

**THREE HUNDRED NINETIETH MEETING
CITY OF LAUREL BOARD OF APPEALS
THURSDAY, APRIL 6, 2026 – SPECIAL MEETING**

**This meeting was conducted IN-PERSON in the Council Chambers*

Convened: 6:00 P.M.

Members' Present (During Roll):

Frederick Smalls, Chair
Michele Keating, Vice Chair
David Johnston, Esq.
Stephen Wallace, Esq.

Staff Present:

Jay Meashey, Department of Economic & Community Development, Director
Brooke Herring, ECD Community Development Coordinator
T'Amani Hamlett, FMPS Chief Building Official
Nathaniel Forman, City Solicitor

Citizens Present: Approximately: Three (3)

Chairman Smalls opened the public hearing at 6:12 PM for Appeal Application No. 977, filed by property owner, Mr. Andrew McCubbin, regarding 325 Gorman Avenue Laurel, Maryland 2707. The applicant is requesting various remedies from the Board of Appeals in connection with the unpermitted construction of a garage after a stop work order was issued by the City of Laurel Department of Fire Marshal and Permit Services.

The meeting resumed where it had left off at the March 26, 2026 hearing.

Mr. Nathaniel Foreman, City Solicitor, O'Malley, Miles, Nylen & Gilmore, P.A. 7850 Walker Drive, Suite 310 Greenbelt, Maryland 20770, confirmed that staff had concluded their remarks at the previous hearing and that the applicant had commenced but not finished cross-examination of the city. However, there was an unfinished vote on a motion to suppress the staff report.

Ms. Herring, ECD Community Development Coordinator, who also serves as the Board of Appeals Secretary, clarified that at the last hearing Ms. Keating had moved to suppress the staff report and Mr. Johnston had seconded the motion, but no roll call vote had been completed due to immediate discussions among Board members, staff and the applicant.

Mr. Wallace noted that he had reviewed the previous hearing, and all submitted materials to bring himself up to date on the discussion.

Ms. Keating moved to deny the motion to suppress the staff report. Mr. Johnston seconded. The board voted to **deny** the motion to suppress the staff report. Motion carried on a roll call vote with all members voting yes.

The applicant, Mr. McCubbin, 325 Gorman Avenue Laurel, Maryland 20707, resumed his cross-examination of Ms. Hamlet, FMPS Chief Building Official. He challenged her use of a prepared statement during testimony, citing Maryland court rules regarding witness examination and requesting to inspect her "read report." When she indicated she did not have it with her, Mr. McCubbin moved to strike her testimony from the record.

Mr. Nathaniel Foreman, City Solicitor, O'Malley, Miles, Nylen & Gilmore, P.A. 7850 Walker Drive, Suite 310 Greenbelt, Maryland 20770, objected, noting that rules of evidence are relaxed in this proceeding.

Chairman Smalls agreed to take notice of McCubbin's continued objections.

The applicant, Mr. McCubbin, 325 Gorman Avenue Laurel, Maryland 20707, questioned Ms. Hamlet, FMPS Chief Building Official, extensively about various building code sections, particularly IBC section 105.2 as amended by the city.

Ms. Hamlet, FMPS Chief Building Official, explained her understanding of when this section applies, stating it only applies to properties in critical bay overlay areas with tidal wetlands that require protection, such as areas near the Bear Branch River and Patuxent River.

The cross-examination covered numerous technical aspects of building codes, including use group classifications, square footage exemption thresholds (with Ms. Hamlet, FMPS Chief Building Official, clarifying that structures under the IRC would be exempt at 120 square feet, while the IBC references 200 square feet), and the scope of various code provisions.

The applicant, Mr. McCubbin, 325 Gorman Avenue Laurel, Maryland 20707, questioned Ms. Hamlet about stop work orders issued on various dates, including November 14, December 5, and December 19.

Ms. Hamlet, FMPS Chief Building Official, confirmed that stop work orders were not posted on the property because it was "not practicable" due to the property owner's objections to people entering the property without explicit permission. She explained that the orders were properly served through personal delivery according to city code requirements. She confirmed that stop work orders were not posted on the property because it was "not practicable" due to the property owner's objections to people entering the property without explicit permission. She then explained that the orders were properly served through personal delivery according to city code requirements.

The applicant, Mr. Andrew McCubbin, presented his case, arguing that the City of

Laurel has adopted both IBC and IRC model building codes with language giving him a choice of code application. His central argument was that IBC section 101.2, as adopted by the city, provides an exemption from permits for one-story accessory structures on one and two-family dwelling properties under IBC section 105.2 as amended in city code section 18-57.5. He then contended that the Fire Marshal & Permit Service's Director, Mr. Danny Selby's interpretation requiring permits for accessory structures was inconsistent and that government officials had plenty of opportunities to obtain a warrant and lawfully post a valid stop work order but chose not to do so. He argued that no government official was physically prevented from posting orders as alleged.

Mr. Wallace asked Mr. McCubbin to focus on his single best argument for having a choice between IBC and IRC codes.

The applicant, Mr. Andrew McCubbin, responded that the adoption of IBC section 101.2 by reference in 2020 by Laurel City Council was his strongest argument. He then provided extensive legislative history of the city's code adoptions, tracing changes from 2004 through 2024. He emphasized that the choice of code provision was adopted with the 2018 IBC and readopted in 2024 with the 2021 codes. He argued that the city council had multiple opportunities to change this language if they disagreed with it but chose to keep it.

Chairman Smalls asked the applicant, Mr. McCubbin, to focus on his main argument rather than repeating material already covered in his briefs.

The applicant, Mr. McCubbin, 325 Gorman Avenue Laurel, Maryland 20707, concluded by arguing that he should be able to choose to meet IBC requirements by electing to build under the IRC, and that his interpretation does not render any code provisions meaningless. He then called Mr. David Dixon, Box Elder, South Dakota, as a witness.

Mr. Wallace suggested limiting testimony to new information not already covered.

Mr. David Dixon, Box Elder, South Dakota, testified that the primary dwelling is four stories (including basement, first floor, second floor, and finished attic), making it not compliant with the "not more than 3 stories" requirement that would trigger IRC application. He also confirmed that the accessory structure is one story with approximately 316 square feet, built on 100-year-old concrete, and that all setback distances were increased from previous conditions.

Ms. Hamlett, FMPS Chief Building Official, cross-examined both Mr. Dixon and Mr. McCubbin briefly. She established that Mr. McCubbin had acknowledged in email exchanges that she consistently maintained the city applies IRC standards to the garage and that she had provided code sections granting city authority to enter the property for inspections.

Mr. David Dixon, Box Elder, South Dakota, objected to the city's right to cross-

examine, arguing that the city had positioned itself as not being an opposing party in other contexts.

Mr. Wallace overruled the objection, noting that the rules of evidence are relaxed but procedures still apply.

The applicant, Mr. McCubbin, 325 Gorman Avenue Laurel, Maryland 20707, concluded by arguing that it was not his responsibility to divine the Council's intent, but rather to comply with the code as passed. He emphasized that when the code says he must comply with either the IBC or IRC, compliance with one satisfies the plain language of the law. He claimed the city's delays had caused him damage, including loss of 30-year warranty coverage due to prolonged weather exposure to building materials.

Mr. Wallace made a motion to deny the appeal, which Mr. Johnston seconded.

During discussion, Mr. Wallace acknowledged that while the stop work order issues were problematic and should have more clearly referenced relevant code sections, ruling the order invalid would only result in the city issuing a new valid order, placing everyone in the same position. He concluded that addressing the underlying permit requirement better served all parties' needs.

Mr. Wallace then stated that while Mr. McCubbin's argument about choice of code was creative, it was not persuasive on plain language. He found that the IRC requirements apply to this accessory structure, that construction clearly took place, and that no applicable exception would remove the permit requirement.

Mr. Johnston indicated he had listened to all arguments over the (3) three meetings and noted the superior quality of building materials but suggested the applicant could have avoided material damage by complying with the permitting process while pursuing legal remedies.

The motion carried on a unanimous vote by all members present, the Board voted to **deny** the Appeal Application No. 977.

Chairman Smalls complimented Mr. McCubbin's zealous advocacy and thanked all participants. The meeting concluded with the business before the board completed. There was no further business to discuss.

Adjourn: 7:50 P.M.

APPROVED: Brooke Herring

DATE: 5/28/2026