STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING
June 19, 2009
RICHMOND, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman
Mr. R. Schaefer Oglesby, Vice-Chairman
Mr. John W. Ainslie, Jr.
Mr. Matthew Arnold
Mr. J. Daniel Crigler
Mr. James R. Dawson
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. Lowe moved to approve the minutes of the April 17, 2009 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Crigler and passed unanimously with Messrs. Arnold and Dawson abstaining from the vote.
Final Orders	Appeal of Richard L. Dixon, Jr.; Appeal No. 07-3:

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

Final Orders

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

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

New Business

Appeal of Thomas Gilbert; Appeal No. 08-9:

A preliminary hearing convened with the Chairman serving as the presiding officer. An appeal to the Review Board was filed by Mr. Gilbert, a registered architect, on behalf of the owner of the Rohoic Woods Apartments, located on Duncan Road, in Petersburg. The appeal involved a notice issued under the Virginia Statewide Fire Prevention Code ("SFPC") by the Dinwiddie County fire marshal for a number of violations at the apartments. The parties had resolved all the issues in the notice except a requirement for providing key boxes for the sprinkler rooms. Mr. Gilbert appealed that issue to the Crater Regional Building Code Appeals Board, which served as the local government appeals board for appeals under the SFPC for Dinwiddie County ("local SFPC board"). At the hearing before the local SFPC board, Mr. Gilbert also raised the issues of length of time it took the local SFPC board to hear his appeal and the fees charged for the appeal. The Crater Regional Building Code Appeals Board heard Mr. Gilbert's appeal and ruled to overturn the citation for the key boxes. No action was taken on the other issues Mr. Gilbert raised. Mr. Gilbert then filed an appeal with the Review Board solely concerning the timeframe and fee issues.

In processing the appeal, Review Board staff provided the parties with a copy of a prior Review Board decision addressing issues similar to those raised by Mr. Gilbert, compiled and organized the record in the appeal and scheduled the preliminary hearing as a mechanism for the consideration of whether the issues were appealable.

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

Tom Gilbert
Tony Williams, Dinwiddie County fire marshal

New Business

Appeal of Thomas Gilbert; Appeal No. 08-9 (continued):

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

After testimony concluded, the Chairman closed the preliminary 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 Thomas Gilbert; Appeal No. 08-9:

After deliberation, Mr. Dawson moved to dismiss the appeal as the issues raised by Mr. Gilbert were not applications of the SFPC and therefore not proper issues for an appeal. It was noted that Mr. Gilbert had other recourse for resolution of his issues. The motion was seconded by Mr. Oglesby. A vote was taken and the motion passed with all Review Board members except Messrs. Arnold, Crigler and Epperson voting in favor of the motion.

As the next agenda item was an appeal hearing and the appealing party was not present, the meeting was briefly recessed while staff attempted to contact the party.

The meeting was called back to order by the Chairman with all Review Board members present. Mr. Hodge informed the Board members that staff was not able to contact the appealing party in the next scheduled appeal hearing.

The Chairman changed the order of the agenda to consider the appeal hearing to the end of the agenda to give the appealing party as much time as possible to attend the meeting.

Interpretations

An interpretation request from the building official from the Town of Front Royal was considered.

Interpretations

After discussion, Mr. Lowe moved to have Review Board staff contact the building official to concerning the request as there did not appear to be a conflict between the Health Department regulations and the Virginia Uniform Statewide Building Code ("USBC"). It was further moved that the building official be asked to be present if additional action needed to be taken on the request. The motion was seconded by Mr. Epperson and passed unanimously.

Mr. Hodge then discussed the updating of the interpretation booklet and reviewed the 2006 Interpretation Booklet prepared by staff with the Board members. After discussion, Mr. Oglesby moved to approve the 2006 Interpretation Booklet as presented in the Review Board members' agenda package with interpretations of the SFPC to be added to the booklet and to the booklet title and a note in the preface to clarify the updating of code section numbers. The motion was seconded by Mr. Crigler and passed unanimously.

New Business (continued)

Appeal of David Cover (Cover's Chimney Service); Appeal 08-11:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned the rebuilding of a chimney by Cover's Chimney Service at 8587 Sherman Court in the City of Manassas. The City of Manassas building official determined a violation of the USBC was present for the use of portland cement mortar rather than refractory mortar. Mr. Cover appealed the determination to the City of Manassas USBC appeals board which upheld the building official's determination. Mr. Cover then further appealed to the Review Board.

The following person was sworn in and given the opportunity to present testimony:

Brian Smith, City of Manassas building official

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

New Business (continued)

Appeal of David Cover (Cover's Chimney Service); Appeal No. 08-11 (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 David Cover (Cover's Chimney Service); Appeal No. 08-11:

After deliberation, Mr. Arnold moved to overturn the decision of the City of Manassas building official and the City of Manassas USBC appeals board and to approve the use of portland cement mortar in the rebuilding of the chimney as Section 103.5 of the USBC permits reconstruction to use materials of a similar kind or capacity as long as existing levels of safety are not lowered. There was no evidence that refractory mortar was required when the chimney was originally constructed and the house predated the codes requiring the use of refractor mortar. The motion was seconded by Mr. Epperson and passed unanimously. It was noted that the decision did not preclude action to be taken by the building official should evidence become available that the reconstruction was lowering existing levels of safety.

Secretary's Report

Mr. Hodge discussed the updating of the Department's building and fire regulations and reviewed the code change proposals being submitted from the Review Board. A proposal by Mr. Oglesby was also reviewed to require local USBC appeals board under the Part III of the USBC to meet at least annually. After discussion, Mr. Lowe moved for the proposal to be submitted by the Review Board and to also have it apply to Part I of the USBC and to the SFPC. The motion was seconded by Mr. Ainslie and passed unanimously.

There was a brief discussion of the Department's move to the Main Street Centre in July and the Board members were informed that information would be sent to them as it was available.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Crigler at approximately 1:00 p.m.

Approved: July 17, 2009

Chairman, State Building Code Technical Review Board

Secretary, State Building Code Technical Review Board