

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING
March 20, 2015

VIRGINIA HOUSING CENTER
GLEN ALLEN, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman
Mr. James R. Dawson, Vice-Chairman
Mr. Matthew Arnold
Mr. W. Keith Brower, Jr.
Mr. Vince Butler
Mr. J. Daniel Crigler
Mr. Joseph A. Kessler, III
Ms. Joanne D. Monday
Ms. Patricia S. O'Bannon
Mr. W. Shaun Pharr

Members Absent

Mr. John H. Epperson
Mr. Alan D. Givens
Mr. John A. Knepper, Jr.
Mr. Eric Mays

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. The Chairman asked that a moment of silence be observed in remembrance of former Vice-Chairman Oglesby. Following the silence, Board members commented on Mr. Oglesby's character and that his membership on the Review Board would be missed.

Roll Call

The attendance was established by the Secretary, Mr. Vernon W. Hodge. Mr. James M. Flaherty, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel. The Secretary recognized Mr. W. Shaun Pharr as a newly-appointed member of the Review Board and after providing a brief introduction, was welcomed by other Board members. The Secretary advised that Mr. Alan D. Givens, an additional newly-appointed member of the Review Board, was unable to attend due to a prior engagement but would attend future meetings.

Approval of Minutes

After consideration, Mr. Crigler moved to approve the minutes of the November 21, 2014 meeting as presented in the agenda package. The motion was seconded by Ms. Monday and passed unanimously with Messrs. Brower and Pharr and Ms. O'Bannon abstaining from the vote.

Public Comment

The Chairman opened the floor for public comment. The Secretary reported that no one was preregistered. The Chairman closed the public comment period.

Final Orders

Appeal of Poplar Place Homeowners Association: Appeal No. 14-11:

Ms. Monday moved to approve the final order as presented in the agenda package. The motion was seconded by Mr. Butler and passed unanimously with Messrs. Brower and Pharr and Ms. O'Bannon abstaining from the vote.

Appeal of Gregory S. Mercer: Appeal No. 14-7:

Ms. Monday moved to approve the final order as presented in the agenda package. The motion was seconded by Mr. Cigler and passed unanimously with Messrs. Brower and Pharr and Ms. O'Bannon abstaining from the vote.

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

New Business

Appeal of Mary Ann Capp: Appeal Nos. 14-1 and 14-10:

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal concerned the construction of a private bridge on a contested right-of-way on Ms. Capp's property by Norman and Susan Gray, owners of property located at 2732 Sugar Grove Road in Christiansburg. Ms. Capp further appeals from decisions by the County of Montgomery Local Board of Building Code Appeals, which upheld decisions of the building official under Part I of the Virginia Uniform Statewide Building Code to issue the permit for, and approve, the bridge.

The following persons was sworn in and given an opportunity to present testimony:

Mary Ann Capp
William Yeager, building official for Montgomery County
Norman Gray
Julius Völgyi, witness for Ms. Capp

Also present were:

Tammy Belinsky, Esq., legal counsel for Ms. Capp
Kendall Clay, Esq., legal counsel for Mr. Gray
Ashley Rudolph, Esq., co-legal counsel for Mr. Gray

New Business

Appeal of Mary Ann Capp: Appeal Nos. 14-1 and 14-10 (continued):

Mr. Arnold arrived at approximately 10:30 a.m.

The following exhibit was submitted by Ms. Capp to supplement the documents in the agenda package:

Exhibit A – Report/Evaluation of the bridge by Mr. Völgyi.

The Chairman ruled the exhibit out-of-order since it was not submitted within the established timeframe and Mr. Völgyi was present to testify. Ms. Belinsky objected to the ruling.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members 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 Mary Ann Capp: Appeal Nos. 14-1 and 14-10:

After deliberation of Appeal No. 14-1, Mr. Dawson moved to uphold the decisions of the building official and local appeals board that the permit was appropriately issued. The motion was seconded by Mr. Kessler and a vote taken. The motion passed with a vote of five yeas to four nays.

After deliberation of Appeal No. 14-10, Mr. Kessler moved to uphold the decisions of the building official and local appeals board for the approval of the bridge. The motion was seconded by Mr. Crigler and a vote was taken. The motion failed with a vote of four yeas to five nays. Mr. Pharr then moved to overturn the approval of the bridge due to a lack of information to determine whether there was code compliance. The motion was seconded by Mr. Arnold and a vote taken. The motion passed with a vote of five yeas to four nays.

New Business

Appeal of T. Chester Baker, Appeal No. 14-8(B):

An appeal hearing convened with the Chairman serving as the presiding officer. The issue to be determined in the appeal was whether Baker filed a timely appeal to the City of Danville Local Board of Building Code Appeals from a demolition order issued by the City's code official under Part III of the Virginia Uniform Statewide Building Code for a building located at 1663 Piney Forest Road. The building was formerly part of an automobile auction complex.

The following persons was sworn in and given an opportunity to present testimony:

T. Chester Baker, Jr.

Jerry Rigney, code official for the City of Danville

Jay Thornton, inspector for the City of Danville

Also present was:

Jeannise Galloway, Esq., legal counsel for the City of Danville

The following exhibit was submitted by the City of Danville, over the objection of Mr. Baker, to supplement the documents in the agenda package:

Exhibit A – March 3, 2014 email.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members 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 T. Chester Baker: Appeal No. 14-8(B):

After deliberation, Mr. Butler moved to dismiss the appeal due to not meeting the required filing time limit to the local appeals board. The motion was seconded by Mr. Crigler and passed unanimously.

Appeal of T. Chester Baker: Appeal No. 14-8(A):

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal concerned a demolition order issued by the City of Danville under Part III of the Virginia Uniform Statewide Building Code for a building located at 1667 Piney Forest Road, owned by Mr. Baker, and last used as a video rental store.

The following persons was sworn in and given an opportunity to present testimony:

T. Chester Baker, Jr.
Jerry Rigney, code official for the City of Danville
Jay Thornton, inspector for the City of Danville

Also present was:

Jeannise Galloway, Esq., legal counsel for the City of Danville

No exhibits were submitted to supplement the documents in the agenda package; however, Mr. Baker requested a continuance to provide additional documents. The Chairman ruled to deny the continuance request as the record appeared to be complete.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members 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 T. Chester Baker; Appeal No. 14-8(A):

After deliberation, Ms. Monday moved to uphold the issuance of the demolition order by the City code official, and its ramification by the local appeals board, due to the extensive damage to the building as documented in the engineer's report submitted by the City. The motion was seconded by Ms. O'Bannon and passed unanimously.

Secretary's Report

The Secretary reviewed updates to the Interpretation Booklet to correlate with the 2012 building and fire regulations of the Department. After consideration, Mr. Crigler moved to approve the booklet as presented. The motion was seconded by Mr. Brower and passed unanimously.

There was discussion of the Review Board's continuance policy for appeals and whether to put a limit on the length of time parties could agree to a continuance. Mr. Pharr moved that if the continuation exceeded two years without resulting in the appeal being withdrawn, the appeal needed to be processed for a hearing. The motion was seconded by Mr. Crigler and passed unanimously.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Crigler at approximately 4:00 p.m.

Approved: June 19, 2015

/s/
Chairman, State Building Code Technical Review Board

/s/
Secretary, State Building Code Technical Review Board