

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Warren County Department of Building
Inspection

Appeal No. 05-7

Decided: October 21, 2005

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

The appeal is by the USBC building department of Warren County ("building official") seeking reversal of a decision of the Warren County USBC appeals board ("County USBC board") concerning a modification request under the USBC. The modification request was originally submitted to the building official by Ms. Gisela Zarcufsky ("Zarcufsky") in relation to the construction of the basement stairs in her home at 560 Red Bud Lane.

In February of 2005, at an inspection during the construction of Zarcufsky's house, the building official determined that the horizontal width of the steps (the "treads") in the basement stairway did not comply with the USBC. The minimum tread width under the USBC is nine inches and the treads for the basement stairs were only approximately eight and one-half inches. The lesser tread width had been used to compensate for a beam in the basement ceiling encroaching on the headroom requirements for the stairs.

To address the deficiency, Zarcufsky submitted a modification request under the USBC proposing to provide

additional safety features in lieu of correcting the tread width. The building official rejected the proposal.

Zarcufsky appealed the refusal to grant the modification to the County USBC board which overturned the building official's decision and approved the modification request based on the stipulations offered by Zarcufsky.

The building official then appealed the County USBC board's decision to the Review Board.

III. FINDINGS OF THE REVIEW BOARD

At the hearing before the Review Board, pictures submitted of the stairs in question and the testimony of the parties indicates that while the disapproval of the stairs was based on the tread width being approximately eight and one-half inches, the actual tread width on the stairs appears to be approximately only seven and five-eighths of an inch to seven and three-quarters of an inch on those stair treads which provide an overhang over the risers, which are the vertical boards forming the steps.

Further, the building official testified that additional violations of the USBC have been determined to be present in the construction of the stairs.

The Review Board was presented no evidence of the nature of the slip-proof treatment supposedly provided for the stairs.

Further, an additional light was provided at the top of the stairway, however, it appeared to be only of approximately the wattage normally used to light a stairwell. In addition, the warning signage provided appeared to be only in the bottom portion of the stairway and did not provide adequate notification of a danger.

In consideration of the above, the Review Board finds that the modification request does not achieve the level of compliance necessary to substitute for a stairway which does comply with the USBC. In addition, the Review Board notes that the nationally recognized model code used as the basis for the USBC for residential construction, known as the International Residential Code, does require a minimum tread width of ten inches. While that dimension has been modified under the USBC to only nine inches, it does indicate the importance of tread width in safety considerations.

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 County USBC board to be, and hereby is, overturned and the building official's disapproval of the modification request to be, and hereby is, reinstated.

The appeal is granted.

/s/*

Chairman, State Technical Review Board

11/18/2005

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.**