

**MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS
MINUTES**

DATE: Thursday December 18, 2014 - 7:30 p.m.
Freeholder Public Meeting room

Chairman Theodore Maglione called the meeting to order
Pledge of Allegiance
Open Public Meeting Statement
Chairman Maglione requested a roll call

PRESENT: Regular Members:
Chairman Ted Maglione, Vice Chairman Jeffrey Betz, Edward Bucceri, (8)
Craig Villa
Alternate Members:
William Asdal, Sean Donlon, Kimberly Hurley, Keith Lynch

ABSENT: Harold Endean (1)

ALSO PRESENT:
W. Randall Bush, Esq., Assistant County Counsel
Mary Jeanne O’Grady, Acting as Board Secretary

APPROVAL OF MINUTES:
Minutes of the meeting held September 25, 2014 were previously distributed. Edward Bucceri moved the approval of the minutes as submitted. Keith Lynch seconded the motion.

YES: Chairman Ted Maglione, Vice Chairman Jeffrey Betz, Edward Bucceri, (5)
William Asdal, Keith Lynch

NO: None

NOT VOTING: Craig Villa, Sean Donlon, Kimberly Hurley (3)

CASE TO BE HEARD

MC#2014-13 H. Lewis & Julie A. Stone (Block 9402 Lot 10 Worksite: 11 Cromwell Dr.) v. Township of Morris

The five voting members will be the four regular members and alternate member Kimberly Hurley.

Appearances:
John M. Mills, Esq. Mills & Mills, P.C., *representing the Township of Morris*
Albert Mastrobattista, Construction Official, Township of Morris
Lewis Stone, Owner in Fee

Counsel Bush swore in the witnesses.

The witnesses provided testimony regarding the denial of a construction permit application that was made by the owner in fee. The request to the township was to allow for an addition to a garden enclosure.

Mr. Mills stated that the township's main concern was the structures ability to resist the wind and not cause hazards to persons or other property. There are no design criteria standards or other defined references that the township can rely upon to approve or disapprove the proposed project.

Chairman Maglione confirmed with Mr. Mills that the appeal has nothing to do with a zoning issue.

Mr. Mastrobattista testified that in this case the proposed garden enclosure requires a design professional's letter or manufacturer's installation documentation guaranteeing a structure over six feet would be able to with stand the wind load in order for a construction permit to be approved. The Township requires a design or a letter by a design professional for any fence over 6 feet, therefore this applicant must comply with the established Township criteria. Mr. Stone hasn't provided any documentation to the township.

Mr. Stone testified that the garden was approximately eight years old. He has an issue with animals in particular squirrels getting into the garden from the top. He contacted the manufacturer of the fittings and the material used is very similar to what people use for a dog run. To hire a design professional would be too costly. The cost for the fencing material is minimal.

Questions by the Board followed of the witnesses.

Counsel Bush proposed marking the appeal application A1, and Mr. Stone's exhibits and explanations pages 1 – 16 of December 17, 2014 as A-2.

Discussion followed. Chairman Maglione made a motion to uphold the denial of permit. The Township testified that its practice is to require wind load calculation documentation from a professional when a fence that is greater than six feet is able to withstand the appropriate wind load. Kimberly Hurley seconded the motion. The Board approved the denial of permit unanimously (Not Voting: Alternate Members William Asdal, Sean Donlon and Keith Lynch).

The parties were advised that a written resolution will be issued and approved at the next meeting and forwarded to all parties shortly thereafter. The Chairman continued with the items on the Agenda.

CASE POSTPONED (*“Correspondence received & issued made part of the case files”*)

MC#2014-15 Douglas Troast (Block 1201 Lot 20 Worksite: 164 West Parkway) v. Township of Pequannock (*1st mtg. 12/18/2014, 2nd meeting date 01/15/2014*)

CASES WITHDRAWN (*“Withdrawal Confirmation” letters faxed & mailed to all parties and made part of the case files*)

MC#2014-9 Tucker Kelley (Block 30505 Lot 13 Worksite: 16 Meggins Rd.) v. Township of Rockaway

MC#2014-10 Fin Associates Limited Partnership c/o USLR (Premises: 5 Finderne Ave.) v. Township of Bridgewater Bureau of Fire Safety/Somerset County

MC#2014-11 Damon Rusignola (Block 38 Lot 27 Worksite: 138 Franklin Ave.) v. Borough of Rockaway

MC#2014-12 Chuck E. Cheese (Block 99 Lot 9 Worksite: 145 Rt. 10.) v. Township of East Hanover

CORRESPONDENCE

- CASE RETURNED TO APPLICANT BEFORE HEARING NOTICE WAS ISSUED. APPEAL PROCESS NOT COMPLETED. MC#2014-14 N/A David Black v. Township of Denville (Block 61302, Lot 120.01) 163 Cedar Lake East, Denville Twp. ALL DOCUMENTS RETURNED TO APPLICANT BY LETTER DATED 11/7/2014. All documents have been made part of the file.
- Budget Balance as of 12/15/14 = \$1,307.18

OLD BUSINESS

NONE

NEW BUSINESS

- Membership (#800214) renewal to the ICC has been processed & renewed for 2015

NEXT MEETINGS:

Thursday January 15, 2015 (3rd Thursday – Annual Dinner and Re-Org Meeting)

ADJOURN: On motion duly made and seconded, the meeting was adjourned at 8:07 p.m.

Mary Jeanne O’Grady, Acting as Board Secretary