

**SANTA CRUZ COUNTY  
BOARD OF SUPERVISORS INDEX SHEET**

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**Source Code:** PLANN

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**INVENUM:** 54086

**Resolution(s):**

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**Ordinance(s):**

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**Contract(s):**

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**Continue Date(s):**

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**Index:** --Letter of Planning Department dated February 3, 2004  
--Building Board of Appeals Commission 2003 Annual Report  
--Letter to David smith dated February 4, 2004

**Item: 40.** ACCEPTED AND FILED report on the Building and Fire Code Appeals Board Annual Report and approved related actions, as recommended by the Planning Director



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
 TOM BURNS, PLANNING DIRECTOR

February 3, 2004

**APPROVED AND FILED**  
**BOARD OF SUPERVISORS** AGENDA DATE: February 24, 2004

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

DATE: 2/24/04  
 COUNTY OF SANTA CRUZ  
 SUSAN A. MAURIELLO  
 EX-OFFICIO CLERK OF THE BOARD  
 BY: *Susan Mauriello* DEPUTY

**SUBJECT: Building and Fire Code Appeals Board Annual Report**

Members of the Board:

At your meeting of January 27, 2004, in response to public comments your Board directed the Planning Department to return with an expanded report regarding the County's Building Appeals Board. Those items included issues related to a specific appeal to the Commission as well as general questions regarding the Appeals Board composition and appointment process.

### Disposition of Smith Appeal to Building Appeals Board

As was discussed at the January 27 meeting, staff had erred in not properly responding to Mr. Smith's appeal of August 20, 2003. While staff believed that Mr. Smith had a verbal understanding of the issue, a formal written response should have been sent. Attachment 1 provides a copy of the recent response to that appeal. As was discussed at the January 27 meeting, that letter informs Mr. Smith that that item of appeal is not an appropriate item for the Appeals Board to consider.

### Authority of Building Appeals Board

As your Board can see from the Department's response to Mr. Smith's appeal, the Building and Fire Code Appeals Board is not empowered to hear appeals to the grading ordinance or other County zoning policies. Additionally, Section 105.2 of the 2000 California Building Code states that building appeals boards "...shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the board be empowered to waive the requirements of this code."

For this reason the authority of this board is limited to appeals concerning technical issues. These usually relate to alternate methods and/or materials proposed in place of standard code requirements.

In his oral remarks, Mr. Smith raised the question of appeals of notices of violations, or red tags. A list of the types of work requiring a building permit are found in Chapter 1 of the California Building Code, titled Administration. The County of Santa Cruz adopted the California Building Code, with certain amendments, as its "Building Regulations" which are contained in Chapter 12.10 of the County Code. Chapter 12.10 provides that any appeal of its provisions follow the requirements of Chapter 12.12. Section 12.12.1 36 limits the matters that may be appealed to the Building and Fire Code Appeals Board to three areas:

1. Determinations regarding the suitability of alternative building materials or methods of construction;
2. Interpretations of the County's Building Regulations contained in Chapter 12.10;
3. Actions taken to enforce requirements for access to public accommodations by persons with disabilities.

Significantly, the County's Building Regulations expressly provide that code enforcement actions are not subject to the administrative appeal provisions of Chapter 12.12.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance with the procedures set forth in Chapter 12.12; provided, however, that code enforcement actions and decisions are not subject to administrative appeal...

Notices of violation assert that work was done which required a permit but did not have a permit, and involve the administrative provisions of the code. As discussed above, the Building and Fire Code Appeals Board has no authority relative to these provisions, and for this reason County Code contains Section 19.01.070 which contains specific appeal procedures for notices of violations.

### **General Issues Regarding the Appeals Board**

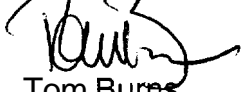
General issues raised regarding the Appeals Board included membership of the Board, function of the Board, and staffing support for the Board. Attachment 1 provides a copy of the Annual Report for the Board. It defines clearly the Board positions, its responsibilities and the staffing. The report shows that there are currently two vacancies on the Board. Staff will make outreach efforts to recruit potential candidates for these positions through the Disabilities Commission. Board members may wish to initiate additional contacts. It was suggested during the Board discussion that many commissions have specific requirements for designated members, and that for this reason the application for Commission membership be revised to specify the type of membership for which the person is applying. We have conveyed this suggestion to the Clerk of the Board.

### **Conclusion**

The Building Appeals Board, while it does not often need to meet, provides an important function for the County in addressing technical issues related to the building codes. There is not, however, a role for that Board to be involved in addressing "red tag" issues. We will work with the Clerk to ensure the application for Commission membership is revised to specify the

type of membership for which the person is applying for positions on the Board. It is therefore RECOMMENDED that your Board accept and file this report.

Sincerely,



Tom Burns  
Planning Director

RECOMMENDED:

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SUSAN A. MAURIELLO  
County Administrative Officer

Attachments:

1. Building Board Of Appeals Commission 2003 Annual Report
2. Letter to David Smith dated February 4, 2004

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cc: Building and Fire Code Appeals Board Commission Members

**BUILDING BOARD OF APPEALS COMMISSION  
2003 ANNUAL REPORT**

**I. ROLE OF COMMISSION**

The board shall exercise the following responsibilities within the jurisdiction of the County; except that, for purposes related to the fire code, the board shall have no responsibilities with respect to the unincorporated area of the county, which lies within the jurisdiction of a fire protection district:

- A. Determine the suitability of alternate building materials and methods and types of construction for use in the county;
- B. Interpret the provisions of the fire code adopted by Chapter 7.92, the provisions of the uniform codes adopted by Chapter 12.10, and the provision of the grading regulations adopted by Chapter 16.20 of the Santa Cruz County Code;
- C. Consider recommendations to the board of supervisors concerning improvements of building, grading and fire regulations for the county;
- D. Hear all appeals filed by persons pursuant to provisions of Chapter 7.92 and 12.12 of this code;
- E. Hear all appeals filed by persons regarding actions taken by the building department of the county in the enforcement of the requirements of Sections 19955 et seq. of the Health and Safety Code related to access to public accommodations by physically handicapped persons;
- F. Render final decisions on all appeals brought before the board;
- G. Exercise any other responsibilities which may be set forth in the board bylaws and rules of investigation, approved by the board of supervisors. (Ord. 3620 Sec. 25, 26, 1985; Ord. 3602 Sec. 25 and 26, 1985; prior code Section 3.51.020; Ord. 2280, 4/20/76; Ord. 2368, 12/7/76; Ord. 2518, 1/10/78).

**II. MEETING DATES**

Special meetings of the board shall be held from time to time as necessary to hear appeals, or upon request of the building inspection chief of the community resources agency, the fire marshal, or of a member of the board.

### III. COMMISSION STRUCTURE

- A. The board shall consist of five at-large members, who are residents of the county, appointed as follows:
1. Two members shall be persons with disabilities;
  2. Two members shall be persons experienced in construction; and
  3. One member shall be a public member.
- No member of the appeals board shall be a county employee

Current membership of the Commission:

At Large, Person Experienced in Construction  
 Glen W. Strong  
 9057 Soquel Dr. Bldg. E, Ste G  
 Aptos, CA 95003  
 588-1050 (H) 662-0671 (B)

At Large, Person Experienced in Construction  
 Michael Bethke  
 229 Union St.  
 Santa Cruz, CA 95060  
 469-7645 (H) 818-9575 (B)

At Large, Public Member  
 Daniel R. Bronson  
 70 Cherry Blossom Lane  
 Aptos, CA 95033  
 689-0136(H) 761-5444(B)

At Large, Person with Disabilities  
 Vacant

At Large, Person with Disabilities  
 Vacant

### IV. COMMISSION STAFF

The building inspection division of the community resources agency shall provide staff support for the board for all building appeals, and the fire marshal shall provide staff support for the board for all fire code appeals. The building inspection chief or the fire marshal, as appropriate, shall serve as the administrative secretary to the board and prepare and mail the agendas, take minutes of each meeting, and perform other duties as directed by the board.

### V. ATTENDANCE

Three members represent a quorum.

VI. GOALS

See Item I

VII. FUTURE GOALS

See Item I

VIII. RECOMMENDATIONS

Not applicable

IX. 2003 ACTIONS

No hearings were required or held during Calendar Year 2003.

Respectfully Submitted,

John de Courcy  
Building Official



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

0231

701 OCEAN STREET, SUITE 410, SANTA CRUZ, CA 95060  
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
 TOM BURNS, DIRECTOR

February 4, 2004

Mr. David R. Smith  
 P.O. Box 436  
 Mt. Herman, CA 95041

Dear Mr. Smith,

RE: Your letter of August 20, 2003, requesting an appeal of the alleged grading violations on APN 089-391-31, 25 to the building appeals council.

First, let me apologize on behalf of the Planning Department for the delay in this response to your letter. Staff believed that you understood the correct appeal procedure and were following this procedure. This belief was based on the following notation in the case file, dated 8/6/03, by Code Compliance staff:

"Mr. Smith advised he believed there may be an error in determining that his parcel was in violation due to property boundaries. I advised him to meet with CCI Nieuwstad to review any pertinent information regarding the property boundary for CCI Nieuwstad to consider. He stated he was aware of the appeal process. PP Laughlin came by and also advised him to meet with CCI Nieuwstad to present any pertinent information and if he was still not satisfied after CCI Nieuwstad's review that he could appeal. He stated he understood."

Staff was also aware that you subsequently appealed the posting of this violation, and that this appeal was heard by the Planning Director's designee, David Laughlin, on 9/19/03. For this reason, staff believed that you had been informed of and understood the correct procedure to follow in order to appeal the posting of this violation., and were doing so.

Mr. Laughlin has indicated to me that he has recently completed his review of your appeal, and will be communicating the results of that review to you in the near future.

In your letter of August 20, 2003 you requested that the Department's determination that a grading violation on your parcel be appealed to the "building appeals council". There is no building appeals council, but I assume you meant to direct your appeal to the Building and Fire Code Appeals Board.

The powers and duties of the Building and Fire Code Appeals Board are stated in Chapter 2.100.050. Relative to appeals, section D reads:

"Hear all appeals filed by persons pursuant to provisions of Chapters 7.92 and 12.12 of this code."

Chapter 7.92 of the County Code relates to the Fire Prevention Code. Chapter 12.12 relates to the Building, Plumbing, Electrical, and Mechanical Codes. The County grading regulations are found in Chapter 16 of the county code, and the Building and Fire Code Appeals Board is not empowered to hear appeals to violations based on Chapter 16.

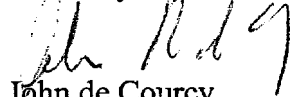
Chapter 19.01.070 contains the procedure for the appeal of all posted violations.

Based upon the above, this appeal was filed in error and will not be processed.

The entire County Code, including the sections referenced above, is available on line with a search index at <http://ordlink.codcodes/santacruzco/index.htm>. Several of these sections are rather long, and to avoid unnecessary paper usage I have not included copies of them, However, please let me know if you need printed versions, and I will be happy to provide them.

If you have further questions concerning this matter, please do not hesitate to contact me at 831-454-3195 or [pln712@co.santa-cruz.ca.us](mailto:pln712@co.santa-cruz.ca.us).

Sincerely,



John de Courcy  
Building Official

CC: Board of Supervisors  
Tamara Rice, County Counsel  
Tom Burns, Planning Director  
CorrespondenceFile

David Smith reply.doc:jrd