

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING  
May 17, 2013

GLEN ALLEN, VIRGINIA

Members Present

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

Members Absent

Mr. Matthew Arnold  
Mr. J. Daniel Crigler  
Mr. James R. Dawson  
Mr. John H. Epperson  
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 10:30 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.

Election of Officers

The Secretary advised the Board members that the terms of the officers of the Board had expired and at the last meeting there was an approved motion to continue the current officers to the present meeting to assure that the election of officers was properly noticed and on the agenda.

The floor was opened for nominations. After discussion, Mr. Lowe moved to elect the current officers for another term by acclamation. Ms. O'Bannon moved to close the nominations. The motion was seconded by Mr. Knepper and passed unanimously.

Approval of Minutes

After consideration, Mr. Oglesby moved to approve the minutes of the March 15, 2013 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Lowe and passed unanimously with Mr. Knepper 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.

Secretary's Report                      The Secretary informed the Board members that there had been traffic problems which were delaying the arrival of the parties for the appeal hearing scheduled, so with the Chairman's permission, the order of the agenda would be changed to move the appeal hearing after the Secretary's report. The Chairman approved the change in the agenda.

The Secretary requested that the Board members consider two issues which had surfaced in the Department's updating of its building and fire regulations and for which the Review Board members and staff had been involved with through interpretation requests.

The Board members then discussed the definition of "nightclub" in both the Virginia Construction Code and the Virginia Statewide Fire Prevention Code. After discussion, staff was directed to circulate additional correspondence and any proposals developed or received; however, there was no agreement to submit a proposal to change the codes from the Review Board.

The second issue considered was relative to whether guardrails are required on the open side of walking surfaces next to retaining walls. In the discussion, it became apparent that a general rule would be difficult to develop due to the variations in installations. There was some discussion that the code needed improvement and there was no agreement on language which could be put forward. It was noted that staff would keep the Review Board members informed of any developments relating to the issue as the Department continued through the process of updating its regulations.

New Business                              Appeal of Fairfax County; Appeal No. 12-7:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned the construction of a home at 6061 River Drive in the Lorton area of Fairfax County by Metropolitan Investment Group, LLC (Metropolitan) for Mehdi and Marylynn Aminrazavi.

New Business

Appeal of Fairfax County; Appeal No. 12-7 (continued):

Metropolitan had appealed citations issued by the Fairfax County Department of Public Works and Environmental Services (County building official's office) to the Fairfax County Board of Building Code Appeals (County appeals board), which ruled that Metropolitan was not responsible for the violations. The County building official's office then appealed the County appeals board's decision to the Review Board.

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

Melissa Smarr, for the County building official's office  
Brian Foley, for the County building official's office  
Paul Shivey, for the County building official's office  
James Makely, for the County building official's office  
David Guglielmi, President of Metropolitan  
Mehdi and Marylynn Aminrazavi

Also present was:

Paul Emerick, Esq., Fairfax County Attorney's Office

The Chairman informed the parties that testimony and arguments would be heard preliminarily concerning whether Metropolitan was responsible for the cited violations and on whether to remand the appeal back to the County appeals board for determinations on the merits of each cited violation if it was determined that Metropolitan was the responsible party.

The following exhibit was submitted by Metropolitan to supplement the documents in the Review Board members' agenda package:

Exhibit A – Fairfax County affidavit form

After testimony concerning the preliminary issues concluded, the Chairman closed the hearing. After deliberation on the responsibility issue, Ms. Monday moved to overturn the decision of the County appeals board and find that Metropolitan was determined to be the responsible party for any violations present.

New business

Appeal of Fairfax County; Appeal No. 12-7 (continued):

The motion was seconded by Lowe and passed with Mr. Oglesby voting in opposition. After deliberation on whether to remand the appeal, Ms. O'Bannon moved to hear all the issues in the appeal. The motion was seconded by Ms. Monday and the motion passed with four members voting to approve the motion and three members voting in opposition.

The Chairman then re-opened the hearing for testimony and arguments on each cited violation.

The following exhibits were submitted by the County building official's office to supplement the documents in the Review Board members' agenda package:

- Exhibit A – Enlarged picture of dumbwaiter chase
- Exhibit B – Enlarged picture of electrical box in attic
- Exhibit C – Nails extracted from deck

During testimony, Metropolitan stipulated to there being a violation for an electrical box in the attic not having a cover and for the exposed paper facing on the insulation in the lower level utility room.

Also during testimony, the County building official withdrew the cited violation for the orientation of the wood structural panel subflooring.

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 Fairfax County; Appeal No. 12-7:

After deliberation, Mr. Kessler moved to uphold the violations cited by the County building official which had not been dispensed with during testimony. The motion was seconded by Mr. Lowe and passed unanimously.

