

STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
November 18, 2022
Virginia Housing Center
4224 Cox Road Glen Allen, Virginia 23260

Members Present

Mr. James R. Dawson, Chairman
Mr. W. Shaun Pharr, Esq., Vice-Chairman
Mr. Vince Butler
Mr. David V. Hutchins
Ms. Christina Jackson
Mr. Joseph Kessler
Mr. R. Jonah Margarella
Mr. Eric Mays, PE
Ms. Joanne Monday
Mr. James S. Moss
Ms. Elizabeth White
Mr. Aaron Zdinak, PE

Members Absent

Mr. Daniel Crigler
Mr. Alan D. Givens

Call to Order

The meeting of the State Building Code Technical Review Board (“Review Board”) was called to order at approximately 10:00 a.m. by Chair Dawson.

Roll Call

The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Review Board from the Attorney General’s Office, arrived during the hearing for Jonathan and Lauren Borchers.

Approval of Minutes

The draft minutes of the September 16, 2022 meeting in the Review Board members’ agenda package were considered. Ms. Monday moved to approve the minutes as presented. The motion was seconded by Mr. Zdinak and passed with Ms. Jackson and Mr. Moss abstaining.

Final Order

Daniel Maller: Appeal No. 22-10:

After review and consideration of the final order presented in the Review Board members’ agenda package, Mr. Mays moved to approve the final order with the underlined editorial changes offered by Mr. Pharr below.

Maller argued that his appeal was timely and that he was entitled to a hearing before the local appeals board, but his appeal was administratively denied by the building official.

The Review Board finds that no appeal to the Review Board shall lie prior to a final determination by the local appeals board (§36-

105). Further the local appeals board, not the building official, has the authority to determine whether an appeal is timely filed. Therefore, the Review Board remands the case to the local appeals board for decision.

IV. Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders as follows:

A. *Whether to remand the appeal to the local appeals board for a decision.*

The appeal is remanded to the local appeals board to hear the appeal and render a decision because no appeal to the Review Board shall lie prior to a final determination by the local appeals board (§36-105).

The motion was seconded by Mr. Butler and passed with Ms. Jackson and Mr. Moss abstaining.

Interpretation

Approval of Interpretation 04/2022:

After review and consideration of Interpretation 04/2022 in the Review Board members' agenda package, Mr. Mays moved to approve Interpretation 04/2022 with the editorial change to remove the "&" and replace it with the word "and" in Question 1. The motion was seconded by Ms. Monday and passed with Ms. Jackson and Mr. Moss abstaining.

Public Comment

Chair Dawson opened the meeting for public comment. Mr. Luter advised that no one had signed up to speak. With no one coming forward, Chair Dawson closed the public comment period.

New Business

Jonathan and Lauren Borchers: Appeal No. 22-08:

Note: Chair Dawson recused himself from participation as a Board member in the hearing due to his former employment with Chesterfield County and that he still volunteers for the County; he subsequently exited the room. Chair Dawson was notified at the conclusion of the hearing to rejoin the meeting.

A preliminary hearing convened with Vice-Chair Pharr serving as the presiding officer. The hearing was related to the property located at 9930 Fawnhope Court, in Chesterfield County.

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

Jonathan Borchers, owner of the property

**State Building Code Technical Review Board
November 18, 2022 Minutes - Page 3**

Lauren Borchers, owner of the property
Jason Laws, Chesterfield County
Ron Clements, Chesterfield County

Also present was:

Emily Russell, legal counsel for Chesterfield County

After testimony concluded, Vice-Chair Pharr 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: Jonathan and Lauren Borchers: Appeal No. 22-08:

After deliberations, Mr. Kessler moved to overturn the building official and local appeals board and remand the matter back to the local appeals board to hear the merits of the case because the March 25, 2022 email from Jason Laws, the Assistant Director of Chesterfield County Department of Building Inspections, was an application of the code; therefore, the appeal is timely. The motion was seconded by Ms. Monday and passed with Vice-Chair Pharr voting in favor of the motion while Ms. Jackson and Messrs. Butler, Margarella, Mays, and Moss voting in opposition.

Clifford and Khristina Hammill: Appeal No. 22-13:

A preliminary hearing convened with Chair Dawson serving as the presiding officer. The hearing was related to the property located at 6591 Blenheim Road, in Albemarle County.

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

Clifford Hammill, owner of the property
Khristina Hammill, owner of the property
Michael Dellinger, Albemarle County

Also present was:

Andrew Herrick, legal counsel for Albemarle County

After testimony concluded, Chair Dawson closed the hearing and stated a decision from the Review Board members would be forthcoming and

**State Building Code Technical Review Board
November 18, 2022 Minutes - Page 4**

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: Clifford and Khristina Hammill: Appeal No. 22-13:

After deliberations, Mr. Mays moved to uphold the code official and local appeals board that the appeal was not timely filed. Mr. Mays further moved that the current edition of the code is the appropriate code to apply related to the timeframe for filing an appeal. The motion was seconded by Mr. Kessler and passed unanimously.

Vallerie Holdings of Virginia LLC: Appeal No. 22-04:

A hearing convened with Chair Dawson serving as the presiding officer. The hearing was related to the property located at 349 Pleasants Landing Road, in Louisa County.

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

Michael Vallerie, owner of the property
John Grubbs, Louisa County
Michael Guidry, Louisa County
Jennifer Carter, Louisa County

Also present was:

Kyle Eldridge, legal counsel for Louisa County
Clark Lemming, legal counsel for Vallerie Holdings of Virginia

After testimony concluded, Chair Dawson 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: Vallerie Holdings of Virginia LLC: Appeal No. 22-04:

After deliberations, Mr. Mays moved to uphold the code official and local appeals board and amend the unsafe notice. The motion was seconded by Mr. Moss. The motion and second were withdrawn.

After further deliberations, Mr. Butler moved to uphold the code official and local appeals board and add another violation listed as (g)

**State Building Code Technical Review Board
November 18, 2022 Minutes - Page 5**

occupancy of the upper floor without the required certificate of occupancy. The motion was seconded by Mr. Mays and passed unanimously.

Secretary's Report

Mr. Luter distributed a draft copy of revised Review Board Policy #9. After review and consideration of revised Review Board Policy #9, Mr. Kessler moved to approve revised Review Board Policy #9 as written. The motion was seconded by Ms. White and passed unanimously.

Mr. Luter distributed a draft copy of Review Board Policies #30 and #31. After a brief discussion of the two policies, the Board directed staff to bring policies #30 and #31 back to the Board at the January 20, 2023 meeting for consideration. The Board further directed staff to email Policies #30 and #31 to the members for review. Attorney Bell also advised staff to send the members the guide he provided related to the policies. Staff requested Board members offer revisions by December 15, 2022.

Mr. Luter presented the Board the proposed 2023 meeting calendar. Mr. Pharr moved to approve the meeting calendar as presented. The motion was seconded by Ms. White passed unanimously.

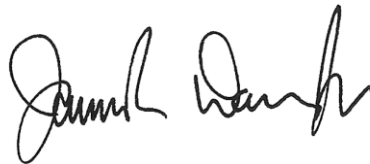
Mr. Luter informed the Review Board of the current caseload for the upcoming meeting scheduled for January 20, 2023.

Attorney Bell offered no legal updates to the Board.

Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 3:30 p.m.

Approved: February 17, 2023



Chair, State Building Code Technical Review Board



Secretary, State Building Code Technical Review Board