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October 5, 2023

VIA EMAIL AND FEDEX

Richard Shively – Chairman
Franklin County Local Board of Building Code Appeals
P.O. Box 795
Rocky Mount, VA 24151
Cell: 540.493.7131
Roanoke Office: 540.344.5500
[E-mail: rshively@shivelyelectric.com](mailto:rshively@shivelyelectric.com)

Re: 197 Compass Cove, Moneta, VA 24121
Written Request for Appeal

Dear Mr. Shively:

This firm and I represent Craig Caron in connection with his construction work at 197 Compass Cove, Moneta, Virginia 24121 (the “Property”), which is owned by Robert and Lisa Gearhart (the “Owners”). On his behalf, I write to the Franklin County Local Board of Building Code Appeals pursuant to Virginia Code § 36-105 and Section 119 of the Virginia Uniform Statewide Building Code to request an appeal of the Building Official’s four notices of violation issued to Mr. Caron on September 5, 2023. Respectfully, the Building Official erred in issuing each of the notices, which are enclosed as Exhibit 1.

First, the Building Official issued a notice of violation because Mr. Caron allegedly violated 2018 Virginia Residential Code Section R703.10.2 (Fiber Cement Lap Siding). The Building Official stated in his notice that this section of the Virginia Residential Code “requires that the siding be installed according to the approved manufacturer’s installation instructions” and found that “Exterior Concrete Lap siding is not installed in accordance with manufacturer installation instructions, which “voids the warranty and is likely to cause further issues.” As an initial matter, Section R703.10.2 does not require that siding be installed according to the approved manufacturer’s installation instructions. The only requirement in that Section regarding manufacturer instructions concerns fastener heads, which is not at issue here (“Lap siding courses shall be installed with the fastener heads exposed or concealed, in accordance with Table R703.3(1) or approved manufacturer’s instructions.”). Moreover, any deviations from the manufacturer’s instructions were requested and approved by the Owners at a meeting at which the Building Official

attended. At the meeting, the Building Official and the Owners identified other issues, but those issues were subsequently remediated, which is evidenced by the July 22, 2022 Franklin County Inspection Worksheet, which approved Mr. Caron's work. *See Exhibit 2.* Further, the Franklin County Building Inspection Office conducted at least two inspections over the course of four or five months through issuance of a certificate of occupancy to track adherence to the siding remediation agreement. Subsequent to these inspections, neither the Building Inspection Office nor the Owners communicated any installation issues with the remediated siding.

Second, the Building Official issued a notice of violation that Mr. Caron allegedly violated 2018 Virginia Residential Code Section R506 (Concrete Floors (On Ground)) because the Property's “[b]asement garage/workshop floor cracked, materially more significant than a natural hair-line crack. Slab is consistently less than the required 3-1/2” thickness.” It is factually incorrect that Mr. Caron failed to install slab at a thickness of 3.5 inches—in fact, Mr. Caron laid concrete slab at an average of 4 inches thickness. What is more, the Building Official determined, in the presence of the Owners at an onsite inspection, that the concrete slab was poured consistently more than 3.5 inches deep. Indeed, the Building Official noted that he had a crack in his concrete basement larger than the Owners' basement.

Additionally, while concrete cracking due to contraction from weather is normal, it may be moderated by installing saw joints in the concrete. Mr. Caron proposed installing saw joints to the Owners, but Ms. Gearhart was adamant that she did not want joints installed for cosmetic reasons. Mr. Caron fully advised Ms. Gearhart that failure to install joints would exacerbate and hasten and exacerbate the concrete cracking, but Ms. Gearhart instructed Mr. Caron to lay the concrete without the joints regardless. Further, on November 3, 2021, a Franklin County inspector inspected the pre-slab installation and approved Mr. Caron's work. *See Exhibit 3.* In fact, the exterior forms were set at four inches prior to the pre-slab inspection approval and witnessed by the approving inspector.

Third, the Building Official issued a notice of violation because Mr. Caron allegedly violated Virginia Uniform Statewide Building Code Section 112 (“Damage to regulated building components caused by violations of this code or by the use of faulty materials or installations shall be subject to the applicable provisions of Section 115.”). The Building Official stated that the specific violation of this provision of the Code is that “Floor Trusses are damaged and incorrectly installed per manufacturer installation requirements. This has been verified by manufacturer representative.” Although the Building Official does not provide details regarding this alleged violation in the notice, Mr. Caron understands from prior communications with the Building Official that the Building Official believes each top chord truss should have been cut for weight-bearing purposes. Mr. Caron has reviewed the instructions provided by Jones Building Systems, the truss manufacturer, and finds no support for this position because cutting the top chord trusses is not required by the instructions. Moreover, no damage to the floor trusses was observed by Mr. Caron or the Franklin County inspector before the certificate of occupancy was issued and Mr. Caron is unaware of any damage to floor trusses during construction on the Property. Further, the Franklin County inspector was provided truss sheets and the footings/foundation were approved during inspection. *See Exhibit 4.*

Finally, the Building Official issued a notice of violation because Mr. Caron allegedly violated 2018 Virginia Residential Code Section R406.1 (Concrete and masonry foundation damp proofing) and Section R406.2 (Concrete and masonry waterproofing) due to a leaky foundation in two locations. The Building Official does not identify which parts of these sections Mr. Caron allegedly violated and it is Mr. Caron's position that he complied fully with Sections R406.1 and R406.2. The foundation was approved by the Franklin County inspector, *see Exhibit 4*, and any leaks would have occurred after final inspection

and after Mr. Caron adequately installed the foundation. Mr. Caron also notes that he expressed to the Owners that the Property would have water runoff issues since it sits approximately 10 to 15 feet below the street, necessitating a large retaining wall.

The specific relief sought by Mr. Caron is:

- 1) A determination that Mr. Caron did not violate 2018 Virginia Residential Code Section R703.10.2;
- 2) A determination that Mr. Caron did not violate 2018 Virginia Residential Code Section R506;
- 3) A determination that Mr. Caron did not violate Virginia Uniform Statewide Building Code Section 112; and
- 4) A determination that Mr. Caron did not violate 2018 Virginia Residential Code Sections R406.1 and R406.2.

Thank you for your consideration. I am available to discuss this matter at your convenience should you wish to do so.

Sincerely,



Christopher Jánszky, Esq.

cc: Craig Caron (via email)
John Broughton, Building Official (via email)

EXHIBIT 1



DEVELOPMENT SERVICES DEPARTMENT OF BUILDING INSPECTIONS

OFFICIAL NOTICE OF VIOLATION

September 5, 2023

Responsible Party: Craig Caron- dba/ Craig Caron Builders
PO BOX 759
Hardy, VA 24101

Property: 197 Compass Cove, Moneta, VA 24121

Mr. Caron,

County staff have contacted you numerous times regarding the following violations within the Virginia Uniform Statewide Building Code. The following describes the building code violations found at 197 Compass Cove, Moneta, VA 24121 for which you are the responsible party.

DESCRIPTION OF VIOLATIONS

Violation: Exterior Concrete Lap siding is not installed in accordance with manufacturer installation instructions. This installation voids the warranty and is likely to cause further issues.

Applicable Code Section: *2018 Virginia Residential Code-Section R703.10.2 Fiber Cement Lap Siding.* It requires that the siding be installed according to the approved manufacturer's installation instructions.

Corrective Action: Provide evaluation and repair design from manufacturer and repair in accordance with design. All remedial work must be finished to consider the violation remedied.

CORRECTIVE ACTION REQUIRED

You were notified by e-mail of these violations on multiple occasions, including March 3 and on March 23, 2023. As of the date of this letter, these violations have not been corrected.

According to the Virginia Uniform Statewide Building Code, Section 36-106 of the Code of Virginia and Section 5-22 Franklin County Ordinance any violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500.

The determination by the Building Official is that you are in violation of the Virginia Uniform Statewide Building Code. Failure to perform the corrective actions described above within 30 days of this notice may result in legal action being taken against you.

If you wish to contest this determination, you must file a written request for appeal to the Local Board of Building Appeals by submitting an application, the basis for your appeal, and a copy of this violation notice within thirty (30) days of the date on this notice to the Office of the Building Official. Failure to submit the written appeal within thirty (30) days shall

constitute acceptance of this decision and notice of violation.

If you have questions about the violation or the required corrective action, please contact our office at 540-483-3047 ext. 2248.

Thank you for your prompt attention to this matter.



JOHN W BROUGHTON, CBO
Franklin County Building Official
VBCOA/1st Vice-President



Franklin County

1255 Franklin St. Ste. 103
Rocky Mount, VA 24151
(540) 483-3047 Ext. 2248
John.Broughton@franklincountyva.gov

Right to Appeal: *VUSBC Section 119.5- Any person aggrieved by the Franklin County Building Department's application of the VUSBC or the refusal to grant a modification to the provisions of the VUSBC may appeal to the Local Board of Building Code Appeals. An applicant shall submit a written request for appeal to the LBBCA within 30 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building structure and in addition, the name of and address of the person appealing, when the applicant is not the owner. Failure to submit the appeal of the building official's decision within the 30-day time limit shall constitute acceptance of the building official's decision.*



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DESCRIPTION OF VIOLATION

Violation: Basement garage/workshop floor cracked, materially more significant than a natural hair-line crack. Slab is consistently less than the required 3-1/2" thickness

Applicable Code Section: *Section R506 Concrete Floors (On Ground)* of the 2018 Virginia Construction Code.

Corrective Action: Provide intended repair solutions for the correction of the concrete floor for approval or provide an engineered evaluation and corrective action. All remedial work must be finished to consider the violation remedied.

Violation: Floor Trusses are damaged and incorrectly installed per manufacturer installation requirements. This has been verified by manufacturer representative (David Jones).

CORRECTIVE ACTION REQUIRED

You were notified by e-mail of these violations on multiple occasions, including March 3 and on March 23, 2023. As of the date of this letter, these violations have not been corrected.

According to the Virginia Uniform Statewide Building Code, Section 36-106 of the Code of Virginia and Section 5-2 Franklin County Ordinance any violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500.

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DESCRIPTION OF VIOLATIONS

Violation: Floor Trusses are damaged and incorrectly installed per manufacturer installation requirements. This has been verified by manufacturer representative (David Jones).

Applicable Code Section: *Virginia Construction Code: VUSBC Section 112.* "Damage to regulated building components Caused by violations of this code or by the use of faulty materials or installations shall be subject to the applicable provisions of Section 115."

Corrective Action: Provide truss evaluation and repair design from manufacturer and repair in accordance with design. All remedial work must be finished to consider the violation remedied.

CORRECTIVE ACTION REQUIRED

You were notified by e-mail of these violations on multiple occasions, including March 3 and on March 23, 2023. As of the date of this letter, these violations have not been corrected.

According to the Virginia Uniform Statewide Building Code, Section 36-106 of the Code of Virginia and Section 5-22 Franklin County Ordinance any violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500.

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DESCRIPTION OF VIOLATION

Violation: Foundation leaking in two locations.

Applicable Code Sections: *Section R406.1 Concrete and Masonry foundation damp proofing* and *Section R406.2 Concrete and masonry foundation Waterproofing* of the 2018 Virginia Construction Code.

Corrective Action: These two locations shall be made watertight. If the soil and/or water table are extreme, foundation water proofing is required.

CORRECTIVE ACTION REQUIRED

You were notified by e-mail of these violations on multiple occasions, including March 3 and on March 23, 2023. As of the date of this letter, these violations have not been corrected.

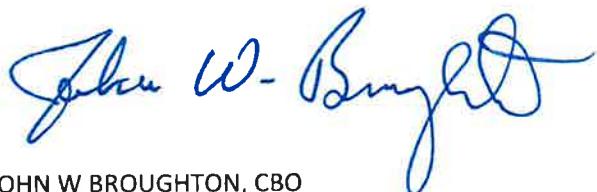
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EXHIBIT 2

INSPECTION WORKSHEET (INSP-213924-2022) FOR FRANKLIN COUNTY

| Case Number: | RES-06-2021-60354 | Case Module: | Permit |
|---|---|--|---|
| Inspection Date: | | Inspection Status: | Partial Pass |
| Inspector: | Trevor Stanley | Inspection Type: | Misc |
| Job Address: | 197 Compass Cove Cir Moneta, VA 24121 | Parcel Number: | 0481403700 |
| Contact Type Applicant Contractor Mechanics Lien Owner | Company Name CRAIG CARON BUILDER FIRST CHOICE TITLE & SETTLEMENT | | Name CRAIG CARON CRAIG ANTHONY CARON LISA K and ROBERT GEARHART |
| Checklist Item | Results | Comments | |
| Miscellaneous | Pass | 7/22/22-TS Provided second layer of air barrier over original damaged sections. Seams taped and overlapped. Air barrier okay | |

EXHIBIT 3

INSPECTION WORKSHEET (INSP-205881-2021) FOR FRANKLIN COUNTY

Case Number: RES-06-2021-60354

Case Module: Permit

Inspection Date: 11/03/2021

Inspection Status: Passed

Inspector: Samuel Matherly

Inspection Type: Pre-Slab

Job Address:

Parcel Number: 0481403700

Contact Type

Applicant

Contractor

Mechanics Lien

Owner

Company Name

CRAIG CARON BUILDER

FIRST CHOICE TITLE

Name

CRAIG CARON

CRAIG ANTHONY CARON

LISA K and ROBERT GEARHART

Checklist Item

Miscellaneous

Results

Pass

Comments

EXHIBIT 4

FRANKLIN COUNTY BUILDING INSPECTIONS FINAL APPROVALS

| PERMIT NO. : | 60354 | | | DATE ISSUED: | 7.1.2021 | | |
|-----------------------|----------------------|---------|-----------|--------------------|------------------|---------|-----------|
| CONTACT: | Craig Caron | | | PHONE NO. : | 540.871.0848 | | |
| JOB ADDRESS: | COMPASS COVE, LOT 37 | | | | | | |
| FOOTINGS/ FOUNDATIONS | PASS | DATE: | INSPECTOR | ELECTRICAL | PASS | DATE: | INSPECTOR |
| PERIMETER HOUSE | ✓ | 7/29/21 | TS | TEMPORARY ELECTRIC | | | |
| GARAGE PERIMETER | | | | PERMANENT POWER | | | |
| PIER FOOTINGS | | | | BASEMENT / CRAWL | ✓ | 1-18-22 | 5 NM |
| FOUNDATION REBAR | ✓ | 7-28-21 | 5 NM | 1ST FLOOR / GARAGE | ✓ | 1-18-22 | 5 NM |
| FOUNDATION BOLTS | ✓ | | | 2ND FLOOR | ✓ | 1-18-22 | 5 NM |
| DRAINTILE / SEALER | ✓ | 8/11/21 | TS | 3RD FLOOR | | | |
| NOTES: | NOTES: | | | | | | |
| SLABS | PASS | DATE: | INSPECTOR | MECHANICAL | PASS | DATE: | INSPECTOR |
| BASEMENT / GRADE | ✓ | 8/10/21 | TS | BASEMENT / CRAWL | ✓ | 1-21-22 | TS |
| GARAGE | ✓ | 11-3-21 | 5 NM | 1ST FLOOR / GARAGE | ✓ | | |
| OTHERS | | | | 2ND FLOOR | | | |
| OTHERS | | | | 3RD FLOOR | | | |
| NOTES: | NOTES: | | | | | | |
| PLUMBING | PASS | DATE: | INSPECTOR | BUILDING | PASS | DATE: | INSPECTOR |
| GROUNDWORK | ✓ | 8/26/21 | TS | BASEMENT / CRAWL | | | |
| BASEMENT / CRAWL | | | | 1ST FLOOR | | | |
| 1ST FLOOR / GARAGE | | | | 2ND FLOOR | | | |
| 2ND FLOOR | | | | 3RD FLOOR / ROOF | | | |
| 3RD FLOOR | | | | PORTAL / GARAGE | | | |
| NOTES: | NOTES: | | | | | | |
| DECKS | PASS | DATE: | INSPECTOR | INSULATION | PASS | DATE: | INSPECTOR |
| PIER FOOTINGS FRONT | | | | BASEMENT / CRAWL | | | |
| PIER FOOTINGS REAR | | | | 1ST FLOOR / GARAGE | | | |
| OTHER FOOTINGS | | | | 2ND FLOOR | | | |
| LEDGER / FLASHING | | | | 3RD FLOOR / ATTIC | | | |
| DECK FRAMING FRONT | | | | NOTES: | | | |
| DECK FRAMING REAR | | | | | | | |
| DECK FRAMING OTHER: | | | | | | | |
| NOTES: | | | | | | | |
| | PASS | DATE | | | INSPECTOR (SIGN) | | |
| BUILDING FINAL | | | | | | | |
| NOTES: | | | | | | | |
| | | | | | | | |
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