STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING
April 17, 2009
RICHMOND, VIRGINIA

Members Present	Members Absent
Mr. J. Robert Allen, Chairman	Mr. Matthew Arnold
Mr. R. Schaefer Oglesby, Vice-Chairman	Mr. James R. Dawson
Mr. John W. Ainslie, Jr.	
Mr. J. Daniel Crigler	
Mr. John H. Epperson	
Mr. Joseph A. Kessler, III	
Mr. John A. Knepper, Jr.	
Mr. James N. Lowe	
Mr. Eric Mays	
Ms. Joanne D. 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 by the Chairman at approximately 10:00 a.m.
Roll Call	The attendance was established by Mr. Vernon W. Hodge, Secretary, and constituted a quorum. Mr. Steven Jack, Assistant Attorney General of the State Office of the Attorney General, and the Board's legal counsel, was also present.
Approval of Minutes	Mr. Oglesby moved to approve the minutes of the March 20, 2009 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Lowe and passed unanimously with Messrs. Crigler and Epperson and Mses. Monday and O'Bannon abstaining from the vote.
Final Orders	Appeal of Marco Mendoza; Appeal No. 08-6:
	After discussion, Mr. Oglesby moved to approve the final order as presented in the agenda package. The motion was seconded by Mr. Ainslie and passed unanimously with Messrs. Crigler and Epperson and Mses. Monday and O'Bannon abstaining from the vote.

New Business

Appeal of Richard L. Dixon, Jr.; Appeal No. 07-3:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned Mr. Dixon's house, located at 112 Colony Way in Westmoreland County, and whether violations of the Virginia Uniform Statewide Building Code (USBC) are present.

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

Richard L. Dixon
Jennifer Dixon
Paul Brunkow, Westmoreland County building official

Also present was:

Tom Bondurant, Esq. counsel for the County of Westmoreland

Ms. Monday made a statement concerning her business associations with Mr. Bondurant and noted that it would not affect her ability to participate in the hearing impartially. No objections were raised by those present.

During the course of testimony, the following exhibit was submitted by Mr. Dixon without objection:

Exhibit A – Statement of the issues by Mr. and Mrs. Dixon

After testimony concerning the installation of the windows concluded, Mr. Epperson moved to dismiss Mr. Dixon's appeal as not properly before the Board. The motion was seconded by Mr. Mays and passed unanimously.

After testimony concerning the dimensions of the second floor office concluded, Mr. Lowe moved that no USBC violations were present. The motion was seconded by Mr. Mays. A vote was taken and the motion passed with Mr. Crigler voting in opposition.

New Business

Appeal of Richard L. Dixon, Jr.; Appeal No. 07-3 (continued):

Mr. Dixon withdrew the issue concerning the exterior framing around the garage door.

Mr. Dixon indicated he was not appealing the construction of the footings.

After testimony concerning the construction of the foundation concluded, Mr. Epperson moved to overturn the decision of the Westmoreland County building official that no USBC violations were present and to rule that violations were present in the design and construction of the foundation, in the lack of waterproofing and draining and in improper grading as addressed in the engineering report submitted by Mr. Dixon. The motion was seconded by Mr. Lowe and passed unanimously.

After testimony concerning the windows, Ms. O'Bannon moved that the installation of the windows did not comply with the USBC. The motion was seconded by Mr. Mays and passed unanimously.

After testimony concerning the porch rafters concluded, Mr. Lowe moved that the fastening and notching of the rafters did not comply with the USBC. The motion was seconded by Ms. Monday and passed unanimously.

After testimony concerning the citation by the Westmoreland County building official for the pipe penetrations in the foundation wall, Mr. Crigler moved that the citation was proper. The motion was seconded by Mr. Epperson and passed unanimously.

Mr. Dixon withdrew the issue concerning the dryer and clearances to the electrical panel.

After testimony concerning the penetrations of the plumbing pipes through the walls, ceiling and floors, Mr. Mays moved that no USBC violations were present. The motion was seconded by Mr. Oglesby and the motion passed with Mr. Crigler and Ms. O'Bannon voting in opposition.

New Business

Appeal of Richard L. Dixon, Jr.; Appeal No. 07-3 (continued):

The Chairman stated that the hearing of the matter was now closed and noted that a final order reflecting the Review Board decisions 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.

Mr. Lowe moved to recess for lunch.

Appeal of John and Sonia Ferraro; Appeal No. 07-6:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned renovations and an addition to the Ferraros' house, located at 9212 Portner Avenue in the City of Manassas. The City of Manassas building official had issued a USBC notice of violation for work involving the heating, ventilating and air-conditioning system to a subcontractor, which was appealed by the general contractor, Architectural Design and Construction, Inc. (ADCI). The Manassas City Board of Building Code Appeals (City appeals board) heard the appeal and ruled to overturn the citations. The Ferraros then filed an appeal to the Review Board.

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

Jack and Sonia Ferraro
Thomas Ferguson, City of Manassas building inspector
Michael Friedrichs, of ADCI

No exhibits were submitted to supplement the Review Board agenda package.

During testimony, Mr. Ferraro addressed issues not outlined in the appeal documents prepared by the Review Board staff. Mr. Hodge advised the parties and the Review Board members that he had become aware of a second appeal involving the parties which had been heard by the City appeals board in a telephone call from Mr. Friedrichs concerning the procedures for the hearing.

New Business

Appeal of John and Sonia Ferraro; Appeal No. 07-6 (continued):

As it wasn't clear whether the second appeal was involving the same issues in this appeal, Mr. Hodge requested Mr. Friedrichs to submit the information from the second appeal by facsimile for review and Mr. Hodge had determined that the issues were different and the timeframes for further appeal to the Review Board from the second City appeals board decision had lapsed.

Mr. Ferraro stated that he had contacted Mr. Hodge about the second appeal and was informed that the issues in the second appeal would be combined and heard with this appeal. Mr. Hodge stated that in his recollection he had never spoken with Mr. Ferraro and that it was possible Mr. Ferraro spoke with Mr. McMahan of the Review Board staff. Mr. Ferraro then indicated that it was Mr. McMahan that he had spoken with. After further discussion from Mr. Hodge, Mr. McMahan, Mr. Jack, the parties and Review Board members, the Chairman informed the Ferraros that issues from the second appeal would not be considered at the hearing, however, if the Ferraros filed an appeal to the Review Board concerning the second appeal, due to the involvement of Review Board staff, the timeframe issues would be given due consideration.

In further testimony, Mr. Ferraro raised the issue of whether the City appeals board should have dismissed the original appeal due to ADCI filing it on behalf on the subcontractor and not being a proper party to file an appeal. Mr. Hodge discussed the drafting of the appeal documents and indicated that the issue was not raised by Review Board staff in deference to the Ferraros since the City of Manassas USBC officials had taken subsequent action to rescind the citations based on new information and the Ferraros had not appealed the rescindment; therefore, if the original appeal to the City appeals board was dismissed, the rescindment of the citations would stand.

After consideration, the Ferraros withdrew the question of whether to overturn the City appeals board's decision to hear the original appeal.

New Business

Appeal of John and Sonia Ferraro; Appeal No. 07-6 (continued):

After testimony on the merits of the Ferraros appeal concluded, the Chairman closed the hearing and stated a decision from the Review Board 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 John and Sonia Ferraro; Appeal No. 07-6:

After deliberation, Mr. Mays moved to uphold the City appeals board's decision that no USBC violation existed relative to the installation of the branch duct connectors being less than 18 inches apart and to overturn the City appeals board's decisions that no USBC violations existed relative to the start-up system check and the installation of the return grill. Mr. Mays further moved that in the reinstatement of the USBC notice of violation, the City of Manassas USBC officials include ADCI as a responsible party. The motion was seconded by Mr. Crigler and passed unanimously.

Secretary's Report

Mr. Hodge advised the Review Board members that the agency would be moving in July to the Main Street Centre on West Main Street and staff would keep the members informed of progress concerning future meetings. It was also noted that the per diem payments to Board members would cease after July due to an Executive Order, however, reimbursements for travel would continue.

Mr. Hodge updated the Review Board members on the development of the 2009 building and fire codes and indicated Review Board staff was working on the updating of the Interpretation Booklet.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Mays at approximately 3:50 p.m.

Approved: June 19, 2009

Chairman, State Building Code Technical Review Board

Vernon W. Hodge

Secretary, State Building Code Technical Review Board