

**STATE BUILDING CODE TECHNICAL REVIEW BOARD  
MEETING MINUTES  
January 11, 2019  
Chesterfield, Virginia**

Members Present

Mr. James R. Dawson, Chairman  
Mr. W. Shaun Pharr, Esq., Vice-Chairman  
Mr. Vince Butler  
Ms. Christina Jackson  
Mr. Joseph Kessler  
Ms. Joanne Monday  
Mr. J. Kenneth Payne, Jr.  
Mr. Richard C. Witt  
Mr. Aaron Zdinak, PE (arrived after the approval of the final order for Appeal No. 18-10)

Members Absent

Mr. Daniel Crigler  
Mr. Alan D. Givens  
Mr. Eric Mays, PE  
Mr. E. G. Middleton, III  
Ms. Patricia S. O'Bannon

Call to Order                      The meeting of the State Building Code Technical Review Board ("Review Board") was called to order at approximately 9:00 a.m. by Secretary Travis Luter.

Roll Call                              The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Board from the Attorney General's Office, was also present.

Approval of Minutes              The draft minutes of the November 16, 2018 meeting in the Review Board members' agenda package were considered. Ms. Monday moved to approve the minutes with an editorial change in the spelling of the word "*Recused*" in the third line of the Approval of Minutes section on page five, an editorial change in spelling of the word "*but*" in the fifth line of the last paragraph of page nine, and the addition of the word "to" in the first line of the last paragraph of page thirteen of the agenda package. The motion was seconded by Mr. Payne and passed with Mr. Butler abstaining.

Final Orders                        Appeal of Anthony Grant Jr.  
Appeal No. 18-10:  
  
After review and consideration of the final order presented in the Review Board members' agenda package, Ms. Monday moved to approve the final order with an editorial change in spelling of the word "*but*" in the fourth sentence of the last paragraph of page six of the final order, shown on page 29 of the agenda package. Ms. Jackson seconded the motion and it passed with Mr. Butler abstaining.

Appeal of Harvey Dupree (A...H Variety)

Appeal No. 18-06:

After consideration of the final order presented in the Review Board members' agenda package, Mr. Witt moved to approve the final order with an editorial change in spelling of the word "out" in the second sentence of the third paragraph of page three of the final order, shown on page 37 of the agenda package. Ms. Jackson seconded the motion and it passed with Messrs. Butler and Zdinak abstaining.

Appeal of Harvey Dupree (A...H Variety)

Appeal No. 18-11:

After consideration of the final order presented in the Review Board members' agenda package, Mr. Witt moved to approve the final order with an editorial change replacing the word "use" with the word "occupancy" to align with Section 103.3 (Change of occupancy) in the following locations:

- last sentence of the last paragraph of page two of the final order, shown on page 47 of the agenda package
- first sentence of the second paragraph of page three of the final order, shown on page 49 of the agenda package
- second sentence of the last paragraph of page three of the final order, shown on page 49 of the agenda package
- fourth sentence of the second paragraph of page four of the final order, shown on page 51 of the agenda package
- fourth sentence of the third paragraph of the fourth page of the final order shown on page 51 of the agenda package

Ms. Jackson seconded the motion and it passed with Messrs. Butler and Zdinak abstaining.

Public Comment

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

New Business

Preliminary Hearing (To Discuss the Potential Conflict of Interest Issue)

Appeal of Kristie L. Sours Atwood; Appeal No. 18-08:

Appeal of Kristie L. Sours Atwood; Appeal No. 18-12:

Appeal of Buracker Construction; Appeal No. 18-13:

A hearing convened with Chairman Dawson serving as the presiding officer. Each of the three appeals listed above, associated with the

property owned by Kristie L. Sours Atwood located at 1255 Pilgrim Way in Warren County, potentially have a conflict of interest issue related to the local appeals board hearings.

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

David Beahm, Warren County Building Official  
David Buracker, Buracker Construction, LLC  
Kristie Atwood, Owner  
Victor Atwood Jr., Owner

Also present was:

Dan Whitten, Esq., legal counsel for Warren County  
T. Joel Francis, Esq., legal counsel for David Buracker

After testimony concluded, Chairman 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: Preliminary Hearing (To Discuss Conflict of Interest Issues)

Appeal of Kristie L. Sours Atwood; Appeal No. 18-08:

Appeal of Kristie L. Sours Atwood; Appeal No. 18-12:

Appeal of Buracker Construction; Appeal No. 18-13:

After deliberations, Mr. Kessler moved to remand the conflict of interest issue(s) back to the local board of appeals with a directive that the local board of appeals seek the advice of the Commonwealth's Attorney related to each local board member and that the Review Board move forward to hear the three cases before it de novo. The motion did not receive a second.

Mr. Witt, in accordance with Section 119.4 of the USBC, moved to remand all three appeals cases back to the local board of appeals for determination for each local board member whether a conflict of interest exist and that the local board seek counsel from either the COIA Council or the Commonwealth's Attorney. The motion was seconded by Mr. Kessler. Having misunderstood the motion Mr. Kessler withdrew his second. The motion did not receive a second.

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After further deliberation Mr. Witt moved to remand all three appeals cases back to the local board of appeals for determination by the COIA Council or the Commonwealth's Attorney of whether a conflict of interest exists, for each local board member, in each of the three cases. If, in any case a conflict of interest is determined to have existed, then that case(s) shall be re-heard by the local board of appeals. If, in any case no conflict of interest is determined to have existed, then that case(s) shall come directly back to the Review Board as currently submitted. The motion was seconded by Ms. Jackson. The motion passed with Ms. Monday and Mr. Zdinak voting in opposition.

Secretary's Report

Mr. Luter provided the Review Board with an update on the Augusta County Public Schools Appeal No. 18-04. In accordance with the Final Order, the SFMO and ACPS reached an agreement on the remaining items prior to the December 31, 2018 deadline.

Mr. Luter reminded the Review Board of the Board Retreat, scheduled for March 14, 2019. He updated the Board on the presentations to be provided which include a discussion by Attorney General representatives Heather Lockerman and Justin Bell, an overview of the code change process by Jeff Brown and/or Richard Potts, and a thorough discussion of the newly drafted Board policies. He also informed the Board that additional information would be forthcoming. During this discussion the Review Board indicated they wanted to have the February meeting as well as the Retreat and March meeting held at the Chesterfield Government Center, Community Development Building, multipurpose room. Mr. Luter will coordinate with Mr. Witt to secure the meeting space as desired.

Mr. Luter provided the Review Board with a basic overview of the three cases coming before them in the February meeting. Due to the current case load the Review Board agreed to start the February meeting at 9:00 a.m.

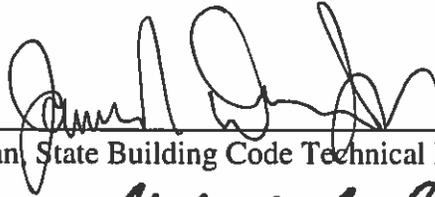
Mr. Luter provided a brief summation of the pending cases currently being processed by staff. The Board requested an email update on all pending cases. Mr. Luter acknowledged and indicated he would provide the update next week.

Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 12:00 p.m.

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Approved: February 15, 2019



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Chairman, State Building Code Technical Review Board



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Secretary, State Building Code Technical Review Board