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Response from Todd Ferguson for:

Responsive Documents to the
Subpoena Issued by the Review Board
From Pittsylvania County

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BEFORE THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
IN RE: APPEAL OF TODD W. FERGUSONPermit Application No.: S24-04-31770 **Appeal No.:** 26-03

MEMORANDUM ON DIRECT STATE JURISDICTION & MOTION FOR SUBPOENA SANCTIONS

TO: THE HONORABLE MEMBERS OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD AND W. TRAVIS LUTER, SR., CBO, BOARD SECRETARY

COMES NOW the Appellant, Todd W. Ferguson, *pro se*, and submits this Memorandum to establish that this Board holds direct, original jurisdiction under **Va. Code § 36-114** due to Pittsylvania County's failure to act and unlawful administrative lockout. Appellant further moves for evidentiary sanctions against the County for its bad-faith failure to comply with the Board's *Subpoena Duces Tecum*.

I. THRESHOLD JURISDICTIONAL ISSUE: THE ADMINISTRATIVE FEE WALL & LOCKOUT

Appellant explicitly and timely attempted to appeal this matter to the local board. He never sought to bypass the Pittsylvania County Local Board of Building Code Appeals (LBBCA). Instead, Pittsylvania County staff actively manufactured a series of fatal jurisdictional defects to block local review:

1. **The $200 Fee Barrier:** When Appellant attempted to submit written appeal forms in May 2024 and August 2024 **(See Exhibit A)**, County staff (Emily Ragsdale and Jason Inman) refused to accept, log, or docket the filings without an upfront $200 cash payment. By treating an administrative fee as an absolute pay-to-play roadblock and refusing an indigent waiver, the County violated procedural due process and created an unlawful administrative lockout.
2. **Structurally Illegal Local Board:** Independent of the fee barrier, the County's own subpoena production proves the LBBCA was legally

non-functional and structurally defective in 2024 **(See Exhibit E)**. The records reveal zero designated officers (no Chairman, no Secretary/Clerk to receive citizen filings) and an illegal term structure where 100% of the board members' terms expired simultaneously. The local board could not sit because it did not legally exist.

3. **No Choice But State Jurisdiction:** Because the County unlawfully blocked the local board from sitting, Appellant had absolutely no choice but to appeal directly to the State Review Board to enforce his statutory rights. This local failure to act has trapped Appellant in a state of administrative limbo for six months, left him without electrical power, and forced him to survive in emergency conditions on his own property while County officials issue endless runarounds.

II. THE UNBROKEN CHRONOLOGY OF ADMINISTRATIVE OBSTRUCTION (SHIFTING GOALPOSTS)

The County's attempt to claim the permit file was "closed" is directly refuted by a continuous chain of top-down administrative obstruction spanning from April through October 2024.

1. **April 3, 2024 (Initial Filing):** Appellant applied to replace his fire-destroyed dwelling with a like-for-like replacement. Staff stated a licensed contractor was required to move the home.
2. **April 4, 2024 (Shifting Goalposts):** Appellant returned with the contractor information. Because Appellant was performing the plumbing and electrical hookups, staff then demanded a notarized Owner-Builder Affidavit stating he was going to live there. Appellant left, had the document notarized, and returned. **The exact moment the notarized affidavit was submitted, curing the requirement, staff shifted the goalposts again**, verbally demanding an invasive "Safe, Adequate, and Proper" (SAP) certification from the Health Department.
3. **May 1, 2024 (In-Person Reaffirmation):** Appellant attended a formal meeting with County leadership where the verbal SAP denial was reaffirmed.

4. **May 2024 (First Appeal Lockout):** Within 15 days of the May 1 meeting, Appellant hand-delivered the official County appeal form. Staff refused to accept or docket it without a $200 fee.
5. **June 4, 2024 (Defective Notice):** The County issued a letter that completely omitted mandatory statutory appeal rights **(See Exhibit B)**.
6. **August 2024 (Second Appeal Lockout):** Appellant attempted to submit a newly completed official County appeal form. Staff refused it again.
7. **August 23, 2024 (Certified Mail Determination Letter):** The County finally mailed a written determination letter that formally included the statutory appeal rights **(See Exhibit B)**. Appellant signed the USPS green card upon receipt on or around August 27, 2024.
8. **September 27, 2024 (Formal Written Appeal):** Because staff refused the physical form at the counter, Appellant formally transmitted his written appeal letter—fully timely within 30 days of receiving the certified notice **(See Exhibit A)**.

III. SUBPOENA NON-COMPLIANCE PROVES OBSTRUCTION

On August 14, 2026, this Review Board issued a compulsory *Subpoena Duces Tecum* commanding Pittsylvania County to produce its complete administrative file. County Attorney Matthew W. Evans submitted a defective response on September 11, 2026 **(See Exhibit C)**, certifying "No documents found" on core items.

This non-compliance directly conceals the evidence that Appellant's appeal was timely and that the County manufactured the "failure to act":

1. Suppression of the Signed Certified Mail "Green Card" (PS Form 3811)
The County omitted the signed Green Card from the subpoena production **(See Exhibit B)**. Under **USBC Section 119.5**, the 30-day appeal clock begins strictly upon the applicant's **receipt** of the decision. Withholding the signed Green Card conceals the County's own proof that Appellant received the letter on or after August 27, 2024, which mathematically proves Appellant's September 27, 2024 formal written appeal was timely filed.

2. Suppression of Phone Logs The subpoena demanded all call logs and notes for phone conferences with County staff and Attorney J. Vaden Hunt in June and October 2024. County Counsel produced a cherry-picked Excel spreadsheet showing *only* selective outbound calls from the County, completely omitting all inbound call logs and staff message slips. By producing only selective outbound calls, the County selectively filtered its records to hide Appellant's active incoming communications and his desperate attempts to navigate this administrative blockade and restore power. Appellant possesses the verified Master Call Summary and carrier logs proving these communications occurred, directly refuting the County's "no records" return.

IV. THE UNAUTHORIZED "SAP" MANDATE & PROTECTION OF VESTED RIGHTS

Protection of Existing Treatment Works (Va. Code § 32.1-165(C)): Under **Va. Code § 32.1-165(C)**, the County cannot withhold approval for an existing, non-failing sewage disposal system servicing a same-size casualty replacement. There was no increase in flow, no construction over a drainfield, and no notice of violation or surface failure on the property. The building official had no statutory authority to demand the SAP.

V. MANDATORY DIRECT STATE JURISDICTION

Under **USBC Section 119.7 (13VAC5-63-190)**, once an appeal is submitted, the LBBCA **shall meet within 30 calendar days**. Pursuant to **Va. Code § 36-114**, when a local appeals board fails or refuses to act within the statutory window, or is not legally constituted, direct and original jurisdiction vests immediately in this State Technical Review Board to decide the appeal on the merits.

VI. RELIEF REQUESTED

Appellant respectfully requests that the State Building Code Technical Review Board enter an Order:

1. **Confirming Direct Jurisdiction** over Appeal No. 26-03 pursuant to **Va. Code § 36-114** due to the locality's failure to act and structural LBBCA breakdown;

2. **Entering an Adverse Inference** against Pittsylvania County for bad-faith failure to comply with statutory compulsory process, specifically ruling that the suppressed USPS Green Card and phone logs prove Appellant's September 27, 2024 appeal was timely and that County staff unlawfully blocked administrative filings;
3. **Exercising its enforcement authority** to issue a Temporary Utility Authorization directing Pittsylvania County to immediately grant a temporary electrical connection / saw service permit to restore power to the property pending the final resolution of this appeal; and
4. **Setting** the matter for full hearing on the merits before the State Board.

Respectfully submitted,

Todd W. Ferguson, *Pro Se* 5405 Whitmill School Road, Dry Fork, VA 24549
Telephone: (540) 355-9770 Email: fergusont844@gmail.com

CONDENSED JURISDICTIONAL EXHIBIT LIST (Appeal No. 26-03)

- **Exhibit A: The Official 2024 Pittsylvania County LBBCA Appeal Form and Formal Notice***(Includes the physical paper form Appellant attempted to file in August/September 2024 which County staff refused to accept, alongside the September 27, 2024 formal written appeal letter. Proves that County staff actively blocked local filings to manufacture a failure to act, and that the County's subpoena certification of "no documents found" is false.)*
- **Exhibit B: The August 23, 2024 County Determination Letter (USPS Tracking No. 7022 2410 0003 0316 0874)***(Establishes the County's issuance of the certified letter. Because the County was the sender, the USPS "green paper" (PS Form 3811 Return Receipt) bearing Appellant's delivery signature was mailed directly back to the County. This establishes their custody of the receipt.)*
- **Exhibit C: The SBCTRB Subpoena *Duces Tecum* and County Attorney Matthew W. Evans' September 11, 2026 Response***(Proves bad-faith subpoena non-compliance. County Attorney Evans certified that "no documents found" and failed to produce the certified mail delivery receipts.*

By suppressing the "green paper," the County deliberately concealed the exact date of delivery, which mathematically proves Appellant's September 27 filing was timely.)

- **Exhibit D: Appellant's Itemized T-Mobile Carrier Billing Statements (Master Call Summary Only)***(Master Call Summary verifying all inbound and outbound communications with Pittsylvania County. This directly refutes the County's selective, outbound-only subpoena return and proves Matthew Evans deliberately hid Appellant's incoming phone communications.)*
- **Exhibit E: The 2024 LBBCA Roster (County's Item 13 Production)***(Proves on its face the structural illegality of the local board. The roster shows simultaneous term expirations for all members, zero designated officers, and zero capacity to legally receive or process citizen appeal filings in 2024—meaning there was no lawful local board to hear the appeal even if the $200 fee barrier had not been erected.)*

A

PITTSYLVANIA
COUNTY, VIRGINIA

PITTSYLVANIA COUNTY
Local Board of Building Code Appeals

NOTICE OF APPEAL
Application Process

Community Development Office
53 N. Main Street
Chatham, VA 24531
(434) 432-7755

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Appeal No. _____

APPLICATION FOR APPEAL

Pittsylvania County, VA

Pursuant to Section 119 of the Virginia Uniform Statewide Building Code, or Chapter 4 of the Pittsylvania County Code, I (we) Todd Ferguson respectfully request that the Local Board of Building Code Appeals review the decision made on _____, 20__ by the Pittsylvania County Code Official.

CONTACT INFORMATION

Name: Todd Ferguson

Mailing Address: 749 F.C. Beverly Rd
Dry Fork VA 24549

Firm/Company: _____

Phone: 540 355-9770

Address and/or GPIN Number for property in question: 5405 Whittmell School Rd

*If the property is owned by someone other than the applicant, please list owner's name and address below:

Name: _____
Address: _____

What is the applicant's interest in the property?

- ☑ Owner
- ☐ Contractor
- ☐ Owner's agent
- ☐ Other (explain)

CODE BEING APPEALED

- ☐ VIRGINIA UNIFORM STATEWIDE BUILDING CODE (USBC)
- ☐ CHAPTER 4, PITTSYLVANIA COUNTY CODE

BASIS FOR APPEAL:

- ☐ The Building Official has denied the granting of a modification which complies with the intent of the applicable code.
- ☑ The true intent of the applicable code has been incorrectly interpreted.

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☑ The provisions of the applicable code do not fully apply in this situation.

☐ The proposal to use an equivalent form of construction or compliance has been denied.

☐ The decision of the code official regarding an order to abate an unsafe or dangerous structure is being challenged.

BACKGROUND INFORMATION

Location of building for which this appeal is filed: 5405 Whitmell School Rd Dry Fork VA 24549

Current or proposed use of building or structure: Replacing Man. Home

Specific action or decision you are requesting of the Board: That every mobile Home Does Not Need A SAP My System Shows no Sign of ~~Fail~~ Failure There is No incress in flow, And I Am not impeching on Septic System

Justification for this request: These Are unnesacry Fees being in posed on A Citizen. I Do not meet The criteria For this Action

(ATTACH SEPARATE SHEET IF ADDITIONAL SPACE IS NEEDED)

Please attach the Decision of the Code Official and Any Other Pertinent Documents.

Signature of Applicant

Filed at Pitts, Virginia, the 17 day of Sept., 2024

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PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

August 23, 2024

Todd Ferguson
749 F C Beverly Road
Dry Fork, VA 24549

Sent Certified: 7022 2410 0003 0316 0874, also by USPS.

RE: Property GPIN # 1480-73-2976
5405 Whitmell School Road
Dry Fork, VA 24549

Mr. Ferguson:

This letter is to serve as notice that building permit number S24-04-31820 will be approved for a temporary source of power as stated in the 2018 International Residential Code (IRC) Section R107.3. A 100-amp temporary power supply shall be constructed to 2017 National Electrical Code (NEC) Article 590 and its use shall comply with 2017 NEC Article 590.3 (A)(D). This temporary power supply shall be active for the 180 days the building permit is valid per International Residential Code (IRC) Section R105.5. This permit was obtained on April 08, 2024, and will expire on Saturday October 5, 2024. Because temporary wiring installations may not meet all the requirements for a permanent installation due to the modifications permitted by Article 590, all temporary wiring not only must be disconnected but also removed from the building, structure, or other location on or before October 5, 2024. This permit may be suspended or revoked per 2018 International Residential Code (IRC) Section R105.6 if there exists any violation of any ordinance or regulation or any of the provisions of the building code. This shall also extend to the disconnection of temporary power if it is used for any other purpose than what is intended per 2017 NEC Article 590.3(A). Please also be aware that per the Pittsylvania County Code § 35-74. Accessory and Temporary Buildings, accessory structures are only allowed as an accessory to a principle use in residential districts.

An application was also submitted on April 03, 2024, for the installation of a 1991 singlewide manufactured home. Per International Residential Code (IRC) Section R105.3.2, the application will expire on September 30, 2024. If you would like to pursue this application, please recheck the VIN# you provided (NCFLM41A22054VO). This VIN number does not show as valid with the Department of Motor Vehicles. If this number is correct, please provide this office with the title stating this. You will also need to provide this office with a copy of the permit for a safe, adequate, and proper (SAP) to ensure that sewage treatment is available per Code of Virgina (COV) Title 32.1. Health, Chapter 6. Environmental Health Services. The SAP can be obtained from the Virgina Department of Environmental Health located at located at 200 H.G. McGhee Drive, Chatham, VA 245431. You may also contact them at (434) 433-3544.

BUSINESS SAVVY. PEOPLE FRIENDLY.
Jason Inman, Code Official
jason.inman@pittgov.org

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PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

You have the right to appeal this Building Official's decision to the Local Board of Building Code Appeals as provided for in Section 119 of the Virginia Construction Code, and in Chapter 4, Article 3, of the Pittsylvania County Code. A written request for such an appeal shall be made to the County Building Official (address contained in the letterhead) and filed with this Office within thirty (30) calendar days from the date of this notice. At the time of filing, a fee of two hundred dollars ($200.00) shall accompany the appeal request. The decision of the Building Official shall be final and unappealable if not appealed within 30 (thirty) days.

Dr. Scott Spillmann and Wesley Marshall with the Virginia Department of Health are willing to make the following concessions regarding the SAP:

1. Waive the $150.00 application fee for the Safe, Adequate, and Proper (SAP) septic system inspection.
2. They will allow you to have your septic tank open for inspection, without having to have it pumped, and uncover and open the Distribution Box for inspection. This would allow them to examine the Tank to determine the likelihood of there being a leak. If it is leaking for any reason, the effluent level would be low, or the effluent would be gone from the tank leaving only sludge and solids in the bottom. Effluent standing in the Distribution Box would be an indication of a failing septic field or a blockage, either of which would require correction.

If there is no indication of failure or damaged components to the septic system, they would issue the SAP report, thus allowing for the county to issue your building permit.

Once you have obtained this building permit, the inspection schedule is listed below and has been modified to accommodate your request for permanent electrical service at the location.

1. This first inspection will consist of footings, blocking and anchors of the dwelling and permanent electrical service.
2. Plumbing installation. This shall consist of waste line connections from the dwelling to the approved waste collection system. Water lines can also be inspected at this time if completed.
3. Deck footings. Deck framing can also be inspected at this time if construction has begun.
4. Any other inspection that may be required by code.
5. Final
    a. Driveway installation must meet Pittsylvania County Ordinance.
    b. All disturbed areas of soil must be covered in seed and straw.
    c. All construction debris must be removed from the property.
    d. Structure must be ready of occupancy.
        i. All lights and receptacles will be inspected to ensure they are working properly.
        ii. All smoke detectors will be checked.
        iii. All plumbing connections, drains, and water lines will be checked to ensure there are no leaks.
        iv. The heating system will be inspected.
        v. The structural integrity of the dwelling will be checked.
        vi. Decks will be checked for structural integrity.
        vii. Any other inspection that may be required by code.

Jason Inman, Code Official
jason.inman@pittgov.org

B2

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

2018 IRC SECTION R105.3.2 TIME LIMITATION OF APPLICATION. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

2018 IRC SECTION R105.5 EXPIRATION. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance or after commencement of work if more than 180 days pass between inspections. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

2018 IRC SECTION R105.6 SUSPENSION OR REVOCATION. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

2018 IRC SECTION R107.3 TEMPORARY POWER. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in NFPA 70.

2017 NEC ARTICLE 590.3 (A) DURING THE PERIOD OF CONSTRUCTION. Temporary electric power and lighting installations shall be permitted during the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities. (D) REMOVAL. Temporary wiring shall be removed immediately upon completion of construction or purpose for which the wiring was installed.

CODE OF VIRGINIA § 32.1-165. Prior approval required before issuance of building permit; approved sewage system or nonconforming system.
A. No county, city, town, or employee thereof shall issue a permit for a building designed for human occupancy without the prior written authorization of the Commissioner or his agent. The Commissioner or his agent shall authorize the issuance of such permit upon finding that safe, adequate, and proper sewage treatment is or will be made available to such building, or upon finding that the issuance of such permit has been approved by the Review Board. "Safe, adequate, and proper" means a treatment works that complies with applicable regulations of the Board of Health that are in effect at the time of application.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-74. ACCESSORY AND TEMPORARY BUILDINGS. (1) Intent. Special requirements are designed for accessory and temporary buildings to ensure ample access for emergency vehicles, maintain the effectiveness of rear and side yard requirements and insure accessory structures remain secondary in function to the main building. (2) Accessory Buildings. The location of accessory buildings and uses in residential districts must meet the following restrictions: a. Where an accessory building is attached to the main building, a substantial part of one (1) wall of the accessory building shall be an integral part of the main building

Jason Inman, Code Official
jason.inman@pittgov.org

B3

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D · 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

or such accessory building shall be attached to the main building in a substantial manner by a roof; and therefore, such attached accessory building shall comply in all respects with the requirements applicable to the main building. b. A detached accessory building shall not be closer than fifteen (15) feet to the main building or rear lot line. Accessory building shall not be closer to a lot line than the setback Line for side yards for the district in which the lot is located. Additionally, no building housing livestock shall be placed within two hundred (200) feet of a lot line located within or abutting any institutional, residential, or business district. c. A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard and not to exceed maximum lot coverage (by percent) per the district involved. d. No detached accessory building may be located in the front yard or a lot.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-81. SITE REQUIREMENTS FOR OFF-STREET PARKING. All off-street parking shall be laid out, constructed, and maintained in accordance with the following requirements: (4) Access to off-street parking facilities from public streets shall meet requirements of Section 33.1-198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of Entrances to State Highways and be approved by the Resident Engineer of the Virginia Department of Transportation.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-184. MINIMUM OFF-STREET PARKING SPACES. PARKING REQUIREMENTS FOR ALL DISTRICTS. Two (2) off-street parking spaces shall be required on each building lot. Parking space shall be rectangular with one (1) dimension at least ten (10) feet in length and the other dimension at least twenty (20) feet length and/or a total of two hundred (200) square feet.

If you have any questions, please contact me.

Respectfully,

Jason Inman
Code Official

c: Dave Arnold, Assistant County Administrator
Emily S. Ragsdale, Director of Community Development
Dr. Scott Spillmann, Director VDH
Jessica Pearce, Environmental Health Supervisor
Wesley Marshall, Environmental Health Manager Sr, VDH
Kelly Waller, Environmental Health Supervisor

VIRGINIA:

BEFORE THE

STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE:

Appeal of Todd Ferguson

Appeal No. 26-03

PETITIONER'S MOTION FOR ISSUANCE OF SUBPOENA DUCES TECUM

COMES NOW Petitioner, Todd Ferguson, appearing pro se, and respectfully moves this Board, pursuant to **Va. Code § 36-115** and the Board's authority under the Administrative Process Act (Va. Code § 2.2-4000 *et seq.*), for issuance of a subpoena duces tecum directed to Pittsylvania County and/or the Virginia Department of Health ("VDH"), and in support states as follows:

I. STATUTORY AUTHORITY

Section 36-115 of the Code of Virginia expressly authorizes this Board, "or its designated subordinates," to "compel the attendance of all needed witnesses in like manner as a circuit court" in any matter before it on appeal. This authority extends to the production of documentary evidence necessary to a full and fair hearing.

II. DOCUMENTS AND RECORDS REQUESTED

Petitioner respectfully requests that a subpoena duces tecum issue for production of the following:

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1. Complete and unredacted records — including any internal notes, call logs, memoranda, or explanatory documentation — pertaining to the telephone conferences scheduled by then-County Attorney J. Vaden Hunt for on or about June 20, 2024 and October 7, 2024, involving Petitioner, Emily Ragsdale, Dave Arnold, Jason Inman, and/or Stephenie Adams, together with an explanation for why both calendar entries reflect a status of "Canceled" notwithstanding Petitioner's participation in both calls as scheduled.

2. Any and all versions of the online or printable local Building Code appeal form made available by Pittsylvania County during calendar year 2024, together with any record reflecting when, and by whose authority, that form was removed from public availability.

3. Petitioner's completed local appeal form, submitted to and accepted by Emily Ragsdale in May 2024, together with any internal log, note, email, or communication reflecting Pittsylvania County's receipt, rejection, non-processing, or disposition of that form.

4. Any application, referral, or written request for involvement transmitted by Pittsylvania County to the Virginia Department of Health seeking a Safe, Adequate, and Proper ("SAP") determination for Petitioner's property at 5405 Whitmell School Road, Dry Fork, Virginia 24549 — or, in the alternative, written confirmation that no such referral was ever transmitted.

5. Petitioner's building permit application as filed with Pittsylvania County, together with the notarized owner-occupancy affidavit submitted by Petitioner in connection with that application.

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6. Any internal correspondence, notes, or records reflecting former Code Official Jason Inman's negotiation of a Virginia Department of Health fee waiver on Petitioner's behalf, and any records reflecting whether a comparable waiver of the local $200 appeal fee was ever sought, considered, or discussed on Petitioner's behalf by any Pittsylvania County official.

7. The complete fire report concerning the December 17, 2023 fire at 5405 Whitmell School Road, Dry Fork, Virginia, in unabridged form — including all photographs, diagrams, inspector notes, and any other materials generated in connection with that report — and not merely the narrative summary previously produced as Exhibit I.

8. Any and all county assessment or taxation records for 5405 Whitmell School Road, Dry Fork, Virginia 24549, from December 17, 2023 to the present, together with any record reflecting whether and when the county was notified that the mobile home on the property was destroyed by fire, and any record explaining why the property has continued to be assessed as though the mobile home remains standing.

9. The complete building permit case file for Petitioner's application (Permit No. S24-04-31770), including all internal correspondence, notes, and communications reflecting the sequential requirements imposed on Petitioner — specifically, any requirement that Petitioner provide proof of a licensed mobile home mover to relocate the replacement dwelling onto the property, together with any record of when and by whom that requirement was communicated, and any record showing the order in which the mover-proof, owner-occupancy affidavit, and SAP requirements were successively imposed.

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10. Any notes, memoranda, sign-in records, or internal communications concerning the meetings held at then-Code Official Jason Inman's office in April 2024 at which Petitioner's application was discussed, including any record reflecting a determination communicated to Petitioner at any of those meetings.

11. Any and all records of contact between then-County Attorney J. Vaden Hunt and Petitioner in August 2024, including the substance of any determination or communication conveyed to Petitioner at that time regarding the status of his application or his right to appeal.

12. Any and all records reflecting that Petitioner was advised, prior to September 2024, that payment of a $200 appeal fee was required before an appeal could be filed or processed, together with any record of Petitioner's attempts to appeal prior to the August 2024 determination letter, offered in rebuttal of Respondent's contention that Petitioner's September 2024 appeal letter was untimely.

13. The roster of members of the Pittsylvania County Local Board of Building Code Appeals as constituted in May 2024, together with any record reflecting whether that board convened any meeting in 2024, and any record reflecting whether Petitioner's completed local appeal form, submitted to Emily Ragsdale, was ever transmitted to, received by, or docketed with that board's then-sitting members.

III. GROUNDS

Respondent's Memorandum of Argument, filed June 26, 2026, asserts, among other things, that no final determination was made by the local department prior to 2026, that Petitioner's appeal

attempts were untimely or unsubstantiated, and that Petitioner "refused" VDH involvement in the SAP process. Chief Building Official Otis Vaughan's own correspondence to this Board further asserts that the number of bedrooms in the destroyed dwelling cannot be determined and that Petitioner's property remains subject to delinquent taxes. Each of these assertions is directly contradicted by, or cannot be tested without, records within Respondent's own custody or VDH's custody — including the May 1, 2024 meeting, the June and October 2024 telephone conferences, the absence of any county-initiated referral to VDH, the complete fire report and any photographs establishing the configuration of the destroyed dwelling, and the county's own assessment records. Petitioner cannot produce Respondent's own internal records; only Respondent and VDH can.

Petitioner has already attempted to obtain several of the records identified above through the ordinary channel of a request under the Virginia Freedom of Information Act, Va. Code § 2.2-3700 *et seq.*. Rather than producing the requested records, Pittsylvania County has invoked a single disputed charge of $29.83 — arising from a March 31, 2026 FOIA response — to place a recurring "arrears" hold under Va. Code § 2.2-3704(I) on no fewer than four subsequent records requests (Nos. 26-83, 26-182, 26-196, and 26-204), effectively freezing Petitioner's access to public records on the strength of one contested invoice. Petitioner disputed that charge in writing on July 14, 2026. The County's only response was to direct Petitioner to the text of the statute, without addressing the substance of the objection or releasing the hold. Compulsory process through this Board's subpoena authority is therefore not merely appropriate but necessary, as the ordinary public-records channel has been rendered unavailable to Petitioner in practice.

IV. RELIEF REQUESTED

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WHEREFORE, Petitioner respectfully requests that this Board (1) issue a subpoena duces tecum for the records identified in Section II above, directed to Pittsylvania County and/or the Virginia Department of Health as appropriate; and (2) grant such other and further relief as this Board deems just and proper.

Respectfully submitted,

Todd Ferguson

Todd Ferguson

Petitioner, Pro Se

5405 Whitmell School Road

Dry Fork, Virginia 24549

fergusont844@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of _____, 2026, a true and accurate copy of the foregoing was served via electronic mail upon:

Matthew W. Evans, Esq.

Gravitt Law Group, PLC

75 Maple Avenue, P.O. Box 999

Halifax, Virginia 24558

matt@gravittlaw.com

Counsel for Respondent Pittsylvania County

C6

Todd Ferguson

D (

EXHIBIT ___
TODD FERGUSON PERSONAL TELEPHONE RECORDS — CALLS TO PITTSYLVANIA COUNTY, VIRGINIA DEPARTMENT OF HEALTH, AND STATE (DHCD) NUMBERS

Source: T-Mobile monthly billing statements, Account No. 991745060, Line (540) 355-9770, billing periods April 2024 through October 2024 (bills issued April 24, 2024 through October 24, 2024). Compiled by manual review of the itemized "TALK" call detail sections of each statement.

Purpose: This exhibit lists every call placed to, or received from, (a) Pittsylvania County government office numbers (area code 434, exchange 432, Chatham, VA), (b) Pittsylvania-Danville Health District numbers, and (c) Virginia Department of Housing and Community Development (DHCD) numbers in Richmond, VA (area code 804, exchange 371), appearing in Todd Ferguson's own carrier-issued billing records for the stated period. It is offered to show the volume and duration of Mr. Ferguson's own contact attempts to these offices, for comparison against the call log produced by Pittsylvania County ("2024 Call Logs_Ferguson.xlsx"), which reflects only seven (7) inbound calls from County staff to Mr. Ferguson's number during the same period.

Summary

Destination Category	Calls	Total Minutes
Pittsylvania County offices (Chatham, VA — 434-432-xxxx)	75	554
Pittsylvania-Danville Health District	8	135
DHCD / Richmond, VA (804-371-xxxx)	21	95
TOTAL	104	784

** Location label as printed on the underlying carrier statement; the carrier's city/state label is associated with the exchange and is occasionally inaccurate for calls that were, in fact, placed to the same*

D 2

County or Health District number called on other dates (verified by matching the telephone number, not the carrier's location label).

Note on DHCD entries: The Richmond, VA extension (804) 371-7163 appears in the current (2026) email signature of DHCD/Technical Review Board Secretary W. Travis Luter. Who held that extension in April 2024 has not been independently verified, and the purpose of these April 2024 calls has not been confirmed. These entries are presented here strictly as calls to a Richmond, VA state-government exchange (804-371) as they appear on the carrier statement, not as verified contact with the Technical Review Board regarding Appeal No. 26-03, which was not filed until 2026.

I. Calls to Pittsylvania County Offices (434-432-xxxx, Chatham, VA)

75 calls — 554 total minutes

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
04/03/2024	11:08 AM	OUT	(434) 432-7755	Chatham, VA	11
04/03/2024	11:18 AM	OUT	(434) 432-7755	Chatham, VA	2
04/03/2024	11:33 AM	IN	(434) 432-7974	Incoming	12
04/08/2024	10:53 AM	OUT	(434) 432-7232	Chatham, VA	2
04/08/2024	12:13 PM	OUT	(434) 432-7755	Chatham, VA	1
04/08/2024	12:16 PM	OUT	(434) 432-7232	Chatham, VA	3
04/08/2024	12:18 PM	OUT	(434) 432-7232	Chatham, VA	2
04/08/2024	12:19 PM	OUT	(434) 432-7232	Chatham, VA	2
04/08/2024	12:42 PM	OUT	(434) 432-7974	Chatham, VA	1
04/08/2024	12:42 PM	OUT	(434) 432-7974	Chatham, VA	1
04/08/2024	12:49 PM	OUT	(434) 432-7755	Chatham, VA	24
04/11/2024	1:48 PM	OUT	(434) 432-7755	Chatham, VA	4
04/11/2024	1:57 PM	OUT	(434) 432-7232	Chatham, VA	3

D4

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
04/11/2024	10:36 PM	OUT	(434) 432-7920	Chatham, VA	5
04/15/2024	9:40 AM	OUT	(434) 432-7232	Chatham, VA	2
04/15/2024	9:40 AM	OUT	(434) 432-7232	Chatham, VA	2
04/15/2024	9:43 AM	OUT	(434) 432-7232	Chatham, VA	4
04/18/2024	9:55 AM	OUT	(434) 432-7755	Appomattox, VA*	2
04/19/2024	2:09 PM	OUT	(434) 432-7755	Chatham, VA	16
04/24/2024	9:48 AM	OUT	(434) 432-7755	Chatham, VA	3
05/16/2024	10:57 AM	OUT	(434) 432-7920	Chatham, VA	2
05/16/2024	11:06 AM	OUT	(434) 432-7920	Chatham, VA	1
05/16/2024	11:06 AM	OUT	(434) 432-7920	Chatham, VA	4
05/20/2024	11:53 AM	OUT	(434) 432-7900	Chatham, VA	3
05/21/2024	3:52 PM	OUT	(434) 432-7900	Chatham, VA	2
05/21/2024	4:00 PM	IN	(434) 432-7900	Incoming	11
05/21/2024	4:11 PM	IN	(434) 432-7900	Incoming	1
05/27/2024	1:44 PM	OUT	(434) 432-7920	Chatham, VA	4

D5

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
05/27/2024	2:32 PM	OUT	(434) 432-7931	Chatham, VA	3
06/06/2024	11:36 AM	OUT	(434) 432-7920	Chatham, VA	3
06/11/2024	11:31 AM	OUT	(434) 432-7755	Chatham, VA	4
06/11/2024	12:37 PM	OUT	(434) 432-7754	Chatham, VA	9
06/13/2024	12:58 PM	OUT	(434) 432-7720	Chatham, VA	8
06/14/2024	12:04 PM	OUT	(434) 432-7720	Chatham, VA	1
06/14/2024	2:53 PM	OUT	(434) 432-7720	Chatham, VA	23
06/18/2024	10:51 AM	IN	(434) 432-7720	Incoming	2
06/20/2024	10:24 AM	OUT	(434) 432-7720	Chatham, VA	1
06/20/2024	10:30 AM	OUT	(434) 432-7720	Chatham, VA	48
07/02/2024	8:36 AM	OUT	(434) 432-7960	Chatham, VA	1
07/08/2024	10:57 AM	OUT	(434) 432-7960	Chatham, VA	3
07/09/2024	7:51 AM	OUT	(434) 432-7960	Chatham, VA	1
07/09/2024	8:09 AM	OUT	(434) 432-1774	Chatham, VA	1
07/09/2024	9:07 AM	OUT	(434) 432-1774	Chatham, VA	2

D 6

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
07/09/2024	9:27 AM	OUT	(434) 432-7960	Chatham, VA	1
07/09/2024	9:27 AM	OUT	(434) 432-1774	Chatham, VA	135
07/13/2024	3:54 PM	OUT	(434) 432-7920	Chatham, VA	9
08/12/2024	12:42 PM	OUT	(434) 432-7755	Chatham, VA	2
08/19/2024	12:38 PM	OUT	(434) 432-7755	Chatham, VA	17
09/17/2024	12:00 PM	OUT	(434) 432-7755	Chatham, VA	9
09/18/2024	9:18 AM	OUT	(434) 432-1987	Chatham, VA	2
09/18/2024	12:38 PM	OUT	(434) 432-1987	Chatham, VA	1
09/18/2024	1:18 PM	OUT	(434) 432-1987	Chatham, VA	1
09/19/2024	11:41 AM	OUT	(434) 432-7710	Chatham, VA	2
09/19/2024	11:43 AM	OUT	(434) 432-7720	Chatham, VA	6
09/19/2024	12:01 PM	OUT	(434) 432-7900	Chatham, VA	2
09/19/2024	4:04 PM	OUT	(434) 432-7720	Chatham, VA	1
09/19/2024	4:06 PM	OUT	(434) 432-7710	Chatham, VA	3
09/27/2024	12:49 PM	OUT	(434) 432-7710	Chatham, VA	1

D 7

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
09/27/2024	1:14 PM	OUT	(434) 432-7710	Chatham, VA	1
09/27/2024	4:08 PM	OUT	(434) 432-7710	Chatham, VA	1
09/30/2024	11:26 AM	OUT	(434) 432-7710	Chatham, VA	1
10/02/2024	12:02 PM	OUT	(434) 432-2791	Chatham, VA	2
10/03/2024	3:13 PM	OUT	(434) 432-7700	Chatham, VA	2
10/03/2024	3:15 PM	OUT	(434) 432-7700	Chatham, VA	16
10/04/2024	10:37 AM	OUT	(434) 432-7879	Chatham, VA	2
10/07/2024	12:43 PM	OUT	(434) 432-7720	Chatham, VA	14
10/07/2024	1:54 PM	IN	(434) 432-7720	Incoming	1
10/07/2024	2:30 PM	OUT	(434) 432-7720	Chatham, VA	7
10/07/2024	2:54 PM	IN	(434) 432-7720	Incoming	35
10/07/2024	3:30 PM	OUT	(434) 432-7720	Chatham, VA	7
10/08/2024	1:29 PM	OUT	(434) 432-7720	Chatham, VA	9
10/09/2024	11:03 AM	OUT	(434) 432-2791	Chatham, VA	2
10/16/2024	11:23 AM	OUT	(434) 432-7887	Chatham, VA	12

D 8

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
10/18/2024	10:44 AM	OUT	(434) 432-7900	Chatham, VA	2
10/18/2024	10:46 AM	OUT	(434) 432-7879	Chatham, VA	8

D 9

II. Calls to Pittsylvania-Danville Health District Numbers

8 calls — 135 total minutes

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
04/17/2024	3:01 PM	OUT	(434) 710-2074	Danville, VA	34
04/18/2024	11:55 AM	OUT	(434) 766-9857	Lynchburg, VA*	1
04/18/2024	2:15 PM	IN	(434) 766-9857	Incoming	43
04/18/2024	3:59 PM	IN	(434) 766-9857	Incoming	35
04/22/2024	9:52 AM	OUT	(434) 766-9815	Danville, VA	5
04/22/2024	10:39 AM	IN	(434) 766-9815	Incoming	2
04/24/2024	9:43 AM	OUT	(434) 766-9815	Danville, VA	1
06/20/2024	12:50 PM	OUT	(434) 766-9815	Danville, VA	14

D 16

III. Calls to DHCD / Richmond, VA Numbers (804-371-xxxx)

21 calls — 95 total minutes

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
04/03/2024	11:20 AM	OUT	(804) 371-7182	Richmond, VA	2
04/03/2024	11:47 AM	OUT	(804) 371-7182	Richmond, VA	2
04/03/2024	11:53 AM	OUT	(804) 371-7150	Richmond, VA	3
04/03/2024	11:57 AM	OUT	(804) 371-7165	Richmond, VA	1
04/03/2024	3:40 PM	OUT	(804) 371-7150	Richmond, VA	2
04/03/2024	3:44 PM	OUT	(804) 371-7182	Richmond, VA	10
04/05/2024	10:03 AM	OUT	(804) 371-7165	Richmond, VA	1
04/05/2024	10:03 AM	OUT	(804) 371-7150	Richmond, VA	4
04/05/2024	10:07 AM	OUT	(804) 371-7163	Richmond, VA	20
04/05/2024	10:49 AM	IN	(804) 371-7163	Incoming	9
04/08/2024	11:44 AM	OUT	(804) 371-7163	Richmond, VA	17
04/08/2024	12:29 PM	OUT	(804) 371-7163	Richmond, VA	1
04/08/2024	12:46 PM	OUT	(804) 371-7163	Richmond, VA	3

D 11

Date	Time	Direction	Number Called/Calling	Billed Destination Label	Duration (min)
04/08/2024	1:19 PM	OUT	(804) 371-7163	Richmond, VA	1
04/08/2024	2:20 PM	OUT	(804) 371-7163	Richmond, VA	1
04/08/2024	3:20 PM	OUT	(804) 371-7163	Richmond, VA	2
05/01/2024	10:15 AM	OUT	(804) 371-7150	Richmond, VA	12
06/27/2024	8:31 AM	OUT	(804) 371-7150	Richmond, VA	1
06/27/2024	8:33 AM	OUT	(804) 371-7161	Richmond, VA	1
07/11/2024	9:07 AM	OUT	(804) 371-7000	Richmond, VA	1
07/11/2024	9:07 AM	OUT	(804) 371-7000	Richmond, VA	1

Comparison to County's Produced Call Log

The record produced by Pittsylvania County ("2024 Call Logs_Ferguson.xlsx") contains exactly seven (7) entries, spanning April through October 2024, all of which are inbound calls from County personnel (E. Ragsdale, J. Inman, A. Worley) to Mr. Ferguson's number, with durations ranging from 9 seconds to approximately 11 minutes. It does not contain any of the 75 outbound calls Mr. Ferguson's own carrier records show him placing to County numbers, any of the 8 calls to the Health District, or any of the 21 calls to DHCD/Richmond numbers, during the identical period.

Certification / Methodology Note

This exhibit was compiled by manual line-by-line review of the itemized call detail sections of the seven T-Mobile statements referenced above. Before filing, the underlying statements should be independently re-checked against this table to confirm accuracy, and the source statements should be attached or otherwise authenticated as required by the applicable rules of evidence.

E

Board of Building Code Appeals

4-year terms

Spencer Walker, Jr. *December 31, 2025* 106 Jeanette Drive 434-251-3256 Texasah24540@yahoo.com	**Chase Fitzgerald** *December 31, 2025* 159 Capri Court Danville, VA 24541 434-489-6903 chaseofitzgerald@gmail.com
Gretchen Clark *December 31, 2025* 3812 West Gretna Road Gretna, VA 24557 434-485-2478 glcark@reynoldsclark.com	**Scottie Lavinder** *December 31, 2025* 400 Dogwood Drive Danville, VA 24541 434-250-6772 sslavinder419@gmail.com
Jack Holmes *December 31, 2025* 5881 Callands Rd Chatham, Virginia 24531 434-432-1347 holmes.ja53@yahoo.com	

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Todd Ferguson
Appeal No. 26-03

CONTENTS

Section	Page No.
Review Board Staff Document	243
Basic Documents	247
Documents Submitted by Todd Ferguson	255
Documents Submitted by Pittsylvania County	287
Additional Documents Submitted by Todd Ferguson	309
Additional Documents Submitted by Pittsylvania County	361
Final Order for Todd Ferguson	369

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Todd Ferguson
Appeal No. 26-03

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On April 3, 2024, Todd Ferguson (Ferguson) applied for a building permit to install a used manufactured home on the property located at 5405 Whitmill School Road, in Pittsylvania County (County), to replace the manufactured home that burned on December 17,2023. The County denied his application for building permit citing excavation of the septic system distribution box, submittal of a Safe, Adequate, and Proper (SAP) Report from the Virginia Department of Health (VDH), and payment of all delinquent property taxes.

2. Ferguson requested an appeal to the local appeals board for the inaction of the County to issue his requisite building permit in May of 2024. The appeal was administratively denied by the County based on the requirements listed in Item #1 above and payment of the $200 local appeals fee. Ferguson informed the County that he was indigent and could not afford the fee. Ferguson requested an indigent waiver or good cause exception for the local appeals fee which was denied by County.

3. On May 15, 2026, after "*the 25-month delay, shifting county demands, and arbitrary enforcement barriers"* Ferguson further appealed to the Review Board.

4. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the

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staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the appeals hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether the appeal fee is required to be paid in order for the appeal to be considered as filed, processed, and heard by the local appeals board.

2. Whether excavation of the septic system distribution box and submittal of a SAP Report from the Virginia Department of Health (VDH) is required to issue the requisite permit.

3. Whether a building permit can be denied due to delinquent property taxes.

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Basic Documents

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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

RECEIVED
May 15, 2026 WTZ
OFFICE OF THE REVIEW BOARD

Regulation Serving as Basis of Appeal (check one):

- ☑ Uniform Statewide Building Code
  - ☑ Virginia Construction Code
  - ☐ Virginia Existing Building Code
  - ☐ Virginia Maintenance Code
- ☐ Statewide Fire Prevention Code
- ☐ Industrialized Building Safety Regulations
- ☐ Amusement Device Regulations

Appealing Party Information (name, address, telephone number and email address):

Todd Ferguson (See Attachment 1)

Opposing Party Information (name, address, telephone number and email address of all other parties):

Pittsylvania County See Attachment 2)

Additional Information (required by the applicable code to be submitted with this application)

- Copy of enforcement decision being appealed See Exhibit A and B
- Copy of the decision of local government appeals board (if applicable) N/A

Additional Information (to be submitted with this application)

- Statement of specific relief sought (See Attachment 3)

Statement of FACTS (Attachment 4)

CERTIFICATE OF SERVICE

I hereby certify that on the 18TH day of MAY, 2026 a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

Name of Applicant: Todd Ferguson
(please print or type)

TYPED ATTACHMENTS

- **ATTACHMENT 1: APPEALING PARTY INFORMATION**
  - *Contains Appellant contact details and pro se status.*
- **ATTACHMENT 2: OPPOSING PARTY INFORMATION**
  - *Lists current and former Pittsylvania County building officials and legal counsel.*
- **ATTACHMENT 3: STATEMENT OF SPECIFIC RELIEF SOUGHT**
  - *Outlines the 5 formal orders requested from the State Technical Review Board.*
- **ATTACHMENT 4: COMPREHENSIVE STATEMENT OF FACTS & ADMINISTRATIVE ABUSE**
  - *Chronological narrative detailing the 25-month delay, shifting county demands, and arbitrary enforcement barriers.*

ATTACHMENT 1: APPEALING PARTY INFORMATION

1. Appellant Details

- **Full Name:** Todd Ferguson
- **Legal Status:** Pro Se Litigant / Property Owner
- **Subject Property Address:** 5405 Whitmill School Road, Dry Fork, VA 24549
- **Mailing Address:** 5405 Whitmill School Road, Dry Fork, VA 24549
- **Primary Telephone:** 540-355-9770
- **Email Address:** twferguson11@gmail.com

2. Designated Representative

- **Representative Name:** N/A (Appellant is proceeding *pro se*)

ATTACHMENT 2: OPPOSING PARTY INFORMATION

1. Local Government Agency

- **Agency Name:** Pittsylvania County Department of Community Development & Building Inspections
- **Physical Address:** 11 Court Place, Chatham, VA 24531
- **Mailing Address:** P.O. Box 426, Chatham, VA 24531
- **Main Office Telephone:** 434-432-7755

2. Named Local Officials (Current & Former)

- **Current Building Official:** Otis Vaughan, Building Official
  (Responsible for current administration, continued enforcement of unauthorized septic triggers, and ongoing failure to act from mid-2025 to present.)
- **Former Building Official:** Jason Inman, Former Building Official
  (Responsible for initial application obstruction, shifting requirements, and interception/denial of the May 2024 local appeal.)
- **Former Community Development Director:** Emily Ragsdale, Former Director
  (Responsible for oversight and administrative obstruction during the initial 2024 appeal attempts.)

3. Local Legal Counsel

- **Agency Entity:** Office of the County Attorney, Pittsylvania County
  (Served as the continuous legal entity responsible for advising the department during the 25-month administrative delay.)
- **Former County Attorney:** Vaden Hunt, Esq.
  (County Attorney of record during the initial 2024–2025 permit actions and appeal blockage.)
- **Mailing Address for Service:** P.O. Box 426, Chatham, VA 24531
- **Telephone:** 434-432-7755

From:	todd ferguson
To:	Luter, Travis (DHCD)
Date:	Friday, May 15, 2026 1:54:04 PM
Attachments:	Jason"s first letter to me june.pdf Second letter from Jason Inum.pdf

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Preview attachment Mr. Todd Ferguson 5-1-2026.pdfPreview attachment Mr. Todd Ferguson 5-1-2026.pdf



Mr. Todd Ferguson 5-1-2026.pdf
81 KB

Dear Mr. Luter,

I am Todd Ferguson, a pro se litigant, formally requesting that the State Building Code Technical Review Board (SBCTRB) assume jurisdiction over my building permit application for 5405 Whitmill School Road. This request is based on a 25-month "Failure to Act" by Pittsylvania County and the imposition of unauthorized financial barriers to my due process.

1. Timeline of Administrative Failure to Act The local building department has maintained a state of "incomplete" status on my permit for over two years, spanning two different administrations:

- **April 3, 2024:** Permit application initiated with **Jason Inman** for a like-for-like mobile home replacement following a December 2023 fire.
- **May 2024:** I hand-delivered a formal appeal to the local office. Under **Jason Inman's** watch, this appeal was intercepted and ignored.
- **Mid-2025: Otis Vaughan** assumed the role of Building Official and has continued the policy of inaction and obstruction regarding the original appeal and permit.
- **May 2026:** The permit remains unissued, and no local board hearing has been convened.

2. Misapplication of Septic "Triggers" The county is withholding my permit by demanding a destructive "Safe, Adequate, and Proper" (SAP) report. However, my project does not pull any legal "trigger" for Health Department intervention:

- **Vested Rights (Va. Code § 15.2-2307):** As a fire victim, I have a vested right to rebuild on my existing footprint.
- **No Nexus:** There is no increase in sewage flow and no change in the building footprint. Under the USBC, a building official lacks the authority to demand septic excavation for purely structural replacements (similar to replacing rafters or windows).
- **Standard of Inspection (12 VAC 5-610-350):** The county is demanding excavation of a distribution box without evidence of failure, violating the "visual" inspection standard for existing systems.

3. Constitutional Barrier to Appeal The county has blocked my access to the Local Board of Building Code Appeals by demanding a $200 fee. As a fire victim with documented losses of

$47,500, the refusal to provide an indigent waiver or a "good cause" exception is a **Constitutional Procedural Due Process violation**. A local fee schedule cannot be used to extinguish a state-mandated right to appeal.

4. Documented Financial Waste The county's failure to act has caused significant financial injury:

- **Alternative Housing (Rent):** $7,500 ($00/ mo x 25).
- **Land Carrying Costs:** $7,50 0 ($00/ mo x 25).
- **Mobile Home Storage:** $2,500 ($00/ mo x 25).

My home is currently deteriorating in storage while the local office refuses to perform a simple site visit.

Sincerely,

Todd Ferguson 540-355-9770

Documents Submitted
by
Todd Ferguson

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ATTACHMENT 4: COMPREHENSIVE STATEMENT OF FACTS & ADMINISTRATIVE ABUSE

1. The Triggering Event and Vested Property Rights In December 2023, the residential structure located at 5405 Whitmill School Road was destroyed by an accidental fire. Under **Va. Code § 15.2-2307(F)**, this disaster established the Appellant's immediate vested right to replace the structure with a like-for-like mobile home on the exact same footprint.

2. Chronology of Arbitrary and Capricious Hurdles ("Moving the Goalposts") Rather than processing a routine structural replacement permit for a displaced citizen, the Pittsylvania County Department of Building Inspections initiated a 25-month campaign of shifting, unauthorized administrative requirements:

- **The Contractor/Affidavit Barrier:** Upon the initial application on **April 3, 2024**, the building official (Jason Inman) arbitrarily halted the process. The department claimed the Appellant could not pull the permit as a *pro se* owner-developer, forcing unnecessary delays regarding licensing and specialized affidavits.
- **The Septic Overreach:** Once the Appellant met the initial structural demands, the county completely changed its requirements. The building department refused to review the application further until the Health Department intervened, demanding a destructive and invasive "Safe, Adequate, and Proper" (SAP) septic evaluation **(See Exhibit A: June 2024 County Letter, and Exhibit B: August 2024 County Letter)**.
- **Exemption from Septic Triggers:** The county's demand for septic excavation lacks any legal basis or nexus under **12 VAC 5-610-350**. The replacement structure features an identical footprint and zero increase in sewage flow or occupancy. The existing system is fully functional with documented pump-out records. The county treated a structural replacement like a brand-new development, imposing an unnecessary financial and physical burden on a fire victim.

3. The Interception of Due Process and the $200 Fee Barrier In **May 2024,** seeking to halt these moving targets, the Appellant hand-delivered a formal local administrative appeal to Emily Ragsdale and the building department staff. The county handled this appeal in an entirely capricious manner:

- The agency failed to log, process, or forward the paperwork to convene a Local Board of Building Code Appeals (LBBCA) hearing.
- The county conditioned the Appellant's statutory right to an appeal on a $200 local fee, while simultaneously failing to provide a standard indigent waiver process—effectively creating a "pay-to-play" barrier to due process **(See Exhibit C: May 2024 Local Appeal Declaration)**.

4. Documented Pattern of Clerical Incompetence The county's defense that the Appellant "failed to follow procedures" or that internal records are missing is completely dismantled by their own administrative chaos. Recently, when a structural permit was processed for a garage on this exact parcel of land, the county issued the legal permit under the name **'Vance Burnett'** instead of the actual deed-holder and applicant, Todd Ferguson **(See Exhibit D: Garage Permit)**. This severe clerical error proves that the Department of Building Inspections does not maintain accurate ownership, application, or administrative records.

5. 2026 Administration Shifting Targets and Unauthorized Denials In early 2026, the Appellant contacted current Building Official Otis Vaughan to request the issuance of the building permit and a temporary electrical power connection hookup **(See Exhibit E: 2026 Appellant Request)**. In response, Official Vaughan created entirely new, extra-statutory barriers to avoid issuing the permit **(See Exhibit F: 2026 Vaughan Denial)**:

- **The Timeliness Pretext:** Official Vaughan claimed the Appellant was barred because "two years" had passed since the fire. This assertion ignores the fact that the application has been pending since April 3, 2024, and the 25-month delay is a direct result of the county's own failure to act and illegal fee barriers.
- **The Tax Pretext:** Official Vaughan further claimed the permit could not be reviewed due to alleged delinquent property taxes. Under the Virginia

USBC, a building official has no legal authority to enforce local tax collection or condition a safety/structural permit on tax status.

6. Continuous Failure to Act In mid-2025, Otis Vaughan assumed the role of Building Official and inherited this unfinalized permit and blocked appeal. Rather than correcting the file, the department maintained its policy of inaction. Internal personnel turnover does not absolve the agency of its continuous liability. For 25 months, the county has used unauthorized, shifting demands to freeze the Appellant's application, resulting in a textbook **Failure to Act** under **USBC § 119.5**.

MASTER LIST OF SUPPORTING EXHIBITS

- **EXHIBIT A:** County Department of Building Inspections Demand Letter (Dated June 2024).

- **EXHIBIT B:** County Department / Health Department Joint Demand Letter (Dated August 2024).

- **EXHIBIT C:** Sworn Written Declaration of May 2024 Hand-Delivered Local Appeal Attempt.

- **EXHIBIT D:** Certified Copy of Structural Garage Permit #XXXX erroneously issued to Vance Burnett for Parcel ID #XXXX.

- **EXHIBIT E:** Copy of 2026 Written Request to Official Otis Vaughan for Permit Issuance and Temporary Power Hookup.

- **EXHIBIT F:** Copy of 2026 Written Denial Letter from Official Otis Vaughan citing tax delinquency and timeliness pretexts.

A

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

June 4, 2024

Todd Ferguson
749 F C Beverly Road
Dry Fork, VA 24549

Sent Certified: 7022 2410 0003 0316 0768, also by USPS.

RE: Property GPIN # 1480-73-2976
5405 Whitmell School Road
Dry Fork, VA 24549

To Whom It May Concern:

This letter is to serve as notice that building permit number S24-04-31820 will be approved for a temporary source of power as stated in the 2018 International Residential Code (IRC) Section R107.3. A 100-amp temporary power supply shall be constructed to 2017 National Electrical Code (NEC) Article 590 and its use shall comply with 2017 NEC Article 590.3 (A)(D). This temporary power supply shall be active for the 180 days the building permit is valid per International Residential Code (IRC) Section R105.5. This permit was obtained on April 08, 2024, and will expire on Saturday October 5, 2024. Because temporary wiring installations may not meet all the requirements for a permanent installation due to the modifications permitted by Article 590, all temporary wiring not only must be disconnected but also removed from the building, structure, or other location on or before October 5, 2024. This permit may be suspended or revoked per 2018 International Residential Code (IRC) Section R105.6 if there exists any violation of any ordinance or regulation or any of the provisions of the building code. This shall also extend to the disconnection of temporary power if it is used for any other purpose than what is intended per 2017 NEC Article 590.3(A). Please also be aware that per the Pittsylvania County Code § 35-74. Accessory and Temporary Buildings, accessory structures are only allowed as an accessory to a principle use in residential districts.

An application was also submitted on April 03, 2024, for the installation of a 1991 singlewide manufactured home. Per International Residential Code (IRC) Section R105.3.2, the application will expire on September 30, 2024. If you would like to pursue this application, please recheck the VIN# you provided (NCFLM41A22054VO). This VIN number does not show as valid with the Department of Motor Vehicles. If this number is correct, please provide this office with the title stating this. You will also need to provide this office with a copy of the permit for a safe, adequate, and proper (SAP) to ensure that sewage treatment is available per Code of Virgina (COV) Title 32.1. Health, Chapter 6. Environmental Health Services. The SAP can be obtained from the Virgina Department of Environmental Health located at located at 200 H.G. McGhee Drive, Chatham, VA 245431. You may also contact them at (434) 433-3544.

BUSINESS SAVVY. PEOPLE FRIENDLY.
Jason Inman, Code Official
jason.inman@pittgov.org

A

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

Dr. Scott Spillmann and Wesley Marshall with the Virginia Department of Health are willing to make the following concessions regarding the SAP:

1. Waive the $150.00 application fee for the Safe, Adequate, and Proper (SAP) septic system inspection.
2. They will allow you to have your septic tank open for inspection, without having to have it pumped, and uncover and open the Distribution Box for inspection. This would allow them to examine the Tank to determine the likelihood of there being a leak. If it is leaking for any reason, the effluent level would be low, or the effluent would be gone from the tank leaving only sludge and solids in the bottom. Effluent standing in the Distribution Box would be an indication of a failing septic field or a blockage, either of which would require correction.

If there is no indication of failure or damaged components to the septic system, they would issue the SAP report, thus allowing for the county to issue your building permit.

Once you have obtained this building permit, the inspection schedule is listed below and has been modified to accommodate your request for permanent electrical service at the location.

1. This first inspection will consist of footings, blocking and anchors of the dwelling and permanent electrical service.
2. Plumbing installation. This shall consist of waste line connections from the dwelling to the approved waste collection system. Water lines can also be inspected at this time if completed.
3. Deck footings. Deck framing can also be inspected at this time if construction has begun.
4. Any other inspection that may be required by code.
5. Final
    a. Driveway installation must meet Pittsylvania County Ordinance.
    b. All disturbed areas of soil must be covered in seed and straw.
    c. All construction debris must be removed from the property.
    d. Structure must be ready of occupancy.
        i. All lights and receptacles will be inspected to ensure they are working properly.
        ii. All smoke detectors will be checked.
        iii. All plumbing connections, drains, and water lines will be checked to ensure there are no leaks.
        iv. The heating system will be inspected.
        v. The structural integrity of the dwelling will be checked.
        vi. Decks will be checked for structural integrity.
        vii. Any other inspection that may be required by code.

2018 IRC SECTION R105.3.2 TIME LIMITATION OF APPLICATION. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

Jason Inman, Code Official
jason.inman@pittgov.org

A

PITTSYLVANIA COUNTY, VIRGINIA

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Chatham, Virginia 24531
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2018 IRC SECTION R105.5 EXPIRATION. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance or after commencement of work if more than 180 days pass between inspections. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

2018 IRC SECTION R105.6 SUSPENSION OR REVOCATION. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

2018 IRC SECTION R107.3 TEMPORARY POWER. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in NFPA 70.

2017 NEC ARTICLE 590.3 (A) DURING THE PERIOD OF CONSTRUCTION. Temporary electric power and lighting installations shall be permitted during the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities. (D) REMOVAL. Temporary wiring shall be removed immediately upon completion of construction or purpose for which the wiring was installed.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-74. ACCESSORY AND TEMPORARY BUILDINGS. (1) Intent. Special requirements are designed for accessory and temporary buildings to ensure ample access for emergency vehicles, maintain the effectiveness of rear and side yard requirements and insure accessory structures remain secondary in function to the main building. (2) Accessory Buildings. The location of accessory buildings and uses in residential districts must meet the following restrictions: a. Where an accessory building is attached to the main building, a substantial part of one (1) wall of the accessory building shall be an integral part of the main building or such accessory building shall be attached to the main building in a substantial manner by a roof; and therefore, such attached accessory building shall comply in all respects with the requirements applicable to the main building. b. A detached accessory building shall not be closer than fifteen (15) feet to the main building or rear lot line. Accessory building shall not be closer to a lot line than the setback Line for side yards for the district in which the lot is located. Additionally, no building housing livestock shall be placed within two hundred (200) feet of a lot line located within or abutting any institutional, residential, or business district. c. A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard and not to exceed maximum lot coverage (by percent) per the district involved. d. No detached accessory building may be located in the front yard or a lot.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-81. SITE REQUIREMENTS FOR OFF-STREET PARKING. All off-street parking shall be laid out, constructed, and maintained in accordance with the following requirements: (4) Access to off-street parking facilities from public streets shall meet requirements of Section 33.1-198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of Entrances to State Highways and be approved by the Resident Engineer of the Virginia Department of Transportation.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-184. MINIMUM OFF-STREET PARKING SPACES. PARKING REQUIREMENTS FOR ALL DISTRICTS. Two (2) off-street parking spaces shall be required on each building lot. Parking space shall be rectangular with one (1) dimension at least ten (10) feet in length and the other dimension at least twenty (20) feet length and/or a total of two hundred (200) square feet.

Jason Inman, Code Official
jason.inman@pittgov.org

A

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

If you have any questions, please contact me.

Respectfully,

Jason Inman
Code Official

c: Dave Arnold, Assistant County Administrator
Emily S. Ragsdale, Director of Community Development
Dr. Scott Spillmann, Director VDH
Jessica Pearce, Environmental Health Supervisor
Wesley Marshall, Environmental Health Manager Sr, VDH
Kelly Waller, Environmental Health Supervisor

B

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

August 23, 2024

Todd Ferguson
749 F C Beverly Road
Dry Fork, VA 24549

Sent Certified: 7022 2410 0003 0316 0874, also by USPS.

RE: Property GPIN # 1480-73-2976
5405 Whitmell School Road
Dry Fork, VA 24549

Mr. Ferguson:

This letter is to serve as notice that building permit number S24-04-31820 will be approved for a temporary source of power as stated in the 2018 International Residential Code (IRC) Section R107.3. A 100-amp temporary power supply shall be constructed to 2017 National Electrical Code (NEC) Article 590 and its use shall comply with 2017 NEC Article 590.3 (A)(D). This temporary power supply shall be active for the 180 days the building permit is valid per International Residential Code (IRC) Section R105.5. This permit was obtained on April 08, 2024, and will expire on Saturday October 5, 2024. Because temporary wiring installations may not meet all the requirements for a permanent installation due to the modifications permitted by Article 590, all temporary wiring not only must be disconnected but also removed from the building, structure, or other location on or before October 5, 2024. This permit may be suspended or revoked per 2018 International Residential Code (IRC) Section R105.6 if there exists any violation of any ordinance or regulation or any of the provisions of the building code. This shall also extend to the disconnection of temporary power if it is used for any other purpose than what is intended per 2017 NEC Article 590.3(A). Please also be aware that per the Pittsylvania County Code § 35-74. Accessory and Temporary Buildings, accessory structures are only allowed as an accessory to a principle use in residential districts.

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Jason Inman, Code Official
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B

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

You have the right to appeal this Building Official's decision to the Local Board of Building Code Appeals as provided for in Section 119 of the Virginia Construction Code, and in Chapter 4, Article 3, of the Pittsylvania County Code. A written request for such an appeal shall be made to the County Building Official (address contained in the letterhead) and filed with this Office within thirty (30) calendar days from the date of this notice. At the time of filing, a fee of two hundred dollars ($200.00) shall accompany the appeal request. The decision of the Building Official shall be final and unappealable if not appealed within 30 (thirty) days.

Dr. Scott Spillmann and Wesley Marshall with the Virginia Department of Health are willing to make the following concessions regarding the SAP:

1. Waive the $150.00 application fee for the Safe, Adequate, and Proper (SAP) septic system inspection.
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jason.inman@pittgov.org

B

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CODE OF VIRGINIA § 32.1-165. Prior approval required before issuance of building permit; approved sewage system or nonconforming system.
A. No county, city, town, or employee thereof shall issue a permit for a building designed for human occupancy without the prior written authorization of the Commissioner or his agent. The Commissioner or his agent shall authorize the issuance of such permit upon finding that safe, adequate, and proper sewage treatment is or will be made available to such building, or upon finding that the issuance of such permit has been approved by the Review Board. "Safe, adequate, and proper" means a treatment works that complies with applicable regulations of the Board of Health that are in effect at the time of application.

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or such accessory building shall be attached to the main building in a substantial manner by a roof; and therefore, such attached accessory building shall comply in all respects with the requirements applicable to the main building. b. A detached accessory building shall not be closer than fifteen (15) feet to the main building or rear lot line. Accessory building shall not be closer to a lot line than the setback Line for side yards for the district in which the lot is located. Additionally, no building housing livestock shall be placed within two hundred (200) feet of a lot line located within or abutting any institutional, residential, or business district. c. A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard and not to exceed maximum lot coverage (by percent) per the district involved. d. No detached accessory building may be located in the front yard or a lot.

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If you have any questions, please contact me.

Respectfully,

Jason Inman
Code Official

c: Dave Arnold, Assistant County Administrator
Emily S. Ragsdale, Director of Community Development
Dr. Scott Spillmann, Director VDH
Jessica Pearce, Environmental Health Supervisor
Wesley Marshall, Environmental Health Manager Sr, VDH
Kelly Waller, Environmental Health Supervisor

C

DECLARATION OF MAY 2024 LOCAL APPEAL SUBMISSION

I, Todd Ferguson, do hereby declare and state as follows:

1. I am the owner of the real property located at 5405 Whitmill School Road, Dry Fork, VA 24549, and I am the applicant for the like-for-like residential structure replacement building permit filed on April 3, 2024.
2. In May 2024, following continuous verbal delays, conflicting directions, and shifting requirements from local building officials, I executed a formal local administrative appeal to challenge these arbitrary enforcement hurdles before the Local Board of Building Code Appeals (LBBCA).
3. In May 2024, I physically walked into the Pittsylvania County Department of Community Development & Building Inspections office located at 11 Court Place, Chatham, VA 24531.
4. I hand-delivered the completed physical copy of my local administrative appeal directly to Emily Ragsdale and the building department staff on duty.
5. Upon delivery, the department staff refused to log, process, or forward my paperwork to convene an LBBCA hearing. Instead, the agency intercepted my due process by demanding a $200 local processing fee while failing to provide any administrative path or form for an indigent waiver, effectively freezing my statutory right to an appeal.
6. The 25-month delay in this matter is a direct result of the local agency's failure to process this hand-delivered appeal and their ongoing failure to act on the underlying application.

I declare under penalty of perjury under the laws of the Commonwealth of Virginia that the foregoing statement is true and correct to the best of my knowledge, information, and belief.

Executed on this _____ day of May, 2026.

Todd Ferguson, Appellant Pro Se

C-1

Todd Ferguson
749 f c Beverly
Dry fork, Virginia
Fergusont844@gmail.com
(540)-355-9770
Friday September 27 2024

Building and Zoning Department
Pittsylvania County, Virginia
53 Banks St.
Chatham Virginia 24531

Re: Appeal for Denial of Building Permit and Request for Fee Waiver

To Whom It May Concern,

I am writing to formally appeal the denial of my building permit application and to request a waiver of the $200 appeal fee. This letter also serves to express my deep concern regarding violations of my due process rights under the law.

Despite submitting the necessary corrections for my building permit application on multiple occasions, I have been denied approval for the following reasons:
1. Initially, a contractor to move the modular home was required.
2. Second, I was asked to provide an affidavit for electrical and plumbing connections.
3. Third, it was stated that a 'Safe, Adequate, and Proper' approval from the health department was required, although I am replacing a three-bedroom mobile home with another three-bedroom mobile home on the same site, causing no increase in flow or signs of septic system failure.

This process has been ongoing for over six months, significantly impacting my financial stability. During this period, I have incurred the following costs:
- $700 per month in rent.
- $700 per month on the property mortgage.
- $500 per month in storage costs for the mobile home.

Currently, the accumulated extra expenses total approximately $7,200, severely straining the budget initially allocated for setting up the mobile home. The delay in issuing the building permit has exacerbated these costs, highlighting the urgency and necessity of resolving this matter promptly.

Further, when I inquired about filing an appeal and requested an indigent form, I was informed that no such form existed, and I would need to pay the $200 fee to proceed. As I understand my right to an administrative appeal, this fee should not be a barrier, especially given my current financial hardship.

Therefore, I am requesting the following:
1. Immediate processing of my appeal without the $200 fee due to financial hardship.
2. A thorough review and expedited resolution of my building permit application.

I firmly believe that the requirement to pay the $200 fee for exercising my right to an appeal constitutes a denial of due process, thus directly affecting my rights under the law.

Thank you for your prompt attention to this urgent matter. I look forward to a favorable resolution and the opportunity to move forward with my housing project.

Sincerely,

Todd Ferguson

PITTSYLVANIA COUNTY BUILDING PERMIT

D

Chatham, VA Telephone: (434) 432-7755

THIS PERMIT EXPIRES 180 DAYS AFTER ISSUANCE

Permit Number: S24-04-31820

Issuance Date: 04/17/2024

Permit Type: Structure Permit - Residential Remodel

Zoning Permit:

Health Permit:

Applicant: GEORGE V BURNETTE
Address: 716 CONSTELLATION DR
AXTON, VA 24054

Telephone ( ) -

Owner: GEORGE V BURNETTE
Address: 716 CONSTELLATION DR
AXTON, VA 24054

Telephone ( ) -

Applicant Signature: _____

Authorized Signature: Jason Inmanll

Property No: 1480-73-2976
Location of Job: 5405 WHITMELL SCHOOL RD
DRY, FORK VA
CHATHAM, VA 24531

Directions:

Scope of Work:
Property Type: Not Defined
Cost of Job (Estimated): $2000

Description of Job: REPAIR BLOCK WALL AND BOXING AND REPLACE WINDOWS AND DOORS ON GARAGE ONE

Remarks: DOUBLE ENTRANCE AND THE END WALL WHICH I MAY CLOSE IT BACK OFF IT WAS THAT

Building Size: W 20 L 30 H 30 Total Sq Ft.
W L H

Cost of Structure: 2000

Sign Size: W L
Porch,Patio,Deck: W L
Finished Basement Size:
Unfinished Basement Size:

Total Sq Ft.
Size:
Carport Size:
Garage Size: 600

Fireplaces:
Bdrm Window Size:
Floor Joist Size:
Rafter Size or Trusses:

No. of Amps: **Phase:** **Volts**

Cost of Electrical:

Type of Heat: **Size of Heating:**
Type of A/C **Size of Cooling:**

Cost of Heat:
Cost of A/C:

No. of Bathrooms: **Plb. Fixtures:** 0 **Public Water:** N **Public Sewer:** N
No. of Bedrooms: **Plb. Fixtures - Basement:**

Cost of Plumbing:

-- Tanks --
Inground/Above Ground:
Type of Fuel:
Tank Size:

-- Manufactured/Modular Homes --
Wind Zone/Thermal Zone:
Year/Model
Type of Exterior:

Pool Size:

Fire Sprinkler System:
Cost of Fire Suppression:

Approvals:

Permit Fee:	$56.00
Levy:	$1.12
Total:	$57.12

POST THIS CARD SO THAT IT IS VISIBLE AT THE JOBSITE

E

Gmail todd ferguson <fergusont844@gmail.com>

Notice of Housing Displacement and Request for Written Determination Regarding Electrical Service

todd ferguson <fergusont844@gmail.com> Fri, Apr 10, 2026 at 10:52 AM

To: vincent.shorter@pittgov.org, otis.vaughan@pittgov.org

Mr. Vaughn,
I am following up on my previous email and our prior conversation regarding my property and the status of restoring electrical service.

When we spoke, you indicated you would look into the situation. Since that time, I have not received any response, and my follow-up email has also gone unanswered.
As of now, I am still residing on my property without electrical service and relying on generator power, which is not a safe or sustainable condition.

I am again requesting clear guidance on what is required to restore power to the existing meter base. I am willing to obtain any necessary electrical permit, schedule inspections, and make any required corrections to bring the system into compliance.

At this stage, I am not requesting approval of the full building permit. I am specifically asking for a path forward to safely re-energize electrical service.
If there is a reason this cannot be done, I ask that you provide that determination in writing.

Please respond at your earliest convenience so this matter can be addressed.

Sincerely,
Todd Ferguson
[Quoted text hidden]

F

PITTSYLVANIA COUNTY, VIRGINIA

53 Main St.
Chatham, Virginia 24531
Phone (434) 432-7754

May 1, 2026

Mr. Todd Ferguson
5405 Whitmell School Road
Dry Fork, VA 24549

Re: Power Connection
5405 Whitmell School Road
Dry Fork, VA 24549

Mr. Todd Ferguson,

Concerning your email and the power to 5405 Whitmell School Road, we cannot connect the power to this property. There is no official dwelling on this site for power to be connected to.

There was a fire on this property that destroyed the existing single-wide mobile home on December 17, 2023. At the time of the fire, you were not the owner of the property. By the deed recorded, you recorded this property in your name on February 27, 2024.

On April 8, 2024, you applied for a permit to move a mobile home to the above property to replace the previously destroyed mobile home. At the time of the application, NO SAP was provided from the VA Health Department. Pursuant to the Code of Virginia § 32.1-165, prior approval is required before issuance of building permit; approved sewage system or nonconforming system. Without a SAP, the permit could not be approved. The fees for the permit were never received also due to this. This property also has delinquent taxes owed to the Treasurer Office. No permits can be issued with taxes owed on a parcel.

With regards to providing power to run the camper, that is not permitted. Pursuant to Pittsylvania County Zoning Code, Sec.35-87, section B, subsection 2) Such temporary residential use shall be allowed for a period not to exceed six (6) months with an active building permit issued to make the necessary repairs to the permanent residential structure damaged beyond the control of the owner. Unfortunately, this does not apply in this situation as you were not the owner at the time of the fire per the timeline.

The only path that I see to legally remedy this issue is:
* Obtain a SAP permit from the Health Department providing proof of a functional sewer system and the capacity of the system for bedrooms.
* Pay all delinquent taxes or fees owed to Pittsylvania County.
* Submit a new complete application for the single-wide that you intend to place on the property and include all contractors that shall be performing the work.

Otis Vaughan Chief Building Official
Otis.vaughan@pittgov.org

F

PITTSYLVANIA
COUNTY, VIRGINIA

53 Main St.
Chatham, Virginia 24531
Phone (434) 432-7754

* Submit a zoning application showing the location of the home on the property.
* Pay all fees associated with the building permit and zoning permit
* Complete the work and pass all inspections for set-up of the mobile home
* Power can be connected at that time

In addition, I need to inform you of the nonconformities of this situation. The parcel of land located at 5405 Whitmell School Road (GPIN # 1480-73-2976), is zoned R-1. The previous existing single-wide mobile home was there and had no Special Use Permit provided for it. Pittsylvania County Zoning Code Sec. 35-223 requires a Special Use Permit for the placement of a single-wide manufactured/mobile home in a R-1 zoned area. Due to this being nonconforming, Pittsylvania County Zoning Code Sec. 35-161 states that: Any such use, activity or structure which is discontinued for more than two (2) years shall be deemed abandoned and shall thereafter conform to the provisions of this Ordinance relating to the district in which the same is situated.

Please provide the County with the process that you intend to move forward with.

Should you have any questions or wish to discuss this matter, please contact me at the following email:

Sincerely,

Otis Vaughan, CBO-Chief Building Official, Pittsylvania County, VA

Otis Vaughan Chief Building Official
Otis.vaughan@pittgov.org

AMENDMENT TO COMPLAINT

Virginia Judicial Inquiry and Review Commission
P.O. Box 367, Richmond, Virginia 23218

Complainant: Todd Ferguson, Pro Se
Property Address: 5405 Whitmills School Road, Dry Fork, Virginia 24549
Original Complaint Filed: May 18 2026

NOTICE OF AMENDMENT AND SUPPLEMENTAL STATEMENT

Complainant Todd Ferguson hereby amends his previously filed complaint with the Virginia Judicial Inquiry and Review Commission to include additional evidence and to clarify the procedural history of the building permit matter at 5405 Whitmills School Road, Dry Fork, Virginia 24549.

This amendment is submitted to provide the Commission with a complete and accurate record of the conduct complained of, including newly identified evidence of a functioning septic system predating the permit denial, and the dispositive procedural history of Complainant's Writ of Mandamus proceeding in Pittsylvania County Circuit Court.

Regarding the Health Department: The Virginia Department of Health was named as a respondent in Complainant's Writ of Mandamus proceeding. Prior to resolution of that matter, the Health Department filed an order with the Circuit Court withdrawing from the proceeding entirely. It is Complainant's position that the Health Department's withdrawal reflects its recognition that its involvement in the permit denial lacked legal authority and exposed it to significant liability. Having seen the weight of the evidence and the legal exposure, the Health Department wanted no further part in this matter.

Regarding Pittsylvania County: Unlike the Health Department, Pittsylvania County refused to acknowledge the impropriety of its conduct. Despite the Health Department's withdrawal removing the sole predicate for the permit denial, the County continued to obstruct Complainant's right to a building permit. The Circuit

Court thereafter dismissed Complainant's Writ of Mandamus against the County with prejudice — an outcome that, on these facts, served to shield the County from accountability rather than resolve the matter on its merits. A dismissal with prejudice, following the Health Department's own retreat from this matter, is not a neutral procedural outcome. It is a substantive ruling that permanently bars Complainant from pursuing mandamus relief against the County — relief to which Complainant was entitled.

This amendment attaches the following exhibits in support:

Exhibit 1 — Declaration of Todd Ferguson (signed and dated)
Exhibit 2 — Receipt, George Burnett, Septic System Service (2022)
Exhibit 3 — Receipt, Septic System Pumped (2024)
Exhibit 4 — Circuit Court Order, Withdrawal of Health Department from Writ of Mandamus Proceeding
Exhibit 5 — Circuit Court Order, Dismissal with Prejudice of Writ of Mandamus Against Pittsylvania County

C

DECLARATION OF MAY 2024 LOCAL APPEAL SUBMISSION

I, Todd Ferguson, do hereby declare and state as follows:

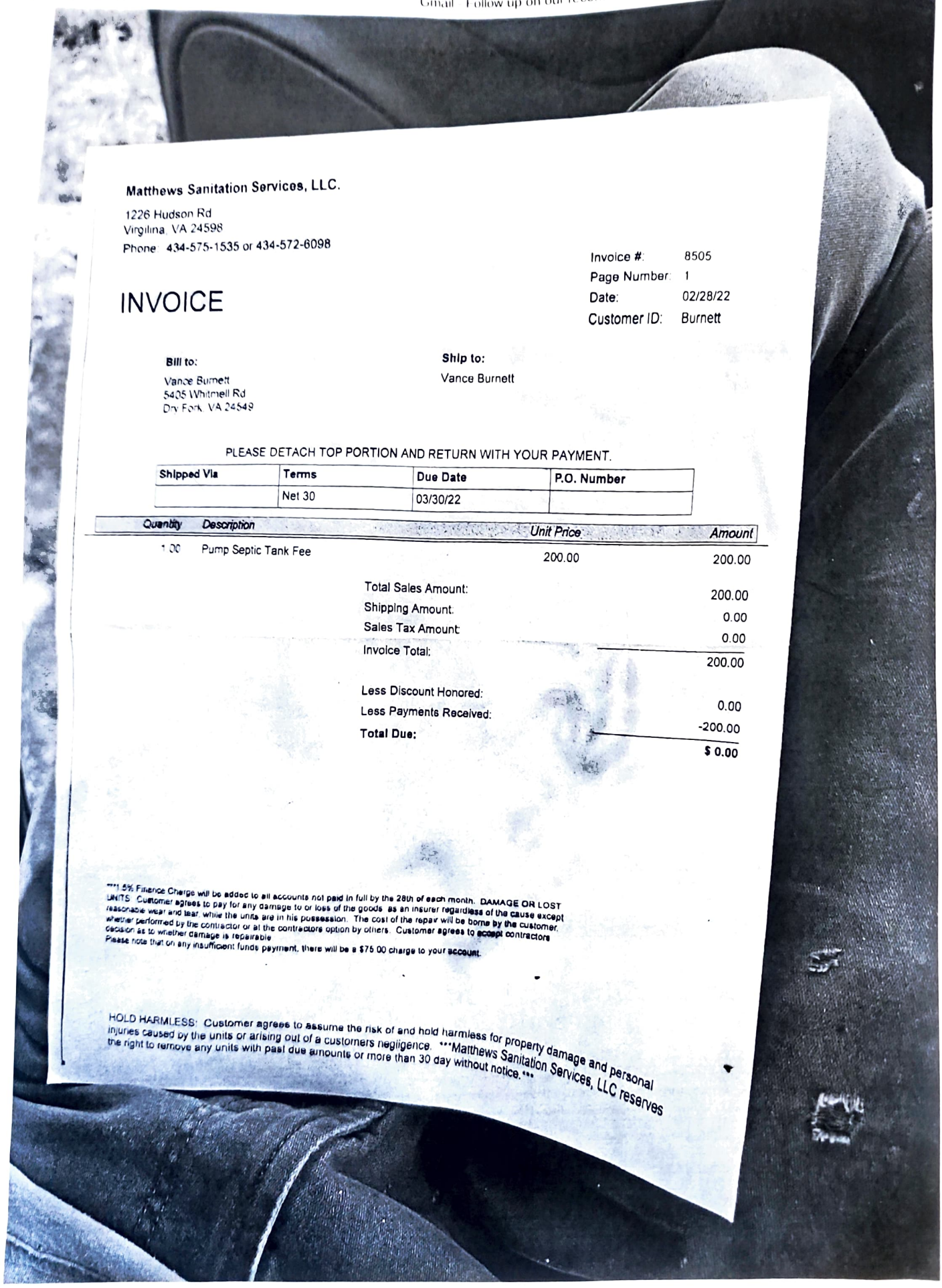
1. I am the owner of the real property located at 5405 Whitmill School Road, Dry Fork, VA 24549, and I am the applicant for the like-for-like residential structure replacement building permit filed on April 3, 2024.
2. In May 2024, following continuous verbal delays, conflicting directions, and shifting requirements from local building officials, I executed a formal local administrative appeal to challenge these arbitrary enforcement hurdles before the Local Board of Building Code Appeals (LBBCA).
3. In May 2024, I physically walked into the Pittsylvania County Department of Community Development & Building Inspections office located at 11 Court Place, Chatham, VA 24531.
4. I hand-delivered the completed physical copy of my local administrative appeal directly to Emily Ragsdale and the building department staff on duty.
5. Upon delivery, the department staff refused to log, process, or forward my paperwork to convene an LBBCA hearing. Instead, the agency intercepted my due process by demanding a $200 local processing fee while failing to provide any administrative path or form for an indigent waiver, effectively freezing my statutory right to an appeal.
6. The 25-month delay in this matter is a direct result of the local agency's failure to process this hand-delivered appeal and their ongoing failure to act on the underlying application.

I declare under penalty of perjury under the laws of the Commonwealth of Virginia that the foregoing statement is true and correct to the best of my knowledge, information, and belief.

Executed on this 18th *day of May, 2026.*

Todd Ferguson, Appellant Pro Se





Matthews Sanitation Services, LLC.

1226 Hudson Rd
Virgilina, VA 24598
Phone: 434-575-1535 or 434-572-6098

INVOICE

Invoice #: 8505
Page Number: 1
Date: 02/28/22
Customer ID: Burnett

Bill to:
Vance Burnett
5405 Whitmell Rd
Dry Fork, VA 24549

Ship to:
Vance Burnett

PLEASE DETACH TOP PORTION AND RETURN WITH YOUR PAYMENT.

Shipped Via	Terms	Due Date	P.O. Number
	Net 30	03/30/22	

Quantity	Description	Unit Price	Amount
1.00	Pump Septic Tank Fee	200.00	200.00

Total Sales Amount:	200.00
Shipping Amount:	0.00
Sales Tax Amount:	0.00
Invoice Total:	200.00
Less Discount Honored:	
Less Payments Received:	0.00
Total Due:	-200.00
	$ 0.00

***1.5% Finance Charge will be added to all accounts not paid in full by the 28th of each month. DAMAGE OR LOST UNITS. Customer agrees to pay for any damage to or loss of the goods as an insurer regardless of the cause except reasonable wear and tear while the units are in his possession. The cost of the repair will be borne by the customer, whether performed by the contractor or at the contractors option by others. Customer agrees to accept contractors decision as to whether damage is repairable.
Please note that on any insufficient funds payment, there will be a $75.00 charge to your account.

HOLD HARMLESS: Customer agrees to assume the risk of and hold harmless for property damage and personal injuries caused by the units or arising out of a customers negligence. ***Matthews Sanitation Services, LLC reserves the right to remove any units with past due amounts or more than 30 day without notice.***

Matthews Sanitation
1226 Hudson Rd.
Virgilina, VA 24598
(434) 572-6098
matthews.sanitation03@gmail.com

Receipt

Date	May 29, 2024
Paid	$250.00
Payment Method	Visa *2128
Confirmation #	150710039033

Billing Address
Todd Ferguson
5405 Whitmell School Rd
Dry Fork, VA 24549

#	Invoice	Invoice Date	P.O.	Clerk	Payments	Outstanding Balance
1	I2297	May 29, 2024		MF	$250.00	$0.00

Site: S918, 5405 Whitmell School Rd , Dry Fork , VA 24549

#	Item	Qty	Description	Rate	Amount	Tax	Amount w/ Tax
1	Pumped Septic Tank Fee	1	Pumped Septic Tank Fee	$250.00	$250.00	$0.00	$250.00

Subtotal	**$250.00**
Tax	$0.00
Total	**$250.00**

From
Todd Ferguson
5405 Whitmell School Rd
Dry Fork, VA 24549

To
Matthews Sanitation
1226 Hudson Rd.
Virgilina, VA 24598

Subtotal	$250.00
Tax	$0.00
Payments	**$250.00**
Remaining Payment Balance	$0.00

VIRGINIA:

IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY, VIRGINIA

TODD FERGUSON,	:	
Petitioner,	:	
v.	:	Case No.: CL24000802-00
PITTSYLVANIA COUNTY VIRGINIA, *Et al.*	:	
Respondents.	:	

MOTION AND CONSENT ORDER OF DISMISSAL WITHOUT PREJUDICE

COMES NOW, Petitioner, Todd Ferguson and Respondents, Virginia Department of Health ("VDH") and Wesley Marshall, in his official capacity as an employee of VDH, and advise the Court that these parties have come to a resolution and therefore wish to voluntarily dismiss this matter against VDH and Wesley Marshall. Accordingly, Petitioner, Todd Ferguson and respondents VDH and Wesley Marshall move this Honorable Court to dismiss this action with regard to VDH and Wesley Marshall *without prejudice*.

UPON CONSIDERATION WHEREOF AND FOR GOOD CAUSE SHOWN, the Court is of the opinion that the motion should be granted.

WHEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that any and all claims raised or contemplated in the above-captioned matter against respondents, Virginia Department of Health and Wesley Marshall, in his official capacity as an employee of VDH, are hereby DISMISSED WITHOUT PREJUDICE.

This matter shall remain active with regard to the remaining Respondents. Each party shall be responsible for payment of its own attorney's fees generated as part of the entry of this Order. The Clerk is further Ordered to provide a copy hereof to all counsel of record.

IT IS SO ORDERED:

12-23-24

Judge

I ask for this:

Todd Ferguson
749 FC Beverly Road
Dry Fork, Virginia 24549
(540) 355-9770
Fergusont844@gmail.com
Pro se – Petitioner

I ask for this:

Darrell W. Kuntz, III (VSB: 95491)
Office of Attorney General
202 North 9th Street
Richmond, VA 23219
(804) 371-5207
dkuntz@oag.state.va.us

IN TESTIMONY, that the foregoing is a true copy taken from the records of said Court, I, Angie R. Harris, Clerk thereof set my hand and affix the Seal of said Court This the 2nd day of January 20 25

Clerk
Circuit Court, County of Pittsylvania, VA.

Seen and No objection :

Christopher S. Dadak, Esq.
Guynn Waddell, P.C.
415 S. College Avenue
Salem, VA 24153
(540) 387-2320
chrisopherd@guynnwaddell.com
Counsel for Pittsylvania County Board of Supervisors, Emily Ragsdale, Jason Inman, J. Vaden Hunt, Esq., Vincent Shorter, and Dave Arnold

VIRGINIA:

IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY, VIRGINIA

TODD FERGUSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CL24000802-00
	)	
PITTSYLVANIA COUNTY	)	
BOARD OF SUPERVISORS, et al.	)	
	)	
Respondents.	)	

ORDER

On February 5, 2025, the parties to this action appeared to be heard on the demurrer and motion craving oyer filed on behalf of the respondents.

Having reviewed the pleadings, considered the authorities cited to the Court by counsel, considered the argument presented to the court at the hearing, and it appearing proper so to do, the Court is of the opinion and concludes that the respondents' demurrer should be sustained.

Accordingly, the Court does hereby ADJUDGE and ORDER that:

1. The respondents' motion craving oyer shall be and it hereby is GRANTED, and exhibits A and B to the motion are incorporated into the petition for a writ of mandamus;

2. The respondents' demurrer shall be, and it hereby is, SUSTAINED; and

3. The petition for a writ of mandamus shall be and hereby is DISMISSED WITH PREJUDICE.

The petitioner's objections are noted and preserved. The Clerk is directed to furnish a certified copy of this Order to the pro se petitioner and to counsel of record for the respondents and shall strike this action from the active docket.

(00561310.DOCX)

Enter this 7th day of February 2025.

Judge

We request the entry of this Order:

Christopher S. Dadak, Esquire (VSB No. 83789)
GUYNN WADDELL, P.C.
415 S. College Ave.
Salem, Virginia 24153
Telephone: 540-387-2320
Facsimile: 540-389-2530
ChristopherD@guynnwaddell.com

Counsel for Respondents

IN TESTIMONY, that the foregoing is a true copy taken from the records of said Court, I, Angie R. Harris, Clerk thereof set my hand and affix the Seal of said Court This the 7th day of Feb 2025

Clerk
Circuit Court, County of Pittsylvania, VA.

Seen and objected:

_____/signature waived pursuant to Rule 1:13_____

Todd Ferguson
749 FC Beverly Road
Dry Fork, Virginia 24549
Phone: 540-355-9770
Email: Ferguson844@gmail.com

Pro se

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Documents Submitted
By
Pittsylvania County

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PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
53 Main St.
Chatham, Virginia 24531
Phone (434) 432-7754

W. Travis Luter, Sr., CBO

Secretary to the State Building Code Technical Review Board

Code and Regulation Specialist

Virginia Department of Housing and Community Development (DHCD)

804-371-7163

travis.luter@dhcd.virginia.gov

RE: Appeal No. 26-03(Ferguson)

To: State Building Code Technical Review Board

Mr. Travis Luter, Sr.

This letter is in response to Appeal No. 26-03 that was filed on May 15, 2026, by Mr. Todd Ferguson. Mr. Ferguson filed an appeal with the State Board for denial of a building permit, and he states that he was denied an appeal on the local level with the Board of Building Appeals.

I am currently the Chief Building Official for Pittsylvania County, VA. I, however, was not employed with the County at the time of the building permit process for Mr. Ferguson. I have gathered information concerning this case and I am providing such information as found not to duplicate existing materials that are currently provided to the Review Board.

Mr. Ferguson states that he was separated from his home and has not been allowed to move forward with a replacement. I have put together the timeline and information that is available to me concerning this process.

Mr. Ferguson filed an application on April 3, 2024, for the replacement of a mobile home destroyed by fire. A permit was started in the system, permit no. S24-04-31770. Mr. Ferguson was asked to provide a Virginia Health Department SAP (Safe, Adequate, and Proper) Permit verifying the septic system capacity and the functionality of the system. It is my understanding, also identified on June 4, 2024, letter from Jason Inman, that the local Health Department agreed to waive the $150.00 fee for the SAP permit (**Exhibit A in Ferguson documents**). Mr. Ferguson refused to obtain a SAP permit. **Code of Virginia Section 32.1-165 requires prior approval before issuance of a building permit for a building designed for human occupancy.** The previous home was destroyed by a fire on December 17, 2023. A copy of that fire report is included in this documentation (**Exhibit I**). Per the fire report, the home was owned by Mr. Vance Burnette at the time and was occupied by Mr. Charles Powell, wife, and two children. This report does not reference Mr. Ferguson or give cause that he was displaced from his home due to the fire. Due to the total loss of the home and the response of fire department, there is no way to determine the number of bedrooms in the dwelling at the time and if there was any damage to the septic system. A SAP permit would verify this requirement.

Mr. Ferguson references being displaced from his home due to the fire and not obtaining a building permit. I have attached a copy of the deed **(Exhibit II)** made on February 27, 2024, in which Mr. Ferguson did take ownership of the property located at 5405 Whitmell School Road, Dry Fork, VA 24549. The fire report and the deed appear to clearly show Mr. Ferguson was not the owner of the property on December 17, 2023, at the time of the fire. All records point to Mr. Ferguson, residing at 749 F C Beverly Road, Dry Fork, VA 24549 at the time.

In the Appeal package was a copy of a Declaration of May 2024 Local Appeal Submission **(Exhibit C in Ferguson documents)**. The declaration was dated May 2026. The declaration states that Mr. Ferguson hand delivered an appeal request to the Pittsylvania County Department of Community Development, specifically to Emily Ragsdale, the Director at the time. A copy of the appeal letter **(Exhibit C-1 in Ferguson documents)** was presented to the State by Mr. Ferguson. Careful examination of the letter shows the origination date of Friday, September 27, 2024, as to the letter being written. This would be four (4) months after the time that Mr. Ferguson allegedly stated he delivered this letter to the Community Development Department. It should be noted that Mr. Ferguson's September 27, 2024 letter would have been more than thirty (30) days after the August 23, 2024 letter sent to him from then Code Official, Jason Inman.

Mr. Ferguson chose not to avail himself of the appeal process within the appropriate timeframe. Since that time, Mr. Ferguson has continued to not avail himself of the appeal process. However, Mr. Ferguson did file a Petition for Writ of Mandamus in the Pittsylvania County Circuit Court relating to this issue (which was eventually dismissed with prejudice – Exhibit IV).

More recently, Mr. Ferguson reached out again to see if I would move forward in a different direction. I provided the legal path that I see as the only way to move forward:

1. Obtain a SAP permit from the Health Department
2. Submit a new application with the correct information including contractors performing the work
3. Submit a zoning permit providing the location of the proposed new dwelling
4. Pay all delinquent taxes or fees that are owed the County. Code of Virginia 15.2-2286 Section B:Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, **including building permits** and erosion and sediment control permits, or prior to the issuance of final approval, **the authorizing body may require the applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid, unless otherwise authorized by the treasurer.** County requires proof of payment before issuing permits.
5. Pay all fees associated with the building and zoning permits
6. Complete the work and pass all inspections
7. Power can be connected
8. Certificate of Occupancy can be obtained

Mr. Ferguson has also served as a notice of intent to file Federal Civil Action against the County **(Exhibit III)** if his demands were not met:

1. $1,000,000.00 Cash
2. Immediate Electrical Release & Building Permit Issued
3. Permanent clearance of all tax and tag blocks

Otis Vaughan Chief Building Official
Otis.vaughan@pittgov.org

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
53 Main St.
Chatham, Virginia 24531
Phone (434) 432-7754

This entire process could have been avoided simply by providing the proper, required documentation to obtain a building permit. As stated earlier, the Health Department had agreed to waive the fee for the SAP permit. The tank would have needed to be opened for inspection and upon approval, a SAP permit would have been provided. Along with the approved SAP and an approved building permit, this process could be completed by now. I was not an employee at the time of this process for Pittsylvania County, but I have assumed the role of Chief Building Official effective July 15, 2025.

The facts that I have included are to the best of my knowledge including documents and statements.

Respectfully,

Otis Vaughan

Chief Building Official

Pittsylvania County, VA

C: Vincent Shorter, County Administrator

Dave Arnold, Deputy County Administrator

Matt Evans, County Attorney

PITTSYLVANIA COUNTY, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY
P.O. Box 426
Chatham, Virginia 24531
Phone (434) 432-7920

Pittsylvania County Fire Marshal Incident / Fire Report

Location of Incident	5405 Whitmell School Rd, Dry Fork Va 24549
Incident / CAD number	2023-047964
Date and Time of Incident	12/17/2023 08:56:54
Type of Incident	Structure Fire involving a mobile home
Investigator	Scott Hutcherson, PS2
Date & Time of Investigation	12/17/2023 10:32:16
Initial Fire Dept on scene & time	Tunstall Fire and Rescue 09:04:39
Officer in Charge	Chief Troy Talley

Firefighter Observations

The first firefighters arrived at 09:04:39 and reported a single wide mobile home fully involved in fire with exposures to a building and an automobile. Chief Troy Talley of the Tunstall Volunteer Fire and Rescue was in command of the scene. All occupants were out of the home and safe. The home was occupied by two adults and two children.

Owner Information

Vance Burnette

Address:

716 Constellation Dr, Axton Va 24054

Phone Number 434-836-2174

Insurance information:

Loudoun Mutual Insurance Co

Occupant Information

Charles Powell, wife and two Children

Address: Same as above

No renter's insurance

General Observations

When the firefighters arrived, they noted a fully involved single wide mobile home with two exposures, a garage building and an automobile. The occupant of the home was Charles Powell, he stated him, and his wife were asleep in the living room when they woke up to one of the chairs on fire. He stated that he and his wife got the children and escaped the home. He then stated that he had to run to one of the neighbor's homes to call 911. By the time he got back to his home it was fully involved in fire.

PITTSYLVANIA COUNTY, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY
P.O. Box 426
Chatham, Virginia 24531
Phone (434) 432-7920

Causation Observations

We as the Fire Marshal's office completed our investigation on 12/17/2023, After interviewing the occupants getting their account of the events, we feel confident the fire started in one of the living room chairs. By their account they were asleep in the living room and woke up to one of the chairs being heavily involved in fire. The occupant stated that he was very concerned that one of the children could have been playing with a cigarette lighter causing the fire. The fire marshal's office sees this as a possible cause and origin, but we cannot scientifically prove it. The extreme damage to the home prevents us from pinpointing an exact cause or area of origin. Judging by the mass loss and damage we do feel strongly that the origin of the fire was in the living room area. There is no way of doing any arc mapping or electrical circuit tracing due to the damage. This fire is being ruled undetermined and unintentional.

Evidence Collected

We took numerous photos to document the scene and the evidence noted above during our investigation, but no physical evidence was taken.

Report Completed by

Scott Hutcherson, Deputy Director/ Fire Marshal

Pittsylvania County Public Safety

Phone 434-713-8777

Scott.hutcherson@pittgov.org

EXHIBIT I

CLR240000815

R. E. Tax Prcl Nos. 1480-73-2976 & 1480-74-4175 $40,000.00 consid; $41,000.00 assd

Prepared by: Jeffrey S. Smith, Attorney-at-Law VSB #28096

Given to: Jeffrey S. Smith

Mail tax bills to: 5405 Whitmell School Road, Dry Fork, VA 24549

The existence of title insurance as to this property is unknown to the draftsman. TITLE NOT EXAMINED BY DRAFTSMAN.

THIS DEED, made this 27th day of February, 2024, between George Vance Burnette, married (Grantor), and Todd W. Ferguson, ~~un~~ married (Grantee),

-WITNESSETH-

That for and in consideration of TEN DOLLARS ($10.00) cash paid by Grantee to Grantor, and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby bargain, sell, grant and convey, with GENERAL WARRANTY and ENGLISH COVENANTS of Title, except as hereinafter set forth, unto Grantee, all those certain lots or parcels of land, with improvements thereon, lying and being in Pittsylvania County, Virginia, and more particularly described as follows (the Property):

> PARCEL NO. 1: LOT NO. 1A, CONTAINING 1.15 ACRES, more or less, fronting 200 feet, more or less, on the northeastern margin of Whitmell School Road (State Road No. 750), and more particularly described as follows: BEGINNING at a point on the northeastern margin of Whitmell School Road (State Road No. 750) at a point designated old iron, as shown on Plat Showing Property of A. M. Perkins to be conveyed to W. H. Gibson, dated June 7, 1972,

EXHIBIT II

made by E. L. Moore, C.L.S., thence a line N. 41 degrees 06' E. 258 feet, more or less, to a point in the rear; thence a new line S. 51 degrees 27' E. 200 feet to a point; thence a new line S. 41 degrees 06' W. 250 feet to a point on the northeastern margin of Whitmell School Road (State Road No. 750); thence a new line along the northeastern margin of Whitmell School Road (State Road No. 750) N. 52 degrees 38' W. 27.18 feet to a point, thence continuing along the northeastern margin of Whitmell School Road (State Road No. 750) N. 51 degrees 16' W. 172.82 feet to a point, the point and place of beginning, and being substantially as shown as Lot No. 1A on Map of Lands for A. M. Perkins, dated February 21, 1974, made by Shanks & Wilmarth, Engineers - Surveyors, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County, Virginia (the "Clerk's Office"), in Deed Book 586, at page 728, to all of which reference is hereby made for a more specific description;

PARCEL NO. 2: LOT NO. 1B, containing 2.10 acres, fronting 30 feet on the northeastern margin of Whitmell School Road (State Road No. 750), as shown on Map of Lands for A. M. Perkins, dated February 21, 1974, made by Shanks & Wilmarth, Engineers - Surveyors, recorded in the Clerk's Office in Deed Book 586, at page 728, to which reference is hereby made for a more specific description.

Parcels No. 1 and 2 BEING the same property conveyed to George Vance Burnette from Keith James Flinchum, unmarried, by deed dated April 9, 2021, recorded in the Clerk's Office on April 9, 2021, at page 0121, as instrument no. 21-02273.

This conveyance is made subject to all easements, conditions, restrictions and reservations appearing of record, or apparent on the ground, which affect the Property, and any judgments against Keith J. Flinchum.

EXHIBIT II

This conveyance is being made to a Bona Fide Purchaser as defined in Virginia Code Section 64.2-100 et seq. and the Property is not to be included in any augmented estate of the Grantor.

WITNESS the following signature and seal:

George Vance Burnette (SEAL)
GEORGE VANCE BURNETTE

COMMONWEALTH/STATE OF VIRGINIA:

COUNTY OF PITTSYLVANIA:

The foregoing instrument was acknowledged before me this 27th day of February, 2024, by George Vance Burnette, married, Grantor.

My commission expires: September, 30, 2027.

Notary Registration No.: 158408

Notary Public

JEFFREY S. SMITH
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #158408
My Commission Expires 9/30/2027

INSTRUMENT 240000815
RECORDED IN THE CLERK'S OFFICE OF
PITTSYLVANIA COUNTY CIRCUIT ON
FEBRUARY 27, 2024 AT 03:49 PM
$41.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: $20.50 LOCAL: $20.50
ANGIE R. HARRIS, CLERK
RECORDED BY: JCR

EXHIBIT II

Subject: URGENT: NOTICE OF INTENT TO FILE FEDERAL CIVIL ACTION - PRE-FILING SETTLEMENT OFFER

To: vince.shorter@pittgov.org CC: kaylyn.mccluster@pittgov.org, christopherd@guynnwaddell.com, contact@fiskgregorylaw.com, coby@warrenlawva.com, michael.taylor@pittgov.org, robin.goard@pittgov.org

Ms. McCluster: As Clerk to the Board, please ensure this formal notice is distributed to Chairman Robert Tucker and all Board members immediately.

Mr. Shorter:

Since you are new to your position, you need to understand the history of the legal and financial liability you have inherited. This letter is formal notice of my intent to file a Federal Lawsuit (42 U.S.C. §§ 1983, 1985, 1988) in the Danville Division this Monday morning, January 19, 2026.

I am fully aware of the Special Performance Review meeting and the subsequent departures of Vaden Hunt and others. While I accept these resignations as a necessary step for the County, they do not settle the damages I have suffered. The record of these events speaks for itself.

The Facts of the Case:

- **Void Orders & Color of Law: My rights were stripped using Void Orders from the General District Court. Mary Scott Swyers and James Osborne were the attorneys for Elkhorn who initiated these void orders and continued to have them enforced under the Color of Law, despite a clear lack of jurisdiction.**
- **False Imprisonment: I was illegally detained and imprisoned without lawful justification, a direct violation of my Fourth and Fourteenth Amendment rights.**

EXHIBIT III

- **Illegal Eviction & $40,000 Loss (2021): These jurisdictional violations and the actions of Swyers and Osborne resulted in the theft of $40,000 in personal property and 40 days of forced homelessness. These events were not a mistake.**
- **Attorney Misconduct: My former counsel, Coby Warren, sat by and allowed these void orders to be used against me. Furthermore, Nancy Gregory and her firm (Frisk & Gregory) participated in these violations of due process.**
- **Property Tax & Tag Harassment: Commissioner of Revenue Robin Goard and the County continue to ignore standing judicial orders regarding my tax debt. By maintaining incorrect records and placing illegal blocks on my vehicle tags, the County is in ongoing defiance of the court.**
- **Permit Harassment: For 20 months, the County has illegally blocked my building permit at 5405 Whitmell School Road. This block is preventing me from having heat as I move into my residence.**
- **Sheriff Non-Enforcement: The Sheriff's Office has failed to enforce valid court orders in my favor while actively enforcing documentation issued without jurisdiction.**

Settlement Demand: To avoid a public federal trial and the full exposure of these records, I will settle all claims for:

1. **$1,000,000 cash.**
2. **Immediate Electrical Release & Building Permit Issued.**
3. **Permanent clearance of all tax and tag blocks.**

The Deadline: To "stop the clock" on this filing, you must contact me by the close of business Friday, January 16, 2026. I am open to a logical discussion and a mutual understanding if you wish to work out an agreement before this hits the Federal Court system. If I do not hear from you by Friday at 5:00 PM, the offer is withdrawn and I will file Monday morning.

Sincerely,

EXHIBIT III

Todd Ferguson

749 fc beverly rd
Dry fork va. 24549
540 355 9770

EXHIBIT III
3 OF 3

VIRGINIA:

IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY, VIRGINIA

TODD FERGUSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CL24000802-00
	)	
PITTSYLVANIA COUNTY BOARD OF SUPERVISORS, et al.	)	
	)	
Respondents.	)	

ORDER

On February 5, 2025, the parties to this action appeared to be heard on the demurrer and motion craving oyer filed on behalf of the respondents.

Having reviewed the pleadings, considered the authorities cited to the Court by counsel, considered the argument presented to the court at the hearing, and it appearing proper so to do, the Court is of the opinion and concludes that the respondents' demurrer should be sustained.

Accordingly, the Court does hereby ADJUDGE and ORDER that:

1. The respondents' motion craving oyer shall be and it hereby is GRANTED, and exhibits A and B to the motion are incorporated into the petition for a writ of mandamus;

2. The respondents' demurrer shall be, and it hereby is, SUSTAINED; and

3. The petition for a writ of mandamus shall be and hereby is DISMISSED WITH PREJUDICE.

The petitioner's objections are noted and preserved. The Clerk is directed to furnish a certified copy of this Order to the pro se petitioner and to counsel of record for the respondents and shall strike this action from the active docket.

EXHIBIT IV

Enter this 7th day of February 2025.

Judge

We request the entry of this Order:

Christopher S. Dadak, Esquire (VSB No. 83789)
GUYNN WADDELL, P.C.
415 S. College Ave.
Salem, Virginia 24153
Telephone: 540-387-2320
Facsimile: 540-389-2530
ChristopherD@guynnwaddell.com

Counsel for Respondents

IN TESTIMONY, that the foregoing is a true copy taken from the records of said Court, I, Angie R. Harris, Clerk thereof set my hand and affix the Seal of said Court This the 7th day of Feb. 2025

Clerk
Circuit Court, County of Pittsylvania, VA.

Seen and objected:

_____/signature waived pursuant to Rule 1:13_____
Todd Ferguson
749 FC Beverly Road
Dry Fork, Virginia 24549
Phone: 540-355-9770
Email: Ferguson844@gmail.com

Pro se

EXHIBIT IV

2 of 3019

RECEIVED
OCT 18 2024
OFFICE OF
COUNTY ATTORNEY

IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY, VIRGINIA

TODD FERGUSON,

Petitioner,

v.

PITTSYLVANIA COUNTY VIRGINIA,

Re: Community Development, Emily Ragsdale, **Building Inspections,** Jason Inman, Health **Department, Wesley Marshall County Attorney,** Vaden hunt **County Administrator,** Vincent Shorter **Assistant administrator,** Dave Arnold

Respondent(s).

Case No. CL24000608-00

PETITION FOR WRIT OF MANDAMUS

COMES NOW the Petitioner, Todd Ferguson, by and through himself (pro se) and petitions this Honorable Court for a Writ of Mandamus to be issued against the Respondent(s), and in support thereof states as follows:

1. **PARTIES**

- Petitioner: Todd Ferguson, residing at 749 FC Beverly Road, Dry Fork, Virginia 24549.
- Respondent: Pittsylvania County,

re: Community development, Building inspections, Health department

Filed in the Clerk's Office of the Circuit Court of Pittsylvania County 8:05
the 18 day of October 2024 at am/pm.
Angie R. Harris, Clerk
By: Crystal Powell Deputy Clerk

EXHIBIT IV

2. **JURISDICTION AND VENUE**

- This Court has jurisdiction to issue a Writ of Mandamus pursuant to Va. Code § 17.1-513.

- Venue is proper in this Court as the Respondent is located and the acts in question occurred in Pittsylvania County, Virginia.

3. **FACTUAL BACKGROUND**

- On or about the 3rd day of April 2024 Petitioner submitted a building permit application to place a three-bedroom mobile home on his property located at 5405 Whitmill school Rd. Dr. Ford VA 24549

- The new mobile home would replace an existing three-bedroom mobile home, resulting in no increase in bedroom count or expected sewage flow.

- The existing mobile home has been removed due to a fire in December of 2023

- There are no signs of failure in the existing sewage disposal system on the property.

- Petitioner is not proposing any change to the location of the existing sewage disposal system.

- Respondent denied the building permit application, citing a need for a "safe, adequate, and proper" certification from the Health Department under Virginia Code § 35.1-165.

- Petitioner contends this requirement is misapplied based on the provisions of Va. Code § 35.1-165(C), which explicitly exempts his situation from requiring a SAP (safe adequate and proper) **(Exabit A)**

- Petitioner has made multiple attempts over [6-7] months to resolve this issue through meetings and a formal appeal letter. **(Exabit B)**

- Respondent failed to issue a formal denial in writing within the statutorily required timeframe, which is usually within 30 to 60 days, thus should have resulted in an automatic approval of the permit. **(Exabit C)**

- Respondent has threatened Petitioner with fines if he proceeds with the work.

- As a result of the denial, Petitioner has incurred significant financial hardship, including approximately $700 per month in additional rent and $500 per month in storage fees for the new mobile home, 20 hours of time @80 per hr., travel expenses at $100 totaling approximately $10,100.00 to date.

4. **GROUNDS FOR MANDAMUS**

- Respondent has a clear legal duty to issue building permits that comply with applicable laws and regulations, including Va. Code § 35.1-165.

- Petitioner has a clear legal right to the issuance of the building permit because:

a. The permit application complies with all applicable laws and regulations.

b. Under Va. Code § 35.1-165(C), no safe adequate and proper is required for the replacement of a dwelling when:

i. There is no increase in flow,

ii. There is no change in the location of the existing sewage disposal system, and you are not building anything that would encroach upon the septic system.

iii. There are no signs of failure of the existing sewage disposal system.

c. Petitioner's replacement of a three-bedroom mobile home with another three-bedroom mobile home does not result in an increase in flow.

d. Petitioner is not changing the location of the existing sewage disposal system.

e. There are no signs of failure in the existing sewage disposal system on the property.

f. The existing mobile home was burned and has been removed from the property.

g. Respondent failed to deny the permit within the required timeframe, which should result in automatic approval.

- Petitioner has no other adequate remedy at law, as administrative appeals have been exhausted or made impossible due to financial constraints.

- The issuance of the permit is a ministerial act, not a discretionary one, once all legal requirements are met.

5. **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

a. Issue a Writ of Mandamus ordering the Respondent to immediately issue the requested building permit for the placement of the new three-bedroom mobile home;

EXHIBIT IV

b. Declare that, pursuant to Va. Code § 35.1-165(C), no additional sewage disposal system permit or certification is required in this case, as there is no increase in flow, no change in system location, and no signs of system failure;

c. Order Respondent to cease any threats of fines or penalties related to this matter;

d. Award Petitioner damages in the amount of $10,100 Dollars to compensate for the additional costs incurred due to the improper permit denial;

e. Award Petitioner costs and fees associated with bringing this action;

f. Grant such other relief as the Court deems just and proper.

LEGAL AUTHORITIES

The following authorities support this Court's power to issue a Writ of Mandamus and to provide the relief requested by the Petitioner:

1. **Jurisdiction and Power to Issue Writ of Mandamus**

a. Va. Code § 17.1-513 - Jurisdiction of circuit courts

- Provides circuit courts with authority to issue writs of mandamus

b. Gannon v. State Corp. Comm'n, 243 Va. 480, 416 S.E.2d 446 (1992)

- Establishes that mandamus is the proper remedy to compel performance of a ministerial act

2. **Building Permit Issuance**

a. Va. Code § 36-105 - Enforcement of Building Code; appeals from decisions of local department

- Outlines the process for building permit issuance and appeals

EXHIBIT IV

b. Va. Code § 35.1-165 - Permits for septic tanks and other sewage disposal systems

- Specifically, subsection (C), which exempts certain dwelling replacements from requiring new permits

3. **Due Process in Administrative Proceedings**

a. U.S. Const. amend. XIV, § 1 - Due Process Clause

- Guarantees due process in state actions

b. Va. Const. art. I, § 11 - Due process of law; obligation of contracts; taking or damaging of private property

- Ensures due process rights under Virginia law

c. Goldberg v. Kelly, 397 U.S. 254 (1970)

- Establishes the right to a hearing before deprivation of certain property interests

4. **Access to Courts and Appeals**

a. Boddie v. Connecticut, 401 U.S. 371 (1971)

- Holds that due process prohibits a state from denying access to its courts solely because of inability to pay court fees

b. M.L.B. v. S.L.J., 519 U.S. 102 (1996)

- Reaffirms that access to judicial processes cannot be limited by ability to pay in certain fundamental rights cases

5. **Ministerial Duties of Government Officials**

a. Richlands Medical Ass'n v. Commonwealth, 230 Va. 384, 337 S.E.2d 737 (1985)

- Defines ministerial acts as those which officials are required to perform in a prescribed manner without regard to his own judgment

6. **Damages in Mandamus Actions**

a. Va. Code § 8.01-644 - How judgment awarded in mandamus proceedings

- Allows for damages to be awarded in mandamus proceedings

These authorities collectively establish this Court's power to issue a Writ of Mandamus, compel the issuance of a building permit, address due process violations, and award damages in this case.

Respectfully submitted,

Todd Ferguson

749 FC Beverly Road

Dry Fork, Virginia 24549

5403559770

Fergusont844@gmail.com

Date:10/17/2024

EXHIBIT IV

8 8879

VERIFICATION

I, Todd Ferguson, hereby state under oath that I have read the foregoing Petition for Writ of Mandamus and that the factual allegations contained therein are true and correct to the best of my knowledge, information, and belief.

Todd Ferguson

Sworn to and subscribed before me this 17 day of October, 2024.

Clifton Bassett Meadows | 301420

Notary Public

EXHIBIT IV

9 of 809

Documents Submitted
by
Todd Ferguson

(Page left blank intentionally)

From:	todd ferguson
To:	Luter, Travis (DHCD)
Cc:	Otis C. Vaughan; Rou, Brandon (DHCD); Scott, Christopher (DHCD); Vincent.Shorter@pittgov.org; Dave.Arnold@pittgov.org; matt@gravittlaw.com; Heidi L. Jones
Subject:	Appeal No. 26-03 (Ferguson) — Petitioner"s Written Objection to Evidence
Date:	Tuesday, June 23, 2026 12:35:54 PM

Mr. Luter,

Please see Petitioner's Written Objection to Irrelevant and Unauthenticated Evidence Submitted by Respondent, below, regarding Appeal No. 26-03.

PETITIONER'S WRITTEN OBJECTION TO IRRELEVANT AND UNAUTHENTICATED EVIDENCE SUBMITTED BY RESPONDENT

VIRGINIA: BEFORE THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
IN RE: Appeal of Todd Ferguson — Appeal No. 26-03

Todd W. Ferguson, Pro Se
5405 Whitmell School Road
Dry Fork, Virginia 24549
Phone: 540-355-9770
Email: Fergusont844@gmail.com

Date: June 23, 2026

To: W. Travis Luter, Sr., CBO
Secretary to the State Building Code Technical Review Board
Virginia Department of Housing and Community Development (DHCD)

INTRODUCTION

Petitioner Todd Ferguson respectfully submits this written objection to certain evidence submitted by Respondent Pittsylvania County in connection with Appeal No. 26-03. The Staff Document identifies three specific issues for resolution by this Board: (1) whether the local appeal fee was required; (2) whether excavation of the septic distribution box and a SAP report were required; and (3) whether a building permit may be denied for delinquent property taxes. Petitioner objects to portions of Respondent's submitted exhibits as irrelevant to these three issues, and separately objects to the authenticity of one exhibit Respondent has relied upon.

OBJECTION 1: IRRELEVANT EVIDENCE NOT PERTAINING TO THE THREE ISSUES FOR RESOLUTION

Respondent's Response includes attached materials, including the Writ of Mandamus petition filed by Petitioner in the Circuit Court of Pittsylvania County (Case No. CL24000802-00) and the subsequent order dismissing that petition with prejudice. Petitioner does not object to the Board's awareness that this prior proceeding occurred, as it is part of the relevant procedural history. However, Petitioner objects to the extent Respondent offers this material, or argues

from it, for any purpose beyond establishing that the proceeding occurred and concluded as reflected in the order itself. The substantive merits of the building permit denial were never adjudicated in that proceeding, as set forth in Petitioner's Reply, and the circuit court's procedural ruling on a discretionary writ of mandamus is not evidence relevant to whether Respondent properly applied Virginia Code Section 32.1-165 or the Virginia Uniform Statewide Building Code to Petitioner's permit application. To the extent Respondent intends for this material to suggest that the substance of Petitioner's claims has already been judicially rejected, Petitioner objects, as that is not an accurate characterization of what the circuit court actually decided.

Petitioner further notes that Respondent's submission of the dismissal order, without including the related motion and order reflecting the Virginia Department of Health's withdrawal from that same proceeding, presents an incomplete procedural record. The Health Department was a named respondent in the Writ of Mandamus. An Assistant Attorney General of Virginia raised the prospect of withdrawing the Health Department from the proceeding, prepared the motion to do so, and sent it to Petitioner. Petitioner signed that motion, and the Assistant Attorney General filed it with the court. The Health Department was withdrawn without prejudice as a result. Petitioner is including that motion and order in his own update to the factual record before this Board, so that the Board has the complete procedural sequence: the Health Department's withdrawal without prejudice, initiated by the Commonwealth's own counsel, followed by the dismissal of the remaining claim against the county with prejudice. Petitioner objects to any reliance on the dismissal order in isolation, without the context of how and why the Health Department came to be withdrawn from that same case.

OBJECTION 2: UNAUTHENTICATED DOCUMENT REPRESENTED AS THE OFFICIAL FIRE MARSHAL INCIDENT REPORT

Respondent's Response identifies an attached document as the official Pittsylvania County Fire Marshal Incident Report concerning the fire at Petitioner's property on December 17, 2023, labeling it as Exhibit I. Petitioner objects to the authenticity of this document. The document bears no signature line for the investigating officer, the Fire Marshal, or any other county official, and does not bear any certification indicating it is a true and complete copy of an official record.

Petitioner has submitted a formal public records request to the county specifically requesting a certified copy of this report. Petitioner respectfully requests that this Board decline to rely on the document submitted as Exhibit I for any factual finding regarding the circumstances of the fire, the prior ownership or occupancy of the property, or Petitioner's standing to pursue this appeal, until and unless Respondent produces a properly authenticated, certified copy of this record.

RELEVANCE TO THE THREE ISSUES FOR RESOLUTION

None of the material addressed in this objection bears on the three issues the Staff Document has identified for the Board's resolution: the appeal fee waiver, the SAP and excavation requirement, and the delinquent tax basis for denial. Petitioner respectfully requests that the Board's consideration of this appeal be confined to evidence that is both authenticated and relevant to those three issues, and that the Board disregard or give no weight to the materials addressed above unless and until the deficiencies identified in this objection are cured.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Board:

1. Decline to give weight to Respondent's dismissal order from Case No. CL24000802-00 as evidence bearing on the merits of the permit denial, in light of the incomplete procedural record presented;
2. Decline to rely on the document submitted as Exhibit I as an authenticated Fire Marshal Incident Report until Respondent produces a certified copy; and
3. Limit its consideration of the evidentiary record to matters relevant to the three issues identified in the Staff Document.

Respectfully submitted,

Todd W. Ferguson, Pro Se
5405 Whitmell School Road
Dry Fork, Virginia 24549
Phone: 540-355-9770
Email: Fergusont844@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Written Objection has been served upon the following parties via electronic mail (email) on the date indicated above:

- Otis Vaughan, Chief Building Official, Pittsylvania County Community Development — Otis.vaughan@pittgov.org
- W. Travis Luter, Sr., CBO, Secretary, State Building Code Technical Review Board, Virginia Department of Housing and Community Development — travis.luter@dhcd.virginia.gov
- Brandon Rou, Virginia Department of Housing and Community Development — Brandon.Rou@dhcd.virginia.gov
- Christopher Scott, Virginia Department of Housing and Community Development — Christopher.Scott@dhcd.virginia.gov
- Vincent Shorter, County Administrator, Pittsylvania County — Vincent.Shorter@pittgov.org
- Dave Arnold, Deputy County Administrator, Pittsylvania County — Dave.Arnold@pittgov.org
- Matt Evans, County Attorney — matt@gravittlaw.com
- Heidi Jones, Pittsylvania County — Heidi.jones@pittgov.org

Todd W. Ferguson, Pro Se

COMMONWEALTH of VIRGINIA

Department of Health

Marissa J. Levine, MD, MPH, FAAFP
State Health Commissioner

P O BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

September 1, 2017

MEMORANDUM

TO: District Health Directors
Environmental Health Managers
Office of Environmental Health Services Staff
Onsite Soil Evaluators
Professional Engineers
Onsite System Operators and Installers

GMP #2017-03

THROUGH: Marissa J. Levine, MD, MPH, FAAFP
State Health Commissioner

THROUGH: Allen Knapp, Director
Office of Environmental Health Services

FROM: Dwayne Roadcap, Director
Division of Onsite Sewage and Water Services, Environmental Engineering and Marina Programs

SUBJECT: GUIDANCE MEMORANDA AND POLICY (GMP) 2017-03
Safe, Adequate, and Proper Reviews

PURPOSE: This policy establishes the procedure for processing a building official request for safe, adequate, and proper determination pursuant to Va. Code § 32.1-165.

SCOPE:

This policy identifies the minimum review and paperwork needed to process a request from a local building official pursuant to Va. Code § 32.1-165. The referenced Code section requires building officials to seek and obtain authorization from local health departments prior to issuing a building permit. Authorization to issue those permits rests upon a health department determination the existing or proposed onsite sewage system is safe, adequate, and proper for the subject building designed for human occupancy. Exceptions to this policy will require approval and consultation with the Office of Environmental Health Services (OEHS).

The Virginia Department of Health (VDH) receives numerous types of requests for onsite sewage inspections and some situations fall outside the scope of this policy. For example, this policy would not apply to multiple requests from a building official for a community-wide need, perhaps because of a natural disaster (flooding, tornado, or hurricane). Another possible example could be when multiple sewage systems are located close together as found in a mobile home park and there is a long history of failing sewage systems at the location. In these types of situations, processing an individual request from the building official may not protect public health or groundwater supplies unless historical failures were addressed on a community-wide scale. This policy also does not address evaluation procedures for a sewage system being sold through a real estate transfer or a sewage system being evaluated as part of a revised subdivision plat.

For pools, decks, garages, pole barns, sidewalk installations, and other structures not designed for human occupancy, the local building official may ask VDH to determine whether proposed construction will interfere with the existing sewage system's function. For these situations, VDH lacks authority to determine whether the sewage system is safe, adequate, and proper as contemplated by the Code. However, as a courtesy to the building official, and by request (see attachments 2a and 2b), VDH may process the request (see attachment 3b).

AUTHORITY:

Va. Code § 32.1-165, as amended and effective as of July 1, 2016, provides authority for the procedures outlined in this policy (see attachment 4). Va. Code § 32.1-165 states, "No county, city, town, or employee thereof shall issue a permit for a building designed for human occupancy without the prior written authorization of the Commissioner or his agent." "Safe, adequate, and proper" means a treatment works that complies with the Board of Health's currently effective regulations. VDH may approve an older sewage system that does not comply with current regulations provided the sewage system (1) complies with the regulatory requirements in effect at the time of its installation, (2) is not failing, and (3) can be expected to function properly given its design and construction for the sewage flow and strength.

Additionally, Va. Code § 32.1-165 allows VDH to accept a certified evaluation from qualified private sector professionals. VDH may perform an inspection of the private sector professional's work, but is not required to do so. The law also allows an owner to voluntarily upgrade an existing onsite sewage system.

In accordance with Va. Code §§ 36-98 et seq., 32.1-12, and 32.1-163, VDH and the Virginia Department of Housing and Community Development (VDHCD) agreed to coordinate respective jurisdictional responsibilities through a memorandum of agreement (MOA). The current MOA states when a local building official asks VDH for a determination of "safe, adequate, and proper," VDH will apply the standards required by current regulations to evaluate the request (see Attachment 8). Current regulations represent the minimum standards necessary to adequately protect public health, the environment, and groundwater supplies.

Va. Code § 32.1-164.1:1 allows owners with failing sewage systems, or those who want to voluntarily upgrade their sewage system the option to request a waiver from

additional treatment and/or pressure dosing. The Commissioner shall grant any request for such waiver, unless the Commissioner finds the failing system was installed illegally without a permit. Any such waivers shall be recorded in the land records of the clerk of the circuit court in the jurisdiction in which the property on which the relevant onsite sewage system is located.

BACKGROUND:

When a property owner wants to construct a building for human occupancy, such as replace a mobile home, construct an addition to an existing dwelling, or replace a damaged or destroyed home, the owner must first obtain a building permit from the local building official. The local building official will ask VDH whether the existing sewage system is acceptable (or "safe, adequate, and proper"). In many cases, the sewage system does not comply with current health department regulations as the sewage system installation was completed under prior, less stringent requirements.

As a result, some property owners could spend considerable money to upgrade the existing sewage system to comply with current regulations, even though the owner could continue using the old sewage system (without change) but for the request for a new building permit. The amendments to Va. Code § 32.1-165 provide VDH discretion to approve an older sewage system as nonconforming to the current regulatory standards, provided the status quo remains the same (i.e., there is no change in sewage flow or strength; the sewage system was installed in accordance with regulations in effect at the time of installation; the sewage system is not failing; and the sewage system can be expected to function properly).

PROCEDURAL OUTLINE:

Staff is encouraged to work with respective local building departments to ensure excellent customer service and proper implementation of the Code and this policy. See attachment 1 for a business flow path for processing requests pursuant to Va. Code § 32.1-165; requests are expected to be processed within 15 business days of receipt as follows:

1. The local health department (LHD) receives a request from the local building official for a review pursuant to Va. Code § 32.1-165. See attachment 2a.

    a. Upon receipt of the request, if unaccompanied by an application from the property owner, LHD must contact the property owner to obtain the owner's permission for review. See attachment 2b.

2. LHD receives an application from the property owner for a review pursuant to Va. Code § 32.1-165. See attachment 2b.

    a. The request from the building official and the application from the property owner (or agent) provides authority for review pursuant to Va. Code § 32.1-165 and grants permission for staff to enter the property and perform required evaluation.

b. If the application is incomplete, staff must deny the application by notifying the owner in writing. The denial must explain the reasons why the application is incomplete and provide an opportunity to appeal. The owner can resubmit a new application at any time. See attachment 5.

c. If the request and application indicates a subject structure is not designed for human occupancy, staff should contact the local building official. In the event the building official confirms the proposed structure is not designed for human occupancy, staff can use attachment 3b for the response.

3. After receiving the request from the building official and the property owner (or agent), staff should complete a review of paper and electronic records within two business days of receiving a complete application. Staff must also request copies of septic tank pumping records or operation and maintenance (O&M) records for the onsite sewage system, if available.

   a. If the application is complete and does not contain supporting work from a licensed private sector professional, staff must schedule a site visit at a date and time acceptable to the property owner (or agent). As best practice, office support staff should schedule the site visit when the property owner (or agent) submits the completed application to the local health department.

   b. If the application is complete and contains a certified private sector evaluation as authorized by the Code[1], VDH may perform a field inspection of the private sector work before issuing an approval, but an inspection is not required. Review of private sector work should be consistent with guidelines established in GMP #2017-01 or successor policy, meaning at least 10% of each licensee's work will be evaluated by completing a Level 2 (field) review. Staff is expected to process requests and complete applications within 5 business days of receipt when accompanied by a supporting private sector certified evaluation, unless the property owner (or agent) agrees to a different timeframe. Completion of attachment 3a constitutes a certified evaluation.

      For commercial and multi-family dwellings greater than 1,000 gallons per day in design flow, the property owner must submit a certified evaluation from a private sector professional; otherwise, the application is incomplete.

   c. For conventional onsite sewage system requests without supporting work from the private sector, at a minimum, the property owner must uncover the septic tank and

[1] In accordance with Va. Code § 32.1-165, staff may accept certified evaluations from (i) a professional engineer licensed pursuant to Chapter 4 of Title 54.1; (ii) an onsite soil evaluator, onsite sewage system operator, or onsite sewage system installer licensed pursuant to Chapter 23 of Title 54.1; (iii) or other individual with an appropriate certification from the National Sanitation Foundation, or equivalent for "safe, adequate and proper."

distribution box for inspection, unless the property owner requests and receives a waiver from this policy expectation using the application provided in Attachment 2b. If the owner believes uncovering the septic tank and distribution box would create a financial or other hardship, the property owner may request an exemption. If the owner has a licensed private sector professional assist with locating and uncovering the system they can submit a private sector evaluation as previously mentioned and a VDH site visit may not be needed.

The EH Manager, Supervisor, Technical Consultant or EHS Senior may grant a waiver from uncovering components on a case-by-case basis. Staff may consider an exemption for the following reasons:

1. The owner has O&M records within the past 5 years of the request for a building permit.
2. The owner reports uncovering system components would likely cause damage to system components or would be too costly.
3. The owner has accurate field measurements for the location of the septic tank and distribution box.
4. Other hardships outweigh the benefit of an inspection of the system components.
5. Other facts indicate an inspection of the system components is not necessary (e.g., the sewage system is less than 5 years old; the tank was recently pumped; accurate records exist, etc.).

Prior to the site visit, staff should make reasonable efforts to locate and obtain any previous records for the sewage system. Staff should provide any records found to help the owner locate system components. When a record of approval exists for the sewage system, that approval and permit remains effective until the system fails or there is a change in effluent flow or strength.

Lack of records does not automatically indicate the sewage system was installed without a permit and should not be used as the sole reason for denying a request pursuant to Va. Code § 32.1-165.

If the sewage system is more than five years old and the owner has no inspection or septic tank pumping records, staff should recommend the owner pump the septic tank, unless other facts dictate pumping is unnecessary.

4. If the owner uncovers the septic tank and distribution box for inspection, staff shall observe the septic tank and distribution box's condition and require repairs or recommend voluntary upgrades using best practices and professional judgment. Staff must notify the owner in writing if a repair is required (see attachment 6).

    a. During the site visit, staff must create an accurate field sketch with "triangulated" measurements to locate system components (see attachments 3a and 3b) to the extent possible. Staff may, but is not required to, perform a site and soil evaluation to

determine the depth to soil-limiting features. All field measurements, soil evaluation observations, and site sketches shall be provided to the owner with the agency's case decision to approve or deny the request.

Using attachment 3a or 3b, depending whether the request is associated with a structure designed for human occupancy, staff must estimate the number and length of percolation trenches and update electronic records in the Virginia Environmental Information System (VENIS) database for the property (see attachment 7).

b. If prior records document compliance with current regulations for dispersal of septic tank effluent and staff determines (1) the sewage system is not failing,[2] (2) was installed in accordance with the regulation in effect at the time of its installation, (3) there is no increase in effluent strength or flow, and (4) the sewage system can be expected function properly, then staff shall approve the request as "safe, adequate and proper" (complies with current regulations) using Attachment 3a (for requests associated with human occupancy) or Attachment 3b (for requests not associated with human occupancy).

c. If sufficient information to determine whether the sewage system complies with current regulations is unavailable (i.e., unknown depth to limiting features, unknown depth of system installation, etc.), or where staff determines the sewage system does not comply with current regulations, then staff must approve the request as "non-conforming," provided (1) the sewage system is not failing, (2) was installed in accordance with the regulation in effect at the time of its installation, (3) there is no increase in effluent strength or flow, and (4) the sewage system can be expected function properly. Approval should be documented by using Attachment 3a (for requests associated with human occupancy) or Attachment 3b (for requests not associated with human occupancy).

    i. With respect to horizontal separation distances to structures already installed at the time of the site visit (shed, gazebo, sidewalk, playground set, or other landscaping feature over the footprint of the dispersal field), staff must note whether those structures could potentially have a negative impact on the proper function or ability to perform O&M. However, these features would not normally result in a denial (see paragraph 4.d below), and staff could approve the sewage system as "nonconforming" to the current regulations.

[2] 12VAC5-610-350. Failure of a sewage disposal system. For the purpose of requiring correction of a malfunctioning sewage disposal system the presence of raw or partially treated sewage on the ground's surface or in adjacent ditches or waterways or exposure to insects, animals or humans is prima facie evidence of such system failure and is deemed a violation of these regulations. Pollution of the groundwater or backup of sewage into plumbing fixtures may also indicate system failure.

ii. If staff finds an existing (unpermitted, prior to 1990) well is insufficiently offset from the existing sewage system, staff should note the horizontal separation, and make appropriate recommendations with respect to testing or relocating the drinking water source. Unless a regulatory violation exists (see paragraph 4.d below), then staff may approve the use as nonconforming.

iii. A property owner may voluntarily upgrade the sewage system if desired.

d. If staff determines facts warrant denial of the request for "safe, adequate and proper," staff must issue a Notice of Alleged Violation (NOAV) accurately describing and explaining why observations indicate the property owner may be violating applicable regulation and law, and provide the property owner with a right to appeal. The owner may file a new application to repair or replace the existing sewage system, or appeal the adverse decision, in accordance with the NOAV and denial for safe, adequate and proper pursuant to Va. Code § 32.1-165.

Upon approval of a repair, staff may provide a copy of the construction permit to the local building official and issue an approval using Attachment 3a or 3b. The property owner may also request the system be evaluated according to current regulations. For systems without documentation, this requires a new site and soil evaluation.

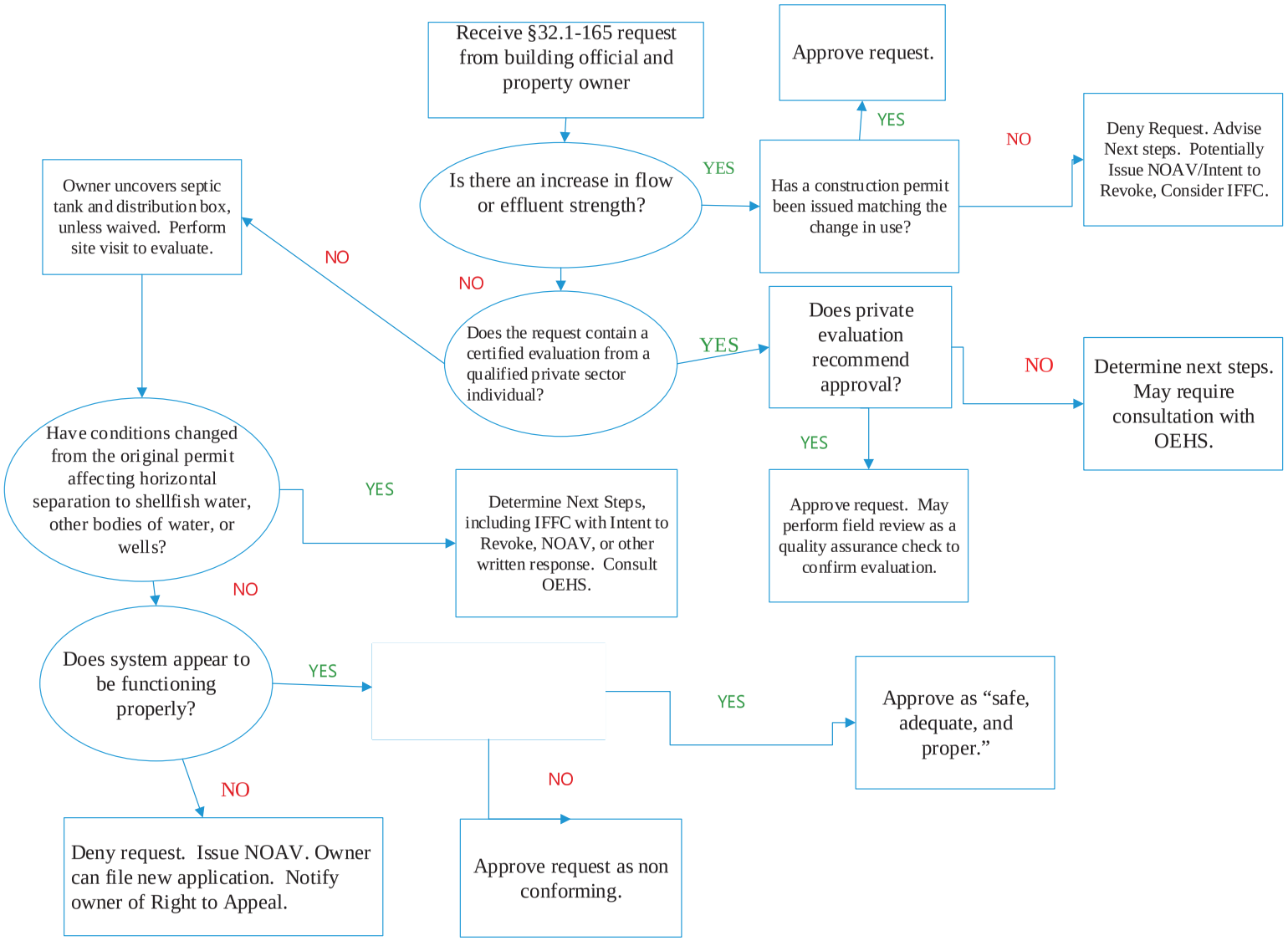
5. For an alternative discharging sewage system or an alternative onsite sewage system (AOSS), the owner should supply the most recent O&M records. If the request is within 12 months of the most recent operator report indicating the system is functioning properly, a site visit by VDH staff is not necessary. Staff should perform a site visit in accordance with guidelines established in GMP #2017-01or successor policy, meaning at least 10% of each licensee's work will be evaluated by completing a Level 2 (field) review. Upon review, staff may approve the system, either as "non-conforming," or meeting current regulations, depending on the facts gathered from the files.

   If no current operator report for the alternative discharging system or alternative onsite sewage system is available, staff must deny the request and provide the owner with a NOAV.

- Attachment 1 - Flow Chart: SAP Review of an Existing System
- Attachment 2a - Request from local building official
  2b - Application from property owner
- Attachment 3a - Evaluation Form (designed for human occupancy)
  3b – Evaluation Form (not designed for human occupancy)
- Attachment 4 - Virginia Code § 32.1-165
- Attachment 5 - Denial letter
- Attachment 6 - NOAV letter
- Attachment 7 - Screenshot of data entry requirements for VENIS
- Attachment 8 - MOA between VDHCD and VDH

Attachment 1

Flow Chart: Review of Existing Systems



Attachment 2a: **Application for Health Department Review from Building Official**

COUNTY SEAL HERE

Request for Health Department Review

Building/Zoning Department Use Only:

The _____ (County/City) Building and/or Zoning Department hereby requests that the Virginia Department of Health evaluate the onsite sewage system and/or water supply on the property described below to determine whether:

The existing onsite sewage disposal system is safe, adequate and proper (SAP) for the proposed use (see §32.1-165 of the *Code of Virginia*). Note: This block can only be marked if the structure is designed for human occupancy.

The proposed use will encroach upon the existing onsite sewage disposal system and/or water supply.

Other or Comments:

_____
_____
_____
_____
_____
_____

Attachments (sketch, building plans, plat)

Building/Zoning Official Signature: _____

Date:_____

Note: This written application is not required if an electronic process is already in place for the local building official to request a SAP evaluation from the local health department.

Attachment 2b: Request for Health Department Review
To Be Completed By Property Owner Or Agent:

Owner Name: _____ Home Telephone: _____
Mailing Address: _____ Office Telephone: _____
_____ Cell Phone: _____
e-mail address: _____

Agent Name: _____ Home Telephone: _____
Mailing Address: _____ Office Telephone: _____
_____ Cell Phone: _____
e-mail address: _____

Property Location (provide directions from local health department):
_____
_____

Tax Map: _____ PIN # _____
Subdivision Name (if applicable):_____ Lot # _____

Current Use (include # of Bedrooms):_____
Proposed Use (include # of Bedrooms):_____
Please attach any recent records of onsite system (Pump-outs, or Operation and Maintenance Reports).
Has property been occupied during previous 30 day period: Y or N
The septic tank and distribution box are uncovered for inspection: Y or N Components will be uncovered by _____ (date).
(To prevent potential damage to the system VDH recommends homeowners first contact Miss Utility for marking any underground utilities. The septic tank and distribution box should be carefully excavated by hand.)
Uncovering the septic tank and distribution box would cause an undue hardship: Y or N If Y reasons for hardship:
_____
(Examples of hardship: system is relatively new, recently pumped, accurate records exist, or excavation would likely damage components.)

Related Building Permit #:_____ Health Department I.D.#: _____

PLEASE *READ CAREFULLY:*

This report is only intended to address the above referenced request and does not address evaluation procedures for sewage systems being sold through real estate transfers, or systems and water supplies being re-used as part of a subdivision process. This document specifically addresses VDH's implementation of § 32.1-165 of the Code of Virginia and is not to be used for any unauthorized use.

The property boundaries and building locations are clearly marked or identified at the property. I give permission to the Virginia Department of Health to enter the property described, if necessary, for the purpose of processing this application. An accurate sketch of the property, existing structures, wells, sewage disposal systems, and proposed structure(s) is attached.

Owner/Agent Signature:_____ Date:_____

Attachment 3a:

Findings:
Review pursuant to Va. Code § 32.1-165

Name: _____

Phone Number: _____

Subdivision: (If Applicable) _____ Section: _____ Lot: _____

Physical Address: _____

Is the existing onsite sewage system safe, adequate and proper or approvable as nonconforming for the proposed use?

_____ (**YES)** Comments: _____

_____

_____ (**NO)** Comments: _____

_____

Other Comments:

_____

_____

_____

_____

_____

Please note that each evaluation is based on a case by case basis and may or may not include a Department site visit. There is no guarantee given or implied that this sewage disposal system will continue to function properly in the future. In the event of a sewage disposal malfunction, the owner will be responsible for any repairs or other actions deemed necessary by the Department to correct the situation.

Turn Document Over for Site Sketch and Signature.

Site Sketch:

SIGNATURE: _____
DATE:_____

An owner may challenge a denial by requesting an Informal Fact-Finding Conference (IFFC) within 30 days of receipt of a decision. All requests for an IFFC must be sent in writing to the District Health Director and cite the reason or reasons for the request.

Attachment 3b: **Findings and Worksheet for a Courtesy Review of Building Plans not designed for Human Occupancy**

Name: _____

Phone Number: _____

Subdivision: (If Applicable) _____ Section: _____ Lot: _____

Physical Address: _____

Section 1 Courtesy Review:

For pools, decks, garages, pole barns, sidewalk installations, and other structures not designed for human occupancy, the local building official may ask VDH to consider whether proposed construction could impact the existing sewage system's function. For these situations, VDH lacks authority to determine whether the sewage system is safe, adequate, and proper as contemplated by the Code. However, as a courtesy to the building official, and by request (see attachments 2a and 2b), VDH may process the request.

Comments:_____

_____

_____

_____

_____

_____

There is no guarantee given or implied that the proposed construction will not interfere with any components of the sewage disposal system and/or water supply. The Department is simply performing a courtesy review for the locality to try and identify any potential conflicts based on information available. In the event of damage to a sewage disposal system or well during construction, the owner will be responsible for any repairs or other actions deemed necessary by the Department to correct the situation.

Turn Document Over for Site Sketch and Signature.

Site Sketch:

Health Department Official Signature:

NAME: _____ SIGNATURE: _____

DATE: _____

Attachment 4: **Copy of Va. Code § 32.1-165**

"§ **32.1-165**. Prior approval required before issuance of building permit; approved sewage system or nonconforming system.

A. No county, city, town, or employee thereof shall issue a permit for a building designed for human occupancy without the prior written authorization of the Commissioner or his agent. The Commissioner or his agent shall authorize the issuance of such permit upon finding that safe, adequate, and proper sewage treatment is or will be made available to such building, or upon finding that the issuance of such permit has been approved by the Review Board. "Safe, adequate, and proper" means a treatment works that complies with applicable regulations of the Board of Health that are in effect at the time of application.

B. The Commissioner shall develop an application and procedure for evaluating an installed treatment works and to determine whether to authorize issuance of a permit for a building designed for human occupancy.

C. Nothing in this section shall be construed to prevent the Commissioner or his agent from approving the use of a nonconforming treatment works, provided the treatment works was installed in accordance with the Board of Health's applicable regulations in effect at the time of its installation, is not failing, and is designed and constructed for the sewage flow and strength expected from the building.

D. Nothing in this section shall be construed to prevent an owner of real property from receiving a voluntary upgrade pursuant to § **32.1-164.1:3**, or other permit, as a condition of approval as a nonconforming treatment works.

E. The Board, Commissioner, and Department may accept a certified evaluation from (i) a professional engineer licensed pursuant to Chapter 4 of Title 54.1; (ii) an onsite soil evaluator, onsite sewage system operator, or onsite sewage system installer licensed pursuant to Chapter 23 of Title 54.1; (iii) or other individual with an appropriate certification from the National Sanitation Foundation, or equivalent. The Department may perform an inspection of the certified evaluation but shall not be required to perform a field check prior to the issuance of the written authorization in subsection A."

Attachment 5: Denial Letter

<LHD address>

<Date>

<owner>
<owner address>

Certified Mail _____

RE: <property address>

Dear <owner>:

This letter is to inform you that _____has evaluated your request for a Safe, Adequate, and Proper (SAP) review pursuant to Va. Code § 32.1-165 filed on _____. Unfortunately, we are not able to approve the request for the following reason(s):

{INSERT REASONS, i.e.,

The onsite system is not designed for the expected flows.
The proposed building plan does not meet setback requirements for the septic system.
The existing onsite system appears to be failing.}

This decision is based on the information filed with your application and the request from the local building official. You have the right to appeal this decision. If you wish to appeal, you can submit your request to _____ at _____ within **thirty (30) days** from the date you receive this letter. Please include any facts or other data that would support your appeal.

If you have any questions or if this office may be of further service, please let us know.

Sincerely,

Environmental Health Specialist

CC: Building Official

Attachment 6: **Draft NOAV Letter**

COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF HEALTH
<LHD address>
<Today>

NOTICE OF ALLEGED VIOLATION

<OwnerName>
<OwnerMailingAddress>
<OwnerMailingCity>, <OwnerMailingState> <OwnerMailingZip>

Re: (Physical Address, Location, Lot#, Tax Map #, ect) **Certified Mail**

Dear <OwnerName>:

This Notice is to inform you that the <FacilityLocationCounty> County Health Department ("local health department") has observed certain conditions on your property that may constitute threats to public health and the environment. The following observations form the basis for the issuance of this notice:

On (**insert date**), _____, Environmental Health Specialist with the local health department conducted an inspection of your sewage treatment system ("system") _____.
The inspection revealed:

- The system appeared to discharge untreated or partially treated sewage effluent into the waters of the Commonwealth and not operating in accordance with the effluent limitation set forth in your general permit.
- Aerator appeared to not be functioning properly.
- Aerator missing.
- No disinfectant tablets were provided in the chlorinator.
- etc.
- Your current operation permit appears to have expired on _____.
- It appears that a valid monitoring contract is not provided.
- It appears that a valid maintenance contract is not provided.
- The local health department has not received required monitoring and maintenance reports.

These observations, if verified, constitute real or potential threats to public health and to the ground and surface waters of the Commonwealth.

This notice is to remind you that it is your responsibility, as owner of your property, to operate the facilities in accordance with the applicable laws and regulations of the State Board of Health

("Board"). The Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq., the "*Regulations*") and the Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings Regulations (12 VAC 5-640-20 et seq., "*Discharging Regulations*") which contain the following provisions:

12 VAC 5-610-80. Sewerage systems and/or treatment works required.

A. The discharge of untreated sewage onto the land or into the waters of the Commonwealth is prohibited.
B. No owner, person, or occupant shall discharge treated or untreated sewage onto the land, into the soil or into the waters of the Commonwealth without a valid permit from the commissioner or, as appropriate, a certificate issued by the Department of Environmental Quality in accordance with Title 62.1 of the Code of Virginia.

C. All buildings, residences, and structures designed for human occupancy, employment or habitation and other places where humans congregate shall be served by an approved sewerage system and/or treatment works. An approved sewerage system or treatment works is a system for which a certificate to operate has been issued jointly by the department and the Department of Environmental Quality or a system which has been issued a separate permit by the commissioner.

12 VAC 5-610-350. Failure of a sewage disposal system. *For the purpose of requiring correction of a malfunctioning sewage disposal system the presence of raw or partially treated sewage on the ground's surface or in the adjacent ditches or waterways or exposure to insects, animals or humans is prima facie evidence of such system failure and is deemed a violation of these regulations. pollution of the groundwater or backup of sewage into plumbing fixtures may also indicate system failure.*

12 VAC 5-640-430.A. Performance requirements. *Discharge limits. All systems operated under this chapter shall meet the effluent limitations set forth by the State Water Control Board in the General Permit.*

12 VAC 5-640-220.B. Permits; general. *Operation permit required. Except as provided in 12 VAC 5-640-310, no person shall place a discharging system in operation, or cause or allow a discharging system to be placed in operation, without obtaining a written operation permit.*

12 VAC 5-640-220.D. Permits; general. *Operation permit validity. Except as provided for in 12 VAC 5-640-280, operation permits shall be valid for a period of time not longer than the General Permit and the maintenance contract required pursuant to 12 VAC 5-640-500 B or the monitoring contract required pursuant to 12 VAC 5-640-490 F, whichever expires first. The operation permit may be renewed upon written proof of a new or renewed maintenance contract or monitoring contract provided they are all valid for not less than 24 months. The period of renewal shall coincide with the expiration date of the document with the shortest period of validity.*

12 VAC 5-640-490.A. Monitoring. *General. Discharging systems that discharge improperly treated effluent can endanger public health and threaten environmental resources. All discharging*

systems shall be routinely inspected and the effluent sampled to determine compliance with the effluent limitations set forth by the State Water Control Board in the General Permit. All testing requirements contained in this chapter are the responsibility of the system owner to have collected, analyzed, and reported to the department.

12 VAC 5-640-490.F. **Monitoring.** *Monitoring contract. In order to assure monitoring is performed in a timely and competent fashion, the owner of each system shall have a contract for the performance of all mandated sampling with a person capable of performing the sampling and analysis of the samples. This requirement may be met by including the performance of all testing and monitoring as part of the maintenance contract in accordance with 12 VAC 5-640-500 C 1. Failure to obtain or renew a monitoring contract shall result in the suspension or revocation of the operation permit as described in 12 VAC 5-640-280. When the district health director or the sanitarian manager find that the homeowner is capable of collecting and transporting samples to an approved laboratory in compliance with this chapter, the requirement for having a valid monitoring contract may be waived. Waiving of this requirement shall be done only on an individual basis and shall reflect the competency of the individual based on prefessional, training, or other educational experience. In the event the individual for whom this section is waived fails to collect three or more of any of the required samples in any five-year period, the district sanitarian or the health director may reinstate the requirement for a monitoring contract.*

12 VAC 5-640-500.A. Maintenance. *General. Due to the potential for degrading surface water and ground water quality or jeopardizing the public health, or both, routine maintenance of discharging systems is required. In order to assure maintenance is performed in a timely manner a maintenance contract between the permit holder and a person capable of performing maintenance is required.*

12 VAC 5-640-500.B. Maintenance. *Maintenance contract. A maintenance contract shall be kept in force at all times. Failure to obtain or renew a maintenance contract shall result in the suspension or revocation of the operation permit as described in 12 VAC 5-640-280. The operation permit holder shall be responsible for ensuring that the local health department has a current copy of a valid maintenance agreement. When a maintenance contract expires or is canceled or voided, by any party to the contract, the owner shall report the occurrence to the local health department within 10 work days.*

12 VAC 5-640-510. Information to be reported.

A. Who is responsible for reporting. All owners issued an operation permit for a discharging system are responsible for reporting the results of all mandated testing to the department.

B. What must be reported. All formal compliance testing, informal testing, repairs, modifications, alterations, expansions and routine maintenance must be reported.

C. When reports are due. All reports and test results must be submitted within 15 working days of the sample collection.

D. Where to report results. All reports and test results shall be submitted to the local or district office of the health department. When formal testing indicates a discharge limit established in the General Permit is being exceeded or when informal testing indicates a discharging system may be in violation of the General Permit requirements, the maintenance provider shall be notified by the owner within 24 hours.

12 VAC 5-640-520. Failure to submit information. *Failure to conduct mandatory monitoring or to report monitoring results as required in 12 VAC 5-640-490 and 12 VAC 5-640-510 may result in the suspension or revocation of the owner's operation permit.*

Violations of the Regulations and Discharging Regulations may result in enforcement actions provided under Title 32.1 of the ***Code of Virginia***.

The local health department recommends that you take the following steps within the timeframes described to mitigate the effects of potential sewage discharge:

Immediately cease discharging untreated or partially treated sewage onto the ground or water of the Commonwealth.

Immediately contract with an individual who holds a valid Sewage Handling Permit from the Virginia Department of Health to pump and haul out the sewage system and dispose of the contents on an emergency basis in accordance with section 12 VAC 5-610-599.1 of the *Regulations*.

Immediately treat the ground surface that has been exposed to raw or partially treated sewage with a layer of lime in order to destroy any remaining pathogenic microorganisms and to reduce odors.

I should advise you that, while the Virginia Department of Health ("VDH") and the State Health Commissioner ("Commissioner") has not made a decision on whether to initiate enforcement action against you at this time, your failure to institute the recommendations above may affect further investigation and potential enforcement by the Commissioner and VDH.

This notice sets forth the local health department's observations and recommendations, but it is not a case decision as defined in §2.2-4001 of the *Code of Virginia*. If you have additional facts that you believe bear on this situation and you would like to schedule an informal-fact finding conference pursuant to §2.2-4019 of the *Code of Virginia,* please contact <manager>, Environmental Health Manager at <phone number> within fifteen (15)days of the receipt of this notice. Bear in mind should you fail to attend any scheduled IFFC absent good cause, the Health Director may issue an adverse case decision.

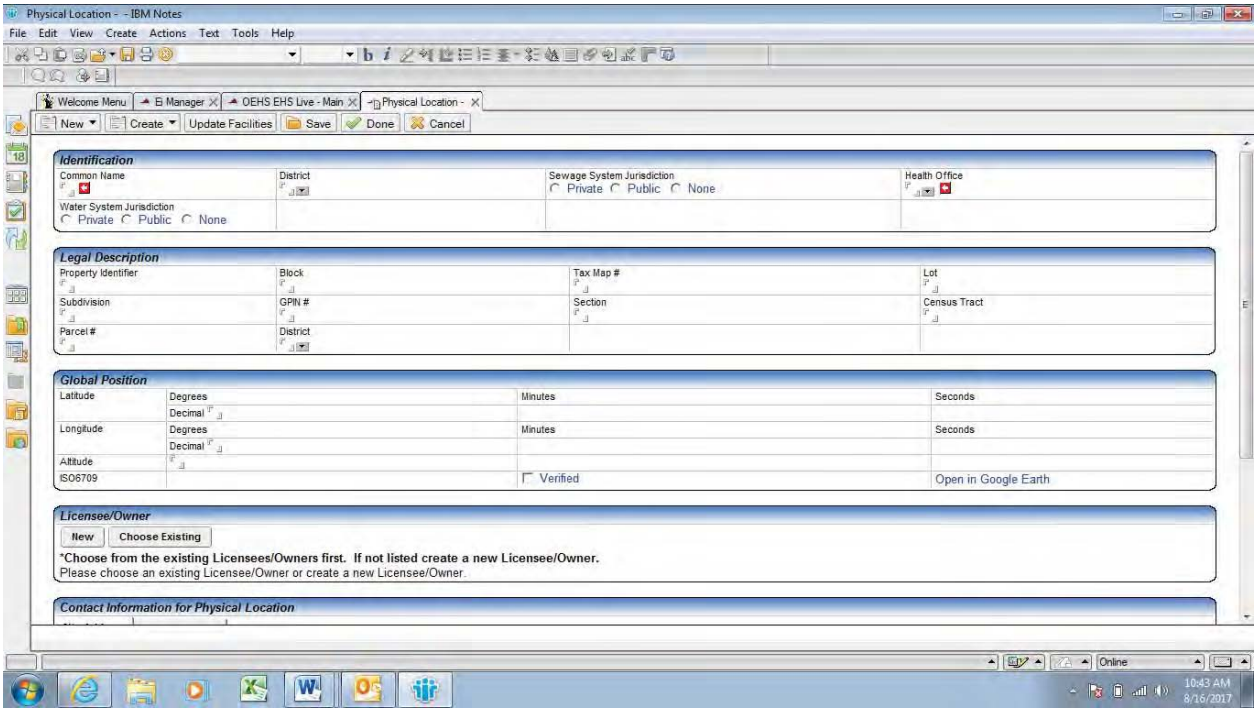
Sincerely,

<EHS>
Environmental Health Specialist
CC: <FacilityLocationCounty> County Commonwealth Attorney
<Director>Director Health District

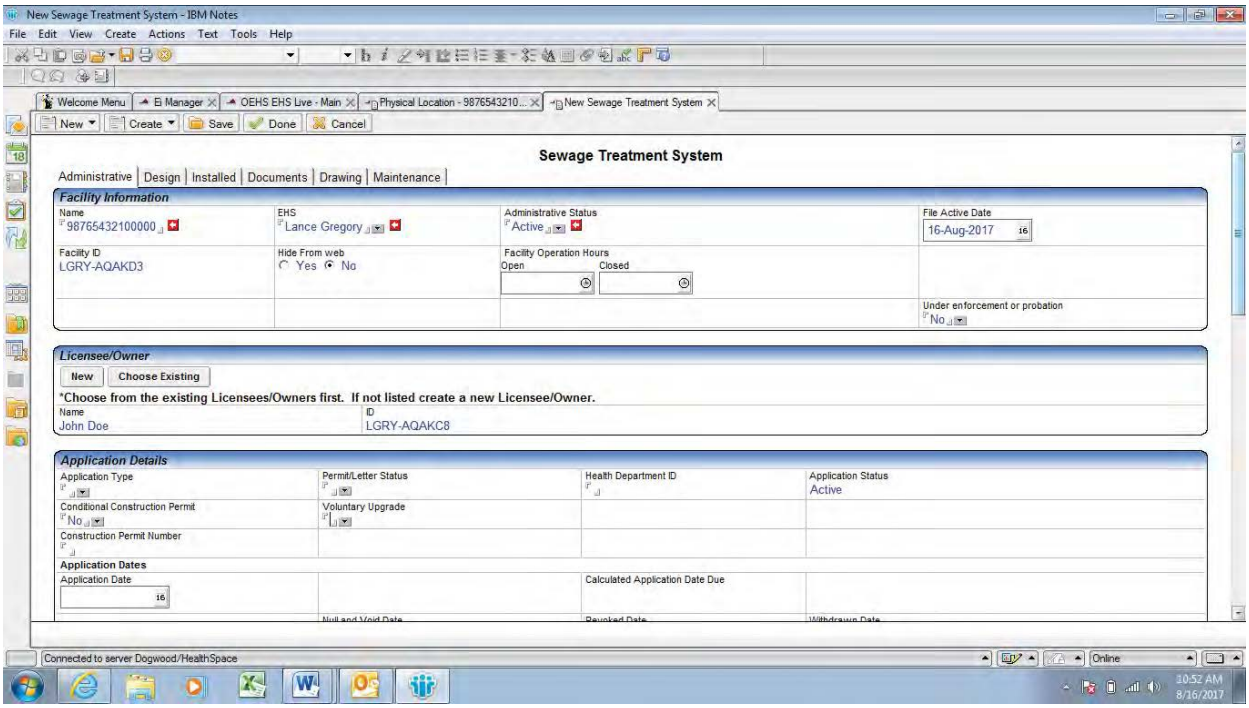
Attachment 7: Data entry requirements for VENIS.

For entry of SAP request where no system information is currently in VENIS, complete all the steps below. For entry of SAP request with current information in VENIS, skip to number 3.

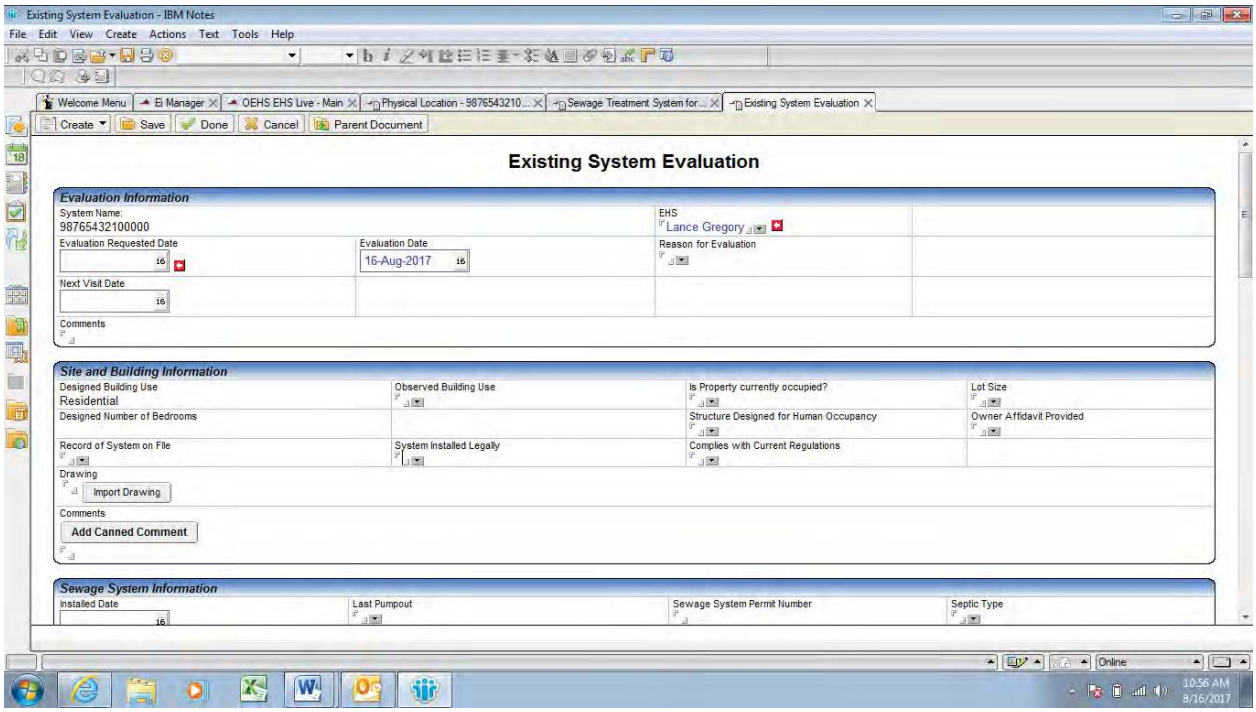
1. Create a physical location for the onsite sewage system. Use the same process as creating a new physical location for a construction permit application.



2. Create a new sewage system. Enter available information for the existing onsite sewage system based on the permit on file, if available. The data entry must include the number of bedrooms for which the existing system was sized, as this information transfers to the existing system evaluation page.



3. Create an existing system evaluation.



When filling out the existing system evaluations:

- Evaluation Requested Date = Date request for HD review is received from building official.

- Evaluation Date = Date LHD staff perform their review (site visit date for bare applications, Level I/Level II review for private sector applications).

- Reason for Evaluation = Building Permit.

- Observed Building Use = Residential or Non-residential as appropriate.

- Is Property Currently occupied? = Yes, if owner noted that property has been occupied during previous 30 day period. No, if owner noted that property has not been occupied during previous 30 day period.

- Structure Designed for Human Occupancy = Yes, if the application was submitted pursuant to 32.1-165. No, if the application is for a courtesy review for a structure not designed for human occupancy.

- Owner Affidavit Provided = Yes, if an application was also received from the owner. No, if an application was not received from the owner.

- Record of System on File = as applicable.

- System Installed Legally = Yes, unless a NOAV will be issued for illegal installation.

- Complies with Current Regulations = Yes, if system will be approved as SAP. No, if system will be approved as non-conforming. Leave blank if system was installed illegally and NOAV will be issued.

- Drawing = Insert a scanned copy of the site sketch for the SAP review.

- For the "Sewage System Information" fields, enter information as applicable from records review and site visit. For "System properly functional?" enter "Yes" unless an NOAV will be issued for a failing system. For "Sewage Evaluation Results" only enter "Denied" when an NOAV will be issued for the existing system because: 1) the system does not comply with the regulatory requirements in effect at the time of its installation; 2) the system is failing; or 3) the system is not expected to function properly given its design and construction for the sewage flow and strength.

- For "Evaluation Conclusion", under the "Summary" section, only enter "Denied" when an NOAV will be issued for the existing system because: 1) the system does not comply with the regulatory requirements in effect at the time of its installation; 2) the system is failing; or 3) the system is not expected to function properly given its design and construction for the sewage flow and strength.

Attachment 8:

MEMORANDUM OF AGREEMENT

June 27, 2013

Between the Virginia Department of Housing and Community Development (VDHCD) and the Virginia Department of Health (VDH)

In accordance with Va. Code §§ 36-98 et seq., 32.1-12, and 32.1-163 et seq., the VDH and the VDHCD agree to coordinate their jurisdictional responsibilities set forth in the Virginia Uniform Statewide Building Code (13 VAC 5-62, the "building code") and applicable VDH regulations ("VDH regulations")[1] as follows:

Codes and Regulations: Adoption and Enforcement

1. VDHCD adopts and promulgates the building code. The local jurisdiction's building department enforces the building code.

2. The Board of Health adopts and promulgates VDH regulations. The Board of Health and VDH jointly enforce VDH regulations.

Definitions:

"Alternative Discharging System" means a treatment works that requires a permit from VDH pursuant to 12 VAC5-640.

"Onsite Sewage System" means a conventional or alternative onsite sewage system as defined in Va. Code § 32.1-163, which requires a permit from VDH pursuant to 12 VAC5-610 or 12 VAC5-613.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment.

"Graywater system" means a treatment works that disperses untreated wastewater from bathtubs, showers, lavatory fixtures, wash basins, washing machines, and laundry tubs. A graywater system does not include wastewater from toilets, urinals, kitchen sinks, dishwashers, or laundry water from soiled diapers.

[1] VDH implements the Sewage Handling and Disposal Regulations (12 VAC 5-610); Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings (12 VAC 5-640); Regulations for Alternative Onsite Sewage systems (12 VAC5-613); and Private Well Regulations (12 VAC5-630).

Treatment works applicability

1. The VDHCD and VDH agree on the following interpretation of their relevant regulations: The building code will apply to all internal service plumbing components of a treatment works up to the point of connection of the building drain to the building sewer.

2. The building code will apply to electrical and structural components of a treatment works, except as provided below.

    a. The VDH regulations will apply to control panels for the treatment works and its functional treatment components, including electrical devices for pump stations, master disconnect switches, manual override switches, motor control panels, and separate motor control centers when specified by the designer or required by VDH.

    b. VDH regulations and policies do not consider cord and plug connections associated with a treatment works. If allowed by the building code, cord and plug connections for the treatment works must be located in a weather proof box when outside of the wet well to prevent exposure to weather conditions.

3. The VDH regulations will apply to the treatment and functional components of a treatment works regardless of location (inside or outside of the building or structure), except as provided below.

    a. The building code will apply to graywater systems not regulated by VDH, such as buildings or structures connected to a public sewer system.

4. The VDH regulations will apply to components of a treatment works that are external to the building or structure. External components include the septic tank, pump station, distribution box or mechanism, piping, or additional treatment devices such as blowers and associated electrical devices.

Reviews pursuant to Va. Code § 32.1-165

The VDHCD and VDH commit to ensure no county, city, town or employee thereof shall issue a building permit for the construction of a new building designed for human occupancy without the prior written notification of the State Health Commissioner or the Commissioner's designated agent that safe, adequate, and proper sewage treatment is or will be made available to such building.

1. VDH approves a treatment works three ways; by issuing: (1) a certification letter that recognizes a treatment works can be designed sometime in the future, which does not expire; (2) a subdivision letter that describes future treatment works for each subdivision lot, which also does not expire; or (3) a construction permit,

which describes the actual construction of the treatment works and is valid for 18 months with one 18 month renewal under certain conditions.

2. **Pursuant to Va. Code § 32.1-165**, the local building official may use the certification letter, subdivision letter, or construction permit to issue a building permit. The local building official understands that a treatment works cannot be constructed until the local health department issues a construction permit. The footprint of the building or structure cannot interfere with the setbacks required by the VDH regulations.

3. **Pursuant to Va. Code § 32.1-165**, the local building official will contact the local health department as provided by local and routine processes, which might differ in various jurisdictions, upon finding that issuance of the building permit might have an impact on the function of an existing treatment works already installed. If VDH requests an application for review of the installed treatment works, then the application must be completed before VDH can determine whether the treatment works is acceptable.

    a. If the wastewater flow, capacity, or effluent strength increases for the existing treatment works, then **pursuant to Va. Code § 32.1-165,** the building official must rely on a valid construction permit from VDH before issuing the building permit. A certification letter or subdivision approval will not be sufficient.

4. VDH will only approve a treatment works if it complies with VDH regulations and associated policies. VDH will notify the local building official as soon as practical whether a treatment works was installed correctly, by issuance of an operation permit. **Pursuant to Va. Code § 32.1-165,** the local building official will not issue a certificate of occupancy until after VDH has issued the operation permit.

Conflict Resolution

Both VDH and VDHCD will cooperate in resolving any technical conflicts between VDH regulations and the building code. The agencies will develop and implement procedures as needed to ensure collaboration between local building officials and local health departments. Appropriate amendments, edits, additions, or deletions will be made to the VDH regulations and the building code when necessary. This MOA is a statement of the intentions of VDHCD and VDH to coordinate their efforts in order to carry out their statutory duties. It is not a contract and it is not enforceable in any judicial or administrative forum: it does not create any rights or duties of any third party. It does not purport to modify the statutory duty of either signatory agency.

This Agreement is effective as of the date written above and is in effect until terminated either by mutual written consent of the parties or by one signatory party with 60 days' written notice to the other party. This Agreement may be amended by mutual written consent of the parties.

The undersigned agree to the Conditions of this Agreement.

William, C. Shelton, Director
Department of Housing and
Community Development

Cynthia Romero, MD, FAAFP
State Health Commissioner
Department of Health

STATE BUILDING CODE TECHNICAL REVIEW BOARD

COMMONWEALTH OF VIRGINIA

IN RE: Appeal of Todd Ferguson — Appeal No. 26-03

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE AND RESPONSE TO STAFF DOCUMENT ISSUES FOR RESOLUTION

Todd W. Ferguson, Pro Se | 5405 Whitmell School Road, Dry Fork, Virginia 24549
Phone: 540-355-9770 | Email: Fergusont844@gmail.com

I. INTRODUCTION

Petitioner Todd Ferguson respectfully submits this Reply to the Response filed by Pittsylvania County Chief Building Official Otis Vaughan on behalf of Respondent Pittsylvania County, Virginia, and further responds to the three Issues for Resolution identified in the Review Board Staff Document. The Staff Document correctly frames the central questions before this Board. Petitioner addresses each issue directly and in turn, and further responds to the mischaracterizations of law and fact contained in Respondent's Response.

II. PRELIMINARY OBSERVATION: THE RESPONDING OFFICIAL WAS NOT PRESENT DURING THE EVENTS AT ISSUE

Mr. Vaughan states that he was not employed by Pittsylvania County at the time of the building permit process and that he gathered information concerning this case. His response is not based on firsthand knowledge of the events giving rise to this appeal. It is a reconstruction from secondhand records whose accuracy and completeness are in dispute. The Board should weigh his representations accordingly.

III. PETITIONER'S RIGHT TO REBUILD THE FIRE-DESTROYED HOME VESTED WITH THE PROPERTY UNDER VA. CODE SECTION 15.2-2307 AND PASSED TO PETITIONER UPON CONVEYANCE

Respondent's Response attempts to undermine Petitioner's standing by noting that the Pittsylvania County Fire Marshal's Incident Report does not reference Petitioner and that Petitioner did not take title to the property until February 27, 2024, more than two months after the December 17, 2023 fire. This argument misunderstands Virginia law governing vested rights and nonconforming uses.

Virginia Code Section 15.2-2307 governs the right to rebuild a structure damaged or destroyed by fire. The statute provides that owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Where a residential building is damaged or destroyed by an act of God and cannot be repaired, rebuilt, or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so, subject to applying for a building permit and complying with the Uniform Statewide Building Code.

Critically, the statute speaks in terms of "the owner" — it does not require that the owner seeking to exercise the right to rebuild be the same person who owned the property at the moment the fire occurred. The right to rebuild a nonconforming structure attaches to the property itself and passes to whoever holds title at the time the right is exercised. This is consistent with the established principle that a deed conveying land includes all the estate, right, title, and interest of the grantor in the land, and with the long-recognized rule that benefits and burdens attached to real property pass to successive owners upon conveyance.

This principle is further confirmed by Section 15.2-2307's treatment of nonconforming manufactured homes specifically: the owner of a valid nonconforming manufactured home may replace that home with a newer manufactured home meeting current HUD code, and any such replacement home retains the valid nonconforming status of the prior home. The statute does not extinguish or reset this right upon a transfer of ownership. The nonconforming status, and the right to rebuild that accompanies it, is a property right that runs with the land.

Petitioner took title to 5405 Whitmell School Road by deed from George Vance Burnette dated February 27, 2024, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County as Instrument No. 240000B15 (Exhibit B). Upon recordation of that deed, Petitioner became the owner of the property and stepped into all rights appurtenant to it, including the statutory right under Section 15.2-2307 to rebuild the fire-destroyed manufactured home in its prior nonconforming configuration. The fact that Petitioner did not personally own the property on the date of the fire is legally immaterial. The right to rebuild is a property right, not a personal right limited to whoever happened to hold title at the moment of the casualty loss.

Respondent's suggestion that the fire report's silence as to Petitioner, or the timing of Petitioner's acquisition of title, somehow defeats Petitioner's right to a building permit is contrary to the plain language of Section 15.2-2307 and the underlying purpose of the vested rights doctrine in Virginia, which the Court of Appeals of Virginia recently reaffirmed carries broad protective scope for property owners. See Board of Supervisors of Prince Edward County v. Bowman (Va. Ct. App., April 8, 2025).

Petitioner further notes that Respondent, in his own Response (Exhibit M), affirmatively represents to this Board that the document attached as Respondent's Exhibit I (reproduced and addressed herein as Exhibit N) is "that fire report," identifying it specifically as the official Pittsylvania County Fire Marshal Incident Report concerning the December 17, 2023 fire. Having made that representation to a state administrative board, Respondent bears responsibility for the reliability of the document he submitted. Yet the document so identified bears no signature line for the investigating officer, the Fire Marshal, or any other official, and does not appear on its face to be a certified copy of an official record. Petitioner has been unable to obtain a signed, certified copy of the original incident report despite contacting the relevant fire department. Respondent cannot represent a document to this Board as the official fire report and rely upon it to challenge Petitioner's standing, while that same document lacks the basic indicia of authenticity that would be expected of the record Respondent claims it to be. Petitioner reserves the right to request that the Board require production of the original, signed incident report from Pittsylvania County Public Safety to confirm the authenticity and completeness of the record relied upon.

IV. RESPONDENT MISCHARACTERIZES TWO SEPARATE AND UNRELATED DOCUMENTS AS INCONSISTENT

Respondent's Response points to a letter bearing an origination date of September 27, 2024, and suggests that this date undermines Petitioner's account of having hand-delivered a local appeal to Emily Ragsdale, then Director of Community Development, in May 2024. This argument rests on a mischaracterization of the record. The May 2024 submission to Emily Ragsdale was Petitioner's local appeal, hand-delivered on the county's own official appeal form, the same form that was at that time available on the county's website and has since been removed. The September 27, 2024 letter is a separate and unrelated document: a letter Petitioner drafted independently, on his own paper, addressed to the State rather than to the county, for a distinct purpose at a later stage of this matter.

These two documents were sent to two different recipients, for two different purposes, four months apart. The existence of the September letter to the State says nothing about whether the May appeal to Emily Ragsdale occurred, and does not contradict it. Respondent's attempt to use the later document to cast doubt on the earlier one is not a sound basis for questioning whether Petitioner's May 2024 local appeal took place.

Petitioner further notes that the official local appeal form referenced above, which was available on the county's website at the time Petitioner submitted his May 2024 appeal, is no longer published on the county's website. Petitioner has submitted a formal public records request seeking a copy of that form as it existed in 2024. The county's removal of the very form Petitioner used to submit his appeal does not erase the fact that the appeal was submitted on that form, in the manner the county itself required at the time.

V. STAFF ISSUE NO. 1 — WHETHER THE $200 LOCAL APPEAL FEE WAS REQUIRED: THE DENIAL OF PETITIONER'S INDIGENT FEE WAIVER VIOLATED DUE PROCESS

The Staff Document identifies as Issue No. 1 whether the local appeal fee is required to be paid in order for the appeal to be considered as filed, processed, and heard by the local appeals board. On this issue, the undisputed facts are as follows:

- Petitioner requested an appeal to the local Board of Building Appeals in May 2024 following the county's inaction on his permit application.
- The county administratively denied the appeal based on the permit requirements and the $200 local appeal fee.
- Petitioner informed the county that he was indigent and could not afford the fee.
- Petitioner requested an indigent waiver or good cause exception to the fee requirement.
- The county denied that request.

The county's denial of Petitioner's indigent fee waiver request violated his constitutional right of access to the administrative appeal process. The United States Supreme Court held in Boddie v. Connecticut, 401 U.S. 371 (1971), that due process prohibits a state from denying access to its processes solely because a person cannot pay the required fee when a fundamental interest is at stake. Petitioner's ability to rebuild and occupy his primary residence on his own property following a fire is precisely such a fundamental interest.

Furthermore, the county's denial of the fee waiver effectively foreclosed Petitioner's ability to exhaust local administrative remedies. A party cannot be faulted for failure to exhaust administrative remedies when the government's own fee demand made exhaustion financially impossible. The 25-month delay in this matter is attributable in substantial part to the county's improper denial of Petitioner's indigent waiver request, which blocked the local appeal process entirely.

This point bears directly on the constitutional analysis. The Department of Housing and Community Development, which administers this Board, has described the governing appeal scheme as follows: an appeal must generally first be made to a local government appeals board, and only thereafter to this Review Board if relief is not granted at the local level. Local board review is therefore not one option among several; it is the mandatory gateway through which a permit applicant must pass before any further appeal, including the appeal now before this Board, may proceed. The Department of Housing and Community Development's own Local Building or Fire Prevention Code Boards of Appeals Manual describes the local board of appeals as a quasi-judicial board providing a first tier due process right of adjudication of decisions of

local government building officials under the USBC. The local board is therefore not merely a first administrative step; it is expressly characterized by the agency that oversees this Board as the first tier of due process itself. A $200 fee that blocks an indigent applicant from accessing that first tier due process right does not merely foreclose one administrative option. It forecloses the entire avenue of review, including this very proceeding and any judicial review that might follow it. This is precisely the kind of fee-based barrier to a required process that Boddie v. Connecticut found constitutionally impermissible: a party cannot be required to exhaust a remedy as a precondition to further relief while simultaneously being denied any means of accessing that remedy due to inability to pay.

VI. STAFF ISSUE NO. 2 — WHETHER EXCAVATION OF THE SEPTIC DISTRIBUTION BOX AND SAP REPORT ARE REQUIRED: THEY ARE NOT

The Staff Document identifies as Issue No. 2 whether excavation of the septic system distribution box and submittal of a SAP Report from the Virginia Department of Health is required to issue the requisite permit. The answer is no, for the following reasons.

A. Virginia Code Section 32.1-165(C) Authorizes Approval Without a SAP Permit

Virginia Code Section 32.1-165(A) requires prior Health Department approval before a building permit issues for a structure designed for human occupancy. However, Section 32.1-165(C) provides that nothing in that section shall be construed to prevent the Commissioner or his agent from approving the use of a nonconforming treatment works, provided: (1) the treatment works was installed in accordance with the Board of Health's applicable regulations in effect at the time of its installation; (2) it is not failing; and (3) it is designed and constructed for the sewage flow and strength expected from the building.

Petitioner's system satisfies all three conditions. The existing septic system was installed under applicable Board of Health regulations, served the home for years without recorded objection, and was functioning as recently as 2024. The replacement home is a three-bedroom manufactured home identical in bedroom count and sewage flow to the home destroyed by fire. The Commissioner had full statutory authority under Section 32.1-165(C) to approve the existing nonconforming system without requiring a new SAP permit. The county applied Section 32.1-165(A) as though Section 32.1-165(C) did not exist.

B. The County Had No Factual Basis to Invoke Health Department Involvement

The county's invocation of Section 32.1-165(A) as a blanket requirement was made without any site visit, without any documented findings, and without any factual determination that the conditions requiring Health Department involvement were

present. No county official ever inspected the property at 5405 Whitmell School Road. No sign of septic system failure was ever documented by any authority. The system was serviced in 2022 and pumped in 2024 (Exhibits C and D).

The county's interpretation of Section 32.1-165(A) would require Health Department approval for every building permit issued for human occupancy regardless of the nature of the work — replacing windows, installing handrails, building a deck — none of which implicate sewage disposal in any way. That is not what the statute requires and it is not what the legislature intended.

C. The County Cannot Rely on Its Own Recordkeeping Failures

To the extent the county contends that records of the existing septic permit cannot be located, that institutional failure cannot be converted into a burden on Petitioner. Petitioner provided affirmative evidence that the system was functioning: service records from 2022 and a pump receipt from 2024. The county conducted no inspection and produced no evidence of failure. The burden of establishing a basis for invoking the Health Department rested with the county. It did not meet that burden. It is a violation of due process under the Fourteenth Amendment to the United States Constitution and Article I, Section 11 of the Virginia Constitution to require a citizen to reprove compliance with requirements the government failed to document.

D. Neither Party Ever Filed a SAP Application With the Health Department, and the County Improperly Shifted Its Own Administrative Burden Onto Petitioner

Neither Petitioner nor the county ever filed a SAP application or referral with the Virginia Department of Health concerning this property. No such filing exists in the record because none was ever made. If Pittsylvania County Building Inspections genuinely believed a SAP evaluation was warranted under Section 32.1-165(A), the proper administrative procedure was for Building Inspections itself to submit the referral or request directly to the Health Department, identifying the specific concern that triggered the need for evaluation.

Instead, the county instructed Petitioner to obtain the SAP application himself and deliver it to Building Inspections. This procedure improperly shifted the county's own administrative burden onto Petitioner and mischaracterized the nature of the request. Under this approach, any SAP evaluation would appear in the Health Department's records as having been requested by Petitioner, rather than as a referral initiated by Building Inspections based on a specific, documented concern. The Health Department never contacted Petitioner directly to request access to the property for purposes of conducting a site evaluation, which is the procedure that would be expected if Building Inspections had properly referred the matter and the Health Department had independently determined that a site visit was warranted.

This matters because the absence of any actual filing by either party confirms that the SAP requirement was never substantiated through the proper administrative channel.

The county cannot impose a Health Department requirement as a condition of permit issuance while simultaneously failing to follow the administrative procedure necessary to invoke that requirement in the first place.

E. The Health Department's Withdrawal Is Dispositive

Petitioner filed a Petition for Writ of Mandamus in the Circuit Court of Pittsylvania County (Case No. CL24000802-00) naming both Pittsylvania County and the Virginia Department of Health as respondents. An Assistant Attorney General of Virginia contacted Petitioner by telephone, explained the doctrine of sovereign immunity, and asked whether Petitioner wished to withdraw the Health Department from the proceeding. Petitioner was advised that withdrawing the Health Department would not affect the mandamus proceeding against the county. The Health Department was subsequently withdrawn without prejudice (Exhibit E).

The Health Department's withdrawal from active litigation is a substantive concession. The agency whose authority the county invoked to block Petitioner's permit examined the record, evaluated its legal exposure under Section 32.1-165(C), and chose to remove itself from the case. The county now stands alone defending a requirement that the responsible agency itself abandoned. The Board should give this fact substantial weight.

F. The Health Department Was Subject to Its Own Deemed Approval Obligation

Virginia Code Section 32.1-163.5 requires the Health Department to act on a site evaluation submission within 15 working days. Virginia Code Section 32.1-163.6 requires the Department to either issue approval or provide written reasons for denial within 21 calendar days for treatment works sized at 1,000 gallons per day or smaller, which includes a standard residential septic system serving a three-bedroom manufactured home. Both statutes provide that failure to act within the specified timeframe results in deemed approval by operation of law. The Health Department never issued a formal written denial of any application by Petitioner with specific findings. Its obligation under these statutes was never fulfilled.

G. The Department's Own Guidance Memorandum and Policy 2017-03 Confirms No Excavation or New Application Was Required

The Virginia Department of Health's own Guidance Memoranda and Policy 2017-03, "Safe, Adequate, and Proper Reviews," issued September 1, 2017, establishes the procedure governing exactly this situation and confirms that Petitioner was never required to excavate his septic system or submit a new SAP application.

First, GMP 2017-03 expressly states that "lack of records does not automatically indicate the sewage system was installed without a permit and should not be used as the sole reason for denying a request pursuant to Va. Code § 32.1-165." (Exhibit O, p.

5). The county's inability to produce installation records for Petitioner's septic system is therefore not a lawful basis to deny approval.

Second, GMP 2017-03 establishes a mandatory hardship exemption from the requirement to excavate the septic tank and distribution box. The policy provides that "if the owner believes uncovering the septic tank and distribution box would create a financial or other hardship, the property owner may request an exemption," and identifies as a qualifying basis for exemption that "the sewage system is less than 5 years old; the tank was recently pumped." Petitioner had his septic tank pumped in 2024 (Exhibit E). Petitioner was never informed of this exemption or given the opportunity to request it before excavation was demanded (Exhibit O, GMP 2017-03, p. 5).

Third, the policy's own flow chart (Exhibit O, Attachment 1, p. 9) confirms that where there is no increase in flow or effluent strength and the system shows no signs of changed conditions, the result is approval, either as compliant with current regulations or as nonconforming. Nothing in the flow chart leads to a requirement that a functioning, non-failing system be excavated as a precondition to approval. This is consistent with the Memorandum of Agreement between the Virginia Department of Housing and Community Development and the Virginia Department of Health (Exhibit O, Attachment 8, p. 26), which provides that a building official must rely on a valid VDH construction permit before issuing a building permit only "if the wastewater flow, capacity, or effluent strength increases for the existing treatment works." Petitioner's proposed replacement dwelling does not increase flow; if anything, Petitioner informed Vaden Hunt in October 2024 of his intent to reduce the dwelling from three bedrooms to two (Exhibit A), which would further reduce expected flow below what the destroyed structure produced.

Fourth, GMP 2017-03 (Exhibit O, Attachment 2a, p. 10) requires that any request for Health Department review be initiated by the local building official through a written or electronic application identifying the specific basis for the request, signed and dated by the building official. No such application was ever submitted by Pittsylvania County Building Inspections in this case. The absence of that threshold application means the SAP review process required by the county's own governing policy was never properly invoked in the first place.

VII. STAFF ISSUE NO. 3 — WHETHER A BUILDING PERMIT CAN BE DENIED FOR DELINQUENT PROPERTY TAXES: NOT UNDER THE FACTS OF THIS CASE

The Staff Document identifies as Issue No. 3 whether a building permit can be denied due to delinquent property taxes. The county invokes Virginia Code Section 15.2-2286, which permits a locality to require satisfactory evidence of payment of delinquent real estate taxes before issuing certain permits. This provision does not support the county's position for two independent reasons.

First, Petitioner was current on all property taxes at the time of his permit application on April 3, 2024 and at the time of the formal denial on June 4, 2024.

The county's own tax records will confirm this fact. No valid tax delinquency existed at the time the permit was denied. The delinquent tax requirement was therefore not a valid basis for denial at the time it was imposed.

Second, any tax delinquency that may exist was caused by an improper assessment by Commissioner of Revenue Robin Goard. The manufactured home at 5405 Whitmell School Road was destroyed by fire on December 17, 2023, as documented in Pittsylvania County Fire Marshal Incident Report No. 2023-047964. Despite the total loss of that structure, the county has continued to assess real estate taxes that include an approximately $11,000 valuation for the destroyed manufactured home, a structure that no longer exists and that Petitioner is attempting to replace through the very permit application at issue in this appeal. Virginia Code Section 58.1-3360 requires that when an improvement is destroyed, the locality shall provide prorated tax relief for the portion of the tax year during which the improvement no longer existed. No real estate tax assessment may lawfully include the value of a structure that has been destroyed and no longer exists on the property. Commissioner Goard has continued to assess taxes against this non-existent structure in violation of Section 58.1-3360. To be direct: at no point relevant to this appeal, including the date of application and the date of denial, did a lawful tax delinquency exist on this property. A tax delinquency arising from an unlawful assessment cannot serve as a valid basis for withholding a building permit.

VIII. THE CIRCUIT COURT'S DISMISSAL WITH PREJUDICE DOES NOT BAR THIS APPEAL AND DOES NOT CONSTITUTE AN ADJUDICATION ON THE MERITS OF THE PERMIT DENIAL

The Circuit Court of Pittsylvania County dismissed Petitioner's Writ of Mandamus with prejudice on February 14, 2025 (Case No. CL24000802-00) (Exhibit F) after sustaining the county's demurrer. When Petitioner appeared in court and raised the substance of the permit denial, the court stated that the Writ of Mandamus was not the appropriate procedural vehicle — without identifying what the correct vehicle was or directing Petitioner to the appropriate forum.

This Board is that forum. The State Building Code Technical Review Board has independent statutory authority to review local building permit decisions and to direct a locality to issue a permit when the denial is found to be contrary to applicable law or the Virginia Uniform Statewide Building Code. That authority is separate from and independent of the circuit court's jurisdiction over writs of mandamus.

The circuit court's ruling on a discretionary writ of mandamus does not constitute an adjudication on the merits of whether Pittsylvania County correctly applied the building code. The demurrer was sustained on procedural grounds. No court has ever examined and ruled on the substantive question of whether the county properly applied Virginia

Code Section 32.1-165 to Petitioner's permit application. That is precisely the question before this Board.

IX. SUMMARY OF UNDISPUTED FACTS

The following material facts are not in dispute:

- The manufactured home at 5405 Whitmell School Road was destroyed by fire on December 17, 2023 (Fire Marshal Incident Report No. 2023-047964).
- Petitioner is the owner of record, having received title from George Vance Burnette by deed recorded February 27, 2024 (Instrument No. 240000B15, Pittsylvania County Circuit Court).
- Petitioner's right to rebuild the fire-destroyed structure vested in the property under Va. Code Section 15.2-2307 and passed to Petitioner upon conveyance of title.
- Petitioner filed a building permit application on April 3, 2024 (Permit No. S24-04-31770) to place a three-bedroom manufactured home on the same property.
- The replacement home has the same bedroom count as the destroyed home and results in no increase in sewage flow.
- Petitioner proposed no change to the location of the existing septic system.
- No county official, Health Department representative, or other authority ever inspected the property or documented any sign of failure in the existing septic system.
- The septic system was serviced in 2022 and pumped in 2024.
- Petitioner was current on all property taxes at the time of the permit application and the formal denial.
- Petitioner informed the county he was indigent and requested a fee waiver for the local appeal. The county denied that request.
- The Virginia Department of Health withdrew from the related mandamus proceeding without prejudice following contact by an Assistant Attorney General of Virginia.
- The Circuit Court dismissed the Writ of Mandamus with prejudice on February 14, 2025, on procedural grounds, without adjudicating the merits of the permit denial.
- As of the date of this filing, more than 25 months after Petitioner's application, the county has not issued the building permit. Petitioner has been living on his property without power or basic utilities as a direct result.

X. PRAYER FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that the State Building Code Technical Review Board:

1. Find that Petitioner's right to rebuild the fire-destroyed manufactured home vested in the property under Va. Code Section 15.2-2307 and passed to Petitioner upon his acquisition of title, regardless of whether he owned the property at the time of the fire;
2. Find that Petitioner's indigent fee waiver request for the local appeal was improperly denied in violation of due process, and that this appeal is properly before the Board;
3. Find that Virginia Code Section 32.1-165(C) authorizes the Commissioner to approve Petitioner's existing nonconforming treatment works without a new SAP certification, and that the county's SAP requirement and excavation demand were not lawfully imposed;
4. Find that the Health Department's withdrawal from the mandamus proceeding constitutes a substantive concession that the SAP requirement was improperly applied;
5. Find that no valid tax delinquency existed at the time of the permit denial on June 4, 2024, and that any current delinquency arising from an improper assessment of a destroyed structure cannot serve as a valid basis for withholding the building permit;
6. Find that Pittsylvania County's denial of the building permit was contrary to applicable Virginia law and the Virginia Uniform Statewide Building Code;
7. Direct Pittsylvania County to immediately issue the requested building permit for placement of a three-bedroom manufactured home at 5405 Whitmell School Road, Dry Fork, Virginia 24549; and
8. Grant such other and further relief as the Board deems appropriate and just.

Respectfully submitted,



Todd W. Ferguson, Pro Se

5405 Whitmell School Road

Dry Fork, Virginia 24549

Phone: 540-355-9770

Email: Fergusont844@gmail.com

Date: June 23 2026

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petitioner's Reply has been served upon the following parties via electronic mail (email) on the date indicated above:

- Otis Vaughan, Chief Building Official, Pittsylvania County Community Development, 53 Main St., Chatham, Virginia 24531 — Otis.vaughan@pittgov.org
- W. Travis Luter, Sr., CBO, Secretary, State Building Code Technical Review Board, Virginia Department of Housing and Community Development — travis.luter@dhcd.virginia.gov
- Matt Evans, County Attorney, Pittsylvania County — contact@pittgov.org

Todd W. Ferguson, Pro Se

DECLARATION OF TODD W. FERGUSON

In Support of Petitioner's Reply, Appeal No. 26-03

Before the State Building Code Technical Review Board, Commonwealth of Virginia

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I, Todd W. Ferguson, declare as follows:

OWNERSHIP AND BACKGROUND

1. I am the Petitioner in Appeal No. 26-03 before the State Building Code Technical Review Board. I am the owner of record of the property located at 5405 Whitmell School Road, Dry Fork, Virginia 24549, having received title by deed from George Vance Burnette dated February 27, 2024, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County as Instrument No. 240000B15 (Exhibit C).
2. The manufactured home previously located on this property was destroyed by fire on December 17, 2023. I did not own the property at that time, but I became the owner approximately five weeks before submitting my building permit application, and I am informed and believe that the right to rebuild a fire-destroyed structure attaches to the property and passed to me upon my acquisition of title.

THE PERMIT APPLICATION AND LOCAL APPEAL

3. On or about April 3, 2024, I submitted a building permit application (Permit No. S24-04-31770) to Pittsylvania County to replace the manufactured home destroyed by fire.
4. In May 2024, I traveled to the Pittsylvania County building and attended an in-person meeting with county officials regarding my permit application. During that visit, I also hand-delivered a local appeal, on the county's own official appeal form then available on its website, to Emily Ragsdale, who was at that time the Director of Community Development (Exhibit B).
5. During that May 2024 meeting and in subsequent communications, I informed county representatives that I was indigent and could not afford the $200 local appeal fee. I requested that the fee be waived. No written fee waiver process was offered or provided to me, and I never received a written decision explaining the denial of my request. I do not have a written copy of my verbal request or of any written denial, because none was ever provided to me despite my repeated requests.
6. On or about June 4, 2024, the county issued a formal written denial of my building permit application, citing the need for a Safe, Adequate, and Proper

(SAP) certification from the Virginia Department of Health and excavation of the septic distribution box.

COMMUNICATIONS WITH COUNTY OFFICIALS

7. In June 2024, I had a telephone conversation with the county attorney regarding my application and the denial (Exhibit K).
8. In September 2024, I had a second telephone conversation with the county attorney regarding the same matter. During that same month, I personally visited Pittsylvania County Building Inspections and the Health Department to attempt to resolve the matter directly. On September 27, 2024, I drafted and submitted my own appeal letter, on my own paper, to the State, separate and apart from the local appeal form I had hand-delivered to Emily Ragsdale in May 2024.
9. In October 2024, during a telephone call, the county attorney terminated the call without resolving the matter. On October 18, 2024, I filed a Petition for Writ of Mandamus in the Circuit Court of Pittsylvania County (Case No. CL24000802-00), naming Pittsylvania County and the Virginia Department of Health as respondents.
10. In October 2024, I also informed Vaden Hunt that I intended to change the configuration of the replacement dwelling from three bedrooms to two bedrooms, so that the third room could be used as an office rather than a bedroom (Exhibit J). A two-bedroom configuration results in less expected sewage flow than the three-bedroom home that was destroyed by the fire, not more, further confirming that no increase in flow would result from the replacement structure.
11. I have separate written correspondence addressing constitutional issues related to this matter with Daryl Dalton (Exhibit I), and separate communications with Wesley Marshall, County Attorney, regarding the permit matter (Exhibit L). I also corresponded with the State Building Code Technical Review Board in May 2024 (Exhibit M).

THE WRIT OF MANDAMUS AND ITS DISPOSITION

12. In late 2024, an Assistant Attorney General of Virginia contacted me by telephone regarding the Writ of Mandamus. He explained the doctrine of sovereign immunity, asked whether I intended to pursue claims against the Commonwealth, and offered to prepare a motion to withdraw the Virginia Department of Health from the proceeding, advising me that doing so would not affect the remainder of my case against the county. I signed that motion, and the Health Department was withdrawn from the case without prejudice (Exhibit F).
13. On February 14, 2025, the Circuit Court of Pittsylvania County dismissed my Writ of Mandamus with prejudice after sustaining the county's demurrer (Exhibit G).

made by E. L. Moore, C.L.S., thence a line N. 41 degrees 06' E. 258 feet, more or less, to a point in the rear; thence a new line S. 51 degrees 27' E. 200 feet to a point; thence a new line S. 41 degrees 06' W. 250 feet to a point on the northeastern margin of Whitmell School Road (State Road No. 750); thence a new line along the northeastern margin of Whitmell School Road (State Road No. 750) N. 52 degrees 38' W. 27.18 feet to a point, thence continuing along the northeastern margin of Whitmell School Road (State Road No. 750) N. 51 degrees 16' W. 172.82 feet to a point, the point and place of beginning, and being substantially as shown as Lot No. 1A on Map of Lands for A. M. Perkins, dated February 21, 1974, made by Shanks & Wilmarth, Engineers - Surveyors, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County, Virginia (the "Clerk's Office"), in Deed Book 586, at page 728, to all of which reference is hereby made for a more specific description;

PARCEL NO. 2: LOT NO. 1B, containing 2.10 acres, fronting 30 feet on the northeastern margin of Whitmell School Road (State Road No. 750), as shown on Map of Lands for A. M. Perkins, dated February 21, 1974, made by Shanks & Wilmarth, Engineers - Surveyors, recorded in the Clerk's Office in Deed Book 586, at page 728, to which reference is hereby made for a more specific description.

Parcels No. 1 and 2 BEING the same property conveyed to George Vance Burnette from Keith James Flinchum, unmarried, by deed dated April 9, 2021, recorded in the Clerk's Office on April 9, 2021, at page 0121, as instrument no. 21-02273.

This conveyance is made subject to all easements, conditions, restrictions and reservations appearing of record, or apparent on the ground, which affect the Property, and any judgments against Keith J. Flinchum.

B2

EXHIBIT B

This conveyance is being made to a Bona Fide Purchaser as defined in Virginia Code Section 64.2-100 et seq. and the Property is not to be included in any augmented estate of the Grantor.

WITNESS the following signature and seal:

George Vance Burnette (SEAL)
GEORGE VANCE BURNETTE

COMMONWEALTH/STATE OF VIRGINIA:

COUNTY OF PITTSYLVANIA:

The foregoing instrument was acknowledged before me this 27th day of February, 2024, by George Vance Burnette, married, Grantor.

My commission expires: September, 30, 2027.

Notary Registration No.: 158408

Notary Public

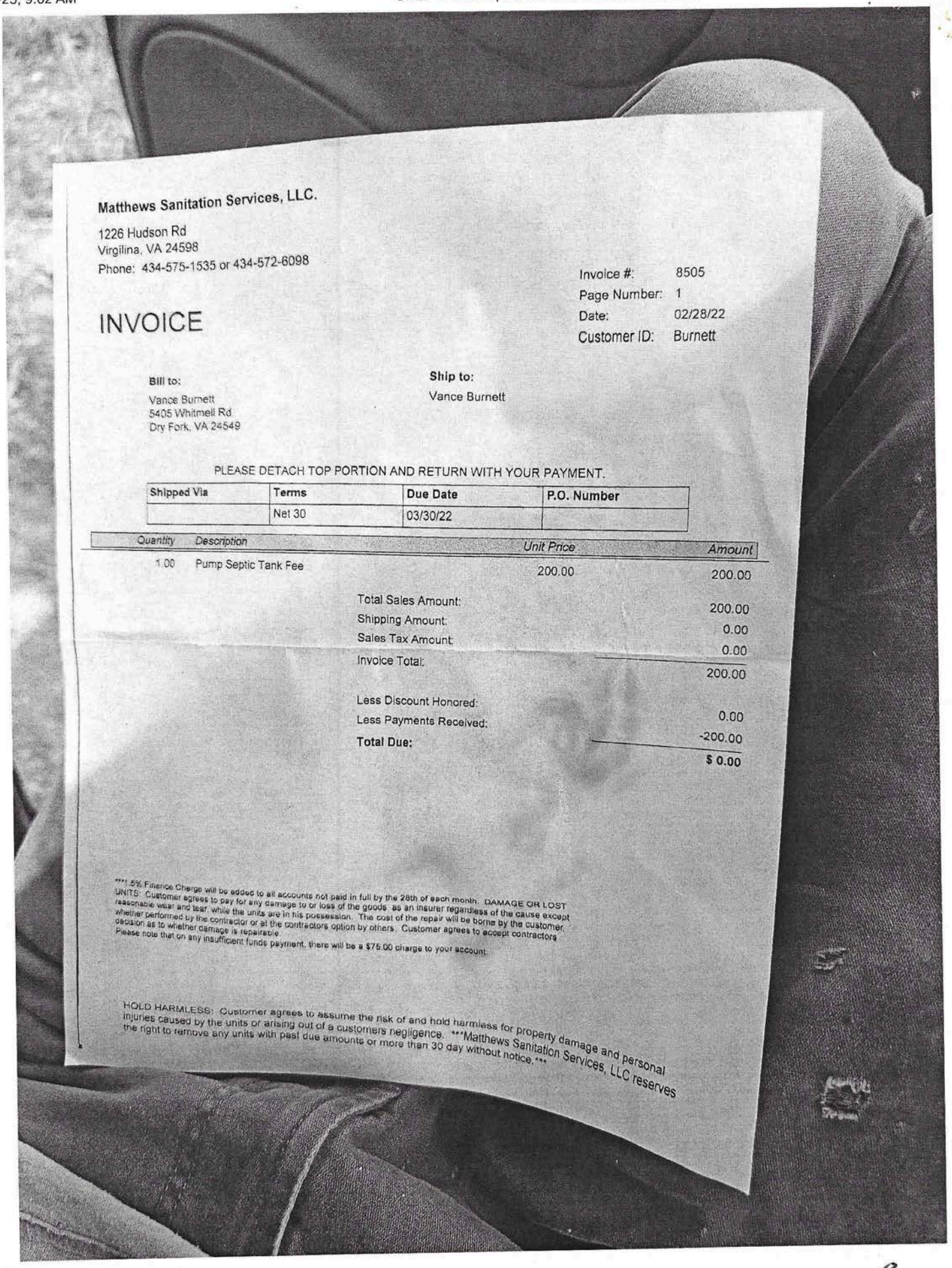
JEFFREY S. SMITH
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #158408
My Commission Expires 9/30/2027

INSTRUMENT 240000815
RECORDED IN THE CLERK'S OFFICE OF
PITTSYLVANIA COUNTY CIRCUIT ON
FEBRUARY 27, 2024 AT 03:49 PM
$41.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: $20.50 LOCAL: $20.50
ANGIE R. HARRIS, CLERK
RECORDED BY: JCR

3

B3

EXHIBIT



Matthews Sanitation Services, LLC.

1226 Hudson Rd
Virgilina, VA 24598
Phone: 434-575-1535 or 434-572-6098

INVOICE

Invoice #: 8505
Page Number: 1
Date: 02/28/22
Customer ID: Burnett

Bill to:
Vance Burnett
5405 Whitmell Rd
Dry Fork, VA 24549

Ship to:
Vance Burnett

PLEASE DETACH TOP PORTION AND RETURN WITH YOUR PAYMENT.

Shipped Via	Terms	Due Date	P.O. Number
	Net 30	03/30/22	

Quantity	Description	Unit Price	Amount
1.00	Pump Septic Tank Fee	200.00	200.00

Total Sales Amount:	200.00
Shipping Amount:	0.00
Sales Tax Amount:	0.00
Invoice Total:	200.00
Less Discount Honored:	
Less Payments Received:	0.00
Total Due:	-200.00
	$ 0.00

***1.5% Finance Charge will be added to all accounts not paid in full by the 28th of each month. DAMAGE OR LOST UNITS: Customer agrees to pay for any damage to or loss of the goods as an insurer regardless of the cause except reasonable wear and tear, while the units are in his possession. The cost of the repair will be borne by the customer, whether performed by the contractor or at the contractors option by others. Customer agrees to accept contractors decision as to whether damage is repairable.
Please note that on any insufficient funds payment, there will be a $75.00 charge to your account.

HOLD HARMLESS: Customer agrees to assume the risk of and hold harmless for property damage and personal injuries caused by the units or arising out of a customers negligence. ***Matthews Sanitation Services, LLC reserves the right to remove any units with past due amounts or more than 30 day without notice.***

C

Matthews Sanitation
1226 Hudson Rd.
Virgilina, VA 24598
(434) 572-6098
matthews.sanitation03@gmail.com

Receipt

Date	May 29, 2024
Paid	$250.00
Payment Method	Visa *2128
Confirmation #	150710039033

Billing Address
Todd Ferguson
5405 Whitmell School Rd
Dry Fork, VA 24549

#	Invoice	Invoice Date	P.O.	Clerk	Payments	Outstanding Balance
1	i2297	May 29, 2024		MF	$250.00	$0.00

Site: S918, 5405 Whitmell School Rd , Dry Fork , VA 24549

#	Item	Qty	Description	Rate	Amount	Tax	Amount w/ Tax
1	Pumped Septic Tank Fee	1	Pumped Septic Tank Fee	$250.00	$250.00	$0.00	$250.00
						Subtotal	**$250.00**
						Tax	$0.00
						Total	**$250.00**

From
Todd Ferguson
5405 Whitmell School Rd
Dry Fork, VA 24549

To
Matthews Sanitation
1226 Hudson Rd.
Virgilina, VA 24598

Subtotal	$250.00
Tax	$0.00
Payments	**$250.00**
Remaining Payment Balance	$0.00

Additional Documents Submitted By Pittsylvania County

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Todd Ferguson
Appeal No. 26-03

MEMORANDUM OF ARGUMENT
REGARDING ISSUES FOR RESOLUTION

I. APPEALS OF DECISIONS OF LOCAL DEPARTMENT

a. NO FINAL DETERMINATION BY THE LOCAL BOARD

Enforcement of the provisions of the Building Code for construction and rehabilitation are expressly the responsibility of the local building department. **(VA Code § 36-105A)**. As required by the Code of Virginia, Pittsylvania County has established "a local board of Building Code appeals" whose express purpose is to hear appeals of "[a]ny person aggrieved by the local building department's application of the Building Code." **Id.** "No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals." **Id.** In this matter, no final determination has been made by the local board of Building Code appeals. Consequently, Mr. Ferguson's appeal to this Board is premature and not ripe for determination by this Board.

b. NO TIMELY APPEAL

The local department of Pittsylvania County issued multiple, relevant decisions to Mr. Ferguson regarding his property and his request for a building permit: on June 4, 2024, and August 23, 2024. Mr. Ferguson appealed neither of them. Any person aggrieved by the local building department's application of the USBC may appeal to the local board of Building Code. **(USBC §119.5).** USBC §119.5 requires that:

> "[T]he applicant shall submit a written request for appeal to the LBBCA *within 30 calendar days of the receipt of the decision being appealed…A copy of the building official's decision* shall be submitted along with the application for appeal and maintained as part of the record. 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." (emphasis added).*

Mr. Ferguson maintains that he attempted to appeal some determination of the local department in-person during May 2024, before any actual decisions were issued by the local department. Mr. Ferguson's sworn "Declaration of May 2024 Local Appeal Submission" is suspect on its face and does not actually articulate the specific date of that "attempted" appeal or what decision he was even attempting to appeal.

Mr. Ferguson's assertions after the fact regarding his attempted appeal are even more suspect, given his timeline and summary of facts submitted to this Board. He erroneously states that there was an original denial (possibly in April 2024) because he was applying "pro se," of which there is no evidence provided. He also implies that there was no disagreement regarding the VDH until at least June 2024, after he supposedly already tried to appeal a decision of the local department.

The June 4, 2024, letter from the Code Official Jason Inman clearly articulates the local department's decision and determinations regarding the permit application and is the first instance of the local department doing so. Thus, submitting an application for appeal, or attempting to do so, in May 2024 would have been nonsensical and would have had no effect.

Mr. Ferguson's letter referencing a potential appeal of the denial of the permit is dated September 27, 2024. In this letter, Mr. Ferguson makes no mention of already delivering an application for appeal back in May 2024, or any other time, and states that he has only "inquired about filing an appeal." **(Ferguson Ex. C-1).** In the September 27,2024 letter, Mr. Ferguson does request a waiver of the fee but makes no mention of having his application rejected previously.

Mr. Ferguson has, at best, shown that he made attempts to appeal the local department decisions in May 2024 and September 27, 2024. The May 2024 attempt was prior to the determinations of the local department issued in June and August 2024. The September 27, 2024, attempt was beyond the appeal timeline as set forth in the USBC.

Mr. Ferguson has refused and continues to refuse to meet the requirements to appeal any of the decisions of the local department. Since his appeal has been pending before this Board, Mr. Ferguson has rejected Pittsylvania County's attempts to assist him in getting before the local board of Building Code appeals. His failure to comply with appeal timelines should be grounds for the dismissal of this appeal, as "[f]ailure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision." **(USBC §119.5).**

II. APPEAL FEE

The Code of Virginia authorizes the levying of fees by "the local governing body in order to defray the cost of such enforcement and appeals." **(VA Code § 36-105C.7.)**. The Pittsylvania County Board of Supervisors has established fees as anticipated by the Code of Virginia and as referenced by Mr. Ferguson in his documents provided to this Board.

Mr. Ferguson has not provided any information to support his claim of indigency (other than alleging he is a "fire victim" as a result of a fire that occurred prior to his purchasing the property at issue) or the need for a waiver to be considered. Nonetheless, there is no provision in Pittsylvania County Code regarding a waiver of said fees. There is no express authority granted to the State Building Code Review Board to determine whether a waiver of fees should be granted.

III. SAP REPORT REQUIREMENT

The Code of Virginia requires "prior written authorization" by the Virginia Department of Health (VDH) for the issuance of a building permit for a building designed for human occupancy. **(VA Code § 32.1-165A).** Said written authorization requires a "finding that safe, adequate, and proper sewage treatment is or will be made available to such building." **Id.** The local department has determined that such written authorization is needed prior to the issuance of a building permit for Mr. Ferguson.

VDH administers the process and requirements of the issuance of Safe, Adequate and Proper (SAP) Reports. To the extent the VDH has communicated to Mr. Ferguson that excavation of the septic system distribution box is required as part of the SAP assessment process, neither Pittsylvania County nor this Board has the authority to overturn that requirement or to address that issue on appeal.[1]

As to the necessity of a SAP Report generally, it is not in contention that the property owned by Mr. Ferguson that is the subject of this appeal experienced a structure fire involving a mobile home in December 2023, prior to the transfer of the property to Mr. Ferguson in February 2024. The nature of the fire as described in the Incident/Fire Report was significant. The home on the property at the time was "fully involved in fire", with "exposure to [another] building and an automobile."

Given the extent of the fire and the destruction of the home, there is no reasonable argument against the requirement for the requested SAP Report as anticipated by the Code of

[1] It should be noted, and is extremely telling, that during his involvement, previous Pittsylvania County Code Official Jason Inman offered to go out himself on a Saturday to excavate the distribution box for Mr. Ferguson. Mr. Ferguson refused. It should also be noted that Mr. Inman also negotiated a waiver of the VDH fee for Mr. Ferguson and a simplification of the process. Mr. Ferguson refused to proceed with the SAP.

Virginia. Both the local department and the VDH have gone above and beyond to assist Mr. Ferguson in moving the SAP assessment process forward.

IV. DELINQUENT TAXES

The Code of Virginia expressly grants authority to the local authorizing body to require a property owner "to produce satisfactory evidence that any delinquent real estate taxes…that are owed to the locality and have been properly assessed against the subject property, have been paid" prior to "the initiation of an application by the owner" for a building permit. **(VA Code § 15.2-2286B)**. No exception to the payment of real estate taxes has been granted to Mr. Ferguson. No authorization for non-payment has been granted by the treasurer. Although the matter of delinquent taxes was not initially at issue in the denial of the requested permit, Mr. Ferguson's failure to pay real estate taxes since obtaining the property would constitute a separate bar to his permit application, until he produces evidence that said delinquent taxes have been paid.

V. NUISANCE

Mr. Ferguson's appeal before this Board represents a continued pattern of actions taken by Mr. Ferguson which are not well grounded in fact, warranted by existing law, or constituting good faith arguments. The local department has tried repeatedly to assist and work with Mr. Ferguson to resolve any legitimate concerns. In response, Mr. Ferguson has filed frivolous matters in Circuit Court against Pittsylvania County and VDH (which have all been dismissed), filed vexatious motions and appeals with no legal merit, filed numerous and duplicative FOIA requests, and sent a number of threats and demands for millions of dollars to Pittsylvania County.

VI. CONCLUSION

The local department is committed to continuing to assist Mr. Ferguson to secure the requested permit, within the bounds of law. Nevertheless, Mr. Ferguson's appeal before this Board should be dismissed for the reasons stated herein.

PITTSYLVANIA COUNTY
By Counsel

GRAVITT LAW GROUP, PLC
Pittsylvania County Attorney

By_____
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Halifax, Virginia 24558
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FAX (434) 476-7784
E-Mail: matt@gravittlaw.com

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
[Preliminary Hearing for Timeliness and Properness Before the Board]

IN RE: Appeal of Todd Ferguson
Appeal No. 26-03

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

1. On April 3, 2024, Todd Ferguson (Ferguson) applied for a building permit to install a used manufactured home on the property located at 5405 Whitmill School Road, in Pittsylvania County (County), to replace the manufactured home that burned on December 17,2023. The County denied his application for building permit citing excavation of the septic system distribution box, submittal of a Safe, Adequate, and Proper (SAP) Report from the Virginia Department of Health (VDH), and payment of all delinquent property taxes.

2. Ferguson requested an appeal to the local appeals board for the inaction of the County to issue his requisite building permit in May of 2024. The appeal was administratively denied by the County based on the requirements listed in Item #1 above and payment of the $200 local appeals fee. Ferguson informed the County that he was indigent and could not afford the fee.

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Ferguson requested an indigent waiver or good cause exception for the local appeals fee which was denied by County.

3. On May 15, 2026, after *"the 25-month delay, shifting county demands, and arbitrary enforcement barriers"* Ferguson further appealed to the Review Board.

4. While initially processing the appeal application, Review Board staff found that the local appeals board had neither convened for a hearing nor issued a decision. Additionally, during the final submittal phase of processing the appeal application, the County identified the potential jurisdictional issue of timeliness to the local appeals board. Prior to the hearing, Chair Dawson informed the parties that due to the potential jurisdictional issues of properness before the Review Board and timeliness to the local appeals board, the hearing was going to be a preliminary hearing as to whether the appeal was properly before the Review Board and/or untimely to the local appeals board.

5. Appearing at the Review Board meeting for Ferguson was Todd Ferguson. Appearing at the Review Board meeting for the County were Otis Vaughan, Building Official for Pittsylvania County, and Matthew Evans, legal counsel for Pittsylvania County.

III. Findings of the Review Board

A. Whether the appeal was properly before the Review Board.

B. Whether the appeal was untimely to the local appeals board.

Ferguson argued that his appeal was timely filed, Ferguson argued that he filed an appeal application in May of 2024 after the April 3, 2024 denial by the County where he was told his application could not be processed until he paid the $200 appeal fee. Ferguson also argued that the County issued a letter on August 23, 2024 which included his right to appeal that was received on or about August 30, 2024. Ferguson further argued that he emailed the County

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expressing his desire to appeal on September 27, 2024. Lastly, Ferguson argued that the Review Board had jurisdiction to hear the case because the County failed to act.

The County argued that no decision had been made by the local appeals board. The County further argued that the Review Board lacked jurisdiction or authority to hear the case because no decision had been issued by the local appeals board. The County also argued that the first determination of the building official was June 4, 2026, which was restated a letter dated August 23, 2024, both of which were well after Ferguson's assertion he attempted to appeal in May of 2024; therefore, Ferguson could not have filed an appeal in May 2024 as no decision had been made by the building official at that time. The County further argued that none of Ferguson's attempts to appeal had been perfected; none were appropriately acted upon as required by both state code and local ordinances because Ferguson had not paid the required appeal fee. The County further argued that the appeal application has not been perfected; therefore, the appeal was untimely regardless of the timeline of appeal application submittals by Ferguson. Lastly, the County argued that, to date, no appeal application had been perfected by Ferguson.

The Review Board found that the appeal was not properly before the Review Board and that the Review Board did not have jurisdiction to hear the case because no case shall lie before the Review Board prior to final decision of the local appeals board. The Review Board further clarified that the local appeals board had not convened for a hearing and no decision had been made by the local appeals board because Ferguson had not properly filed his appeal application to the local appeals board which required him to attach the code official's decision to the appeal application and pay the required fee as set forth in the Pittsylvania County ordinance.

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Conclusion

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders as follows:

A. Whether the appeal was properly before the Review Board.

The appeal is not properly before the Review Board, and the Review Board does not have jurisdiction to hear the case because no case shall lie before the Review Board prior to final decision of the local appeals board. The Review Board further clarifies that the local appeals board has not convened for a hearing and no decision has been made by the local appeals board because Ferguson has not properly filed his appeal application to the local appeals board which requires him to attach the code official's decision to the appeal application and pay the required fee as set forth in the Pittsylvania County ordinance.

_____

Chair, State Building Code Technical Review Board

Date entered _____November 20, 2026_____

As required by VCC 119.9: "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".

As required by Rule 2A:2(C): "Any party appealing from a regulation or case decision shall file with the agency secretary, within 30 days after adoption of the regulation or after service of the final order in the case decision, a notice of appeal signed by the appealing party or that

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party's counsel. With respect to appeal from a regulation, the date of adoption or readoption shall be the date of publication in the Register of Regulations. In the event that a case decision is required by § 2.2-4023 or by any other provision of law to be served by mail upon a party, 3 days shall be added to the 30-day period for that party. Service under this Rule shall be sufficient if sent by registered or certified mail to the party's last address known to the agency". See Rule 2A:2(A) of the Rules of the Supreme Court of Virginia.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Kyle Pasquarella (Thee Establishment)
Appeal No. 26-05

CONTENTS

Section	Page No.
Review Board Staff Document	381
Basic Documents	387
Documents Submitted by Kyle Pasquarella	405
Documents Submitted by City of Suffolk	431

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Kyle Pasquarella (Thee Establishment LLC)
Appeal No. 26-05

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On May 4, 2026, the City of Suffolk Department of Fire and Rescue (City), the agency responsible for enforcement of the 2021 Virginia Statewide Fire Prevention Code (VSFPC), conducted an inspection and issued a Field Inspection Report (Report) to Thee Establishment LLC for the following potential violations:

a) *Emergency lighting is maintained and functioning – SFPC Section 1032.10.1 and 1032.10.2*
b) *The means of egress shall remain un-obstructed and reliable at all times – SFPC Section 1032.2*
c) *Remove extension cords extending through walls, ceilings, floors, under doors or floor coverings – SFPC Section 603.6*
d) *Discontinue use of unprotected multi-plug adapters. Power Taps must be UL Listed, with overcurrent protection – SFPC Section 603.5.1*
e) *Extension cords shall not be "daisey chained" together or incorporated with a power tap or multiplug adaptor – SFPC Section 603.6.1*
f) *Abate existing electrical hazards associated with open wiring. Apply for appropriate permit through COF Code Administration – SFPC Section 603.2.1*
g) *All openings in junction boxes or electrical panels shall be closed with an approved device – SFPC Section 603.2.2*
h) *Required portable fire extinguishers are require to remain in service and have an annually inspection and are tagged and dated by a 3rd party – SFPC Section 906.2*
i) *Install portable fire extinguishers with the supplied hangers or brackets – SFPC Section 906.7*
j) *Class K Extinguisher required for grease latent fat fryers – SFPC Section 906.4*
k) *Combustible materials shall not be stored in boiler, mechanical or electrical rooms – SFPC Section 315.3.3*

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l) Storage in buildings is neat and orderly and separated from sources of ignition – SFPC Section 315.3

m) During the inspection, it was noted that food was being cooked on the stove on the first floor. Steam can be seen coming from the pot on the stove on the right side. During the inspection of the second floor, a large pot on the stove was warm to the touch and contained what appeared to be collard greens. Per the Certificate of Occupancy issued on 11/22/2025 by Sean Day, the Building Official, it states that" Not Approved for Commercial Cooking or Preparation of Food that will require the collecting and removing of grease vapors, smoke, steam, heat, odors, and products of combustion" – SFPC Section 301.3

2. The Report did not contain a right of appeal.

3. Kyle Pasquarella (Pasquarella), legal counsel for Thee Establishment LLC, attempted to file an appeal to the City of Suffolk local appeals board (local appeals board) but was informed by the City that he did not have a right to an appeal. In his attempt to file an appeal to the local appeals board, Pasquarella found that the City did not have a local appeals board as required in VSFPC Section 112.1.

4. On June 8, 2026, Pasquarella filed an appeal to the Review Board. In his original statement of relief sought, Pasquarella asked the Review Board to remand the case back to the local appeals board for a hearing on the merits of the case; however, during the processing of the appeal, Pasquarella amended his request asking the Review Board to take jurisdiction over the case and not remand it back to the City.

5. This staff document, along with a copy of all documents submitted, will be sent to the parties an opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the decision of City that a violation of VSFPC Section 1032.10.1 *Activation test* and 1032.10.2 *Power test* exists.

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2. Whether to overturn the decision of City that a violation of VSFPC Section 1032.2 *Reliability* exists.

3. Whether to overturn the decision of City that a violation of VSFPC Section 603.6 *Reliability* exists.

4. Whether to overturn the decision of City that a violation of VSFPC Section 603.5.1 *Listing* exists.

5. Whether to overturn the decision of City that a violation of VSFPC Section 603.6.1 *Application and use* exists.

6. Whether to overturn the decision of City that a violation of VSFPC Section 603.2.1 *Modified or damaged* exists.

7. Whether to overturn the decision of City that a violation of VSFPC Section 603.2.2 *Open electrical terminations* exists.

8. Whether to overturn the decision of City that a violation of VSFPC Section 906.2 *General requirements* exists.

9. Whether to overturn the decision of City that a violation of VSFPC Section 906.7 *Hangers and brackets* exists.

10. Whether to overturn the decision of City that a violation of VSFPC Section 906.4 *Cooking equipment fires* exists.

11. Whether to overturn the decision of City that a violation of VSFPC Section 315.3.3 *Equipment rooms* exists.

12. Whether to overturn the decision of City that a violation of VSFPC Section 315.3 *Storage in buildings* exists.

13. Whether to overturn the decision of City that a violation of VSFPC Section 301.3 *Occupancy* exists.

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Basic Documents

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City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Inspection Status	Inspected by	Completed at
Completed with fail	Edward Kaczkowsky	05/04/2026 15:00:00

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

Business Name	Business Type
Thee Establishment,LLC	Restaurant

On 5/4/2026 members of the Fire Marshals' office conducted a fire inspection at 209 North Saratoga Street, the location of Thee Establishment. Accompanying the inspectors were representatives from the Zoning Department and the Building Officials' office.

An open sign was illuminating, and we made entry through the front door. Investigator Walker announced hello and proceeded through the building until we ended up at the kitchen, where we encountered a male and a female staff member who appeared to be cooking. Investigator Walker informed the male, identified as "Moose," that the purpose of the visit was to conduct a fire inspection. During this time, Investigators Kaczkowsky and Deputy Fire Marshal Allemand observed steam emanating from a pot on the stove, Subsequently, Moose made a phone call to Mr. Fred Walker, and then placed the call on an open speaker. We told Mr. Walker who we were and Mr. Walker requesting that the inspectors vacate the premises.

All inspectors complied and exited the property. Investigator Walker subsequently obtained an inspection warrant from the magistrate's office. Moose, whose full name is Moses Alendar Oneal Jr. was given a copy of the inspection warrant. Attorney Pasquarella accompanied Investigators Kaczkowsky and Walker, along with Deputy Fire Marshal Allemand, throughout the inspection. Photographs were taken both inside and outside of the establishment.

Multiple fire code violations were identified and communicated to Attorney Pasquarella. The following violations require prompt attention:

1. The exit light on the second floor requires repair.
2. Electrical violations: Extension cords and power strips are being improperly utilized. Exposed wiring in shed #1 and missing breaker in the panel box.
3. Fire extinguishers: These devices need inspection and proper mounting.
4. Egress path: There are items obstructing the exit path to the outdoor stairway. The gate to the enclosed fence at the rear of the property is inoperable, necessitating entry into an additional enclosed area to exit.
5. Combustible materials are positioned near the water heater.
6. The storage shed must be organized in a neat and orderly fashion.
7. According to the Certificate of Occupancy issued on November 22, 2025, the establishment is not approved for commercial cooking or food preparation that necessitates the collection and removal of grease vapors, smoke, steam, heat, odors, and combustion products. All cooking equipment and appliances must be removed, as this constitutes a change in use for the property.

The establishment will have a period of 30 days to address these violations. A copy of this report has been disseminated to the email address on file and has been forwarded to the following individuals: Sean Day, Building Official, and William Mellon, Zoning Official. For any inquiries, please contact 757-514-4540.

MEANS OF EGRESS:

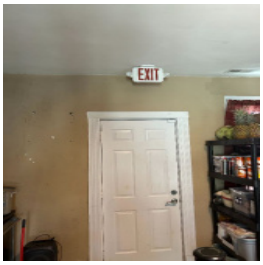
✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Emergency lighting is maintained and functioning.

REMARK:

The exit light on the second floor did not illuminate. The light will need to be repaired or replaced.

CODE: SFPC_21 - 1032.10 - Emergency lighting equipment inspection and testing. - Emergency lighting shall be maintained in accordance with Section 108 and shall be inspected and tested in
accordance with Sections 1032.10.1 and 1032.10.2.



✕ **Fail** 🗓 **COMPLIANCE DATE: 06-05-2026**

ITEM: The means of egress shall remain un-obstructed and reliable at all times.

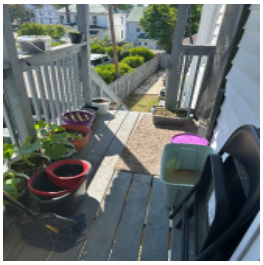
REMARK:

On the first floor, chairs were blocked and a marked exit door. Items will need to be removed.

On the second floor. Plants were blocking the egress path on the outside stairs. Items will need to be removed.

Unable to exit the back of the property due to the fence and the gate not opening, and you have to go into another part of the yard where the yard is fenced in and the gate is blocked by a food truck.

CODE: SFPC_21 - 1032.2 - Reliability. - Unless otherwise permitted by the applicable building code, required exit accesses, exits, and exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency where the building area served by the means of egress is occupied. An exit or exit passageway shall not be used for any purpose that interferes with a means of egress.





ELECTRICAL:

✕ **Fail** 🗓 **COMPLIANCE DATE: 06-05-2026**

ITEM: Remove extension cords extending through walls, ceilings, floors, under doors or floor coverings.

REMARK:

Electrical cords shall not run on the stairs, through windows, or underneath floors. Cords will need to be removed.

CODE: SFPC_21 - 603.6 - Extension cords. - Extension cords shall not be a substitute

for permanent wiring and shall be listed and labeled in accordance with UL 817. Extension cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances. Extension cords marked for indoor use shall not be used outdoors.

✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Discontinue use of unprotected multi-plug adapters. Power Taps must be UL Listed, with overcurrent protection.

REMARK:

Several power strips in almost every room on the first floor were overloaded. It is recommended that a power strip be able to handle the amperage of the items being plugged into it. You need to add additional electrical outlets. A permit may be required by Planning and Community Development.

CODE: SFPC_21 - 603.5.1 - Listing. - Relocatable power taps shall be listed in accordance with UL 1363. Current taps shall be listed and labeled in accordance with UL 498A.

✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Extension cords shall not be "daisey chained" together or incorporated with a power tap or multiplug adaptor.

REMARK:

Extension cords shall be plugged directly into an outlet and not into another extension cord.

CODE: SFPC_21 - 603.6.1 - Application and use. - Extension cords shall be plugged directly into an approved receptacle, relocatable power tap or current tap and, except for approved multiplug extension cords, shall serve only one portable appliance.



✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Abate existing electrical hazards associated with open wiring. Apply for appropriate permit through COF Code Adminsitration.

REMARK:

Exposed wiring in the storage shed number 1 and a missing breaker.

CODE: SFPC_21 - 603.2.1 - Modified or damaged. - Electrical wiring, devices, equipment and appliances that are modified or damaged, and constitute an electrical shock or fire hazard, shall not be used until repaired or replaced in accordance with the applicable building code.





✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: All openenings in junction boxes or electrical panels shall be closed with an approved device.

REMARK:

Outlet covers are missing behind the stove on the second floor.

On the storage shed number 1

CODE: SFPC_21 - 603.2.2 - Open electrical terminations. - Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.



PORTABLE FIRE EXTINGUISHERS:

✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Required portable fire extinguishers are require to remain in service and have an annually inspection and are tagged and dated by a 3rd party.

REMARK:

The fire extinguisher outside is missing the inspection tag. Extinguishers must be inspected by a qualified individual.

CODE: SFPC_21 - 906.2 - General requirements. - Portable fire extinguishers shall be selected, installed and maintained in accordance with this section and NFPA 10. Exceptions: 1. The distance of travel to reach an extinguisher shall not apply to the spectator seating portions of Group A-5 occupancies. 2. Thirty-day inspections shall not be required and maintenance shall be allowed to be once every 3 years for dry-chemical or halogenated agent portable fire extinguishers that are supervised by a listed and approved electronic monitoring device, provided that all of the following conditions are met: 2.1. Electronic monitoring shall confirm that extinguishers are properly positioned, properly charged and unobstructed. 2.2. Loss of power or circuit continuity to the electronic monitoring device shall initiate a trouble signal. 2.3. The extinguishers shall be installed inside of a building or cabinet in a noncorrosive environment. 2.4. Electronic monitoring devices and supervisory circuits shall be tested every 3 years when extinguisher maintenance is performed. 2.5. A written log of required hydrostatic test dates for extinguishers shall be maintained by the owner to verify that hydrostatic tests are conducted at the frequency required by NFPA 10. 3. In Group I-3, portable fire extinguishers shall be permitted to be located at staff locations.



✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Install portable fire extinguishers with the supplied hangers or brackets.

REMARK:

Fire extinguishers will need to be hung on a hanger for accessibility.

CODE: SFPC_21 - 906.7 - Hangers and brackets. - Hand-held portable fire extinguishers, not housed in cabinets, shall be installed on the hangers or brackets supplied. Hangers or brackets shall be securely anchored to the mounting surface in accordance with the manufacturer's installation instructions.

✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Class K Extinguisher required for grease latent fat fryers.

REMARK:

No class K extinguisher on location.

CODE: SFPC_21 - 906.4 - Cooking equipment fires. - Fire extinguishers provided for the protection of cooking equipment shall be of an approved type compatible with the automatic fire- extinguishing system agent. Cooking equipment involving solid fuels or vegetable or animal oils and fats shall be protected by a Class K-rated portable extinguisher in accordance with Sections 906.1, Item 2, 906.4.1 and 906.4.2 as applicable.

COMBUSTIBLE STORAGE/STORAGE GENERAL:

✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Combustible materials shall not be stored in boiler, mechanical or electrical rooms

REMARK:

Items near the water heater will need to be removed.

CODE: SFPC_21 - 315.3.3 - Equipment rooms. - Combustible material shall not be stored in boiler rooms, mechanical rooms, elevator machine rooms, electrical equipment rooms or in fire command centers as specified in Section 508.1.5.



✕ Fail **COMPLIANCE DATE: 06-05-2026**

ITEM: Storage in buildings is neat and orderly and seperated from souces of ignition.

REMARK:

Items in the shed will need to be neat and orderly.

CODE: SFPC_21 - 315.3 - Storage in buildings. - Storage of materials in buildings shall be orderly and stacks shall be stable. Storage of combustible materials shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur.



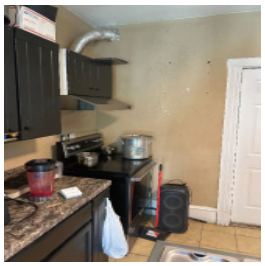
Ad-hoc violations:

✕ Fail **COMPLIANCE DATE: 07-05-0605**

ITEM: During the inspection, it was noted that food was being cooked on the stove on the first floor. Steam can be seen coming from the pot on the stove on the right side. During the inspection of the second floor, a large pot on the stove was warm to the touch and contained what appeared to be collard greens. Per the Certificate of Occupancy issued on 11/22/2025 by Sean Day, the Building Official, it states that" Not Approved for Commercial Cooking or Preparation of Food that will require the collecting and removing of grease vapors, smoke, steam, heat, odors, and products of combustion".

CODE: SFPC_21 - 301.3 - Occupancy. - The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another

occupancy that will subject the structure to any special provisions of this code or the applicable building code without the approval of the building official. Where a certificate of occupancy is not available for a building, the owner or owner's agent may request that one be issued by the building official and retained on site for reference.



Re-Inspection scheduled to be conducted on or after 06/05/2026 at 12:50
Next inspection scheduled to be conducted on or after 05/04/2027

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Mr. Walker was not present to sign the computer when the report was completed.

Fred Walker Jr.
Owner
757-560-7770
walkermscfred@gmail.com
209 North Saratoga St Suffolk VA 23434

Inspector Signature



Edward Kaczkowsky
757-514-4545
ekaczkowsky@suffolkva.us

City of Suffolk
Community Development
Phone: 757-514-4150
Fax: 757-514-4199

Board of Building Code Appeals
c/o Community Development
442 W. Washington Street
Suffolk, VA 23434

FEE $276

APPLICATION FOR APPEAL

Appellant Information (Name, address and telephone number of applicant for appeal.)

THEE ESTABLISHMENT, LLC.

209 N. SARATOGA ST, SUFFOLK, VA 757-486-3000

Related Party Information (Name, address and telephone number of others involved.)

ATTORNEY KYLE PASQUARELLA

502 VIKING DRIVE, SUITE 201, VB, VA

Additional Information (To be submitted with this application)

1. Copy of decision or action being appealed.
2. Statement of reason for appeal.
3. Statement of specific relief sought.

CERTIFICATE OF SERVICE

I hereby certify that on the ~~26th~~ 1 day of ~~April~~ JUNE, 20 16, a completed true copy of the foregoing Application for Appeal, including any additional information required above, was delivered or sent to the Board of Appeals and all related parties listed.

Signature of Applicant: [signature]

Name (print or type): KYLE PASQUARELLA

VIRGINIA: IN THE LOCAL BOARD OF BUILDING APPEALS FOR THE CITY OF SUFFOLK

THEE ESTABLISHMENT, LLC. APPEALS:

PURPOSE OF APPEAL

The purpose of this appeal is due to the fact that Thee Establishment, LLC. has *no* building code violations nor notices of violations. Under section 116.3 of the Virginia Construction Code (VCC), a certificate of occupancy may be suspended whenever the building official discovers that such certificate was issued in error, *or where there are repeated violations of the USBC after the certificate has been issued.* (emphasis added) The suspension fails to provide which situation applies, but clearly under the VCC a certificate cannot be revoked because only a single violation occurred, especially when no notice of violation has been provided as required under section 115.2 of the VCC.

The claim by Mr. Day that there are violations of the Virginia Uniform Statewide Building Code (USBC) is patently false, evident from his own email. Mr. Day cites to the Virginia Mechanical Code claiming that in Thee Establishment "domestic (residential) cooking appliances are not permitted within 209 N. Saratoga St." Mr. Day purposely misstates the law. Section 507.1.2 of the Virginia Mechanical Code specifically states that domestic cooking appliances utilized for commercial purposes shall be provided with Type I or Type II hoods as required for the type of appliances and processes in accordance with sections 507.2 and 507.3. These two sections dictate the type of hoods that must be installed with certain domestic cooking appliances. To say that a business

cannot have domestic cooking appliances where the law specifically states a business may, is a patent violation of Thee Establishment's civil rights and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States of America and the Commonwealth of Virginia.

Therefore, no violation has existed here to date and there has been a clear violation of Thee Establishment's civil and Constitutional Rights.

PRAYER FOR RELIEF

Thee Establishment, LLC. respectfully requests that the suspension of the certificate of occupancy be revoked and immediately reinstate the certificate of occupancy.

THEE ESTABLISHMENT, LLC.

By: 

Of Counsel

Kyle J. Pasquarella, Esquire
VSB No.: 101512
JOYNES & GAIDIES
502 Viking Drive, Ste 201
Virginia Beach, VA 23452
757-486-3000 telephone
757-486-4732 facsimile
kyle@joyneslaw.com

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

RECEIVED
June 8, 2026 WTZ
OFFICE OF THE REVIEW BOARD

Regulation Serving as Basis of Appeal (check one):

☐ Uniform Statewide Building Code
- ☐ Virginia Construction Code
- ☐ Virginia Existing Building Code
- ☐ Virginia Maintenance Code

☑ Statewide Fire Prevention Code

☐ Industrialized Building Safety Regulations

☐ Amusement Device Regulations

Appealing Party Information (name, address, telephone number and email address):
THEE ESTABLISHMENT, LLC., 209 N. SARATOGA ST, SUFFOLK, VA 757-560-7770, WALKER MSCFRED@GMAIL.COM ATTORNEY INFO: KYLE PASQUARELLA, 502 KINGS DR, VB, VA, 757 486-3000, KPLC@JOYNES LAW.COM

Opposing Party Information (name, address, telephone number and email address of all other parties):
CHRIS CORNWELL, 300 KINGS FORK RD, SUFFOLK VA, 7575144539 CCORNWELL@SUFFOLKVA.US

Additional Information (required by the applicable code to be submitted with this application)
- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)

Additional Information (to be submitted with this application)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 8 day of JUNE, 2026, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

Name of Applicant: THEE ESTABLISHMENT LLC.
(please print or type)

VIRGINIA: IN THE DEPARTMENT OF HOUSING COMMUNITY DEVELOPMENT

STATEMENT OF RELIEF SOUGHT ON BEHALF OF THEE ESTABLISHMENT, LLC., AND FRED WALKER:

On May 4, 2026, the City of Suffolk Department of Fire and Rescue conducted an inspection of the Thee Establishment, LLC., and issued a Notice of Violation of alleged various Statewide Fire Prevention Code violations. The Notice of Violations, dated May 6, 2026, does not provide the requisite appeals method as proscribed under Section 111, and a follow up email was sent to the inspector to clarify what the appeals method was and to document the failure of the inspector to place the required notice on the Notice of Violation. No response was ever sent by the inspector as to what the required method was.

Further, we believe and intend to show that the violations themselves are improperly enforced by the inspectors and will present evidence that the fire code violations are wrong and challenge the determinations made by the inspectors. Upon information and belief, the City of Suffolk does not have the required local appeals board under the Statewide Fire Prevention Code, and fails to inform citizens of how to appeal their violations. We therefore ask that the violation be voided as the City of Suffolk has failed to comply with the ministerial requirements with in the Statewide Fire Prevention Code, or, in the alternative, that the case be remanded back to the City of Suffolk to be heard by a board after it is established to challenge the violations.

THEE ESTABLISHMENT, LLC.,
and
FRED WALKER



Kyle Pasquarella, Esq.
VSB No.: 101512
Joynes and Gaidies
502 Viking Drive
Virginia Beach, VA 23452
Kyle@joyneslaw.com
(757) 486-3000

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Documents Submitted
by
Kyle Pasquarella

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JOYNES & GAIDIES LAW GROUP
502 Viking Drive, Suite 201 • Virginia Beach, Virginia 23452

June 25, 2026

Mr. W. Travis Luter, Sr., CBO
Secretary to the State Building Code Technical Review Board
Code and Regulation Specialist
Virginia Department of Housing and Community Development
Main Street Centre, 600 East Main Street, Suite 300
Richmond, Virginia 23219

Re: Appeal No. 26-05 – Thee Establishment LLC

Appellant's Response to the City of Suffolk's Supplemental Submission dated June 23, 2026

Dear Mr. Luter:

As you are aware, I represent the Appellants, Thee Establishment LLC and Mr. Fred Walker, in the above-referenced appeal. I write in response to the supplemental submission of Battalion Chief and Fire Marshal Christopher D. Cornwell, Sr. ("Chief Cornwell"), dated June 23, 2026, and its seventy-three (73) pages of enclosures. Although the City offers that material to portray Mr. Walker as the source of the difficulty, the submission—measured against the governing provisions of the Statewide Fire Prevention Code ("SFPC")—accomplishes quite the opposite. The City's own exhibits establish the very procedural failures that are the subject of this appeal, and much of the remaining material concerns building-code questions that are neither within the fire official's enforcement authority nor properly before this Board. In further support, the Appellant encloses the materials cited herein as Appellant's Exhibits A through G, indexed at the close of this letter.

By way of context: the City issued a Certificate of Occupancy for the property at 209 North Saratoga Street on November 21, 2025 (Permit No. BLC2025-00299), which the Building Official later suspended on May 5, 2026 under Section 116.3 of the Virginia Construction Code. On May 4, 2026, fire investigators conducted a warrant-based inspection (Appellant's Ex. C) and cited Mr. Walker for, among other things, an alleged "change of occupancy" under SFPC 301.3 arising from cooking on the premises. A Notice of Violation followed [on or about May 6, 2026], and it is from that enforcement action that this appeal is taken. The City separately pursued a criminal misdemeanor charge under Va. Code § 27-100 and I have filed a building-code appeal before the City's local Board of Building Code Appeals for the suspended Certificate of Occupancy.

I. The City's own exhibits prove the Section 111.1.1 violation.

Section 111.1.1 of the SFPC requires that every notice of violation issued under Section 111.1 "indicate the right of appeal by referencing the appeals section of this code." The City's submission includes its Notices of Violation and inspection reports for this property spanning October 29, 2025 through May 4, 2026. Not one of them references the appeals section, and not one advises

Mr. Walker how, when, or to whom an appeal may be taken—including the May 4, 2026 fire inspection report that underlies this enforcement action (Appellant's Ex. C).

The only document in the entire seventy-three-page submission that contains the required appeals language is a sample inspection the City ran against its *own* Fire Station 6 (300 Kings Fork Road) on June 23, 2026—the same day as Chief Cornwell's cover letter, and fifteen days after this appeal was filed. That document is expressly marked "TEST," is signed by Chief Cornwell himself as "Key Holder," and contains only a bare cross-reference stating that "the procedure for appeals is established" in Section 112.

The significance of the foregoing is twofold. **First**, the City concedes, by its own exhibits, that the Notices of Violations possessed no appeal-rights language until after Mr. Walker filed this appeal; the documents actually served on him contained no appeal-rights language. **Second**, even the newly drafted "appeals statement" does not cure the defect. A naked citation to Section 112—one that does not identify the body or official to whom an appeal must be directed, the deadline (Section 112 requires submission within fourteen calendar days), the contents an appeal must include, or any applicable fee—does not enable a meaningful appeal or satisfy the Code.

Appellant's own contemporaneous correspondence confirms that the defect was raised and disregarded. On May 6, 2026—the day the inspection report issued—undersigned counsel wrote to Investigator Kaczkowsky to point out that the report omitted the appeals method required by SFPC Section 111 and to request that the required language be placed on the violation, a request counsel had made on the record at the close of the inspection. (Appellant's Ex. D.) This omission was not limited to a peculiar or single document: the City's Fire Marshal had already confirmed, in January 2026, that the City maintains no Local Board of Fire Prevention Code Appeals and that "there is no local appeals body available" for Fire Prevention Code matters. (Appellant's Ex. A.) In fact, Chief Cornwell did exactly what he is doing now, attempting to provide evidence of guilt rather than supply the necessary information on how to appeal the violation. Mr. Walker was thus left with neither appeal-rights language on the face of the notices served on him nor any locally identified body to which an appeal could be directed.

II. The "summons in lieu of a notice of violation" defense is irreconcilable with the record.

Chief Cornwell relies on Section 111.1.1's exception for a "summons issued in lieu of a notice of violation in accordance with Section 111.5," representing to the Board that "a summons was issued *in lieu of* a Notice of Violation." The City's own documents refute that representation.

A Notice of Violation was in fact issued; it is the very instrument from which this appeal is taken. By its plain terms, the exception applies only where a fire official, in place of a notice of violation, issues a summons instead. It does not apply, where, as here, the City issued a notice of violation and proceeded by summons as well. A summons cannot have been issued "in lieu of" the very notice of violation the City served and now defends. The exception the City invokes therefore does not fit this record, and the appeal-rights requirement of Section 111.1.1 applies in full.

Further, and this point cannot be understated, when confronted with this very point in January, Chief Cornwell failed to provide *any* information on how Mr. Walker may exercise his civil, and as we argue constitutional, right to challenge the violations. Chief Cornwell did the very same

thing as he attempts to do now, avoid the issue and attempt to provide evidence of guilt. Chief Cornwell is unquestionably under a duty to provide the requested information, something he continuously fails to do.

III. The "uncorrected violations in subsequent inspections" exception does not apply—and the City's own record shows repeated corrections.

The City alternatively suggests that the appeal-rights requirement is excused because the documents reflect "uncorrected violations observed during subsequent inspections conducted to verify compliance." That exception (Section 111.1.1, Exception 2) relieves only re-inspection documents noting still-uncorrected violations from restating appeal rights; it does not relieve the original notice of violation, which must advise of the right to appeal.

Besides that premise is false based on a review of the City's own records. The inspection history the City submitted repeatedly records that Mr. Walker corrected the violations cited: the July 10, 2025 re-inspection notes "previous violations corrected"; the August 6, 2025 re-inspection notes "previous issues resolved"; the November 24, 2025 and December 19, 2025 notices each record the issue "resolved"; and the January 8, 2026 notice records the matter "resolved." The City even issued a "No Open Violations" notice congratulating the establishment on completing its inspection. (See Appellant's Ex. B (Jan. 8, 2026 correspondence confirming no open violations and enclosing the resolved Notice of Violation).) This record of repeated compliance refutes both the exception and the City's characterization of a "continuing pattern of non-compliance." Chief Cornwell also fails to provide this Board with the permits Mr. Walker received to have the very ovens and hoods that became subject of the search and seizure, however, they are now attached herein.

IV. The cooking and Certificate-of-Occupancy dispute is a building-code matter, outside the fire official's SFPC authority and not properly before this Board.

At the heart of the City's submission is the cooking and Certificate-of-Occupancy dispute. That dispute belongs to the building officials and the building-code appeal track, not to the fire official under the SFPC. The Certificate of Occupancy was issued, and suspended, by the Building Official under Section 116.3 of the Virginia Construction Code. The "no commercial cooking" condition rests on the Virginia Mechanical Code (Section 507 and related provisions) and was articulated by Building Official Sean Day—not by the fire marshal. Chief Cornwell's own cover letter lists, among its enclosures, an "Application for the Local Board of Appeals regarding violations of the Virginia Uniform Statewide Building Code," confirming that the building-code questions are being separately adjudicated before the City's Board of Building Code Appeals, where Appellant has filed. The City's own Fire Marshal has drawn precisely this line: in January 2026 correspondence, Chief Cornwell characterized a related building-official determination as one "not governed by a Fire Code provision" and directed that any appeal be taken to the Building Official rather than through the SFPC. (Appellant's Ex. A.)

The City has publicly described the matter in precisely these terms. In a June 1, 2026 public statement by the Mayor of Suffolk in a now deleted posted—posted within hours of Appellant's appeal to the City's Board of Building Code Appeals—reported that the establishment is "operating outside the scope of its permitted use," that "the CO, was suspended by the Bldg Official on May 5th," and that "a summons for a Class 1 misdemeanor has been issued for Mr.

Fred D. Walker Jr." (Appellant's Ex. F.) By the City's own public account, then, the controversy is a permitted-use and Certificate-of-Occupancy dispute—suspended by the Building Official and pursued by criminal misdemeanor charge—not a Fire Prevention Code notice of violation carrying the SFPC appeal rights at issue here.

The fire official cannot convert a building-official's Certificate-of-Occupancy condition into an SFPC Section 301.3 "change of occupancy" violation and enforce it as fire code. The SFPC and the Uniform Statewide Building Code are distinct regulatory schemes, with distinct enforcing officials and distinct appeal routes; an SFPC appeal to this Board is not the vehicle to litigate the propriety of a building-code Certificate-of-Occupancy suspension.

Even on its own terms, the City's cooking theory is contested. The Building Official's premise that "domestic (residential) cooking appliances are not permitted" misreads Section 507.1.2 of the Virginia Mechanical Code, which permits domestic cooking appliances used for commercial purposes provided the appropriate Type I or Type II hood is installed. Appellant further notes the internal inconsistency in the City's position: the City approved a "change in use from a deli to a small restaurant" for this very property in November 2025, yet now treats the act of cooking as an unlawful change of use. These building-code merits are reserved for the Board of Building Code Appeals; they are noted here only to show that the City's submission does not establish an SFPC violation properly before this Board.

V. The Suffolk Circuit Court's injunction ruling does not aid the City.

The City encloses the Suffolk Circuit Court's May 14, 2026 letter opinion in Walker v. City of Suffolk, CL26-1498, denying emergency and preliminary injunctive relief. That ruling does not assist the City here. The court denied an extraordinary equitable remedy under the four-part injunction standard, finding that the petitioners had not shown irreparable harm or a likelihood of success sufficient to warrant an injunction, and that any due-process injury, if proved, could be addressed by an award of damages—that is, that there was an adequate remedy at law. The court did not adjudicate the City's compliance with the SFPC, did not validate the Notices of Violation, and did not reach the Section 111.1.1 question now before this Board. Indeed, this administrative appeal is part of the very process that renders the legal remedy adequate. Moreover, that ruling is not final: Appellant's appeal is pending before the Court of Appeals of Virginia, which accepted the matter on June 22, 2026 as Record No. 1097-26-1. (Appellant's Ex. E.) The opinion has no preclusive effect on the issues presented here.

VI. Conclusion.

Taken as a whole, the City's submission confirms the appeal rather than answering it: (i) every operative Notice of Violation omitted the appeal-rights notice that Section 111.1.1 requires, and the only compliant language in the record is a "TEST" document the City generated against its own fire station after this appeal was filed; (ii) the Section 111.5 "summons" exception does not fit the facts, because the City issued a Notice of Violation, and a summons cannot be issued in lieu of the very notice of violation the City served and now defends; (iii) the "uncorrected violations" exception is inapplicable and is contradicted by the City's own record of repeated corrections; and (iv) the cooking and Certificate-of-Occupancy dispute is a building-code matter outside this Board's SFPC jurisdiction and the fire official's authority. Unfortunately, Chief Cornwell has led his subordinates to disaster. Violating the SFPC is a class one misdemeanor. This includes failing

to place the requisite information of how to appeal on the Notice of Violations the Suffolk Department of Fire and Rescue issues. Dozens, potentionally hundreds or thousands, of Notices of Violation have been issued in the City of Suffolk that do not place the required notice of appeal on them. Indisputably, the subordinates of Chief Cornwell have committed numerous Class One Misdemeanors, each one punishable by up to twelve months in prison and/or a $2,500 fine.

To avoid these issues, Appellants respectfully requests that the Board find the Notice(s) of Violation invalid and unenforceable for failure to comply with Section 111.1.1 of the SFPC, decline to consider the building-code material as beyond the scope of this SFPC appeal, and grant such further relief as the Board deems appropriate. I welcome the opportunity to address these matters at the hearing and am happy to provide any additional information the Board may require.

Respectfully submitted,

Kyle J. Pasquarella, Esq.
Virginia State Bar No. 101512
Joynes & Gaidies Law Group
502 Viking Drive, Suite 201
Virginia Beach, Virginia 23452
Counsel for Appellant Thee Establishment LLC

Enclosures — Index of Appellant's Exhibits:

Exhibit A — January 6–7, 2026 email correspondence between counsel and City of Suffolk Fire, Building, and Planning officials (Subject: "Thee Establishment"), including Chief Cornwell's January 7, 2026 confirmation that the City maintains no Local Board of Fire Prevention Code Appeals.

Exhibit B — January 8, 2026 email correspondence (Subject: "Phone Call"), including Fire Protection Plans Reviewer Ashlie Jordan's confirmation that the establishment has no open violations and the enclosed "NOV 209 N Saratoga Resolved.pdf."

Exhibit C — City of Suffolk Fire & Rescue Inspection Report No. SC-2026-0000676, dated May 4, 2026 (Completed with Fail).

Exhibit D — May 6, 2026 email correspondence between counsel and Investigator Edward Kaczkowsky regarding the omission of the appeals method from the inspection report under SFPC Section 111.

Exhibit E — Court of Appeals of Virginia Appellate Case Management System record, CAV Record No. 109726 (Case No. 1097-26-1; Notice of Appeal received June 22, 2026).

Exhibit F — June 1, 2026 public statement of Mayor Mike Duman, City of Suffolk, regarding "Thee Establishment" at 209 North Saratoga Street, including the City's position as to permitted use, the May 5, 2026 Certificate-of-Occupancy suspension, and the Class 1 misdemeanor summons issued to Mr. Fred D. Walker, Jr.

Exhibit G – Approved Permits for the ovens and hoods.

cc: Barrett Richardson, Esq., Office of the Suffolk City Attorney
Battalion Chief Christopher D. Cornwell, Sr., Suffolk Fire & Rescue
Brandon Rou, DHCD
Christopher Scott, DHCD

Kyle

From: Kyle <kyle@joyneslaw.com>
Sent: Wednesday, January 7, 2026 3:41 PM
To: 'Chris D. Cornwell'
Cc: 'Michael S. Joseph'; 'Ashlie H. Jordan'; 'fredwalker@realistrealtoraround.com'
Subject: RE: Thee Establishment

Thank you for the information Chief Cornwell. At this point, it is my recommendation that you begin discussing this issue with the City Attorney's office as we plan to move forward.

Thank you,
Kyle

From: Chris D. Cornwell [mailto:ccornwell@suffolkva.us]
Sent: Wednesday, January 7, 2026 3:29 PM
To: Kyle <kyle@joyneslaw.com>
Cc: Michael S. Joseph <mjoseph@suffolkva.us>; Ashlie H. Jordan <ahjordan@suffolkva.us>
Subject: Re: Thee Establishment

In the interest of full transparency, please see the included (below) correspondence between our office and the City of Suffolk Department of Planning and Community Development, dated earlier this afternoon, regarding your client and the purported interactions and approvals by City Council. For the record, no such approvals have occurred.

This communication is provided to establish a clear and accurate record of City actions and to ensure all parties have a consistent understanding of the facts.

Thank you,

Christopher D. Cornwell Sr.
Battalion Chief/Fire Marshal
Suffolk Fire & Rescue
(757) 514-4540
(757) 651-8851
300 Kings Fork Rd.
Suffolk, VA 23434

From: Christina T. Grover <cgrover@suffolkva.us>
Sent: Wednesday, January 7, 2026 3:02 PM
To: Ashlie H. Jordan <ahjordan@suffolkva.us>
Cc: Chris D. Cornwell <ccornwell@suffolkva.us>
Subject: RE: Thee Establishment

Good afternoon mam,

EXHIBIT
tabbies
A
412

I had to look at case BLC2025-00299 and saw that apparently he came in yesterday to the front counter. He spoke with staff when I was not in the office and informed them that he had Council approval for the outdoor seating. I've spoken with John Depano and he will not be performing a plan review until such time as Council approves it. Planning confirmed that he goes before Council on January 21st. Call me if you need anything.

Christina Grover, CZA
Permit Manager
City of Suffolk, Virginia
757-514-4142



Please submit **all** requested documentation to cgrover@suffolkva.us
If you have a large file that cannot be attached on this email, please send an email to this email address and request a link to send large files.

ADVISORY *– The 2021 Virginia Uniform Statewide Building Code (VUSBC) becomes* ***mandatory*** *January 18, 2025. Building plans for the 2018 VUSBC will not be accepted on or after that date.*

Virginia Building Codes - ICC Digital Codes (iccsafe.org)
PLEASE MAKE ***ALL REVISIONS*** TO PLANS BEFORE SUBMISSION.

From: Ashlie H. Jordan <ahjordan@suffolkva.us>
Sent: Wednesday, January 7, 2026 2:41 PM
To: Christina T. Grover <cgrover@suffolkva.us>
Cc: Chris D. Cornwell <ccornwell@suffolkva.us>
Subject: Thee Establishment

Hey Christina,

I saw where Mr. Walker paid a plan review fee for outdoor seating. Can you advise on the status of those approvals?

Thanks,

Ashlie Jordan
Fire Protection Plans Reviewer/Inspector
Fire Marshal's Office
Suffolk Fire & Rescue
300 Kings Fork Road
Suffolk, VA 23434
(757) 514-4541

Chris

Christopher D. Cornwell Sr.
Battalion Chief/Fire Marshal
Suffolk Fire & Rescue
(757) 514-4540
(757) 651-8851
300 Kings Fork Rd.
Suffolk, VA 23434

From: Kyle <kyle@joyneslaw.com>
Sent: Wednesday, January 7, 2026 2:18 PM
To: Chris D. Cornwell <ccornwell@suffolkva.us>
Cc: walkermscfred@gmail.com <walkermscfred@gmail.com>; fredwalker@realistrealtoraround.com <fredwalker@realistrealtoraround.com>; Michael J. Barakey <mbarakey@suffolkva.us>; Michael S. Joseph <mjoseph@suffolkva.us>; Ashlie H. Jordan <ahjordan@suffolkva.us>
Subject: RE: Thee Establishment

Thank you Chief Cornwell. As much as I would like to agree this is a building official issue, I cannot as your Department filed the violation specifically citing SFPC_21 – 301.3. Thus, this is indeed appealable through the 2021 SFPC and the City is under the obligation of establish an LBFPCA, especially since the citation is not a local ordinance.

Please note, we will file suit by Friday afternoon.

Thank you,
Kyle

From: Chris D. Cornwell [mailto:ccornwell@suffolkva.us]
Sent: Wednesday, January 7, 2026 2:12 PM
To: kyle@joyneslaw.com
Cc: walkermscfred@gmail.com; fredwalker@realistrealtoraround.com; Michael J. Barakey <mbarakey@suffolkva.us>; Michael S. Joseph <mjoseph@suffolkva.us>; Ashlie H. Jordan <ahjordan@suffolkva.us>
Subject: Re: Thee Establishment

Mr. Pasquarella,

Perhaps a review of the attached correspondence might save us all some time tied up in Circuit Court. The Building Official established that there **SHALL BE NO OUTDOOR SEATING** (as specifically outlined in the attached documents).

This determination was made under the authority of the Building Official and is not the result of an interpretation or enforcement action taken by this office.

Accordingly, this issue is **not** governed by a Fire Code provision, nor is it a Fire Official determination subject to appeal under the Statewide Fire Prevention Code. Any appeal should be directed to the Building Official's

decision, as that is the authority under which the prohibition was established. Simply put, the Building Code establishes the requirements, the Fire Code maintains what has been established.

My Office remains available to address any fire and life safety compliance matters that may continue arise.

Chris

Christopher D. Cornwell Sr.
Battalion Chief/Fire Marshal
Suffolk Fire & Rescue
(757) 514-4540
(757) 651-8851
300 Kings Fork Rd.
Suffolk, VA 23434

From: Ashlie H. Jordan <ahjordan@suffolkva.us>
Sent: Wednesday, January 7, 2026 1:34 PM
To: Chris D. Cornwell <ccornwell@suffolkva.us>
Cc: Michael S. Joseph <mjoseph@suffolkva.us>
Subject: Re: Thee Establishment

Please take a look at the attached exhibits that show that outdoor seating SHALL NOT be approved in accordance with the approved building plans.

Thank you,

Ashlie Jordan
Fire Protection Plans Reviewer/Inspector
Fire Marshal's Office
Suffolk Fire & Rescue
300 Kings Fork Road
Suffolk, VA 23434
(757) 514-4541

From: Chris D. Cornwell <ccornwell@suffolkva.us>
Sent: Wednesday, January 7, 2026 1:25 PM
To: Kyle <kyle@joyneslaw.com>
Cc: Ashlie H. Jordan <ahjordan@suffolkva.us>; Michael S. Joseph <mjoseph@suffolkva.us>; 'Fred YOUR FAVORITE LANDLORD Walker' <walkermscfred@gmail.com>; 'Fred YOUR FAVORITE LANDLORD Walker' <fredwalker@realistrealtoraround.com>; Michael J. Barakey <mbarakey@suffolkva.us>
Subject: Re: Thee Establishment

Mr. Pasquarella,

My Office administers and enforces the Virginia Statewide Fire Prevention Code in accordance with state law and established procedures. Should you elect to pursue action through the Circuit Court, that matter will proceed in accordance with applicable statutes and judicial processes. The City, our Fire Department, and my Fire Marshal's Office will respond as appropriate through proper legal channels.

Please note that enforcement actions, inspections, and determinations made by this office remain in effect unless, and until modified by a court of competent jurisdiction.

If you have further questions regarding compliance requirements under the Statewide Fire Prevention Code, we continue to remain available.

Christopher D. Cornwell Sr.
Battalion Chief/Fire Marshal
Suffolk Fire & Rescue
(757) 514-4540
(757) 651-8851
300 Kings Fork Rd.
Suffolk, VA 23434

From: Kyle <kyle@joyneslaw.com>
Sent: Wednesday, January 7, 2026 1:01 PM
To: Chris D. Cornwell <ccornwell@suffolkva.us>
Cc: Ashlie H. Jordan <ahjordan@suffolkva.us>; Michael S. Joseph <mjoseph@suffolkva.us>; 'Fred YOUR FAVORITE LANDLORD Walker' <walkermscfred@gmail.com>; 'Fred YOUR FAVORITE LANDLORD Walker' <fredwalker@realistrealtoraround.com>
Subject: RE: Thee Establishment

Thank you for the information Chief Cornwell. Since the City does not maintain a LBFPCA the City is operating in violation of the 2021 Virginia State Wide Fire Prevention Code as required in Section 112. As such, we will be filing an appeal in Circuit Court in the City of Suffolk.

Thank you,

Kyle J. Pasquarella
Attorney at Law
Joynes &Guidies Law

From: Chris D. Cornwell [mailto:ccornwell@suffolkva.us]
Sent: Wednesday, January 7, 2026 12:53 PM
To: kyle@joyneslaw.com
Cc: Ashlie H. Jordan <ahjordan@suffolkva.us>; Michael S. Joseph <mjoseph@suffolkva.us>
Subject: Re: Thee Establishment

Good afternoon Mr. Pasquarella,

This email is in response to your earlier correspondence with Fire Protection Plans Reviewer Ashlie Jordan. I serve as the Fire Code Official for the City of Suffolk and, in that capacity, offer the following clarification.

Please be advised that the City does not maintain a Local Board of Fire Prevention Code of Appeals (LBFPCA). As such, there is no local appeals body available for matters as referenced related to the Fire Prevention Code.

Let me know if you require any additional information.

Respectfully,

Christopher D. Cornwell Sr.
Battalion Chief/Fire Marshal
Suffolk Fire & Rescue
(757) 514-4540
(757) 651-8851
300 Kings Fork Rd.
Suffolk, VA 23434

From: Kyle <kyle@joyneslaw.com>
Sent: Wednesday, January 7, 2026 12:01 PM
To: Ashlie H. Jordan <ahjordan@suffolkva.us>
Subject: RE: Thee Establishment

Ashlie,

Could you pass along the email for the LBFPCA to send an application for appeal?

Thank you,
Kyle

From: Ashlie H. Jordan [mailto:ahjordan@suffolkva.us]
Sent: Wednesday, January 7, 2026 9:25 AM
To: Kyle <kyle@joyneslaw.com>
Subject: Re: Thee Establishment

Mr. Pasquarella,

You are referring to zoning ordinances in reference to a right of use. Our inspection is based on fire and life safety on what was approved through the building permit. This permit specifically states no outdoor seating. Therefore, there shall not be any outdoor seating. Mr. Walker can amend this if he wishes, as he did to remove the outdoor seating. If you have any further questions, please refer to Community Development. Once the seating is removed or the building plans are amended to allow for outdoor seating, then we can remove the violation and can conduct a reinspection of Thee Establishment to ensure full compliance.

Thank you,

Ashlie Jordan
Fire Protection Plans Reviewer/Inspector
Fire Marshal's Office
Suffolk Fire & Rescue
300 Kings Fork Road
Suffolk, VA 23434
(757) 514-4541

From: Kyle <kyle@joyneslaw.com>
Sent: Wednesday, January 7, 2026 9:15 AM
To: Ashlie H. Jordan <ahjordan@suffolkva.us>
Subject: RE: Thee Establishment

You don't often get email from kyle@joyneslaw.com. Learn why this is important

Thank you Ashlie,

Can you point me to the relevant ordinance that requires a permit for outdoor seating. It is my understanding based on the Suffolk ordinances in place that outdoor seating is encouraged but not required in the CBD and reads to me as a right of use.

Thank you,
Kyle

From: Ashlie H. Jordan [mailto:ahjordan@suffolkva.us]
Sent: Tuesday, January 6, 2026 1:16 PM
To: Kyle <kyle@joyneslaw.com>
Subject: Re: Thee Establishment

Mr. Pasquarella,

Please see the attached amended plans dated November 20, 2025 that states, without outdoor seating, that superseeds the November 14, 2025, plans.

Mr. Walker was very upfront that he would NOT have outdoor seating, and this was a heavy discussion between his building plans and his conditional use permit plans. The plans provided in his conditional use permit application also do not illustrate outdoor seating.

Thank you,

Ashlie Jordan
Fire Protection Plans Reviewer/Inspector
Fire Marshal's Office
Suffolk Fire & Rescue
300 Kings Fork Road
Suffolk, VA 23434

(757) 514-4541

From: Kyle <kyle@joyneslaw.com>
Sent: Tuesday, January 6, 2026 11:57 AM
To: Ashlie H. Jordan <ahjordan@suffolkva.us>
Subject: Thee Establishment

You don't often get email from kyle@joyneslaw.com. Learn why this is important

Good morning Ashlie,

I just got your voicemail, I've been out of the office over the last week. Please see attached approved building plans dated Nov. 14, 2025 allowing outdoor seating. Please call or email with any questions.

Thank you,
Kyle J. Pasquarella
Attorney at Law
Joynes &Guidies Law

Kyle

From: Ashlie H. Jordan <ahjordan@suffolkva.us>
Sent: Thursday, January 8, 2026 3:47 PM
To: Kyle; walkermscfred@gmail.com; theeestablishmentsuffolkva@gmail.com
Cc: William G. Mellon; Isabella W. Reynolds; Sean Day; John Alexis Angelo Depano; Chris D. Cornwell; Michael S. Joseph
Subject: Re: Phone Call
Attachments: NOV 209 N Saratoga Resolved.pdf

Good Afternoon Mr. Walker,

Thank you for your urgency in getting this violation resolved. Please see the attached report that shows this, and Thee Establishment currently does not have any open violations with our office. Please refer to the correspondence below that supersedes the approved building plans that state (no outdoor seating) and accounts for satisfying the previous open fire code violation. As always, if you have any questions, please feel free to reach out.

Thank you,

Ashlie Jordan
Fire Protection Plans Reviewer/Inspector
Fire Marshal's Office
Suffolk Fire & Rescue
300 Kings Fork Road
Suffolk, VA 23434
(757) 514-4541

From: John Alexis Angelo Depano <jdepano@suffolkva.us>
Sent: Thursday, January 8, 2026 3:25 PM
To: Kyle <kyle@joyneslaw.com>
Cc: John Alexis Angelo Depano <jdepano@suffolkva.us>; William G. Mellon <wmellon@suffolkva.us>; Ashlie H. Jordan <ahjordan@suffolkva.us>; Isabella W. Reynolds <ireynolds@suffolkva.us>; Sean Day <sday@suffolkva.us>
Subject: RE: Phone Call

Good Afternoon, Sir Kyle

On our side (Building Code Department), there is no code section specifically for a picnic table in the front yard that we can refer to or enforce. But, once a fence is installed between the public way and these picnic tables, this will be treated as an outdoor seating (Section 1004.7 of the 2021 Virginia Construction Code).

Please reach out to the Fire Department, Zoning Department, and Planning Department for comment/approval of your new proposal (with the picnic table in front and no outdoor seating at the rear part of the property).

Personnel for the above-mentioned departments are copied on this email.

Thank you, Sir Kyle.

EXHIBIT
tabbies
B

JOHN R. DE PANO
City of Suffolk
(757) 514-4076

From: Kyle <kyle@joyneslaw.com>
Sent: Thursday, January 8, 2026 1:44 PM
To: John Alexis Angelo Depano <jdepano@suffolkva.us>
Subject: Re: Phone Call

You don't often get email from kyle@joyneslaw.com. Learn why this is important

Good afternoon John,

As we discussed on the phone, since there will be no outdoor seating in the rear of the building and only outdoor seating in the front there is no need for Mr. Walker to submit new plans for Thee Establishment LLC. Further, there is no zoning or planning issue with outdoor seating in the front of the building.

Thank you,
Kyle J. Pasquarella
Attorney at Law
Joynes &Guidies Law

Kyle

From: Kyle <kyle@joyneslaw.com>
Sent: Wednesday, May 6, 2026 11:15 AM
To: 'Edward Kaczkowsky'
Cc: 'ekaczkowsky@suffolkva.gov'
Subject: RE: Suffolk City (VA) Inspection # SC-2026-0000676 for 209 N SARATOGA ST, SUFFOLK, VA, 23434

Mr. Kaszkowsky,

In accordance with the Statewide Fire Prevention Code section 111, you are required to place on the violation the appeals method. This is to document your failure to have done so on the attached inspection report. As such, this violation is incompatible with the Statewide Fire Code of 2021 and is a faulty violation. Please place the appeals method as required by law on a new violation so that we may appeal through the administrative channels. This is something I specifically asked you to do at the conclusion of the search and is on video where you stated you would.

Thank you,
Kyle J. Pasquarella
Attorney at Law
Joynes &Gaidies Law

From: Edward Kaczkowsky [mailto:fireprevbureau@suffolkva.us]
Sent: Wednesday, May 6, 2026 11:10 AM
To: kyle@joyneslaw.com
Subject: Suffolk City (VA) Inspection # SC-2026-0000676 for 209 N SARATOGA ST, SUFFOLK, VA, 23434

Inspection Report

first due

EXHIBIT
tabbies
D

COURT OF APPEALS OF VIRGINIA | APPELLATE CASE MANAGEMENT SYSTEM

HOME | LAST INQUIRY | LOGOUT

Case Information

CAV Record # 109726 **Find** **CAV Record # 1097 - 26 - 1**

Case Type: Civil | Lower Tribunal: Suffolk City | Tribunal Case #: CL26001498-00

Case Status

Notice of Appeal to SCV Received:

Appellant Parties

Appellant	**Alias**	**Alias Name**
WALKER, FRED THEE ESTABLISHMENT, LCC		

Attorney

PASQUARELLA, KYLE JOSEPH, (ESQ.)

Appellee Parties

Appellee	**Alias**	**Alias Name**
CITY OF SUFFOLK		

Attorney

RICHARDSON, BARRETT RIVES, JR., (ESQ.)

Notice of Appeal

CAV Received: 06-22-2026 | Record Received:

Briefing

Appellant Designation: | Appellee Designation: | Joint Designation:

Opening Brief Received: | Appendix Received:

Appellee Brief: **Received** | Guardian ad Litem: **Received**

Reply Brief Received:

Panel

Disposition Date: | Disposition:

☐ Order ☐ Opinion | ☐ Published ☐ Unpublished

Rehearing

Petition for Rehearing 3-Judge Panel Received:

Rehearing 3-Judge Panel Date: | Decision:

Petition for Rehearing En Banc Received:

Rehearing En Banc Date: | Decision:

Rehearing Granted

Opening Brief Received:

Appellee Brief / Respondent Brief - Panel Received: **Received**

EXHIBIT

tabbies

E

Reply Brief Received

Rehearing Granted 3-Judge Panel Date

☐ Order ☐ Opinion

Disposition

☐ Published ☐ Unpublished

Rehearing Granted En Banc Date

☐ Order ☐ Opinion

Disposition

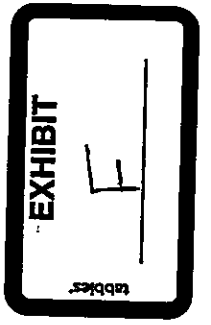
☐ Published ☐ Unpublished

Document

NOTE: Opinions and orders issued in this case after 06-01-2026 are available for download below.
Opinions are also on the Court's website: Published Opinions and Unpublished Opinions

Received	Delivery	Name	Sealed	Actions
06-22-2026		Notice of Appeal		

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Mike Duman - Mayor of Suffolk
58m ·

Some highlights from the City this week:

Sgt. Butler, Det. Chapman and Capt. Diggs collaborated with the Boy Scouts to have a pull-up and dip bar installed on the grounds of Precinct Two. This collaboration will assist a Boy Scout in achieving his Eagle Scout badge.

Criminal Investigations investigated a Domestic related Homicide at the 200 block of Woodrow Street. The offender was located a short time after the offense and has been charged with 2nd degree Murder and several weapons charges.

SPD Central Records is fully staffed with 0 openings; 17 new Police recruits passed driving in the academy; only defensive tactics and patrol techniques remain, with graduation on June 17th.

SPD Community Outreach had 12 events in 2 weeks, including a 5K run, a softball game, career days, and mental health awareness events.

Suffolk Fire Marshal's Office continues to work with the City Atty's Office and Bldg Official regarding "Thee Establishment" located at 209 N. Saratoga St. The City's position is that "Thee Establishment" is operating outside the scope of its permitted use, creating significant fire & safety hazards. Subsequently, the CO was suspended by the Bldg Official on May 5th. A summons for a Class 1 misdemeanor has been issued for Mr. Fred D. Walker Jr. Fire is committed to continuing to work with the building official and the CA Office to ensure the safety and security of our citizens.

SF&R has Lieutenant and Captain promotional interviews with the Chief's panel over the next 2 weeks; candidates for promotion have completed a written test and assessment. All candidates will now have an interview with the Fire Chief, Deputy Chief, and Assistant. Chief, Battalion Chief, and HR rep to establish the actual 2-year promotional lists to promote future Lieutenants and Captains.

Finance Ongoing projects:

- Mr. Brinkley, property owner at 112 Dill Road, has agreed to donate the easement and land needed for the construction of a new transit bus stop. Survey work is expected to take place within approximately 30 days.
- The Pruden Boulevard Widening Project Right of Entry phase is underway from May 1 through June 30 to support additional cultural resource studies and archaeological investigations.

Land Acquisition

- Received updated contact information for the Walmart bus stop at the N. Main Street location regarding ongoing shopping cart concerns. Staff will begin outreach to Walmart representatives and their transit contractor, who have reportedly had success addressing similar issues at other Walmart locations.

Operations / Roadways

- Market Street standing water improvements are approximately 40% complete. Crews have made asphalt grade changes between Main Street and Saratoga Street to improve drainage flow toward Saratoga Street.

app03.cityworksonline.com/CLIENT_SuffolkVA-Public/case/summary?id=455359

VPN

+ CREATE APPLICATION

Add Comment

Comment	Date
No records found	

Related Applications

Application Number	Name	Relationship
No records found		

Location

CD - COM MECH PERMIT INFO

PROVIDE A DETAILED DESCRIPTION OF WORK BEING PERFORMED.

Comment 185 / 2000

ADDING A TYPE II HOOD AND DOMESTICATED/COMMERCIAL RANGE. HOOD AND RANGE IS GOING IN THE SAME LOCATION AS THE OLD ONE. NO ELECTRICAL IS REQUIRED. SPEC SHEET FOR RANGE AND HOOD IS ON SITE

NUMBER OF HEAT PUMPS.

Number

NUMBER OF GAS/OIL BOILERS.

Number

NUMBER OF AIR HANDLERS.

Number

NUMBER OF MISCELLANEOUS FANS.

Number

NUMBER OF GAS PACKS.

Number

NUMBER OF GAS FURNACES.

Number

NUMBER OF GAS PIPING OUTLETS.

Number

Fees (Do Not Pay Until Requested)	Waived	Amount	Amount Paid
STATE LEVY FEE		$1.12	$1.12
ME - LPG TANKS AND PIPING FEE		$0.00	$0.00
ME - FLAMMABLE LIQUID AND PIPING FEE		$0.00	$0.00
ME - MINIMUM FEE		$30.00	$30.00
ME - COM MECHANICAL FIRE SUPPRESSION		$0.00	$0.00
Total:		$57.12	$57.12

1-5 of 8

Workflow

Description	Result	Target End	Completed	Milestone
CD-MECHANICAL GAS FINAL CC				6
CD-HOOD INSPECTION	DISAPPROVED	03/06/2026	03/06/2026	6
CD-HOOD INSPECTION	APPROVED / PASSED	03/09/2026	03/09/2026	6

Add Comment

Comment

Please call Fred Walker at 757-560-7770 before coming.

Or Irving Henderson at 252-619-1457

6-8 of 8

Conditions

tabbies

EXHIBIT

6

app03.cityworksonline.com/CLIENT_SuffolkVA-Public/case/summary;id=455359

VPN

+ CREATE APPLICATION

MEC2026-00021 choose action

CD - COM MECHANICAL PERMIT

No application name

PERMIT ISSUED

Created: 03/04/2026

209 N SARATOGA ST

Comments

Add Comment

Comment	Date
No records found	

Related Applications

Application Number	Name	Relationship
No records found		

Location

Data Groups

CD - COM MECH PERMIT INFO

PROVIDE A DETAILED DESCRIPTION OF WORK BEING PERFORMED.

Comment 185 / 2000

ADDING A TYPE II HOOD AND DOMESTICATED/COMMERCIAL RANGE. HOOD AND RANGE IS GOING IN THE SAME LOCATION AS THE OLD ONE. NO ELECTRICAL IS REQUIRED. SPEC SHEET FOR RANGE AND HOOD IS ON SITE

NUMBER OF HEAT PUMPS.

Number

NUMBER OF GAS/OIL BOILERS.

Number

NUMBER OF AIR HANDLERS.

Number

NUMBER OF MISCELLANEOUS FANS.

Number

Fees

Fees (Do Not Pay Until Requested)	Waived	Amount	Amount Paid
STATE LEVY FEE		$1.12	$1.12
ME - LPG TANKS AND PIPING FEE		$0.00	$0.00
ME - FLAMMABLE LIQUID AND PIPING FEE		$0.00	$0.00
ME - MINIMUM FEE		$30.00	$30.00
ME - COM MECHANICAL FIRE SUPPRESSION		$0.00	$0.00
Total:		$57.12	$57.12

1-5 of 8

Workflow

Description	Result	Target End	Co
CD-REVIEW APPLICATION FOR COMPLETENESS	COMPLETE	03/09/2026	0:
CD-COM MECH REVIEW TYPE	GAS APPL REPLACEMENT	03/05/2026	0:
PLN-PLANNING REVIEW	NOT APPLICABLE	03/25/2026	0:
CD-RESIDENTIAL HVAC REVIEW	NOT APPLICABLE	03/09/2026	0:

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Documents Submitted
By
City of Suffolk

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Office of the Fire Marshal

300 Kings Fork Rd. Suffolk, VA 23434
(757) 514-4593

June 23, 2026

Mr. W. Travis Luter, Sr.
Virginia Department of Housing and Community Development (DHCD)

Re: Appeal No. 26-05 – Thee Establishment LLC

Mr. Luter,

Please accept the attached supplemental documentation in response to the appeal filed by Kyle Pasquarella on behalf of Thee Establishment LLC on June 8, 2026.

The attached documentation demonstrates a continuing pattern of non-compliance with the Statewide Fire Prevention Code (SFPC) as well as the suspended Certificate of Occupancy (CO) for the property located at 209 North Saratoga Street. The CO expressly states that the facility is not approved for commercial cooking or food preparation that requires the collection and removal of grease, steam, heat, odors, or products of combustion. Despite this limitation, inspections and other evidence document activities inconsistent with the approved occupancy classification and conditions of the issued CO.

To assist the Review Board, the City has included only those documents relevant to the issues raised in the appeal.

The submissions include, but are not limited to:

- Application for the Local Board of Appeals regarding violations of the Virginia Uniform Statewide Building Code;
- Issued Certificate of Occupancy with revocation documentation;
- Updated inspection form reflecting the required appeals language and process;
- Notices of Violation; Historic and current
- Inspection reports and supporting documentation establishing the history of violations and subsequent enforcement actions; and

Pursuant to Section 111.1.1 of the SFPC, a summons was issued in lieu of a Notice of Violation in accordance with Section 111.5. Furthermore, as the attached supporting documentation demonstrates, the existence of uncorrected violations observed during subsequent inspections conducted to verify compliance also supports the basis for exemption.

These documents provide the evidentiary foundation for the City's enforcement actions and confirm that the cited violations stem from continued non-compliance with the SFPC and the terms of the issued Certificate of Occupancy, not from any procedural or substantive defect in the enforcement process. As the City's Fire Official, I am respectfully submitting these materials for inclusion in the administrative record and request that they be considered in the Review Board's evaluation of Appeal No. 26-05.

Respectfully submitted,

Christopher D. Cornwell
Battalion Chief/Fire Marshal

Cc: Barrett Richardson, City Attorney
Kyle Pasquarella
Review Board Staff
Brandon Rou, DHCD
Christopher Scott, DHCD

Enclosures (73)

Permit Number: BLC2025-00299

Date Issued: 11/21/2025

Date Printed: 11/21/2025

Suspension Date 5/5/2026

FINAL CERTIFICATE OF OCCUPANCY
SUSPENDID PER VCC 116.3

This certificate is issued pursuant to the requirements of the Uniform Statewide Building Code, Zoning Ordinances, and other applicable codes and ordinances certifying that at the time of issuance this structure is in compliance with the codes mentioned below and ordinances.

GENERAL INFORMATION

Map Number:	34G18(A)*49	Account Number:	350407000		
Building Code:	2021 VCC	Required To Be Sprinkled:	N	Building Sprinkled	N
Use Type:	BUSINESS				
Site Address:	209 N SARATOGA ST SUFFOLK VA 23434				

CONTRACTOR INFORMATION

Contractor Name:

Business Name:

Business Address:

SQ. FOOT	OCCUPANCY GROUP	OCCUPANCY LOAD	CONSTRUCTION TYPE	SEPARATED	MIXED USE
2590.00	B	48.00	VB	N	N

PERMIT NOTES

A-2, ASSEMBLY utilizing an exception under 2021 VCC to be considered a B, BUSINESS USE with an established occupancy load of less than 50 persons for the intention of gathering for purposes such as civil, social or religious functions; recreation, food or drink consumption or awaiting transportation.

Not Approved for Commercial Cooking or Preparation of Food that will require the collecting and removing of grease vapors smoke, steam, heat, odors and products of combustion.

THIS CERTIFICATE OF OCCUPANCY IS NOT TRANSFERRABLE AND BECOMES INVALID UPON ANY CHANGE OF USE OR OCCUPANCY. CHANGES TO THE BUILDING OR PREMISES, OR UPON ANY VIOLATION OF THE UNIFORM STATEWIDE BUILDING CODE, MAY VOID THIS CERTIFICATE OF OCCUPANCY.

Building Official

VCC116.3 Suspension or revocation of certificate.
A certificate of occupancy may be revoked or suspended whenever the building official discovers that such certificate was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC after the certificate has been issued or when requested by the code official under Section 106.6 of the VPMC. The revocation or suspension shall be in writing and shall state the necessary corrections or conditions for the certificate to be reissued or reinstated in accordance with Section 116.3.1.

CITY OF SUFFOLK PLANNING AND COMMUNITY DEVELOPMENT | 442 WEST WASHINGTON STREET | SUFFOLK, VA 23434
PHONE: 757-514-4150 | FAX: 757-514-4199

FIFTH JUDICIAL CIRCUIT OF VIRGINIA

JUDGES
LAWSON WAYNE FARMER
MATTHEW A. GLASSMAN
ALFRED W. BATES III
HELIVI L. HOLLAND

CITY OF SUFFOLK
CITY OF FRANKLIN
COUNTY OF ISLE OF WIGHT
COUNTY OF SOUTHAMPTON

POST OFFICE BOX 1814
SUFFOLK, VIRGINIA 23439-1814
CIVIL (757) 514-4800
CRIMINAL (757) 514-4803

May 14, 2026

Kyle J. Pasquarella
Joynes & Gaidies
502 Viking Drive, Suite 201
Virginia Beach, VA 23452
757-486-3000
kyle@joyneslaw.com

Barrett Richardson
Assistant City Attorney
Office of the Suffolk City Attorney
442 W. Washington Street, Suite 2117
Suffolk, VA 23434
757-514-7130
brichardson@suffolkva.us

Re: *Walker, et al. v. City of Suffolk*
CL26-1498
Petition for Emergency, Preliminary, and Permanent Injunctive Relief

Dear Counsel:

After carefully considering the evidence, and specifically the nature and circumstances of this case, the points and authorities of counsel, the court finds that the evidence presented by the petitioners is insufficient to warrant the issuance of emergency, preliminary or injunctive relief against the City of Suffolk at this time.

"[T]he granting of an injunction is an extraordinary remedy and rests on sound judicial discretion to be exercised upon consideration of the nature and circumstances of a particular case." Levisa Coal Co. v. Consolidation Coal Co., 276 Va. 44, 60 (2008). The party seeking an injunction bears the burden to prove four elements: (1) that they will suffer irreparable harm without the injunction; (2) that they are likely to succeed on the merits of their claim: (3) that the balance of the hardships between the parties favors granting the injunction ; and (4) that the

injunction is in the public interest. Cartograf USA, Inc. v. Comerica Bank, 85 Va. App. 1, 19 (Va. Ct. App. 2025).

Here, the Petitioners have utterly failed to credibly establish they will suffer "irreparable" harm in the absence of injunctive relief. See Legacy Invs, LLC v. Norfolk City Council, 110 Va. Cir. 392, 406 (Norfolk 2022). Further, Petitioners have failed to credibly demonstrate that they are likely to succeed on the merits. In addition, this court has been provided no persuasive legal authority to support a due process violation herein that would be sufficient to warrant an injunction. Petitioners have offered nothing the court finds persuasive to demonstrate that a due process violation, if proved, could not be adequately addressed by an appropriate award of damages. Petitioners have provided no credible argument that they do not have an adequate remedy at law.

Mr. Richardson is directed to prepare an order not inconsistent with this letter opinion.

The Clerk is directed to mail a copy of this letter opinion to all counsel of record.

Very truly yours,

Alfred W. Bates III, Judge

cc: Clerk, Suffolk Circuit Court

WARRANT OF ARREST—MISDEMEANOR (STATE)

COMMONWEALTH OF VIRGINIA Va. Code § 19.2-71, -72

Suffolk
CITY OR COUNTY

[x] General District Court [x] Criminal [ ] Traffic
[ ] Juvenile and Domestic Relations District Court

TO ANY AUTHORIZED OFFICER:

You are hereby commanded in the name of the Commonwealth of Virginia forthwith to arrest and bring the Accused before this Court to answer the charge that the Accused, within this city or county, on or about **05/04/2026** (DATE) did unlawfully in violation of Section

27-100, Code of Virginia:
violate provisions of the Fire Prevention Code, to wit: the accused cooked food in building and reinstalled stoves after being directed not to based on the Certificate of Occupancy.

I, the undersigned, have found probable cause to believe that the Accused committed the offense charged, based on the sworn statements of

Fire Inv. Kaczkowsky, E. Suffolk Fire Department, Complainant.

Execution by summons [x] permitted at officer's discretion. [ ] not permitted.

05/05/2026 03:28 PM
DATE AND TIME ISSUED

M Merrill
[ ] CLERK [x] MAGISTRATE [ ] JUDGE
M. Merrill

SUMMONS (If authorized above and by serving officer)
You are hereby commanded to appear before this court located at
150 North Main Street Suffolk, VA 23434
on 5-28-2026 at 0900 AM/PM.

I promise to appear in accordance with this Summons and certify that my mailing address as shown at right is correct.

ACCUSED

[ ] The Accused refused to sign this promise to appear. (Virginia Code § 46.2-936)

WARNING TO ACCUSED: You may be tried and convicted in your absence if you fail to appear in response to this Summons. Willful failure to appear is a separate offense.
SIGNING THIS NOTICE DOES NOT CONSTITUTE AN ADMISSION OF GUILT.

FORM DC-314 (MASTER, PAGE ONE OF TWO) 07/21

CASE NO.

ACCUSED:
Walker, Fred Douglas; Jr.
LAST NAME, FIRST NAME, MIDDLE NAME

106 Park Rd
ADDRESS/LOCATION
Suffolk, VA 23434

To be completed upon service as Summons

Mailing address [ ] Same as above

[ ]

RACE	SEX	BORN MO. DAY YR.	HT. FT. IN.	WGT.	EYES	HAIR
B	M	09/12/1990	6' 05"	170	BRO	BLK

SSN 229-57-1307

DL# STATE

[ ] Commercial Driver's License
[ ] Commercial Motor Vehicle [ ] Hazardous Materials

CLASS 1 MISDEMEANOR

[ ] EXECUTED by arresting the Accused named above on this day:
[ ] EXECUTED by summoning the Accused named above on this day:
[ ] For legal entities other than individuals, service pursuant to Va. Code § 19.2-76.

5-11-2026 at 3:58 PM
DATE AND TIME OF SERVICE

E. Kaczkowsky, ARRESTING OFFICER

6049, SFMO (124)
BADGE NO., AGENCY AND JURISDICTION

for
SHERIFF

Attorney for the Accused:

Short Offense Description (not a legal definition):
FIRE PROTECTION: VIOLATE FIRE PREVENTION CODE
Offense Tracking Number:
800GM2600004502

FOR ADMINISTRATIVE USE ONLY
Virginia Crime Code:
FIR-9103-M1

COPY COPY COPY COPY COPY
M

Hearing Date/Time

STATE

438

FIRE INSPECTION WARRANT

VA. Code § 27-98.3

To Suffolk Fire Marshal:

You are hereby commanded in the name of the Commonwealth to forthwith inspect or reinspect:

Thee Establishment
LOCATION/DESCRIPTION OF PLACE TO BE INSPECTED

209 N. Saratoga St., Suffolk, VA 23434

in order to inspect, examine, test, or collect samples for testing the following place, property or thing pursuant to the Statewide Fire Inspection Code.

1. Authorization for execution of this warrant in the absence of the owner, operator or agent in charge of the above-described place is [X] granted [ ] not granted.
2. Authorization for forcible entry is [ ] granted [X] not granted.
3. The warrant shall be effective for 2 days.

I, the undersigned, have found probable cause to believe that, based on the statement contained in the attached affidavit sworn to by Investigator N. P. Walker, which
AFFIANT

is hereby incorporated by reference:

[X] the inspection, examination, testing and collection of samples for testing are necessary to insure compliance with the Statewide Fire Prevention Code for the protection of life and property from the hazards of fire and explosion because of evidence of a violation of such Code.

[ ] the inspection request is based on legislative or administrative standards for selecting places for inspection, the inspection program is based on reasonable standards, and the standards are being applied to a particular place in a neutral and fair manner, in order to perform a routine inspection.

5/4/26 2:31 pm
DATE AND TIME

[X] MAGISTRATE [ ] JUDGE

CASE NO.

FIRE INSPECTION WARRANT

COMMONWEALTH OF VIRGINIA

In re /V.

Executed on the within-described location on

5/4/26
DATE

SIGNATURE

N.P. WALKER, INVESTIGATOR
NAME AND TITLE

SIGNATURE

NAME AND TITLE

Returned to the Clerk of

Suffolk Circuit Court
CITY OR COUNTY WHERE EXECUTED

on 6/5/2026
DATE

Tina Williams, DC
SIGNATURE

TINA WILLIAMS, DC
NAME AND TITLE

AFFIDAVIT FOR FIRE INSPECTION WARRANT

VA. CODE § 27-98.2

The undersigned Applicant states under oath that:

1. To determine compliance with the Statewide Fire Prevention Code or regulations and standards adopted in pursuance thereof, an inspection warrant is requested for an inspection or reinspection of buildings, structures, property or premises subject to inspections pursuant to the Statewide Fire Inspection Code, as described below:

   Thee Establishment
   209 N Saratoga St.
   Suffolk, VA 23434
   White 2 story wood frame structure with black shutters, open sign in window.

   ([ ] CONTINUED ON ATTACHED SHEET)

2. The purpose(s) for which the inspection, examination, testing or collection of samples for testing are to be made are described as follows:
   a. [X] to gather evidence of a particular suspected violation of the Statewide Fire Prevention Code or regulations and standards adopted in pursuant thereof (see 3.a. of this Affidavit)
   b. [ ] to conduct a routine on-site inspection, examination, testing and collection of samples for testing in accordance with written standards and a written inspection procedure and site selection mechanism (see 3.b. of this Affidavit).
3. The material facts constituting probable cause that the search should be made that:
   a. [X] the inspection, examination, testing or collection of samples for testing are necessary to insure compliance with the Statewide Fire Prevention Code for the protection of life and property from the hazards of fire or explosion because of the following evidence of a violation of such Code:

   VSFP 301.3 Occupancy - THE LISTED ADDRESS WAS ISSUED A CERTIFICATE OF OCCUPANCY ON 11/21/2025. THE CERTIFICATE OF OCCUPANCY STATES THAT BUSINESS IS NOT APPROVED FOR COMMMERCIAL COOKING.

   ([X] CONTINUED ON ATTACHED SHEET)

   b. [ ] the inspection request is based on [ ] legislative or [ ] administrative standards for selecting buildings, structures, property or premises for inspections, the inspection program is based on reasonable standards, and the standards are being applied to a particular place in a neutral and fair manner, all as described below to perform a routine inspection.

440

FORM DC-380 (MASTER, PAGE ONE OF TWO) 07/17

(OVER)([ ] CONTINUED ON ATTACHED SHEET)

CASE NO.

AFFIDAVIT FOR FIRE INSPECTION WARRANT

APPLICANT:

N.P. Walker
NAME

Investigator
TITLE (IF ANY)

ADDRESS
300 Kings Fork Rd

Certified to Clerk of

Suffolk Circuit Court
CITY OR COUNTY

on 5/4/26
DATE

Magistrate
TITLE

SIGNATURE

Original Delivered [✓] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing/security procedures defined in the Uniform Electronic Transactions Act

to Clerk of Suffolk Circuit Court
CITY OR COUNTY WHERE EXECUTED

on 5-5-2026
DATE

Deputy Clerk
TITLE

Tina Williams, DC
SIGNATURE

TRUE COPY

I certify that the document to which this authentication is affixed is a true copy of a record in the Suffolk Circuit Court that I have custody of the record, and that I am the custodian of that record.

TESTE: W. RANDOLPH CARTER JR., CLERK

BY Tina Williams DC

DATE 5-5-2026

4. In addition to the above, one of the following situations exists:
[X] Consent to inspect, examine, test or collect samples for testing has been sought and refused by Fred Walker who is OWNER, on 05/04/2026; or
[ ] Facts or circumstances exist which reasonably justify the failure to seek such consent in order to enforce effectively the fire safety laws, regulations or standards of the Commonwealth which authorize such inspections, examinations, testing or collection of samples for testing, namely

([ ] CONTINUED ON ATTACHED SHEET)

5. [X] I have personal knowledge of the facts set forth in this affidavit AND/OR
[ ] I was advised of the facts set forth in this affidavit, in whole or in part, by one or more other person(s). The credibility of the person(s) providing this information to me and/or the reliability of the information provided may be determined from the following facts:
INVESTIGATOR N.P. WALKER
18 YEARS INVESTIGATIVE EXPERIENCE WITH SUFFOLK POLICE AND SUFFOLK FIRE MARSHAL
2 YEARS FIRE INSPECTION EXPERIENCE

6. I request the following authority in the execution of the requested inspection warrant:
[X] Execution in the absence of the owner, operator or agent in charge of the particular building, structure, property or premises is necessary to effect the purposes of 27-98.2 (STATUTE OR REGULATION) because INVESTIGATORS WERE TOLD TO LEAVE THE PREMISES BY THE OWNER, FRED WALKER, VIA CELL PHONE
[ ] Forcible entry should be authorized because, based on the facts stated below:
[ ] there is a reasonable suspicion of an immediate threat to
[ ] an occupant of the place to be inspected
[ ] the general safety and welfare of the public
[ ] adjacent buildings, structures, properties or premises
[ ] reasonable attempts to serve a previous warrant have been unsuccessful

The facts supporting forcible entry are:

7. I request the issuance of a fire inspection warrant to be effective for 2 days (not to exceed 7 days) because: TO ENSURE A PROPER INSPECTION OF PREMISES

The statements above are true and accurate to the best of my knowledge and belief.

Investigator
TITLE OF APPLICANT (IF ANY)

N.P. WALKER
APPLICANT

Subscribed and sworn to before me this day.

5/4/26 1:31 pm
DATE AND TIME

[X] MAGISTRATE [ ] JUDGE

441

THE BUSINESS WAS TOLD TO REMOVE THE STOVE DURING THE INITIAL FIRE INSPECTION. THE STOVE WAS REMOVED AND HAS BEEN REINSTALLED SINCE. THE BUSINESS IS CURRENTLY COMMERCIALLY COOKING.

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Notice of Violation

Example of updated NOV with appeals statement.

Inspection Status	Inspected by	Completed at
In Progress	Ashlie Jordan	06/23/2026 11:30:00

Address	Suite	City	State	Zip
300 KINGS FORK RD	--	SUFFOLK	VA	23434

Business Name	Business Type
Fire Station 6	Government

BUILDING GENERAL:

✕ **Fail** ☐ **COMPLIANCE DATE: 06-24-2026**

ITEM: Street numbers must be in approved location; plainly visible & legible FROM street fronting property

CODE: SFPC_21 - 505.1 - Address identification. - New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) high with a minimum stroke width of 1 / 2 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

✕ Fail ☐ COMPLIANCE DATE: 06-24-2026

ITEM: Fire lane marking - Yellow curb w/ white stencil face or sign on standard ("No Parking Fire Lane")

CODE: SFPC_21 - 503.3 - Marking. - Where required by the fire code official, approved signs or other approved notices or markings that include the words "NO PARKING—FIRE LANE" shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

✕ Fail ☐ COMPLIANCE DATE: 06-24-2026

ITEM: Required access to the building for Fire Department response is maintained.

CODE: SFPC_21 - 504.1 - Required access. - Exterior doors and openings required by the applicable building code shall be maintained readily accessible for emergency access by the fire department. An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided when required by the fire code official.

✕ Fail ☐ COMPLIANCE DATE: 06-24-2026

ITEM: Exterior doors and building openings are maintained.

CODE: SFPC_21 - 504.2 - Maintenance of exterior doors and openings. - Exterior doors and their function shall not be eliminated without prior approval. Exterior doors that have been rendered nonfunctional and that retain a functional door exterior appearance shall have a sign affixed to the exterior side of the door with the words "THIS DOOR BLOCKED." The sign shall consist of letters having a principal stroke of not less than 3 / 4 inch (19.1 mm) wide and not less than 6 inches (152 mm) high on a contrasting background. Required fire department access doors shall not be obstructed or eliminated. Exit and exit access doors shall comply with Chapter 10. Access doors for high-piled combustible storage shall comply with Section 3206.7.

VEHICLE IMPACT:

✕ Fail ☐ COMPLIANCE DATE: 06-24-2026

ITEM: Vehicle impact protection

REMARK:

TEST

CODE: SFPC_21 - 312.1 - General. - Vehicle impact protection required by this code shall be provided by posts that comply with Section 312.2 or by other approved physical barriers that comply with Section 312.3.
SFPC_21 - 312.2 - Posts. - Guard posts shall comply with all of the following requirements: 1. Constructed of steel not less than 4 inches (102 mm) in diameter and concrete filled. 2. Spaced not more than 4 feet (1219 mm) between posts on center. 3. Set not less than 3 feet (914 mm) deep in a

concrete footing of not less than a 15-inch (381 mm) diameter. 4. Set with the top of the posts not less than 3 feet (914 mm) above ground. 5. Located not less than 3 feet (914 mm) from the protected object. SFPC_21 - 312.3 - Other barriers. - Barriers, other than posts specified in Section 312.2, that are designed to resist, deflect or visually deter vehicular impact commensurate with an anticipated impact scenario shall be permitted where approved.

TEST

Re-Inspection scheduled to be conducted on or after 06/24/2026 at 13:26

Pursuant to Section 112 of the 2021 Virginia Statewide Fire Prevention Code, the procedure for appeals is established therein.

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

TEST

Chris Cornwell
Key Holder
7575144550
ccornwell@suffolkva.us
300 Kings Fork Road Suffolk VA 23434

Inspector Signature



Ashlie Jordan
--
757-514-4541
ahjordan@suffolkva.us

☺Corsair ☺ç☺

Outlook

RE: Office Visit

From Kyle <kyle@joyneslaw.com>

Date Wed 6/17/2026 2:01 PM

To 'Fred YOUR FAVORITE LANDLORD Walker' <walkermscfred@gmail.com>; 'VBCADCO' <irving@vbcadco.com>; Nathaniel J. Turner <nturner@suffolkva.us>

Cc Sean Day <sday@suffolkva.us>; John Alexis Angelo Depano <jdepano@suffolkva.us>; Ashlie H. Jordan <ahjordan@suffolkva.us>; Chris D. Cornwell <ccornwell@suffolkva.us>

Good afternoon Nathaniel,

No equipment will be removed, nor will a new floor plan be offered until a hearing is held by the board of building appeals that upholds the decision to revoke the certificate of occupancy. Even if the building appeals does uphold the decision, we will then file an appeal to the state review board. I would encourage you to work with Sean to being offering dates.

Thank you,
Kyle

From: Fred YOUR FAVORITE LANDLORD Walker [mailto:walkermscfred@gmail.com]
Sent: Tuesday, June 16, 2026 9:57 AM
To: Kyle <kyle@joyneslaw.com>; VBCADCO <irving@vbcadco.com>
Subject: Fwd: Office Visit

---------- Forwarded message ---------
From: **Nathaniel J. Turner** <nturner@suffolkva.us>
Date: Tue, Jun 16, 2026 at 8:34 AM
Subject: Office Visit
To: admin@vbcadco.com <admin@vbcadco.com>, walkermscfred@gmail.com <walkermscfred@gmail.com>
CC: Sean Day <sday@suffolkva.us>, John Alexis Angelo Depano <jdepano@suffolkva.us>, Ashlie H. Jordan <ahjordan@suffolkva.us>, Chris D. Cornwell <ccornwell@suffolkva.us>

Good morning,

This is just a follow up email to recap on our conversation at the front counter yesterday afternoon. In order to re-instate the CO for 209 S SARATOGA we will need any and all cooking appliances and equipment to be removed so the space can function as depicted on the plans for cold prep/deli. As far as wanting to cook going forward, I would advise that you first work on getting

the CO re-instated and then provide a floor plan with what you would like to have (prior to installing any equipment or appliances) to the Building Department, Fire Marshal Office, and Health Department. With a floor plan in hand showing any and all cooking equipment and appliances, we can better guide you towards what is required for what you have planned. From that point, it will be easier to move forward with the process and path that you would like to go and would ensure all relevant parties are on the same page with your plan for 209 S SARATOGA.

Thank you,

Nathaniel J. Turner, CBO
Assistant Building Official/Inspector
Combination Inspector, Plans Reviewer
City of Suffolk
Community Development
442 W. Washington Street
Suffolk, VA 23434
M/757-514-4150
O/757-514-4084

Office of the Fire Marshal

300 Kings Fork Rd. Suffolk, VA 23434
(757) 514-4593

To: Commonwealth Attorney

From: E. Kaczkowsky, Fire Investigator

Date: May 11,2026

Re: IBR# 2026-0004950

On May 5th, 2026, members of the Suffolk Fire Marshals Office, Planning and Community Development, and I conducted a Fire and Life Safety inspection at 209. N Saratoga Street. No further action taken.
I arrived on the scene, and the open sign was illuminated, and several signs in the front yard indicated the business was open. I entered the building. I heard Inspector Walker say hello a couple of times to let someone know we were inside the business. I followed the other inspectors into the kitchen, where I saw a male and a female working.

Inspector Walker advised the two individuals that we were there to conduct a fire inspection.

I noticed a microwave above the stove in the kitchen on the first floor. The stove had several pots on top, and steam could be seen coming from the pot on the front right corner. The residential stove is not covered by a type 1 hood suppression system. From the last time I was in the building in 2025, the previous stove was removed. At this time, we were asked to leave the premises by Mr. Waker, who was on speaker phone with " Moose".

All inspectors left the property. I waited on the sidewalk across the street from 209 N. Saratoga Street while Inspector Walker went to the magistrates' office to obtain an inspection warrant. I noticed a small car pull up and park on the street across from 209 N. Saratoga Street, and a male introduced himself as Kyle Pasqucrella, the attorney representing Mr. Walker.
Once Inspector Walker returned with the inspection warrant. We went to serve it on the two occupants who requested that we wait until Mr. Pasqucrella returns from the Suffolk Court house.
An inspection was conducted. I took photographs and noted several fire code violations. I noticed a residential stove on the second floor without a type 1 fire suppression system.

The building was placarded as unsafe by the Fire Marshal's Office. I sent a copy of the fire inspection report to Mr. Walker, his attorney, and to Sean Day, the building official, and William Mellon, the Zoning Official.

On May 5, 2026, I secured a misdemeanor warrant from the magistrate's office for a fire code violation. 27-100 (301.3) Change of occupancy.

On May 12, 2026, I arrived at Suffolk Circuit Court for a hearing on an emergency injunction filed by his attorney. After the hearing, Mr. Fred Walkers was advised that he had a permissible misdemeanor warrant. At 3:58 pm, Mr. Walker signed the document with his attorney, Kyle Pasquerella, present. Mr. Walker was then released. I then turned the warrant into Central files.
This concluded my involvement with this case.

EAK

CRIMINAL COMPLAINT

Commonwealth of Virginia

RULES 3A:3 AND 7C:3

Suffolk
CITY OR COUNTY

[X] General District Court
[ ] Juvenile and Domestic Relations District Court

Under penalty of perjury, I, the undersigned Complainant swear or affirm that I have reason to believe that the Accused committed a criminal offense, on or about

5/4/2026
DATE OFFENSE OCCURRED

in the [X] City [ ] County [ ] Town of Suffolk

I base my belief on the following facts: (Print ALL information clearly.)

On May 4, 2026, members of the Suffolk Fire Marshal's Office and Zoning and Building Inspector's from the City of Suffolk, arrived at 209 North Saratoga Street, Suffolk, Virginia. Units arrived to conduct a fire and life safety inspection per the Virginia Statewide Fire Prevention Code. The business, known as Thee Establishment, had posted video and pictures of menu items outside the Certificate of Occupancy USE on Facebook.

During the inspection, it was found that individuals were cooking inside on a residential stove/appliances, with steam visible from a metal pot. According to the Certificate of Occupancy that was issued on November 21, 2025, by the Building Official, the certificate states that the establishment is not approved for commercial cooking or for the preparation of food that requires the collection and removal of grease vapors, smoke, steam, heat, odors, and products of combustion.

This situation represents a change in use from what was specified in the issued Certificate of Occupancy. The accused has been made aware several times that he is not permitted to cook food. During a fire inspection on July 22, 2025, the accused was advised to remove the stove from the business and at that time it was removed. Building Inspector, Patrick Murns, noted during a mechanical inspection on March 9, 2026, that there was no stove in the kitchen. Since that date, cooking appliances have been brought into the business both on floor one and floor two.

The statements above are true and accurate to the best of my knowledge and belief.

In making this complaint, I have read and fully understand the following:

- By swearing to these facts, I agree to appear in court and testify if a warrant or summons is issued.
- The charge in this warrant cannot be dismissed except by the court, even at my request.

Kalzkowsky, Edward A
NAME OF COMPLAINANT (LAST, FIRST, MIDDLE)
(PRINT CLEARLY)

Edward A. K
SIGNATURE OF COMPLAINANT

Subscribed and sworn to before me this day.

5/5/2026 3:25pm
DATE AND TIME

mmc
[ ] CLERK [X] MAGISTRATE [ ] JUDGE

FORM DC-311 REVISED 07/11

450

CRIMINAL COMPLAINT

ACCUSED: Name, Description, Address/Location

Walker Jr., Fred Douglas
LAST NAME, FIRST NAME, MIDDLE NAME

106 Park Road

Suffolk Virginia 23434

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
B	M	09	12	90	6	5	170	BR	BK

SSN
229-57-1307

[ ] Complainant is not a law-enforcement officer or animal control officer. Authorization prior to issuance of felony arrest warrant given by
- [ ] Commonwealth's attorney
- [ ] Law-enforcement agency having jurisdiction over alleged offense

NAME OF PERSON AUTHORIZING ISSUANCE OF WARRANT

DATE AND TIME AUTHORIZATION GIVEN

Virginia Statewide Fire Prevention Code: 301.3 Occupancy

Outlook

Fw: CO - 209 N SARATOGA ST SUSPENDED

From Chris D. Cornwell <ccornwell@suffolkva.us>

Date Tue 5/5/2026 11:13 AM

To Ashlie H. Jordan <ahjordan@suffolkva.us>; Benjamin DeLugo <bdelugo@suffolkva.us>; Brian E. Silvers <bsilvers@suffolkva.us>; Edward Kaczkowsky <ekaczkowsky@suffolkva.us>; Katie S. Russell <krussell@suffolkva.us>; Kristin M. Ray <kmray@suffolkva.us>; Lawrence C. Corbett <lcorbett@suffolkva.us>; Nicholas Walker <nwalker@suffolkva.us>; Racheal N. Heikens <rheikens@suffolkva.us>; Travis M. Lancaster <tlancaster@suffolkva.us>; Matthew Allemand <mallemand@suffolkva.us>

1 attachment (394 KB)

CO - 209 N SARATOGA ST BLC2025-00299 SUSPENDED 05-05-26- Signed.pdf;

FYSA

Sent to Mr. WALKERMSCFRED@GMAIL.COM this morning at 09:41hrs.

Chris

Christopher D. Cornwell Sr.
Battalion Chief/Fire Marshal
Suffolk Fire & Rescue
(757) 514-4540
(757) 651-8851
300 Kings Fork Rd.
Suffolk, VA 23434

From: Sean Day <sday@suffolkva.us>
Sent: Tuesday, May 5, 2026 9:41 AM
To: WALKERMSCFRED@GMAIL.COM <WALKERMSCFRED@GMAIL.COM>
Cc: Jennifer S. Cobb <jcobb@suffolkva.us>; John Alexis Angelo Depano <jdepano@suffolkva.us>; Chris D. Cornwell <ccornwell@suffolkva.us>; Pulley, Katie (VDH) <Katie.Pulley@vdh.virginia.gov> Pulley <Katie.Pulley@vdh.virginia.gov>
Subject: CO - 209 N SARATOGA ST SUSPENDED

Fred Walker,

The Certificate of Occupancy for a BUSINESS USE located at 209 N SARATOGA ST previously issued under BLC2025-00299 has been SUSPENDED at this time.

Virginia Construction Code (VUSBC) violation has been noted by the Suffolk Fire Marshalls Office on 5/4/2026 related to the use of domestic cooking appliances being utilized within 209 N SARATOGA ST. Building Code Violations and will need to be addressed immediately in order for Certificate of Occupancy Re-Issuance to be considered.

Virginia adopted code language copy and pasted below from the 2021 VIRGINIA MECHANICAL CODE

301.7 Listed and labeled.
Appliances regulated by this code shall be listed and labeled for the application in which they are installed and used, unless otherwise approved in accordance with Section 112.2.

COMMERCIAL COOKING APPLIANCES.
Appliances used in a commercial food service establishment for heating or cooking food. For the purpose of this definition, a commercial food service establishment is where food is prepared for sale or is prepared on a scale that is by volume and frequency not representative of domestic household cooking.

SECTION 507
COMMERCIAL KITCHEN HOODS
507.1 General.

Commercial kitchen exhaust hoods shall comply with the requirements of this section. Hoods shall be Type I or II and shall be designed to capture and confine cooking vapors and residues. A Type I or Type II hood shall be installed at or above appliances in accordance with Sections 507.2 and 507.3. Where any cooking appliance under a single hood requires a Type I hood, a Type I hood shall be installed. Where a Type II hood is required, a Type I or Type II hood shall be installed. Where a Type I hood is installed, the installation of the entire system, including the hood, ducts, exhaust equipment and makeup air system shall comply with the requirements of Sections 506, 507, 508 and 509.

Domestic (Residential) Cooking Appliances are not permitted within 209 N SARATOGA ST. Any food preparation that requires the collecting and removing of grease vapors, steam, heat, odors and products of combustion will be required to have an Application for Permit submitted to be reviewed, inspected and confirmed to meet Virginia Construction Code Compliance prior to operation with 209 N SARATOGA ST.

Sean S. Day
Building Official
442 W Washington St.
Suffolk, Virginia 23434
757-514-4158 office
Taxpayer Provided Virginia Codes: https://www.dhcd.virginia.gov/codes

BLC2025-00299

PERMIT NUMBER

209 N SARATOGA ST

PROPERTY ADDRESS - LOCATION

ALL CONSTRUCTION SHALL COMPLY WITH THE 2021 VIRGINIA UNIFORM STATEWIDE BUILDING CODE

APPROVED AMENDED PLANS (WITHOUT OUTDOOR SEATING)
ASSEMBLY SPACE WITH LESS THAN 50 OCCUPANTS (SEC 303.1.1 OF 2021 VCC)
INCREASE IN OCCUPANT LOAD (FROM 18 TO 48 OCCUPANTS)

PROJECT DESCRIPTION

REVIEWED FOR CODE COMPLIANCE

This review for Code compliance does not relieve the owner, design professional, contractor or their representatives from the responsibility to comply with all regulations of the Virginia Construction Codes and the City of Suffolk Unified Development Ordinance in effect at time of permit issuance. This Plan Review does not prevent this office from requiring corrections during construction. Any changes or alterations to these documents shall be approved by the Building Official.

Full Size, Printed, Stamped Plans and Specifications are required to be on site for inspections. This shall include all manufacturers instructions for all appliances, equipment and other products.

City of Suffolk Community Development
Building Permit Division

NOTE: SUBJECT TO FIELD INSPECTION.

1109.2.1 Services.
If a service or facility is provided in an area that is not accessible, the same service or facility shall be provided on an accessible level and shall be accessible.

Live band is subject for approval of the Planning Department

BUILDING PLAN REVIEW DOES NOT INCLUDE THE FOLLOWING WHERE APPLICABLE

CIVIL PLANS
ALARM PLANS
SPRINKLER
EXTERIOR SIGNAGE
DESIGN STANDARDS FROM UDO
CIVIL PLANS
ACCESS CONTROL
MECHANICAL
ELECTRICAL
PLUMBING
ELEVATOR
HOOD SUPPRESSION
OTHER: _____

PRIOR TO BUILDING FINAL PLEASE POST A VISIBLE INTERIOR SIGN INDICATING THE FOLLOWING:

2021 VUSBC

Maximum Occupancy Load - 48

Type V-B construction

Use type is B Non Sprinklered

All Construction Must Comply with 2021 Virginia Uniform Statewide Building Code (VCC/VRC)

APPROVED
as noted
JOHN R. DE PANO
Digitally signed by JOHN R. DE PANO
Date: 2025.11.20 12:07:10-05'00'

ARCHITECTURAL & STRUCTURAL FLOOR PLANS FOR:
209 NORTH SARATOGA ST, SUFFOLK, VA, 23434

EXISTING TENANT:
THEE ESTABLISHMENT

PROJECT'S SCOPE-OF-WORK
NO NEW CONSTRUCTION WORK.
EXISTING B USE (SMALL RESTAURANT / LESS THAN 50 OCC)
TO REMAIN. UPPING THE EXISTING OCC FROM 17 OCC TO 46 OCC.

APPLICABLE BUILDING CODES AND STANDARDS:
2021 USBC
2021 VIRGINIA CONSTRUCTION CODE
2021 VIRGINIA EXISTING BUILDING CODE
2017 ICC / ANSI A117.1

SITE SPECIFIC INFORMATION:
ZONE CLASS: CBD
MAP #: 34G18(A)*49
LEGAL DESCRIPTION: L 49 209 N SARATOGA

BUILDING DATA:
USE CLASSIFICATION: SMALL RESTAURANT B USE IN CONSIDERATION TO SECTION 303.1.2
CONSTRUCTION TYPE: 5B UNPROTECTED NON-SPRINKLERED

TABLE 504.3: ALLOWABLE HEIGHT
USE GROUP B: 60'
ACTUAL HEIGHT: 40'

TABLE 504.4: ALLOWABLE NUMBER OF STORIES
USE GROUP B: UP TO 3 STORIES
ACTUAL STORIES: 2 STORIES

TABLE 506.2: AREAS ALLOWANCES
USE GROUP B: 27,000 SF
ACTUAL SF: 2,590

TABLE 601: REQUIRED FIRE RESISTANCE RATINGS

STRUCTURAL FRAME		0
BEARING WALLS	EXTERIOR	0
	INTERIOR	0
FLOOR CONSTRUCTION		0
ROOF CONSTRUCTION		0

TABLE 705.5: REQUIRED FIRE RESISTANCE RATINGS

USE GROUP	B
EXTERIOR WALLS 0'-5'	1
EXTERIOR WALLS 5'-10'	1
EXTERIOR WALLS 10'-30'	0
EXTERIOR WALLS > 30'	0

INTERIOR FINISHES: TABLE 803.13 ROOMS AND ENCLOSED SPACES
CLASS "C" FINISHES
FLAME SPREAD 76-200
SMOKE DEVELOPMENT 0-450

SECTION 903: USE GROUP B; AN AUTOMATIC SPRINKLER SYSTEM
IS NOT REQUIRED FOR USE GROUP B

OCCUPANT LOADS: TABLE 1004.1.2
BUSINESS AREAS: 2,590 DIVIDED BY 150 GROSS = 17 PERSONS
EMPLOYEES: = 4 PERSONS
PATRONS SEATS: 44 PERSONS:
ACTUAL OCC LOAD: 48 PERSONS PER CODE 1004.5.1 INCREASED OCCUPANT LOAD.

SECTION 1005.3.2: EGRESS WIDTH PER OCCUPANT WITHOUT SPRINKLER SYSTEM
DOORS = 0.20" X 48 OCCUPANTS = 9.6" REQUIRED / 36" PROVIDED

SECTION 1017: EXIST ACCESS TRAVEL DISTANCE
TABLE 1017.2: B WITHOUT SPRINKLER = 200'
MAXIMUM TRAVEL DISTANCE: = 40'

MINIMUM NUMBER OF EXIST: 2 REQUIRED
ACTUAL EXISTS: 4 PROVIDED

EXISTING DESIGN FLOOR LOAD:
BOTH FLOOR LOADS @ 60 PSF PER ENGINEER REPORT

454

FRONT PICTURE



PLUMBING FIXTURES:
TABLE 403.1: REQUIRED PLUMBING FIXTURES

WATER CLOSETS REQUIRED: 1 PER 25
ACTUAL UNISEX WATER CLOSETS: 3

LAVATORIES REQUIRED: 1 PER 40
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IN LIEU OF WATER FOUNTAIN: (FREE WATER TO BE PROVIDED)
SERVICE/MOP SINK: 1

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SEPARATE FACILITIES
SEPARATE FACILITIES ARE NOT REQUIRED PER CODE:
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SERVING AS SEPARATE FACILITIES.

TABLE OF CONTENTS:

COVER SHEET	A1.1
EXISTING FLOOR PLANS	A2.1
PROPOSED FLOOR PLANS	A2.2

VICINITY MAP



DESIGN COMPANY:

VB CAD CO
1851 W. EHRINGHAUS ST
SUITE 151
ELIZABETH CITY, NC
27909

IRVING HENDERSON
MOBILE: (757) 797-8202
IRVING@VBCADCO.COM
WWW.VBCADCO.COM

ARCHITECT

COMMONWEALTH OF VIRGINIA
SRIRAM SURENDIRANATH
Lic. No. 0401015250
ARCHITECT

PROJECT'S NAME
OCCUPANCY LOAD CHANGE

ADDRESS
209 N SARATOGA ST.
SUFFOLK, VA, 23434

OWNER'S NAME
GO HARDER LLC
(FRED WALKER)

DRAWING'S NAME
COVER SHEET

SPECIFICATION / DIVISION
ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

REVISION DATES:
11/10/2025
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SHEET:
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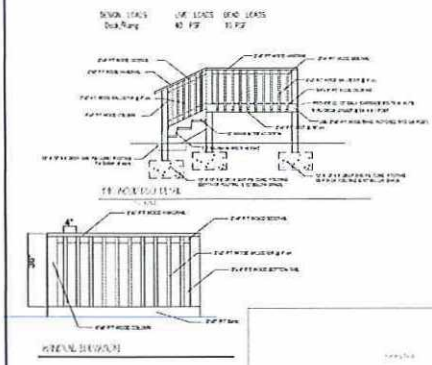
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EXISTING FLOOR PLANS

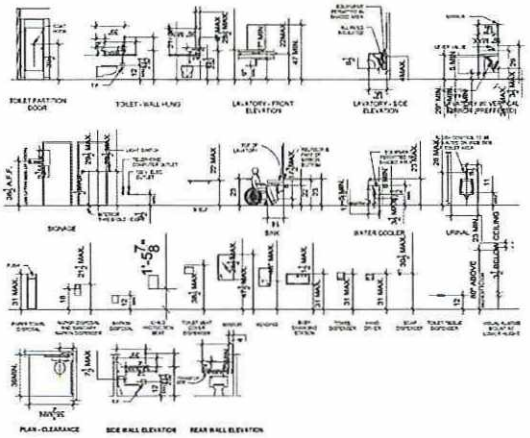
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ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

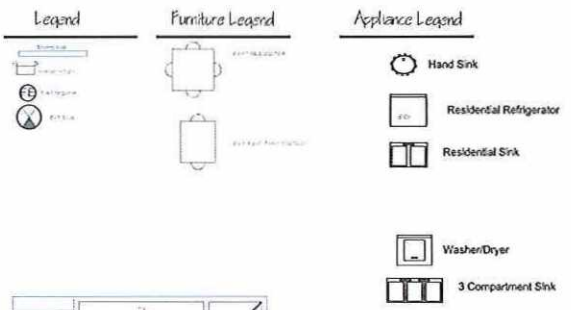
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11/10/2025
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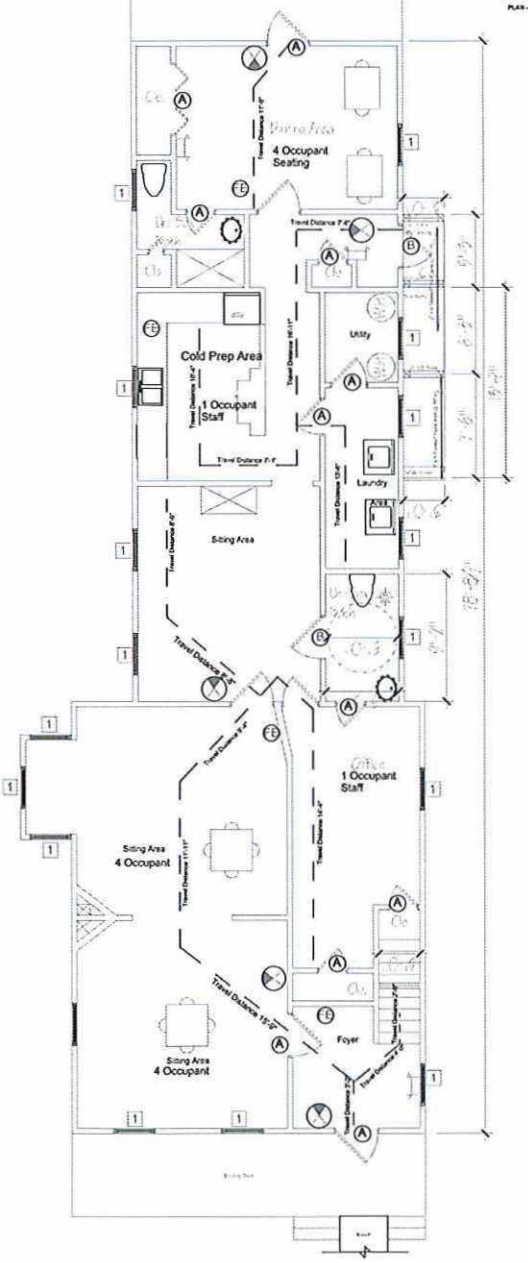
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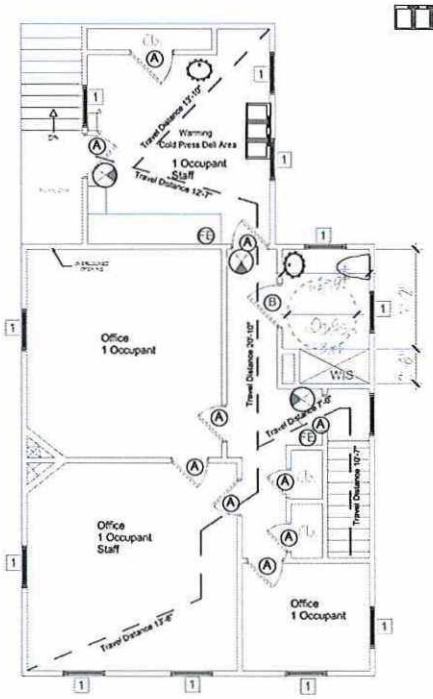


DOOR SCHEDULE		WINDOW SCHEDULE
Existing	A	1 Existing
3'-0" X 6'-8"	B	





EXISTING DELI FIRST-STORY PLAN
SCALE: 1/4" = 1' - 0"



EXISTING DELI SECOND-STORY PLAN
SCALE: 1/4" = 1' - 0"

DESIGN COMPANY:

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ARCHITECT

COMMONWEALTH OF VIRGINIA
WILLIAM SUBENDRANATH
ARCHITECT

PROJECT'S NAME
OCCUPANCY LOAD CHANGE

ADDRESS
209 N SARATOGA ST.
SUFFOLK, VA, 23434

OWNER'S NAME
GO HARDER LLC
(FRED WALKER)

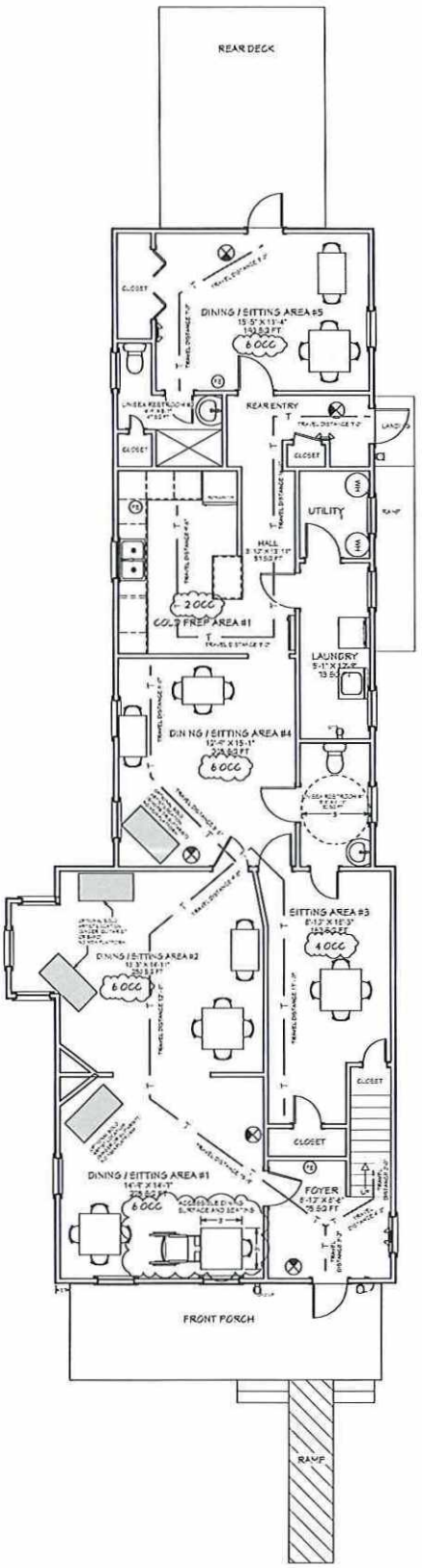
DRAWING'S NAME
PROPOSED FLOOR PLANS

SPECIFICATION / DIVISION
ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

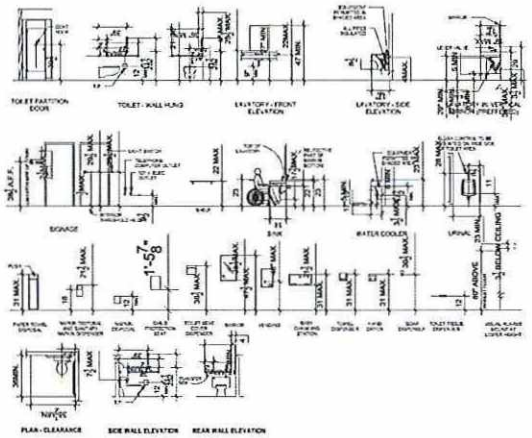
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11/10/2025
11/14/2025
11/18/2025
11/20/2025

SHEET: A2.2



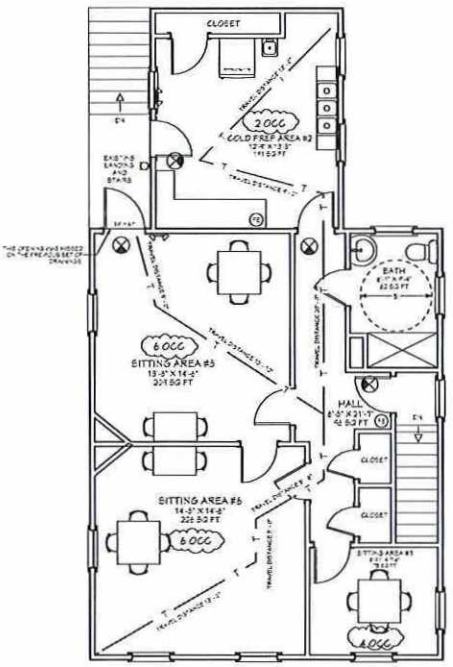
PROPOSED DELI 1ST-STORY PLAN

SCALE: 1/4" = 1' - 0"



1109.2.1 Services.
If a service or facility is provided in an area that is not accessible, the same service or facility shall be provided on an accessible level and shall be accessible.

Live band is subject for approval of the Planning Department



PROPOSED DELI 2ND-STORY PLAN

SCALE: 1/4" = 1' - 0"

BLC2025-00299

PERMIT NUMBER

209 N SARATOGA ST

PROPERTY ADDRESS - LOCATION

ALL CONSTRUCTION SHALL COMPLY WITH THE 2021 VIRGINIA UNIFORM STATEWIDE BUILDING CODE

CHANGE IN USE (FROM A DELI TO A SMALL RESTAURANT)
INCREASE IN OCCUPANT LOAD

PROJECT DESCRIPTION

REVIEWED FOR CODE COMPLIANCE

This review for Code compliance does not relieve the owner, design professional, contractor or their representatives from the responsibility to comply with all regulations of the Virginia Construction Codes and the City of Suffolk Unified Development Ordinance in effect at time of permit issuance. This Plan Review does not prevent this office from requiring corrections during construction. Any changes or alterations to these documents shall be approved by the Building Official.

Full Size, Printed, Stamped Plans and Specifications are required to be on site for inspections. This shall include all manufacturers instructions for all appliances, equipment and other products.

City of Suffolk Community Development
Building Permit Division

NOTE: SUBJECT TO FIELD INSPECTION.

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If a service or facility is provided in an area that is not accessible, the same service or facility shall be provided on an accessible level and shall be accessible.

Outdoor Seating is approved, subject to approval of the Planning Department regarding city and state ordinances and requirements

BUILDING PLAN REVIEW DOES NOT INCLUDE THE FOLLOWING WHERE APPLICABLE

CIVIL PLANS
ALARM PLANS
SPRINKLER
EXTERIOR SIGNAGE
DESIGN STANDARDS FROM UDO
CIVIL PLANS
ACCESS CONTROL
MECHANICAL
ELECTRICAL
PLUMBING
ELEVATOR
HOOD SUPPRESSION

OTHER: _____

PRIOR TO BUILDING FINAL PLEASE POST A VISIBLE INTERIOR SIGN INDICATING THE FOLLOWING:

2021 VUSBC

Maximum Occupancy Load - 48

Type V-B construction

Use type is B Non Sprinklered

All Construction Must Comply with 2021 Virginia Uniform Statewide Building Code (VCC/VRC)

APPROVED
as noted
JOHN R. DE PANO
Digitally signed by JOHN R. DE PANO
Date: 2025.11.14 15:46:33-05'00'

ARCHITECTURAL & STRUCTURAL FLOOR PLANS FOR:

209 NORTH SARATOGA ST, SUFFOLK, VA, 23434

EXISTING TENANT:

THEE ESTABLISHMENT

PROJECT'S SCOPE-OF-WORK

NO NEW CONSTRUCTION WORK.
EXISTING B USE (SMALL RESTAURANT / LESS THAN 50 OCC)
TO REMAIN. UPPING THE EXISTING OCC FROM 17 OCC TO 48 OCC.

APPLICABLE BUILDING CODES AND STANDARDS:

2021 USBC
2021 VIRGINIA CONSTRUCTION CODE
2021 VIRGINIA EXISTING BUILDING CODE
2017 ICC / ANSI A117.1

SITE SPECIFIC INFORMATION:

ZONE CLASS: CBD
MAP #: 34G18(A)*49
LEGAL DESCRIPTION: L 49 209 N SARATOGA

BUILDING DATA:

USE CLASSIFICATION: SMALL RESTAURANT B USE IN CONSIDERATION TO SECTION 303.1.2
CONSTRUCTION TYPE: 5B UNPROTECTED NON-SPRINKLERED

TABLE 504.3: ALLOWABLE HEIGHT
USE GROUP B: 60'
ACTUAL HEIGHT: 40'

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ACTUAL STORIES: 2 STORIES

TABLE 506.2: AREAS ALLOWANCES
USE GROUP B: 27,000 SF
ACTUAL SF: 2,590

TABLE 601: REQUIRED FIRE RESISTANCE RATINGS

STRUCTURAL FRAME	0
BEARING WALLS EXTERIOR	0
INTERIOR	0
FLOOR CONSTRUCTION	0
ROOF CONSTRUCTION	0

TABLE 705.5: REQUIRED FIRE RESISTANCE RATINGS

USE GROUP	B
EXTERIOR WALLS 0'-5'	1
EXTERIOR WALLS 5'-10'	1
EXTERIOR WALLS 10'-30'	0
EXTERIOR WALLS > 30'	0

INTERIOR FINISHES: TABLE 803.13 ROOMS AND ENCLOSED SPACES
CLASS "C" FINISHES
FLAME SPREAD 76-200
SMOKE DEVELOPMENT 0-450

SECTION 903: USE GROUP B; AN AUTOMATIC SPRINKLER SYSTEM
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OCCUPANT LOADS: TABLE 1004.1.2
BUSINESS AREAS: 2,590 DIVIDED BY 150 GROSS = 17 PERSONS
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SECURITY: 3 PERSONS
PATRONS SEATS: 40 PERSONS: 28 INDOORS. 12 OUTDOORS (8 IN FRONT YARD AND 4 IN REAR YARD
ACTUAL OCC LOAD: 48 PERSONS PER CODE 1004.5.1 INCREASED OCCUPANT LOAD.

SECTION 1005.3.2: EGRESS WIDTH PER OCCUPANT WITHOUT SPRINKLER SYSTEM
DOORS = 0.20" X 48 OCCUPANTS = 9.6" REQUIRED / 36" PROVIDED

SECTION 1017: EXIST ACCESS TRAVEL DISTANCE
TABLE 1017.2: B WITHOUT SPRINKLER = 200'
MAXIMUM TRAVEL DISTANCE: = 40'

MINIMUM NUMBER OF EXIST: 2 REQUIRED
ACTUAL EXISTS: 4 PROVIDED

EXISTING DESIGN FLOOR LOAD:

BOTH FLOOR LOADS @ 60 PSF PER ENGINEER REPORT

PLUMBING FIXTURES:

TABLE 403.1: REQUIRED PLUMBING FIXTURES

WATER CLOSETS REQUIRED: 1 PER 25
ACTUAL UNISEX WATER CLOSETS: 3

LAVATORIES REQUIRED: 1 PER 40
ACTUAL WATER CLOSETS: 3

IN LIEU OF WATER FOUNTAIN: (FREE WATER TO BE PROVIDED)
SERVICE/MOP SINK: 1

HANDICAP WATER CLOSETS PROVIDED: 2
HANDICAP LAVATORIES PROVIDED: 2

SEPARATE FACILITIES

SEPARATE FACILITIES ARE NOT REQUIRED PER CODE:
403.2.1 FAMILY OR ASSISTED-USE TOILET FACILITIES
SERVING AS SEPARATE FACILITIES.

TABLE OF CONTENTS:

COVER SHEET	A1.1
EXISTING FLOOR PLANS	A2.1
PROPOSED FLOOR PLANS	A2.2

FRONT PICTURE



VICINITY MAP



458

DESIGN COMPANY:

VB CAD CO

1851 W. EHRINGHAUS ST
SUITE 151
ELIZABETH CITY, NC
27909

IRVING HENDERSON
MOBILE: (757) 797-8202
IRVING@VBCADCO.COM
WWW.VBCADCO.COM

ARCHITECT

COMMONWEALTH OF VIRGINIA
SHRIRAM SURENDHRANATH
Lic. No. 0401015259
ARCHITECT

PROJECT'S NAME
OCCUPANCY LOAD CHANGE

ADDRESS
209 N SARATOGA ST.
SUFFOLK, VA, 23434

OWNER'S NAME
GO HARDER LLC
(FRED WALKER)

DRAWING'S NAME
COVER SHEET

SPECIFICATION / DIVISION
ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

REVISION DATES:
11/10/2025
11/14/2025

SHEET:
A1.1

DESIGN COMPANY:
VB CADCO
1351 W. EHRINGHAUS ST
SUITE 151
ELIZABETH CITY, NC
27909
IRVING HENDERSON
MOBILE: (757) 797-9202
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PROJECT'S NAME
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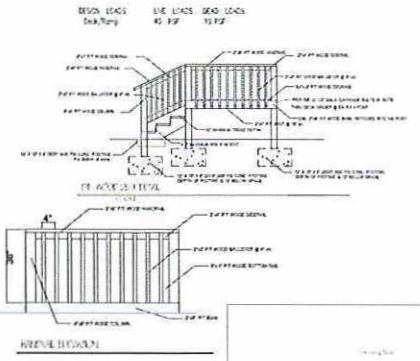
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EXISTING FLOOR PLANS

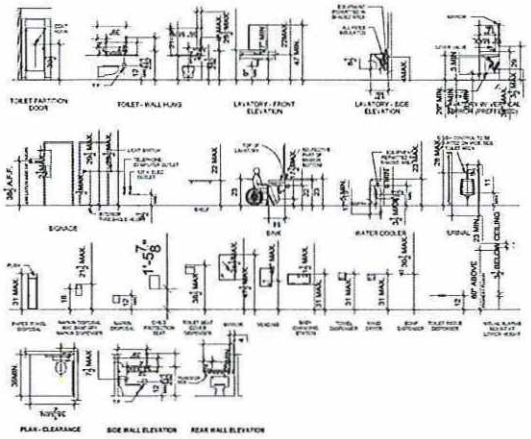
SPECIFICATION DIVISION
ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

REVISION DATES:
11/10/2025
11/14/2025

SHEET: A2.1



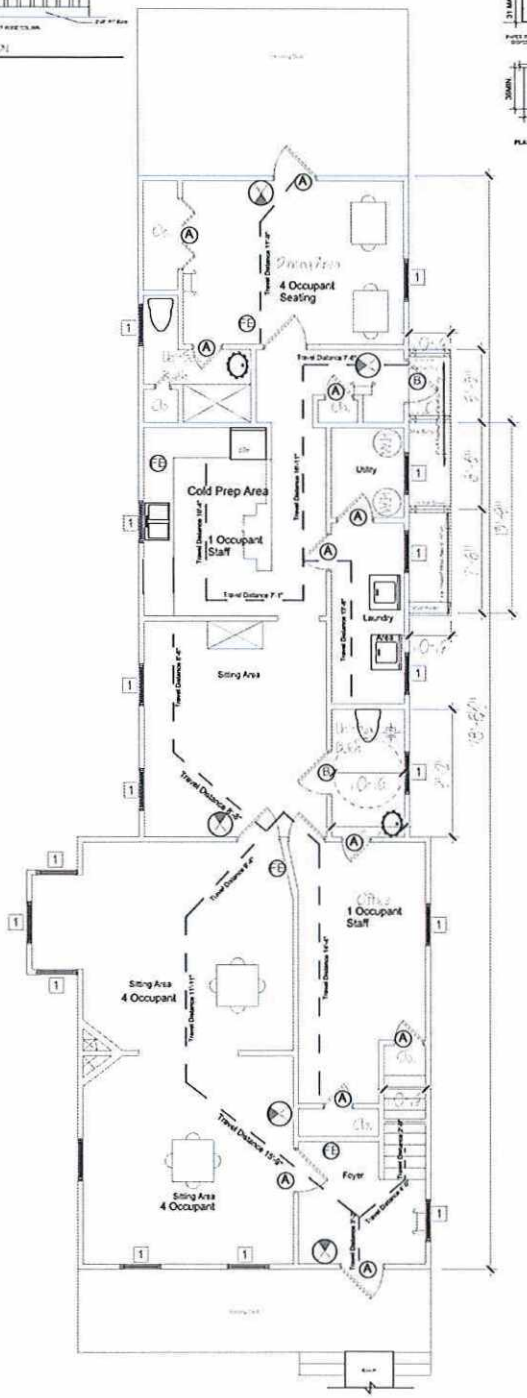


DOOR SCHEDULE		WINDOW SCHEDULE
Existing	(A)	1 Existing
3'-0" X 6'-8"	(B)	

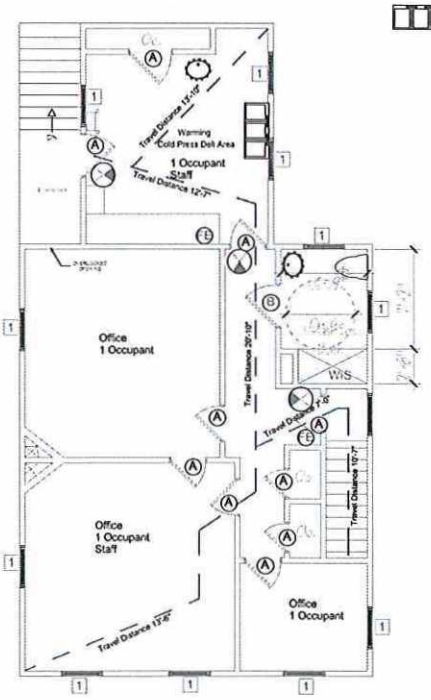
Legend

Furniture Legend

Appliance Legend
- Hand Sink
- Residential Refrigerator
- Residential Sink
- Washer/Dryer
- 3 Compartment Sink



EXISTING DELI FIRST-STORY PLAN
SCALE: 1/4" = 1' - 0"



EXISTING DELI SECOND-STORY PLAN
SCALE: 1/4" = 1' - 0"

DESIGN COMPANY:
VB CAD CO
1851 W. EHRINGHAUS ST
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ARCHITECT
COMMONWEALTH OF VIRGINIA
SHRIRAM SURENDHRANATH
LIC. NO. 0401015256
ARCHITECT

PROJECT'S NAME
OCCUPANCY LOAD CHANGE

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(FRED WALKER)

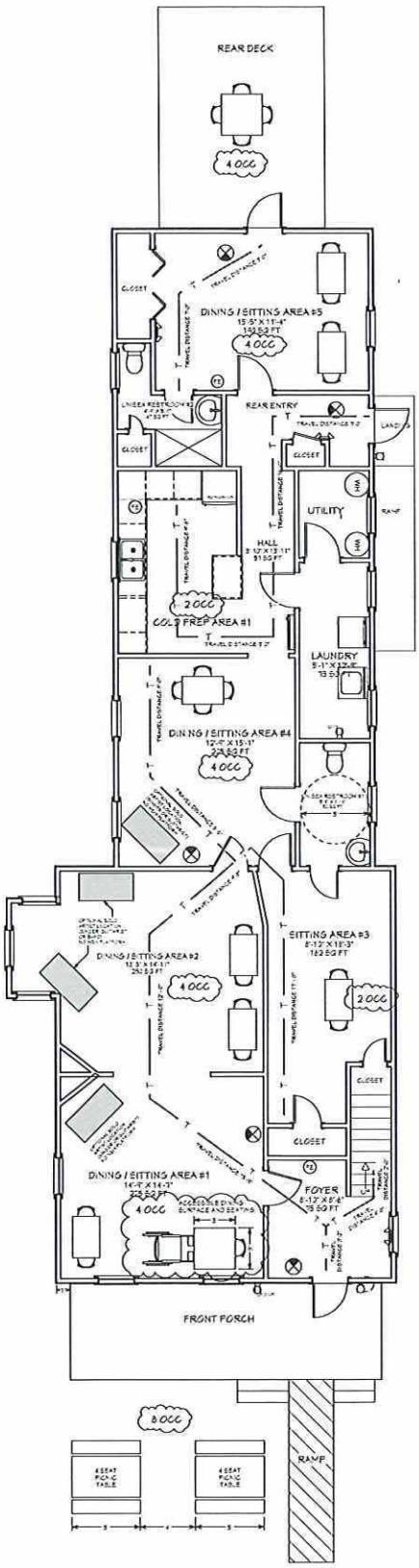
DRAWING'S NAME
PROPOSED FLOOR PLANS

SPECIFICATION / DIVISION
ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

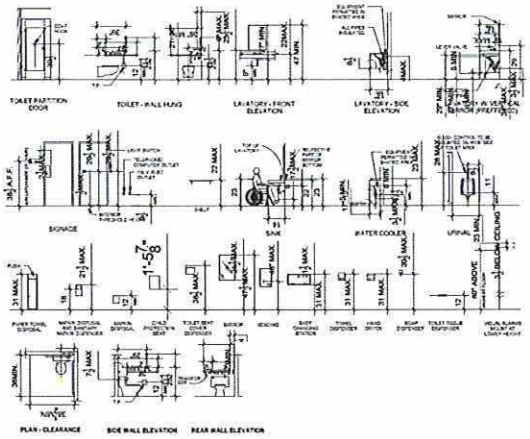
REVISION DATES:
11/10/2025
11/14/2025

SHEET: A2.2



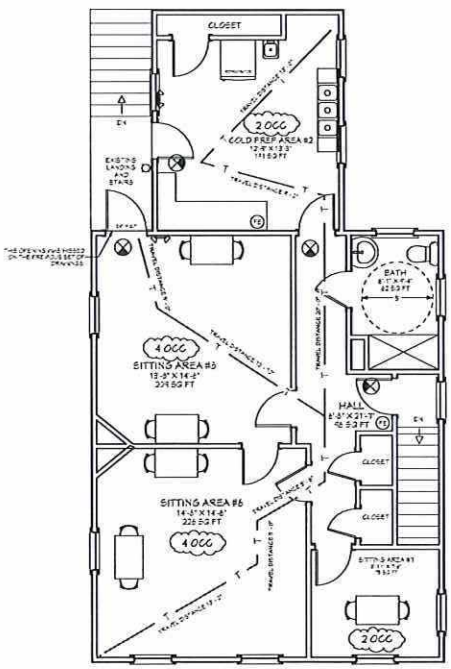
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PROPOSED DELI 2ND-STORY PLAN

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ARCHITECTURAL & STRUCTURAL FLOOR PLANS FOR:

209 NORTH SARATOGA ST, SUFFOLK, VA, 23434

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THEE ESTABLISHMENT

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TO REMAIN. UPPING THE EXISTING OCC FROM 17 OCC TO 48 OCC.

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2021 VIRGINIA EXISTING BUILDING CODE
2017 ICC / ANSI A117.1

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ACTUAL OCC LOAD: 48 PERSONS PER CODE 1004.5.1 INCREASED OCCUPANT LOAD.

SECTION 1005.3.2: EGRESS WIDTH PER OCCUPANT WITHOUT SPRINKLER SYSTEM
DOORS = 0.20" X 48 OCCUPANTS = 9.6" REQUIRED / 36" PROVIDED

SECTION 1017: EXIST ACCESS TRAVEL DISTANCE
TABLE 1017.2: B WITHOUT SPRINKLER = 200'
MAXIMUM TRAVEL DISTANCE: = 40'

MINIMUM NUMBER OF EXIST: 2 REQUIRED
ACTUAL EXISTS: 4 PROVIDED

EXISTING DESIGN FLOOR LOAD:

BOTH FLOOR LOADS @ 60 PSF PER ENGINEER REPORT

PLUMBING FIXTURES:

TABLE 403.1: REQUIRED PLUMBING FIXTURES

WATER CLOSETS REQUIRED: 1 PER 25
ACTUAL UNISEX WATER CLOSETS: 3

LAVATORIES REQUIRED: 1 PER 40
ACTUAL WATER CLOSETS: 3

IN LIEU OF WATER FOUNTAIN: (FREE WATER TO BE PROVIDED)
SERVICE/MOP SINK: 1

HANDICAP WATER CLOSETS PROVIDED: 2
HANDICAP LAVATORIES PROVIDED: 2

SEPARATE FACILITIES

SEPARATE FACILITIES ARE NOT REQUIRED PER CODE:
403.2.1 FAMILY OR ASSISTED-USE TOILET FACILITIES
SERVING AS SEPARATE FACILITIES.

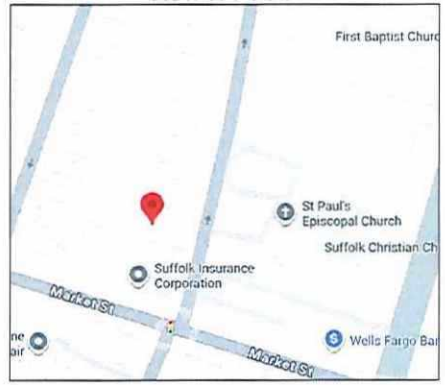
TABLE OF CONTENTS:

COVER SHEET	A1.1
EXISTING FLOOR PLANS	A2.1
PROPOSED FLOOR PLANS	A2.2

FRONT PICTURE



VICINITY MAP



DESIGN COMPANY:

VB CAD CO

1851 W. EHRINGHAUS ST
SUITE 151
ELIZABETH CITY, NC
27909

IRVING HENDERSON
MOBILE: (757) 797-8202
IRVING@VBCADCO.COM
WWW.VBCADCO.COM

ARCHITECT

COMMONWEALTH OF VIRGINIA
SHRIRAM SURENDIRANATH
Lic. No. 0401015259
ARCHITECT

PROJECT'S NAME
OCCUPANCY LOAD CHANGE

ADDRESS
209 N SARATOGA ST.
SUFFOLK, VA, 23434

OWNER'S NAME
GO HARDER LLC
(FRED WALKER)

DRAWING'S NAME
COVER SHEET

SPECIFICATION / DIVISION
ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

REVISION DATES:
11/10/2025
11/14/2025

SHEET: A1.1

DESIGN COMPANY:
VB CADCO
1951 W. EHRINGHAUS ST
SUITE 151
ELIZABETH CITY, NC
27909
IRVING HENDERSON
MOBILE: (757) 797-5202
IRVING@VBCADCO.COM
WWW.VBCADCO.COM

ARCHITECT
COMMONWEALTH OF VIRGINIA
MIRIAM RUBENSTEIN RANATH
LIC. NO. 0401012256
ARCHITECT

PROJECT'S NAME
OCCUPANCY LOAD CHANGE

ADDRESS
209 N SARATOGA ST.
SUFFOLK, VA, 23434

OWNER'S NAME
GO HARDER LLC
(FRED WALKER)

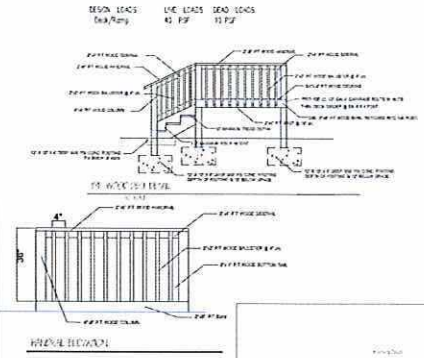
DRAWING'S NAME
EXISTING FLOOR PLANS

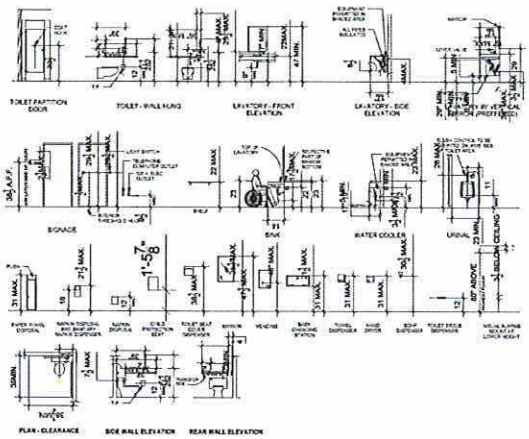
SPECIFICATION DIVISION
ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

REVISION DATES:
11/10/2025
11/14/2025

SHEET:
A2.1



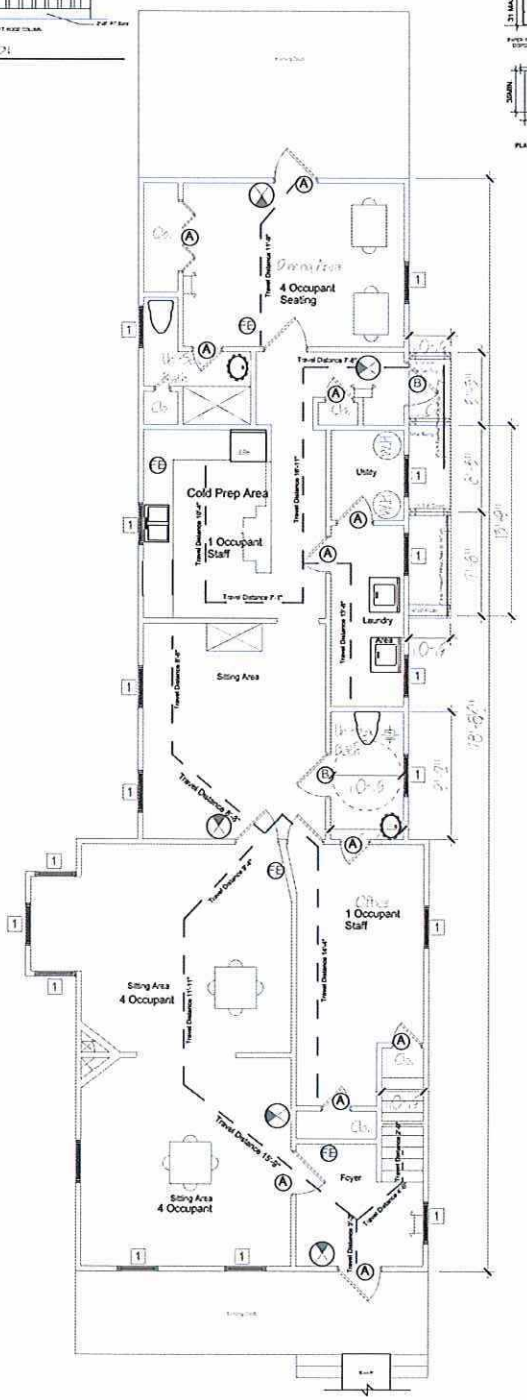


DOOR SCHEDULE		WINDOW SCHEDULE
Existing	(A)	1 Existing
3'-0" X 6'-8"	(B)	

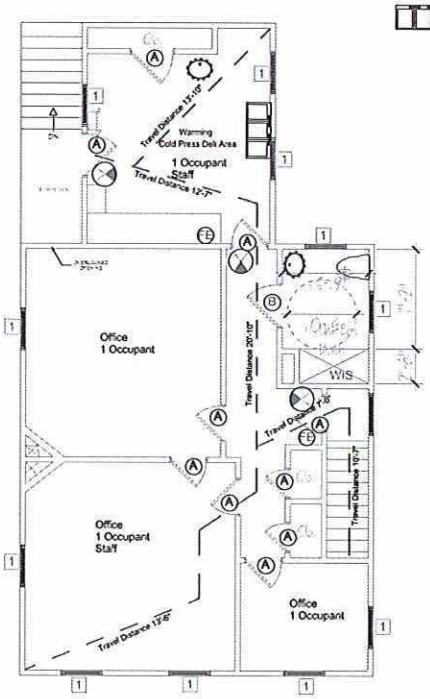
Legend

Furniture Legend

Appliance Legend
- Hand Sink
- Residential Refrigerator
- Residential Sink
- Washer/Dryer
- 3 Compartment Sink



EXISTING DELI FIRST-STORY PLAN
SCALE: 1/4" = 1' - 0"



EXISTING DELI SECOND-STORY PLAN
SCALE: 1/4" = 1' - 0"

DESIGN COMPANY:

VB CAD CO

1851 N. EHRINGHAUS ST
SUITE 151
ELIZABETH CITY, NC
27909

IRVING HENDERSON
MOBILE: (757) 797-8202
IRVING@VBCADCO.COM
WWW.VBCADCO.COM

ARCHITECT

COMMONWEALTH OF VIRGINIA
Byron Irving Henderson
REGISTERED ARCHITECT

PROJECT'S NAME
OCCUPANCY LOAD CHANGE

ADDRESS
209 N SARATOGA ST.
SUFFOLK, VA, 23434

OWNER'S NAME
GO HARDER LLC
(FRED WALKER)

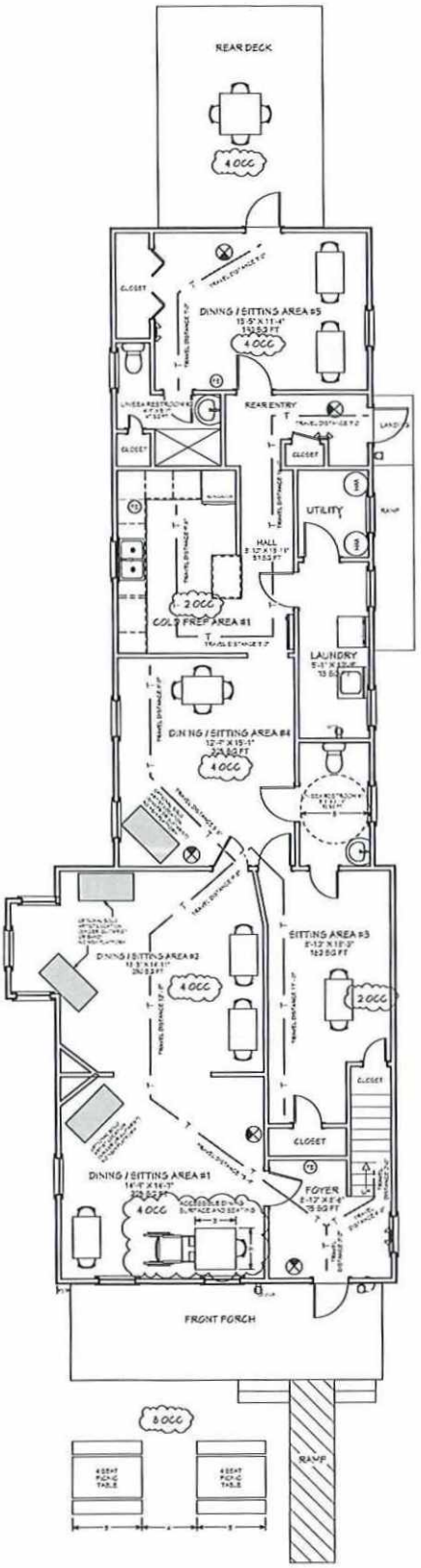
DRAWING'S NAME
PROPOSED FLOOR PLANS

SPECIFICATION / DIVISION
ARCHITECTURAL & STRUCTURAL

SUBMISSION DATE
10/28/25

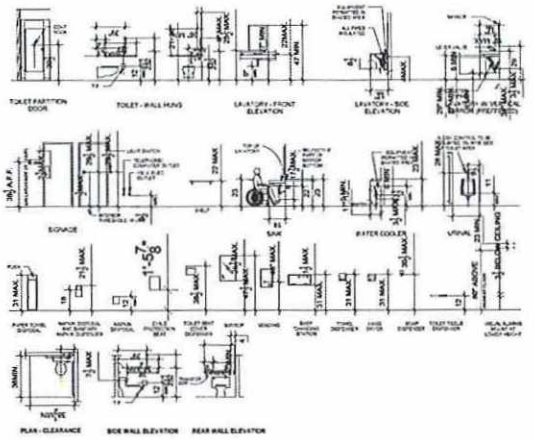
REVISION DATES:
11/10/2025
11/14/2025

SHEET: A2.2



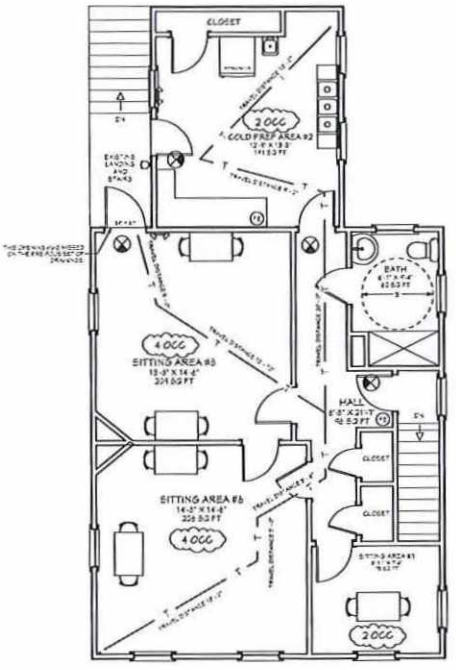
PROPOSED DELI 1ST-STORY PLAN

SCALE: 1/4" = 1' - 0"



1109.2.1 Services.
If a service or facility is provided in an area that is not accessible, the same service or facility shall be provided on an accessible level and shall be accessible.

Outdoor Seating is approved, subject to approval of the Planning Department regarding city and state ordinances and requirements



PROPOSED DELI 2ND-STORY PLAN

SCALE: 1/4" = 1' - 0"

DEPARTMENT OF COMMUNITY DEVELOPMENT

442 West Washington Street
Suffolk, Virginia 23434
cddapplication@suffolkva.us

ZONING COMMERCIAL BUILDING CLEARANCE APPLICATION

$110 Fee

Important Telephone Numbers:

Asst. Zoning Administrator (757) 514-4161	Fire Marshal (757) 514-4550	Health Dept. (757) 514-4751
Building Official (757) 514-4156	Public Utilities (757) 604-3645	Alcohol, Tobacco, Firearms (757) 616-7400
Commissioner of the Revenue (757) 514-4260	VDACS (757) 509-1060	DMV (804) 497-7100

PLEASE READ DECLARATION AT THE BOTTOM OF THIS APPLICATION FORM BEFORE SIGNING APPLICATION

X EXISTING BUILDING **□ NEW CONSTRUCTION** **(Check one)**

ALL APPLICANTS MUST COMPLETE 1 THROUGH 15 BELOW (PRINT ALL RESPONSES)

If this is a rental property, it is your responsibility to assure that you have the authority to use this property for your business and that the City assumes no liability for its use.

1. Property Owner: Go Harder, LLC
2. Applicant: Fred Walker Jr
3. Trade Name: Thee Establishment, LLC
4. Are you on: X City Water X City Sewer ____ Well ____ Septic system (check those that apply)
5. Mailing Address: 209 N Saratoga St (Street No./Name /P.O. Box) | (Suite/Apt. No.) | Suffolk (City) | VA (State) | 23434 (Zip Code)
6. **Property Location:** 209 N Saratoga St (Street Number/Unit) (Street Name)
7. Previous Business Name and use (if any): Sweet grace
8. Local Business Phone: (____) ____ Corporate/Main Office Phone: (____) N/a
9. Local Contact Person: Andrea McGuire Cell Phone: (252) 642-5684
10. Email address: theeestablishmentsuffolkva@gmail.com
11. Is this a Group Home? Yes [ ] No [x] If yes State issued addendum must be attached.
12. Will this business involve the care of people who are incapable of self-preservation? Yes [ ] No [x]
13. Detailed description of **ALL** proposed business activities: **(PLEASE BE SPECIFIC)**

    A cafe that will serve deli style food and beverages in a homestyle setting
14. Will the facility be altered in any way? Yes [ ] No [x] **If yes, describe in detail proposed changes (PLEASE BE SPECIFIC)**
15. How many employees do you intend to hire? 4-6

DECLARATION: ***I declare*** that the statements herein are true, complete and correct to the best of my knowledge and belief. The completion of this application and payment of tax for a city business license shall be for the location in which you intend to operate. I ACKNOWLEDGE THAT PURSUANT TO THE CODE OF VIRGINIA AND THE SUFFOLK CITY CODE THAT ALL REAL ESTATE TAXES THAT ARE PAST DUE FOR THE LOCATION STATED IN NO. 6 ABOVE MUST BE PAID IN FULL PRIOR TO ANY APPROVALS OR INSPECTIONS REQUIRED FOR THIS APPLICATION.

Applicant's Signature: Fred Walker Jr **Date:** 8/1/22

REQUIRED APPROVALS

CONDITIONAL USE PERMIT REQUIRED? YES □ NO □ If ***YES***, contact the Planning Department at 757-514-4060.

ZONING **(757) 514-4150** YES □ NO □ USE CLASSIFICATION: _____

ZONING AUTHORIZED SIGNATURE: _____ DATE: _____

BUSINESS ZONING CLEARANCE APPLICATION

Permit Number: CBL2022-00101
Date Applied: 08/02/2022
Date Issued: 05/17/2024
Date Printed: 05/17/2024

Site Address: 209 N SARATOGA ST SUFFOLK, VA 23434 Type of Use: BUSINESS

Map No.: 34G18(A)*49 Parcel No.: 350407000 Subdivision: NORTH CBD AREA Zoning: CBD

Trade Name: THEE ESTABLISHMENT LLC

Proposed Business Activity: A CAFE THAT WILL SERVE DELI STYLE FOOD AND BEVERAGES IN A HOME STYLE SETTING.

PROPERTY OWNER

GO HARDER LLC
209 N SARATOGA ST SUFFOLK , VA 23434

APPLICANT

ANDREA MCGUIRE
209 N SARATOGA ST SUFFOLK , VA 23434

FEE INFORMATION

Fee Description	Accepted By	Fee Amount
BUSINESS LICENSE INSPECTION FEE		$110.00

TOTAL: $110.00

I hereby acknowledge that I have read this permit and state that the above information is correct, and agree to comply with all ordinances and state and federal laws regulating activities covered by this permit.

STEPHANIE CLAUD 05/17/2024

Issued by: Date: Applicant or Owner's Signature

24 HOUR NOTICE REQUIRED FOR ALL INSPECTIONS

5/4/2026:

1. The exit light on the second floor requires repair.

2. Electrical violations: Extension cords and power strips are being improperly utilized. Exposed wiring in shed #1 and missing breaker in the panel box.

3. Fire extinguishers: These devices need inspection and proper mounting.

4. Egress path: There are items obstructing the exit path to the outdoor stairway. The gate to the enclosed fence at the rear of the property is inoperable, necessitating entry into an additional enclosed area to exit.

5. Combustible materials are positioned near the water heater.

6. The storage shed must be organized in a neat and orderly fashion.

7. According to the Certificate of Occupancy issued on November 22, 2025, the establishment is not approved for commercial cooking or food preparation that necessitates the collection and removal of grease vapors, smoke, steam, heat, odors, and combustion products. All cooking equipment and appliances must be removed, as this constitutes a change in use for the property. A building placard and a warrant were obtained for Mr. Walker for a fire code violation, 301.3 occupancy change in use.

209 N. Saratoga Street:

5/17/2024: No violations were noted.

7/08/2025: Emergency lights, Electrical, Combustible materials stored in equipment room, Items too close to ignition source. Labeling the panel box.

7/09/2025: Ashlie noted a change of use.

7/10/2025: Re-inspection: Previous violations corrected, with the exception of the panel box breakers being labeled.

7/21/2025: Re: Inspection: Additional violations were added. No smoking signs, Change in use, Requested the stove to be removed. Requested annual alarm inspection report for a residential fire alarm installed in the business.

8/06/2025: Re-inspection previous issues resolved.

10/29/2025: Complaint received: The mobile food truck was not seen at this location. However, the food truck is allowed to be parked there, but cannot make and serve food. Outdoor occupancy is not permitted under your current Conditional Use Permit. Additionally, you will need to submit a request to the City of Suffolk Community Development to review the occupancy load for both interior and exterior use. Currently, your occupancy load allows for 3 people upstairs, 12 people in first-floor seating, and 3 staff members. Outdoor seating will need to be removed.

11/03/2025: Complaint received: Captain Joseph and I spoke to Mr. Epps and Mr. Walker regarding his occupancy load and moving the mobile food truck. Based on the facts that Mr. Walker continues to violate the occupancy load and serve food from his food truck. The building was placarded for safety. Mr. Walker was told that a meeting would be required. A copy of the NOV was set via email.

11/24/2025: Issues resolved.

12/19/2025: NOV sent due to outdoor seating. Issue resolved.

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Notice of Violation

Inspection Status	Inspected by	Completed at
Completed	Ashlie Jordan	01/08/2026 03:00:00

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

Business Name	Business Type
Thee Establishment,LLC	Restaurant

✓ **Resolved**

ITEM: Outdoor seating is not present.

REMARK:

Please refer to the email dated 1/8/2026 from John Depano that supersedes the approved plans that now allow for outdoor seating on the front lawn.

CODE: SFPC_21 - 301.3 - Occupancy. - The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the applicable building code without the approval of the building official. Where a certificate of occupancy is not available for a building, the owner or owner's agent may request that one be issued by the building official and retained on site for reference.

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Offline Report

Fred Walker
Owner
757-560-7770
walkermscfred@gmail.com
209 North Saratoga St Suffolk VA 23434

Inspector Signature



Ashlie Jordan
--
757-514-4541
ahjordan@suffolkva.us

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Notice of Violation

Inspection Status	Inspected by	Completed at
Completed with fail	Ashlie Jordan	12/19/2025 11:48:39

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

Business Name	Business Type
Thee Establishment,LLC	Restaurant

✕ **Fail**

ITEM: Outdoor seating is not present.

REMARK:

Approved building plans does not allow outdoor seating.

CODE: SFPC_21 - 301.3 - Occupancy. - The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the applicable building code without the approval of the building official. Where a certificate of occupancy is not available for a building, the owner or owner's agent may request that one be issued by the building official and retained on site for reference.

Picnic tables shall be removed from the property by Monday, December 22, 2025. They cannot be stored on the property to be used again. Please email me once this has been completed.

Re-Inspection scheduled to be conducted on or after 01/08/2026 at 11:35

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Offline Inspection

Fred Walker
Owner
757-560-7770
walkermscfred@gmail.com
209 North Saratoga St Suffolk VA 23434

Inspector Signature



Ashlie Jordan
--
757-514-4541
ahjordan@suffolkva.us

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Notice of Violation

Inspection Status	Inspected by	Completed at
Completed	Edward Kaczkowsky	11/24/2025 08:30:00

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

Business Name	Business Type
Thee Establishment,LLC	Restaurant

✓ **Resolved**

ITEM: Outdoor occupancy is not permitted under your current Conditional Use Permit. You must remove the picnic tables. Additionally, you need to submit a request to the City of Suffolk Community Development to review the occupancy load for both interior and exterior use. Currently, your occupancy load allows for 3 people upstairs, 12 people in first-floor seating, and 3 staff members.

CODE: SFPC_21 - 301.3 - Occupancy. - The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the applicable building code without the approval of the building official. Where a certificate of occupancy is not available for a building, the owner or owner's agent may request that one be issued by the building official and retained on site for reference.





Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Mr. Walker was not present to sign the tablet when the report was completed.

Fred Walker
Owner
757-560-7770
walkermscfred@gmail.com
209 North Saratoga St Suffolk VA 23434

Inspector Signature



Edward Kaczkowsky
--
757-514-4545
ekaczkowsky@suffolkva.us

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Notice of Violation

Inspection Status	Inspected by	Completed at
Completed with fail	Edward Kaczkowsky	11/03/2025 16:45:00

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

Business Name	Business Type
Thee Establishment,LLC	Restaurant

✕ Fail

ITEM: The mobile food truck is within 10 feet of two structures and the wooden fence. The food truck will need to be moved.

CODE: SFPC_21 - 319.1.2 - Separation. - Mobile food preparation vehicles shall be separated from buildings or structures, combustible materials, vehicles, and other cooking operations by a minimum of 10 ft. (3m).






✕ Fail

ITEM: Outdoor occupancy is not permitted under your certificate of occupancy. You must remove the picnic tables. Additionally, you need to submit a request to the City of Suffolk Community and Development to have your occupant load changed for both interior and exterior use. A design professional would be required. Currently, your occupancy load allows for three people upstairs, 12 patrons on the first floor, and three employees, totaling 18 occupants. Outdoor occupancy is not permitted under your certificate of occupancy.

CODE: SFPC_21 - 301.3 - Occupancy. - The occupancy of a structure shall be continued as

originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the applicable building code without the approval of the building official. Where a certificate of occupancy is not available for a building, the owner or owner's agent may request that one be issued by the building official and retained on site for reference.

On November 3, 2025, around 3:55 p.m., I contacted Mr. Fred Walker by cell phone, requesting that he meet with me at his property located at 209 N. Sar toga Street. Mr. Walker arrived at the location with Mr. Dominic Epps. Chief Cornwell, Captain M. Joseph, and I spoke to both parties. I explained to Mr. Walker that we had received more complaints regarding the food truck serving food and the number of people at the property. Mr. Walker was previously informed that he could only have 12 patrons on the first floor, with 3 employees, and was allowed 3 employees on the second floor, as per the certificate of occupancy issued. I explained to Mr. Walker that his business/restaurant is allowed to serve deli-style sandwiches. Mr. Walker was again told he could not use the mobile food truck to cook and serve food to the public. I told Mr. Walker that he would need to contact Zoning to see where he is allowed to set up and serve food from his food truck. It was noted that the picnic tables were still at the location and had been recently painted, despite being informed that the tables needed to be removed. I explained to Mr. Walker that I witnessed several individuals come and go from his business in a video that was shared with me. I asked Mr. Walker if he was serving food from his food truck, and he stated yes. I asked Mr. Walker if he charged admission to his business, and he replied that he did not. I told him that I disagreed with his statement and that it was noted he was charging $ 10 online and $15 at the door. I explained to Mr. Walker that he has again changed the use of his occupancy from a business to an assembly. It was determined and explained to Mr. Walker that his food truck was too close to both structures, and that it could not be within 10 feet of either of the two buildings. We explained to Mr. Walker that the vehicle would need to be moved. Based on the facts that Mr. Walker continues to violate the occupancy load and serve food from his food truck. The building was placarded for safety. Mr. Walker was told that a meeting would be required. A copy of the NOV was set via email. Mr. Walker was sent an email from Ashlie Jordan requesting a meeting for Wednesday, the 12th, at 1:30 pm at 300 Kin's Fork Road. Please get in touch with our office at 757-514-4540 with any questions.

Re-Inspection scheduled to be conducted on or after 11/24/2025 at 08:30

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Mr. Walker was not present when the report was created.

Fred Walker
Owner
757-560-7770
walkermscfred@gmail.com
209 North Saratoga St Suffolk VA 23434

Inspector Signature



Edward Kaczkowsky
--
757-514-4545
ekaczkowsky@suffolkva.us

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Notice of Violation

Inspection Status	Inspected by	Completed at
Completed with fail	Edward Kaczkowsky	10/29/2025 08:15:00

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

Business Name
Thee Establishment,LLC

✕ Fail

ITEM: Outdoor occupancy is not permitted under your current Conditional Use Permit. You must remove the picnic tables. Additionally, you need to submit a request to the City of Suffolk Community Development to review the occupancy load for both interior and exterior use. Currently, your occupancy load allows for 3 people upstairs, 12 people in first-floor seating, and 3 staff members.

CODE: SFPC_21 - 301.3 - Occupancy. - The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the applicable building code without the approval of the building official. Where a certificate of occupancy is not available for a building, the owner or owner's agent may request that one be issued by the building official and retained on site for reference.





FM6 arrived at 209 N. Saratoga Street for a complaint received regarding a mobile food truck and

outdoor seating. The mobile food truck was not seen at this location. However the food truck is allowed to be parked there but can not make and serve food. Outdoor occupancy is not permitted under your current Conditional Use Permit. Additionally, you will need to submit a request to the City of Suffolk Community Development to review the occupancy load for both interior and exterior use. Currently, your occupancy load allows for 3 people upstairs, 12 people in first-floor seating, and 3 staff members. Outdoor seating will need to be removed. A copy of the inspection report was sent via email. Please notify me by email at ekaczkowsky@suffolkva.us stating the picnic tables have been removed.

Re-Inspection scheduled to be conducted on or after 11/24/2025 at 08:30

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Mr. Walker was not present when the report was completed.

Fred Walker
Owner
757-560-7770
walkermscfred@gmail.com
209 North Saratoga St Suffolk VA 23434

Inspector Signature



Edward Kaczkowsky
--
757-514-4545
ekaczkowsky@suffolkva.us

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

NO OPEN VIOLATIONS

The Suffolk Fire Marshal's Office would like to formally congratulate you on successfully completing your annual fire inspection. This achievement highlights your strong commitment to fire safety and compliance with relevant regulations, demonstrating your dedication to maintaining a secure environment for everyone. We greatly appreciate your efforts in adhering to these important standards, which reflect a proactive approach to safety and risk management. If you have any questions, please do not hesitate to contact the Fire Marshal's Office.

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

Business Name
Thee Establishment,LLC

Next inspection scheduled to be conducted on or after 07/08/2026

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Mr. Walker was not present when the report was completed.

Fred Walker
Owner
757-560-7770
walkermscfred@gmail.com
209 North Saratoga St Suffolk VA 23434

Inspector Signature



Edward Kaczkowsky
757-514-4545
ekaczkowsky@suffolkva.us

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Notice of Violation

Inspection Status	Inspected by	Completed at
Completed with fail	Edward Kaczkowsky	08/04/2025 13:30:00

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

Business Name
Thee Establishment,LLC

Investigator Kaczkowsky (FM6) and Silvers (FM9) visited 209 N. Saratoga Street to update the pre-fire plans for the first due and to add pictures to the preplans. We met with the owner, Mr. Fred Walker, and conducted a walkthrough of the business. The following violations, both old and new, require correction:1. **Relabel the Breakers:** Please relabel the breakers in both panel boxes. You have 3 weeks to make this correction. 2. **Remove the Residential Stove:** The use of a residential stove is not permitted for your business. This stove must be removed immediately. You are required to submit plans to install a commercial stove with a Type I hood.3. **Fire Alarm System Compliance:** Ensure that the fire alarm system meets NFPA 72 requirements for a B-use group, as specified in the Virginia Construction Code.4. **Change in Occupancy:** You stated that you have had live entertainment in the business that is classified as a cafe/ deli. You also have indicated that you are renting your business for the production of a movie. This constitutes a change in occupancy from a B-use group to an A1 use. A Conditional Use Permit will be required, along with any other necessary permits.The business has been placarded unsafe for change of use and for altering the approved floor plans submitted to Planning and Community Development. According to the plans submitted, the second floor is designated as having three offices, each assigned to a single occupant. The card table and billiards table must be removed. On the first floor, the approved plans show a sitting area with four occupants in the first two rooms. There is no stove indicated in the approved plans, so it must also be removed. The dining room and sitting area need to be rearranged to align with the approved plans once these corrections have been made and inspected. You will be allowed to operate under your current Conditional Use Permit. Please note that any live music or entertainment will require a use change submission to Planning and Community Development.On July 22, Investigator Kaczkowsky was conducting a follow-up at 215 N. Main Street when I observed a film crew setting up at 209 N. Saratoga. I contacted Summerbreeze Jones, Special Events Coordinator in the Parks and Recreation Department, who advised that a permit

is required for filming. The production company will need to reach out to her at 757-514-7273 to obtain any necessary permits.A copy of this report was provided in person and also sent via email. Inspectors Kaczkowsky and Silvers met with Fred Walker to conduct a follow-up fire inspection. The following violations still need to be corrected: 1. Post no-smoking signage. 2. Remove the billiards table. 3. Post the occupant load. 4. Please remove the ADT smoke detector heads from the wall. If you prefer to install a fire alarm system, you will need to submit and have a commercial fire alarm plan approved by the building officials' office. Once you have removed the billiards table and added the signage, please let me know, and I will come by for a reinspection. If you have any questions, feel free to reach out.

Re-Inspection scheduled to be conducted on or after 08/06/2025 at 15:45

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Mr. Walker was not present to sign the tablet when the report was completed.

Fred Walker
Owner
757-560-7770
walkermscfred@gmail.com
209 North Saratoga St Suffolk VA 23434

Inspector Signature



Edward Kaczkowsky
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--
757-514-4545
ekaczkowsky@suffolkva.us

City of Suffolk Department of Fire & Rescue

Office of the Fire Marshal
300 Kings Fork Road
Suffolk, VA 23434
Phone: (757)514-4540
Email: fireprevbureau@suffolkva.us

Notice of Violation

Inspection Status	Inspected by	Completed at
Completed with fail	Edward Kaczkowsky	07/22/2025 12:00:00

Address	Suite	City	State	Zip
209 N SARATOGA ST	--	SUFFOLK	VA	23434

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