

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING  
June 17, 2011

GLEN ALLEN, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman  
Mr. R. Schaefer Oglesby, Vice-Chairman  
Mr. Matthew Arnold  
Mr. W. Keith Brower, Jr.  
Mr. J. Daniel Crigler  
Mr. Joseph A. Kessler, III  
Mr. John A. Knepper, Jr.  
Mr. James N. Lowe  
Ms. Patricia S. O'Bannon

Members Absent

Mr. James R. Dawson  
Mr. John H. Epperson  
Mr. Eric Mays  
Ms. Joanne D. Monday

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. Oglesby moved to approve the minutes of the April 22, 2011 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Lowe and passed unanimously.

Final Orders

Appeal of Kimberly A. and Bryan R. Wood (603 Mansion Road); Keith and Elizabeth Berry (607 Mansion Road); Dave and Jeri Johnson (609 Mansion Road) and David and Psyche Page (102 Overlook Point); Appeal Nos. 10-17, 10-18, 10-19 and 10-20:

After consideration, Mr. Lowe 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.

Final Orders

Appeal of Willie and Marguerite Dawes; Appeal No. 10-22:

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.

New Business

Appeal of Alfredo Hernandez; Appeal No. 07-12:

Mr. Arnold recused himself from the proceedings due to being a member of the Fairfax County Board of Building Code Appeals.

A preliminary hearing convened with the Chairman serving as the presiding officer. The preliminary hearing concerned whether the Review Board had authority to hear an appeal from Mr. Hernandez or the Waverly West subdivision owner's association involving parking restrictions and fire lane markings required by the Fairfax County Fire Marshal's Office.

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

Alfredo Hernandez  
Ann Sagle, representative of the subdivision association  
Carlton Burkhammer, Fairfax County Fire Marshal's Office

Also present were:

Gregory Beckwith, Esq., counsel for Waverly West HOA  
Paul Emerick, Esq., counsel for Fairfax County

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.

New Business

Decision: Appeal of Alfredo Hernandez; Appeal No. 07-12:

After deliberation, Mr. Kessler moved to dismiss the appeal and to order the two pertinent decisions of the Fairfax County Board of Building Code Appeals to be vacated as the appeal involved the application of a local fire prevention regulation and the local board and Review Board's authority is limited to only appeals under application of the Virginia Statewide Fire Prevention Code. The motion was seconded by Mr. Oglesby and passed unanimously.

Interpretations

Mr. Hodge advised the Review Board members that counsel for the appellant in the next scheduled appeal could not attend until 1:00 p.m. due to court commitments.

After discussion with Board members, the Chairman noted that the appeal would be moved to later in the agenda.

An interpretation request from the City of Winchester concerning fire protection requirements of the Uniform Statewide Building Code (USBC) and the use of a restaurant for night club activities was considered. After discussion, Mr. Oglesby moved to issue the following interpretation of the definition of the term "night club" in the USBC:

QUESTION: How do you apply the "main use" terminology in the definition of night club?

ANSWER: Determining the main use of a structure is a factual question to be made at the discretion of the local official.

The motion was seconded by Mr. Kessler and passed unanimously and the interpretation designated as Interpretation No. 1/2009.

An interpretation request from the County of Spotsylvania concerning a new exception in the USBC for open porches in residential construction in close proximity to property lines to not require fire protective construction was considered. After discussion, Mr. Kessler moved that no interpretation was necessary as the common ordinary meaning of the term "porch" included those with or without roofs, therefore, the term "open" was only addressing the condition of the sides of the porch. The motion was seconded by Lowe and passed unanimously.

Interpretations  
(continued)

Mr. Hodge advised the Review Board members that correspondence had been received from the code official for the City of Fredericksburg subsequent to the distribution of the agenda package withdrawing their interpretation request and indicating that other avenues would be pursued.

Secretary's Report

Mr. Hodge reviewed the updated (2009) Review Board Interpretation Booklet prepared by staff and included in the Review Board members' agenda package. After discussion, Mr. Oglesby moved to approve the new interpretation booklet with an editorial correction to add a missing word after the word "multiple" in Interpretation No. 7/2006. The motion was seconded by Mr. Lowe and passed unanimously.

Mr. Hodge noted that staff would add the new interpretation issued by the Review Board to the booklet.

New Business

Appeal of Wedgewood Construction Company; Appeal No. 11-2:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned renovations to a house located at 2504 Jackson Street, in Hopewell. Wedgewood Construction Company had performed the work for the owner, Patricia Vaughan, and a violation notice had been issued by the City of Hopewell USBC department for backfilling the new foundation work without the work being inspected.

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

Wayne Mayton, for Wedgewood  
Jerold D. Langley, for Wedgewood  
James R. Jones, witness for Wedgewood,  
Roger L. Brown, building official, City of Hopewell  
Patricia D. Vaughan, owner

Also present were:

David A. Cloninger, Esq., counsel for Wedgewood  
Thomas Lacheney, Esq., counsel for the City of Hopewell

New Business

The following exhibit was submitted by the City of Hopewell, without objection, to supplement the information in the Review Board member's agenda package:

Exhibit A – Color photographs of foundation walls

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board would be forthcoming and the deliberation 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 Wedgewood Construction Company; Appeal No. 11-2:

After deliberation, Mr. Oglesby moved to uphold the decisions of the building official and the City USBC board which held that backfilling the foundation work without an inspection was a violation of the USBC. The motion was seconded by Mr. Kessler and passed unanimously.

Adjournment

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

Adjournment: August 19, 2011

/S/

Chairman, State Building Code Technical Review Board

/S/

Secretary, State Building Code Technical Review Board