

**STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
February 15, 2019
Chesterfield, Virginia**

Members Present

Mr. James R. Dawson, Chairman
Mr. W. Shaun Pharr, Esq., Vice-Chairman
Ms. Christina Jackson
Mr. Alan D. Givens
Mr. Eric Mays, PE
Mr. E. G. Middleton, III
Mr. J. Kenneth Payne, Jr.
Mr. Richard C. Witt
Mr. Aaron Zdinak, PE

Members Absent

Mr. Vince Butler
Mr. Daniel Crigler
Mr. Joseph Kessler
Ms. Joanne Monday
Ms. Patricia S. O'Bannon

Call to Order The meeting of the State Building Code Technical Review Board ("Review Board") was called to order at approximately 9:20 a.m. by Chairman Dawson.

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 January 11, 2019 meeting in the Review Board members' agenda package were considered. Mr. Witt moved to approve the minutes with the addition of "arrived after the approval of the final order for appeal 18-10" next to Mr. Zdinak's name in the Member's present section on page five of the agenda package, the addition of the designation or title in the list of individuals sworn in for the preliminary hearing on page nine of the agenda package, and the editorial change in spelling of the word "*exists*" in the fourth line of the first paragraph of page eleven. The motion was seconded by Mr. Zdinak and passed with Messrs. Mays and Givens abstaining.

Final Orders 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:
(Preliminary Hearing: Potential Conflict of Interest Issue)

After review and consideration of the final order presented in the Review Board members' agenda package, Mr. Witt moved to approve

the final order with the following editorial changes:

- Remove the word “enough” in the second line of the third paragraph on page three of the final order (shown on page 19 of the agenda package)
- Remove the words “The appeal having been given due regard, and” and capitalizing the word “For” in the first line of the first paragraph on page four of the final order (shown on page 21 of the agenda package)
- Remove the word “members” in the first line of the second paragraph and add “a” to the third line of the second paragraph on page four of the final order (shown on page 21 of the agenda package)

Ms. Jackson seconded the motion and it passed unanimously.

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.

New Business

Appeal of Karen Lindsey; Appeal No. 18-07:

A hearing convened with Chairman Dawson serving as the presiding officer. The appeal involved citations under the 2012 Virginia Maintenance Code related to the property owned by Karen Lindsey located at 2245 Strawberry Lane in the City of Chesapeake.

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

John T. King, III, City of Chesapeake
Karen Linsey, Owner
Alexis Lindsey, Owner’s daughter
Pepper Wilson, Owner’s son

Also present was:

Meredith Jacobi, Esq., legal counsel for the City of Chesapeake

After testimony concluded, Chairman 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 Karen Lindsey; Appeal No. 18-07:

After deliberations, Mr. Pharr moved to remand the appeal back to the local appeals board for it to re-issue its decision in a manner and form that complied with the 2012 VMC Section 106.7 because the prior resolution did not comply. The motion was seconded by Ms. Jackson. The motion passed with Mr. Payne voting in opposition.

It is the intent of this Review Board decision for the initial language in the original local appeals board resolution, especially pertaining to the deadlines (found on page 92 of the agenda package), to carryover to the re-issued local appeals board resolution.

Specifically, line five of the last paragraph of the re-issued local appeals board resolution (see excerpt of original resolution below) would read “*owner/Executor of the Estate a 30 day timeframe from the date of the re-issued resolution, Month Day, and Year....*” pursuant to this Review Board decision. It is the hope of the Review Board that the time that has elapsed coupled with the new time provided by the re-issued code compliant local appeals board resolution provides Ms. Lindsey the requested time needed to comply and eliminates the need for another appeal.

NOW THEREFORE, be it resolved in the matter of Appeal No. 18-02, Karen Lindsey vs. City of Chesapeake Department of Development and Permits, the board hereby upholds the Notice of Violation issued on March 26, 2018 determining that the building is unsafe for human occupancy under the Virginia Uniform Statewide Building Code and has given the property **owner/Executor of the Estate a 30 day timeframe from the date of the hearing, May 16, 2018,** to obtain an engineer’s report and contractor’s agreement, an additional 60 days for the purchase of the required permits from the Development and Permits Department, and an additional 180 days for the structure to be repaired, inspected and obtain a new Certificate of Occupancy from the Development and Permits Department. Any entry of the property without a waiver of liability(s) issued by the City (John T. King, III, Code Official or his designee) is prohibited by law. If a Certificate of Occupancy is not issued or the property is not demolished by the Appellant, Ms. Lindsey, within 270 days of the date of this decision, the City of Chesapeake will perform the demolition of the structure at 2445 Strawberry Lane WITHOUT FURTHER NOTICE to the Board or Appellant.

Appeal of AMcL, LLC; Appeal No. 18-14:

A hearing convened with Chairman Dawson serving as the presiding officer. The appeal involved citations under the 2012 Virginia Maintenance Code related to the property owned by AMcL, LLC located at 2112 Oakwood Lane in Henrico County.

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

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Greg Revels, Henrico County Building Official
John Butler, Henrico County Inspector
Michael Morrissey, Agent for AMcL, LLC.
Ronald Ames, AMcL, LLC.

Also present was:

John Gilbody, Esq., legal counsel for Henrico County

After testimony concluded, Chairman 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 AMcL, LLC; Appeal No. 18-14:

After deliberations, Mr. Mays moved to dismiss the appeal as not properly before the Board since the County rescinded the Notice of Violation (NOV). The motion was seconded by Mr. Witt. The motion passed with Messrs. Zdinak, Payne, and Pharr voting in opposition.

Appeal of Rappahannock County High School; Appeal No. 18-16:

A hearing convened with Chairman Dawson serving as the presiding officer. The appeal involved citations under the 2012 Virginia Statewide Fire Prevention Code related to the property owned by Rappahannock County located at 12576 Lee Highway in Rappahannock County.

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

James E. Swindler II, Principal Rappahannock High School
Brian M. McGraw, State Fire Marshal
Greg Harp, Deputy State Fire Marshal

After testimony concluded, Chairman 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 Rappahannock County High School; Appeal No. 18-16:

After deliberations, Mr. Witt moved to overturn the SFMO on items #1 and #2 in the suggested items for resolution on page 379 of the agenda package. The motion was seconded by Mr. Payne. The motion failed with Messrs. Givens, Zdinak, Middleton and Mays and Ms. Jackson voting in opposition.

After further deliberation Mr. Witt moved to uphold the SFMO with the following editorial changes to the Notice of Inspection wherever SFPC Section 1030.2.1 was cited:

(1) Remove the language that reads “Security devices affecting the means of egress shall be subject to approval of the fire code official” as it has been removed from the SFPC by VCC Section 103.2 and is therefore unenforceable

(2) Add a new sentence that reads “Devices are not permitted unless approved by the Building Official in accordance with the USBC.”
The motion was seconded by Mr. Givens. The motion passed with Mr. Payne voting in opposition.

Secretary’s Report

Mr. Luter reminded the Review Board members of the Board Retreat, scheduled for March 14, 2019. He informed the members that an email, with all of the particulars, had been sent on Thursday February 14, 2019. Mr. Luter asked the members to reply to the February 14th email letting Review Board staff know if the members planned to attend the retreat.

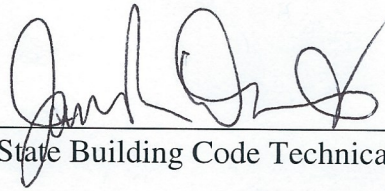
Mr. Luter provided the Review Board members with a basic overview of the three cases coming before them in the March meeting. Mr. Luter informed the members the March meeting would start at 10:00 a.m.

Adjournment

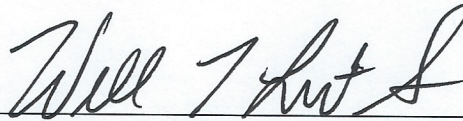
There being no further business, the meeting was adjourned by proper motion at approximately 3:30 p.m.

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Approved: March 15, 2019



Chairman, State Building Code Technical Review Board



Secretary, State Building Code Technical Review Board