

STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
January 22, 2021
Virtual Meeting

<https://vadhcd.adobeconnect.com/lbbca/>

Members Present

Mr. James R. Dawson, Chairman
Mr. W. Shaun Pharr, Esq., Vice-Chairman
Mr. Vince Butler
Mr. Daniel Crigler
Ms. Christina Jackson
Mr. Joseph Kessler
Mr. Eric Mays, PE
Ms. Joanne Monday
Mr. J. Kenneth Payne, Jr., AIA
Mr. Richard C. Witt
Mr. Aaron Zdinak, PE

Members Absent

Mr. Alan D. Givens

Call to Order

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

Roll Call

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

Approval of Minutes

The draft minutes of the November 20, 2020 meeting in the Review Board members’ agenda package were considered. Mr. Payne moved to approve the minutes as presented with a request to add “AIA” behind his name in the Members Present section of the minutes. The motion was seconded by Ms. Monday and passed with Messrs. Butler and Crigler abstaining.

Note: Ms. Jackson entered the meeting after the approval of the November 20, 2020 minutes.

Interpretations

Approval of Interpretation 01/2020:

After review and consideration of Interpretation 01/2020 presented in the Review Board members’ agenda package, Mr. Witt moved to approve Interpretation 01/2020 as presented. The motion was seconded by Ms. Monday and passed with Messrs. Butler and Crigler abstaining.

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Public Comment

Chair Dawson opened the meeting for public comment. Mr. Luter advised that no one had contacted him to speak. With no one requesting to speak, requesting to be acknowledged to speak by use of the raised hand feature of the Adobe Connect meeting platform, or requesting to speak in the chat box section of the Adobe Connect meeting platform, Chair Dawson closed the public comment period.

New Business

Sidney Harris; Appeal No. 20-02:

A hearing convened with Chair Dawson serving as the presiding officer. The hearing was related to buildings located at 5615 Hope Park Road in Fairfax County.

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

Sidney Harris, Property Owner
Angela Harris, Witness for Appellant
Chief Rosa Holmes-Turner, Witness for Appellant
Margaret Delean, Fairfax County Division Supervisor
Gary Wallace, Fairfax County Code Investigator
Richard Grace, Fairfax County Code Specialist III
Dan Willham, Fairfax County Deputy Building Official

Also present was:

Sara Silverman, legal counsel for Fairfax County
Svantje Swider Fairfax County Attorney's Office

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

Decision: Sidney Harris; Appeal No. 20-02:

After deliberations, Mr. Mays moved that the buildings and structures are farm buildings in accordance with VCC 102.3. Mr. Mays further moved to overturn the building official and local appeals board that violations of VCC Section 108.1, 113.3, 113.8, and 116.1 exist because the buildings are farm buildings. The motion was seconded by Mr. Zdinak and passed unanimously.

Monica and Michael Davis; Appeal No. 20-03:

A hearing convened with Chair Dawson serving as the presiding officer. The hearing was related to the property owned by Monica and Michael Davis located at 1002 Round Hill School Road, in Augusta County.

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

Monica Davis, Property Owner
Michael Davis, Property Owner
G. W. Wiseman, Augusta County Building Official

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

Note 1: Mr. Mays left the meeting at 1:19pm during the Davis cross examination of Augusta County Building Official G. W. Wiseman for the Monica and Michael Davis Appeal (No. 20-03). Mr. Mays returned to the meeting at 2:45pm during the Board deliberation portion of the appeal; however, did not participate in the deliberations and abstained from all votes for the appeal.

Note 2: Mr. Pharr left the meeting after the closing statements portion of the Monica and Michael Davis Appeal (No. 20-03). Mr. Pharr did not participate in the vote for the appeal.

Decision: Monica and Michael Davis; Appeal No. 20-03:

Issue 1:

After deliberations, Mr. Witt moved to remand the matter back to the local appeals board for a determination of whether a violation of VCC Section R311.7.7 exists at the front door where water is ponding near the house, based on the new evidence provided to the Review Board on page 164 of the agenda package. The motion was seconded by Ms. Jackson. After further deliberation the motion and second were withdrawn.

After further deliberations, Mr. Payne moved to uphold the decision of the building official and local appeals board that a violation of VCC

Section R311.7.7 does not exist. Mr. Payne further moved that violations of VCC Section R311.3 and R311.7.6 do exist. The motion was seconded by Ms. Monday.

After additional deliberations, Mr. Kessler moved to substitute for the pending motion the following: To overturn the decision of the building official and local appeals board, based on the evidence presented and testimony of the parties, that the top landing at the front door is not a violation of VCC Section R311.3 and the bottom landing at the front stairway is not a violation of VCC Section R311.7.6. The substitute was seconded by Ms. Monday. The motion to substitute passed. The motion as amended passed with Messrs. Butler and Crigler, and Ms. Jackson voting in opposition and Mr. Mays abstaining.

Note: The potential violations, identified by Ms. Davis, were not cited in the Notice of Violation (NOV) from the Building Official dated June 10, 2020; however, Ms. Davis believed the violations existed. In her statement of relief sought, filed with her appeals application to the Review Board, she attempted to cite a code section for the perceived violations. The Board Secretary identified the code section provided by Ms. Davis in the Suggested Issues for Resolution in the Staff Document found on pages 145-147 of the agenda package. Mr. Kessler's substitute to Mr. Payne's motion identifies that Ms. Davis cited the incorrect code section for the perceived violations, concurs with Ms. Davis that the violations do exist, and cites the applicable code sections for the violations.

Item 2:

After deliberations, Mr. Payne moved to overturn the building official and local appeals board that a violation of VCC Section R309.1 does not exist in the attached garage. The motion was seconded by Ms. Monday and passed with Chair Dawson voting in favor, Messrs. Butler, Crigler and Witt and Ms. Jackson voting in opposition, and Mr. Mays abstaining.

Item 3:

After deliberations, Mr. Witt moved to uphold the building official and local appeals board that a violation of VCC Section R403.1.4.1 does not exist. The motion was seconded by Mr. Butler. After further deliberation the motion and second were withdrawn.

After further deliberations, Mr. Witt moved to remand the potential violation, related to the footing depth, back to the building official for further determination as to whether a violation of VCC Section

R403.1.4.1 exists. The motion was seconded by Mr. Payne and passed with Mr. Butler voting in opposition and Mr. Mays abstaining.

Item 4:

After deliberations, Mr. Payne moved to uphold the building official and local appeals board that a violation of VCC Section R302.5.2 does not exist. Mr. Payne further moved that a violation of VCC Section N1102.4 does exist. The motion was seconded by Mr. Witt. After further deliberation the motion and second were withdrawn.

After further deliberations, Mr. Witt moved to uphold the building official and local appeals board that a violation of VCC Section R302.5.2 does not exist. Mr. Witt stated that based on the evidence presented and testimony of the parties the Board believes that potential violations of VCC Sections N1102.4 and M1601.6 do exist; therefore, further moved to remand the matter back to the building official to determine whether violations of VCC Section N1102.4 and M1601.6 exist. The motion was seconded by Mr. Payne and passed unanimously with Mr. Mays abstaining.

Note: The potential violation, identified by Ms. Davis, was not cited in the Notice of Violation from the Building Official dated June 10, 2020; however, Ms. Davis believed the violation existed. In her statement of relief sought, filed with her appeals application, she attempted to cite a code section for the perceived violation. The Board Secretary identified the code section provided by Ms. Davis in the Suggested Issues for Resolution in the Staff Document found on pages 145-147 of the agenda package. Mr. Witt's motion identifies that Ms. Davis cited the incorrect code section for the perceived violation, concurs with Ms. Davis that violations may exist, and remands the matter back to the building official for further investigation and determination as to whether violations exist while citing the application code Sections VCC Section N1102.4 and MN1601.6.

Items 5 and 6:

After deliberations, Mr. Payne moved to uphold the decision of the building official and local appeals board that a violation of VCC Section R317.1 does not exist. The motion was seconded by Mr. Witt and passed unanimously with Mr. Mays abstaining.

After deliberations, Mr. Payne moved to uphold the decision of the building official and local appeals board that a violation related to the shoe block or full cut header block installation does not exist. The

motion was seconded by Mr. Witt and passed unanimously with Mr. Mays abstaining.

Note: Items 5 and 6 were handled by the Board with the same motion, second, and vote.

Patrick and Jean Sartori; Appeal No. 20-04:

A hearing convened with Chair Dawson serving as the presiding officer. The hearing was related to the property owned by Patrick Sartori located at 9408 Breezewood Lane, in Culpeper County.

Mr. Witt recused himself from the hearing because he served on the Board of Housing and Community Development for many years with the General Contractor for the project, Anthony Clatterbuck. Mr. Witt then exited the virtual meeting. Mr. Witt will be notified by the Secretary at the conclusion of this case to rejoin the meeting.

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

Patrick Sartori, Property Owner
Jean Sartori, Property Owner
Robert Orr, Culpeper County Building Official

Also present was:

Bobbi Jo Alexis, Esq., legal counsel for Culpeper County

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

Decision: Patrick and Jean Sartori; Appeal No. 20-04:

After deliberations, Mr. Mays moved to uphold the building official and local appeals board that the county followed the law and regulations and applied them correctly in issuing the Notice of Violation to the property owner. The motion was seconded by Mr. Butler and passed with Ms. Monday and Messrs. Kessler and Zdinak voting in opposition.

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Interpretation Request

Interpretation Request of James Carter (York County); Interpretation Request No. 08-20:

An interpretation request from James Carter of York County was considered concerning the 2015 Virginia Construction Code (VCC), on Section 302.7 related to whether in an unfinished basement stairway, is an area considered enclosed and accessible if there are walls framed but open studs and no drywall.

Mr. Mays moved that the answer to the question of whether the area under the stairway in an unfinished basement with open stud framing with no drywall installed is considered enclosed to be yes. The motion was seconded by Ms. Jackson. After deliberation the motion and second were withdrawn.

After further deliberation, Mr. Mays moved that the answer to the question of whether the area under the stairway in an unfinished basement with open stud framing with no drywall installed is considered enclosed to be no. The motion was seconded by Mr. Butler and passed unanimously.

Secretary's Report

Mr. Luter distributed a draft copy of Review Board Policy #25 and #26, which was prepared by staff at the request of the Review Board. After review and consideration of Review Board Policy #25 and #26, Mr. Mays moved to approve Review Board Policy #25 and #26 with an editorial edit adding, "*When meetings are held in a virtual format,*" at the beginning of the Policy Statement. The motion was seconded by Mr. Payne and passed unanimously.

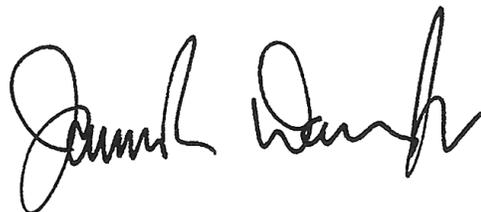
Mr. Luter informed the Board of the current caseload for the upcoming meeting scheduled for March 19, 2021.

Attorney Bell provided legal updates to the Board.

Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 6:10 p.m.

Approved: March 19, 2021



Chairman, State Building Code Technical Review Board

A handwritten signature in black ink, appearing to read "William J. Smith". The signature is written in a cursive style with a large, prominent initial "W".

Secretary, State Building Code Technical Review Board