

**NC Department of Insurance
Office of State Fire Marshal, Engineering Division**

RE: Appeal of the November 30,)
 2021 and April 8, 2022)
 Inspection Reports by) NCDOI DECISION
 Wake County)
 Inspection Department)

In accordance with GS 160D-1127, Todd Williams, representing Swim Safe Pools, LLC has appealed the Wake County Inspection Department decision regarding application of the 2018 edition of the North Carolina Residential Code to an exterior stairway connecting the dwelling patio to the swimming pool deck for a project located at 7013 Hasentree Way, Wake Forest, NC.

GS 160D-1127 allows appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws to the Commissioner of Insurance or his designee.

PARTIES

Appellant: Todd Williams,
 Swim Safe Pools, LLC
 7013 Hasentree Way
 Wake Forest, NC 27587

Appellee: Wake County Planning, Development, & Inspections
 Wake County Office Building
 336 Fayetteville Street, Suite 101
 PO Box 550
 Raleigh, NC 27602-0550

BACKGROUND

On November 30, 2021 appellee identified a stairway that was included in the building permit and connecting the dwelling patio to a swimming pool deck as exceeding 3/8 inch between the smallest to the largest riser. A code reference was not provided in the inspection report, but the 2018 edition of the NC Residential Code, Section R311.7.5.1 is the code reference that applies. The 2018 edition of the NC Residential Code is indicated as “NCRC” in the remainder of this document.

On April 8, 2022 a reinspection was performed by the appellee and the flight of stairs was again noted as not complying with code. A code reference again was not provided in the inspection report.

On April 8, 2022 the appellant made a properly formatted request for appeal of the local code enforcement officials decision to the NC Department of Insurance (DOI) which was received at DOI on April 19, 2022.

On April 19, 2022 DOI requested photos of the flight of stairs and a site plan from the appellant.

On April 20, 2022 appellant provided 5 photographs of the constructed stairway being contested as requested by DOI. Two of those photographs have handwritten notes indicating measured riser heights. I have assumed those notes were made by the appellant and are accurate.

ISSUE RAISED IN APPEAL

The appellant questions the application of NCRC, Section R311.7.5.1 to stair riser height limits for an exterior stairway because the appellant does not consider the exterior stairway part of a mean of egress.

The following issue is raised in Appellants' appeal:

“We permitted and constructed an inground swimming pool & spa with a 50' linear feet set of 4 risers. The risers are located in the backyard and therefore should not be viewed as a means of egress. The inspector (Don Harris Wake County) has ruled that our step risers do not meet code because when you measure the bottom riser (7 1/2") the other 3 risers are greater than 3/8 of an inch of variance. None of the risers are greater than 7 1/2" or smaller than 6 5/8". In addition, the upper patio that's connected to the risers is at grade on the left side of the concrete patio. Don Harris maintains that even tho he agrees that the steps would not fall under a means of egress, he must enforce the code because the are called out on our permit survey.”

FINDINGS

Based on information submitted by the appellant, the following findings are made:

1. A copy of the November 30, 2022 and April 8, 2022 Wake County inspection comments were provided with the appeal. The November 30, 2022 inspection notes state in part: “As listed in the description steps were included the steps down to the pool area or non-conformance riser height succeed more than three eighths inch difference between risers.” The April 8, 2022 inspection notes state in part: “Stair riser Heights are still not conformant with stair code.”

2. NCRC, Section R311.1 – Means of egress states in part:

“All dwellings shall be provided with a means of egress as provided in this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the dwelling to the exterior of the dwelling at the required exterior door without requiring travel through a garage.”

3. NCRC, Section R311.2 – Egress door states in part:

“Not less than one exterior door shall be provided for each dwelling unit.”

4. NCRC, Section R311.7.5.1 – Risers states in part:

“The greatest riser height within a flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).”

5. International Code Council Commentary for the 2015 International Residential Code (which is the base for the NCRC), Section R311.7.5.1 – Risers states in part:

“The uniformity of risers and treads is a safety factor in any flight of stairs”

6. NCRC, Section R101.3 – Purpose states:

“The purpose of this code is to establish minimum requirements to safeguard the public safety, health and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation and safety to life and property from fire and other hazards attributed to the built environment.

7. NCRC, Section R101.2.2 Accessory Structures states as follows:

“The following *accessory structures* shall meet the provisions of this code.

1. Decks, see Appendix M,
2. Gazebos,
3. Retaining walls, see Section R404.4,
4. Detached masonry chimneys located less than 10 feet (3048 mm) from other buildings or lot lines,
5. Swimming pools and spas, see Appendix V,
6. Detached carports,
7. Docks, piers, bulkheads, and waterway structures, See Section R327.

Exception: Portable lightweight carports not exceeding 400 square feet (37 m²) or 12 foot (3658 mm) mean roof height.”

8. Photographs provided by the appellant show the stairway in question is provided for travel from the patio of the dwelling to the adjacent swimming pool. The photographs also show a difference of 3/4 inch from the smallest riser to the largest riser within the stairway on the left side and a difference of 7/8 inch from the smallest riser to the largest riser within the stairway on the right side. The greatest difference in riser height for adjacent risers is 3/8 inch on the left side and 1/2 inch on the right side. The difference in riser height for the remainder of the stairway was not provided.

CONCLUSIONS

Based on the forgoing findings of fact, the following conclusions are made:

The stairway in question is provided as landscaped travel from the grade level of the dwelling patio to the grade level of the swimming pool deck. The stairway in question is not part of a required means of egress for either the swimming pool or the dwelling and is not listed as an accessory structure in NCRC, Section R101.2.2. The stairway in question is, therefore, not required to comply with Section R311.7.5.

The purpose of the NCRC is to provide minimum safeguards to protect the “safety, health, and general welfare” of the public. The stairway as constructed does not present a hazard to safety, health, or welfare of the public.

APPEAL DECISION

Based on the above findings and conclusions:

The decision by the appellee to apply NCRC, Section R311.7.5.1 to the stairway connecting the dwelling patio to the swimming pool deck is not upheld.

This 12th day of May 2022.



Carl Martin, RA
Deputy Commissioner
Division Chief of Engineering
North Carolina Department of Insurance

FURTHER APPEAL RIGHTS

The appellant and appellee have the right to appeal this decision to the NC Building Code Council. Please refer to GS 160D-1114 and the NC Administrative Code and Policies, Section 202.9.2 for further appeal rights. In accordance with GS 143-141 you have 30 days in which to appeal this decision to the NC Building Code Council.

Cc:

Don Harris, Building Inspector, Wake County
Nathan Childs, Special Deputy Attorney General – NCBCC
Dan Johnson, Special Deputy Attorney General, NCDOI