

**MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS
MINUTES**

DATE: Regular Meeting Thursday, May 24, 2012 - 7:30 p.m.
FREEHOLDER PUBLIC MEETING ROOM

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

PRESENT: William Asdal, Jeffrey Betz, Keith Lynch, Chairman Ted Maglione, (5)
Craig Villa

ABSENT: Bruce Alatary, Vice Chairman Edward Bucceri, Harold Endean, (5)
Kimberly Hurley, Michael Spillane

ALSO PRESENT:
Martin Barbato, Esq., Board Attorney
Evelyn Tierney, Board Secretary

APPROVAL OF MINUTES:

Minutes of the meeting held April 26, 2012 were previously distributed. Jeffrey Betz moved the approval of the minutes as submitted. Keith Lynch seconded the motion. The Board approved the minutes as submitted by the following roll call vote:

YES: Jeffrey Betz, Keith Lynch, Chairman Ted Maglione, Craig Villa (4)

NO: None (0)

NOT VOTING: William Asdal (1)

CASE TO BE HEARD

Nunzio Gaccione (Block 82.01, Lot 9 worksite: 12 Kosakowski Dr.) v. Borough of Morris Plains **MC#2012-9.**

Appearances:

Gail H. Fraser, Esq., representing Borough of Morris Plains
Edward Easse, Construction Official
Nunzio Gaccione, Owner in Fee

Counsel Barbato swore in the witnesses.

Counsel Fraser stated that the parties have stipulated to the fact that the only issue is the riser height on the newly constructed deck.

The International Residential Code New Jersey edition R311.7.4 “The maximum riser height shall be 8 ¼ inches. In this case the riser height on all stairs are 8 ½ inches which exceeds the maximum. Therefore, the Construction Official did not issue the Certificate of Occupancy. A variation request had not been made.

Mr. Gaccione stated that he is hereby requesting a variation. He testified that he built the house and is currently living in it with his family. The original contractor installed the steps incorrectly. He hired a new carpenter and the steps were installed as he believed with the correct riser height of 8 ½ inches. After the inspection he was informed that the steps are not in code compliance and that a Certificate of Occupancy would not be issued. He believes that the steps are not a safety or tripping hazard since all steps are the same riser height. He contacted his engineer, as well as had spoken to a person at the DCA who advised him that it would be the decision of the local enforcing officer to approve or deny a variation. Mr. Gaccione stated that the replacement of the steps for the second time would be a financial hardship. He requested the Board to approve the variance. Questions by the Board followed. Construction Official Edward Easse stated that he believes that the steps are a safety issue, and that the maximum code riser height was exceeded, therefore he did not issue the Certificate of Occupancy.

Discussion followed. William Asdal made a motion to approve the variation request to allow the riser height of 8 ½ inches instead of the maximum 8 ¼ inches as per the IRC code. Jeffrey Betz seconded the motion. Discussion followed. The motion to approve the variation request failed by the following two to three member roll call vote:

YES: William Asdal, Jeffrey Betz (2)

NO: Keith Lynch, Chairman Ted Maglione, Craig Villa (3)

The parties were advised that the variation request is denied. The decision is effective tonight with a written resolution to be issued and approved at the next meeting and forwarded shortly thereafter.

The Chairman thanked everyone for attending the meeting, and continued with the items on the Agenda.

CASES POSTPONED (*Postponement requests/consent and case correspondence was made part of the file*)

Fox Hills at Rockaway Condominium Association, Inc. (Block 11302, Lot 48 1 JFK Circle) v. Township of Rockaway Fire Prevention Bureau **MC#2012-4 and MC#2012-6**. Stayed to June 28, 2012 (3rd meeting date HD).

CASES STAYED OPEN ENDED

Tucker Kelley (Block 30503, Lot 12) v. Twp. of Rockaway **MC#2006-34/1** (*stayed to a date TBD by attorneys as per letter dated 12/14/11*).

Giovanni Granata (Block 4602, Lot 2 worksite: 11 Newark Pompton Turnpike) v. Township of Pequannock **MC#2010-36** (*stayed @ 3/24/2011 pending DEP waiver decision, status update received 12/15/2011, stayed to 2/23/2012, letter received 12/30/11 requesting to cancel meetings, stayed open ended*).

Scheller Properties LLC (Block 20, Lot 50) v. Township of Washington **MC#2010-21** (*Status update received from Court appointed guardian (George Scheller an incapacitated person) Mr. Torzewski, Esq. dated October 29, 2010, and August 25, 2011. Appearance requested @ 12/15/2011 meeting to provide a status update. Status update received 12/15/2011, matter still pending before Superior Court.*)

Galaxy Diner (Location: 1277 Route 23 South) v. Borough of Butler/ Fire Prevention Bureau **MC#2011-28** (*stayed @ 4/26/2012 hearing pending Superior Court litigation.*)

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

MC#2012-7 Kristen Development LLC (Block 4 Lot 6.4 worksite: 4 Bridgewater Lane) v. Borough of Lincoln Park.

MC#2012-8 Dawit Ghebremariam (Block 99, Lot 50 site: 41 Hanover Rd.) v. Township of East Hanover.

CORRESPONDENCE

Budget Balance as of May 24, 2012 = \$555.18

OLD BUSINESS --- NONE---

NEW BUSINESS --- NONE---

NEXT MEETINGS: Thursday June 28, 2012

ADJOURN: On motion duly made and seconded, the meeting was adjourned at 8:30 p.m.

Evelyn Tierney, Board Secretary