

**STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
February 17, 2023
Chesterfield County Government Center
Community Development Building
Multipurpose Room
9800 Government Center Parkway Chesterfield, Virginia 23832**

Members Present

Mr. James R. Dawson, Chairman
Mr. W. Shaun Pharr, Esq., Vice-Chairman
Mr. Vince Butler
Mr. Alan D. Givens
Mr. David V. Hutchins
Ms. Christina Jackson
Mr. Joseph Kessler
Mr. R. Jonah Margarella
Mr. Eric Mays, PE (arrived during the hearing for Appeal 22-15)
Mr. James S. Moss
Mr. Aaron Zdinak, PE

Members Absent

Mr. Daniel Crigler
Ms. Joanne Monday
Ms. Elizabeth White

- 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 Park Crescent Owners LLC.
- Approval of Minutes The draft minutes of the November 18, 2022 meeting in the Review Board members’ agenda package were considered. Mr. Butler moved to approve the minutes as presented. The motion was seconded by Ms. Jackson and passed with Mr. Givens abstaining.
- Final Order Jonathan and Lauren Borchers: Appeal No. 22-08:

After review and consideration of the final order presented in the Review Board members’ agenda package, Ms. Jackson moved to approve the final order with the editorial change of date entered to be February 17, 2023. The motion was seconded by Mr. Zdinak and passed with Mr. Givens abstaining.

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

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After review and consideration of the final order presented in the Review Board members' agenda package, Ms. Jackson moved to approve the final order with the editorial change of date entered to be February 17, 2023. The motion was seconded by Mr. Butler and passed with Mr. Givens abstaining.

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

After review and consideration of the final order presented in the Review Board members' agenda package, Mr. Zdinak moved to approve the final order with the editorial change of date entered to be February 17, 2023. The motion was seconded by Mr. Moss and passed with Mr. Givens 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

Fei Zhang: Appeal No. 22-15:

Note: Mr. Butler recused himself from participation as a Board member in this hearing due to his membership in the Northern Virginia Home Builders Association where one of the principals of the home builder for this appeal is also a member.

A preliminary hearing convened with Chair Dawson serving as the presiding officer. The hearing was related to the property located at 1976 Kirby Road, in Fairfax County.

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

Patrick Foltz, legal counsel for Fairfax County

Note: Fei Zhang was properly notified of the hearing. Eighteen minutes before the start of the meeting Fei Zhang emailed the Review Board Secretary requesting to continue the hearing. The Chair denied the request and the case was heard by the Review Board as scheduled.

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.

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Decision: Fei Zhang: Appeal No. 22-15:

After deliberations, Ms. Jackson moved to dismiss the appeal as not properly before the Board due to lack of standing. The motion was seconded by Mr. Margarella and passed unanimously.

Park Crescent Owners LLC: Appeal No. 22-14:

A hearing convened with Chair Dawson serving as the presiding officer. The hearing was related to the property located at 6400-6491 Crescent Way, in the City of Norfolk.

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

Jamie Skinner, property owner
Raquan Hall, engineer/witness for the property owner
Phillip Williams, City of Norfolk Building Commissioner
Phillip Winslow, City of Norfolk Deputy Building Commissioner
John Culpepper, City of Norfolk Fire Inspector

Also present was:

Vincent Mastracco, legal counsel for Park Crescent Owners LLC

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: Park Crescent Owners LLC: Appeal No. 22-14:

After deliberations, Mr. Pharr moved to remand the matter back to the building official to consider the additional information proposed by the engineer for the property owner at the meeting, which was not allowed for submittal and distribution by the Chair, and issue a new decision. The motion was seconded by Mr. Moss and passed with Mr. Mays abstaining.

Request for Interpretation of John Russell (City of Falls Church):
Interpretation Request No. 08-22:

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An interpretation request from John Russell of the City of Falls Church was considered concerning when a certificate of occupancy could be issued for an existing structure and whether the code prevented the code official from requiring a certificate of occupancy for an existing structure. Mr. Mays moved to set aside the request based on Board policy due to the potential for an appeal. The motion was seconded by Ms. Jackson and passed unanimously.

Secretary's Report

Mr. Luter pointed the Review Board members to the revised copy of Review Board Policies #30 presented in the Review Board members' agenda package. After a brief discussion, Mr. Mays moved to approve Policy #30 with the following changes:

Policy Section: Mandatory Requirements

Item b add as a last sentence:

“When the remotely participating member cannot hear all persons at the primary or central meeting location, the remotely participating member will abstain from all discussions and votes.”

Policy Section: Process to request remote participation,

Item a delete the following portion of the first sentence:

“On or before the day of the meeting, and at any point”

Add the following:

“A minimum of 10 business days”

The motion was seconded by Mr. Butler and passed unanimously. The Review Board further directed the Secretary to bring Policy #30 back to the Board at the March 17, 2023 meeting for final consideration and approval of the written policy with the approved changes.

Note: Based on discussions related to Policy #30, Attorney Bell offered to submit a question to the COLA Counsel for an interpretation/opinion on what exactly “with specificity” means and bring it back to the Board at the March 17, 2023 meeting.

Mr. Luter pointed the Review Board members to the revised copy of Review Board Policies #31 presented in the Review Board members' agenda package. After a brief discussion, Mr. Pharr moved to approve Policy #31 with the following changes:

Policy Section: When an all-virtual public meeting may be authorized,

Item b add:

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“as determined by the Chair or the Vice-Chair in the absence of the Chair”

Add Item e:

“Virtual meetings may only be utilized for administrative matters.”

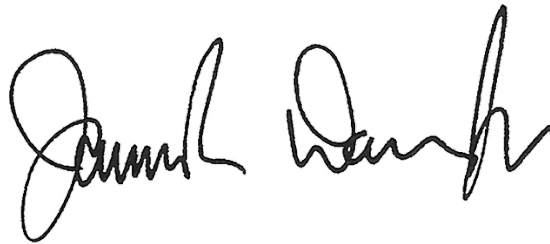
The motion was seconded by Ms. Jackson and passed unanimously. The Review Board further directed the Secretary to bring Policy #31 back to the Board at the March 17, 2023 meeting for final consideration and approval of the written policy with the approved changes.

Mr. Luter informed the Review Board of the current caseload for the upcoming meeting scheduled for March 17, 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 2:00 p.m.



Approved: March 17, 2023

Chair, State Building Code Technical Review Board



Secretary, State Building Code Technical Review Board