

Official use only:

Date: _____

Fee: _____

Receipt No. _____



Revised: July 24, 2019

City of Franklin Building & Street Standards Board of Appeals Application

City of Franklin Building & Street Standards Board of Appeals
c/o Chris Bridgewater
109 3rd Avenue South, Ste 110
Franklin, TN 37064
Phone 615.550.6633

Date 4/3/2023

The Building and Streets Standards Board of Appeals hears requests for appeals, special exceptions, and interpretations on issues pertaining to Franklin's adopted Building Codes and Transportation and Street Technical Standards. This Board of Appeals consists of nine (9) members. The members are licensed professionals nominated by the Mayor and appointed by the Franklin Board of Mayor and Alderman. For information on submitting an application, contact Chris Bridgewater at 615.550.6633 or chris.bridgewater@franklintn.gov

I wish to appeal the following interpretation by the City of Franklin of an adopted standard or ordinance:

- Building Code
- City Street Standard (Engineering)
- Fire Code
- Property Maintenance Code
- Other _____

The subject/property of this appeal is located at:

1019 STATE BLVD. 6640
Street Address Suite/Apt # Tax Map No.

Subdivision WESTHAYES Section No. Townhome - Block D Lot No. 126

The decision or interpretation being appealed was rendered on: 3/28/2023
Date

and was based on the following code/manual and section(s):

2018 IRC INT'L RES. CODE 2018 R 302.2.4
Code/Manual Name Edition (year) Section(s)



HISTORIC
FRANKLIN
TENNESSEE

As the building/property owner owner's agent, I am hereby appealing the decision/interpretation of the aforementioned City of Franklin Code or Standard, specifically: **On a separate form clearly describe all of the following:**

- the decision or interpretation subject to appeal;
- the reason or reasons why the applicable code or street standard cannot be reasonably instituted as stated and interpreted;
- the pertinent technical points and nationally-recognized alternatives or best practices for consideration;
- the remedy you propose and how it meets the desired intent of the code section or street standard being appealed; and
- include all applicable correspondences, maps, surveys, plans, and related supporting documentation.

Owner's Name: MIKE & RENEE BOUET Submitter's Name: THOMAS J. BOYLAN

Signature: *Thomas J. Boylan* AS ATTORNEY AGENT Signature: _____

Address: 148 FRONT ST. SUITE 116-119 Address: _____

City, State, Zip: FRANKLIN, TN City, State, Zip: 37064

Telephone: 615-815-5331 Telephone: _____

Email: Tom@BBMCLAW.COM Email: _____

Submit twelve (12) copies of the application and a \$250 check payable to the City of Franklin to the attention of: **City of Franklin
c/o Chris Bridgewater
109 3rd Avenue South, Ste. 110
Franklin, TN 37064**

The Building & Street Standards Board of Appeals meets as needed, typically within thirty (30) days from when an application is submitted.

04/03/2023

Appellants Michael and Renee Bouey are townhome residents of the Westhaven Residential District Association, (Westhaven HOA). The HOA Bylaws state that the HOA is responsible to make repairs/replacement to certain exterior portions of the townhome properties. The Boueys' roof is leaking and they have contacted the HOA to make repairs. During their inspection of the roof, the HOA drilled a 2 ¼" hole through the entire roof structure, including the shingles and fire rated underlayment. This fire rated penetration is jeopardizing the health and safety of not only the Boueys, but the entire neighborhood. The Boueys contacted the City of Franklin Codes Department for a determination of whether the City will, or will not, require engineered drawings and a permit for repair of the fire rated penetration and roof replacement.

City Inspector Randall Tosh has personally viewed the roof and the hole that penetrates the fire rated underlayment. He originally determined that since the drilled area is required to have fire rated underlayment, any repair or replacement requires engineered stamped plans be submitted and approved. (See attached email from Randall Tosh dated March 23, 2023).

After submitting his decision to the Westhaven HOA, Mr. Tosh sent a follow-up email in which he reversed his decision and states that he applied the relevant building code incorrectly. (See attached email from Randall Tosh dated March 28, 2023). In that email, Mr. Tosh states that requirements for engineered drawings and permits are exempted for normal maintenance or repairs of existing roofs, as long as the original design is not changed or compromised. It is inexplicable how Mr. Tosh came to this conclusion. Clearly, the original design has been compromised by the unauthorized penetration of the fire rated decking.

IRC Section R102.7.1 mandates that any alterations or repairs to any structure shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Additionally, Section 104.10 gives building officials authority to modify the code in individualized cases, only if the official first finds that special reasons exist which makes the strict letter of the Code impractical and the modification does not lessen health, life or fire safety requirements.

The desired intent of this portion of the IRC is to promote the health and safety of the community, including the appellants. Clearly, leaving the repair of a fire rated building system up to the discretion of a roof installer is not in keeping with this intention. The City of Franklin has not determined that requiring approved engineered drawings and permits is impractical. The original design of the fire rated roof structure has been changed and compromised, thereby requiring a repair that is engineered, permitted, inspected and approved.

At this point, the City of Franklin is allowing any roof installer to evaluate the condition of the fire rated assembly, determine if a repair is needed, and how to make the repair. It is likely that the roof installer will simply cover the hole with new shingles. Mr. Tosh and the City of Franklin would not allow this on any other life safety system that requires permitting and inspection and should not allow unpermitted work to continue on the Bouey residence.

Subject: 1019 State Blvd.

Date: Thursday, March 23, 2023 at 4:33:34 PM Central Daylight Time

From: Randall Tosh

To: Michael Bouey, Tom Boylan, Matthew Payne

CC: Bill Squires, Tom Marsh, Rodney Prince

Good afternoon,

Friday, March 17th, Walt Gatlin and I visited 1019 State Blvd. to look at the roof and fire ratings of the structure. This visit was made to make a determination of permit requirements for the replacement of the roof covering.

Walt and I observed the roof from outside the rear of the structure. The Bouey's allowed Walt and I inside to view the roof structure from attic of the rear of the structure above the first-floor kitchen and laundry room. The decking in this area included a layer of fire-resistant material extending from the back wall of the main body of the structure to the rear wall of the structure.

Walt and I were provided access to the attic above the second floor. The primary fire protection for this structure is the rated parapet wall that extends to 30 inches above the roof structure. The rated wall between the 1019 State Blvd. and the neighboring structure appeared to be in good condition in the areas that were available to be visually inspected.

The roof area that adjoins the roof of the neighboring structure requires that fire resistant material be installed at that area of roof decking. This rated material is required to extend a minimum of 4 feet from the rated wall assembly onto the roof of each structure.

Photographs indicate that the roof decking has been core drilled in the area where the roofs adjoin. The bored area appears to be approximately 12 inches below the parapet wall. This area is required to have fire rated material installed. Repair or replacement of fire-resistant materials in this area require that designer stamped plans be submitted and approved per the State of Tennessee Architect and Engineers Board guidelines. When plans are approved, permits will be required to be obtained and the associated inspections will be required to be requested and approved prior to roof covering being applied.

It is not the responsibility of the City of Franklin to resolve disputes between the property owner's and the management company regarding the contractual responsibilities of the maintenance contract. The intent of this email is to make all parties associated with this project aware that designer prepared plans are required for the area where the core drilling occurred to explore the condition of the decking. These plans are required to be reviewed and approved. When the plans are approved for the project, a building permit is required to be obtained prior to the commencement of any work associated with the project.

Randall
Tosh

Official

7012

5339

Building

615-794-

615-504-

randall.tosh@franklintn.gov

This message has been prepared on resources owned by the City of Franklin, Tennessee. It is subject to the City's Policy for the Use of Computers, Internet and Email. Messages that are received or created by any City staff member may be a public record subject to Tennessee Open Records Act, T.C.A. §10-7-503, et seq., and the rules of the Open Records Commission. DO NOT COPY OR FORWARD TO UNAUTHORIZED PERSONS. This message may contain confidential information and is intended only for the use of the specific individual(s) to which it is addressed. If you are not an intended recipient of this message, you are hereby notified that any unauthorized use, dissemination or copying of this email or any information it contains is strictly prohibited. If you have received this message in error, please delete it and immediately notify the sender by reply email.

Subject: 1019 State Blvd.
Date: Tuesday, March 28, 2023 at 12:09:33 PM Central Daylight Time
From: Randall Tosh
To: Michael Bouey, Tom Boylan, Matthew Payne
CC: Bill Squires, Tom Marsh, Rodney Prince
Attachments: Scodesprint23032812100.pdf

Good afternoon,

I am following up on the recent email that I sent regarding plan and permitting requirements for the roof replacement at 1019 State Blvd.

Upon further research of the requirements per the State of Tennessee Architect and Engineer Board guidelines and the 2018 International Residential Code, I have determined that I applied the guidelines incorrectly.

Townhome construction falls within the purview of the International Residential Code (IRC). The International Residential Code is a prescriptive code that does not require that plans be designed by a design professional as long as the prescriptive elements of the code are met in the design.

2018 IRC, Section R302.2.4, Parapets for townhouses.

#2 Exception: A parapet is not required in the preceding two cases where the roof covering complies with a minimum Class C rating as tested in accordance with ASTM E108 or UL 790 and the roof decking or sheathing is of noncombustible materials or fire-retardant-treated wood for a distance of 4 feet on each side of the wall or walls, or one layer of 5/8-inch Type X gypsum board is installed directly beneath the roof decking or sheathing, supported by not less than nominal 2-inch ledgers attached to the sides of the roof framing members, for a distance of not less than 4 feet of the common walls. Fire-retardant-treated wood shall meet the requirements Sections R802.1.5 and R803.2.1.2.

Attached is a copy of the Seal Exemptions with areas highlighted that apply to this project. #2, Section E addresses roof maintenance and repair. It states, "Normal maintenance or repair of an existing roof where the weight, drainage, fire protection, and other code related requirements of the original design are not changed or compromised."

Having further evaluated the code requirements and the seal exemptions, this project is a reroof and repair. The determination has been made that this project would require in-kind replacement or repair that meets the prescriptive requirements of the International Residential Code and does not require plans prepared by a licensed designer.

Randall Tosh
Building Official
615-794-7012
615-504-5339
Randall.tosh@franklintn.gov

This message has been prepared on resources owned by the City of Franklin, Tennessee. It is subject to the City's Policy for the Use of Computers, Internet and Email. Messages that are received or created by any City staff member may be a public record subject to Tennessee Open Records Act, T.C.A. §10-7-503, et seq., and the rules of the Open Records Commission. DO NOT COPY OR FORWARD TO UNAUTHORIZED PERSONS. This message may contain confidential information and is intended only for the use of the specific individual(s) to which it is addressed. If you are not an intended recipient of this message, you are hereby notified that any unauthorized use, dissemination or copying of this email or any information it contains is strictly prohibited. If you have received this message in error, please delete it and immediately notify the sender by reply email.



State of Tennessee
Department of Commerce and Insurance
Board of Architectural and Engineering Examiners
500 James Robertson Parkway Nashville, TN 37243-1142
800-256-5758 615-741-3221 (Nashville Area) 615-532-9410 (Fax)
<http://www.tn.gov/commerce/section/architects-engineers>

SEAL EXEMPTIONS CLARIFICATION [T.C.A., Section 62-2-102(b)]

The following are situations where a registered architect, engineer, or landscape architect is not required unless an awarding authority deems it necessary:

1. Tenant finishes and tenant improvements to a building of B, F, H, R, M, or S occupancy may be designed by a non-registrant with the following provisions:
 - A. Each separate tenant space is less than 5,000 square feet and the tenant spaces are separated from other tenant spaces by the minimum fire-rated separation required by the applicable code. In accordance with Section 402.1.2 of the 1985 edition of the Standard Building Code, "each part of a building or structure included within fire walls shall be considered a separate building."
 - B. Remodeling, maintenance, or renovation of any building or structure, which does not alter the structural system, or fire protection, or egress requirements.
2. The following exemptions apply to buildings, structures and spaces of B, F, H, R, M, or S occupancy that are 5,000 square feet or more in total gross area or over two stories in height:
 - A. Existing interior space. Normal maintenance or remodeling of an existing interior space in an existing building where the occupancy or floor plan do not change but upgrades are needed, such as, remove and replace finishes (wall, floor, ceiling, where these are not a part of a required fire rated assembly), change light bulbs or filters, and rearrange prefabricated partitions.
 - B. Mechanical design.
 - i. The design of a mechanical system for a building or structure of B, F, H, R, M, or S occupancy, and a temporary structure, wherein the HVAC system developed is not more than a total of 12.5 ton capacity and not more than a total of 500,000 BTU of heating per hour output.
 - ii. Normal maintenance or replacement of defective mechanical equipment with like equipment with like size may be accomplished by contractors licensed in their respective trades.
 - C. Plumbing design. Minor plumbing upgrades and additions up to the equivalent of three (3) fixture unit values, which do not require any change to the capacity of any waste, vent or supply system.
 - D. Electrical design. Minor electrical additions, such as receptacles, lighting, or other circuits, not to exceed 20 amperes, may be designed without benefit of a registrant, if the additional circuits do not require additional distribution panel(s) and/or the need for upgrading, resizing, or enlarging branch circuits and main feeders. In addition, such work shall be performed by an appropriately licensed individual in the state of Tennessee, and such person shall certify to any authority having jurisdiction, in writing, that he/she has evaluated such work in relation to the National Electrical Code and local codes, providing, for the record, the number of circuits added and the revised loads on the existing panel(s).
 - E. Roof Maintenance or Repair. Normal maintenance or repair of an existing roof where the weight, drainage, fire protection, and other code related requirements of the original design are not changed or compromised.

Note: In no case can anyone other than an architect or engineer registered in Tennessee provide design documentation with regard to assembly, institutional, and educational occupancies.

Note Regarding Public Works Projects: T.C.A. § 62-2-107. (Employment of licensees on public works — Excluded public works)