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**COUNTY OF BATH, VIRGINIA
BOARD of BUILDING CODE APPEALS MEETING
BATH COUNTY COURTHOUSE – ROOM 115
TUESDAY, JULY 31, 2018 – 6:00 p.m.**

Members Present: Board of Supervisor (BOS) Chairman Richard Byrd (Intro-Chair for the Boards meeting), Rick Roberson, Phillip Martin, Paul Dressler

Members Absent: Andrew Watkins

Public in Attendance: Steve Paulk (City of Lexington Building Official/Inspector), Arne Glaeser (Director of Planning & Development), T. B. Roberts (City of Lexington Fire Marshal), Christian Larlee, Jason Harris (Appellant)

Staff Present: Karen Finel (record meeting).

Call to Order:

BOS Chairman Byrd welcomed the attendees from Lexington and introduced the Bath County Board of Building Code Appeal in attendance. He explained that the Board present had not passed "Robert's Rule" and so he would help direct the meeting in the proper rule of order. He explained the public hearing process and asked those who wished to comment to direct all comments to the Board only.

BOS Chairman Byrd open the meeting and led the Pledge of Allegiance and offered the invocation.

Additions or Corrections to Agenda

BOS Chairman Byrd asked the Board if they wished to approve or amend the agenda.

Mr. Roberson made a motion to approve the agenda as written.

Mr. Martin second the motion.

Vote: 3-0 agenda approved.

Consideration to Adopt Robert's Rule of Order Newly Revised in Brief Version

BOS Chairman Byrd explained the difference between the two different books, "Robert's Rule of Order and Robert's Rule of Order Newly Revised in Brief version for parliamentary process meetings". The revised brief version is used for most board meeting.

Mr. Roberson made a motion to accept the amended brief version of Roberts Rule of Order for the purpose of this meeting tonight.

Mr. Martin second the motion.

Discussion of BBCA Responsibilities & Requirements.

BOS Chairman Byrd explained the purpose of the Board of Building Code of Appeals and their qualifications. Having been appointed by the Board of Supervisors and authorized by the Circuit Court Judge.

- **Public Hearing: Appeal 1 – (Mutual Aid to City of Lexington, VA)**
Building Official: Mr. Steven Paulk Appellant: Mr. Jason Harris

BOS Chairman Byrd introduced the Building Official, Steve Paulk and the Appellant, Jason Harris. Explaining that this public hearing is a mutual aid request for The City of Lexington, VA. At this time the City is in the process of creating a Board of Building Code of Appeals. So, Bath's Board will hear the appeal so it can be heard according to State Regulations. He then asked who would like to be heard first.

Rick Roberson stated he would like to ask a question first before starting. He asked Mr. Harris if he was a lawyer or part owner of the restaurant. Mr. Harris stated, he was the owner and that he would prefer his accuser go first.

Steve Paulk passed out folders to the Board and Mr. Harris. Mr. Paulk thanked the Board for hosting their meeting. He stated the document was a time line of when inspections were done and correspondences that happened during the investigation of the product that was installed at the egress of the exterior wall of Mr. Harris's building. The folder included a copy of product information/ photos given to Mr. Paulk.

On June 6 2018 the Building Official and Fire Marshall did an inspection at the Salerno Restaurant, 115 South Jefferson, they discovered that an artificial foliage had been installed in the rear egress of the developed sitting area in the back of the building. At that time the Fire Marshal and Building Official requested information from Mr. Harris, on the fire rating of the material.

The Code sections that was referred to, 17B & 17C (tabbed in the folder). The Building Code Section 806.1.2 combustible decorating materials have to meet NFPA 701. The Virginia Statewide Fire Prevention Code, Section 806.02 Artificial Vegetation, again refers to, must meet NFPA 701.

They requested verification from Mr. Harris, where the product was made, what its UL rating was and what the NFPA rating was on the product. So, through the series of email conversations (included in the folder) they could not get verification from Mr. Harris, where the product came from or the rating on the product. They gave Mr. Harris time to do his research, but he was unable to produce that information. At that point Mr. Paulk requested that he remove it and at that point Mr. Harris appealed the Officials decision. That is the reason they are here today.

Mr. Roberson asked Mr. Paulk if he was ever provided any proof the product was fire proof.

Mr. Paulk stated they were given several bits of information and Mr. Paulk contacted the product distributors and manufacturer, with documentation with the photograph in 7A and they disputed that it was their product.

Mr. R. Roberson asked, from the photographs, does this lead out into a courtyard?

Mr. Paulk stated yes, and it is part of the egress of the building.

Mr. P. Martin asked, if the wall had more than 10 percent coverage. He could not tell by the photograph.

Mr. Paulk stated absolutely.

BOS Byrd thanked Mr. Paulk and asked Mr. Harris to continue.

Mr. Harris stated he believed that most of this time line and letter (showing the folder) he received from the City of Lexington was stating that he wasn't in compliance with the Virginia Building Code. The letter he received listed Building Code 806.1 and Fire Prevention Code 806.2. He stated that he was sure the Board was more familiar with the code than himself. But the Virginia Building Code 2012, chapter 8, that he is charged to be invalidation of, the Chapter heading states interior finishes. His product is installed on the exterior of the building. The Virginia Statewide Fire Prevention Code 806.2 is titled, interior finishes, decorated material and finishes. He asked, how am I invalidation of an exterior application of a product, of chapter 8 on either of these?

BOS Byrd asked if the Board had any question for Mr. Harris.

Mr. R. Roberson asked Mr. Harris, how old the building was.

Mr. Harris thought it was 20 years or more.

Mr. R. Roberson stated that Mr. Harris was correct when he stated the Code chapter is titled interior finishes, he had a code book in his pocket. He also realized that they were talking about an egress. He asked Mr. Paulk to explain.

Mr. Paulk explained that the area was part of the egress. Mr. Harris did not come to City Hall and get a plan review before developing this part of the building and explain that he wanted to apply this product to the side of the building wall. The location is a very intricate part of the egress out of the building and it is flammable.

Mr. R. Roberson asked Mr. Harris if he had looked into products that could be sprayed on, to make it fireproof, but he also wasn't sure how long it lasted.

Mr. Harris stated he would look into that, depending how things turned out tonight.

Mr. Paulk explained, if you read about the product, the manufacturer stated none of their products are made for exterior use due to UV protection is very fragile and fire proofing would not stay on for exterior.

Mr. R. Roberson asked to explain better the location of the product and how large/wide the doorway was going out into the patio area.

Mr. Paulk explained the foliage is immediately on your right as you go out the door. The doorway is maybe 12 feet wide.

Mr. P. Martin asked what the exterior wall was made of.

Mr. Harris stated it was concrete blocks.

Mr. P. Dressler asked, as far as Code, how does the Fire Marshall look at the site when it is part of the egress. Is there a distance requirement? Does the Code say how far it has to be from the door?

Mr. Paulk explained, if it is part of the egress, and this is. The issue is around the doors, when you are trying to vacate people in the event of a fire. He also has it applied to another part of the building and we don't have an issue with it.

Mr. P. Dressler asked how many exits the building has.

Mr. Paulk stated they have 5 exits. 2 in the back part of the building, exits in the front and the exit on the side that is in validation.

Mr. Harris again stated that he thought this appeal should be granted due to the "interior" wording in the code he is being charged in validation of. When he studied the code, it stated for 49 or more customers, they require 2 exits. What wasn't shared previously is his building has 5 exits. He could do away with this exit if he was served papers with an invalidation of an egress. He has not been served with those papers yet. He has only been served papers on being in validation of 608.1 and 806.2, interior finishes.

BOS Byrd asked Mr. Harris to answer Mr. P. Martin's question on the egress area.

Mr. Harris said that the area surrounded with bush leads outside into the alley, turned into outdoor seating. You need to exit there and go around the side of the building to another exit. He also has a third exit in the back of the building for the staff that leads into that area as well. There is 2 exits in the front.

Mr. P. Martin asked, what's the seating compacity for the patio area and total for the building.

Mr. Harris gave a total occupancy of 99 for the two, split level building. 15 for the patio area.

Mr. R. Roberson asked Mr. Harris if he submitted a plan showing this for the patio area.

Mr. Harris said no. It was decorative and he had a limited knowledge of the code. When asked if he would look into different plants if he had to replace what he has. He stated he would but it would be costly. He would be more incline to remove the exit sign and not make it an exit if he is served with a letter in validation of the egress, as he would still be in Code. I believe I can't be held accountable or responsible not to do that.

Mr. R. Roberson told Mr. Harris he couldn't just remove an exit sign, it wasn't that simple.

Mr. Harris felt that it was his responsibility as a business owner to provide the minimum of Code.

Mr. R. Roberson asked did your original plans include removing 3 of those 5 exits?

Mr. Harris said, good question, no one has that answer. We are here about 806.1 and 806.2 interior finishes.

BOS Byrd asked Mr. Harris to answer Mr. Martin's question on what the seating compacity at the exit door and for the patio area at that exit.

Mr. Harris stated there was about 15-20 at the interior of the exit door. The others would be away from the bush already.

BOS Byrd asked the Board if anyone had any more questions.

Mr. R. Roberson asked to hear from the Fire Marshal.

Trip Roberts, Lexington Fire Marshal, stated Mr. Paulk also serves as his Deputy Fire Marshal, so he wears two hats. This was his action and I am here to support his decision. Mr. Harris isn't adequately portraying his structure. It is a 2-story structure. The area that they are discussing is really a driveway to the building. He had to tell Mr. Harris not to park vehicles there and obstruct the path if it was to be an egress pathway. The foliage came up and his concerns are, 1) Public safety, 2) If an issue comes up, sending 16 men he cares for to deal with that issue. Mr. Harris has lined the back of the structure. Code state you must be freely able to walk away from a building, at least 10 feet. He has, without approval from Code Officials, sat up an outdoor seating area in a driveway that is probably 12-15 feet wide. You are trapped in there, you can not leave to the left or straight ahead. You have to turn right and exit by the driveway. Walking through a seating area on your left, with a path of about 3 feet wide from the foliage on your right for about 12-15 feet before you can take a right and another 50 feet before the public way. So, there is really only 2 egress serving the patio. The third is in the front. In order to use that egress from the area in question, you must pass the kitchen, hallways the bathrooms, there could be a lot of traffic in those areas with the kitchen being the most hazardous, if the fire is in the kitchen.

Mr. R. Roberson asked if the building is sprinkled and was told it was not.

Trip Roberts stated that the building may be required to put in sprinkles if he decides to do the improvement he has talked about. When he was at the building he flipped a piece of bark into the shrubbery like a customer may with a cigarette and it got stuck in the shrubbery. He doesn't know what the product will do as far as fire and that Mr. Harris was told to find out the retardant and he was unable to do that. The spot is not small. It is about 15 feet wide and 20 feet tall, completely covered. If there is a problem the product would drip on people leaving the structure.

BOS Byrd asked Mr. Harris if he had any more to say and he again stated he was here on the Code 608.1 and 608.2 and was not on trial for anything else. BOS Byrd closed comments from the public. He asked for a motion for discussion.

Mr. R. Roberson made a motion to open the appeal for discussion.

Mr. P. Martin second the motion.

Vote: 3-0 appeal open.

Mr. R. Roberson stated that he was in the restaurant business at one time and knew about the requirements and felt that Mr. Harris should have asked permission and gotten the facts before putting the product up.

Mr. P. Martin asked if this was the only/main exit for those seated inside, if there was a fire in the kitchen. Mr. Harris replied no. Mr. Harris showed, by paper example, to where the exits were.

Mr. R. Roberson said he was concerned with this area being an egress area also for those inside. He is concerned with people flicking cigarettes into the product.

BOS Byrd closed discussion and asked for a motion on the 2 choices at hand.

Mr. R. Roberson made a motion to vote for the two choices; 1) Yes, the Code has been followed or 2) No, the Code has not been followed.

Mr. P. Dressler second the motion.

VOTE: 3-0 The two choices were accepted.

Mr. R. Roberson called for a vote on the two choices: Yes, we agree with the Code Official's interpretation of the Code - or - No, we don't agree with the Code Official's interpretation of the Code.

Mr. P. Dressler second the motion.

BOS Byrd called for a vote on - Yes, we agree with the Code Official's interpretation. Voting yes: Roberson, Martin, & Dressler.

BOS Byrd called for a vote on - No, we don't agree with the Code Official's interpretation. Voting no: 0 votes.

VOTE: 3-0 Yes, we agree with the Code Official's interpretation of the Code.

Election of Chairman:

BOS Byrd explained to the Board what the Bath County Building Official had asked him to get permission from them, to do. He explained the board meets so seldom, he felt it would be better to vote to have the Board of Supervisor's Chair stand in as their Chair when you meet. That would require action by you and action by the Board of Supervisors to accept the action. I will need you to send a letter to Board of Supervisors/ him, to be put on the agenda for consideration.

Mr. R. Roberson made a motion to have the BOS Chair or someone selected by the BOS Chair to stand in as Chair for the Board of Building Code Appeals meetings, since they meet so infrequently.

Mr. P. Dressler second the motion.

VOTE: 3-0 accept.

BOS Byrd thanked everyone for coming.

Mr. P. Dressler made a motion to adjourn.

Mr. R. Roberson second.

VOTE: 3-0 Meeting adjourned at 7 p.m.


Acting Chairman – Board of Supervisor R. Byrd

8/14/18
Date