

## MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS

### MINUTES

**DATE:** Special Meeting Thursday January 19, 2012 – 7:30 p.m.  
FREEHOLDER PUBLIC MEETING ROOM

Chairman Ted Maglione called the meeting to order and read the Open Public Meeting Statement.  
Pledge of Allegiance  
The Chairman requested a roll call.

**PRESENT:** William Asdal, Harold Endean, Kimberly Hurley, Keith Lynch, (6)  
Chairman Ted Maglione, Craig Villa

**ABSENT:** Bruce Alatary, Jeffrey Betz, Edward Bucceri, Michael Spillane (4)

**ALSO PRESENT:**

Martin F. Barbato, Esq., Board Attorney  
Evelyn Tierney, Board Secretary

### CASE TO BE HEARD

Robert Powlett, Jr., Owner (Block 10301 Lot 18 worksite: 42 Monroe St.) MC#2012-1  
v. Township of Morris Fire Prevention Bureau (Imminent Hazard and Order to Take Corrective Action  
issued January 17, 2012)

Counsel Barbato stated that he had spoken to the parties to the appeal outside of the meeting room and received the following documentation from the municipal attorney Mr. Mills:

- State of New Jersey Office of Administrative Law Initial Decision Dated August 24, 2011 signed by Leland S. McGee, ALJ.
- State of New Jersey Department of Community Affairs Final Decision Dated October 25, 2011 signed by the Commissioner Lori Grifa, which indicated that the Commissioner ruled on the same scope of the matter that is before the Board, specifically as noted on the Imminent Hazard Notice issued January 17, 2012.

The Appellant advised the Board that he had not performed any corrective action, as required in the Final Decision, and that he had not appealed the DCA Final Decision.

Discussion followed. Municipal attorney Mills made a motion to have the appeal dismissed, on the grounds that the applicant did not choose to appeal the Final decision issued in October 2011 by the DCA Commissioner, resulting in the issuance of the subject Notice of Imminent Hazard and to take Corrective Action (Order to Vacate).

Mr. Powlett was sworn in and gave further testimony. . Board discussion followed.

A motion was made by Harold Endean to dismiss the appeal of the municipalities Notice of Violation because the subject matter has already been ruled upon by the DCA. The motion was seconded by William Asdal. Discussion followed and the motion was approved by the following roll call vote:

**YES:** William Asdal, Harold Endean, Keith Lynch, Chairman Ted Maglione, Craig Villa (5)

**NO:** None (0)

**NOT VOTING:** Kimberly Hurley (1)

The motion passed and the parties were advised that the written decision/resolution will be approved at the next meeting of the Board scheduled for February 2, 2012 and mailed to all parties shortly thereafter.

**NEXT MEETINGS:** Thursday February 2, 2012 (re-org meeting)

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

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Evelyn Tierney, Board Secretary