

STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
July 17, 2020
Virtual Meeting

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

Members Present

Mr. James R. Dawson, Chairman
Mr. Vince Butler
Mr. Daniel Crigler
Ms. Christina Jackson
Mr. Alan D. Givens
Mr. Joseph Kessler
Mr. Eric Mays, PE
Ms. Joanne Monday
Mr. J. Kenneth Payne, Jr.
Mr. Richard C. Witt
Mr. Aaron Zdinak, PE

Members Absent

Mr. W. Shaun Pharr, Esq., Vice-Chairman

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 Acting 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.

Elections of Officers

Mr. Luter advised the board members that the terms of the officers of the Board had expired and election of officers was needed prior to moving forward with the meeting. Mr. Luter then called for nominations for Chair. Mr. Witt nominated Mr. Dawson. The nomination was seconded by Ms. Monday. Mr. Luter called for nominations for Chair twice more. After hearing no further nominations, Mr. Luter closed the nominations for Chair. A vote was taken and Mr. Dawson was unanimously elected as Chair.

Chair Dawson called for nominations for Vice-Chair. Mr. Witt nominated Mr. Pharr for Vice-Chair. The nomination was seconded by Ms. Monday. Chairman Dawson called for additional nominations for Vice-Chair twice more; hearing none, he closed the nominations. A vote was taken and Mr. Pharr was unanimously elected as Vice-Chair.

Note: Mr. Kessler was unable to verbally vote due to a technical issue; however, he did cast his vote, Aye, via the chat box in the Adobe Connect platform.

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Chair Dawson called for nominations for Secretary. Mr. Payne nominated Mr. Luter for Secretary. The nomination was seconded by Ms. Monday. Chairman Dawson called for additional nominations for Secretary twice more; hearing none, he closed the nominations. A vote was taken and Mr. Luter was unanimously elected as Secretary.

Approval of Minutes

The draft minutes of the January 24, 2020 meeting in the Review Board members' agenda package were considered. Mr. Witt moved to approve the minutes with the editorial changes. The motion was seconded by Ms. Monday and passed with Messrs. Butler, Crigler, Kessler, and Payne abstaining.

Approval of Minutes

The draft minutes of the July 7, 2020 meeting in the Review Board members' agenda package were considered. Mr. Butler moved to approve the minutes as presented. The motion was seconded by Ms. Monday and passed with Messrs. Crigler and Givens abstaining.

Final Orders

Appeal of Kristie Sours Atwood and Buracker Construction
Appeal Nos. 19-05; 19-06; and 19-07:

After review and consideration of the final order presented in the Review Board members' agenda package, Mr. Payne moved to table the final order until the September 18, 2020 meeting to allow Review Board staff the opportunity to make the needed edits as discussed. The motion was seconded by Mr. Mays and passed unanimously.

Note: Mr. Crigler was unable to vote due to technical issues.

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 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

Preliminary Hearing (To discuss whether the appeal is properly before the Board)

Culpeper County; Appeal No. 19-09:

A preliminary hearing convened with Chair Dawson serving as the presiding officer. The preliminary 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

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the Appellee, Anthony Clatterbuck. Mr. Witt left the virtual meeting. Mr. Witt will be notified by the Secretary at the conclusion this case to rejoin the meeting.

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

Patrick Sartori, Owner
Robert Orr, Culpeper County Building Official
Anthony Clatterbuck, Graystone Homes

Also present was:

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

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

Decision: Preliminary Hearing (To discuss whether the appeal is properly before the Board)

Culpeper County; Appeal No. 19-09:

After deliberations, Mr. Mays moved to merge the preliminary hearing issues into the hearing for the merits of the case. The motion was seconded by Ms. Monday and passed unanimously.

After further deliberations, and agreement by Patrick Sartori, Mr. Mays moved to proceed with hearing of the three items before the Board with Mr. Sartori as a party to the appeal. Mr. Mays further moved that by doing so did not preclude Mr. Sartori's future appeal. The motion was seconded by Mr. Payne and passed unanimously.

Appeal of Culpeper County; Appeal No. 19-09 (Merits):

A hearing convened with Chair Dawson serving as the presiding officer. The appeal involved citations under 2012 Virginia Construction Code related to the property owned by Patrick Sartori located at 9408 Breezewood Lane, in Culpeper County.

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

Patrick Sartori, Owner
Robert Orr, Culpeper County Building Official
Anthony Clatterbuck, Graystone Homes

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: Culpeper County; Appeal No. 19-09 (Merits):

After deliberations, Mr. Mays moved to uphold the decision of the building official, and overturn the local appeals board, that a violation exists of VCC Section R403.1.8, pursuant to the Notice of Violation, found on page 43 of the agenda package. The motion was seconded by Ms. Monday and passed unanimously.

After further deliberations, Mr. Kessler moved that the local appeals board does have the authority to determine an engineer report is deficient and to require another independent test. The motion was seconded by Ms. Monday. Mr. Kessler withdrew his motion and Ms. Monday withdrew her second.

After further deliberations, Mr. Mays moved that specific to this case, the issue of whether the local appeals board could deem an engineer report deficient, and to require another independent test to be moot based on the previous decision of the Review Board to uphold the building official and overturn the local appeals board. The motion was seconded by Mr. Kessler and passed unanimously.

Appeal of ZAAKI Restaurant and Cafe; Appeal No. 19-11:

A hearing convened with Chair Dawson serving as the presiding officer. The appeal involved citations under 2012 Virginia Construction Code related to the property owned by Aaron and Mary Sampson, operating as ZAAKI Restaurant and Cafe LLC located at 6020 Leesburg Pike, in Fairfax County.

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

Khalid El Tayeb, ZAAKI Restaurant and Café LLC
Brian Foley, Fairfax County Building Official
Michael C. Stevens, MCS Architects, PC
Victoria Fitzgerald, Technical Assistant to the Building Official

Also present was:

Sarah Silverman, Esq., legal counsel for Fairfax County
Aristotelis A. Chronis, Esq., legal counsel for ZAAKI
Restaurant and Café LLC

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: Appeal of ZAAKI Restaurant and Cafe; Appeal No. 19-11:

After deliberations, Mr. Payne moved to uphold the decision of the local appeals board and the building official that violations of VCC Section 108 (Application for permit) and VCC Section 113.3 (Inspections) exist related to items listed as a through h of the staff document, found on page 123 of the agenda package and listed below. The motion was seconded by Mr. Butler and passed unanimously.

- a. Change of use in accordance with VCC Section 103.2
- b. Installation of an addition to the west side of the main structure and the subsequent enclosure of that addition from fabric to glass
- c. Installation of a gas fired heater and exhaust fans
- d. Installation of an addition to the rear of the main structure
- e. Installation of an addition clad in wood structural panels on the rear of the main structure
- f. Alterations to the interior of the main structure
- g. Installation of canopies on the front and right side of the main structure
- h. Installation of a wooden deck and bar with electrical and plumbing

After further deliberations, Mr. Payne moved to uphold the decision of the local appeals board and the building official to revoke the certificate of occupancy in accordance with VCC Section 116.3 due to repeated

violations dating back to 2012, which includes lack of application for appropriate permits and obtaining the certificate of occupancy or proper final inspections. The motion was seconded by Ms. Jackson and passed unanimously.

Interpretation Request

Interpretation Request of David Dunavan (Powhatan County);
Interpretation Request No. 01-20:

An interpretation request from David Dunavan of Powhatan County was considered concerning the 2015 Virginia Residential Code (VRC), on Section R312.1.1 and whether guards are required along the open side of an unfinished attic or room truss; whether the answer would remain the same when the ceiling below has drywall installed, but the room remains unfinished. Additionally, are guards required along the walking path in attics that lead to an HVAC unit?

After deliberations, Mr. Witt moved to send the request back to the requestor with the direction to formulate a more specific question in an interpretative format. The motion was seconded by Ms. Jackson and passed unanimously.

Interpretation Request of Paul Snyder (Louisa County); Interpretation
Request No. 02-20:

An interpretation request from Paul Snyder of Louisa County was considered concerning the 2015 Virginia Residential Code (VRC), on Tables R403.1(1), (2), and (3) and whether another table exists or text that provides direction to the minimum size for footings when there is no load-bearing center wall.

After deliberations, Mr. Mays moved that no interpretation was needed and directed DHCD staff to educate the building official on the question. The motion was seconded by Mr. Witt and passed unanimously.

Interpretation Request of David Dunavan (Powhatan County);
Interpretation Request No. 04-20:

An interpretation request from David Dunavan of Powhatan County was considered concerning the 2015 Virginia Residential Code (VRC), on Section P2503.5.1 and 2015 Virginia Plumbing Code (VPC) Section 312.2 whether air could be used to test plastic piping.

After deliberations, Mr. Witt moved that no interpretation was needed because the answer is found in VRC P2503.5.1, and is very explicit and is not interpretive. The motion was seconded by Ms. Jackson and passed unanimously.

Interpretation Request of Robert Orr (Culpeper County); Interpretation Request No. 05-20:

Review Board staff withdrew this interpretation request from the agenda in accordance with Review Board Policy #03

Secretary's Report

Mr. Luter directed the Board members to the draft copy of a Proclamation for Ms. O'Bannon found in the Review Board members' agenda package. After review and consideration of the Proclamation, Ms. Jackson moved to approve the Proclamation as presented. The motion was seconded by Mr. Kessler and passed unanimously.

Mr. Luter informed the Board of the current caseload for the upcoming meeting scheduled for September 18, 2020. Chair Dawson suggested starting at 9:00 am if the meeting was held virtually.

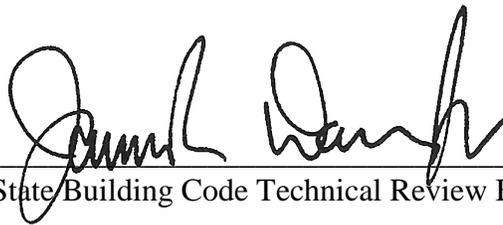
Attorney Bell provided legal updates to the Board.

Mr. Payne provided an update to the Board related to his code change proposal.

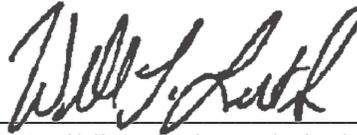
Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 5:45 p.m.

Approved: September 18, 2020



Chairman, State Building Code Technical Review Board



Secretary, State Building Code Technical Review Board