

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING
November 18, 2011

GLEN ALLEN, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman
Mr. R. Schaefer Oglesby, Vice-Chairman
Mr. W. Keith Brower, Jr.
Mr. J. Daniel Crigler
Mr. James R. Dawson
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

Members Absent

Mr. Matthew Arnold
Mr. John H. Epperson

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

Approval of Minutes

Mr. Lowe moved to approve the minutes of the August 19, 2011 meeting as presented in the Review Board members' agenda package. The motion was seconded by Ms. Monday and passed unanimously.

Final Orders

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

After consideration, 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.

Ms. O'Bannon arrived at approximately 10:05 a.m.

Final Orders

Appeal of SNSA, Inc.; Appeal Nos. 11-9 and 11-10:

After consideration, 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 Ms. O'Bannon abstaining from the vote.

Appeal of Gary Pisner; Appeal Nos. 10-4 and 11-8:

After consideration, Mr. Oglesby moved to approve the final order as presented in the Review Board members' agenda package with an editorial correction to add the word "permit" after the acronym "USBC" in the last sentence of the fourth paragraph of page two of the order. The motion was seconded by Mr. Lowe and passed unanimously with Ms. O'Bannon abstaining from the vote.

Appeal of Sovereign Homes; Appeal No. 10-23:

After consideration, 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 Ms. O'Bannon abstaining from the vote.

Appeal of Stephen and Nicola Pace and Merrilee Miller; Appeal Nos. 11-5 and 11-6:

After consideration, 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 Ms. O'Bannon abstaining from the vote.

New Business

Appeal of Esther B. Coleman and Beverly A. Bell; Appeal No. 11-14:

A preliminary hearing convened with the Chairman serving as the presiding officer. The preliminary hearing concerned whether the Review Board had jurisdiction over action taken by the Town of South Boston under a town ordinance holding that a house owned by Mses. Coleman and Bell, and located at 2304 North Main Street, was unsafe.

New Business

Appeal of Esther B. Coleman and Beverly A. Bell; Appeal No. 11-14
(continued):

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

Alan Auld, for the Town of South Boston
Ted Daniel, for the Town of South Boston

Mr. Hodge informed the Chairman and Board members that correspondence had been received from Mses. Coleman and Bell that due to their living some distance away and the legal nature of the preliminary hearing, they would not be attending, but their lack of attendance did not signify that they agreed with the actions taken by the town.

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 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 Esther B. Coleman and Beverly A. Bell; Appeal No. 11-14:

After deliberation, Mr. Mays moved to dismiss the appeal as the action taken by the town was under a town ordinance and not under the Virginia Uniform Statewide Building Code (USBC) and the Review Board does not have authority to hear appeals of local ordinances. The motion was seconded by Mr. Crigler. During discussion of the motion, Ms. O'Bannon offered clarification that the decision did not address the condition of the house in one way or the other. A vote was taken and the motion passed unanimously.

New Business

Appeal of Walter Stanley Jennings; Appeal No. 11-11:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned a vacant house owned by Mr. Jennings and located at 1315 Seaboard Avenue, in Chesapeake. Mr. Jennings was appealing the issuance of a notice of unsafe structure for the house by the City of Chesapeake USBC department.

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

Robert R. Smalley, for the City of Chesapeake
Debran Rose, for the City of Chesapeake

Mr. Hodge informed the Chairman and Board members that they had not heard from Mr. Jennings, who apparently had some health problems, but that all procedures were followed in distributing the notice of hearing.

During testimony, the following exhibit was submitted by the City of Chesapeake:

Exhibit A – Two photographs of the front of the house

At the conclusion of the testimony, 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 Stanley Jennings; Appeal No. 11-11:

After deliberation, Mr. Lowe moved to uphold the decisions of the City of Chesapeake USBC department and USBC appeals board that Jennings' house was unsafe and in need of demolition. Mr. Lowe added that the reason for the motion was due to the evidence and testimony indicating that the house was over 75 percent deteriorated and Mr. Jennings had made no attempts to remedy the USBC violations. The motion was seconded by Mr. Crigler and passed unanimously.

New Business

Appeal of Glenn Yates, Jr., AIA; Appeal No. 11-13:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned the renovation and use of the third floor of the Pythian Castle, a historic building located at 612 Court Street, in Portsmouth. The City of Portsmouth USBC department determined that the use of the third floor as a night club, which was proposed by the owner, was a change of occupancy under the USBC.

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

Glenn Yates
Sheldon Leavitt, for Mr. Yates
Anthony Anderson, for Mr. Yates
Joe Haskell, owner of the property
Jose Soria, for Mr. Yates
Raeford Eure, for Mr. Yates
Douglas K. Smith, for the City of Portsmouth
Bruce Brinkley, for the City of Portsmouth

Also present was:

Burle Stromberg, Esq., counsel for the City of Portsmouth

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

At the conclusion of the testimony, 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.

New Business

Decision: Appeal of Glenn Yates, Jr., AIA; Appeal No. 11-13:

After deliberating on the issue of the use of the third floor of the Pythian Castle, Mr. Mays moved to uphold the decisions of the City of Portsmouth building official and the City appeals board that the use proposed by the owner is a change of occupancy and no certificate of occupancy exists to establish the proposed use in the past. The motion was seconded by Mr. Brower and passed unanimously. After deliberating on the issues of the historic building exemption, Mr. Mays moved to dismiss the appeal on that issue as not properly before the Review Board since there had not been a formal ruling by the City appeals board on the issue. The motion was seconded by Mr. Brower and passed unanimously.

Secretary's Report

Mr. Hodge advised the Board members that the interpretation request deferred at the last meeting concerning control areas had been withdrawn. Further, a handout was distributed to the Board members containing supplements and errata to the 2009 codes.

Mr. Emory Rodgers, Deputy Director of the Division of Building and Fire Regulation, briefed the board members on current events within the department and outlined the schedule for the development of the 2012 state building and fire codes.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Lowe at approximately 2:00 pm

Approved: March 16, 2012

/S/

Chairman, State Building Code Technical Review Board

/S/

Secretary, State Building Code Technical Review Board