

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Walter Smith
Appeal No. 10-16

Hearing Date: February 18, 2011

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 the Virginia Uniform Statewide Building Code (USBC) and other regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. Enforcement of the USBC in other than state-owned buildings is by local city, county or town building departments. See § 36-105 of the Code of Virginia. An appeal under the USBC is first heard by a local board of building code appeals and then may be further appealed to the Review Board. See § 36-105 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

Between 2006 and 2008, Walter Smith (Smith), owner of property located at 300 Konnarock Road, in Smyth County, had a home built on the Smyth County property by Carter Owens (Owens), a local contractor.

During and after completion of the home, Smith raised numerous issues concerning the construction of the home to the Smyth County Building and Zoning Department (County building official), filed suit against Owens, complained to the Smyth County Board of Supervisors, filed complaints against Owens with the Virginia Board for Contractors and filed two appeals to the Smyth County Local Board of Appeals (County appeals board).

The first appeal to the County appeals board was further appealed to the Review Board (Appeal No. 09-17) and the Review Board determined several USBC violations existed.

This appeal to the Review Board is a further appeal of Smith's second appeal to the County appeals board.

In processing this appeal to the Review Board, Review Board staff drafted a "staff document" outlining the apparent issues in the appeal and the background of the case. The staff document was sent to Smith, the County building official and Owens and an opportunity given for the submittal of corrections, objections or

additions to the staff documents and the submittal of additional documents for the record in the appeal.

Smith responded by sending in additional correspondence requesting the Review Board to address issues outlined in a November 2010 letter from Smith to the Smyth County Board of Supervisors.

A hearing before the Review Board was then scheduled and held with Smith and the County building official present at the hearing.

III. FINDINGS OF THE REVIEW BOARD

Smith appeals the following determinations by the County building official made in a letter dated March 31, 2010. In the hearing before the County appeals board, those determinations by the County building official were upheld. The Review Board finds no other issues to be properly before it.

1. That no USBC violations exist relative to the construction of the ramp.

Smith complains that a concrete ramp from the sidewalk to the rear entrance of his home does not comply with the slope requirements of the Americans with Disabilities Act and is not properly supported by gravel or fill under the upper end. The County building official determined that the ramp met the slope

requirements of the International Residential Code (IRC)¹, the nationally recognized model building code incorporated by reference in the USBC for the technical aspect of construction, and that as the ramp was part of the sidewalk and sidewalks are exempt from the USBC under Section 102.3², no criteria was applicable to the fill under the ramp. The County building official did hold that in accordance with Section R311.6.3 of the IRC, a handrail was required on at least one side of the ramp.

The Review Board finds that the IRC, in § R311.6.1, permits ramps to have slopes of up to one unit vertical for every eight units horizontal. Smith's ramp does not exceed that slope and is therefore in compliance with the USBC. As there was no evidence submitted that the ramp is cracking, sagging or settling, it appears to be adequately supported and therefore no determination can be made that a USBC violation exists.

2. That no USBC violations exist relative to the sill plate under the garage apron at the north garage door.

Smith testified that the sill plate had been removed as part of the rebuilding of portions of the garage walls. As the sill plate is no longer in place, the issue of whether it constituted

¹ The 2003 edition of the IRC was applicable to Smith's home.

² The 2003 edition of the USBC is cited, although the current USBC contains the same exemption.

a USBC violation is moot. Smith's appeal of this issue is therefore dismissed.

3. That no USBC violations exist relative to the support of the garage slab.

Smith alleges that the fill under the garage slab exceeds depths permitted by the USBC; that less than four inches of gravel was used as a base for the slab; and the gravel was never compacted. The County building official determined there was insufficient evidence that excessive fill was used or that less than four inches of gravel was used as a base for the slab.

The Review Board agrees with the County building official's determinations. No core drilling was performed to determine the depth of fill or base. The photographic evidence was insufficient as there was some question over how many courses of masonry block were ultimately used around the slab. In addition, the slab has been in place for a number of years and the only noted problem was minor settling in one corner.

4. That no USBC violations exist relative to the design of the roof trusses.

Smith asserts that the roof trusses used in the home were required by the USBC to be, and were not, designed by an engineer licensed in Virginia. The County building official approved the

truss design after review of plans and specifications from the truss manufacturer which were developed using computer software designed for engineering trusses. The County building official did determine that documentation was not provided for trusses which were altered on site and that constituted a USBC violation unless such documentation was submitted.

The Review Board finds that the determination of whether truss design is required to be by a Virginia licensed engineer is determined by the professional registration laws. Under those laws, plans and specifications for single family homes are not required to be designed by registered design professionals. The professional registration laws do require any unique design of structural elements for floors, walls, roofs or foundations to be designed by an architect or engineer. The County building official stated he did not believe the trusses were of unique design; however, any field modification of the trusses would be a unique design. The Review Board agrees with the County building official's determination and finds no USBC violation to be present.

IV. FINAL ORDER

The appeal having been given due regard, the Review Board orders the decisions of the County building official and County

appeals board to be, and hereby are, upheld in accordance with,
and to the extent outlined in, Section III of this decision.



Chairman, State Technical Review Board

April 22, 2011
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.