



County of Fairfax, Virginia

MEMORANDUM

STAFF MEMORANDUM TO THE LOCAL BOARD OF BUILDING AND FIRE CODE APPEALS

HEARING DATE: July 1, 2020

APPELLANT: Sidney Tobias Harris

PROPERTY: 5615 Hope Park Road
Fairfax, VA 22030

CODE: 2015 Construction Code

INVESTIGATOR: Gary M. Wallace
Department of Code Compliance

DCC CASE #: #: 201900211 **SR#:** 170161

Staff respectfully recommends that the Fairfax County Board of Building and Fire Code Appeals (Board) uphold the Building Official's determination that the Property is in violation of the Virginia Construction Code, Part I of the Virginia Uniform Statewide Building Code (USBC), 2015 Edition, effective September 4, 2018 (VCC).

Staff Position

In response to an appeal to the Board of Zoning Appeals, Department of Code Compliance Investigator Gary Wallace inspected the Property on March 20, 2020. During that inspection, Investigator Wallace observed the construction of a building with a chimney and deck on the northern section of the Property and another large structure on the southwest section of the Property—both without any required permit, inspection, or approval in violation of VCC §§ 108.1, 113.3, 113.8, and 116.1. Accordingly, Investigator Wallace issued the attached Notice of Violation to the Appellant, Sidney Tobias Harris.

Harris alleges that all structures on the Property are in compliance with the “code of compliance guidelines.” He also alleges that a previously issued Stop Work Order references a different property than that identified in the NOV that is the subject of this appeal.

By failing to obtain any permit, inspection, or approval for the structures on the Property, Harris is in direct violation of the VCC §§ 108.1, 113.3, 113.8, and 116.1. VCC § 108.1 states:

108.1 When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement

of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.

VCC § 113.3 states:

113.3 Minimum inspections. The following minimum inspections shall be conducted by the building official when applicable to the *construction* or permit:

1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.
2. Inspection of foundation systems during phases of *construction* necessary to assure compliance with this code.
3. Inspection of preparatory work prior to the placement of concrete.
4. Inspection of structural members and fasteners prior to concealment.
5. Inspection of electrical, mechanical and plumbing materials, *equipment* and systems prior to concealment.
6. Inspection of energy conservation material prior to concealment.
7. Final inspection.

VCC § 113.8 states:

113.8 Final inspection. Upon completion of a building or structure and before the issuance of a certificate of occupancy, a final inspection shall be conducted to ensure that any defective work has been corrected and that all work complies with the USBC and has been approved, including any work associated with modifications under Section 106.3. The building official shall be permitted to require the electrical service to a building or structure to be energized prior to conducting the final inspection. The approval of a final inspection shall be permitted to serve as the new certificate of occupancy required by Section 116.1 in the case of additions or alterations to existing buildings or structures that already have a certificate of occupancy.

VCC § 116.1 states:

116.1 General; when to be issued. A certificate of occupancy indicating completion of the work for which a permit was issued shall be obtained prior to the occupancy of any building or structure, except as provided for in this section generally and as specifically provided for in Section 113.8 for additions or alterations. The certificate shall be issued after completion of the final inspection and when the building or structure is in compliance with this code and any pertinent laws or ordinances, or when otherwise entitled. The building official shall, however, issue a certificate of occupancy within five working days after being requested to do so, provided the building or structure meets all of the requirements for a certificate.

Exception: A certificate of occupancy is not required for an accessory structure as defined in the IRC.

Furthermore, while the Stop Work Order referenced in the NOV cites an incorrect tax map number, it cites the correct address, putting Harris on notice of the Property at issue. Moreover, the NOV, which is the subject of this appeal, cites the correct tax map number and property address. (See attached maps). Accordingly, there is no ambiguity as to the Property cited in the NOV. Additionally, the Appellant does not dispute that the violations cited in the NOV are on the property corresponding to the address and parcel number listed in the NOV.

In conclusion, the appellant has failed to state a basis for overturning any decision of the Building Official. The unpermitted structures require building permits in accordance with VCC § 108.1, as well as inspections and ultimately certificates of occupancy in accordance with VCC §§ 113.3, 113.8, and 116.1. The NOV clearly put Harris on notice of the affected property. Therefore, the Building Official respectfully requests that the Board deny this appeal.

Appellant Position

Harris's appeal application is attached.