STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING
September 18, 2009

VIRGINIA HOUSING CENTER, GLEN ALLEN, VIRGINIA

| Members Present | Members Absent |
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| Mr. J. Robert Allen, Chairman | Mr. John W. Ainslie, Jr. |
| Mr. R. Schaefer Oglesby, Vice-Chairman | 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. Oglesby moved to approve the minutes of the July 17, 2009 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Crigler and passed unanimously with Ms. Monday and Messrs. Knepper, Lowe and Mays abstaining from the vote.

Final Orders

Appeal of Richard Clayton; Appeal No. 08-2:

Prior to the consideration of the final order in the appeal, Mr. Hodge advised the Review Board members of the submittal of additional documents and written arguments by Mr. Clayton subsequent to the hearing of the appeal. After discussion, Mr. Oglesby moved to not reopen the hearing on the matter as the final order adequately addressed the issues raised by Mr. Clayton. The motion was seconded by Mr. Crigler and passed unanimously.

Final Orders

Appeal of Richard Clayton; Appeal No. 08-2 (continued):

After review of the final order prepared by staff for the appeal, 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. Monday and Messrs. Knepper, Lowe and Mays abstaining from the vote.

New Business

Appeal of Runnymeade Homeowners Association; Appeal No. 06-15:

A preliminary hearing convened with the Chairman serving as the presiding officer. The appeal concerned an enforcement action by the County of Fairfax Fire and Rescue Department relative to the parking of vehicles along the sides of the streets in the Runnymeade subdivision and whether the action was an application of a local fire prevention regulation as opposed to an application of the Virginia Statewide Fire Prevention Code (SFPC).

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

Andy Strojny, for the Runnymeade Homeowners Association
Carlton Burkhammer, for the Fairfax County Fire Marshal
Keith Johnson, for the Fairfax County Fire Marshal

Also present was:

Gregory Beckwith, Esq., legal counsel for the Runnymeade Homeowners Association
Paul Emerick, Esq., legal counsel for Fairfax County

During testimony presented by the Runnymeade Homeowners Association's representatives, reference was made to material not part of the Review Board members' agenda package. After a briefing from Mr. Hodge concerning the selection of documents relevant to the preliminary hearing, the Chairman advised the parties to refer to the documents in the agenda package, a copy of which had been supplied to all parties prior to the hearing.

New Business

Appeal of Runnymeade Homeowners Association; Appeal No. 06-15 (continued):

After testimony from all parties 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 Runnymeade Homeowners Association; Appeal No. 06-15:

After deliberation, Mr. Mays moved to dismiss the appeal as the appeal involved the application of a local fire prevention regulation and the Review Board's authority is limited to only appeals under application of the Virginia Statewide Fire Prevention Code. The motion was seconded by Mr. Lowe and passed with all Board members voting to affirm the motion except Messrs. Crigler and Epperson, who voted in opposition.

Mr. Hodge informed the Chairman that the building official was not present in the next case on the docket (Appeal of Baxter Brothers Construction Co.). The chairman confirmed with the party in attendance in the appeal that a change in the order of hearings was acceptable to permit staff to attempt to contact the building official.

Appeal of Keystone-RM, LLC (Keystone Builders); Appeal No. 09-3:

The Chairman stated that as a resident of the County in which the appeal was initiated, he would be recusing himself from participation in the hearing.

A hearing convened with the Vice-Chairman serving as the presiding officer. The appeal concerned a citation under the Virginia Uniform Statewide Building Code (USBC) by the Chesterfield County USBC department relative to the drainage on the property of a home built by Keystone Builders and located at 10412 Beachcrest Place.

New Business

Appeal of Keystone-RM, LLC (Keystone Builders); Appeal No. 09-3 (continued):

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

Teresa Dowdy, for Keystone Builders
Douglas Jones, for Keystone Builders
Bill Dupler, Chesterfield County building official

Also present was:

Brent Timberlake, Esq., legal counsel for Keystone Builders
Stel Parthemos, Esq., legal counsel for Chesterfield County

During the testimony from the County, the following exhibit was submitted without objection:

Exhibit A – December 14, 1978 Attorney General's Opinion

After testimony from the parties concluded, the Vice-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 Keystone-RM, LLC (Keystone Builders); Appeal No. 09-3:

After deliberation, Mr. Epperson moved to overturn the decision of the Chesterfield County Board of Building Code Appeals and the building official since there was no evidence that the drainage problems on the lot affected the foundation of the dwelling. The motion was seconded by Mr. Lowe and passed unanimously with Mr. Mays abstaining from the vote.

New Business

Appeal of Baxter Brothers Construction Co.; Appeal No. 09-1:

Mr. Hodge informed the Chairman that the building official's office had been contacted and the building official was unable to make the meeting and would stand on his written arguments.

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned a citation under the USBC requiring a commercial range hood to be installed in the addition to a church where a domestic cooking appliance was installed. The contractor involved was Baxter Brothers Construction Co. and the addition was to the Mount Tabor Baptist Church, located at 28668 North Main Street, in the town of Newsoms in Southampton County.

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

Michael A. Smith, for Baxter Brothers
Laurence G. Wallace, for Baxter Brothers
Jeremiah Cole, for Mount Tabor Baptist Church

No exhibits were submitted to supplement the Review Board 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 Baxter Brothers Construction Co.; Appeal No. 09-1:

After deliberation, Mr. Mays moved to overturn the decision of the Southampton Building Board of Appeals and the building official since the modification request submitted by Baxter Brothers Construction Co. provided assurances that the domestic cooking appliance would not be used for commercial purposes. The motion was seconded by Mr. Epperson and passed unanimously.

Secretary's Report

Mr. Emory Rodgers, Deputy Director of the Department's Building and Fire Regulation, briefed the Review Board members on the Department's efforts to update its building and fire regulations and on other current activities of the Department. During the discussion, it was suggested by several Review Board members that based on the number of appeals the Review Board had received concerning the application of local fire prevention regulations, that a proposal be drafted by staff to amend the notice of violation provision in the SFPC to require a notice to specify when a citation is to local fire prevention regulation.

Mr. Hodge advised the Review Board members on pending cases and indicated that the next scheduled meeting would be in November of 2009.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Epperson at approximately 2:15 p.m.

Approved: November 20, 2009

Chairman, State Building Code Technical Review Board

Secretary, State Building Code Technical Review Board