

**STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
April 20, 2018
Glen Allen, Virginia**

Members Present

Mr. James R. Dawson, Vice-Chairman
Mr. Vince Butler
Mr. Daniel Crigler
Mr. Eric Mays, PE
Ms. Patricia S. O'Bannon
Mr. J. Kenneth Payne, Jr.
Mr. W. Shaun Pharr, Esq.
Mr. Richard C. Witt
Mr. Aaron Zdinak, PE

Members Absent

Mr. W. Keith Brower
Mr. Alan D. Givens
Mr. Joseph Kessler
Mr. E. G. Middleton, III
Ms. Joanne Monday

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 the Vice-Chairman James R. Dawson.

Roll Call

The roll was called by Mr. Hodge and a quorum was present. Mr. Justin I. Bell, the board's legal counsel from the Attorney General's Office, was also present.

Mr. Hodge welcomed new member J. Kenneth Payne, Jr., appointed to represent the American Institute of Architects as a replacement for long-time board member, Matthew Arnold. Mr. Payne provided a brief introduction of himself and indicated he was honored to serve. Board members welcomed him.

Approval of Minutes

The draft minutes of the January 19, 2018 meeting in the Review Board members' agenda package were considered. Ms. O'Bannon moved to approve the minutes as presented. The motion was seconded by Mr. Witt. The motion passed with Messrs. Crigler and Payne abstaining from the vote.

Final Orders

**Appeal of Joshua and Makiba Gaines (Preliminary Hearing)
Appeal No. 17-11:**

After consideration of the final order presented in the agenda package, Mr. Butler moved to approve the final order as written. Mr. Pharr seconded the motion and it passed with Messrs. Crigler and Payne abstaining from the vote.

Appeal of Harvey Dupree (AH Variety)
Appeal No. 17-10:

After consideration of the final order presented in the agenda package, Mr. Witt moved to approve the final order as written. Mr. Pharr seconded the motion and it passed with Messrs. Crigler and Payne abstaining from the vote.

Public Comment

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

New Business

Hearing (To Determine Whether to Dismiss as Moot) Appeal of William Wiehe (Vice Versa Corp.); Appeal No. 17-9:

A hearing convened with Vice-Chairman Dawson serving as the presiding officer. The appeal involved citations under the Virginia Construction Code related to the deck guard system constructed at 6488 Lake Meadow Drive in Fairfax County.

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

Guy Tomberlin
Caleb Sulzen
James Anjam
William Wiehe

Also present was:

F. Hayden Coddling, Esq., legal counsel for Fairfax County
David McKennett, Esq.; legal counsel for William Wiehe

After discussion, Mr. Pharr moved that Item #3 in the Notice of Violation dated June 8, 2017 is properly before the Board. The motion was seconded by Mr. Payne. The motion failed with Messrs. Witt, Mays, Crigler, and Butler and Ms. O'Bannon voting in opposition.

After further discussion Mr. Mays moved that the Notice of Violation date June 8, 2017, found on pages 37 and 38 of the agenda package, is not properly before the Board because all violations have been resolved; therefore, that part of the appeal is moot. The motion was seconded by Mr. Crigler and passed with Messrs. Pharr and Payne voting in opposition.

After further discussion Mr. Mays moved that the letter of determination issued by the Building Official, found on page 180 of the agenda package, needed to be revised and reissued to simply state the final inspection is approved with no other conditions. The motion was seconded by Mr. Payne.

Mr. Mays then amended his motion. He moved that the letter of determination issued by the Building Official, found on page 217-218 of the agenda package, is properly before the Board. The motion was seconded by Mr. Butler and passed unanimously.

After testimony concluded, Vice-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 William Wiehe (Vice Versa Corp.); Appeal No. 17-9:

After deliberation Mr. Mays moved that the Fairfax County final approval is constituted on pages 181, 217, and 218 of the April 20, 2018 agenda package. The motion was seconded by Mr. Butler.

After a brief discussion on how the Review Board sets out findings versus making formal motions Mr. Mays amended his motion. He moved that based on the findings of the Review Board that the Fairfax County final approval is constituted on pages 181, 217, and 218 of the April 20, 2018 agenda package, the Fairfax County Building Official should issue a new correspondence to the appellant re-stating their receipt of the product certification and that it is the determination of the County that those documents are acceptable, approve the deck final inspection with no stipulations, and close the permit. Prior to a second Mr. Mays rescinded his motion.

After further deliberation Mr. Mays moved that the screen shot of the Fairfax County FIDO permit system, found on page 181 of the April 20, 2018 Review Board agenda package, is the official approval of the final inspection. The motion was seconded by Mr. Crigler and passed with Messrs. Pharr and Payne voting in opposition.

Appeal of Quantico City LLC (Joel Rhoades); Appeal No. 17-8:

A hearing convened with Vice-Chairman Dawson serving as the presiding officer. The appeal involved citations under the Virginia Construction Code by the Prince William Building Official at a cinder block storage building owned by Quantico City LLC and located at 320 Fourth Avenue in the Town of Quantico.

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

Coleen Begin
Eric M. Mays

Also present was:

Robert Zelnick, Esq., legal counsel for Quantico City LLC
(Joel Rhoades)

The following exhibit was submitted by Joel Rhoades, through his attorney Robert Zelnick, without objection, to supplement the Review Board member's agenda package.

Appellant Exhibit A – Written arguments by Joel Rhoades

After testimony concluded, Vice-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 Quantico City LLC (Joel Rhoades); Appeal No. 17-8:

After deliberation Mr. Witt moved to uphold the revocation of the permit by the Building Official and the decision of the local board. The motion was seconded by Mr. Crigler and passed with Mr. Pharr voting in opposition. Ms. O'Bannon further indicated that ignorance of the law was no excuse.

Appeal of Edward May (US Customs and Border Protection); Appeal No. 17-14

The appeal was withdrawn by email on April 12, 2018.

Secretary's Report

At the request of the Board at its January meeting Mr. Hodge provided clarity on whether or not the Review Board could request an opinion of the Attorney General. He included *Code of Virginia § 2.2-505 (Official Opinions of the Attorney General)* in the agenda package for their review. Mr. Hodge explained how § 2.2-505 indicates that the head of a board can request an opinion of the Attorney General only when the request for opinion directly relates to the discharge of duties of the official requesting the opinion. Mr. Hodge also provided an example of such an inquiry by the Review Board for their review.

Mr. Hodge informed the Board that the next meeting would be June 15, 2018.

Mr. Justin Bell, legal counsel from the Attorney General's office, gave the Review Board members an overview of the status of appeals further appealed to court.

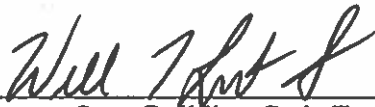
Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 3:45 p.m.

Approved: June 15, 2018



Chairman, State Building Code Technical Review Board



Secretary, State Building Code Technical Review Board