

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Monica and Michael Davis
Appeal Nos. 22-18 and 22-19

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 several times investigating the issues brought forth by Davis. During one or more of these inspections the County Building Official found several violations. On June 10, 2020, the County Building Official issued a letter to Davis citing twenty-two (22) code violations. In the letter, the County Building

Official also addressed three additional issues presented by Davis, explaining why those three (3) issues were not code violations. On July 16, 2020, the County Building Official issued a letter to Hendricks and Son General Contractor, LLC citing only seventeen (17) code violations.

Davis filed a timely appeal to the Augusta County Board of Building Code Appeals (local appeals board) for items numbered one (1) and three (3) under the other sections portion of the June 10, 2020 letter from the County Building Official. Davis also asked the local appeals board to consider the potential code violation related to the bathroom door in the half bath in the garage, which was not sealed to prevent garage odors, such as exhaust fumes, from entering the HVAC system for the home. The local appeals board upheld the decisions of the County Building Official.

On October 15, 2020, Davis further appealed to the Review Board. These six (6) potential violations were presented to the Review Board for consideration at the January 22, 2021 Review Board meeting in Appeal No. 20-03. The Review Board considered and approved the final order for Appeal No. 20-03 on March 19, 2021 finding four (4) violations did exist, one (1) potential violation did not exist, and remanded one (1) potential violation back to the County Building Official for further determination. Based on testimony of the parties during the hearing, the Review Board found two (2) new potential violations that may exist and remanded those two (2) potential violations back to the County Building Official for further determination.

In September of 2020, Schnitzhofer Structural Engineers visited the Davis home to evaluate the residence with attached garage and detached garage related to the cited violations in the July 16, 2020 letter from the County Building Official. Schnitzhofer Structural Engineers drafted a letter dated November 3, 2020, which was received by Augusta County on November 9, 2020. The Schnitzhofer Structural Engineers letter was reviewed and accepted by the County Building Official.

Davis filed a timely appeal to the local appeals board for the acceptance and approval of the Schnitzhofer Structural Engineers letter. Davis also appealed to the local appeals board to consider the proposal report from Engineering Solutions and require the builder to approach the cited violations with the suggested analysis process set forth in that report. The local appeals board upheld the decisions of the County Building Official finding that the Schnitzhofer Structural Engineers report was a valid engineering report for the Davis' structure. On February 1, 2021, Davis further appealed to the Review Board. These issues were presented to the Review Board for consideration at the May 21, 2021 Review Board meeting in Appeal No. 21-02. The Review Board considered and approved the final order for Appeal No. 21-02 on September 17, 2021 finding that the Schnitzhofer Structural Engineers report was a valid report but did not resolve any of the issues outlined in the July 16, 2020 letter from the County Building Official. The Review Board further found that the Engineering Solutions report, provided by Davis, was also a valid report.

Pursuant to the local appeals board decision, as a result of a conversation by the legal counsels for the Davis', builder, and County Building Official a letter by the Davis' attorney, dated August 5, 2021, was sent to the parties requesting a way forward to correct the issues with the project. Item #2 of the letter proposed the County Building Official visit the site and make a determination for compliance of 14 potential code violations. The inspection was performed on September 2, 2021. The County Building Official provided the findings to all legal counsels via a report dated September 7, 2021.

Davis filed a timely appeal to the local appeals board for the following nine (9) potential violations:

Note: The alphabetical identification of the cited violations listed below is not in sequential order, rather is given the same alphabetical identification listed in the County Building Official report dated September 7, 2021 (report). The report cited 14 potential violations

lettered a-n; however, six of the cited violations listed in the report were not appealed. The remaining nine cited violations in the report that were appealed create the non-sequential list found below.

- a) Air barrier behind the tub/shower; owner cited potential code sections VCC N1102.4.1.1 (R402.4.1.1) Installation (Mandatory) and VCC N1101.13 (R303.2) Installation
- c) Sill plate and floor joist cut for plumbing; owner cited potential code sections VCC R502.8 Cutting, drilling, notching and VCC R502.8.1 Sawn lumber
- f) Interior receptacles have locations that exceed code requirements for receptacle placement; owner cited potential code section VCC E3901.2 General purpose receptacle distribution
- g) HVAC return duct too small; owner cited potential code section VCC M1401.1 Installation
- h) HVAC air handler hung from the floor joist; load values not taken into account for additional weight on the joists; owner cited potential code section VCC R502.8 Cutting, drilling, notching and VCC M1401.1 Installation
- i) Refrigerant piping not sleeved; owner cited potential code section VCC N1103.3.1(R403.3.1) Protection of piping insulation
- j) Mini split drain leaking in the attic; owner cited potential code section VCC M1412.3 Insulation of piping
- k) Electrical HVAC disconnect not mounted above the average snow level; owner cited potential code section VCC M1401.1 Installation
- m) HVAC mini split does not meet heating and cooling requirements for the bonus room space; owner cited potential code section VCC N1101.11(R302.1) Interior design conditions

The local appeals board denied the appeal on January 10, 2022. Davis further appealed to the Review Board on January 24, 2022. A Review Board hearing was held May 20, 2022. These issues were presented to the Review Board for consideration at the May 22, 2022 Review Board meeting in Appeal No. 22-02. The Review Board considered and approved the final order for Appeal No. 22-02 on July 15, 2022 finding that seven (7) potential violations did not exist, four (4) violations did exist, and one (1) potential violation was remanded back to the County Building Official for additional investigation and inspection contingent on the Davis providing the necessary access to the space for inspection. On September 12, 2022, the County filed a petition for appeal to Circuit Court for the Review Board Final Order for Appeal No. 22-02.

On December 20, 2021, Augusta County Director of Community Development, John Wilkinson, emailed Davis with an attached document titled “List of Items for Corrections on Davis Structures” outlining 32 cited violations that had either been cited by the County Building Official or the Review Board in Final Order Nos. 20-03 and 21-02 as items needing to be corrected.

Note: Davis’ third appeal to the local appeals board was denied January 10, 2022 which was 21 days after the email from Augusta County Director of Community Development, John Wilkinson. Davis’ third appeal was further appealed to the Review Board (Appeal No. 22-02) which resulted in another Review Board Final Order. The Final Order for Review Board Appeal No. 22-02 cited four (4) violations and remanded one (1) potential violation back to the County Building Official for additional investigation and inspection contingent on the Davis’ providing the necessary access to the space for inspection; therefore, the findings cited in Review Board Final Order for Appeal No. 22-02 are not part of the “List of Items for Corrections on Davis Structures” from Augusta County Director of Community Development, John Wilkinson’s email dated December 20, 2021 and are, in fact, additional violations and directives in addition to the 32 cited violations outlined in the list by the County and/or the Review Board.

On August 31, 2022, the County Building Official issued the first Notice of Violation (NOV) and cited only the following four (4) violations from the 32 cited violations listed in the “List of Items for Corrections on Davis Structures” from Augusta County Director of Community Development, John Wilkinson dated December 20, 2021 which were:

1. “The landing at the man door on the attached and detached side of the garage do not meet the minimum code standards set forth by section R311.3 as amended by the Uniform Statewide Building Code.”
2. “The grade on the man door side of the attached garage needs to be brought into compliance with section R401.3 as amended by the Uniform Statewide Building Code to obtain proper drainage away from the foundation.”
3. “Both of the outside heat pump units need to be elevated after completing Number 2 above so they have the required clearance of not less than 3 inches in accordance with section M1305.1.4.1.”
4. “Need to construct a minimum of 30 inch by 30 inch platform under the indoor mini split unit to comply to section M1305.1 for service.”

Davis filed a timely appeal to the local appeals board for the 28 cited violations that were not listed in the NOV. The local appeals board denied the appeal on October 11, 2022. In the written decision of the local appeals board, clarification was provided as to why the County

Building Official did not include the other 28 cited violations in the NOV. The written decision of the local appeals board read as follows:

“The Building Official acting upon advice from the County Attorney had not included those items as the Statute of Limitations has expired and a Notice of Violation could not be issued in accordance with section 115.2.1 of the Uniform Statewide Building Code.”

The findings of the local appeals board in the written decision read as follow:

“The Board upheld the Building Official’s decision that to include those items as the Statute of Limitations had expired and the County could not prosecute.”¹

Davis further appealed to the Review Board on November 21, 2022 which was labeled Review Board Appeal No. 22-18.

During the same local appeals board meeting and prior to the Davis local appeal hearing, the local appeals board heard an appeal filed by Hendricks and Sons General Contracting, LLC (Hendricks), the contractor that built Davis home, related to the August 31, 2022 NOV. The local appeals board found the following in the Hendricks appeal:²

1. *“Item was withdrawn by the Building Official as Statute of Limitations had expired.”*
2. *“The Board overturns the Building Official’s decision on items 2 and 3 as the Davis’s did not maintain the grass which they felt caused the condition to develop.”*
3. *“The Board overturns the Building Official’s decision on item 4 as a temporary platform can be set on top of the 2 stairway walls to service the unit if necessary and a permanent platform could even cause a safety hazard.”*

Davis further appealed this decision to the Review Board on November 30, 2022 as the decision eliminated all four cited violations in the NOV making all 32 cited violations from the “List of Items for Corrections on Davis Structures” no longer valid according to the two decisions

¹ Review Board staff acknowledges that the findings in the local appeals board written decision reads awkwardly and likely includes a clerical error (...Building Official’s decision not to...) based on the local appeal board findings; however, Review Board staff is providing the findings herein exactly as written in the local appeals board written decision.

² It may be the case that the local appeals board may have erred by making a decision contrary to the Review Board but that was outside the scope of the appeal.

of the local appeals board during the October 11, 2022 meeting. This appeal was labeled Review Board Appeal No. 22-19.

Due to the nature of Appeal Nos. 22-18 and 22-19 and to somewhat simplify the two appeals, Review Board staff combined Appeal Nos. 22-18 and 22-19 into one hearing as they are about the same set of facts.

Appearing at all four hearings before the Review Board for Davis were Monica and Michael Davis. Appearing at all four hearings before the Review Board for Augusta County was G. W. Wiseman.

III. Findings of the Review Board

A. Whether the Review Board can rule on the jurisdictional issues or merits of a case that it has previously heard, ruled on, and issued a Final Order.

B. Whether the Review Board should re-visit the findings of any violations for any of the Davis cases which were previously considered and ruled upon by the Review Board or violations that were not appealed to the Review Board and therefore remain valid as the time to challenge has passed.

C. Whether to uphold the decision of the County Building Official and the local appeals board that the statute of limitation has expired on the 28 cited violations listed in the “List of Items for Corrections on Davis Structures” and not listed in the NOV as well as Item 1 of the NOV, all of which were previously cited violations by the County Building Official or by the Review Board in Final Order Nos. 20-03 and 21-02.

Davis argued that the NOV, issued by the County Building Official on August 31, 2022, should have included all 32 previously cited violations by the County Building Official and Review Board in final orders for Appeal Nos. 20-03 and 21-02; however, the NOV only included four (4) of the previously cited violations leaving the remaining 28 previously cited violations to that point unaddressed. Davis further argued that all previously cited violations were discovered within the two-year timeframe, referenced in VCC Section 115.2.1, necessary for the County Building Official to issue the NOV. Davis also argued that the statute of limitation had not expired. Davis further argued that the County Building Official had taken no action to neither

enforce its previously cited violations nor those previously cited by the Review Board in the final orders for Appeal Nos. 20-03, 21-02, and 22-02. Davis also argued that they have never obstructed any contractor from entering their property to make repairs related to the previously cited violations. Davis further argued that no contractor had ever reached out to them to correct any of the previously cited violations only to correct unrelated workmanship and/or cosmetic issues.

The County Building Official argued that all the previously cited violations were included in the letters the County Building Official sent to the contractor and sub-contractors. The County Building Official further argued that the statute of limitation had expired to issue a NOV. The County Building Official also argued that Davis had obstructed the contractors from entering the property to make the needed repairs based on the previously cited violations; therefore, the County Building Official had not previously issued a NOV to the contractors.

The Review Board finds that it can rule on jurisdictional issues or merits of a case that the Review Board has previously heard, ruled on, and issued a final order under certain circumstances.

The Review Board finds that this case does not warrant being re-visited in regard to any violation which was previously considered and ruled upon by the Board in prior cases or violations that were not appealed and therefore remain valid as the time to challenge has passed.

The Review Board agrees with Davis and finds that the statute of limitations has not expired as all 32 violations were discovered and cited less than two years after the certificate of occupancy was issued and their issuance is not invalidated by the provisions in the VCC Section 115.2.1. The Review Board further finds that the County Building Official shall issue a written Notice of Violation for all directives or orders that have not been corrected or complied with here.

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 the Review Board can rule on the jurisdictional issues or merits of a case that it has previously heard, ruled on, and issued a Final Order.

The Board finds that it can rule on jurisdictional issues or merits of a case that the Review Board has previously heard, ruled on, and issued a final order.

B. Whether the Review Board should re-visit the findings of any violations for any of the Davis cases which were previously considered and ruled upon by the Review Board or violations that were not appealed to the Review Board and therefore remain valid as the time to challenge has passed.

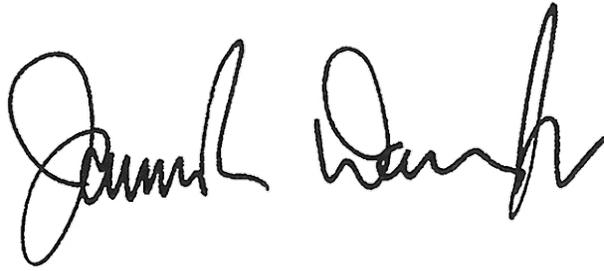
The Board finds that this case does not warrant being re-visited in regard to any violation which was previously considered and ruled upon by the Board in prior cases or violations that were not appealed and therefore remain valid as the time to challenge has passed.

C. Whether to uphold the decision of the County Building Official and the local appeals board that the statute of limitation has expired on the 28 cited violations listed in the “List of Items for Corrections on Davis Structures” and not listed in the NOV as well as Item 1 of the NOV, all of which were previously cited violations by the County Building Official or by the Review Board in Final Order Nos. 20-03 and 21-02.

The decision by the County Building Official and local appeals board that the statute of limitations have expired on the 28 cited violations listed in the “List of Items for Corrections on Davis Structures” and not listed in the NOV as well as Item 1 of the NOV is overturned; furthermore, the County Building Official shall issue a written Notice of Violation for all directives or orders that have not been corrected or complied with here.^{3 4}

³ See attachment A for the cited violations in the “List of Items for Corrections on Davis Structures” and August 31, 2022 NOV.

⁴ See attachment B for prior Review Board Final Order Nos. 20-03, 21-02, and 22-02



Chair, State Building Code Technical Review Board

Date entered _____ May 12, 2023 _____

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.

ATTACHMENT A

Exhibit 6



County of Augusta Building Inspections

List of Items for Corrections on Davis Structures

Building

1. The foundation on the detached garage does not comply with code sections R403.1.1 and R403.1.4.1. In addition, the house foundation will also need to be checked by an engineer for proper depth for frostline protection and if it is not not, design a repair to correct the condition.
2. Floor in detached garage and attached garage not sloping to the doors in accordance with section R309.1.
3. Sill plates in detached garage and house need anchor bolts within 12 inches or each sill plate splice in accordance with section R403.1.6. Need to correct to code or provide an engineered design and approval in accordance with section R301.3.
4. Fascia trim on detached garage does not extend up behind drip edge on the detached garage and the fascia is not protected per section R703.
5. Vinyl siding on house and detached garage not installed in accordance with the manufacturer's installation instructions.
6. An engineer will need to provide approval for any trusses not installed to manufacturer's specifications or provide any necessary repair designs to bring them into code compliance.
7. Back porch floor beams not properly anchored with appropriate hangers to band board of house. Second option is to provide post with proper connector to beam to an approved foundation. Third option is to provide engineered design and approval in accordance with section R301.1.3.
8. Floor joist are not installed in the joist hangers to manufacture's specifications. Need to correct to manufacture's requirements or provide engineered design and approval in accordance with section R301.1.3.
9. Need an engineer to evaluate, design and approve the walls of the attached and detached garage that they meet shear wall requirements and loading requirements of code. In addition, the engineer will need to verify that the walls in the attached garage are fireblocked in accordance with the building code.
10. Front stairs exceed allowed slope of 2 percent and need to be repaired or replaced.
11. Provide manufacturer's installation instructions that PVC trim boards are installed in accordance with manufacture's specifications.

12. Engineer will need to verify that drywall is secured to code or provide documentation that it complies to code in accordance with section R301.1.3.
13. Header at master bath toilet where floor joist was cut needs to be corrected in accordance with code or provide engineer's design and approval in accordance with section R301.1.3.
14. Door in half bath in garage needs to be replaced with 1 3/8" solid core wood door, steel door, or 20 minute fire door. The door also has to be weather stripped in accordance with energy code.
15. Grade to left of front stair needs to have proper grade to code so that water will not pond behind sidewalk.
16. Dryer vent is installed within 3 feet of a foundation vent in violation of code. It needs to be relocated and installed complying with all code requirements.
17. Need to correct attic access size to code of minimum 22" X 30".
18. Grade around the house has settled and no longer meets code for required fall away from structure. The grade needs to be corrected to code and kept at least 6 inches from sheathing in accordance with code.
19. The foundation walls need to be evaluated to determine if the foundation meets code and any repairs necessary need to be designed by an engineer.
20. The block walls at interconnections with the foyer and garage need to be evaluated by an engineer, with any required repairs designed by an engineer.
21. The front porch landing needs to drain towards the steps in accordance with section R301.3.1.
22. The landing at the bottom of the front steps needs to be as wide as the stairs in accordance with code.
23. The landings at the attached and detached garage doors does not meet minimum size. They need to be corrected to code.
24. Seal openings around drain piping at tubs.
25. Provide access platform for mini split unit inside to code.
26. When correcting grade around house, correct grade at mini split outside unit so that it meets required clearance by code.

All of the above items will need to be inspected and approved by a professional engineer.

Plumbing and Mechanical

1. Need to properly caulk outside refrigerant lines.
2. Flex duct and flex duct insulation not connected to take offs with proper tape or mastic in accordance with manufacturer's instructions.
3. Need to seal HVAC boots to subfloor or drywall in accordance with energy code.
4. Condensate pump discharge needs to be relocated to front of rear porch or outside of porch area for proper drainage away from structure.
5. Toilet in Master Bath does not meet minimum spacing requirements.

Electrical

1. Master bath light over vanity not installed to manufacturer's instructions.

EMAIL FROM JOHN WILKINSON

On Dec 20, 2021, at 3:56 PM, John Wilkinson <jwilkinson@co.augusta.va.us> wrote:

Mrs. Davis,

Augusta County is in agreement with you in that we would like to see all Building Code issues resolved.

It is our understanding that the DPOR complaints have recently been closed and all appeals have been finalized.

Homeowners are the party responsible for scheduling contractor repairs. Please contact your general contractor

Mr. Hendricks, as soon as possible, to arrange dates suitable to you for the work to be completed. If you are not

successful in reaching Mr. Hendricks, please contact his attorney Jacob Penrod at (540) 433-2444 to arrange

appointments for corrective action of the listed building code issues.

As a reminder, issues identified by Mr. Wiseman and the Building Board of Appeals as "workmanship issues"

must be resolved by you and your contractor.

Please notify us when all Building Code Issues listed on the attached master list have been completed so that

we can finalize our files.

Sincerely,

John Wilkinson

Director of Community Development, Augusta County

(540) 245-5700

Exhibit 7



COUNTY OF AUGUSTA
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMUNITY DEVELOPMENT
P.O. BOX 590
COUNTY GOVERNMENT CENTER
VERONA, VA 24482-0590



Notice of Violation

22-733

August 31, 2022

Via Overnight Mail and Email

Hendricks & Son General Contractor, LLC
50 Lee Street
Verona, VA 24482

Dear Mr. Hendricks,

On September 2, 2021, our office visited the Davis house located at 1002 Round Hill School Road to inspect issues they had with the house you constructed under permit #718-2019. The house was constructed under the 2012 edition of the International Code as amended by the Uniform Statewide Building Code.

After a review of the issues, we found the following items which were not in compliance with the building code:

1. The landing at the man door on the attached and detached side of the garage do not meet the minimum code standards set forth by section R311.3 as amended by the Uniform Statewide Building Code.
2. The grade on the man door side of the attached garage needs to be brought into compliance with section R401.3 as amended by the Uniform Statewide Building Code to obtain proper drainage away from the foundation.
3. Both of the outside heat pump units need to be elevated after completing Number 2 above so that they have the required clearance of not less than 3 inches in accordance with section M1305.1.4.1.
4. Need to construct a minimum of 30 inch by 30 inch platform under the indoor mini split unit to comply to section M1305.1 for service.

These items need to be completed within 120 days from receipt of this notice.

It is up to you and Mr. and Mrs. Davis to work out the scheduling for the work and not to do anything which can be construed as obstructing the completion of the work.

Staunton (540) 245-5700

TOLL FREE NUMBERS
From Deerfield (540) 939-4111
FAX (540) 245-5066

Waynesboro (540) 942-5113

After the work has been completed, it is up to you to call our office to inspect the work that has been performed for code compliance.

As always, you have the right to appeal in accordance with section 119 of the Uniform Statewide Building Code.

Sincerely,

A handwritten signature in cursive script, appearing to read "G.W. Wiseman".

G.W. Wiseman
Building Official

cc: Monica and Michael Davis
James Benkahla Esquire
Jacob Penrod Esquire

ATTACHMENT B

Exhibit 2

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.

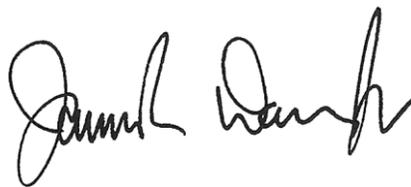
The decision by the County Building Official and local appeals board that a violation of the VCC Section R302.5 (Duct Penetration) does not exist is upheld but potential violations of VCC Sections N1102.4 and M1601.6 may exist; therefore, remanded the matter back to the County Building Official to determine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

Exhibit 3

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Monica and Michael Davis
Appeal No. 21-02

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 several times investigating the issues brought forth by Davis. During one or more of these inspections, the County Building Official found several violations. On July 16, 2020, the County Building

Official issued a letter to Hendricks and Son General Contractor, LLC citing seventeen (17) code violations.

In September of 2020, Schnitzhofer Structural Engineers visited the Davis home to evaluate the residence with attached garage and detached garage related to the cited violations in the July 16, 2020 letter from the County Building Official. Schnitzhofer Structural Engineers drafted a letter dated November 3, 2020, which was received by Augusta County on November 9, 2020. The Schnitzhofer Structural Engineers letter was reviewed and accepted by the County Building Official.

Davis filed a timely appeal to the Augusta County Board of Building Code Appeals (local appeals board) for the acceptance and approval of the Schnitzhofer Structural Engineers letter. Davis further appealed to the local appeals board to consider the proposal report from Engineer Solutions and require the builder to approach the cited violations with the suggested analysis process set forth in that report. The local appeals board upheld the decisions of the County Building Official finding that the Schnitzhofer Structural Engineers report was a valid engineering report for the Davis' structure. On February 1, 2021, Davis further appealed to the Review Board.

A virtual Review Board hearing was held May 21, 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 the Schnitzhofer Structural Engineers report is a valid report for the Davis structure.

Davis argued that Schnitzhofer Structural Engineers were unable to provide an accurate report as many of the violations cited in the letter from the County Building Official dated July

16, 2020. were in locations that were covered with drywall. Davis further argued that because the drywall was not removed, the cited violations had not been properly investigated; therefore, the report could not satisfy the issues as indicated in the County Building Official's letter dated March 31, 2021. Davis further argued that without proper investigation the report could not provide the required engineer evaluation and design necessary for the repairs pursuant to the letter from the building official dated July 16, 2020. Davis also argued that the Engineer Solutions report provided a "clear-cut flawless" report as it was performed in conjunction with the removal of drywall for proper investigation, and provided the design for repair as required in the letter from the County Building Official dated July 16, 2020. Davis argued each individual violation cited in the letter from the County Building Official dated July 16, 2020.

The County argued that the Schnitzhofer Structural Engineers report was a valid report for the letter from the County Building Official dated July 16, 2020. The County further argued that the Schnitzhofer Structural Engineers report fully resolved items #8 and #12 of the letter from the building official dated July 16, 2020. The County argued that the remaining items from the letter from the County Building Official dated July 16, 2020 could be resolved if the repairs were done in accordance with the instructions in the Schnitzhofer Structural Engineers report which the building official approved by approval of the report.

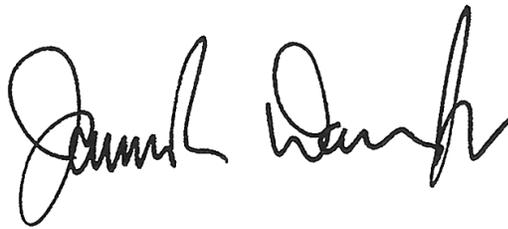
The Review Board agrees with the County and local appeals board that the Schnitzhofer Structural Engineers report is a valid report, but does not resolve any of the issues outlined in the July 16, 2020 letter from the County Building Official. The Review Board further finds that the Engineering Solutions report is also a valid report.

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 the Schnitzhofer Structural Engineers report is a valid report for the Davis structure.

The decision by the County Building Official and local appeals board that the Schnitzhofer Structural Engineers report is a valid report is upheld noting that the Engineering Solutions report, provided by the Davis', is also a valid report.



Chair, State Building Code Technical Review Board

Date entered ____September 17, 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.

Exhibit 5

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Monica and Michael Davis
Appeal No. 22-02

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 several times investigating the issues brought forth by Davis. During one or more of these inspections, the County Building Official found several violations. On July 16, 2020, the County Building

Official issued a letter to Hendricks and Son General Contractor, LLC citing seventeen (17) code violations.

In September of 2020, Schnitzhofer Structural Engineers visited the Davis home to evaluate the residence with attached garage and detached garage related to the cited violations in the July 16, 2020 letter from the County Building Official. Schnitzhofer Structural Engineers drafted a letter dated November 3, 2020, which was received by Augusta County on November 9, 2020. The Schnitzhofer Structural Engineers letter was reviewed and accepted by the County Building Official.

Davis filed a timely appeal to the Augusta County Board of Building Code Appeals (local appeals board) for the acceptance and approval of the Schnitzhofer Structural Engineers letter. Davis further appealed to the local appeals board to consider the proposal report from Engineer Solutions and require the builder to approach the cited violations with the suggested analysis process set forth in that report. The local appeals board upheld the decisions of the County Building Official finding that the Schnitzhofer Structural Engineers report was a valid engineering report for the Davis' structure. On February 1, 2021, Davis further appealed to the Review Board. These issues were presented to the Review Board for consideration at the May 21, 2021 Review Board meeting in Appeal No. 21-02. The Review Board considered and approved the final order for Appeal No. 21-02 on September 17, 2021.

Pursuant to the local appeals board decision, as a result of a conversation by the legal counsels for the Davis', builder, and County Building Official a letter by the Davis' attorney, dated August 5, 2021, was sent to the parties requesting a way forward to correct the issues with the project. Item #2 of the letter proposed the County Building Official visit the site and make a determination for compliance of 14 potential code violations. The inspection was performed on

September 2, 2021. The County Building Official provided the findings to all legal counsels via a report dated September 7, 2021.

Davis filed a timely appeal to the local appeals board for the following nine (9) potential violations:

Note: The alphabetical identification of the cited violations listed below is not in sequential order, rather is given the same alphabetical identification listed in the County Building Official report dated September 7, 2021 (report). The report cited 14 potential violations lettered a-n; however six of the cited violations listed in the report were not appealed. The remaining nine cited violations in the report that were appealed create the non-sequential list found below.

- a) Air barrier behind the tub/shower; owner cited potential code sections VCC N1102.4.1.1 (R402.4.1.1) Installation (Mandatory) and VCC N1101.13 (R303.2) Installation
- c) Sill plate and floor joist cut for plumbing; owner cited potential code sections VCC R502.8 Cutting, drilling, notching and VCC R502.8.1 Sawn lumber
- f) Interior receptacles have locations that exceed code requirements for receptacle placement; owner cited potential code section VCC E3901.2 General purpose receptacle distribution
- g) HVAC return duct too small; owner cited potential code section VCC M1401.1 Installation
- h) HVAC air handler hung from the floor joist; load values not taken into account for additional weight on the joists; owner cited potential code section VCC R502.8 Cutting, drilling, notching and VCC M1401.1 Installation
- i) Refrigerant piping not sleeved; owner cited potential code section VCC N1103.3.1(R403.3.1) Protection of piping insulation
- j) Mini split drain leaking in the attic; owner cited potential code section VCC M1412.3 Insulation of piping
- k) Electrical HVAC disconnect not mounted above the average snow level; owner cited potential code section VCC M1401.1 Installation
- m) HVAC mini split does not meet heating and cooling requirements for the bonus room space; owner cited potential code section VCC N1101.11(R302.1) Interior design conditions

The local appeals board denied the appeal on January 10, 2022. Davis further appealed to the Review Board on January 24, 2022.

A Review Board hearing was held May 20, 2022. 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

Note: The correlation of the alphabetical identification assigned in the potential violations listed above, which are in accordance with the County Building Official’s letter dated September 7, 2021, and the alphabetical identification assigned in the Findings of the Review Board and Final Order sections of this written decision, which are in accordance with typical formatting procedures for Review Board Final Orders, are shown in the chart below:

Potential Violations in accordance with the County Building Official’s letter dated September 7, 2021 as listed above	Findings of the Review Board and Final Order sections in accordance with typical formatting procedures for Review Board Final Orders as listed below
a)	A
c)	B
f)	C
g)	D
h)	E
i)	F
j)	G
k)	H
m)	I

- A. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Sections N1102.4.1.1 (R402.4.1.1) Installation (Mandatory) and VCC N1101.13 (R303.2) Installation does not exist.

Davis argued that the kraft faced batt insulation installed behind the shower was not code compliant as the required air barrier.

The County argued that the 2012 VCC was silent on what constituted an air barrier. The County further argued that the determination of what constituted an air barrier was subject to the opinion of the building official and the County deemed the installation of kraft faced batt insulation, installed in accordance with the manufacturer’s installation instructions, to be an

adequate air barrier. The County also argued that based on the timeline of the Davis' inquiry and his response, he believed the appeal of this potential violation to be untimely.

The Review Board agrees with the County Building Official and local appeals board and finds that a violation of VCC Sections N1102.4.1.1 (R402.4.1.1) Installation (Mandatory) and VCC N1101.13 (R303.2) Installation does not exist.

B. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Sections R502.8 Cutting, drilling, notching and VCC R502.8.1 Sawn lumber does not exist.

Davis argued that structural floor joists were drilled within 2" of the edge of the joist for plumbing lines. Davis also argued that structural floor joist was gouged vertically in excess of ¾ of the way through the joist for plumbing drain line.

The County argued that the gouged joist for the plumbing drain line, described by Davis, was a fully supported band joist and not in violation. The County also argued that the drilling of the floor joist was not addressed during the inspection and was first presented at the local appeals board.

The Review Board agrees with the County Building Official and local appeals board and finds that a violation of the VCC Sections R502.8 Cutting, drilling, notching and VCC R502.8.1 Sawn lumber does not exist as the gouging, described by Davis, was on a fully supported band joist and the drilling within 2" of the edge of the joist for plumbing lines was not properly before the Board.

C. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section E3901.2 General purpose receptacle distribution does not exist.

Davis argued that the code required a wall receptacle be installed within 6' of a doorway in the bonus room over the garage. Davis also argued that they had several walls that were over two feet in length in their bathrooms with no receptacles installed.

The County argued that the wall receptacle spacing requirement was not 6' as argued by Davis in the local appeals board hearing. The County argued that the required spacing in the code for wall receptacles was 12' and that all receptacles in the Davis home more than met the 12' spacing requirement. The County also argued that receptacles in bathrooms were not required to meet the 12' spacing requirement and that the receptacles installed in the bathrooms were compliant.

During testimony the County acknowledged that if the evidence provided by Davis in the agenda package on page 264 was accurate, a receptacle may be required in the bonus room over the garage to meet the 6' from the doorway requirement.

The Review Board disagrees with the County Building Official and local appeals board and finds that a violation of the VCC Section E3901.2 General purpose receptacle distribution does exist in the bonus room over the garage. The Review Board agrees with the County Building Official and local appeals board and finds that a violation of the VCC Section E3901.2 General purpose receptacle distribution does not exist in the bathrooms.

D. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section M1401.1 Installation does not exist.

Davis argued that the Manual J calculations were provided to the County approximately 15 months after the issuance of the CO which clearly showed that the County did not have the needed documentation for the HVAC system when it was approved. Davis also argued that the Manual J calculations contained several errors and/or misrepresentations related to the construction and/or installation of the system. Davis further argued that the HVAC system failed

the static pressure test as well as the performance test for required air exchanges per hour. Finally, Davis argued that the size of the duct system was inadequate as the return grill was approximately 21" X 21" while the return duct was only 8" X 8".

The County argued that the HVAC Manual S and J indicated that the system was sized properly which included the duct system. The County further argued that return grills are always larger than the return duct due to the restrictions imposed by the louvers in the grill.

The Review Board disagrees with the County Building Official and local appeals board and finds that a violation of the VCC Section M1401.1 Installation does exist.

- E. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Sections R502.8 Cutting, drilling, notching and VCC M1401.1 Installation does not exist.

Davis argued that structural floor joists were drilled within 2" of the edge of the joist for support braces for the HVAC unit suspended from the joists in the crawlspace. Davis further argued that the drilling occurred in the center third of the joist which was also non-compliant. Davis also argued that the code required all HVAC systems must be installed pursuant to the code and the manufacturer's installation instructions. Davis further argued that in accordance with the manufacturer's installation instructions an HVAC unit suspended from joists in a crawlspace required three supports and their unit only contained two supports.

The County argued that the weight of the HVAC unit suspended in the crawlspace was included in the dead load design of the structure. The County also argued that the date provided for the photographic evidence related to this potential violation was inaccurate. The County also questioned how anyone could be certain the other photographic evidence was properly dated?

Davis acknowledged the error in the date on the photographic evidence related to this potential violation which indicated 2022 rather than 2021. Davis stated that the dates on all other photographic evidence was accurate.

The Review Board agrees with the County Building Official and local appeals board and finds that a violation of the VCC Sections R502.8 Cutting, drilling, notching does not exist. The Review Board also agrees with the County Building Official and local appeals board and finds that a violation of the VCC M1401.1 Installation does not exist because Figure 5 in the manufacturers installation guide showing three supports for the HVAC unit suspended by joists in the crawlspace is not a requirement rather a typical installation illustration.

F. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section N1103.3.1 (R403.3.1) Protection of piping insulation does not exist.

Davis argued that the proper protection through the foundation wall (sleeving) for the mini split HVAC piping was not installed properly.

The County argued that the mechanical code does not require protection of piping because the insulation on a HVAC line set is larger than the 3/8" and 1/4" lines inside the insulation and that the insulation provides the space needed should the foundation settle. The County also argued that the sleeve was partially through the wall when originally inspected and appeared to have been pulled out of the foundation wall, under the crawlspace. The County also argued that the item was not part of the Davis appeal to the local appeals board, rather was brought up by Davis during the local appeals board hearing. The County further argued that the local appeals board made no decision on the item.

The Review Board disagrees with the County Building Official and local appeals board and finds that a violation of the VCC Section N1103.3.1 (R403.3.1) Protection of piping insulation does exist.

G. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section M1412.3 Insulation of piping does not exist.

Davis argued that condensation piping for the mini split HVAC unit was leaking in the attic. Davis further argued that the County did not properly investigate the potential violation due to the lack of access to the attic because the County did not bring a ladder for the inspection. Davis also argued that the condensation line was not connected to the drain plug on the back of the unit.

The County argued that the HVAC line set insulation met the required R3 insulation value and was UV and tear resistant. The County further argued that he saw condensation on the line set both in the attic and in the crawlspace, noting it was a hot and humid day when the inspection was performed. The County also argued that they could not access the attic area and that the code does not require the County to provide a ladder to access spaces needing to be inspected. The County further clarified that the responsibility to provide access (ladder) is that of the contractor or property owner.

The Review Board finds that the potential violation of VCC Section M1412.3 Insulation of piping be remanded to the County Building Official for additional investigation and inspection contingent on the Davis' providing the necessary access to the space for inspection.

H. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section M1401.1 Installation does not exist.

Davis argued that the HVAC disconnects were not installed above the average snow load for their area. Davis also argued that the code required all HVAC systems must be installed

pursuant to code and the manufacturer's installation instructions. Davis further argued that the manufacturer's installation instructions required disconnects to be installed at least 16" above grade.

The County argued that the code was silent on the installation height requirement for HVAC disconnects. The County also argued that the manufacturer's installation instructions do not specify a height requirement for the installation of the HVAC disconnect. The County also argued that based on the timeline of the Davis' inquiry and his response, he believed the appeal of this potential violation to be untimely.

The Review Board agrees with the County Building Official and local appeals board and finds that a violation of the VCC Section M1401.1 Installation does not exist because the figure in the manufacturers installation guide showing two courses of 8" block for the installation of the HVAC disconnect is not a requirement rather a typical installation illustration.

- I. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section N1101.11 (R302.1) Interior design conditions does not exist.

Davis argued that the mini split HVAC system for the bonus room over the garage was not designed properly. Davis further argued that the Manual J calculations contained several errors and/or misrepresentations related to the construction and/or installation of the system. Davis also argued that the system was sized too small for the space to be served.

The County argued that the Manual S and J indicated that the units were sized properly. The County also argued that based on the timeline of the Davis' inquiry and his response, he believed the appeal of this potential violation to be untimely.

The Review Board disagrees with the County Building Official and local appeals board and finds that a violation of the VCC Section N1101.11 (R302.1) Interior design conditions does 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 a violation of the VCC Sections N1102.4.1.1 (R402.4.1.1) Installation (Mandatory) and VCC N1101.13 (R303.2) Installation does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Sections N1102.4.1.1 (R402.4.1.1) Installation (Mandatory) and VCC N1101.13 (R303.2) Installation does not exist is upheld.

- B. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Sections R502.8 Cutting, drilling, notching and VCC R502.8.1 Sawn lumber does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Sections R502.8 Cutting, drilling, notching and VCC R502.8.1 Sawn lumber does not exist is upheld.

- C. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section E3901.2 General purpose receptacle distribution does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Section E3901.2 General purpose receptacle distribution does not exist is overturned related to the bonus room over the garage. The decision by the County Building Official and

local appeals board that a violation of the VCC Section E3901.2 General purpose receptacle distribution does not exist is upheld related to the bathrooms.

- D. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section M1401.1 Installation does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Section M1401.1 Installation does not exist is overturned.

- E. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Sections R502.8 Cutting, drilling, notching and VCC M1401.1 Installation does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Sections R502.8 Cutting, drilling, notching and VCC M1401.1 Installation does not exist is upheld.

- F. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section N1103.3.1 (R403.3.1) Protection of piping insulation does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Section N1103.3.1 (R403.3.1) Protection of piping insulation does not exist is overturned.

- G. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section M1412.3 Insulation of piping does not exist.

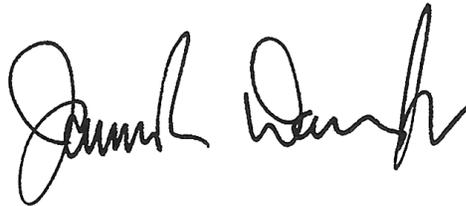
The decision by the County Building Official and local appeals board that a violation of the VCC Section M1412.3 Insulation of piping does not exist is remanded to the County Building Official for additional investigation and inspection contingent on the Davis' providing the necessary access to the space for inspection.

H. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section M1401.1 Installation does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Section M1401.1 Installation does not exist is upheld.

I. Whether to uphold the decision of the County Building Official and the local appeals board that a violation of the VCC Section N1101.11 (R302.1) Interior design conditions does not exist.

The decision by the County Building Official and local appeals board that a violation of the VCC Section N1101.11 (R302.1) Interior design conditions does not exist is overturned.



Chair, State Building Code Technical Review Board

Date entered _____ July 15, 2022 _____

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.