

October 16, 2008

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: Local Appeals Board

Dear Members of the Board:

I have concerns with the way existing county code conflicts with requirements in state code about the manner in which a Local Appeals Board is to be organized.

Toward that concern I am providing my understanding of the issue. First I am providing what is mandated by the state, than secondly, what current county code indicates. For clarity, I am providing what I understand to be the crux of these issues rather than all the possible references and cross references.

1. State Mandated Code

a. Under the 2007 California Building Code – Matrix Adoption Table California Chapter 1- - General Code Provisions Chapter 108 must be adopted as required by the California Department of Housing and Community Development.

b. 2007 CBC 108.6.2 states:

“Prior to making any modifications or establishing more restrictive building standards, the governing body shall make express findings and filings....showing that such modifications are reasonably necessary due to local climatic, geological or topographical conditions.”

c. 2007 CBC 108.8.1 states:

“Every city, county or city and county shall establish a local appeals board and a housing appeals board. The local appeals board and housing appeals board shall each be comprised of at least five voting members that shall serve at the pleasure of the city, county or city and county. Appointments shall not be employees of the jurisdiction and shall consist of members who are qualified and specifically knowledgeable in the California Building Standards Codes and applicable local ordinances. “

d. 2007 CBC 108.8.3 states:

“Except as otherwise provided in law, any person, firm or corporation affected by a decision, order or determination by a city, county or city and county relating to the application of building standards published in the California Building Standards Code, or any other applicable rule or regulation adopted by the Department of Housing and Community Development, or any lawfully enacted ordinance by a city, county or city and county, may appeal the issue for resolution to the local appeals board or housing appeals board as appropriate.”

The local appeals board shall hear appeals relating to new building construction and the housing appeals board shall hear appeals relating to existing buildings.”

“State Code” Synopsis:

The county shall establish a local appeals board and a housing appeals board. The board(s) shall have at least five voting members that are not employees of the jurisdiction. The members shall be qualified and specifically knowledgeable in the California Building Standards Codes and applicable local ordinances.

The appeals boards shall hear appeals, not county staff.

The county has made no express findings for modification of Sections 108.8, nor is it reasonable to expect such modifications are necessary due to local climatic, geological or topographical conditions.

2. County Code and Actions

a. 2.100.010 Established- Statutory authority states that the building and fire code appeals board is established under authority of Sections 17958 and 19957.5 of the Health and Safety Code.

i. Section 17958 is in regards to making changes to California Building Code.

ii. Section 19957.5 is for establishing an appeals board for hearing issues that deal with accessibility (see Section 19955) of “public accommodation or facilities”. Section 19957.5 has no relation to the appeals board as anticipated, and required by, Section 108.8 of the California Building Code.

b. Staff report for “Public hearing to consider adoption of ordinance amendments to Chapter 12.10 of the county code for the purpose of adopting the 2007 California Building Standards Code and Local Amendments” Item 54 Agenda date November 20, 2007.”

i. Page 0532 of local amendments states:

“Building and Fire Code Appeals Board. The appeals board established by the Board of Supervisors of the County of Santa Cruz, as authorized by Section 108.8 of the California Building Code and as established by Chapter 2.100 of the Santa Cruz County Code.

Boxed comment made by county staff below:

“Added language clarifying where in Title 12 the authority for the Building and Fire Code Appeals Board resides.”

As indicated above, 2.100 does not refer to 108.8 of state mandated code, 2.100 mistakenly refers to another appeals board that the county *may* (it is not a mandated appeals board) form to hear accessibility issues. It is problematic that this comment uses the authorization of 108.8 to form the Building and Fire Code Appeals Board, but then further down the section is deleted (see below).

ii. Page 0534 of local amendments states:

“(a) Administrative amendment – Appeals Board. Section 108.8 of the 2007 California Building Code, entitled “Appeals Board”, is deleted. (See Chapter 12.12 and Chapter 2.100 of the Santa Cruz County Code.)

County Code synopsis:

County code 2.100 indicates the creation of a Building and Fire Code Appeals Board that is not the state mandated Local Appeals board as anticipated by section of 108.8 of the 2007 CBC. As noted under state code above, the county may not delete section 108.8 of the 2007 California Building Code. The county may make modifications , with the proper findings, which have not been made.

This is but one example of an internal conflict in the county code where county code does not follow state mandated code, nor is county code consistent to itself.

Thank you for the Board's consideration. Please make this document part of the record for the October 21 agenda item 26 in regards to the Building and Fire appeals board.

Sincerely,

Cove Britton
Architect