

**MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS
MINUTES**

DATE: Thursday, June 22, 2017 - 7:30 p.m.
OIT CONFERENCE ROOM
30 Schuyler Place, 4th Floor, Morristown, NJ 07960

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 Theodore Maglione, Vice Chairman Jeffrey Betz, Harold Endean, (4)
John Kostrowski, Jr.

Alternate Members:

William Asdal, Timothy Braden, Sean Donlon, Keith Lynch (4)

ABSENT: Kimberly Hurley, Craig Villa (2)

ALSO PRESENT: W. Randall Bush, Esq., First Assistant County Counsel
Evelyn Tierney, Board Secretary

APPROVAL OF MINUTES:

Minutes of the meeting held May 25, 2017 were previously distributed. Keith Lynch made a motion to approve the minutes. John Kostrowski, Jr., seconded the motion. The Board approved the minutes as submitted by the following roll call vote:

YES: Chairman Ted Maglione, Timothy Braden, Sean Donlon, John Kostrowski, Jr., (5)
Keith Lynch

NO: None (0)

NOT VOTING: William Asdal, Jeffrey Betz, Harold Endean (3)

CASE TO BE HEARD

MC#2017-5 Lulu Affiliates LLC (Block 49.14, Lot 5 worksite: 1673 Springfield Ave.) v. Township of
Maplewood – *ESSEX COUNTY*

Appearances:

Adeline Liu, pro-se appellant
Christine M. Tiritilli, Esq., Bendit Weinstock, P.A., *representing the municipality*
Leonard Mendola, Construction Official, Township of Maplewood

NOTE: The following is a summary of the hearing on this matter. The official recording of the hearing serves as the official record of this matter.

Counsel Bush swore in the witnesses, Adeline Liu, applicant, and Leonard Mendola, Construction Official.

The original appeal package contained the following:

- May 26, 2017 - Appeal application received by MC CBA forwarded by the Essex County CBA Board who received the appeal April 5, 2017.
- May 26, 2017 - E-mail was received from the Essex County CBA Secretary, Nick Bonavita indicating that the fire code violations have been dismissed and are no longer an issue in this appeal. The appeal at hand is the UCC Notice of Violations and Stop Construction Orders.
- Appeal application dated & signed April 5, 2017.
- Notice and Order of Penalty dated April 5, 2017 “working without permits” total penalty of \$8,000.00 (\$2,000.00 per violation).
- Stop Construction Order dated April 4, 2017 signed by Len Mendola - Building “major renovation to existing apartments without applying for permits”.
- Stop Construction Order dated April 5, 2017 signed by Stan Fagerty - Electrical “major renovation to existing apartments without applying for permits”.
- Stop Construction Order dated April 4, 2017 signed by Joe Lariccia - Plumbing “major renovation to existing apartments without applying for permits”.
- Stop Construction Order dated April 5, 2017 signed by Robert Noesner – Fire “major renovation to existing apartments without applying for permits”. FIRE NO LONGER AN ISSUE – REMOVE FROM APPEAL TO BE CONSIDERED TONIGHT

Township Counsel indicated that the township previously offered to Ms. Liu to reduce the total of \$8,000 penalties to \$1,500, which she declined. Ms. Liu stated that she was told that the fines are \$500 per subcode violation, and that no electrical work took place, therefore, the fine should be \$1,000.00. Ms. Liu acknowledged that work without a permit had taken place.

Township Counsel stated that the municipality is willing to drop the electrical and plumbing violations and seek a total fine for building violations at \$1,500. Ms. Liu stated that she believes the penalty to be excessive given the circumstances.

The Board acknowledged that the \$1,500 reduced penalty offered by the municipality was not accepted by Ms. Liu. The hearing than proceeded.

The total penalty to be considered by the Board is \$6,000.00 for building, electrical and plumbing violations. Chairman Maglione explained the hearing procedures, and the jurisdiction the Board has to modify, reverse or uphold the issued Penalty and Violation Notices as authorized by the Uniform Construction Code.

A set of pictures (17 total images) was provided by the municipality and marked by counsel Bush M-1. Ms. Liu objected. She believes the Board should not accept the exhibits since they were not previously provided. The objection was noted.

Mr. Mendola, Construction Official testified that the photographs were taken on April 4, 2017. Mr. Mendola stated that he was contacted by the Fire Official and Fire Chief to perform an inspection at 1673 Springfield Avenue in Maplewood NJ. Mr. Mendola stated that he noticed that work was performed without permits and he issued the Violation Notices that are part of the appeal package. The bathroom and kitchen were gutted. A stop construction plaque was placed on the premise on April 4, 2017.

Ms. Liu stated that she does not dispute that work occurred and that the pictures appear to be taken of her premises, except the pictures showing the black garbage bags. Ms. Liu indicated that no electrical work was performed.

The Chairman acknowledged the objection and noted that the four pictures showing black garbage bags will not be considered.

Board member Asdal noted that the pictures clearly show that work was performed. It is not clear if electrical work was performed.

Ms. Liu cross-examined Mr. Mendola about the retaliation she feels some persons from the municipality directed towards her for filing the appeal for the Fire Violations. Mr. Mendola had no response. Chairman Maglione explained that the issues she is raising cannot be considered by the Board.

Ms. Liu raised the issue about being heard regarding a permit she is seeking for the leaking roof on her premises.

Member Asdal noted that the Board is considering three violations and its monetary penalties; one for plumbing, electrical and building each at \$2,000.00 totaling of \$6,000.00. No other issues are part of this appeal and cannot be considered by the Board.

Ms. Liu asked that the Board review "Exhibit 8 - Construction Official Commentary" page 86" of the document package Ms. Liu provided to the Board on June 15, 2017. The Chairman noted that the document is not relevant concerning the appeal for work without a permit; it talks about denying permits and its process.

Ms. Liu stated that work was performed without a permit. She bought the building containing two units, a commercial office on the first floor and a small apartment on the second floor. She hired a contractor to update the kitchen, bathroom and master bedroom. The contractor told her he would take care of everything. Ms. Liu acknowledged that she should have been more involved regarding permit requirements. Ms. Liu does not dispute the building and plumbing violations, but indicated that no electrical work was performed. Ms. Liu stated that she was informed that architectural drawings are required for a mixed-use building, and that she had to hire an architect. She has not submitted the drawings to the township due to what occurred with her Fire Code Violations, which are not part of this appeal. No work has occurred since April 4, 2017.

Cross-examination by the municipality and questions by the Board followed. One of the pictures in the package on page seven shows a gutted area with a wall that has a cut out where a wire could have been. With a kitchen and bathroom, it would appear modifications such as new outlets, and new wiring (GFI outlets) would require a permit. A Stop Work Order would not include a violation until the electrical subcode could inspect and determine if electrical work occurred.

Mr. Mendola indicated that he could not provide evidence that electrical work was performed and indicated that the municipality would dismiss the electrical violation.

Therefore, the total monetary fines for building and plumbing violation are \$4,000.

Discussion by the Board followed. William Asdal made a motion that the municipality issued two violations and the appropriate penalties for the building and plumbing violations should be \$2,000 per violation for a \$4,000 total fine. The municipality has supplied sufficient proof to support the fines. The appellant acknowledged that demolition, building and plumbing work occurred without permits; therefore, the fines should be sustained/upheld as written in the code at \$2,000 each for a total of \$4,000. The motion was seconded by John Kostrowski, Jr. The Board approved the motion by the following roll call vote:

YES: Regular Members: Chairman Theodore Maglione, Harold Endean, (3)
John Kostrowski, Jr.

Alternate Members:
William Asdal, Timothy Braden, Sean Donlon, Keith Lynch (4)

NO: Vice Chairman Jeffrey Betz (1)

The parties were excused.

CASES POSTPONED (*correspondence received/ issued - made part of the case files*)

MC#2015-20 Center Court at Morristown LLC (Block 9003, Lot 10 worksite: 65 Columbia Rd) v. Township of Morris Bureau of Fire Prevention (11/19/15 1st meeting date, stayed pending Superior jurisdiction decision, Board will be kept updated on progress – status update received 4/20/16, 11/14/16, and 4/10/17)

MC#2017-4 Christine Coster & Wolfgang Hofgaertner (Block 3902, Lot 4.02 worksite: 89A Brooklake Road) v. Borough of Florham Park (1st mtg. date 5/25/17 postponed at meeting to allow for potential settlement discussions, 2nd mtg. date 6/22/17, postponement request received to carry - 3rd mtg. date July 27, 17 or August 24, 17 HD)

CASES WITHDRAWN (“Withdrawal Confirmation” letters issued to all parties and made part of the case files)

NONE

CORRESPONDENCE

Budget Balance as of June 22, 2017 = \$2,311.90

OLD BUSINESS

- Discussion followed regarding a e-mail opinion that was provided to Stephen Jones, CO., issued by Robert Hilzer, NJ DCA in appeal MC#2017-4. The Board authorized Counsel Bush to send a letter to Mr. Hilzer for code clarification.

NEW BUSINESS ---NONE---

NEXT MEETINGS: Thursday July 27, 2017

ADJOURN: On motion duly made and seconded, the meeting adjourned at 9:00 p.m.

Evelyn Tierney, Board Secretary