

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Monica and Michael Davis
Appeal No. 20-03

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 (§ 2.2-4000 et seq. of the Code of Virginia).

II. Case History

On March 27, 2020, the County of Augusta Department of Community Development (County Building Official), the agency responsible for the enforcement of Part 1 of the 2012 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), issued the Certificate of Occupancy to Monica and Michael Davis (Davis), for a single-family dwelling located at 1002 Round Hill School Road, in Augusta County.

Shortly after moving into their new home, Davis contacted the County Building Official requesting he come inspect a variety of issues and concerns they had with their home, attached garage, and detached garage.

In June and July of 2020, the County Building Official visited the Davis property, investigated their issues and concerns, and identified twenty-two (22) code violations, which he cited in a letter (report) to Davis. In the report, the County Building Official also addressed three of the issues presented by Davis, explaining why those three issues were not code violations.

Davis filed a timely appeal to the Augusta County Board of Building Code Appeals (local appeals board). The local appeals board upheld the decisions of the County Building Official. On October 15, 2020, Davis further appealed to the Review Board.

A virtual Review Board hearing was held January 22, 2021. Appearing at the Review Board hearing for Augusta County was G. W. Wiseman. Monica and Michael Davis attended the hearing on their behalf.

III. Findings of the Review Board

- A. Whether to uphold the decision of the County Building Official and the local appeals board that violations of the VCC Sections 311.3 (Floors and landings at exterior doors) and R311.7.6 (Landings for stairways) do not exist.

Davis argued that the landing at the top of the stairway, at the front door, sloped towards the structure causing water to pond near the structure rather than being sloped away from the structure to facilitate the movement of water away from the structure and off the porch. Davis also argued that the landing at the bottom of the stairway was sloped towards the handrail rather than away from the stairway. Davis further argued that the landing, a concrete sidewalk, was not as wide as the stairway as required by the code. Lastly, Davis argued that adjusting the grade to make the bottom landing code compliant would create a new code violation related to the slope of the grade away from the foundation, which requires six inches (6") of fall in the first 10 feet (10').

The County argued that the slope of the landings at the top and bottom of the stairway, at the front door, were within the 2% allowance in the code requirements with typical high and low areas, which is typical with concrete. The County concurred that the landing at the bottom of the stairway, a concrete sidewalk, was not as wide as the stairway and that the County has instructed the contractor to bring the grade up on each side of the sidewalk to make the landing the same

width as the stairway and bring it into compliance. The County argued that the code did not require the landing to be constructed entirely of the same material and that the concrete sidewalk and corrected grade was code compliant.

The Review Board agrees with Davis that violations of VCC Sections 311.3 (Floors and landings at exterior doors) and R311.7.6 (Landings for stairways) exist on the top and bottom landings at the front door.

B. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section R309.1 (Floor surfaces) does not exist.

Davis argued that the slope of the attached garage floor was not properly sloped to facilitate the movement of water to the main vehicle entry doorway. She further argued that the garage floor sloped inward. Davis also argued that the garage door seals were unable to properly seal, allowing water to enter the garage along the entire width of the garage door.

The County argued that the floor in the attached garage sloped towards the door. The Review Board agrees with Davis that a violation of VCC Section R309.1 (Floor surfaces) exists on the attached garage floor.

C. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section R403.1.4.1 (Frost protection) does not exist.

Davis argued that the entire front of the structure and 25% of each side of the structure was not protected from frost. Davis clarified the method required to protect the foundation wall from frost, based on the construction of the structure, was for the foundation wall to extend below the frost depth identified for Augusta County. Davis further argued that in order for the foundation wall to extend below the required frost depth, the entire footing needed to be below the required frost depth, which was not the case for a large percentage of the building foundation wall.

The County argued that the frost line in Augusta County was 24” and was measured from the finished grade to the bottom of the footing. The County argued that concrete could not freeze and the ground could not freeze below the 24” frost line; therefore, the ground could not heave; thus, the foundation was protected. The County argued that, pursuant to contractor verification and testimony at the local appeals board hearing, the footing under the attached garage was a double footing. The County concurred with Davis that the footing under the detached garage was not code compliant due to lack of frost protection. The County stated that the footing for the detached garage was addressed in his report and the engineering report from Schnitzhofer Structural Engineers, which included how to correct the code violation.

The Review Board finds that, additional evaluation of the foundation is needed to determine whether a violation of VCC Section R403.1.4.1 (Frost protection) exists; therefore, remands the matter back to the County Building Official for further determination.

D. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section R302.5 (Duct Penetration) does not exist.

Davis argued that the door to the half bathroom, located in the attached garage, should be sealed to prevent exhaust fumes from entering the half bathroom. Davis further argued that because the HVAC duct system in the half bathroom was connected to the HVAC duct system that supplied the entire structure exhaust fumes that enter the half bathroom, due to the unsealed door, could travel through the HVAC duct system and contaminate the entire structure with carbon monoxide.

The County concurred that the door to the half bathroom, located in the attached garage, must be replaced with a fire rated door, per item #14 of the County Building Official’s report, due to the presence of the duct in the half bathroom. The County argued that the code does not require the door to be smoke or vapor tight.

The Review Board agrees with the County Building Official that a violation of VCC R302.5.2 does not exist. However, the Board finds that, based on the evidence provided and the testimony of the parties, violations of VCC Section N1102.4 and M1601.6 may exist; therefore, remands the matter back to the County Building Official for further determination.

E. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section R317.1 (Location required) does not exist.

Davis argued that, on the detached garage, the wood framing members around the garage door and along several walls of the structure, rest on masonry or concrete and are located less than eight (8”) inches from grade, and in some areas below grade; therefore, are required to be treated lumber.

The County argued that it had not been made aware of this issue. The County further argued that the framing for the garage door was not a part of the wall framing and not fastened to the foundation wall; therefore, VCC Section R317.1 did not apply to the garage door framing. The County also argued that a treated frame under the wood foundation wall, as required by VCC Section R317.1, was present in the evidence provided.

The Review Board agrees with the County Building Official that a violation of VCC Section R317.1 does not exist.

F. Whether to uphold the decision of the County Building Official and the local appeals board that a violation related to the shoe block or full cut header block installation does not exist.

Davis argued that the installation of full cut header blocks in the foundation wall should not have been used. Davis further argued that full cut header blocks should only be used where concrete is poured; thus, filling the open voids in the blocks. She also argued that the blocks in the foundation wall were filled with stone rather than concrete.

The County argued that the only evidence of the installation that he saw were the images in the agenda package and from those images he could not make a solid determination whether concrete went into the header blocks. The County further argued that the concrete slab was supported on a gravel base; therefore, was code compliant. The County also argued that the block was adequate for support as it was an 8” block and it provided the minimum bearing requirement for the floor joist; therefore, was code compliant.

The Review Board agrees with the County Building Official that a violation related to the shoe block or full cut header block installation does not exist.

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 uphold the decision of the County Building Official and the local appeals board that violations of the VCC Sections 311.3 (Floors and landings at exterior doors) and R311.7.6 (Landings for stairways) do not exist.

The decision by the County Building Official and local appeals board that violations of VCC Sections 311.3 (Floors and landings at exterior doors) and R3117.6 (Landings for stairways) do not exist is overturned.

- B. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section R309.1 (Floor surfaces) does not exist in the attached garage.

The decision by the County Building Official and local appeals board that a violation of the VCC Section R309.1 (Floor surfaces) does not exist in the attached garage is overturned.

- C. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section R403.1.4.1 (Frost protection) does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Section R403.1.4.1 (Frost protection) does not exist is remanded back to the County Building Official for further determination as to whether the violation exists.

- D. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section R302.5 (Duct Penetration) does not exist.

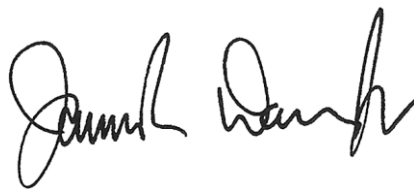
The decision by the County Building Official and local appeals board that a violation of the VCC Section R302.5 (Duct Penetration) does not exist is upheld but potential violations of VCC Sections N1102.4 and M1601.6 may exist; therefore, remanded the matter back to the County Building Official to determine whether violations of N1102.4 and M1601.6 exist.

- E. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section R317.1 (Location required) does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Section R317.1 (Location required) does not exist is upheld.

- F. Whether to uphold the decision of the County Building Official and the local appeals board that a violation related to the shoe block or full cut header block installation does not exist.

The decision by the County Building Official and local appeals board that a violation related to the shoe block or full cut header block installation does not exist is upheld.



Chair, State Building Code Technical Review Board

Date entered ____ March 19, 2021 ____

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 W. Travis Luter, Sr., 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.