering what is included in each inspection.

Mr. Hotek feels that the board cannot base a decision on the third party list. The board can only base their decision on the Building Official's Notice of Violation. It is not the board's job to decide if the third party followed the code. The board has a document with the building official's decision listed on each item. He feels that the board should use that list, go through each item and determine if the building official's decision is correct. (Copy of Notice of Violation and List Attached)

Everyone was in agreement to proceed in that manner.

Mr. Thomson reminded the board of the code being minimum standards and that the Virginia Uniform Statewide Building Code is the code that this appeal falls under.

Board Members individually went through the list and had discussion on various items.

Mr. Hatcher feels that when a homeowner gives the final payment that they are agreeing with the work that has happened to that point. The owner controls the purse and the purse controls the construction.

The Work Session was adjourned at 3:20 p.m.

Thursday, June 7, 2018—Appeal Hearing

At an appeal hearing of the Warren County Board of Building Code Appeals, held in the Warren County Government Center on Thursday, June 7, 2018 at 3:30 p.m.

Present at the meeting: .Paul Thomson, Chairman; George Cline, Vice Chairman; Wendell Hatcher, Board Member; Dan Hotek, Board Member; Thomas McFadden, Board Member; Paula Fristoe, Board Secretary

Mr. Thomson called the meeting to order at 3:30 p.m.

Mr. Hatcher made a motion to approve the meeting agenda for the June 7, 2018 meeting of the Warren County Board of Building Code Appeals. It was seconded by Mr. Cline. All voted to approve the agenda.

Old Business—Continuance of Appeal #1-2018—Kristie Sours Atwood—Appeal a matter concerning enforcement of the 2009 Virginia Uniform Statewide Building Code. The property involved is located at 1255 Pilgrims Way, Bentonville, VA 22610.

Mr. Thomson offered 10-15 minutes to each party to address the board. There will not be a rebuttal period. There will also be a time for board members to ask questions.

Mr. Beahm stated that during the work session there were many times that "I think" or "I am almost sure" that these are code violations. Code violations require a code section that is violated specifically. He spoke on procedure for inspections and how code violations are handled.

Discussion was had on what document was being used to base the appeal.

Mr. Hotek asked Mr. Beahm about items in the list and if he felt they met code.

Mr. Cline asked Mr. Beahm about where stair height is measured. Mr. Beahm stated that it is measured from the floor, not the thresh hold.

Mr. Thompson called for Mrs. Atwood or Mr. Silek to address the board, if so desired.

Mr. Silek stated that they would stand on prior argument and presentation. He stated again that the appeal is on the items that the Building Official did not cite as violations. He suggested that the County hire an independent inspector to perform an re-inspection.

The floor was closed for comment and the floor was opened for questions.

Mr. Hotek stated that the board could only approve or disapprove the Building Official's decision. He also asked for and received clarification on what documents were submitted with the original appeal.

Mr. Cline opined that this case has become more confusing than it needed to be. He does not have a clear definition of what the appellant is appealing. All parties are in agreement that there are five code violations, but it is not clear to him what is being appealed. Mr. Silek explained that they are asking for the appeal on the items that the building official deemed to not be code violations. Mr. Silek feels that the law and the building code failed his client.

Mr. Thomson stated that this board does not have the ability to discipline the Building Official. He understands what the appellant has gone through, but this board has a very small responsibility and has a narrow window of ability. He stated that matters that cannot be settled by this board could be handled at a different place, but this board is limited in what they are able to do.

Mr. Silek feels that the board has a large responsibility and wants the reversal of the Building Official's approval of the other items on the list.

Mr. Hatcher stated that he thinks the appellant wants the Warren County Building Department to admit to errors and have those corrected.

The floor was closed for public discussion

George Cline asked what qualified inspector compiled the list of code violations. Mr. Silek replied that Mr. Rushton compiled the list. He is an expert witness, even though he does not have the same credentials as Mr. Beahm.

Mr. Thomson reminded the board that the floor was closed for discussion.

Mr. Hatcher stated that the question before the board, based on the evidence presented to the board is, are there code violations and that they be corrected.

Mr. Hotek made a motion to discuss item numbers: 6, 10, 11, 12, 20, 22, 23, 37, 38, 92, 93, 101. The motion was seconded by Wendell Hatcher. All voted in favor.

Mr. Hatcher believes that these items are code violations. Mr. Thomson agrees. No other board members spoke.

Wendell Hatcher made a motion to accept the appeal on item numbers 6, 10, 11, 12, 20, 22, 23, 37, 38, 92, 93, 101. The motion was seconded by Thomas McFadden. Mr. Thomson, Mr. Hotek, Mr. Hatcher, Mr. McFadden voted in approval; Mr. Cline dissented.

Mr. Thompson declared the appeal approved on item numbers 6, 1, 11, 12, 20, 22, 23, 37, 38, 92, 93, 101.

Mr. Hatcher made a motion to adjourn the meeting at 4:10 p.m. It was seconded by Thomas McFadden.

Respectfully Submitted,
Paula D. Fristoe

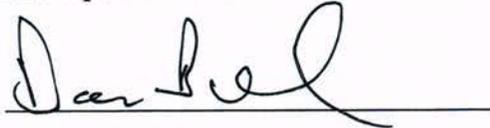
Conflict of Interests Disclosure Statement
Warren County Building Code Appeals Board Meeting
May 22, 2018

On Item IV on today's agenda, Public Hearing Appeal #1- 2018 – Kristie Sours Atwood, I would like to disclose the following –

I am an officer or employee who has a personal interest in a transaction, as defined by the Virginia Code Ann. § 2.2-3112(A). Pursuant to Virginia Code Ann. § 2.2-3115(F), I am disclosing that I am employed by Martha T. Buracker dba Buracker Construction, located at 2594 Stonewall Jackson Highway, Bentonville, Virginia 22610, which constructed the home, located at 1255 Pilgrims Way in Bentonville, Virginia, permit 493-2015, for Kristie Sours Atwood that is subject to this appeal.

The transaction has application solely to property or a business or governmental agency in which I have a personal interest. Accordingly, I must disqualify myself from participating in this matter before the Local Board of Building Code Appeals.

I ask that this disclosure be made a part of the minutes of this meeting.



David Buracker

Conflict of Interests Disclosure Statement
Warren County Building Code Appeals Board Meeting
May 22, 2018

On Item IV on today's agenda, Public Hearing Appeal #1- 2018 – Kristie Sours Atwood, I would like to disclose the following –

I am a member of a group of three or more persons the members of which are affected by the transaction in accordance with Virginia Code Ann. § 2.2-3112(B)(1). Pursuant to Virginia Code Ann. § 2.2-3115(H), I am disclosing that I am an officer with Cline Construction, Inc. which is one of three or more subcontractors that worked on the construction of the home, located at 1255 Pilgrims Way in Bentonville, Virginia, permit 493-2015, for Kristie Sours Atwood that is subject to this appeal.

I believe that I am able to discuss and vote on these issues fairly, objectively, and in the public interest of the citizens of the County. As a result, I will participate fully in the discussion and vote on this item.

I ask that this disclosure be made a part of the minutes of this meeting.



George E. Cline, Jr.

ABLE

Building Inspection, Inc.

761 Harmony Orchard Road

Front Royal, VA 22630-5213

(540) 636-6200

March 14, 2018

Kristi Sours Brown
1255 Pilgrims Way
Front Royal, VA 23630

Kristi,

The following list is the report item numbers that I believe will be of concern to Mr. Beahm. He is not interested in cosmetic or aesthetic concerns as a building official. He will be primarily concerned with construction deficiencies and possible code violations.

2, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20

21, 22, 23, 31, 33, 37, 38, 40, 41, 43, 48, 49, 50, 52, 53,

55, 56, 57, 58, 59, 61, 63, 69, 70, 76, 79, 80, 82, 84, 85,

87, 88, 89, 90, 92, 93, 94, 95, 96, 99, 100, 101, 102, 103,

106, 111, 116, 118, 119, 120 and 125.

Of course, Mr. Beahm will have his own thoughts about the issues in your home. This is just my idea of the issues that may be of concern to him.

I am sorry that I cannot attend your meeting with Mr. Beahm due to a scheduling conflict. Please let me know the results of the meeting.

I will have original copies of the report and estimate mailed out to you.

Best,

Dave

David P. Rushton
President
ABLE Building Inspection, Inc.

Source?

Provided: 5/2/18

NUMBER	CONCERN	SUPPORTING DOCUMENTATION, USBC, and/or CODE of VIRGINIA
2.	2. The building permits for the construction of the home were issued by the Warren County Building Department on or about July 22, 2015 to the applicant, Buracker Construction, LLC, a business entity that has never had a valid contractor's firm license.	<p>USBC 108.4 Prerequisites to obtaining permit. In accordance with Section 54.1-1111 of the Code of Virginia, any person applying to the building department for the construction, removal or improvement of any structure shall furnish prior to the issuance of the permit either (i) satisfactory proof to the building official that he is duly licensed or certified un-der the terms or Chapter 11 (Section 54.1-1000 et seq.) of Title 54.1 of the Code of Virginia to carry out or superintend the same or (ii) file a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Chapter 11 of Title 54.1 of the Code of Virginia. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied.</p> <p>Code of Virginia Title 54.1. Professions and Occupations Chapter 11. Contractors § 54.1-1111. Prerequisites to obtaining business license; building, etc., permit</p> <p>A. Any person applying to the building inspector or any other authority of a county, city, or town in this Commonwealth, charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, or structure, or any removal, grading or improvement shall furnish prior to the issuance of the permit, either (i) satisfactory proof to such inspector or authority that he is duly licensed or certified under the terms of this chapter to carry out or superintend the same, or (ii) file a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to this chapter. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied. It shall be unlawful for the building inspector or other authority to issue or allow the issuance of such permits unless the applicant has furnished his license or certificate number issued pursuant to this chapter or evidence of being exempt from the provisions of this chapter. The building inspector, or other such authority, violating the terms of this section shall be guilty of a Class 3 misdemeanor.</p> <p>B. Any contractor applying for or renewing a business license in any locality in accordance with Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall furnish prior to the issuance or renewal of such license either (i) satisfactory proof that he is duly licensed or certified under the terms of this chapter or (ii) a written statement, supported by an affidavit, that he is not subject</p>

		<p>to licensure or certification as a contractor or subcontractor pursuant to this chapter. No locality shall issue or renew or allow the issuance or renewal of such license unless the contractor has furnished his license or certificate number issued pursuant to this chapter or evidence of being exempt from the provisions of this chapter. Code 1950, § 54-138; 1970, c. 319; 1980, c. 634; 1988, c. 765; 1990, c. 911; 1991, c. 151; 1992, c. 713; 1995, c. 771; 1998, c. 754; 2010, cc. 82, 755.</p> <p>The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.</p> <p>18 VAC 50-22-210. Change of business entity requires a new license.</p> <p>Licenses are issued to firms as defined in this chapter and are not transferable. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void and shall be returned to the board within 30 days of the change. Additionally, the firm shall apply for a new license, on a form provided by the board, within 30 days of the change in the business entity. Such changes include but are not limited to:</p> <ol style="list-style-type: none"> 1. Death of a sole proprietor; 2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and 3. Conversion, formation, or dissolution of a corporation, a limited liability company, or an association or any other business entity recognized under the laws of the Commonwealth of Virginia.
<p>5. 42. 48.-50. 54. 69. 83.</p>	<p>5. The garage roof trusses are not 12 in 12 pitch as shown on the building plans. OSB flooring was installed on the roof trusses for storage accessed by pull down stairs into the garage. Per information from Ms. Sours Brown, the attic storage room and stairway shown in the original plan were to be installed with conventional framing. The finishes for the garage storage room were the only items that were to be deleted from the construction specifications. All other construction in this area</p>	<p>109.5.4. Approved construction documents: The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times.</p> <p>"One set of the approved construction documents... shall be kept at the building site and shall be available to the building official at all reasonable times (Section 109.5 of the 2012 Virginia Uniform Statewide Building Code)." The word "approved" in this context means approved by the building official (or his designated technical assistant – typically this is the plans examiner). The intent is to assure that the building inspector has access to the approved plans when he/she is conducting inspections. –Tom Coghill, CBO, CFM Director of Building Safety & Permits County of James City 101 Mounts Bay Rd., Building E Williamsburg, VA 23185 office: (757) 253-6628 Cell: (757) 592-6190</p>

was to remain as originally specified. No change orders were provided to document this construction change.

48. The rear porch has no screened in section as shown in the plans.

42. The right side porch floor does not overhang the concrete block foundation wall. Water is running from the floor and wall above down the foundation wall. The parging on the wall is subject to freeze/thaw damage in this area.

49. The rear porch has no bay style bump out for the roof and floor as shown in the plans.

50. No windows were installed in the garage upstairs gable end walls.

54. The rear porch concrete slab projects past the end of the side deck.

69. A roof/ wall vent has not been installed at the front porch per the plans.

***In a nut shell the house built does NOT match the plans approved by Warren County Building Official, David Beahm.

*A basement was to be constructed with a 9' x 6' cool room (cellar). I do not find that drawn in the approved plans nor was it built to match contract. The room dimensions are incorrect with the room being basically 6' x 6'.

*The right side back porch, footer was placed

102.1 Purpose. In accordance with Section 36-99 of the Code of Virginia, the purpose of the USBC is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged.

13VAC5-63-50. Section 105 Local Building Department.

A. Section 105.1 Appointment of building official. Every local building department shall have a building official as the executive official in charge of the department. The building official shall be appointed in a manner selected by the local governing body. After permanent appointment, the building official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. DHCD shall be notified by the appointing authority within 30 days of the appointment or release of a permanent or acting building official.

Note: Building officials are subject to sanctions in accordance with the VCS.

***Negligence is failure to take proper care in doing something.

	<p>approx. 15" too far out and construction continued with a wall to no-where.</p> <p>83. The electrical panels were installed in the side wall of the garage rather than in the basement per plan/contract reference.</p>	
19. & 102.	<p>19. The access to the rear attic is not a minimum of 20" wide.</p> <p>102. The access to the rear portion of the upper attic should be at least 20" wide.</p>	<p>R807.1 Attic access.</p> <p>Buildings with combustible ceiling or roof construction shall have an attic access opening to attic areas 30 square feet (2.8 m²) or larger having a vertical height of not less than 30 inches (762 mm). The vertical height shall be measured from the top of the ceiling framing members to the underside of the roof framing members.</p> <p>The rough-framed opening shall not be less than 22 inches by 30 inches (559 mm by 762 mm) and shall be located in a hallway or other readily accessible location. When located in a wall, the opening shall be a minimum of 22 inches wide by 30 inches high (559 mm wide by 762 mm high). When the access is located in a ceiling, minimum unobstructed headroom in the attic space shall be 30 inches (762 mm) at some point above the access measured vertically from the bottom of ceiling framing members. See Section M1305.1.3 for access requirements where mechanical equipment is located in attics.</p>
58. 31. 33.	<p>58. Kick out flashings are missing at the breezeway roof into the garage and house walls.</p> <p>31. The flashing is lifted and loose at the chimney.</p> <p>33. Head flashing was not found above the front circle head window. Water stains are visible in the interior finishes around this window</p>	<p>R903.2.1 Locations</p> <p>Flashings shall be installed at wall and roof intersections, wherever there is a change in roof slope or direction and around roof openings. A kick-out flashing shall be installed to divert the water away from where the eave of a sloped roof intersects a vertical sidewall. The kick-out flashing on the roof shall be a minimum of 2 1/2 inches (63.5 mm) long. Where flashing is of metal, the metal shall be corrosion-resistant with a thickness of not less than 0.019 inch (0.5 mm) (No. 26 galvanized sheet).</p> <p>R903.2.1.1 Existing buildings and structures</p> <p>Kick-out flashings shall be required in accordance with Section R903.2.1 when simultaneously re-siding and re-roofing existing buildings and structures.</p> <p>Exception: Kick-out flashings are not required when only re-roofing existing buildings and structures.</p> <p>The International Residential Code (IRC) establishes minimum flashing requirements, but does not provide detailed installation guidance. Section R703.4 of the 2015 IRC requires flashing to be in accordance with the following:</p> <ul style="list-style-type: none"> ☑ Flashing shall be applied shingle-fashion in a manner to prevent water intrusion into the wall assembly and building. ☑ Flashing at exterior window/door openings shall extend to the surface of the exterior wall finish (for face-sealed wall assemblies such as stucco on solid masonry) or to the waterresistive barrier (commonly behind siding/

		<p>cladding).</p> <p>☑ Flashing at exterior window/door openings shall be installed according to the window/door manufacturer installation instructions or those of a flashing manufacturer. Where not addressed by the manufacturer, pan flashing shall be installed at the sill of exterior window and door openings, be sealed or sloped to direct water out, and shall incorporate flashing or protection at the head and sides.</p> <p>☑ Flashing shall be installed continuously above all projecting wood trim.</p> <p>☑ Products used as flashing must comply with specific standards: self-adhered membranes with AAMA 711; fluid-applied membranes with AAMA 714; mechanically attached flexible flashing with AAMA 712.</p>
<p>21. 22. a-l 34-35</p>	<p>21. The installation of the exterior LP Smartside siding and trim materials does not comply with the manufacturer's installation instructions.</p> <p>22. The concerns with the LP Smartside installation are:</p> <p>a. Flashing is missing at the horizontal siding joints on the gable ends,</p> <p>b. Some fasteners do not appear to be galvanized or stainless steel in an exterior installation,</p> <p>c. The fastener installation for the trim does not comply with the manufacturer's nailing instructions,</p> <p>d. The fasteners for the trim were not installed flush but were overdriven in past flush,</p> <p>e. 1" minimum space was not provided between the concrete patio, the siding and trim,</p> <p>f. The required 3/8" space at butt joints in the siding and at joints between the siding and window and door trim, and inside and outside</p>	<p>LP Smartside siding instructions sheet</p> <p>R703.3 Wood, hardboard and wood structural panel siding.</p> <p>R703.3.1 Panel siding.</p> <p>Joints in wood, hardboard or wood structural panel siding shall be made as follows unless otherwise approved. Vertical joints in panel siding shall occur over framing members, unless wood or wood structural panel sheathing is used, and shall be shiplapped or covered with a batten. Horizontal joints in panel siding shall be lapped a minimum of 1 inch (25 mm) or shall be shiplapped or shall be flashed with Z-flashing and occur over solid blocking, wood or wood structural panel sheathing.</p> <p>R703.3.2 Horizontal siding.</p> <p>Horizontal lap siding shall be installed in accordance with the manufacturer's recommendations. Where there are no recommendations the siding shall be lapped a minimum of 1 inch (25 mm), or 1/2 inch (13 mm) if rabbeted, and shall have the ends caulked, covered with a batten or sealed and installed over a strip of flashing.</p>

	<p>corner trim has not been provided, g. The cut ends of the siding and trim have not been sealed, h. The siding and trim joints have not all been caulked, i. A minimum clearance of 6" between the siding and grade has not been provided, j. The siding projects past the corner trim on the garage, k. The siding trim is in direct contact with the stone veneer of the fireplace chimney, and l. The gutters do not terminate at least 1" away from the siding. The siding and trim installation problems will affect the manufacturer's warranty on the products. 34. The pre-finish on the LP siding has been damaged in numerous locations. 35. The touch ups of the LP siding paint do not match the original finish. 36. Sealant is missing on the left side of the right front dormer.</p>	
<p>20. 43. 57.</p>	<p>20. A ceiling joist is cut with no header at the fireplace chimney through the rear attic. 43. No drain holes were found at the base of the masonry wall on the rear porch. 57. The stone veneer is set tightly to the roof shingles at the chimney. A minimum space of 1" is recommended in these intersections. Weep screeds were not found at this location</p>	<p>3.11Flue lining (material). Masonry chimneys shall be lined. The lining material shall be appropriate for the type of appliance connected, according to the terms of the appliance listing and manufacturer's instructions.</p> <p>R1003.11.1Residential-type appliances (general). Flue lining systems shall comply with one of the following:</p> <ol style="list-style-type: none"> 1.Clay flue lining complying with the requirements of ASTM C 315. 2.Listed and labeled chimney lining systems complying with UL 1777. 3.Factory-built chimneys or chimney units listed for installation within masonry chimneys. 4.Other approved materials that will resist corrosion, erosion, softening or cracking

		<p>from flue gases and condensate at temperatures up to 1,800°F (982°C).</p> <p>R1003.11.2 Flue linings for specific appliances. Flue linings other than these covered in Section R1003.11.1, intended for use with specific types of appliances, shall comply with Sections R1003.11.3 through R1003.11.6.</p> <p>R703.7.6 Weepholes. Weepholes shall be provided in the outside wythe of masonry walls at a maximum spacing of 33 inches (838 mm) on center. Weepholes shall not be less than 3/16 inch (5 mm) in diameter. Weepholes shall be located immediately above the flashing.</p> <p>R703.6.2.1 Weep screeds. A minimum 0.019-inch (0.5 mm) (No. 26 galvanized sheet gage), corrosion-resistant weep screed or plastic weep screed, with a minimum vertical attachment flange of 3 1/2 inches (89 mm) shall be provided at or below the foundation plate line on exterior stud walls in accordance with ASTM C 926. The weep screed shall be placed a minimum of 4 inches (102 mm) above the earth or 2 inches (51 mm) above paved areas and shall be of a type that will allow trapped water to drain to the exterior of the building. The weather-resistant barrier shall lap the attachment flange. The exterior lath shall cover and terminate on the attachment flange of the weep screed.</p>
<p>118. 119.</p>	<p>118. The bathroom fans from both upstairs baths vent into the upper attic. Exterior terminations are required for both fans. 119. No exterior termination was found for the master bathroom exhaust fan. **No termination found for the powder room exhaust fan. NOV ITEM, Incomplete only noted on upstairs bathroom</p>	<p>M1501.1 Outdoor discharge. The air removed by every mechanical exhaust system shall be discharged to the outdoors in accordance with Section M1506.2. Air shall not be exhausted into an attic, soffit, ridge vent or crawl space.</p>
<p>6. 11. 12.-18. 40. 23.</p>	<p>6. Diagonal bracing is recommended for the garage roof truss system and the upper, main attic conventional framing system. 11. The floor and roof support beam bearing is inadequate at the right side porch. The design size of this beam should be confirmed by a registered design professional. 12. The post for the porch roof is not</p>	<p>R502.2.2.2 Alternate deck ledger connections. Deck ledger connections not conforming to Table R502.2.2.1 shall be designed in accordance with accepted engineering practice. Girders supporting deck joists shall not be supported on deck ledgers or band joists. Deck ledgers shall not be supported on stone or masonry veneer. And: R502.6 R507.2.2 Alternate deck ledger connections. Deck ledger connections not conforming to Table R507.2 shall be designed in accordance with accepted engineering practice. Girders supporting deck joists shall not be supported on deck ledgers or band joists. Deck ledgers shall not be supported on stone or masonry veneer. R507.1 Decks.</p>

<p>properly supported on the beam below the porch floor.</p> <p>13. The support for the ends of the diagonal beam under the front deck is inadequate.</p> <p>14. Joist hangers are missing at the diagonal beam at the front right corner of the porch floor.</p> <p>15. The porch posts have no restraint against vertical uplift or horizontal forces at their connection to the patio slab.</p> <p>16. The porch posts have structural screws installed diagonally as restraint against vertical uplift at the lower connections to the deck. Are these screws rated for uplift in this installation? Evaluation by a registered design professional is recommended.</p> <p>17. The porch posts and diagonal bracing are secured to the roof beam with finish nails. No structural fasteners are visible in these connections. Evaluation by a registered design professional is recommended.</p> <p>18. One support post was cut too short for the beam under the front porch. Shims were installed under the beam. These shims were not installed vertically and will shrink allowing the beam to settle more at this post than the others.</p> <p>23. The porch guardrail posts do not extend</p>	<p>Wood-framed decks shall be in accordance with this section or Section R301 for materials and conditions not prescribed herein. Where supported by attachment to an exterior wall, decks shall be positively anchored to the primary structure and designed for both vertical and lateral loads. Such attachment shall not be accomplished by the use of toenails or nails subject to withdrawal. Where positive connection to the primary building structure cannot be verified during inspection, decks shall be self-supporting. For decks with cantilevered framing members, connections to exterior walls or other framing members, shall be designed and constructed to resist uplift resulting from the full live load specified in Table R301.5 acting on the cantilevered portion of the deck.</p>
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	<p>through the decking and are not fastened to the structure except with diagonal finish nails. Finish nails are not considered to be structural connectors in guardrail applications. The wood members of the guardrail have shrunk and are no longer tight. The guardrail should be designed to withstand 200 pounds of horizontal force at any location and 50 pounds of horizontal force per linear foot of railing.</p> <p>40. Some fasteners in the cedar porch posts and trim appear to be corroding prematurely. Stainless steel or double dipped galvanized fasteners are recommended with cedar due to the natural acids in the wood that contribute to its' weather resistance.</p> <p>NOV Item</p>	
<p>101. 106. a-c</p>	<p>101. The attic stairs, wood corner trim and plastic access panel breach the fire separation between the garage and the attic. This is a fire safety concern.</p> <p>106. Firesafing material has not been installed in the following locations:</p> <p>a. At the fireplace chimney firestops in the attic, and</p> <p>b. The electrical cables into the attic (visible above the main panel), and</p> <p>c. At the tub drain in the basement</p>	<p>R302.1 Exterior walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1); or dwellings equipped throughout with an automatic sprinkler system installed in accordance with Section P2904 shall comply with Table R302.1(2).</p> <p>R302.12 Draftstopping. In combustible construction where there is usable space both above and below the concealed space of a floor/ceiling assembly, draftstops shall be installed so that the area of the concealed space does not exceed 1,000 square feet (92.9 m²). Draftstopping shall divide the concealed space into approximately equal areas. Where the assembly is enclosed by a floor membrane above and a ceiling membrane below, draftstopping shall be provided in floor/ceiling assemblies under the following circumstances:</p> <ol style="list-style-type: none"> 1. Ceiling is suspended under the floor framing. 2. Floor framing is constructed of truss-type open-web or perforated members. <p>R302.12.1 Materials. Draftstopping materials shall not be less than 1/2-inch (12.7 mm) gypsum board, 3/8-inch (9.5 mm) wood structural panels or other approved materials adequately supported. Draftstopping shall be installed parallel to the floor framing members unless otherwise approved by the building official. The integrity of the draftstops shall be maintained.</p>
<p>6.</p>	<p>6. Diagonal bracing is</p>	<p>R802.10.1 Truss design drawings.</p>

<p>40. 100.-101. 103-104.</p>	<p>recommended for the garage roof truss system and the upper, main attic conventional framing system</p> <p>100. The attic pull down stairs are missing fasteners to secure the stair frame to the garage ceiling framing. This is a safety concern.</p> <p>101. The attic stairs, wood corner trim and plastic access panel breach the fire separation between the garage and the attic. This is a fire safety concern.</p> <p>103. Have the garage roof trusses been designed to accommodate anticipated storage loads?</p> <p>104. 7/16" thick oriented strand board has been installed for storage across the garage ceiling trusses spaced 24" apart. This material is not intended for use as flooring. It may break under storage or personnel loads creating a safety concern.</p>	<p>Truss design drawings, prepared in conformance to Section R802.10.1, shall be provided to the building official and approved prior to installation. Truss design drawings shall include, at a minimum, the information specified below. Truss design drawings shall be provided with the shipment of trusses delivered to the jobsite.</p> <p>Was this done?</p> <p>R802.10.3Bracing.</p> <p>Trusses shall be braced to prevent rotation and provide lateral stability in accordance with the requirements specified in the construction documents for the building and on the individual truss design drawings. In the absence of specific bracing requirements, trusses shall be braced in accordance with accepted industry practice such as the SBCA Building Component Safety Information (BCSI) Guide to Good Practice for Handling, Installing & Bracing of Metal Plate Connected Wood Trusses.</p> <p>**This issue goes back to original plans not being followed and all trusses were to be hand cut.</p> <p>**Certificate of Occupancy received then attic access was moved and cut into place and steps were installed.</p>
<p>10. 37.38. 99.</p>	<p>10. The joist hangers are missing fasteners and adhesive at the basement stairway.</p> <p>37. The stair stringer attachment at the both porch steps is inadequate. The front porch steps are settling and pulling away from the porch. Metal stair hangers are recommended. This is a safety concern.</p> <p>38. No foundation was provided at the stair stringers to support the stairs.</p>	<p>R311.7.5.1Risers.</p> <p>The maximum riser height shall be 8 1/4 inches (210 mm). The riser shall be measured vertically between the leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the opening between treads does not permit the passage of a 4-inch-diameter (102 mm) sphere.</p> <p>R311.5.1Attachment.</p> <p>Exterior landings, decks, balconies, stairs and similar facilities shall be positively anchored to the primary structure to resist both vertical and lateral forces or shall be designed to be self-supporting. Attachment shall not be accomplished by use of toenails or nails subject to withdrawal.</p>

	<p>99. The stair riser heights differ by more than 3/8" from the house into the garage. The top riser height exceeds 8 1/2" measured to the top of the door threshold.</p>	
<p>8.9. 41. 55. 59.</p>	<p>8. There were signs of moisture through the foundation walls in the cold cellar. The foundation insulation installed on the inside of the basement walls limited the inspection of these walls for moisture penetration concerns. 9. Cardboard was visible under the cold cellar roof structure steel pans. This may cause settling of the concrete slab above and be an attractant for termites. The cardboard should be removed and metal shims or non-shrink grout installed in any openings created by the cardboard removal. 41. No foundation to frost line was found below the rear patio slab that was poured between the basement cool storage room and the garage. 55. The rear left corner of the patio by the garage is settling excessively. 59. The openings in the basement foundation wall at the door and windows have not been covered with stucco. The stucco mesh does not extend over the joints between the foundation wall and wood frame. This joint will crack immediately and re-</p>	<p>R406.1 Concrete and masonry foundation dampproofing. Except where required by Section R406.2 to be waterproofed, foundation walls that retain earth and enclose interior spaces and floors below grade shall be dampproofed from the top of the footing to the finished grade. Masonry walls shall have not less than 3/8 inch (9.5 mm) portland cement parging applied to the exterior of the wall. The parging shall be dampproofed in accordance with one of the following: 1. Bituminous coating. 2. Three pounds per square yard (1.63 kg/m²) of acrylic modified cement. 3. One-eighth inch (3.2 mm) coat of surface-bonding cement complying with ASTM C 887. 4. Any material permitted for waterproofing in Section R406.2. 5. Other approved methods or materials. Exception: Parging of unit masonry walls is not required where a material is approved for direct application to the masonry. Concrete walls shall be dampproofed by applying any one of the above listed dampproofing materials or any one of the waterproofing materials listed in Section R406.2 to the exterior of the wall. R406.2 Concrete and masonry foundation waterproofing. In areas where a high water table or other severe soil-water conditions are known to exist, exterior foundation walls that retain earth and enclose interior spaces and floors below grade shall be waterproofed from the top of the footing to the finished grade. Walls shall be waterproofed in accordance with one of the following: 1. Two-ply hot-mopped felts. 2. Fifty-five-pound (25 kg) roll roofing. 3. Six-mil (0.15 mm) polyvinyl chloride. 4. Six-mil (0.15 mm) polyethylene. 5. Forty-mil (1 mm) polymer-modified asphalt. 6. Sixty-mil (1.5 mm) flexible polymer cement. 7. One-eighth-inch (3 mm) cement-based, fiber-reinforced, waterproof coating. 8. Sixty-mil (1.5 mm) solvent-free liquid-applied synthetic rubber. R403.1.4.1 Frost protection. Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods: 1. Extended below the frost line specified in Table R301.2.(1); 2. Constructing in accordance with Section R403.3; 3. Constructing in accordance with ASCE 32; or 4. Erected on solid rock. R404.1.2.3.8 Exterior wall coverings. Requirements for installation of masonry veneer, stucco and other wall coverings on the exterior of concrete walls and other construction details not covered in this section shall comply with the requirements of this code.</p>

	crack after every repair.	
56.	56. Grading and drainage at the front does not slope away from the foundation a minimum of 6" in the first 10' especially under the front porch.	R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard to the dwelling unit. Lots shall be graded to drain surface water away from foundation walls. The grade shall fall a minimum of 6 inches (152 mm) within the first 10 feet (3048 mm).
52.-53. 116	52. The basement door threshold has not been secured or sealed to the concrete floor. 53. The rear garage entry door threshold has not been secured or sealed to the floor. 116. The door thresholds were not cut out in the basement interior walls. This is a trip hazard.	R311.5.1 Attachment. Exterior landings, decks, balconies, stairs and similar facilities shall be positively anchored to the primary structure to resist both vertical and lateral forces or shall be designed to be self-supporting. Attachment shall not be accomplished by use of toenails or nails subject to withdrawal.
70. 76. 79. 80. 81. 125. **Master bath tub drain and facet located on exterior wall and "P" trap freezes	70. The plumbing vent pipes should be supported every 4' through the main attic and pitched to drain down into the drain system. NOV Item 76. A tempering valve was not found for the master bathtub. This is a potential scald hazard. 79. The basement floor drain is not accessible under the heat pump air handler. This is a maintenance concern. 80. The frost-free hose bib near the basement entry door freezes in winter. The bib is not pitched to drain water down and out of the fixture. 81. The foundation drain outlet is damaged and restricted in the right side yard. 125. Foam insulation is exposed on the basement wall behind the heat pump air handler. Foam insulation	2605.1 General. Piping shall be supported in accordance with the following: 1. Piping shall be supported to ensure alignment and prevent sagging, and allow movement associated with the expansion and contraction of the piping system. 2. Piping in the ground shall be laid on a firm bed for its entire length, except where support is otherwise provided. 3. Hangers and anchors shall be of sufficient strength to maintain their proportional share of the weight of pipe and contents and of sufficient width to prevent distortion to the pipe. Hangers and strapping shall be of approved material that will not promote galvanic action. Rigid support sway bracing shall be provided at changes in direction greater than 45 degrees (0.79 rad) for pipe sizes 4 inches (102 mm) and larger. 4. Piping shall be supported at distances not to exceed those indicated in Table P2605.1. 3105.1 Distance of trap from vent. Each fixture trap shall have a protecting vent located so that the slope and the developed length in the fixture drain from the trap weir to the vent fitting are within the requirements set forth in Table P3105.1. P2708.3 Shower control valves. Individual shower and tub/shower combination valves shall be equipped with control valves of the pressure-balance, thermostatic-mixing or combination pressure-balance/thermostatic-mixing valve types with a high limit stop in accordance with ASSE 1016 or ASME A112.18.1/CSA B125.1. The high limit stop shall be set to limit the water temperature to not greater than 120°F (49°C). In-line thermostatic valves shall not be used for compliance with this section. 2719.1 Floor drains. Floor drains shall have waste outlets not less than 2 inches (51 mm) in diameter and a removable strainer. The floor drain shall be constructed so that the drain can

should be covered per the manufacturer's requirements

*Original insulation behind air handler was saturated with gray water. Gray water from the above laundry room was plumbed to daylight, the pipe was covered up forcing water back into the basement and flooded area under air handler and ruined insulation.

be cleaned. Access shall be provided to the drain inlet. Floor drains shall not be located under or have their access restricted by permanently installed appliances. P2603.3 Breakage and corrosion.

Pipes passing through concrete or cinder walls and floors, cold-formed steel framing or other corrosive material shall be protected against external corrosion by a protective sheathing or wrapping or other means that will withstand any reaction from lime and acid of concrete, cinder or other corrosive material. Sheathing or wrapping shall allow for movement including expansion and contraction of piping. The wall thickness of material shall be not less than 0.025 inch (0.64 mm).

P2603.4 Pipes through foundation walls.

A pipe that passes through a foundation wall shall be provided with a relieving arch, or a pipe sleeve shall be built into the foundation wall. The sleeve shall be two pipe sizes greater than the pipe passing through the wall.

P2603.5 Freezing.

In localities having a winter design temperature of 32°F (0°C) or lower as shown in Table R301.2(1) of this code, a water, soil or waste pipe shall not be installed outside of a building, in exterior walls, in attics or crawl spaces, or in any other place subjected to freezing temperature unless adequate provision is made to protect it from freezing by insulation or heat or both. Water service pipe shall be installed not less than 12 inches (305 mm) deep and not less than 6 inches (152 mm) below the frost line.

****P3001.2 Protection from freezing.

No portion of the above grade DWV system other than vent terminals shall be located outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other place subjected to freezing temperatures unless adequate provision is made to protect them from freezing by insulation or heat or both, except in localities having a winter design temperature above 32°F (0°C) (ASHRAE 97.5 percent column, winter, see Chapter 3).

316.1 General.

The provisions of this section shall govern the materials, design, application, construction and installation of foam plastic materials.

R316.2 Labeling and identification.

Packages and containers of foam plastic insulation and foam plastic insulation components delivered to the job site shall bear the label of an approved agency showing the manufacturer's name, the product listing, product identification and information sufficient to determine that the end use will comply with the requirements.

R316.3 Surface burning characteristics.

Unless otherwise allowed in Section R316.5 or R316.6, all foam plastic or foam plastic cores used as a component in manufactured assemblies used in building construction shall have a flame spread index of not more than 75 and shall have a smoke-developed index of not more than 450 when tested in the maximum thickness intended for use in accordance with ASTM E 84 or UL 723. Loose-fill-type foam plastic insulation shall be tested as board stock for the flame spread index and smoke-developed index.

Exception: Foam plastic insulation more than 4 inches (102 mm) thick shall have a maximum flame spread index of 75 and a smoke-developed index of 450 where tested at a minimum thickness of 4 inches (102 mm), provided the end use is

		<p>approved in accordance with Section R316.6 using the thickness and density intended for use.</p> <p>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.</p> <p>R316.5 Specific requirements. The following requirements shall apply to these uses of foam plastic unless specifically approved in accordance with Section R316.6 or by other sections of the code or the requirements of Sections R316.2 through R316.4 have been met.</p> <p>R316.5.1 Masonry or concrete construction. The thermal barrier specified in Section R316.4 is not required in a masonry or concrete wall, floor or roof when the foam plastic insulation is separated from the interior of the building by a minimum 1-inch (25 mm) thickness of masonry or concrete.</p>
<p>94.-96.</p>	<p>94. The upstairs heat pump primary condensate drain in the attic discharges through the attic side wall and onto the porch roof below. The condensate drain line should be brought down through the interior of the home and discharge into the sump pump or outside onto the ground.</p> <p>95. The insulation is incomplete at the refrigerant line to the air handler in the attic.</p> <p>96. The flexible duct in the basement was not fully extended. This is a manufacturer's installation instruction and system efficiency concern.</p> <p>**Site work, concrete pad placement, electrical wire insertion, and conduit were install for an exterior outdoor wood burning furnace.</p>	<p>M1401.1 Installation. Heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's installation instructions and the requirements of this code.</p> <p>M1411.3.1 Auxiliary and secondary drain systems. In addition to the requirements of Section M1411.3, a secondary drain or auxiliary drain pan shall be required for each cooling or evaporator coil where damage to any building components will occur as a result of overflow from the equipment drain pan or stoppage in the condensate drain piping. Such piping shall maintain a minimum horizontal slope in the direction of discharge of not less than 1/8 unit vertical in 12 units horizontal (1-percent slope). Drain piping shall be a minimum of 3/4-inch (19 mm) nominal pipe size. One of the following methods shall be used:</p> <ol style="list-style-type: none"> 1. An auxiliary drain pan with a separate drain shall be installed under the coils on which condensation will occur. The auxiliary pan drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The pan shall have a minimum depth of 1.5 inches (38 mm), shall not be less than 3 inches (76 mm) larger than the unit or the coil dimensions in width and length and shall be constructed of corrosion-resistant material. Galvanized sheet steel pans shall have a minimum thickness of not less than 0.0236-inch (0.6010 mm) (No. 24 Gage). Nonmetallic pans shall have a minimum thickness of not less than 0.0625 inch (1.6 mm). 2. A separate overflow drain line shall be connected to the drain pan installed with the equipment. This overflow drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The overflow drain line shall connect to the drain pan at a higher level than the primary drain connection. 3. An auxiliary drain pan without a separate drain line shall be installed under the coils on which condensation will occur. This pan shall be equipped with a water level detection device conforming to UL 508 that will shut off the equipment served prior to overflow of the pan. The pan shall be equipped with a fitting to allow for

	<p>manufacturer. Metal fireplace and chimney systems are tested and listed as complete systems. This is an inappropriate installation and an unsafe condition.</p> <p>93. There is less than the 2" required minimum spacing between the living room fireplace metal chimney system, the roof framing and fiberglass insulation in the</p>	<p>and rafters, those members shall be designed to support the additional load.</p>
<p>63.</p>	<p>63. The dirt and masonry demolition and construction debris was pushed over a hill. It does not appear to be buried. Large pieces of concrete and concrete block are visible in the debris.</p>	<p>Section 117.0 Demolition of structures.</p> <p>117.1. General: Demolition permits shall not be issued until the code official receives certification from the owner or the owner's agent that the following actions have been completed:</p> <ol style="list-style-type: none"> 1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building or structure stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner. 2. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition. <p>117.2. Hazard prevention: When a structure is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Chapter 33 of this code.</p> <p>https://codes.iccsafe.org/public/document/VRC2012/chapter-30-sanitary-drainage https://codes.iccsafe.org/public/document/VRC2012/chapter-33-storm-drainage</p>

	<p>Was this outdoor area ever inspected? Did the inspector question where this furnace was at the time the Certificate of Occupancy was given?</p>	<p>drainage. The auxiliary drain pan shall be constructed in accordance with Item 1 of this section.</p> <p>4.A water level detection device conforming to UL 508 shall be installed that will shut off the equipment served in the event that the primary drain is blocked. The device shall be installed in the primary drain line, the overflow drain line or the equipment-supplied drain pan, located at a point higher than the primary drain line connection and below the overflow rim of such pan.</p> <p>M1411.5Insulation of refrigerant piping. Piping and fittings for refrigerant vapor (suction) lines shall be insulated with insulation having a thermal resistivity of at least R-4 and having external surface permeance not exceeding 0.05 perm [2.87 ng/(s · m² · Pa)] when tested in accordance with ASTM E 96</p> <p>M1401.3Equipment and appliance sizing. Heating and cooling equipment and appliances shall be sized in accordance with ACCA Manual S or other approved sizing methodologies based on building loads calculated in accordance with ACCA Manual J or other approved heating and cooling calculation methodologies.</p> <p>Exception: Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with Manual S or other approved sizing methodologies where any of the following conditions apply:</p> <ol style="list-style-type: none"> 1.The specified equipment or appliance utilizes multi-stage technology or variable refrigerant flow technology and the loads calculated in accordance with the approved heating and cooling methodology fall within the range of the manufacturer's published capacities for that equipment or appliance. 2.The specified equipment or appliance manufacturer's published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the approved heating and cooling methodology and the next larger standard size unit is specified. 3.The specified equipment or appliance is the lowest capacity unit available from the specified manufacturer. <p>M1401.4Exterior installations. Equipment and appliances installed outdoors shall be listed and labeled for outdoor installation. Supports and foundations shall prevent excessive vibration, settlement or movement of the equipment. Supports and foundations shall be in accordance with Section M1305.1.4.1.</p>
<p>82. 84.</p>	<p>82. A single, small gauge copper wire is running through the garage attic to the electrical panel. This may be a bonding wire for the whirlpool tub. Small gauge wires are required to be protected with running boards when installed across framing members through an accessible</p>	<p>E3402.2Penetrations of fire-resistance-rated assemblies. Electrical installations in hollow spaces, vertical shafts and ventilation or air-handling ducts shall be made so that the possible spread of fire or products of combustion will not be substantially increased. Electrical penetrations into or through fire-resistance-rated walls, partitions, floors or ceilings shall be protected by approved methods to maintain the fire-resistance rating of the element penetrated. Penetrations of fire-resistance-rated walls shall be limited as specified in Section R317.3.</p> <p>E3402.3Penetrations of firestops and draftstops. Penetrations through fire blocking and draftstopping shall be protected in an approved manner to maintain the integrity of the element penetrated.</p>

	<p>attic</p> <p>84. A GFCI receptacle is recommended in the basement for the water conditioning equipment.</p>	<p>E3902.5 Unfinished basement receptacles.</p> <p>All 125-volt, single-phase, 15- and 20-ampere receptacles installed in unfinished basements shall have ground-fault circuit-interrupter protection for personnel. For purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.</p>
<p>85.-93.</p>	<p>85. The exterior fireplace glass doors were binding and not closing. The fireplace doors shattered during the third use of the fireplace.</p> <p>86. The fireplace in family room is different manufacturer and model than shown on the receipt from Acme Fireplaces.</p> <p>87. Family room fireplace damper is damaged and not closing tightly.</p> <p>88. The interior of the family room fireplace is damaged and bent at the damper/ chimney pipe connection at the top of the firebox. This is an unsafe condition (fire hazard).</p> <p>89. The family room fireplace refractory lining is significantly damaged and cracked.</p> <p>90. Significant smoke evidence and heat damage is visible on the exterior metal and stone veneer of the family room fireplace.</p> <p>91. The glass doors are not installed on the family room fireplace. The doors were damaged during the second use of the fireplace.</p> <p>92. The family room fireplace chimney system does not match fireplace itself but is made by a different</p>	<p>R1004.1 General.</p> <p>Factory-built fireplaces shall be listed and labeled and shall be installed in accordance with the conditions of the listing. Factory-built fireplaces shall be tested in accordance with UL 127.</p> <p>R1004.2 Hearth extensions.</p> <p>Hearth extensions of approved factory-built fireplaces shall be installed in accordance with the listing of the fireplace. The hearth extension shall be readily distinguishable from the surrounding floor area. Listed and labeled hearth extensions shall comply with UL 1618.</p> <p>R1004.3 Decorative shrouds.</p> <p>Decorative shrouds shall not be installed at the termination of chimneys for factory-built fireplaces except where the shrouds are listed and labeled for use with the specific factory-built fireplace system and installed in accordance with the manufacturer's installation instructions.</p> <p>R1005.1 Listing.</p> <p>Factory-built chimneys shall be listed and labeled and shall be installed and terminated in accordance with the manufacturer's installation instructions.</p> <p>R1005.2 Decorative shrouds.</p> <p>Decorative shrouds shall not be installed at the termination of factory-built chimneys except where the shrouds are listed and labeled for use with the specific factory-built chimney system and installed in accordance with the manufacturer's installation instructions.</p> <p>R1005.3 Solid-fuel appliances.</p> <p>Factory-built chimneys installed in dwelling units with solid-fuel-burning appliances shall comply with the Type HT requirements of UL 103 and shall be marked "Type HT and "Residential Type and Building Heating Appliance Chimney."</p> <p>Exception: Chimneys for use with open combustion chamber fireplaces shall comply with the requirements of UL 103 and shall be marked "Residential Type and Building Heating Appliance Chimney."</p> <p>Chimneys for use with open combustion chamber appliances installed in buildings other than dwelling units shall comply with the requirements of UL 103 and shall be marked "Building Heating Appliance Chimney" or "Residential Type and Building Heating Appliance Chimney."</p> <p>R1005.4 Factory-built fireplaces.</p> <p>Chimneys for use with factory-built fireplaces shall comply with the requirements of UL 127.</p> <p>R1005.5 Support.</p> <p>Where factory-built chimneys are supported by structural members, such as joists</p>



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Interpretation 11/87

Issued May 27, 1988
Section 105.0, USBC, Volume I/1987 Edition

- Q. Is a building permit required for home improvements, regardless of what work is being done, if the contract amount for that work is \$500 or more?
- A. Yes, provided such work is not considered an ordinary repair as defined by Section 105.1. The cost of the work is not applicable.

Interpretation 12/87

Issued May 27, 1988
Section 105.0, USBC, Volume I/1987 Edition

- Q. Can a building official require a copy of the contract between the contractor and the home owner, as a requisite to issue a building permit?
- A. No.

Interpretation 13/87

Issued May 27, 1988
Section 708.1, USBC, BOCA/1987 Edition

- Q. Is the minimum clearance under bulkheads around steel beams and HVAC ductwork in a basement recreation rooms 6' - 6" (Use Group R-3)?
- A. No. Beams and girders spaced not less than four feet on center may project no more than six inches below the required ceiling height. The code does not reference HVAC ductwork projecting below the required ceiling height; however, the requirements for furred ceilings (Section 708.2.3) would appear to be applicable under these circumstances.

COUNTY OF WARREN
 FRONT ROYAL VA 22630
 LIEN AGENT:

RESIDENTIAL BLDG PERMIT A

PERMIT NUMBER: 0000493 - 2015
 USBC: 2009
 APPLICATION DATE: 7/08/2015
 ISSUANCE DATE: 8/04/2015
 RENEWAL DATE: 8/04/2016
 DATE: 3/01/2018

OWNER NAME/ADDRESS BROWN, KRISTIE L 1255 PILGRIMS WAY BENTONVILLE, VA 22610 PHONE: 540-244-5526	SITE ADDRESS 1255 PILGRIMS WAY BENTONVILLE, VA 22610	CONTRACTOR NAME/ADDRESS BURACKER CONSTRUCTION 2594 STONEWALL JACKSON HW BENTONVILLE, VA 22610 PHONE: 540 636 1879
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RE ACCOUNT#: _____
 TAX MAP NO.: 34
 DESCRIPTION OF CONSTRUCTION LOCATION
 LOT: 4C1 BLOCK: SECTION: BLDG NO.:

SET-BACKS:
 FRONT: 50+ BACK: 50+
 RIGHT: 50+ LEFT: 50+
 CNTR: FRTGE:

HEALTH PERMIT NO.: WALKOVER
 FLOODPLAIN:
 AREA: WARREN COUNTY
 RIGHT-OF-WAY:

DISTRICT:
 SUB-DIVISION:
 ZONE:
 S/E CUP NO.: SITE PLAN:

DIRECTIONS TO SITE: 340 SOUTH TO RIGHT ON INDIAN HOLLOW CROSS RIVER TURN
 RIGHT ON PILGRIMS WAY THIS PROPERTY IS CLOSE TO THE END OF PILGRIMS WAY
 ON THE LEFT IS MARKED WITH BURACKER SIGN

USE GROUP: RESIDENTIAL-SFD & MULTI USE CODE: SINGLE FAMILY DWELLING SQ FEET: 5517
 CNST.TYPE: Combustible/Unprotected NATURE/WRK: SFD

RESIDENTIAL BLDG PERMIT A

TYPE IMPRV NEW	PROP. USE SFD	TYPE FOUND BASEMENT	TYPE CONST WOOD FRAME
UTILITIES PRIVATE	1ST FLOOR 1526 SF	2ND FLOOR 945 SF	3RD FLOOR
BASEMENT 1526 SF UNF	GARAGE 610 SF ATT	CARPORT	DECK
PORCH 910 SF	# BEDROOMS 3	# BATHS 3FULL 1HALF	# CHIMNEYS 2 PREFAB
# FIREPLCE 2 PREFAB	MF#		
HD--4 BEDROOMS 6 MAX OCC	*	*	*

JOB VALUE: 431,000.00

PERMIT FEE: 917.55
 STATE LEVY: 18.35
 RENEWAL:
 SWO/WRK-NO PRMT:
 MECHANICS LIEN:
 MODIFY/PLAN RVW:
 SPECIAL INSPECT:
 REINSPECTION:
 TEMPORARY CO:
 TOTAL FEES: 935.90

STATE LAW REQUIRES THAT THIS PERMIT(S) BE CLEARLY POSTED ON THE
 JOB SITE. INSPECTIONS WILL NOT BE PERFORMED IF THE APPLICABLE
 PERMIT(S) IS NOT POSTED ON THE JOB SITE. WHEN CALLING FOR AN
 INSPECTION, YOU MUST GIVE THE APPLICABLE PERMIT NUMBER.
 INSPECTIONS WILL NOT BE SCHEDULED UNLESS THESE NUMBERS ARE
 PROVIDED.
 REQUESTS MUST BE RECEIVED IN OUR OFFICE PRIOR TO 4:00PM THE
 DAY BEFORE YOU WANT THE INSPECTION. 540-636-9973

REQUIRED SIGNATURES

 APPLICANT'S SIGNATURE

 DATE

 APPRVD. AS NOTED/CODE OFFICIAL

 DATE

COUNTY OF WARREN
DEPARTMENT OF BUILDING INSPECTIONS
220 NORTH COMMERCE AVE., SUITE 400
FRONT ROYAL, VA 22630

3160-17
Rec 7-24-17

CERTIFICATE OF EXEMPTION

APPLICATION FOR APPROVAL

This is to certify that the proposed construction activity described below is entitled to exemption from the requirements of State and/or County regulations for obtaining a permit(s) from the County.

OWNER: Christopher & Victoria Weiler

MAILING ADDRESS: 7610 Rustle Ridge Ct, Fairfax Station, VA 22039

PHONE: 703-405-3178 WORK PHONE: _____

SITE ADDRESS: 744 Oakview Dr. Bentonville, VA 22610

TAX MAP #: 35 SECTION: _____ BLOCK: _____ LOT/PARCEL: 11A

PROPOSED SETBACKS: FRONT _____ REAR _____ LEFT _____ RIGHT _____
(ATTACH COPY OF PLAT WITH LOCATION OF STRUCTURE)

CONSTRUCTION / ACTIVITY PROPOSED: 20x20 Barn

IF CONSTRUCTION / ACTIVITY PROPOSED IS A BUILDING—WHAT IS THE SQUARE FOOTAGE? 400 sq ft

PROPOSED USE: Storage of farm equipment

CONTRACTOR'S NAME: Buracker Construction LLC

ADDRESS: 2594 Stonewall Jackson Hwy, Bentonville, VA 22610

PHONE: _____

I certify that I have the authority to make the foregoing application and that the information given is true and correct. I understand that the proposed work and use is exempt from permits under the Code Regulations checked below. I must notify the Department of Building Inspections of any changes in the proposed work described above and obtain additional approval for exemption or proper permits before initiating such changes. A change of use of the structure will require permits and inspections.

Information completed for me, by _____ Permit Technician is true and correct.
Martin Buracker
OWNER CONTRACTOR AUTHORIZED AGENT

EXEMPTED FROM CODE REGULATION BY THE:
 VIRGINIA UNIFORM STATEWIDE BUILDING CODE
 VIRGINIA EROSION AND SEDIMENT CONTROL REGULATIONS

REFERENCED STANDARD: _____
CODE EDITION: _____
SECTION: _____

EXEMPTED FROM ZONING REGULATION BY THE:
 FRONT ROYAL ZONING ORDINANCE
 WARREN COUNTY ZONING ORDINANCE

CODE SECTION: _____

APPROVED DATE: _____
 DISAPPROVED DATE: _____

BUILDING OFFICIAL/EROSION CONTROL ADMINISTRATOR

APPROVED DATE: _____
 DISAPPROVED DATE: _____

ZONING ADMINISTRATOR TOWN OF FRONT ROYAL WARREN COUNTY

KRISTIE SOURS ATWOOD EXPERT REPORT FINDINGS

CONTRACT ADMINISTRATION	BUILDING INSPECTIONS RESPONSE:
1 The construction contract was issued by Buracker Construction, LLC, and signed by Martha A. Buracker. Buracker Construction, LLC, is not registered as a licensed contractor in Virginia.	Building Permit 493-2015 was issued to Buracker Construction 2705-048817, which is valid till 2019-03-31 and since 1999-03-16.
2 The building permits for the construction of the home were issued by the Warren County Building Department on or about July 22, 2017 to the applicant, Buracker Construction, LLC, a business entity that does not have a valid contractor's license.	Building Permit 493-2015 was issued to Buracker Construction 2705-048817, which is valid till 2019-03-31 and since 1999-03-16.
3 The construction contract calls for written and signed change orders for all contract changes. There were numerous plan and material specification changes through the course of the contract. No written changes orders were provided by Buracker Construction, LLC.	Civil matter between owner and contractor.
4 The construction contract specifies an initial draw payment, a payment when the house is one half complete and a final draw upon completion. Overages or refunds were to be adjusted at closing. Eight actual draws were provided during the course of construction.	Civil matter between owner and contractor.
STRUCTURE AND FRAMING	
5 The garage roof trusses are not 12 in 12 pitch as shown on the building plans. OSB flooring was installed on the roof trusses for storage accessed by pull down stairs into the garage. Per information from Ms. Sours Brown, the attic storage room and stairway shown in the original plan were to be installed with conventional framing. The finishes for the garage storage room were the only items that were to be deleted from the construction specifications. All other construction in this area was to remain as originally specified. No change orders were provided to document this construction change.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
6 Diagonal bracing is recommended for the garage roof truss system and the upper, main attic conventional framing system.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
7 The upper roof framing is 16" on center. 24" on center was specified for the framing in the plans.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
8 There were signs of moisture through the foundation walls in the cold cellar. The foundation insulation installed on the inside of the basement walls limited the inspection of these walls for moisture penetration concerns.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
9 Cardboard was visible under the cold cellar roof structure steel pans. This may cause settling of the concrete slab above and be an attractant for termites. The cardboard should be removed and metal shims or non-shrink grout installed in any openings created by the cardboard removal.	Quality of construction. Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
10 The joist hangers are missing fasteners and adhesive at the basement stairway.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code. Hangers were installed properly per the manufacturers requirements.
11 The floor and roof support beam bearing is inadequate at the right side porch. The design size of this beam should be confirmed by a registered design professional.	Work needs to be evaluated by a Registered Design Professional (also indicated by home inspectors report) and it appears that it may have been done after the CO was issued. Ms. Sours indicated that it was not originally like this and in speaking to the inspector, he does not remember this condition.

12 The post for the porch roof is not properly supported on the beam below the porch floor.	Work needs to be evaluated by a Registered Design Professional (also indicated by home inspectors report) and it appears that it may have been done after the CO was issued. Ms. Sours indicated that it was not originally like this and in speaking to the inspector, he does not remember this condition.
13 The support for the ends of the diagonal beam under the front deck is inadequate.	Notice of violation was issued on this item. Letter sent 03-30-2018.
14 Joist hangers are missing at the diagonal beam at the front right corner of the porch floor.	Notice of violation was issued on this item. Letter sent 03-30-2018.
15 The porch posts have no restraint against vertical uplift or horizontal forces at their connection to the patio slab.	Connections were present on the opposite side of the posts. Construction met the 2009 Virginia Residential Building Code.
16 The porch posts have structural screws installed diagonally as restraint against vertical uplift at the lower connections to the deck. Are these screws rated for uplift in this installation? Evaluation by a registered design professional is recommended.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
17 The porch posts and diagonal bracing are secured to the roof beam with finish nails. No structural fasteners are visible in these connections. Evaluation by a registered design professional is recommended.	Civil matter between owner and contractor. No structural aspects to this connection and is not addressed by the code.
18 One support post was cut too short for the beam under the front porch. Shims were installed under the beam. These shims were not installed vertically and will shrink allowing the beam to settle more at this post than the others.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
19 The access to the rear attic is not a minimum of 20" wide.	Civil matter between owner and contractor. Not a construction issue.
20 A ceiling joist is cut with no header at the fireplace chimney through the rear attic.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.

EXTERIOR	
21 The installation of the exterior LP Smartside siding and trim materials does not comply with the manufacturer's installation instructions.	Quality of construction. Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
22 The concerns with the LP Smartside installation are: a. Flashing is missing at the horizontal siding joints on the gable ends, b. Some fasteners do not appear to be galvanized or stainless steel in an exterior installation, c. The fastener installation for the trim does not comply with the manufacturer's nailing instructions, d. The fasteners for the trim were not installed flush but were overdriven in past flush, e. 1" minimum space was not provided between the concrete patio, the siding and trim, f. The required 3/8" space at butt joints in the siding and at joints between the siding and window and door trim, and inside and outside corner trim has not been provided, g. The cut ends of the siding and trim have not been sealed, h. The siding and trim joints have not all been caulked, i. A minimum clearance of 6" between the siding and grade has not been provided, j. The siding projects past the corner trim on the garage, k. The siding trim is in direct contact with the stone veneer of the fireplace chimney, and l. The gutters do not terminate at least 1" away from the siding.	Quality of construction. Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.

The siding and trim installation problems will affect the manufacturer's warranty on the products.	
23 The porch guardrail posts do not extend through the decking and are not fastened to the structure except with diagonal finish nails. Finish nails are not considered to be structural connectors in guardrail applications. The wood members of the guardrail have shrunk and are no longer tight. The guardrail should be designed to withstand 200 pounds of horizontal force at any location and 50 pounds of horizontal force per linear foot of railing.	Civil matter between owner and contractor. Areas that are discussed that are attached with "finishing nails" are decorative pieces, guardrails are not required. Construction met the 2009 Virginia Residential Building Code.
24 The porch floor trim boards are loose and twisting.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
25 Siding batten spacing is 24" apart. Ms. Sours Brown was shown several houses by Martha Buracker and was told that the siding and trim installation would match that of the other houses. The example houses had the battens spaced 16" apart per Ms. Sours Brown.	Civil matter between owner and contractor. Not a construction issue.
26 Board and batten siding was not installed on the right garage gable wall. Horizontal siding was installed on this gable wall.	Civil matter between owner and contractor. Not a construction issue.
27 The aluminum cap trim is not cut tightly to the wood posts. The gaps have not been caulked.	Civil matter between owner and contractor. Not a construction issue.
28 The aluminum trim is wavy and loose.	Quality of construction. Civil matter between owner and contractor. Not a construction issue.
29 The cap trim repair where the posts were relocated on the rear and right side porches does not match the other trim.	Quality of construction. Civil matter between owner and contractor. Not a construction issue.
30 The aluminum trim is buckled and dented on the garage door frames.	Quality of construction. Civil matter between owner and contractor. Not a construction issue.
31 The flashing is lifted and loose at the chimney.	Quality of construction. Civil matter between owner and contractor. Not a construction issue.
32 The stone veneer and mortar on the chimney is bleeding onto the chimney and the adjacent roof shingles. The stone veneer is bleeding onto the porch floor.	Civil matter between owner and contractor. Not a construction issue.
33 Head flashing was not found above the front circle head window. Water stains are visible in the interior finishes around this window.	Quality of construction. Civil matter between owner and contractor. Not a construction issue.
34 The pre-finish on the LP siding has been damaged in numerous locations.	Civil matter between owner and contractor. Not a construction issue.
35 The touch ups of the LP siding paint do not match the original finish.	Civil matter between owner and contractor. Not a construction issue.
36 Sealant is missing on the left side of the right front dormer.	Quality of construction. Civil matter between owner and contractor. Not a construction issue.
37 The stair stringer attachment at the both porch steps is inadequate. The front porch steps are settling and pulling away from the porch. Metal stair hangers are recommended. This is a safety concern.	Quality of construction. Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
38 No foundation was provided at the stair stringers to support the stairs.	Quality of construction. Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
39 The front porch steps do not flare out as specified in the construction contract addendum.	Civil matter between owner and contractor. Not a construction issue.
40 Some fasteners in the cedar porch posts and trim appear to be corroding prematurely. Stainless steel or double dipped galvanized fasteners are recommended with cedar due to the natural acids in the wood that contribute to its weather resistance.	Quality of construction. Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.

41 No foundation to frost line was found below the rear patio slab that was poured between the basement cool storage room and the garage.	Quality of construction. Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
42 The right side porch floor does not overhang the concrete block foundation wall. Water is running from the floor and wall above down the foundation wall. The parging on the wall is subject to freeze/thaw damage in this area.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
43 No drain holes were found at the base of the masonry wall on the rear porch.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
44 The cap has not been installed on the right side rear porch wall.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
45 The front entry door latch is broken.	Civil matter between owner and contractor. Not a construction issue.
46 The master bathroom exterior door knob handle is loose and comes off.	Civil matter between owner and contractor. Not a construction issue.
47 The master bathroom exterior door deadbolt does not lock.	Civil matter between owner and contractor. Not a construction issue.
48 The rear porch has no screened in section as shown in the plans.	Civil matter between owner and contractor. Not a construction issue.
49 The rear porch has no bay style bump out for the roof and floor as shown in the plans.	Civil matter between owner and contractor. Not a construction issue.
50 No windows were installed in the garage upstairs gable end walls.	Civil matter between owner and contractor. Not a construction issue.
51 The basement entry door lock is damaged.	Civil matter between owner and contractor. Not a construction issue.
52 The basement door threshold has not been secured or sealed to the concrete floor.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
53 The rear garage entry door threshold has not been secured or sealed to the floor.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
54 The rear porch concrete slab projects past the end of the side deck.	Civil matter between owner and contractor. Not a construction issue.
55 The rear left corner of the patio by the garage is settling excessively.	Civil matter between owner and contractor. Not a construction issue.
56 Grading and drainage at the front does not slope away from the foundation a minimum of 6" in the first 10' especially under the front porch.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
57 The stone veneer is set tightly to the roof shingles at the chimney. A minimum space of 1" is recommended in these intersections. Weep screeds were not found at this location.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
58 Kick out flashings are missing at the breezeway roof into the garage and house walls.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
59 The openings in the basement foundation wall at the door and windows have not been covered with stucco. The stucco mesh does not extend over the joints between the foundation wall and wood frame. This joint will crack immediately and re-crack after every repair.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
60 The rear entry door is scratched.	Civil matter between owner and contractor. Not a construction issue.
61 A concrete form board has not been removed outside the basement entry doors.	Civil matter between owner and contractor. Not a construction issue.
62 The contract plans call for cedar ceiling on the porch. Vinyl ceiling panels were installed.	Civil matter between owner and contractor. Not a construction issue.
63 The dirt and masonry demolition and construction debris was pushed over a hill. It does not appear to be buried. Large pieces of concrete and concrete block are visible in the debris.	Civil matter between owner and contractor. Not a construction issue.

64 The driveway does not have the final grading completed. The front lawn drains across the driveway causing erosion and chronic maintenance in this area.	Civil matter between owner and contractor. Not a construction issue.
65 Final grading, seeding and straw cover were completed but the grass failed to grow. The final grading was not completed per the discussion between David Buracker, George Cline, the excavating subcontractor, Vincent Atwood, Jr. and Kenny Sours, Kristie's father. The yard has areas that remain wet in spring and wet weather.	Civil matter between owner and contractor. Seed and straw was approved at the final inspection as a final stabilization method per WC Chapter 150. Failing to grow is owners responsibility.

ROOFING

66 The left side porch roof shingles are stained from the air conditioning condensate draining onto the shingles. Replace the stained shingles is recommended.	Civil matter between owner and contractor. Not a construction issue.
67 The roof flashing has been sealed with roof cement at the lower ends of the front dormers.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
68 The downspout is dented at the front left corner of the garage.	Civil matter between owner and contractor. Not a construction issue.
69 A roof/wall vent has not been installed at the front porch per the plans.	Civil matter between owner and contractor. Not a construction issue.

PLUMBING

70 The plumbing vent pipes should be supported every 4' through the main attic and pitched to drain down into the drain system.	Notice of violation was issued on this item. Letter sent 03-30-2018.
71 The tub faucet spout is loose in the upstairs right bathroom.	Civil matter between owner and contractor. Not a construction issue.
72 The front shower handle is loose in the master bathroom.	Civil matter between owner and contractor. Not a construction issue.
73 An access panel was not found for the tub motor.	Access was found at final inspection.
74 The toilet seat is broken in the master bathroom.	Civil matter between owner and contractor. Not a construction issue.
75 The laundry and whirlpool tub plumbing are located on exterior walls and subject to freezing.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
76 A tempering valve was not found for the master bathtub. This is a potential scald hazard.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
77 The two stage toilet in the powder room does not refill properly.	Civil matter between owner and contractor. Not a construction issue.
78 The upstairs bathroom toilet was running during the inspection. It needed the handle to be jiggled to stop the water flow.	Civil matter between owner and contractor. Not a construction issue.
79 The basement floor drain is not accessible under the heat pump air handler. This is a maintenance concern.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
80 The frost-free hose bib near the basement entry door freezes in winter. The bib is not pitched to drain water down and out of the fixture.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
81 The foundation drain outlet is damaged and restricted in the right side yard.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.

ELECTRICAL

82 A single, small gauge copper wire is running through the garage attic to the electrical panel. This may be a bonding wire for the whirlpool tub. Small gauge wires are required to be protected with running boards when installed across framing members through an accessible attic.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
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83 The electrical panels were installed in the side wall of the garage rather than in the basement per plan/contract reference.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
84 A GFCI receptacle is recommended in the basement for the water conditioning equipment.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.

HVAC

85 The exterior fireplace glass doors were binding and not closing. The fireplace doors shattered during the third use of the fireplace.	Civil matter between owner and contractor. Not a construction issue.
86 The fireplace in family room is different manufacturer and model than shown on the receipt from Acme Fireplaces.	Civil matter between owner and contractor. Not a construction issue.
87 Family room fireplace damper is damaged and not closing tightly.	Civil matter between owner and contractor. Not a construction issue.
88 The interior of the family room fireplace is damaged and bent at the damper/ chimney pipe connection at the top of the firebox. This is an unsafe condition (fire hazard).	Civil matter between owner and contractor. Not a construction issue.
89 The family room fireplace refractory lining is significantly damaged and cracked.	Civil matter between owner and contractor. Not a construction issue.
90 Significant smoke evidence and heat damage is visible on the exterior metal and stone veneer of the family room fireplace.	Civil matter between owner and contractor. Not a construction issue.
91 The glass doors are not installed on the family room fireplace. The doors were damaged during the second use of the fireplace.	Civil matter between owner and contractor. Not a construction issue.
92 The family room fireplace chimney system does not match fireplace itself but is made by a different manufacturer. Metal fireplace and chimney systems are tested and listed as complete systems. This is an inappropriate installation and an unsafe condition.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
93 There is less than the 2" required minimum spacing between the living room fireplace metal chimney system, the roof framing and fiberglass insulation in the attic.	Notice of violation was issued on this item. Letter sent 03-30-2018.
94 The upstairs heat pump primary condensate drain in the attic discharges through the attic side wall and onto the porch roof below. The condensate drain line should be brought down through the interior of the home and discharge into the sump pump or outside onto the ground.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
95 The insulation is incomplete at the refrigerant line to the air handler in the attic.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
96 The flexible duct in the basement was not fully extended. This is a manufacturer's installation instruction and system efficiency concern.	Quality of construction. Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
97 The heat pump disconnects are located behind the exterior equipment. Access to the disconnects is restricted.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
98 The wood fired boiler noted in the extra cost addendum was not installed.	Civil matter between owner and contractor. Not a construction issue.

INTERIOR

99 The stair riser heights differ by more than 3/8" from the house into the garage. The top riser height exceeds 8 1/2" measured to the top of the door threshold.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
100 The attic pull down stairs are missing fasteners to secure the stair frame to the garage ceiling framing. This is a safety concern.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
101 The attic stairs, wood corner trim and plastic access panel breach the fire separation between the garage and the attic. This is a fire safety concern.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.
102 The access to the rear portion of the upper attic should be at least 20" wide.	Civil matter between owner and contractor. Construction met the 2009 Virginia Residential Building Code.

103 Have the garage roof trusses been designed to accommodate anticipated storage loads?	Civil matter between owner and contractor. Not a construction issue.
104 7/16" thick oriented strand board has been installed for storage across the garage ceiling trusses spaced 24" apart. This material is not intended for use as flooring. It may break under storage or personnel loads creating a safety concern.	Civil matter between owner and contractor. Not a construction issue.
105 No shelving was installed in the basement or garage.	Civil matter between owner and contractor. Not a construction issue.
106 Firesafing material has not been installed in the following locations: a. At the fireplace chimney firestops in the attic, and b. The electrical cables into the attic (visible above the main panel), and c. At the tub drain in the basement.	Notice of violation was issued on item "c". Letter sent 03-30-2018. Items "a" and "b" met the 2009 Virginia Residential Building Code.
107 The interior drywall finishing and painting is incomplete at the upstairs left bathroom and the upstairs family room wall. Touch up of all drywall and paint was to be provided by Buracker Construction LLC per Kristie's conversation with Martha Buracker.	Civil matter between owner and contractor. Not a construction issue.
108 A square shoe molding has been installed throughout the house at the base moldings on the hardwood and tile floors. This square profile is difficult to clean. A 1/2 x 3/4" tapered shoe molding is typically installed at this location.	Civil matter between owner and contractor. Not a construction issue.
109 The entry foyer wood floor is stained in front of the powder room wall from a toilet that was stored on the wood floor.	Civil matter between owner and contractor. Not a construction issue.
110 The ceramic tile is loose at the rear of the master bathtub platform.	Civil matter between owner and contractor. Not a construction issue.
111 The master walk-in closet does not have adequate space between the rods and shelves to hang clothes and walk between the clothes.	Civil matter between owner and contractor. Not a construction issue.
112 Several windows are stuck and/or binding. Adjustments are recommended.	Civil matter between owner and contractor. Not a construction issue.
113 Three pocket doors were specified in the contract. No pocket doors were installed in the home.	Civil matter between owner and contractor. Not a construction issue.
114 The tile work in all the bathrooms was repaired several times during the final completion of the home. The tile in the master bath shower is misaligned and out of square. The niche in the shower wall has a joint at the sill that will permit water to enter the wall behind the tile.	Civil matter between owner and contractor. Not a construction issue.
115 The root cellar in the basement measured 6 x 6 1/2'. The contract calls for a 6 x 8'6" room.	Civil matter between owner and contractor. Not a construction issue.
116 The door thresholds were not cut out in the basement interior walls. This is a trip hazard.	Civil matter between owner and contractor. Not a construction issue.
KITCHEN, BATHS, INSULATION AND VENTILATION	
117 The insulation has been displaced in the garage and upper attics. This lessens the performance of the insulation and increases the heating and cooling costs of the home.	Civil matter between owner and contractor. Not a construction issue.
118 The bathroom fans from both upstairs baths vent into the upper attic. Exterior terminations are required for both fans.	Notice of violation was issued on this item. Letter sent 03-30-2018. Does appear that this should have been caught.
119 No exterior termination was found for the master bathroom exhaust fan.	Civil matter between owner and contractor. Not a construction issue.
120 Insulation is missing on both attic hatches and the bathroom bay cantilever.	Civil matter between owner and contractor. Not a construction issue.
121 The floor is loose in the kitchen cabinet mounted over the refrigerator.	Civil matter between owner and contractor. Not a construction issue.
122 The right side of the kitchen cabinet over the refrigerator is damaged by a nail.	Civil matter between owner and contractor. Not a construction issue.
123 An anti-tip bracket should be installed on the kitchen range. This is a safety concern.	Civil matter between owner and contractor. Not a construction issue.
124 The flexible dryer vent is restricted behind the dryer.	Civil matter between owner and contractor. Not a construction issue.
125 Foam insulation is exposed on the basement wall behind the heat pump air handler. Foam insulation should be covered per the manufacturer's requirements.	Civil matter between owner and contractor. Not a construction issue.

126 Foam insulation should be installed on the ceiling and walls of the root cellar and covered with 1/4" tile backer board to provide a non-combustible, water and mold resistant finished surface.

Civil matter between owner and contractor. Not a construction issue.

Warren County Building Code Appeals

Thursday, July 18, 2019

At an appeal hearing of the Warren County Board of Building Code Appeals, held in the Warren County Government Center on Tuesday, May 14, 2019 at 3:00 p.m.

Present at the meeting: George Cline, Chairman; Art Saffelle, Vice Chairman; Dan Hotek, Board Member; Thomas McFadden, Board Member; Wendell Hatcher, Alternate Board Member; Paula Fristoe, Board Secretary; Jason Ham, Counsel to Warren County Building Code Appeals Board

Mr. Cline called the meeting to order at 3:30 p.m.

A motion was made by Mr. Saffelle and seconded by Mr. Hatcher to adopt the agenda. All voted in approval.

A motion was made by Mr. Saffelle and seconded by Mr. Hotek to approve the minutes of the Tuesday, May 14, 2019 meeting. Mr. Hatcher, Mr. Hotek and Mr. Saffelle voted to approve. Mr. Cline and Mr. McFadden did not vote.

Mr. Cline read a Conflict of Interest Disclosure Statement, disqualifying himself from the public hearing on today's agenda. A copy is attached as part of these minutes.

Mr. Ham advised the board, regarding choosing a temporary presiding officer.

Mr. Hotek made a motion for Mr. Saffelle to be the temporary presiding officer. It was seconded by Mr. Hatcher. Mr. Hotek, Mr. Hatcher and Mr. McFadden voted in approval.

Mr. Saffelle reminded the parties involved, in this appeal, of the speaking time limits and the importance of adhering to those time limits, so that all would have a chance to speak.

Mr. Saffelle discussed the June 14, 2019 deadline for Jurisdictional concerns to be submitted. This deadline was voted and approved at the May 14, 2019 meeting. Only one jurisdictional concern has been received, submitted by Buracker Construction LLC.

Mr. David Silek, counsel for Mrs. Atwood, raised concern that Buracker Construction LLC is not a party to this appeal, only the property owner and the building code officials office, based on the State Technical Review Board's guideline.

Mr. Joel Francis, counsel for Buracker Construction LLC, stated that the Building Code (119.7) states that any persons whose interests are affected by the building official's decision in question, shall be given an opportunity to be heard.

Mr. Silek read more from the guideline supporting his belief that the appealing party, his client and the building official are parties to this appeal.

Mr. Ham advised that the board move forward with any jurisdictional concerns or with the appeal.

Mr. Silek was called for his opening statement.

Mr. Silek stated that we are hearing this appeal again because people cannot follow the law and honor conflict of interest. This is part of how his client has been victimized. He said that Mr. Beahm should not have issued a permit to an unlicensed contractor.

On March 16, 2015, Mrs. Atwood's family suffered a horrific fire. She hired Buracker Construction LLC to remove debris and rebuild her house. She relied on her contractor to build her home safely. She relied on Warren County Building Inspections to ensure her safety. She relied on Mr. Beahm to do his job. When she experienced issues, she reported them to DPOR and was informed that Buracker Construction LLC was unlicensed. She notified the building inspections office of this information and she repeatedly requested a re-inspection. A Certificate of Occupancy was issued on an unfinished and unsafe home. The subsequent Notice of Violation (NOV) proves that items were missed. Mrs. Atwood hired a third party inspector, David Rushton of Able Building Inspections, because she could not depend on Warren County to do their job. Mr. Rushton is a Class A Building and Electrical Contractor and has 20 years' experience in home inspections. Mr. Rushton found over 125 items that were issues and 60 potential code violations. Mrs. Atwood shared Mr. Rushton's report with Mr. Beahm and Warren County Government officials. Mr. Stanley urged Mrs. Atwood to request a re-inspection. Mr. Beahm, Mr. Whitten and Mr. Robinson came to her home and looked at a handful of items and left. Mr. Beahm issued a NOV to Buracker Construction LLC. Mr. Silek requests that this board find the 60 potential code violations of Mr. Rushton's report should be found as legitimate code violations. Mr. Silek feels that if the permit was issued in violation, then all of the work performed would be in violation. Mr. Silek feels that none of the board members would want the issues that she has with her house or would want to buy her property. Mr. Silek challenged the board; if they think that Buracker Construction LLC has done their job, then Mrs. Atwood would be glad to entertain an offer for her house.

Mr. Saffelle called Joel Francis to address the board.

Mr. Silek noted continuing objection to his participation in this proceeding.

Mr. Francis referred to the USBC 119.7—all hearings before the LBBCA shall be open meetings and the appellant (Mrs. Atwood), the appellant's representative (Mr. Silek), the jurisdiction (Mr. Beahm and his counsel), and any person whose interests are affected by the building officials decision (the Buracker's) shall be given an opportunity to be heard. That is due process, an opportunity to be heard.

Mr. Francis read from a June 19, 2019 email from David Silek referring to Warren County as idiots. This email was sent shortly after Mr. Francis submitted the briefing to this board, upon the board's request, due on June 14, 2019. The appellants complain that they did not have notice of that, even though Mrs. Atwood was sitting in this room. In Mrs. Atwood's appeal for this case, there is no mention of whether Buracker Construction LLC had a permit. Mr. Francis feels that Mrs. Atwood is using a shotgun approach to seek a windfall, not justice. The briefing that was submitted can answer other questions that the board may have. Mr. Francis stated that there are people involved in all of this, not just Mrs. Atwood's

side; on his client's side and the building department's side. There are people trying to do good, honest work and trying to find some sort of justice. He hopes that the briefing will guide the board's analysis in finding that justice.

Mr. Saffelle called David Beahm, Warren County Building Official to address the board.

Mr. Beahm stated that building permit #493-2015 is issued to Buracker Construction.

Mrs. Atwood stated that Buracker Construction did not have a valid business license until July 2018, at which time Dan Whitten made them get a business license.

Mr. Saffelle called for rebuttal from Mr. Silek.

Mr. Silek stated that his client hired what she thought was a licensed contractor to build her house. The building inspections office issued a permit to an entity that was not contracted to do this work, or had been issued a business license. The building inspections department has also issued other permits to this same entity.

Mr. Saffelle called for rebuttal from Mr. Francis.

Mr. Francis had no rebuttal

Mr. Saffelle called for rebuttal from Mr. Beahm.

Mr. Beahm had no rebuttal.

Mr. Saffelle asked Mr. Silek if there were any witnesses.

Mr. Silek inquired if the board was going to rule on the jurisdictional request.

Mr. Saffelle advised the board that they are a body here to determine if the building official has made the correct decision. That is the only thing that this board can make a determination on. With that in mind, the board will hear the appeal.

Mr. Silek called first witness, Kristie Atwood. Mrs. Atwood stated that she entered into a contract with Buracker Construction LLC. A copy of the contract was entered as evidence. (A1) Mrs. Atwood depended on them being fully licensed and insured.

Mr. Francis interjected that the only thing that was appealed was a review of possible code violations.

Mr. Silek stated that a pre-requisite to obtaining a building permit, is being eligible to apply. Not being eligible to apply is a violation of the building code.

Mrs. Atwood reported Buracker Construction LLC to the Department of Professional and Occupational Regulation. At that point, they found out that Buracker Construction LLC was not a licensed entity. A consent order was issued by DPOR. A copy of the consent order was entered as evidence. (A2) The consent order was dated August 8, 2017. Mrs. Atwood was not eligible for the DPOR recovery fund due

to Buracker Construction LLC, as listed on her contract, not having a contractor's license. The license was issued to Buracker Construction.

Mr. Silek presented the business license for Buracker Construction dated July 3, 2018. A copy of the business license was entered as evidence. (A3)

Mr. Silek presented the house plans and permit documents for Mrs. Atwood's home. A copy of the plans and permit documents were entered as evidence. (A4) Mr. Silek and Mrs. Atwood reviewed the page numbers of the plans and permit documents.

Mr. Silek presented the April 12, 2018 letter to Mrs. Atwood from Doug Stanley. Included with this letter was Mr. Beahm's determination on each item on the Able Inspection list of concerns. A copy of the letter and that list was entered as evidence. (A5)

Mr. Hotek requested to be able to ask a question. The question was allowed. Mr. Hotek inquired with Mrs. Atwood if this letter from Mr. Stanley and Mr. Beahm's determination was part of the original appeal. Mrs. Atwood said that it was. Mr. Beahm called a point of order and said that it was not. Mr. Saffelle inquired with the board secretary. Mrs. Fristoe answered that this document was not part of the original appeal. Mrs. Atwood explained how this document was included.

Mr. Silek inquired if Mrs. Atwood hired a private home inspector. Mrs. Atwood stated that she did hire David Rushton of Able Building Inspections. Mr. Able is a licensed building and electrical contractor and has experience with inspecting homes. Mr. Silek presented the Able Building Inspection letter dated December 22, 2017. This letter was entered as evidence. (A6) There are 126 concerns in this letter. There is a subsequent letter, dated March 14, 2018 that has 60 +/- items that are of concern. This letter was entered as evidence. (A7) The first letter includes pictures of the issues or alleged code violations. The pictures were entered as evidence. (A8)

Mrs. Atwood described an outdoor furnace that was to be installed. Pipes were installed for that outdoor furnace and were not capped. This allowed for rats to infest her house. Pictures were submitted of the uncapped pipes. The pictures were entered into evidence. (A9)

Mrs. Atwood described her reasons for choosing LP Smart Side. She stated that the siding was installed incorrectly and it voided the warranty. The LP Smart Side application instructions were submitted as evidence. (A10)

Mr. Silek inquired about a letter to Mrs. Atwood from Mr. Beahm, dated December 7, 2017. The letter was entered in to evidence. (A11)

Mrs. Atwood described the March 30, 2018 Notice of Violation. It includes the information from Mr. Beahm determining which items were civil and which were code related. This NOV was entered as evidence. (A12)

Mr. Silek asked what actions Mrs. Atwood wanted this board to take. She replied that she wanted the board to look at her pictures. She wants the board to find the items in Mr. Rushton's list and subsequent pictures to be deemed code violations.

Mr. Francis objected to the new items being added to this appeal.

Mrs. Atwood said that this board was directed by the State Technical Review Board to hear this appeal again, on its merits.

Mr. Francis stated that anything new that is added should not be considered and he still rests on his original jurisdictional argument.

Mrs. Atwood stated that the violations are the same, but better pictures.

Mr. Saffelle ruled that any new items or pictures taken after the appeal can't be considered.

Mr. Silek stated for the record, that the later discovered issues, which are the stove outlet not attached to the wall and the exposed, uncapped pipes in the basement are withdrawn.

Mr. Ham advised the board that A9 was entered as evidence and discussion and is not to be considered. Mr. Saffelle asked if there were any objections from Mr. Francis or Mr. Beahm. There were no objections to this item not being considered as evidence.

Mr. Silek asked Mrs. Atwood about the wood burning fireplace. Mrs. Atwood said that the incorrect fireplace was installed. Mr. Silek entered a copy of the installation manual for the fireplace into evidence. (A13)

Mr. Silek asked Mrs. Atwood about the deck railing and the screws that were used on the deck railing. She stated that after her research, her deck railings are not installed correctly, according to the manufacturer of the deck screws. Mr. Silek entered a copy of the installation instructions for the deck screws into evidence. (A14)

The posts of the porch in front of the basement door were moved after the Certificate of Occupancy was issued. According to Mr. Rushton's report, this was not done properly.

Mrs. Atwood stated that according to the roof truss documents, lateral restraints are required. Mr. Rushton's report states that the lateral restraints are not there. Mr. Silek entered a copy of the truss engineering documents into evidence. (A15)

Mrs. Atwood stated that the main reason that she reported Buracker Construction LLC to DPOR was because her house was not what it should be and there were no change orders throughout the process. That is when she found out from the investigator that they were not licensed. She then hired an attorney and reported all of this to Warren County. They met to resolve the issues in November, but she was advised to not allow them on the property due to the license issue.

Mr. Francis was called to address his concerns.

Mr. Silek called a point of order. Mr. Francis should not be allowed to present argument, only cross examination.

Mr. Saffelle advised Mr. Francis that he could ask questions to Mrs. Atwood.

Mr. Francis inquired to Mrs. Atwood if she asked Buracker Construction to move the deck posts. Mrs. Atwood said that she asked them to move the posts, because they blocked the basement door, during the building process and they would not. Mr. Saffelle asked if the post was moved prior to the final inspection or after the final inspection. Mrs. Atwood said that it was moved after the final inspection, but that she had asked them to move it before the inspection. Mr. Francis asked Mrs. Atwood if the deck posts that she asked them to move are now part of her listed potential code violations. She said that the code violation is how the deck posts were rebuilt and that she did not ask them to violate the code.

Mr. Francis asked Mrs. Atwood if the outdoor wood furnace was related to any code violation. She stated that this is a code violation because the fire barrier is broken due to the pipes being open. Mr. Saffelle asked if the outdoor wood furnace was part of the contract. Mrs. Atwood said that it was. Mr. Francis stated that breach of contract items are not something that this board considers. Mr. Silek reiterated that the code violation is due to the pipes being left open and not hooked to something, be it the outdoor wood furnace or caps. Mr. Francis stated that he was trying to confirm that this was a contract issue, not a code violation.

Mr. Beahm did not wish to call witnesses or cross examine.

Mr. Saffelle called for testimony of other parties. There was none.

Mr. Francis requested to submit written rebuttals to the cited code violations. After discussion, it was determined that these rebuttals would not have been presented at the May 2018 hearing, and those rebuttals would not be acceptable.

Mr. Beahm had nothing further to present to the board.

Mr. Silek addressed the board in closing, going through the evidence that he submitted. He stated that Mrs. Atwood is a victim in this situation. She thought that she was dealing with a licensed contractor. He stated that none of the board members would be happy if they were in the same situation. The building inspections office and the building official are entrusted to protect the public and in this case they did not. Due to the incompetency of the building official, Mrs. Atwood had to hire Mr. Rushton.

Mr. Silek stated that Mr. Beahm offered no evidence or rebuttal today. He has offered zero explanation for his or his office's actions, and suggested that he is conceding.

Mr. Francis objected to that statement and moved to strike the statement from the record.

Mr. Silek stated that his client has been harmed. She watched a fire take everything she owned. She rebuilt a new house, only to find that the building official allowed someone that was not a contractor, to be issued a permit to rebuild.

Mr. Silek requested that the board find that the items in Mr. Rushton's report be found to be code violations.

Mr. Francis stated that code violations can only be found by the building official. The building official has not designated Mr. Rushton as a third party inspector. Mr. Beahm found five code violations in his notice of violation. This board does not have discretion to identify code violations. If the building official has not found violation, and if there is no notice of violation, there is nothing before this board. Mr. Francis agrees with the board's decision to hear the appeal and give everyone the opportunity to present evidence and be heard, but contends that this board has no authority to find code violations.

Mr. Beahm stated that he has not ceded anything. There are four members seated today on the board. Three of those members heard all of the facts previously. He finds no reason to go over the facts again. Whatever the board's decision is today, the appeal will go to the state technical review board. There is no need for him to waste the board's time arguing anything.

Mr. Silek read from the Code of Virginia regarding pre-requisites for obtaining a building permit. He stated that Mr. Beahm is guilty of a Class 3 misdemeanor for issuing a permit to an unlicensed contractor. He stated that all of the alleged code violations must be code violations because the permit never should have been issued. If there was no valid permit, how can there be any approved work?

A brief recess was taken.

Mr. Saffelle opened the question portion of the meeting.

Mr. Saffelle asked Mr. Beahm questions regarding verifying license information. Mr. Beahm confirmed that the license number that was listed on the application was a valid license and that the building permit was issued to that license.

Mr. Saffelle asked Mr. Beahm if David Buracker was a DEQ Certified Responsible Land Disturber. Mr. Beahm confirmed that Mr. Buracker was certified and that the land disturbing permit was issued as such.

Mr. McFadden confirmed with Mr. Beahm that the name on the application was one way, but the permit was issued to the correct entity.

Mr. Hatcher inquired to Mr. Beahm why the roof pitch and framing were not done to the approved plans. Mr. Beahm replied that the inspections are performed to the building code, not the approved plans. Mr. Hatcher also stated that the bottom cord was to be designed for storage based on the contract. Mr. Beahm stated that the building inspections office does not see the contract or enforce contract issues.

Mr. Hotek asked Mr. Beahm if he had ever provided a written document of his decisions on the items in question. Mr. Beahm stated that he has not provided a written document.

Mr. Saffelle closed the question portion of the hearing.

Mr. Saffelle opened the discussion portion of the hearing.

Board members had varying discussion on items that had been heard in the appeal today.

Mr. Silek presented information from 18 VAC 50-22-210, regarding licenses not being transferable.

Mr. Ham advised that this was the discussion portion of the meeting and that it is not appropriate to reopen presentation.

Discussion of the board members continued.

Resolutions and minutes from the prior two appeals were used to determine the items that were upheld at the prior appeal.

Further discussion was had by the board and Mr. Ham advised the board on what their options are and how a motion should be made.

Mr. Hatcher, with assistance from Mr. Ham, made a motion to find for the appellant, that there are violations, and that those violations are as described in the Notice of Violation, dated June 13, 2018 and they are numbers 3, 4, 6, 7, 10 and 12. Mr. McFadden seconded the motion. All voted in approval.

Mr. McFadden made a motion to adjourn the meeting. It was seconded by Mr. Hatcher. The meeting was adjourned at 6:41 p.m.

Respectfully Submitted,

Paula D. Fristoe
Recording Secretary
Warren County Building Code Appeals Board

Conflict of Interest Disclosure Statement

Warren County Building Code Appeals Board Meeting

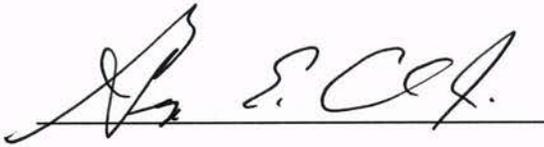
July 18, 2019

On today's agenda, Public Hearing Appeal #1-2018-Kristie Sours Atwood, I would like to disclose the following-

I am an employee of Cline Construction Inc. located at 86 Menefee Lane Front Royal Va. 22630 who has a personal interest in a transaction as defined by the Virginia Code Ann. 2.2-3112(A). Pursuant to Virginia Code Ann 2.2-3115(F), I am disclosing that I did work for Martha T. Buracker dba Buracker Construction, located at 3452 Bentonville Rd, Bentonville, Virginia 22610, which constructed the home located at 1255 Pilgrims Way in Bentonville, Virginia, permit number 493-2015, for Kristie Sours Atwood that is the subject to this appeal.

The transaction has application solely to property or a business or governmental agency in which I have a personal interest. Accordingly, I must disqualify myself from hearing this appeal before the Local Board of Building Code Appeals.

I ask that this disclosure be made part of the minutes of this meeting.

A handwritten signature in black ink, appearing to read "G. E. Cline Jr.", is written over a horizontal line.

George E. Cline Jr.

LBBCA Minutes 2019

Warren County Building Code Appeals Board

Tuesday, September 10, 2019

At an appeal hearing of the Warren County Building Code Appeals Board, held in the Warren County Government Center on Tuesday, September 10, 2019.

Present at the meeting: Art Saffelle, Vice Chairman; Dan Hotek, Board Member; Wendell Hatcher, Alternate Board Member; Paula Fristoe, Board Secretary; Jason Ham, Counsel to Warren County Building Code Appeals Board

Art Saffelle called the meeting to order at 3:30 p.m.

Jason Ham advised that the first order of business would be to elect an acting chairman.

Dan Hotek made a motion to elect Art Saffelle as the acting chairman. The motion was seconded by Wendell Hatcher. Dan Hotek and Wendell Hatcher voted in approval of the motion. Art Saffelle abstained.

Wendell Hatcher made a motion to adopt the agenda with the following changes: add approval of the meeting date and add discussion and consideration of electing a chairman and vice chairman. The motion was seconded by Dan Hotek and all voted to approve the motion.

Wendell Hatcher made a motion that today's meeting date be approved. The motion was seconded by Art Saffelle. All voted to approve.

Dan Hotek made a motion to elect George Cline as Chairman and Art Saffelle as Vice Chairman. The motion was seconded by Art Saffelle. All voted in approval of the motion.

Wendell Hatcher made a motion to approve the minutes of the July 18, 2019 meeting. The motion was seconded by Dan Hotek. All voted in approval of the motion.

Art Saffelle opened the Public Hearing for Appeal #2-2018—Martha Buracker—Buracker Construction—Appeal a mater concerning enforcement of the 2009 Virginia Uniform Statewide Building Code. The property involved is located at 1255 Pilgrims Way, Bentonville, VA 22610.

Joel Francis, Attorney for Martha Buracker gave his opening statements. The board heard Mrs. Atwood's appeal on July 18, 2019 that offered 60 alleged code violations. The board found that 6 were code violations matching the prior June 13, 2018 Notice of Violation. A new Notice of Violation has not been issued, which does not correspond with the state's directive to start fresh.

Mr. Ham clarified that the board is considering this a rehearing of appeal #2-2018.

Mr. Francis wants the record to be clear, that this board should not have this current appeal. The board should not have accepted Mrs. Atwood's original May 3, 2018 appeal due to the jurisdiction and

timeliness issues. Mrs. Atwood can only appeal a building official's decision and Mrs. Atwood's appeal was not submitted in a timely manner. Mrs. Atwood is appealing the letter of Able Building Inspections, not the building official. Due to no decision of the building official, there is no date to consider for an appeal. If the July 19, 2016 Certificate of Occupancy is being considered the building official's decision, her appeal was not timely. If the March 30, 2018 Notice of Violation is the decision being appealed, the appeal time frame was still not met as her filing was more than 30 days after that date.

Mr. Francis reviewed the items in question.

Item #3--The deck posts were moved at the owner's request after the Certificate of Occupancy. Is this the responsibility of the owner or the contractor?

Item #4—Deck Ledgers were appropriate connections in the 2009 Code.

Item #6—Siding—States installation problems not that they are code violations. The owner will not let anyone address these issues.

Item #7—Guardrail post connectors—This is not considered a guard because of height. However, code compliant Timberloc fasteners, not finish nails, were used.

Mr. Hatcher asked if Item 7 was in relation to the guard or guard post? It was discussed that it is one assembly. Mr. Saffelle asked David Beahm if the rail and post are individual. Mr. Beahm said that the rail and post are part of the guard assembly.

Item #10—Chimney doesn't match the fireplace—Documents were shown that prove that the chimney and fireplace conform to the manufacturer's recommendations.

Item #12—Draft stopping—Mrs. Atwood lived in the house for eighteen months before Mr. Rushton's inspection. Plastic missing eighteen months after final inspection is not the contractor's fault. However, the code only requires draft stopping if the room is larger than 1000sf. The area in question is 610sf. This fact makes the issue irrelevant.

Kristie Atwood addressed the board.

Mrs. Atwood stated that Buracker Construction LLC was not licensed in the state of Virginia.

Addressing the items of the appeal:

Item #3--Mrs. Atwood submitted a document (A-1) that she feels supports that Timberloc fasteners were not approved fasteners.

Item #4--Mrs. Atwood stated that her deck is more than 30" above the final grade.

Item #6--Mrs. Atwood submitted documents (A-2) regarding the installation of the siding.

Item #7--Mrs. Atwood stated that the guard posts are not code compliant.

Item #10--Mrs. Atwood submitted documents (A-3) regarding the fireplace. She said that the documents presented by the appellant are not the same as the fireplace that she has in her house.

Item #12—Mrs. Atwood described the draft stopping and fire stopping issues.

David Beahm, Warren County Building Official addressed the board. Information has been given on the merits of this case. He is available for any questions.

Mr. Hatcher asked if toe nailing is acceptable method for guards. Mr. Beahm stated that it was an acceptable method if it meets the 200lbs. of force requirement.

Mr. Saffelle inquired if approved fasteners were used in the areas that were over 30". Mr. Beahm stated that the rail has to withstand 200lbs. of force.

Mr. Hotek asked if Mr. Beahm thought that item 3 was a code violation. Mr. Beahm stated that he was directed by this board to find these 6 items to be code violations. Mr. Hotek stated that ultimately this board is to either agree or disagree with the Building Official's decision. Mr. Hotek asked Mr. Beahm if, in his opinion, were these 6 items code violations. Mr. Beahm stated that he found only the original 5 code violations. Mr. Beahm stated that if he had appealed the board's first decision to the state, he would have appealed that the items cited by the board to be code violations, were not code violations.

Mr. Hotek asked if deck ledgers were acceptable in the 2009 code. Mr. Beahm stated that the code section that he cited was as close as he could find for this item.

Mr. Beahm stated that the 5 code violations in the original notice of violation have been resolved.

Mr. Francis stated that during Mr. Beahm's presentation, he made clear that this board has to revisit its own decision. Mr. Francis stated that this is the point that he has been trying to make clear in his jurisdictional argument. This board directed the building official to cite these items as code violations. In doing that, his client does not have an impartial board to appeal to. He stated that this board does not have the authority to cite code violations. This board should remain neutral. Based on the building official's testimony, these are not his code violations, they are this board's.

Mr. Francis stated that the original 5 violations have been corrected. His client, while not admitting to code violations, has offered to have the items corrected, but the owner will not allow this to happen.

Mr. Francis reviewed the timeline of the case. He feels that the appeal was not made in a timely manner.

Mrs. Atwood stated that her appeal was based on the March 30, 2018 NOV, which she received on April 16, 2018. Her appeal was made on May 3, 2018, well within the 30 days. Mrs. Atwood stated that Mr. Beahm not making a decision on the items, is an appealable decision.

Mr. Saffelle asked if the appeal dates were met. Mr. Ham advised that testimony was received that she met the appeal dates requirements.

Mr. Hatcher asked Mr. Beahm if there was a device to measure the 200lbs. of force. Mr. Beahm said that body force is used, not instrumentation.

Mr. Saffelle closed the public hearing and opened the board discussion.

Mr. Saffelle stated that he is new to the board and has tried to educate himself. His understanding is that this board's duty is to agree or disagree with the building official's decision.

Mr. Hatcher went through the items and believes that all but item #10 are code violations.

Mr. Hotek believes that items 3, 4, 7, 10, 12 are code violations

Other discussion was held between the board members regarding the six items of this appeal.

Based on board discussion, a brief break was taken to write a resolution.

Dan Hotek made a motion to accept the following resolution:

WHEREAS, at a meeting of the Warren County Board of Building Code Appeals held on September 10, 2019 to consider the rehearing of appeal No. 2-2018 of Martha Buracker-Buracker Construction, the following motion was made by Mr. Hotek and seconded by Mr. Hatcher: To find against the appellant, that there are violations, and that those violations are as described in the Notice of Violation, dated June 13, 2018 and they are numbers 3, 4, 7, 10 and 12. Mr. Hatcher seconded the motion. Mr. Hotek and Mr. Hatcher voted in approval of the motion and Mr. Saffelle voted against the motion. The motion passed 2-1. Chairman Cline, Mr. Buracker and Mr. McFadden were not present.

Mr. Hatcher seconded the motion. All voted in approval of the resolution.

Mr. Hatcher made a motion to adjourn the meeting. Mr. Hotek seconded the motion. All voted to adjourn at 5:17 p.m.

Respectfully Submitted,

Paula Fristoe
Recording Secretary
Warren County Building Code Appeals Board

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Additional Documents
and Written Arguments
Submitted by
Buracker Construction

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Suggested Items for Resolution by the Review Board

I would like to have been able to insert my comments under the Item but as I do not have the original of either the Able Report or the State Appeal Doc I am itemizing below with my comments.

4. Item 2- Permit was issued to Buracker Construction – this issue was settled with DPOR.

5. Item 5 – The garage roof trusses were changed when Mrs Atwood wanted her garage changed from the original plan. The plans provided by the insurance company were stock plans from her first house, but she didn't build her first house according to plans either. We made changes based on our discussions with her and Victor during the planning stages. To have created a new custom set of plans would have been several thousand more dollars and every change she made thereafter an additional charge also. We were trying to get her the most for her money. We worked with the stock plans insurance company provided and notated the changes to the plans on the contract. One of those changes was the garage. Instead of side load she wanted front load. She also asked to eliminate the cathedral ceiling in the great room. That gave her tons of extra square footage on the second floor. In exchange for all the extra living space in the main house we eliminated the bonus room over the garage and it became storage space with pull down stairs. One the first house, this room and the two upper bedrooms were built with "room trusses" with doesn't allow a lot of flexibility when you want to make changes. We had asked Mrs. Atwood during the planning stages what she didn't like with the first house and the room over the garage was one of the items. It was their suggestion to make the changes. I still had to stay in the same price point for the construction cost, so in order to add some things, other things were eliminated. The bonus room was one of them. The trusses for the garage were engineered trusses. I have no idea what she means by "conventional framing". No Code Violation

6. Item 6 – Engineered garage trusses were installed per manufacturers instructions. Engineering is provided in the Warren County Documents section. No Code Violation

7. Item 8 – The foundation had draitile and foundation coating applied around the entire foundation and was inspected. There have been no leaks to indicate a foundation leak. No Code Violation

8. Item 9 – The cardboard noted at the end of the steel pans was put there by the concrete subcontractor to prevent the concrete from leaking out the ends. It can be removed. There is no Code Violation.

9. Item 10 – Joist hangers are there and installed per manufacturers instructions. No Code Violation.

10. Item 11 – All info provided in my first submission (Buracker Appeal) No Code Violation

11. Item 12 – All info provided in my first submission (Buracker Appeal) No Code Violation

12. Item 14 – This item was on the first NOV and has been completed.

13. Item 15 – The picture showing the post shows where the restraint had been. It appears to have been removed. No Code Violation

14. Item 16 – Timberlok screws were used and were an approved fastener. No Code Violation

15. Item 17 – Porch posts were screwed down from the top. You would not be able to see them unless you removed the metal wrap. No Code Violation
16. Item 18 – There is nothing in the Code that says you can't use a shim. No Code Violation.
17. Item 19 – This is not a ceiling access. No Code Violation
18. Item 20 – There is no R802.9 in the 2009 Code Book – No Code Violation
19. Item 21 – Section 112.2 Says you can use other means & methods to install. All fasteners were correct. David Buracker completed a class on LP Siding Installation provided by the manufacturer/supplier and was told that their guidelines change over the years, just as Building Codes change. We have been using and installing LP Smart Side Siding for over 10 years with no issues. In addition, Mrs. Atwood had our supplier make a site visit and was told there was nothing that would void her warranty. Do you know how ugly a 3/8" butt joint would look on siding? Then she'd be complaining that there was caulking. No Code Violation.
20. Item 22 – ditto Item 21.
21. Item 23 – All info provided in my first submission (Buracker Appeal). No Code Violation
22. Item 31- Pictures do not show loose and lifted. No Code Violation
23. Item 33 – All windows were taped and caulked. No Code Violation
24. Item 37 – Not required when there are less than 3 steps. No Code Violation
25. Item 38 – No Code Requirement for this. No Code Violation
26. Item 40 – Stainless Steel Fasteners were used. No Code Violation.
27. Item 41 – There are piers under this part of the concrete. No Code Violation
28. Item 43 – This is a woodbox that was supposed to have a top but Mrs. Atwood would never let us complete. There is no requirement for drainholes in a woodbox. No Code Violation.
29. Item 48 – Mrs. Atwood opted out of the screened porch once she saw how tight it would be with the fireplace on the porch. She was given a credit. No Code Violation.
30. Item 49 – Not in contract to do this. In fact contract specifically states no bump out. Her original house did not have this either. I have pictures supplied by the insurance company. No Code Violation.
31. Item 50 – The windows in the garage area were eliminated from garage and moved to basement walk-out wall. Mrs. Atwood had said one of the things she didn't like about her first house was the fact there were no windows in the basement and it was dark. The garage room had been eliminated and thus needed no windows. It was an easy trade that she had agreed to. No Code Violation.
32. Item 52 – It was sealed with silicone. Also, Code Section does not apply. No Code Violation.
33. Item 53 – This was also sealed with silicone. Code Section does not apply. No Code Violation.
34. Item 55 – No picture found, but there are piers under this portion of the concrete as previously stated in Number 27 for Item 41. No Code Violation

35. Item 56 – Done correctly for inspection and passed. If there has been any settlement since then it would be the responsibility of the Homeowner. No Code Violation.

36. Item 57 – Does not apply to Code Section cited. No Code Violation.

37. Item 58 – Flashing is there. Kickout is a term not noted in the Code. No Code Violation.

38. Item 59 – The windows and basement door had trim around them that Mrs. Atwood decided she didn't like. We agreed to remove and add the metal lathe so that we could parge this area. We were then going to parge the entire wall again so that everything would match. We agreed that the stone mason would do this when he came back to set the top on the woodbox. She has not allowed us to do either. Not a Code Violation.

39. Item 61 – this is not a Code Violation

40. Item 63 – This was all part of the demolition and was contractually agreed upon. The only debris is the foundation and slab from the first house that burned. We sorted all the debris and all scrap metal was separated and taken for salvage and the money given to the Atwoods. Regular debris could go to the landfill. The location was designated by Mr. Atwood on their 20 acre parcel. Mrs. Atwood had to sign off on approval in order for us to be paid for the demolition, which she did. DEQ came and inspected it and said it was approved. There is no Code Violation. How is this part of a Home Inspection?

41. Item 69 – There is a ridge vent in lieu of other vents. Roofing contractor says it voids the roof warranty to have both. No Code Violation.

42. Item 76 – Mrs. Atwood apparently had this removed after inspection. It was there at the time of inspection. No Code Violation.

43. Item 79 – This drain's only purpose is for the HVAC condensation line which empties directly into the drain. The drain has the slotted cover over it. The furnace is not a permanent fixture. No Code Violation.

44. Item 80 – This hose bib was previously fixed. The plumber instructed the Atwoods to stop leaving the hose attached to the faucet in freezing weather. He also gave them an insulated cover for it. There is nothing wrong with the hose bib other than they are probably continuing to leave the hose attached to the hose bib. They water their cows from this faucet. I can't force them to detach the hose. No Code Violation.

45. Item 82 – Does not apply to Code Cited. Also, can't tell from the picture where this is. No Code Violation

46. Item 84 – There most certainly is a GFCI receptable that the water conditioning is connected to. I believe it is in the garage. The Atwoods tripped the breaker at some point and said their water conditioner wasn't working. At that time we figured out the conditioner was working fine, but she had tripped the GFCI. No Code Violation

47. Item 85 – Customer damaged their own fireplace. Glass Doors on the fireplace were not even part of the contract. I gave them to her as a "free upgrade" as I would have wanted them myself. How is this

a Code Violation? There is no requirement for a woodburning fireplace to have glass doors. No Code Violation.

48. Item 87 – Again, customer misuse of fireplace. Further description included under Item 92. No Code Violation.

49. Item 88 – Again, customer misuse of fireplace. Further description included under Item 92. No Code Violation.

50. Item 89 – Again, customer misuse of fireplace. Further description included under Item 92. No Code Violation.

51. Item 90 – Again, customer misuse of fireplace. Further description included under Item 92. No Code Violation.

52. Item 92 – Info for this item was previously supplied under my first submission of documents for my appeal. (Buracker Appeal)

53. Item 93 – Addressed in first NOV and was fixed. Not sure why this is coming up again. No Code Violation.

54. Item 94 – This condensation line was installed correctly per the Code and inspected. I had a discussion with the HVAC Contractor who said it was exactly as it should be. No Code Violation.

55. Item 95 – This was inspected and passed the inspection. No Code Violation.

56. Item 96 – No Code found for this, the one cited does not apply. No Code Violation.

57. Item 99 – Picture is inadequate. Can't see starting point of measurement or other stairs. No Code Violation.

58. Item 100 – The picture shown is not a correct depiction of the installation. The stairs are installed as per the manufacturers directions that come with the stairs. No Code Violation.

59. Item 101 – information provided in our original submission (Buracker Appeal) There is no R301.2 Code Section in the 2009 Code Book. No Code Violation

60. Item 102 – Picture does not show measurement of any kind. No Code Violation.

61. Item 103 – There is no Section 109.5.4 so Code Section cited does not apply. No Code Violation.

62. Item 111 – Again, there is no Code Section 109.5.4. Mrs. Atwood changed the layout of the bathroom during the framing walk through. This in turn made the closet a bit smaller as she made the bathroom larger. We worked within the space that was there. We offered to remove one side of closet hanger and install shelves which would give more room, but she refused. Not sure what else to do, we don't have a closet stretcher. No Code Violation.

63. Item 116 – These were left there as the Atwoods said they planned to finish their basement but weren't sure about the exact placement of doors and width of door openings. This kept them from having to toenail a board to the floor for a plate. They could then remove the threshold at the time of finishing the basement. Not a Code Violation.

64. Item 119 – They terminate in the soffit. Soffit is vented. (Soffit in gables is not vented) No Code Violation.

65. Item 120 – We insulated and the house was inspected. If anything is missing from the bay cantilever it was removed after inspection. Attic hatches were insulated but I don't believe that insulation was required until the 2012 Code cycle. No Code Violation.

66. Item 125 – Code section cited 2601 is a plumbing Code. Other Code sections do not apply. No Code Violation.

67. Not sure what that means?

ABLE Building Inspections, Inc Report – Validity Points

Addition to original letter submitted with State Appeal

I have felt from the beginning of this process that Mrs Atwood's Appeal and the use of the Able Buildings Inspections, Inc Report should have been rejected as the appeal was invalid. To reiterate both my attorney's MEMORANDUM IN OPPOSITION TO APPEAL NUMBER 1-2018 and my own interpretation of the LBBCA Appeals Process based on the Code of Virginia, I believe the appeal at the local level acted outside of its authority by identifying items from the report as violations. The items they selected then, and all that are now before you in this appeal, stem from an appeal and report that should not have been accepted in the first place.

The following are my reasons why they should not have been accepted:

A. MEMORANDUM IN OPPOSITION TO APPEAL NUMBER 1-2018 – attachment 1

B. 13VAC5-63-19 Section 119 Appeals Paragraph E Section 119.5 states:

E. Section 119.5 Right of appeal; filing of appeal application. Any person aggrieved by the local building department's application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA within 30 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 building 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 building official's decision.

There was no Code Violation cited and thus none was attached to Mrs. Brown (Atwood's) appeal. The Warren County Appeal application clearly states that the appellant is to attach the decision of the Code Official and any pertinent documents.

C. Able Inspection Report – This report was used to facilitate the appeal and based on the following should have been excluded. Mr. Rushton (Able Building Inspection, Inc) is not a Warren County Code Official and is actually prohibited by DPOR from citing Code Violations. I am also attaching the PART IV from the DPOR Laws and Regulations regulating Asbestos, Lead and Home Inspectors. **(Attachment 2)** DPOR Minimum Standards for Conducting Home Inspections which includes 18VAC15-40-120 Home inspection contract and 18VAC15-40-130 Home Inspection Report. It also includes PART V Standards of Conduct and Practice 18VAC15-40-140 Conflict of Interest, 18VAC15-40-145 Competency for assignments, 18VAC15-40-150 Grounds for disciplinary action, 18VAC15-40-152 Notice of Adverse Action, 18VAC15-40-155 Prohibited Acts, and 18VAC15-40-160 Maintenance of licenses, reports and documentation. I included all of them just to be all inclusive even though I will only be addressing a few of them. First, the Home Inspection per DPOR email **(Attachment 3)** is to take place prior to the purchaser has not taking possession. The CO was issued on July 19, 2016 and she moved in

in August 2016 (according to her, I don't know the exact date of possession), but clearly the inspection by Able occurred about 14 months after the CO was issued. So, this inspection taking place 14 months after the CO violates DPOR.

Based on 18VAC15-40-120, Rushton violates DPOR Regulations in that it appears there is no Home Inspection Contract. If there is one Mrs. Atwood should have to provide it. The Inspection Report covered under 18VAC15-40-130 itself is missing the License number and date of expiration and also the NRS designation, although the home was no longer new 14 months after possession. In addition, the contract is supposed to contain per Item B, number 7, "a statement in the contract that the home inspection does not include a review for compliance with regulatory requirements (Virginia Uniform Statewide Building Code or other codes, regulations. Laws ordinances etc).

Based on the Standards of Conduct and Practice 18VAC15-40-140 Section E the home inspection shall not be used as a pretext by the licensee to solicit or obtain work in another field, except for additional diagnostic inspections or testing. This estimate was provided to Mrs. Atwood (I don't have a copy) but is referenced in a letter from Mr. Rushton to Kristi Sours Brown (now Atwood) that is included in the Summary Section titled LBBCA Minutes Package from Warren County.

Also, based on the Standards of Conduct and Practice 18VAC15-40-155 under Prohibited Acts Item number 7. Engaging in improper, fraudulent or dishonest conduct in conducting a home inspection. The Able Inspection Report has his "Contract Administration" segment in which he reviews contract and contractor licensing information, neither of which should be included in the Home Inspection Report. Mr. Rushton is not an attorney and should not be determining any contract disputes. Additionally, in several instances he reports items "per Ms. Sours Brown" which shows her influence over the inspection. An inspection should be impartial without her undue influence. These statements that are included in the report are hers and not part of any factual truth. To have them included on a Home Inspection report is completely prejudicial against the contractor. Additionally, under Item 13 in the Standards of Conduct – Prohibited Acts, it states "Having cited, stated or represented that there exists a violation of the Virginia Uniform Statewide Building Code (13VAC5-63) in a home inspection report or other document prepared relative to a home inspection. The document I am referencing is the same Able letter to Kristi Sours Brown that is mentioned in the previous paragraph and located in the LBBCA Minutes Package from Warren County. This letter states items of concern and possible code violations. He is prohibited by DPOR according to the Standards of Conduct to represent that there exists a violation of the Virginia Uniform Statewide Building Code. So, if he is prevented through DPOR from doing this, how can his report and this letter be accepted by the LBBCA and used as a premise for all of Mrs. Atwood's Appeals? This should never have been accepted in lieu of the Code Official's decision on her original appeal and is a valid reason to deny her appeal now.

Respectfully submitted,

Martha Buracker

VIRGINIA: WARREN COUNTY LOCAL BOARD OF BUILDING CODE APPEALS

IN RE: APPEAL OF KRISTIE SOURS BROWN (ATWOOD)
APPEAL NUMBER 1-2018

**BURACKER CONSTRUCTION LLC'S MEMORANDUM IN OPPOSITION TO
APPEAL NUMBER 1-2018**

Introduction

On May 14, 2019, the Warren County Local Board of Building Code Appeals (the "Local Board") gathered for a re-hearing on Kristie S. Brown's ("Brown") appeal, identified as Appeal Number 1-2018 (the "Appeal"), that had previously been heard by the Local Board on May 21, 2018, further appealed to the State Technical Review Board (the "State Board"), and subsequently remanded back to the Local Board on January 11, 2019. Present before the Local Board was Brown, Buracker Construction, LLC ("Buracker Construction") and its counsel, and the Warren County Building Department (the "Department"), by David Beahm, the Building Official, and the Department's counsel. Before the Local Board could hear the merits of Brown's Appeal, Brown raised an objection to the proceeding on the grounds that she was not properly notified of the date and time of the Appeal (despite her presence at the Appeal) and that she was not able to have her attorney present at the Appeal (despite her admission that she had previously informed her attorney of the date and time of the Appeal). The Local Board granted Brown's request for a continuance, but welcomed comment from the other parties present.

During the comment period on May 14, 2019, Buracker Construction raised an objection to the Local Board's jurisdiction and authority to hear the Appeal for reasons stated in greater detail below. Upon Buracker Construction's objection, the Local Board ordered the parties to brief the jurisdictional issue raised at the hearing. Buracker Construction hereby submits this Memorandum in Opposition to Appeal Number 1-2018.

Statement of Facts

On or about July 6, 2015, Brown and Buracker Construction executed a contract for the construction of Brown's home located at 1255 Pilgrims Way, Bentonville, Virginia 22610 (the "Property"). On July 19, 2016, the Department inspected and issued a certificate of occupancy for the Property and Brown subsequently moved in to the Property. After living in the Property for approximately 14 months, Brown hired a private home inspector, namely, David Rushton of ABLE Building Inspection, Inc. (ABLE), to inspect her Property. ABLE inspected the Property on September 11, 2017 and produced a report of its findings on December 22, 2017. On March 14, 2018, ABLE identified approximately 68 items in its report that were "possible" code violations. ABLE is not a building official, as that term is defined by § 105 of the 2009 Virginia Uniform Statewide Building Code (the "VUSBC"), nor is it an "approved inspection agency" or a "third-party inspector" for the County of Warren, as those terms are respectively defined by §§ 113.7 and 113.7.1 of the VUSBC.

Later in March 2018, the Department re-inspected Brown's Property approximately 19 months after a certificate of occupancy had been issued and Brown took possession. Of course, during that time, Brown had subjected the Property to wear and tear and altered portions of the Property. Following its March 2018 re-inspection, the Department issued a notice of violation ("NOV") to Buracker Construction on March 30, 2018, identifying five code violations which Buracker Construction agreed to remedy. Brown refused to allow Buracker Construction to remedy the five code violations, whether by cash payment or by services.

On May 3, 2018, Brown filed this Appeal with the Local Board, asking for a "Review of possible code violations and construction deficiencies. More importantly home built does not match county approved plans. Review NOV sent to Buracker Construction LLC. See attached 3rd

party inspection." She also stated: "I want the Warren County building dept. to recognize the errors of their inspectors including David Beahm and force the contractor, Buracker Construction LLC, to find a viable plan for completion and repair of the issues to my home."

The Local Board heard Brown's appeal on May 21, 2018. It did not provide Buracker Construction the opportunity to be heard, despite the plain language of § 119.7 of the VUSBC ("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 building official's decision in question* shall have the opportunity to be heard."). At the May 21, 2018 Local Board hearing, the Local Board also considered the report from ABLE and otherwise heard testimony from Brown.

The Local Board decided to continue the May 21, 2018 hearing until June 7, 2018 and held a work session prior to the June 7 hearing. On June 7, 2018, the Local Board reconvened and, despite the fact that the Department had not issued any additional NOV's, found that twelve more code violations existed at the Property and *ordered* the Department to issue an NOV to Buracker Construction citing the twelve code violations.

Buracker Construction subsequently appealed the NOV that was the result of the June 7, 2018 Local Board hearing, and, on July 26, 2018, successfully overturned six of the twelve code violations. The six alleged violations were overturned because the Department failed to cite to an applicable VUSBC code section for the alleged violation, such citation being required for each alleged violation by the VUSBC. When asked by the Local Board why the Department did not cite to the VUSBC, the Department simply responded that a VUSBC section did not exist for the certain violations that the Local Board "found" and directed the Department to issue.

Brown appealed the June 7, 2018 results of this Appeal to the State Board, and Buracker Construction LLC appealed the results of its July 26, 2018 appeal to the State Board. The State Board convened on January 11, 2019, but refused to hear the merits of either party's appeal because of various conflict of interest issues present in each appeal. The State Board remanded this Appeal back to the Local Board for a re-hearing (pending the resolution of the conflict of interest issues identified by the State Board). The re-hearing on this Appeal occurred on May 14, 2019.

Question Presented

The question presented to the Local Board via Buracker Construction's objection is as follows:

In the absence of a finding of a code violation and notice of violation by the Department, whether the Local Board has the authority to enforce the VUSBC by "finding" that code violations exist, and "ordering" the Department to issue notices of violations.

Analysis

I. Authority of the Department

Virginia Code § 36-105, which is the statute governing the enforcement of the VUSBC, provides in subsection (A) that "[e]nforcement of the Building Code for construction and rehabilitation shall be the responsibility of the local building department." Thus, the plain language of the statute provides that the only entity with the authority to enforce the VUSBC is the Department, not the Local Board. This assertion is further corroborated by the VUSBC itself. For example, § 104.1 of the VUSBC provides "[e]nforcement of the provisions of the USBC for construction and rehabilitation shall be the responsibility of the local building department." The same section also cites back to Virginia Code § 36-105.

Moreover, § 105.1 of the VUSBC provides that every local building department shall have a building official as the executive official in charge of the department. VUSBC §§ 105.1.1 and 105.1.2 further elaborate on the qualifications, training, education, and certifications that a building official must possess or achieve in order to be qualified to be the executive official in charge of the local building department. The Local Board has no such training, education, or certification requirements. (See VUSBC § 199.3)

VUSBC § 106 provides that the building official shall enforce the VUSBC and regulates how the building official may delegate the authority solely vested in him by the Virginia Code and by the VUSBC. The Local Board is not granted the authority to "enforce" the code in § 106.

In VUSBC § 113, a building official's duties to inspect are outlined. § 113.1.3 only grants the Department, or its designee, the authority to conduct home inspections. Moreover, § 113.6 vests in the building official and the Department the discretion to "approve of the work in writing or give written notice of defective work to the permit holder." § 113.8 governs a building official's duties for a final inspection and the issuance of a certificate of occupancy, providing that the final inspection shall be conducted "to ensure that any defective work has been corrected and that all work complies with the USBC." Unless an approved inspection agency (see VUSBC § 113.7) or a third-party inspector (see VUSBC § 113.7.1) has been designated by the building official, the building official alone has the authority and discretion to perform a final inspection and issue a certificate of occupancy. On the off-chance that a certificate of occupancy is issued in error, only the building official has the authority to revoke or suspend it upon his finding that such certificate was issued in error. See VUSBC § 116.3.

In the event that a code violation exists on a project, the VUSBC continues in § 115.2 by providing that a building official shall issue an NOV if any code violation or directive of the

building official has not been corrected or complied with in a reasonable time. The VUSBC does not authorize the Local Board to issue NOVs, much less to find *de novo* that a code violation exists.

The VUSBC is laid out in a straight-forward, logical manner. It begins with the authority of a local building department, designates the building official as the chief executive of the local building department, provides the qualifications a building official must have to perform his duties, and then provides the authority that the building official possesses and the duties he must honor and uphold. It is plain to see that the building official is granted significant authority and wide discretion in the performance of his duties, the most important of which is his duty to inspect and identify VUSBC violations. In this context, the Department is the local building department, and Mr. David Beahm is the building official.

II. The Authority of the Local Board

Virginia Code § 36-105 also establishes the local board of building code appeals, referred to herein as the Local Board. § 36-105 provides that the Local Board's "composition, duties and responsibilities shall be prescribed by the Building Code." It further provides that "[a]ny person aggrieved by the local building department's application of the Building Code . . . may appeal to the local board of building code appeals."

Turning next to the VUSBC, § 119.3 outlines the qualifications for members of the Local Board, which are markedly different from the qualification requirements for a building official. In fact, there are no education requirements, no training requirements, and no certification requirements in the VUSBC for Local Board members. The reason is plain to see: the Local Board does not inspect property for code violations, nor do they *find* code violations or order NOVs.

Rather, VUSBC § 119.7 states that the only power the Local Board has is to "uphold, reverse, or modify the decision of the official." No other power is vested in the Local Board.

Moreover, the Local Board only exercises this power pursuant to an appeal being properly brought before it pursuant to VUSBC § 119.5.

In order for the Local Board to have the authority to hear an appeal and "uphold, reverse, or modify" a building official's application of the VUSBC, the person must be "aggrieved by the local building department's application of the USBC" The person must then "submit a written request for appeal to the [Local Board] *within 30 calendar days of the receipt of the decision being appealed.*" (Emphasis added). This section manifests two threshold rules for the Local Board to hear an appeal: (1) there must be a *decision* by the building official that the person has *received* and which has aggrieved the person; and (2) the person has requested an appeal within 30 days of the person's receipt of the building official's decision. These two threshold rules are consistent with the Local Board's powers: to uphold, reverse, or modify a building official's *decision*.

It is plain to see that the Local Board has significantly less authority and power than the Department. The scope of its authority is limited to hear appeals that are properly before the Local Board, and that are based on a decision made by the Department.

III. Appeal Number 1-2018 Was Not Based Upon Any Decision Made By the Department

In this case, Brown filed her application for appeal May 3, 2018 asking the Local Board to perform a review of possible code violations. She then asked for the Local Board to have the Department recognize its errors and force Buracker Construction to repair the alleged issues. Despite the fact that a heading on the application for appeal requests a "Description of Decision Being Appealed," Brown never cited to a specific Department "decision." Why? Because she was not appealing a Department decision as required by the VUSBC.

Recall that she had been living in her house for approximately 14 months after the Department issued a certificate of occupancy for the Property and before she hired ABLE to

perform an inspection on the Property. ABLE then provided Brown with an extensive report of "possible" code violations. She then asked the Department to re-inspect the Property, which it did, and which found five additional code violations and notified Buracker Construction of such violations. At no point, however, did the Department, the only entity permitted to find code violations, make a "decision" which Brown could appeal.

Brown's appeal in this case was, essentially, that the Department did not find *enough* code violations. However, the Department is the only institution with the qualifications and authority to actually find code violations and issue NOV's (See VUSBC §§ 106.1; 113.6; 113.8; 115.2; 116.3). Thus, its failure to declare that code violations exist is not an appealable "decision" as that term is contemplated by the VUSBC.¹ Why? Because the Local Board does not have the authority to check behind the Department and *find* that something is a code violation and thereafter order the Department to issue an NOV² — it only has the authority to uphold, reverse, or modify the Department's decision that a code violation exists. If the Local Board was equipped with such authority, it would obviate the need for the Department. The members of the Local Board could simply walk around town and issue its own NOV's, thus rendering the VUSBC's heightened qualification, training, and education requirements for the Department moot.

That is, however, essentially what Brown has done here. She hired ABLE, which is not trained in accordance with the VUSBC to be a building official, to find code violations that it is

¹ This assertion is consistent with Virginia case law holding that building officials are entitled to sovereign immunity because their duty is a governmental function that is exercised with broad discretion. See *Wilson v. Bd. of Supervisors*, 66 Va. Cir. 427, 428 (Bedford County, July 30, 1998). See also *Opinion of the Attorney General of Virginia to the Honorable Ed Eck*, 1990 Op. Gen Va. 172 (1990).

² While an existing circuit court case states that a local board can order a county building department to issue an NOV, a close reading of the case suggests two things: (1) that the decision was based upon an older version of the VUSBC; and (2) that the county building department had already notified the builder of certain code violations but failed to enforce the code violations with an NOV. See *Chesterfield County v. Karnes*, 36 Va. Cir. 186, 187 (Chesterfield County, April 4, 1995). See also *Strawbridge v. County of Chesterfield*, 23 Va. App. 493, 500 (1996) for another example of local boards being granted greater authority by older versions of the VUSBC than they have under the applicable 2009 VUSBC.

not strictly qualified to find (which is why it referred to the violations as "possible" violations). The Local Board is not equipped to review "possible" violations, however, because the Department does not find "possible" violations — it either finds that violations exist or do not exist. When code violations do exist, then a person may appeal to the Local Board.

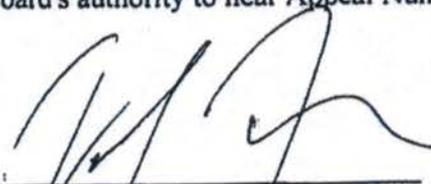
IV. Brown's Appeal was not Timely

VUSBC § 119.5 provides that "an applicant shall submit a written request for appeal to the [Local Board] within 30 calendar days of the receipt of the decision being appealed. Buracker Construction contends that because there was no "decision" to appeal, no appeal could have been timely made. However, if Brown contends that the Department's issuance of a certificate of occupancy was an appealable decision, then Brown's appeal was untimely, as the certificate of occupancy for the Property was issued on July 19, 2016, nearly two years prior to Brown's May 3, 2018 application for appeal. If Brown contends further that the March 30, 2018 NOV issued to Buracker Construction was an appealable decision, her appeal was filed on May 3, 2018 outside of the 30 day window, therefore making it untimely.

Conclusion

Wherefore, for the reasons stated above, Buracker Construction LLC objects to this Local Board's authority to hear Appeal Number 1-2018 and respectfully requests that it be dismissed.

BURACKER CONSTRUCTION LLC
By Counsel



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PART IV.**MINIMUM STANDARDS FOR CONDUCTING HOME INSPECTIONS****18VAC15-40-120. Home inspection contract.**

- A. For the protection of both the client and the licensee, both parties shall sign a legible, written contract clearly specifying the terms, conditions, and limitations and exclusions of the work to be performed.
- B. At a minimum, the written contract shall include:
1. Name, business name (if applicable), business address, and telephone number of the home inspector.
 2. License number of the home inspector, and notation of NRS specialty, if applicable.
 3. Name of the clients.
 4. Physical address of the residential property to be inspected.
 5. Cost of the home inspection.
 6. A listing of all areas and systems to be inspected, including those inspections that are either partial or limited in scope.
 7. A statement in the contract that the home inspection does not include a review for compliance with regulatory requirements (Virginia Uniform Statewide Building Code or other codes, regulations, laws, ordinances, etc.).
 8. To the extent that any of the following categories are not covered by the home inspection, they shall be noted as exclusions in the inspection contract:
 - a. The condition of systems or components that are not readily accessible.
 - b. The remaining life of any system or component.
 - c. The strength, adequacy, effectiveness, or efficiency of any system or component.
 - d. The causes of any condition or deficiency.
 - e. The methods, materials, or costs of corrections.
 - f. Future conditions including failure of systems and components.
 - g. The suitability of the property for any specialized use.

- h. The market value of the property or its marketability.
- i. The advisability of the purchase of the property.
- j. The presence of diseases harmful to humans or potentially hazardous plants or animals including wood destroying organisms and mold.
- k. The presence of any environmental hazards including toxins, carcinogens, noise, asbestos, lead-based paint, mold, radon, and contaminants in soil, water, and air.
- l. The effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.
- m. The operating costs of systems or components.
- n. The acoustical properties of any system or component.
- o. The presence of components involved in manufacturer's recalls.
- p. The inspection of outbuildings.

To the extent any other items are not specifically included in the home inspection by agreement of the parties, they shall also be noted as exclusions in the home inspection contract.

- 9. Estimated delivery date to the client of the home inspection report.
 - 10. Dated signatures of both the home inspector and the client or the client's authorized representative.
- C. The home inspection contract shall make written disclosure that the home inspection report is based upon visual observation of existing conditions of the inspected property at the time of the inspection and is not intended to be, or to be construed as, a guarantee, warranty, or any form of insurance. This provision does not prevent a home inspector from offering a separate guarantee, warranty, or any form of insurance if he so chooses.
 - D. If the home inspector recommends a person to the client for repairs or modifications to the inspected property, the home inspector shall disclose to the client all financial interests that the home inspector has with the recommended person. The disclosure shall be written within the home inspection contract.

Historical Notes

Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011; Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-130. Home inspection report.

- A. Home inspection reports shall contain:
1. Information pertaining to the licensee, including:
 - a. Licensee's name;
 - b. Business address;
 - c. Telephone number; and
 - d. License number and expiration date, to be followed by "NRS" if so designated and performing a home inspection on a new residential structure;
 2. The name, address, and telephone number of the client or the client's authorized representative, if available at the time of the inspection;
 3. The physical address of the residential property inspected; and
 4. The date, time (to include both start and finish times of the home inspection), and weather conditions at the time of the home inspection.
- B. In conducting a home inspection and reporting its findings, the home inspector, at a minimum, shall inspect the condition of and shall describe in writing the composition or characteristics of the following readily accessible components and readily observable defects, except as may be limited in the home inspection contract agreement:
1. Structural system.
 - a. Foundation.
 - b. Framing.
 - c. Stairs.
 - d. Crawl space, the method of inspecting the crawl space shall be noted and explained in the home inspection report. If the crawl space cannot be inspected, the licensee shall explain in the home inspection report why this component was not inspected.
 - e. Crawl space ventilation and vapor barriers.
 - f. Slab floor, when present.
 - g. Floors, ceilings, and walls.

2. Roof structure, attic, and insulation.

- a. Roof covering. The method of inspecting the roof covering shall be noted and explained in the home inspection report. If the roof covering cannot be inspected, the licensee shall explain in the home inspection report why this component was not inspected.
- b. Roof ventilation.
- c. Roof drainage system, to include gutters and downspouts.
- d. Roof flashings, if readily visible.
- e. Skylights, chimneys, and roof penetrations, but not antennae or other roof attachments.
- f. Roof framing and sheathing.
- g. Attic, unless area is not readily accessible.
- h. Attic insulation.

3. Exterior of residential building or NRS.

- a. Wall covering, flashing, and trim.
- b. Readily accessible doors and windows, but not the operation of associated security locks, devices, or systems.
- c. Decks, balconies, stoops, steps, porches, attached garages, carports, and any associated railings that are adjacent to the residential building or NRS and on the same property but not associated screening, shutters, awnings, storm windows, detached garages, or storm doors.
- d. Eaves, soffits, and fascias where readily accessible from ground level.
- e. Walkways, grade steps, patios, and driveways, but not fences or privacy walls.
- f. Vegetation, trees, grading, drainage, and any retaining walls adjacent to the residential building or NRS.
- g. Visible exterior portions of chimneys.

4. Interior of residential building or NRS.

- a. Interior walls, ceilings, and floors of residential building or NRS and any adjacent garage.
 - b. Steps, stairways, railings, and balconies and associated railings.
 - c. Countertops and installed cabinets, including hardware.
 - d. Doors and windows, but not the operation of associated security locks, devices, or systems.
 - e. Garage doors and permanently mounted and installed garage door operators. The automatic safety reverse function of garage door openers shall be tested, either by physical obstruction as specified by the manufacturer, or by breaking the beam of the electronic photo eye but only when the test can be safely performed and will not risk damage to the door, the opener, any nearby structure, or any stored items.
 - f. Fireplaces, venting systems, hearths, dampers, and fireboxes, but not mantles, fire screens and doors, seals and gaskets.
 - g. Solid fuel burning appliances, if applicable.
5. Plumbing system.
- a. Interior water supply and distribution systems, including water supply lines and all fixtures and faucets, but not water conditioning systems or fire sprinkler systems.
 - b. Water drainage, waste, and vent systems, including all fixtures.
 - c. Drainage sumps, sump pumps, and related piping.
 - d. Water heating equipment, including energy source and related vent systems, flues, and chimneys, but not solar water heating systems.
 - e. Fuel storage and distribution systems for visible leaks.
6. Electrical system.
- a. Service drop.
 - b. Service entrance conductors, cables, and raceways.
 - c. Service equipment and main disconnects.
 - d. Service grounding.
 - e. Interior components of service panels and sub panels, including feeders.

- f. Conductors.
- g. Overcurrent protection devices.
- h. Readily accessible installed lighting fixtures, switches, and receptacles.
- i. Ground fault circuit interrupters.
- j. Presence or absence of smoke detectors.
- k. Presence of solid conductor aluminum branch circuit wiring.
- l. Arc fault interrupters shall be noted if installed but not tested if equipment is attached to them.

7. Heating system.

- a. Heating equipment, including operating controls, but not heat exchangers, gas logs, built-in gas burning appliances, grills, stoves, space heaters, solar heating devices, or heating system accessories such as humidifiers, air purifiers, motorized dampers, and heat reclaimers.
- b. Energy source.
- c. Heating distribution system.
- d. Vent systems, flues, and chimneys, including dampers.

8. Air conditioning system.

- a. Central and installed wall air conditioning equipment.
- b. Operating controls, access panels, and covers.
- c. Energy source.
- d. Cooling distribution system.

C. Systems in the home that are turned off, winterized, or otherwise secured so that they do not respond to normal activation using standard operating controls need not be put into operating condition. The home inspector shall state, in writing, the reason these systems or components were not inspected.

D. In accordance with § 54.1-517.2:1 of the Code of Virginia, if a home inspector observes the presence of any shade of yellow corrugated stainless steel tubing during a home inspection in a home that was built prior to the adoption of the 2006 Virginia

Construction Code, effective May 1, 2008, the home inspector shall include that observation in the report along with the following statement: “Manufacturers believe that this product is safer if properly bonded and grounded as required by the manufacturer’s installation instructions. Proper bonding and grounding of the product should be determined by a contractor licensed to perform the work in the Commonwealth of Virginia.”

Historical Notes

Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011; Volume 33, Issue 19, eff. July 1, 2017; Volume 33, Issue 26, eff. September 20, 2017.

PART V.

STANDARDS OF CONDUCT AND PRACTICE

18VAC15-40-140. Conflict of interest.

- A. The licensee shall not:
1. Design or perform repairs or modifications to a residential building or NRS on which he has performed a home inspection as a result of the findings of the home inspection within 12 months after the date he performed the home inspection, except in cases where the home inspector purchased the residence after he performed the home inspection;
 2. Perform a home inspection of a residential building or NRS upon which he has designed or performed repairs or modifications within the preceding 12 months without disclosing to the client in the home inspection contract the specifics of the repairs or modifications he designed or performed;
 3. Refer his client to another person to make repairs or modifications to a residential building or NRS on which he has performed a home inspection unless, in accordance with 18VAC15-40-120 D, he provides written documentation to his client that clearly discloses all financial interests that the licensee has or reasonably expects to have with the person who is recommended for the repairs or modifications;
 4. Represent the financial interests, either personally or through his employment, of any of the parties to the transfer or sale of a residential building on which he has performed a home inspection; or
 5. Perform a home inspection of a residential building or NRS under a contingent agreement whereby any compensation or future referrals are dependent on the reported findings or on the sale of the property.
- B. The licensee shall not disclose any information concerning the results of the home inspection without the approval of the client for whom the home inspection was performed. However, the licensee may disclose information in situations where there is an imminent endangerment to life or health.
- C. The licensee shall not accept compensation from more than one interested party for the same service on the same property without the consent of all interested parties.
- D. The licensee shall not accept nor offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible. Additionally, the licensee shall not enter into any financial relationship with any party that may compromise the licensee's commitment to the best interest of his client.

- E. The home inspection shall not be used as a pretext by the licensee to solicit or obtain work in another field, except for additional diagnostic inspections or testing.

Historical Notes

Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011; Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-145. Competency for assignments.

- A. The licensee shall undertake to perform professional assignments only when qualified by education or experience, or both.
- B. A licensee shall not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with a home inspection.

Historical Notes

Derived from Virginia Register Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-150. Grounds for disciplinary action.

The board has the power to place a licensee on probation, impose a monetary penalty in accordance with § 54.1-202 A of the Code of Virginia, or revoke, suspend, or refuse to renew a license when the licensee has been found to have violated or cooperated with others in violating any provision of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia or this chapter.

Historical Notes

Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-152. Notice of adverse action.

- A. A licensee shall notify the board of the following actions against the licensee:
 - 1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including any (i) reprimand; (ii) license or certificate revocation, suspension, or denial; (iii) monetary penalty; (iv) requirement for remedial education; or (v) other corrective action.
 - 2. Any voluntary surrendering of a related license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.
 - 3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any (i) misdemeanor involving moral turpitude, sexual offense, drug distribution, or physical injury or relating to performing a home inspection or (ii) felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purpose of this section.

- B. The notice must be made to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. The record of conviction, finding, or case decision shall be considered prima facie evidence of a conviction or finding of guilt.

Historical Notes

Derived from Virginia Register Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-155. Prohibited acts.

The following acts are prohibited and any violation may result in disciplinary action by the board:

1. Obtaining or attempting to obtain a license by false or fraudulent representation.
2. Performing improvements or repairs to a residential building as a result of the findings of the home inspection within 12 months before or after performing a home inspection on it, except in cases where the home inspector purchased the residential building after he performed the home inspection.
3. Violating or inducing another person to violate any of the provisions of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia or this chapter.
4. A licensee having been convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18VAC15-40-152. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia.
5. Failing to inform the board in writing within 30 days that the licensee was convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18VAC15-40-152.
6. Failing to act as a licensee in such a manner as to safeguard the interests of the public.
7. Engaging in improper, fraudulent, or dishonest conduct in conducting a home inspection.
8. Having performed a home inspection when not qualified by training or experience to competently perform any part of the home inspection.
9. Failing to maintain, through training, the proficiency to perform Virginia home inspections.
10. Conducting a home inspection on any new residential structure without the NRS specialty issued by the board.
11. Failing to maintain the insurance policy required pursuant to 18VAC15-40-30 G.

12. Failing to report a change pursuant to 18VAC15-40-160.

13. Having cited, stated, or represented that there exists a violation of the Virginia Uniform Statewide Building Code (13VAC5-63) in a home inspection report or other document prepared relative to a home inspection.

Historical Notes

Derived from Virginia Register Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-160. Maintenance of licenses, reports, and documentation.

- A. The licensee shall at all times keep the board informed of his current address of record, to include the physical address, as applicable. Changes of address shall be reported to the board in writing within 30 calendar days after such change. A post office box is acceptable as the address of record only when a physical address is also provided. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address.
- B. The licensee shall notify the board in writing of a name change within 30 calendar days of any change in the licensee's legal name. Such notification shall be accompanied by a copy of a marriage license, divorce decree, court order, or other documentation that verifies the name change.
- C. The licensee shall retain all records pertaining to home inspections performed to include written reports and supporting documentation for a period of three years from the date of the related home inspection.
- D. The licensee shall report the cancellation, amendment, expiration, or any other change of the insurance policy submitted in accordance with 18VAC15-40-30 G within 30 days of the change.

Historical Notes

Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-170. (Repealed.)

Historical Notes

Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-180. Response to inquiry of the board.

- A. A licensee must respond within 10 days to a request by the board or any of its agents regarding any complaint filed with the department.

- B. Unless otherwise specified by the board, a licensee of the board shall produce to the board or any of its agents within 10 days of the request any document, book, or record concerning any transaction pertaining to a complaint filed in which the licensee was involved, or for which the licensee is required to maintain records. The board may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.
- C. A licensee shall not provide a false, misleading, or incomplete response to the board or any of its agents seeking information in the investigation of a complaint filed with the board.
- D. With the exception of the requirements of subsections A and B of this section, a licensee must respond to an inquiry by the board or its agent within 21 days.

Historical Notes

Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 33, Issue 19, eff. July 1, 2017.

18VAC15-40-190. (Repealed.)

Historical Notes

Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011; Volume 33, Issue 19, eff. July 1, 2017.

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Division of Building and Fire Regulation
State Building Codes Office
Main Street Centre, 600 East Main Street, Suite 300
Richmond, Virginia 23219

STATE BUILDING CODE TECHNICAL REVIEW BOARD

INTERPRETATION BOOKLET

Containing Interpretations Applicable to the 2015 Editions

of the

Virginia Uniform Statewide Building Code

and the

Virginia Statewide Fire Prevention Code

January 2020

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PREFACE

The Virginia State Building Code Technical Review Board (Review Board) is a governor-appointed board within the Virginia Department of Housing and Community Development. The board is responsible for hearing appeals arising under the application of the Virginia Uniform Statewide Building Code (USBC), the Virginia Statewide Fire Prevention Code (SFPC) and other building and fire-related regulations of the Department. As a secondary function, the Board interprets the provisions of the USBC and the SFPC and makes recommendations to the Virginia Board of Housing and Community Development for future modification, amendment or repeal of such provisions.

The interpretation booklet contains those interpretations of the Review Board which are still applicable to the code in effect at a given time, rather than a compilation of all interpretations ever issued by the Review Board. The older interpretation booklets and compilations may be reviewed in connection with existing buildings or situations and are therefore still available from the Department, on its website and on the websites of organizations involved in building and fire-code related activities. However, the interpretations in this booklet are those applicable to the 2015 edition of the USBC and the SFPC. Interpretations which were issued under a previous edition of the code, but which are still applicable to the current code, have been editorially changed to correct section references and terminology.

As additional interpretations are issued by the Review Board, they will be posted on the Department's website. Interpretation requests may be submitted by any code enforcement personnel. If an appeal situation exists or potentially exists, then the Review Board may not consider the interpretation request. If requests are submitted by personnel other than a building or fire official, then the appropriate official will be contacted to assure the request is desired.

Interpretation requests may be submitted by any code personnel with approval from the corresponding Building, Maintenance, or Fire Official on a form available on the Department's website. Inquiries or assistance may be obtained by contacting the Review Board staff within the State Building Codes Office, Department of Housing and Community Development, 600 East Main Street, Suite 300, Richmond, Virginia 23219, or by calling (804) 371-7150.

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INTERPRETATIONS
of the
2015 USBC Part I – Virginia Construction Code (VCC)

VCC Section 104.1
Code Interpretation No. 2/06
First Issued: 06/20/08, 2006 Edition

QUESTION: In jurisdictions which have not elected to enforce the Virginia Maintenance Code, does the third paragraph of Section 104.1 give authority to investigate complaints of immediate and imminent threats to the health and safety from any complainant rather than just complaints by a tenant of a residential rental unit that is the subject of such complaint?

ANSWER: No, this provision would only apply to enforcement actions under the previous paragraph unless the locality has elected to enforce the Virginia Maintenance Code.

VCC Section 202 (Definition of “night club”)
Code Interpretation No. 1/09
First Issued: 06/17/11, 2009 Edition

QUESTION: How do you apply the “main use” terminology in the definition of night club?

ANSWER: Determining the main use of a structure is a factual question to be made at the discretion of the local official.

VCC Section 2801.1 (International Mechanical Code Section 602.1)
Code Interpretation No. 20/90
First Issued: 07/17/92, 1990 Edition

QUESTION: Does Section 602.1 prohibit completely sealed (combustion chamber and combustion air) fuel-fired mechanical appliances from being located in a return-air plenum?

ANSWER: Yes. Section 602.1 prohibits the installation of fuel-fired equipment in plenums. However, technical data, research reports or other information may be submitted to the code official to substantiate the approval of a modification request for the use of a specific unit listed for that purpose.

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INTERPRETATIONS
of the
2015 USBC Part III – Virginia Maintenance Code (VMC)

VMC Section 104.1
Code Interpretation No. 3/09
First Issued: 03/16/12, 2009 Edition

QUESTION: Do all the provisions for unsafe structures in the Virginia Maintenance Code, wherever located, apply in enforcing the second paragraph of Section 104.1?

ANSWER: Yes.

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INTERPRETATIONS
of the
2015 Virginia Statewide Fire Prevention Code

Section 202 (Use of the term “building” in the definition of “commercial cooking appliance”)
Code Interpretation No. 4/06
First Issued: 11/20/09, 2006 Edition

QUESTION: Is a trailer or panel-truck considered to be a building under the SFPC, irrespective of whether it’s immobilized or anchored?

ANSWER: No.

Section 308.1.4
Code Interpretation No. 4/09
First Issued: 11/16/12, 2009 Edition

QUESTION: Does Section 308.1.4, Exception 1 include townhouses?

ANSWER: Yes.

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