



County of Page, Virginia
Planning & Community Development
103 South Court St., Suite B
Luray, VA 22835

AGENDA

LOCAL BOARD OF BUILDING CODE APPEALS

Clay Gaunt, District 1
Emmett Brooks, District 3
Ronald Comer, District 5
Roger Houser, Alternate

Steve Cave, District 2
Keith Higgs, District 4
Patrick Racey, Alternate

James Campbell, Building Official
Kelly Butler, LBBCA Secretary

November 9, 2021 at 2:00 p.m.
Board of Supervisors Room
Page County Government Center, 103 S. Court St., Luray, VA

2:00 p.m.

CALL TO ORDER

- I. Open Meeting**
- II. Old Business**
 - a. Adoption of minutes (2/27/19)
- III. New Business**
 - a. Election of chairman and vice-chairman
 - b. Introduction of new building official
 - c. Page County Code Chapter 40 Article III Appeals
- IV. Open Citizen Comment Period**
- V. Secretary's Report**
- VI. Adjourn**



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TO: Page County Board of Building Code Appeals
FROM: Kelly Butler, Secretary LBBCA
SUBJECT: Old and New Business for November 9, 2021 Meeting
DATE: October 20, 2021

SUMMARY:

- Old Business
 - Approval of last meeting's minutes
 - New Business
 - Election of chairman and vice chairman
 - Introduction of building official
 - Page County Code Chapter 40 Article III Appeals
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BACKGROUND:

The minutes from the last meeting are in your packet. Please review and let me know if there are any changes that need to be made.

We will appoint a chairman and vice chairman.

We will have a brief introduction of the building official, James Campbell.

We will briefly review the changes made to Page County Code Chapter 40 Article III Appeals.

Thank you!

MINUTES
PAGE COUNTY BOARD OF BUILDING CODE APPEALS
February 27, 2019

Members Present

Clay Gaunt – District 1

Emmett Brooks - District 3

Ronald Comer - District 5, Interim Chairman

Roger Houser - Alternate

Steve Cave - District 2

Keith Higgs – District 4

Patrick Racey – Alternate

Members Absent

Staff Present

Donald Williams, Building Official

Kelly Butler, LBBCA Secretary

Call to Order

Mr. Comer, Interim Chairman called the meeting to order in the Board of Supervisors Room located at the Page County Government Center, 103 S Court Street, Luray, Virginia at 2:00 p.m.

Old Business

- a. A motion was made by Steve Cave to approve the February 28, 2018 minutes as presented. Mr. Gaunt seconded the motion. The minutes were adopted as presented unanimously.

New Business

a. Introduction of members

Emmett Brooks (District 3) is an electrical contractor. Ronald Comer from Shenandoah, District 5, owns a machine shop in Shenandoah and has numerous rental properties. Pat Racey (Alternate) is a practicing engineer in Luray. Steve Cave (District 2) is a master electrician, HVAC and also a building contractor. Clay Gaunt (District 1) is a remodeling contractor. Roger Houser (alternate) is a contractor specializing in modular homes and is a rental property manager. Keith Higgs (District 4) is a retired firefighter after 30+ years in Rockingham County, a farmer, and works for Merck presently.

b. Election of chairman, vice-chairman, and secretary

Mr. Comer volunteered to serve as chairman to the appeals board. All voted unanimously to keep him as chairman. Mr. Cave volunteered to serve as vice-chairman for the appeals board. A motion was made by Mr. Higgs to have Mr. Cave serve as vice-chairman for the appeals board. It was seconded by Roger Houser. All voted unanimously for Mr. Cave to serve as vice-chairman. Kelly Butler volunteered as secretary for the appeals board. All voted unanimously to have Ms. Butler serve as secretary for the appeals board.

c. USBC Section 119 Appeal Review

Don Williams, Building Official, reviewed the USBC Code Section 119 relating to appeal review. Mr. Williams verified that the Building Code Appeals fee is set at \$600 adopted by the Board of Supervisors on December 20, 2017. Mr. Williams emphasized §119.4 of the USBC Conduct of Members. *No members shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act. Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.* Ms. Butler emphasized to the appeals board if there is even the potential for a conflict of interest to let staff know.

d. Board of Building Code Appeals Manual

Ms. Butler explained this manual is given to all members to give them more information about the reason for the appeals board and how the appeals process works. Ms. Butler reminded the appeals board that once a decision has been reached the appeals board agreed previously to allow the secretary to draft the resolution and have the chairman sign.

e. By-Laws

Ms. Butler directed the members to the By-Laws that she drafted. She reviewed each point with the board members.

The by-laws must be adopted by the board of appeals. Mr. Houser made a motion to accept the by-laws as presented. Mr. Brooks seconded motion. The by-laws were unanimously approved as presented.

Mr. Racey asked if the alternate members needed to be present for an appeal hearing. They may be present, but cannot be voting members unless their vote would constitute a quorum or if their expertise is required per code. It is a good idea to have them present in the case of a conflict of interest.

Mr. Comer asked if in the future if a packet is sent out and there is some information in there that they don't understand can they ask him about it. Board members, including the chairman, should be cautioned against having any contact with the parties in an appeal outside of the hearing itself, as ex parte communication may be seen as a violation of due process rights. Appeals board members may hold their questions for the appeals proceedings.

Adjourn

Mr. Houser made a motion to adjourn the meeting. Pat Racey seconded the motion. The motion to adjourn was passed unanimously.

The meeting was adjourned at 2:30 p.m.

Ronald Comer, Chairman

Steve Cave, Vice Chairman

ARTICLE III Appeals

§ 40-12. Establishment of appeals board.

There is hereby established within the building inspection department a local board of building code appeals (the "LBBCA") to hear and decide appeals of decisions of the building official concerning the application of the Uniform Statewide Building Code ("USBC").

§ 40-13. Membership of LBBCA.

The LBBCA shall consist of five members who must reside in Page County appointed by the board of supervisors for, except as provided below, four-year terms. Members shall be appointed in a staggered manner such that no more than three members' terms shall expire in the same year. Members may be reappointed without limitation. A member appointed to fill a vacancy shall serve the unexpired term of the member being replaced. At the request of the board of supervisors, a serving member may sit beyond the expiration of his term until such time as his successor may be appointed; however, the successor's term shall not be extended by such delay. A member missing three consecutive meetings, or three meetings at any time within any twelve-month calendar period, shall be subject to summary removal by the board of supervisors. The LBBCA shall meet at least once annually to assure a duly constituted board, appoint officers as necessary, and receive such training on the USBC as may be appropriate or necessary from staff of the locality.

§ 40-14. Officers and qualifications of members.

The LBBCA shall annually select one of its members to serve as chairman. When the chairman is not present at an appeal hearing, the members present shall select an acting chairman. The county administrator shall appoint a secretary to the LBBCA to maintain a detailed record of all proceedings. Written records of current membership, including a record of the current chairman and secretary, shall be maintained in the local building official's office. Members of the LBBCA shall be selected by the board of supervisors on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. At least one member should be an experienced builder, at least one member should be a licensed architect or professional engineer, and at least one member should be an experienced property manager. Employees and officials of the locality shall not serve as members of the LBBCA.

§ 40-15. Conduct of members.

No member shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act § 2.2-311 et seq. of the Code of Virginia). Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.

§ 40-16. Right of appeal; filing of appeal application.

- A. Any person aggrieved by the local building department's application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA within 30 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the building official's decision shall be submitted along with the application for appeal and maintained as part of the records. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision.
- B. Notwithstanding the foregoing, decisions of the local building official with respect to amusement devices, as that phrase is defined in the Virginia amusement device regulations, shall be appealed pursuant to such regulations.

§ 40-17. Meetings and postponements.

The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal. A notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

§ 40-18. Hearings and decision.

All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the building official's decision in question shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The LBBCA shall have the power to uphold, reverse or modify the decision of the building official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be by resolution signed by the chairman and retained as part of the record of the appeal. Copies of the resolution shall be sent to all parties by certified mail. In addition, the resolution shall contain the following wording:

"Any person who was party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by

certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia, 23219(804) 371-7150."

§ 40-19. Appeals to the state review board.

After final determination by the LBBCA in an appeal, any person who as a party to the appeal may further appeal to the state review board. In accordance with § 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the building official for state-owned buildings or structures shall be made directly to the state review board. The application for appeal shall be made to the state review board within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the building official's decision. For appeals from a LBBCA, a copy of the building official's decision and the resolution of the LBBCA shall be submitted with the application for appeal to the state review board. Upon request by the office of the state review board, the LBBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the building official's decision and other relevant information with the application for appeal to the state review board. Procedures of the state review board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the state review board shall be final if no further appeal is made.

§ 40-20. Appeal fee.

An appeal fee of \$600 must be tendered with the filing of each appeal to the LBBCA.

§ 40-21. Member compensation, reimbursement.

Each LBBCA member shall be compensated by the county for each meeting attended as determined by resolution of the board of supervisors and shall be reimbursed for actual expenses on a schedule and in accordance with the procedures established by the county administrator.