

MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS MINUTES

DATE: Thursday, May 23, 2013 - 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, (5)
Harold Endean, Craig Villa

Alternate Members:

Kimberly Hurley, Keith Lynch (2)

ABSENT: William Asdal, Sean Donlon (2)

ALSO PRESENT:

W. Randall Bush, Esq., Assistant County Counsel
Evelyn Tierney, Board Secretary

APPROVAL OF MINUTES:

Minutes of the meeting held April 25, 2013 were previously distributed. Harold Endean moved the approval of the minutes as submitted. Vice Chairman Jeffrey Betz seconded the motion. The Board approved the minutes unanimously. Not voting: member Kimberly Hurley.

CASE WITHDRAWN (*“Withdrawal Confirmation” letters faxed & mailed to all parties and made part of the case files*)

MC#2013-9 DeFalco’s Automotive and Towing c/o Cheryl DeFalco (Block 134 Lot 13, 24 Commerce St.) v. Borough of Chatham Bureau of Fire Safety.

CASES POSTPONED (*All correspondence made part of the file*)

MC#2013-7 Karen Schatz (Concerning Pietrantuono Property, Location: 59 Clover Hill Rd., Millington) v. Township of Long Hill (**ESCROW APPEAL**), *Special Hearing Date scheduled for Tuesday June 11, 2013 at 7:30pm in the Knox room, 5th Floor Admin. Bldg.*

MC#2013-8 Phil Neto Associates, LLC (Block 770 Lot 5 worksite: 199 New Road) v. Township of Parsippany-Troy Hills (6/27/13 - 2nd meeting date)

MC#2013-10 Robert Colangelo (Block 98, Lot 45.5 worksite: 540 Lynne Drive) v. Township of Parsippany-Troy Hills (7/25/2013 – 2nd meeting date)

CORRESPONDENCE

- The Board received a response from Robert Hilzer, DCA Office of Regulator Affairs dated May 2, 2013 in regards to the inquire on chargeable penalty amounts for various sub codes.

CASE TO BE HEARD

MC#2013-4 PJ Construction, Inc., Agent (Franklin J. Fink, Block 201 Lot 8 Worksite: 36 Everdale Rd.) v. Township of Randolph

Appearances:

James K. Pryor, Esq., Law offices of James K. Pryor, Esq., *representing the Township of Randolph (Township)*

Frank Howard, Construction Official, Township of Randolph (Mr. Howard)

Frank McGovern, Esq., McGovern & Roseman, *representing the appellant*

Peter Behson, President, PJ Construction, Inc. (Mr. Behson)

Frank J. Fink, Owner in Fee

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 Pryor stated that the parties could not come to a satisfactory resolution in the matter since the last meeting held on April 25, 2013, therefore they are prepared to proceed. The appellant did install a chain link fence for which a permit was issued and the fence was inspected by the construction official. An engineering report was also prepared as discussed at the last hearing.

The following documents were submitted and marked into evidence:

M-1 - Municipal package received April 15, 2013

A-1 - Applicant package received April 18, 2103

A-2 - Letter dated May 15, 2013 issued by Joe DiPompeo, PE, SECB, Structural Workshop LLC two page engineer report, RE: 36 Everdale Road, Randolph

Counsel Bush swore in the witness Frank Howard, Construction Official, Randolph Township.

Mr. Howard testified that he issued an Unsafe Structure Notice dated October 31, 2011 due to the foundation at the site being a safety hazard. The original permit was applied for in 2006 for a house to be constructed on the site. Fencing around the property was addressed to render the site inaccessible. On January 23, 2013 Mr. Howard issued a Notice and Order to Terminate and Notice and Order of Penalty. Since the April hearing Mr. Behson did install a four foot high chain link fence, and provided an engineering report in regards to the foundation. In Mr. Howards professional opinion he believes that the current condition of the site and foundation is a safety issue and requests that the foundation be demolished and the land be graded to bring it back to its original state.

The Township believes that the current situation is no longer acceptable and the only remedy at this time due to the time lapsed is to demolish the structure and grade the property back to its original state. Therefore, the Board should uphold the notices issued in this matter.

Cross examination followed. Re direct followed. Questions by the Board of the witness followed.

Counsel Bush swore in the witness Peter Behson, PJ Construction LLC. Mr. Behson testified that he believed that he properly secured the premises as requested with fencing. He received a permit in 2006 for a five bedroom colonial style home to be built on the 2.7 acre property owned by Franklin Fink. Due to the economic decline in the housing market he did not continue with construction. The foundation has been secured by fencing the latest installed after the April hearing date which was approved by Mr. Howard. He believes that the structural issues as indicated in the engineering report could be addressed when he is ready to proceed with construction and that they are currently speaking to real estate brokers to determine when financially to re-commence with the construction. The last construction work occurred in 2008 by backfilling the garage section,

septic system work and the installation of a drain pipe. He never was under the impression that the foundation itself was a concern and always complied with the requirements of the town in regard to the fencing on the property. At this time there are three different fences around the property and structure to deter trespassing. The foundation itself is not accessible to anyone from any side.

Mr. Behson believes that they had complied with the Townships requests to properly fence the property and structure. Once construction will commence the necessary foundation repairs will be addressed as provided in the engineering report.

Cross examination followed. Questions by the Board of the witness followed. The parties rested and closing statements were completed by counsel.

The Chairman announced a five minute break (10:05pm to 10:10pm), and requested that the parties discuss a compromise. After the break the parties advised that no compromise was reached. Discussion by the Board followed.

A motion was made by Edward Bucceri to uphold the Notice of Unsafe Structure dated October 31, 2011. The motion was seconded by Vice Chairman Jeffrey Betz. Discussion followed and modifications were made to the original motion.

The Notice of Unsafe Structure dated October 31, 2011 was upheld. The Notice of Violation and Order to Terminate dated January 23, 2013 was upheld, and the Notice and Order to Pay Penalty dated January 23, 2013 was modified to a maximum of \$1,000.00 to be paid if the violation has not been abated by June 17, 2013 to the satisfaction of the Township.

The motion was unanimously approved by the five regular members in attendance. The parties were excused and advised that the approval by the Board of the written resolution will take place at the regular meeting on June 27, 2013 and provided to the parties shortly thereafter.

NEXT MEETINGS: Tuesday June 11, 2013 (Special Meeting to hear Escrow appeal)
Thursday June 27, 2013 (Regular Meeting)

ADJOURN: On motion duly made and seconded, the meeting was adjourned at 10:30 p.m.

Evelyn Tierney, Board Secretary