

CONSTRUCTION AND PROPERTY MAINTENANCE CODE BOARD OF APPEALS

The Construction and Property Maintenance Code Board of Appeals meeting was held on January 7, 2026, at 3:30 p.m., with Mr. Boggerty presiding. The members present were Mr. Campana, Mr. Rocha, and Mr. Neil. Mr. Martin was absent. Staff members present were Mr. Kopp, Mr. Morris, Ms. Brown, Mr. Brown, Mr. England, Ms. Duca, Ms. Wheeler, and Ms. Martin.

ADOPTION OF AGENDA

Mr. Boggerty stated that prior to accepting the agenda, there was a request for modification Item #2, Residential Code Violation Appeal (Chapter 22 - Buildings and Building Regulations, Article III - Building Code, Section 22-61(b) International Residential Code Adopted, 2009 - Section R302.1 - Exterior Walls) - Appeal of Denied Building Permit - 321 Charring Cross Drive would be moved to Item #1.

Mr. Rocha moved for approval of the amended agenda, seconded by Mr. Neil, and unanimously carried.

RESIDENTIAL CODE VIOLATION APPEAL: (Chapter 22 - Buildings and Building Regulations, Article III - Building Code, Section 22-61(b) International Residential Code Adopted, 2009 - Section R302.1 - Exterior Walls) - Appeal of Denied Building Permit - 321 Charring Cross Drive

Mr. Matthew Brown, Fire Marshal Officer, and Mr. Dave Naples, Code Solutions Internal Plan Reviewer, reviewed the case history for 321 Charring Drive.

Responding to Mr. Rocha, Mr. Naples clarified that the application was submitted, and at that point, they did not have a drawing of the location of the deck, so it was sent back to the applicant who submitted the application

Responding to Mr. Rocha, Mr. Naples clarified that they were given a plot plan that showed the decking steps on the lot line.

Responding to Mr. Rocha, Mr. Naples clarified that the lot was not a corner lot, but an interior lot.

Responding to Mr. Rocha, Ms. Alston stated that the deck has been there between 2003 and 2005 and that it has not been replaced.

Ms. Alston stated that she had purchased the home in 2021, and the home came with a shared deck for the shared backyard. She noted that both properties share the property line, so she was unsure how she was supposed to put fire retardant materials only on her side if the two (2) properties share that line. She also added that the deck was already a safety hazard.

Mr. Naples explained that when the building permit was submitted, the deck was not presented as a shared deck. The deck was presented as a completely freestanding structure attached to the property and not attached to the adjacent property.

Responding to Ms. Alston, Mr. Naples clarified that the deck was presented to him, and that the adjacent property was not attached to the deck. It was a deck exclusive to her property.

Mr. Naples stated that the deck was a legally existing non-conforming deck. The deck could stay in the location since it was legally approved between 2003 and 2004. He added that the moment the deck was reconstructed, such as being torn down and rebuilt, the deck would have to be built to the current standard.

Responding to Ms. Alston, Mr. Naples stated that they were not provided with information regarding the current standard, which required the deck to be set back two (2) feet, nor information on accessing the sliding glass door to the deck.

Responding to Ms. Alston, Mr. Naples suggested that she contact the designer who submitted the plans previously to include all that information. He emphasized that it was not his intention to have her move the sliding glass door, but he could only evaluate the deck as it was presented to him. He noted that he does not believe she could go back without moving the sliding glass door with a combustible deck that goes to the lot line. He explained that the deck would need to be constructed of non-combustible materials and, at a minimum, meet a fire-resistance rating, even with modifications to what the code required. He stated that he could only apply the code as written. He noted that he could not offer design solutions or explain why the deck was allowed to be constructed in a particular manner; rather, he could only evaluate the deck as it was presented to him.

Responding to Ms. Alston, Mr. Naples clarified that the deck was grandfathered in and that it was legally existing and not conforming. He stated that when they remove the deck to build a new deck, she would lose that grandfathered status.

Responding to Mr. Boggerty, Ms. Alston clarified that she did not build a new deck, as the current deck was still falling, and that it was still a code issue.

Responding to Mr. Boggerty, Ms. Alston clarified that the deck was not being used because of safety concerns.

Responding to Mr. Boggerty, Ms. Alston clarified that she intended to fix the deck to make it functional and safe.

Responding to Mr. Boggerty, Mr. Brown stated that the deck was presented as a teardown and rebuild. He noted that if the deck was presented as a repair and not a teardown, then Ms. Alston could keep the existing layout. As stated before, if the deck were torn down and rebuilt, that would be where she could not be within the two (2) feet of the lot line.

Responding to Ms. Alston, Mr. Naples clarified that she was not responsible for both sides of the deck because of the shared property, but that she was responsible for her deck. He explained that the fire separation business applied to everyone. If her neighbor came and submitted a new application to build a deck, that individual would be subjected to the same rules.

Responding to Ms. Alston, Mr. Naples clarified that determining how to add a fire separation, given that she and her neighbor share a property line, would be a question for her designer. He explained that the physical structure of her house was presumably fire-separated from the neighboring house, as the current code required the wall between townhouses to have a two (2)-hour fire-resistance rating. Therefore, it was presumed that the two (2) houses already have the

required fire separation. However, that rated wall does not extend outward to separate the decks, which was where the disconnect occurred.

Responding to Ms. Alston, Mr. Naples stated that her questions regarding sharing a deck and the fire safety requirements on one (1) side but not the other were moving into design aspects. He explained that he could not offer design solutions, as he was not permitted to do so, and that his role was limited to applying the code as written.

Responding to Ms. Alston, Mr. Naples clarified that the code did not state she could not have a new deck, because it had to have fire safety.

Responding to Mr. Neil, Mr. Naples stated that he was unaware of how damaged the deck was and whether it could be salvaged.

Responding to Mr. Neil, Mr. Naples clarified that it was accurate to a point that, if the deck could be salvaged and did not need to be torn down, Ms. Alston could return to the designer to have the deck redesigned in a way that would keep the existing structure and allow only the replacement of materials necessary to meet the required fire safety standards. He explained that the issue involved the distinction between a repair and a rebuild. A repair would be limited to replacing materials that are not structural in nature. For example, she could replace the decking boards or the stair treads. However, replacing structural components, such as the stair stringers with inclined stair stringers or the deck beams with non-rated inclined beams, would not be permitted under a repair. He further explained that replacing those structural elements would constitute reconstruction rather than a repair, as it would involve tearing down and rebuilding the deck. If she were to apply for a permit limited to a deck repair that only involved replacing non-structural materials, that application could be evaluated. However, he would need to know specifically what materials were proposed for replacement. Hypothetically, such an approach could be possible, and she could return to the designer with that information.

Responding to Mr. Neil, Mr. Naples stated that the deck would no longer be required to use fire-resistant materials because it no longer qualified under the residential code for a permit and was now subject to the property maintenance code. He added that if the work did not involve a reconstruction or a teardown and rebuild, the International Residential Code (IRC) would not apply.

Responding to Mr. Neil, Mr. Naples clarified that there were other potential solutions for Ms. Alston to complete her deck. However, he stated that he was unsure of what those solutions might be and did not want to incur unnecessary costs for her; he could only provide guidance based on what the code stated.

Responding to Mr. Neil, Mr. Naples clarified that there were alternatives for Ms. Alston and that she could work with her designer to coordinate with the city to ensure everything would be compliant.

Responding to Mr. Boggerty, Mr. Naples stated that all applicable codes, including the City of Dover codes, were available online at no cost and that Ms. Alston could review them to identify compliance options without necessarily incurring the expense of replacing the deck. He noted that the only disconnect was that the codes could be difficult to read without the appropriate background and understanding of how to apply them. He emphasized that, since Ms. Alston hired

a licensed contractor, that contractor could serve as a resource. He strongly advised that she return to the contractor to explore alternative design solutions and determine what could be offered as a reasonable accommodation.

Responding to Mr. Rocha, Mr. Boggerty clarified that the Board was convened because the matter before them was an appeal of a denied permit.

Responding to Mr. Rocha, Mr. Brown stated that the Board oversaw both construction and property-related appeals. He noted that this was the first construction appeal the Board had heard in a long time, which was why the City Charter combined the two (2) boards into one (1). As a result, the Board was using code-violation-related wording for the matter.

Responding to Ms. Alston, Mr. Neil stated that if the Board were to deny her appeal, they would be doing so while considering the code, as there were alternative solutions that had not yet been explored. He noted that the Board was acting in accordance with the laws and regulations that had been established.

Mr. Neil moved to uphold the Building Inspector's decision to deny the building permit, noting that Ms. Alston could still proceed with completing her deck by working with her contractor to explore alternative solutions. The motion was seconded by Mr. Rocha and carried unanimously.

Responding to Ms. Alston, Mr. Neil clarified that she would need to have her contractor resubmit the building permit application without indicating a teardown.

PROPERTY MAINTENANCE CODE VIOLATION: (Chapter 22 - Buildings and Building Regulations, Article XII - Vacant Buildings, Section 22-403 - Registration and Registration Fee) - Appeal of Registration Fee - 3074 North DuPont Highway

Mr. John England, Code Enforcement Officer, reviewed the case history for 3074 N. Dupont Highway.

Mr. Eddie Kopp, Chief Code Enforcement Officer, stated for the record that the objective of the Dover Code Ordinance Section 22-400 is the purpose of the vacant building ordinance:

- (a) *Purpose.* The purpose and intent of this article is to establish a registration and identification program of vacant buildings within the city. Vacant buildings are detrimental to the surrounding buildings and neighborhoods in which they exist. The article is also to ensure the public health, safety and welfare insofar as they are affected by vacant buildings within the city. The health, safety and welfare of the neighborhoods in which vacant buildings are located are of the utmost importance to the city, as is the general community character in which these vacant buildings are located.

Mr. Jesse Allen stated that he was doing his best, though the work was taking longer than he wanted. He noted that the front of the property was complete and that he would be installing the raptors this week, leaving only the siding remaining on that side. He added that he works 50 hours during the week and 20 hours on weekends. He also mentioned that he had to replace a support beam at the front, as the original was damaged. He stated that he secures the building and turns off the electricity each time he leaves the property. He also described the challenges he has faced with

the property, including difficulties stemming from his divorce in 2000 and the impact of COVID, when a significant increase in building material costs made it difficult for him to complete the work on the house.

Responding to Mr. Campana, Mr. Allen stated that he estimated completing the entire side, including the two doors and siding, by around June. He noted that most of the work should be done by then, but acknowledged that it has been challenging. He explained that the building had water damage, requiring insulation to be removed due to poor air circulation, and that rot from neglect by the previous owner had to be replaced and reframed.

For the record, Mr. Kopp stated that, as established on August 7, 2024, the Property Maintenance Code of Appeals, it was determined that the building has been vacant since 2013. He noted that although the city has a seventh-year vacant building fee, the building has been vacant for 13 years. He explained that it would be the position of the city to deny the appeal based on the intent of the Vacant Building Ordinance. He pointed out that there has not been one (1) inspection, so even if the work that has been done, they could not verify that work since the inspection has not been scheduled. He added that even though they were looking at pictures, without the inspections being scheduled, they do not know if the work has been done up to code.

Responding to Mr. Allen, Mr. Kopp clarified that the inspections were included with the original permit and were also part of each permit renewal.

Responding to Mr. Allen, Mr. England stated that after July, he would no longer be able to obtain permits without submitting a new application.

Responding to Mr. Allen, Mr. Kopp clarified that if the building were sold, the office could not recognize any completed work until inspections were done. He noted that, regardless of ownership, the building must be inspected and approved before a Certificate of Occupancy can be issued. He also added that any work completed could potentially need to be redone if it does not meet code. Additionally, any code violations or uninspected work under the permit must be disclosed to the seller.

Responding to Mr. Allen, Mr. Kopp recommended that he schedule an inspection for what has been completed before moving forward, because potentially it might have to be undone.

Responding to Mr. Allen, Mr. Kopp explained that, as a code official, signing off on work assumes liability. If the work was not done correctly, such as a failure that could cause damage or a collapse, the responsibility would fall on them. He added that this was why they ensure no shortcuts are taken and that every part of the building is thoroughly inspected.

Responding to Mr. Allen, Mr. Neil stated that the initial report, dating back to 2018, required him to identify the source of water. He noted that he had all the relevant documents on the matter. While he sympathized with Mr. Allen, he stated that he would have to deny the appeal, as the issues persisted and the building remained unsafe. He emphasized that the laws exist for a reason.

Mr. Neil moved to deny the appeal made by Mr. Jesse Allen and to uphold the decision of the Code Enforcement Officer to declare this property in its seventh year of vacancy and to apply the seventh-year vacant building registration fee, in the amount of \$5,000. The motion was seconded by Mr. Rocha and unanimously carried.

Mr. Boggerty moved for an adjournment of the Construction and Property Maintenance Code Board of Appeals meeting, seconded by Mr. Neil, hearing no objection, the meeting adjourned at 4:10 p.m.

The meeting adjourned at 4:10 p.m.

Andre M. Boggerty
Chairman

AB/cw