

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of Rave Soccer Complex, LLC
Appeal No. 13-5

Hearing Date: January 24, 2014

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board (Review Board) is a Governor-appointed board established to rule on disputes arising from application of regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

In early 2010, the City of Virginia Beach Department of Permits and Inspections (City building department or City building official) issued a building permit under Part I of the Virginia Uniform Statewide Building Code, known as the Virginia

Construction Code, or VCC, for the construction of an indoor soccer facility at 2949 Shipps Corner Road.

The VCC incorporates by reference nationally recognized model building codes for the technical requirements for construction. The 2006 edition of the International Building Code (IBC) was the model code applicable at the time of the issuance of the permit.

While the plans for the building submitted for the permit indicated that a fire sprinkler system would be installed, the building was constructed without one.

In early 2013, the City building department notified the owner, Rave Soccer Complex, LLC (Rave), that the building was being occupied without approval and that no sprinkler system had been installed. An agreement was reached in conjunction with the City's fire department to provide a fire watch while the building was occupied until the issue of the sprinkler system installation was resolved.

Rave then requested that the City building department grant a modification under the VCC to install only a limited area sprinkler system around the interior perimeter of the building in lieu of a full sprinkler system, based on the facts that the 2006 IBC did not require a sprinkler system to protect participant sport areas and that the building did not have any spectator seating areas.

The City building official, after consideration, decided not to grant the modification request. Rave then appealed the refusal to grant the modification to the City of Virginia Beach Board of Building Code Appeals, New Construction Division (City VCC appeals board), which heard the appeal in July of 2013 and ruled to uphold the City building official's decision.

Rave further appealed the City VCC appeals board's decision to the Review Board and a hearing before the Review Board was conducted with all parties present.

III. FINDINGS OF THE REVIEW BOARD

While the 2006 IBC does not require a sprinkler system to be installed to protect participant sport areas under an exception contained in Section 903.2.1.3, that exception is not applicable to Rave's building due to the building design utilizing an automatic sprinkler system increase of area allowance in Section 506.3 to achieve the desired size of the building. Section 506.3 specifically states that to obtain a allowance increase in area, a building is required to be sprinklered throughout in accordance with Section 903.3.1.1, which references the National Fire Protection Association's Standard No. 13 (NFPA 13) for the installation of sprinkler systems. NFPA 13 does not have an exception for the omission of sprinklers in participant sport areas.

Modification approvals under Section 106.3 of the VCC are based on a modification meeting the spirit and functional intent of the VCC and assuring the public health, safety and welfare. In this case, the increase in the size of the building, from the 19,000 square feet permitted without a sprinkler system, to the 33,000 square feet actually constructed, does not meet the spirit and functional intent of the VCC with only a limited area sprinkler system around the interior perimeter. Too much of the interior of the building would not have sprinkler protection, which is the functional intent of the sprinkler area increase allowance. No other method of protecting the entire interior of the building was offered by Rave.

In addition, it is noted that subsequent editions of the IBC do not have the exception for excluding participant sport areas from sprinkler system protection, which reinforces the importance of providing the functional equivalent of sprinkler protection in the consideration of a modification request to omit sprinklers.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the City building official and the affirmation of that decision by the City VCC appeals board to be, and hereby is, upheld.

/s/*

Chairman, State Technical Review Board

March 21, 2014

Date Entered

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Vernon W. Hodge, Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

*Note: The original signed final order is available from Review Board staff.