

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING

February 18, 2011

GLEN ALLEN, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman
Mr. R. Schaefer Oglesby, Vice-Chairman
Mr. Matthew Arnold
Mr. J. Daniel Crigler
Mr. James R. Dawson
Mr. John H. Epperson
Mr. John A. Knepper, Jr.
Mr. James N. Lowe
Mr. Eric Mays
Ms. Joanne D. Monday
Ms. Patricia S. O'Bannon

Members Absent

Mr. W. Keith Brower, Jr.
Mr. Joseph A. Kessler, III

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. Ms. Elizabeth Peay, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel.

Election of Officers

The Secretary briefed the Board members on the last election of officers and the Board's organizational regulations. After consideration, Mr. Epperson moved to reelect the current slate of officers. The motion was seconded by Mr. Lowe and passed unanimously.

Mr. Arnold arrived at approximately 10:10 a.m.

Approval of Minutes

Mr. Lowe moved to approve the minutes of the November 19, 2010 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Oglesby and passed unanimously with Messrs. Arnold and Dawson abstaining from the vote.

Final Orders

Appeal of Sukhwinder S. Ruprai; Appeal No. 10-9:

Mr. Oglesby moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Mr. Crigler and passed unanimously with Mr. Dawson abstaining from the vote.

Appeal of Capital Investments, LLC; Appeal No. 10-12:

Mr. Oglesby moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Ms. Monday and passed with Mr. Lowe voting in opposition and Messrs. Arnold and Dawson abstaining from the vote.

New Business

Mr. Hodge advised the Chairman and Board members that Ms. Cora Tucker, the appealing party in the first appeal hearing scheduled, was not present. After discussion, the Chairman noted that the appeal hearing would be moved to later in the agenda while staff attempted to contact Ms. Tucker or her attorney.

Appeal of Walter Smith; Appeal No. 10-16:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned the construction of Mr. Smith's home at 300 Konnarock Road, in Smyth County and determinations by the Smyth County building official that certain aspects of the construction of the home questioned by Mr. Smith were not violations of the Virginia Uniform Statewide Building Code (USBC).

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

Walt Smith, homeowner
Clegg Williams, for Smyth County
Stephen Browning, PE, witness for homeowner

Also present was:

Michael Bragg, Esq., counsel for Mr. Smith

New Business

Appeal of Walter Smith; Appeal No. 10-16 (continued):

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package.

After testimony 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 Walter Smith; Appeal No. 10-16:

After deliberation, Mr. Epperson moved to uphold the building official's decisions and the decision of the Smyth County Local Board of Appeals (local appeals board) with the clarification that (i) the building official needs to take appropriate further action with respect to the alteration to the trusses, which were already determined by the building official to be a USBC violation, (ii) the issue of whether the sill plate is in violation of the USBC is dismissed as moot as the condition has been remedied and approved by the building official, and (iii) the inconsistency in the wording of the decision of the local appeals board is corrected to state: "Appeals 1 through 4 are hereby denied, for the reasons set out below:" rather than "Appeals 1 through 4 are hereby upheld, for the reasons set out below:[.]" The motion was seconded by Mr. Lowe and passed unanimously.

Appeal of Community Office Resource Assessment Center (CORAC); Appeal No. 10-15:

The Secretary informed the Chairman and Board members that staff was unable to reach legal counsel for CORAC, but did reach Cora Tucker, who stated she did not receive the notice of hearing. The Secretary further reported that the notice had been sent certified mail to the address listed on the appeal application. After consideration, Mr. Oglesby moved to proceed with the hearing as the proper procedures were followed. The motion was seconded by Mr. Epperson and passed unanimously.

New Business

Appeal of Community Office Resource Assessment Center (CORAC); Appeal No. 10-15 (continued):

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned a demolition order issued by the City of Danville for a building located at 257 Jefferson Avenue and owned by CORAC. The demolition order had been appealed by CORAC to the City of Danville Board of Building Code Appeals (City appeals board) and after hearing was upheld.

The Chairman indicated that testimony concerning whether the appeal to the City appeals board was timely would be considered first.

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

Jerry Rigney, building official for the City of Danville
Mike Burton, for City of Danville building department
David Eagle, for City of Danville fire department

Also present was:

Clarke Whitfield, Esq., counsel for the City of Danville

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package.

After testimony concerning the timeliness issue concluded, the Chairman closed the hearing for deliberation of that issue.

Decision: Appeal of Community Office Resource Assessment Center (CORAC); Appeal No. 10-15:

After deliberation, Mr. Oglesby moved that the City appeals board's decision to hear CORAC's appeal on its merits be vacated and the appeal be dismissed due to the fact that the appeal to the City appeals board was not timely filed. The motion was seconded by Mr. Crigler and passed unanimously.

New Business

Appeal of Atlantic Homes, LLC; Appeal No. 10-21:

The Secretary informed the Chairman and Board members that while one of the appellees had become sick and had to seek medical treatment, counsel for the parties indicated there was agreement to proceed with the hearing.

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned determinations by the York County building official that imported drywall installed in homes located at 102 Overlook Point and 603, 607 and 609 Mansion Road did not comply with the USBC. The builder, Atlantic Homes, appealed the determinations to the York County Board of Building Code Appeals, which upheld the actions of the building official.

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

Ken Allen, for Atlantic Homes
Peter Fallon, for Atlantic Homes
Marianne G. Harris, building official for York County
Psyche M. Page, homeowner
Beth Berry, homeowner
K. David Johnson, homeowner
Jeri L. Johnson, homeowner

Also present were:

James J. Reid, Esq., counsel for Atlantic Homes
James E. Barnett, Esq., counsel for York County
Richard Serpe, Esq., counsel for the homeowners

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package; however, the parties agreed to stipulate that certain documents from the record in the homeowners' appeals (Appeal Nos. 10-17 through 10-20) be included in the record for this appeal.

New Business

Appeal of Atlantic Homes, LLC; Appeal No. 10-21 (continued):

After testimony 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 Atlantic Homes, LLC; Appeal No. 10-21:

After deliberation on the issue of whether the drywall in question complied with the USBC, Mr. Mays moved to uphold the decisions of the York County building official and York County Board of Building Code Appeals that the drywall in question did not comply with the USBC. The motion was seconded by Mr. Lowe. After further deliberation, Mr. Mays amended the motion to specify noncompliance with Sections 102.1 and 112 of the USBC. Mr. Lowe seconded the amended motion and the motion passed unanimously.

After deliberation on the issue of whether the Section 115.2 or Section 115.2.1 was applicable to the violations, Mr. Mays moved that Section 115.2 was applicable as the violations were discovered within two years of the occupancy of the homes. The motion was seconded by Mr. Dawson and passed unanimously.

Secretary's Report

A meeting schedule for 2011 provided in the Review Board members' agenda package was reviewed. After discussion, Mr. Crigler moved to approve the following meeting dates for 2011:

March 18	August 19
April 15	September 16
May 20	October 21
June 17	November 18
July 15	December 16

The motion was seconded by Mr. Epperson and passed unanimously.

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Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Lowe at approximately 5:30 pm

Approved: April 22, 2011

/S/

Chairman, State Building Code Technical Review Board

/S/

Secretary, State Building Code Technical Review Board