



## **MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS MINUTES**

Thursday, April 10, 2025 – 6:00 P.M.

Morris County Commissioners Public Meeting Room

Administration & Records Building

10 Court Street

Morristown, New Jersey 07963-0900

**In Person & Public Access via Cisco WebEx Video Conference**

<https://morriscountynj.webex.com/morriscountynj/j.php?MTID=m1c6ec1511e17492417287e5ac6e603b7>

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Chairman Theodore Maglione called the meeting to order.

Pledge of Allegiance

Open Public Meeting Statement

Chairman Theodore Maglione requested a roll call.

### **PRESENT:**

**Regular Members:** Chairman Theodore Maglione, Vice Chairman Jeffrey Betz,  
Keith Lynch, Sean Donlon (4)

**Alternate Members:** Timothy Braden, Larry D. Ott (2)

**ABSENT:** John Kostrowski, Jr., Kimberly A. Hurley, Nick Marucci, (3)

**ALSO PRESENT:** Staci L. Santucci, Esq., County Counsel,  
Sheila M. Leary, CPM, Board Secretary

**APPROVAL OF MINUTES:** Draft minutes of the meeting held on February 19, 2025, previously distributed and unanimously approved by the Board.

### **RESOLUTION(S) FOR APPROVAL:**

Morris County Construction Board of Appeals Resolution 2025-3

**MC#2024 – 13:** J&J Farms Creamery Co., Inc. v Parsippany-Troy Hills, NJ

### **CASE(S) TO BE HEARD:**

**MC#2025-1:** 104 N. Beverwyck Rd., #127, Lake Hiawatha, NJ v Parsippany-Troy Hills, NJ

The following appearances were noted on the record, and witnesses were sworn in by counsel:

Terence Coletta – Construction Official

Brian Ricci – Fire Subcode Inspector

Appearing on behalf of the Appellant, Anthony C. Mecca, Pro Se

Appearing on behalf of Parsippany-Troy Hills, Wade Baldwin, Esq - LAVERY | SELVAGGI | COHEN PC

Witnesses:

Terence Coletta – Construction Official

Brian Ricci – Fire Subcode Inspector

The Board considered the following documents, that were previously received by the Board Secretary, distributed to the Board members, and stipulated to by the parties, to constitute the record:

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Municipal Exhibits

<u>Exhibit Number</u>	<u>Description</u>
<u>EXHIBIT A</u>	<u>Site Photographs</u>
<u>EXHIBIT B</u>	<u>10/29/2020 Deed for Property (“Retail Space”)</u>
<u>EXHIBIT C</u>	<u>Tax Assessment Page Indicating Class 4a (Commercial)</u>
<u>EXHIBIT D</u>	<u>Tax Assessment Record Indicating Class 4a (Commercial)</u>
<u>EXHIBIT E</u>	<u>County Tax Search Indicating Class 4a (Commercial)</u>
<u>EXHIBIT F</u>	<u>Township List of Property Class Use Codes</u>
<u>EXHIBIT G</u>	<u>Tax Appeal Letter from Prior Owner indicating Unit is Commercial</u>
<u>EXHIBIT H</u>	<u>Notices of Violation</u>

Appellant’s Exhibits

The Appellant chose not to submit exhibits beyond the documents submitted with his appeal application and called no witnesses.

This matter was heard, Thursday, April 10, 2025, at 6:00 PM, in the Morris County Commissioners Public Meeting Room. Chairman Maglione began with a brief description of the procedure to be followed in which the Municipality would present their case, and the Appellant would be provided an opportunity to cross examine the Municipal witnesses. Thereafter, the Appellant would present their case, and the Municipality would likewise be provided an opportunity to cross examine the Appellant’s witnesses.

Mr. Baldwin, on behalf of Parsippany, began his remarks regarding his Letter Brief to dismiss, dated, January 13, 2025, explaining the municipality’s position regarding the untimely application of the Appellant and the Board’s acceptance of the appeal without jurisdictional authority to hear the matter.

Chairman Theodore Maglione explained that the Board gives leeway with regard to the timing of the submission of an appeal application. Mr. Baldwin further stated the Board’s lack of authority to grant religious accommodation to the Appellant’s statement contained within the application. Mr. Mecca objected. Chairman Maglione explained that the Morris County Construction Board addresses issues relating only to the New Jersey Uniform Construction Code; not zoning issues; not religious objections, as they are not the purview of the CBA.

Mr. Baldwin’s witnesses, Terrance Coletta, Construction Official and Brian Ricci, Fire Subcode Official, were sworn in and Mr. Baldwin began his direct examination of Mr. Coletta by requesting that Mr. Coletta describe his duties with the Parsippany-Troy Hills Construction/Building Department and the events that lead to his issuance of the violations at 104 Beverwyck Road. Mr. Coletta testified that he supervises approximately 20 employees and became aware of the conditions of the property on December 4, 2024. Mr. Coletta testified that on December 4, 2024, he issued violations contained in Exhibit H, based on the Fire Department’s response to the property on November 28, 2024, after speaking with the Fire Officials.

Mr. Baldwin requested Mr. Coletta's confirmation of the facts by summarizing the sequence of events as, first, the Fire Department was called to the property on November 28, 2024, secondly, based on the Fire Departments findings, the Fire Department contacted the Housing Department. Thereafter, the Housing Department relocated the occupants living in the space to a new housing location and finally, the Housing Department contacted the Parsippany-Troy Hills Construction/Building Department. Mr. Coletta testified that Mr. Wade's summary accurately described the sequence of events.

Mr. Baldwin asked Mr. Coletta if it is Mr. Coletta's practice to issue violations without personally inspecting the space, with Mr. Coletta testifying in the affirmative as he relies on the observations of the professional inspectors.

Chairman Theodore Maglione requested that Mr. Coletta describe the building and Mr. Coletta then testified that the building is a Garden Apartment building, built in the 1970s, with six units and commercial space on the first floor. Mr. Coletta further testified that the space owned by Mr. Mecca was a commercial space being occupied as a residential space. Chairman Maglione summarized Mr. Coletta's testimony as being six units with some residential and some commercial. Mr. Mecca objected and stated, that Mr. Coletta had no first-hand knowledge.

Board Member, Timothy Braden, asked Mr. Coletta if an existing violation of a property is abated or transferred to a new owner. Mr. Coletta testified that it was his understanding that an existing violation transfers to a new owner, regardless of whether the violation is known at the time of the sale.

Mr. Baldwin called his second witness, Brian Ricci and requested that Mr. Ricci state his title and describe his role with the Township. Mr. Ricci testified that his title is Fire Subcode Official and he oversees fire protection for the Uniform Construction Code, assist with construction plan review and fire inspections as needed.

Mr. Baldwin, asked Mr. Ricci if he was familiar with the building and when he became aware of the concerns with the building. Mr. Ricci testified that he was familiar with the building and was contacted by the Housing Department, late in the day, on December 2, 2024, because of the concerns from the Fire Department. Mr. Ricci testified that he attempted to inspect the building on December 3, 2024, but was unable. Mr. Baldwin followed up and asked Mr. Ricci if he had reached out to Mr. Mecca to gain entry with Mr. Ricci testifying that the Housing Department had attempted, unsuccessfully, to reach Mr. Mecca.

Mr. Ricci testified that on December 6, 2024, he was contacted by the Housing Department that they had made entry of the space with the former occupants, and he (Mr. Ricci) responded to the property. Mr. Baldwin then asked Mr. Ricci if he took photos of the space and if he reported his findings to Mr. Coletta.

Mr. Ricci testified that he took multiple photos and presented them to Mr. Coletta. Mr. Ricci further testified that when he entered the space he witnessed three beds, a couch, a television, a kitchenette, a full bathroom with a shower. Mr. Ricci continued his testimony with an account of the occupants recalling that they had been living there for a period of six to eight months as translated by a Housing authority employee who spoke Spanish. Mr. Mecca objected to Mr. Ricci's testimony as hearsay. Mr. Chairman explained that this was a Board to hear construction code issue and not a court.

Mr. Baldwin continued his direct examination of Mr. Ricci by directing him to Exhibit A – photos of the space taken by Mr. Ricci. Specifically, photo #11 of Exhibit A, a drop ceiling with a support beam, a structural beam with significant charring, from what Mr. Ricci testified to be from a fire at some point, although no record of a fire at that location could be located or confirmed by the Fire Department.

Mr. Baldwin asked Mr. Ricci if he had an opportunity to contact or otherwise speak with Mr. Mecca regarding his inspection on December 6, 2024. Mr. Ricci confirmed that he spoke with Mr. Mecca on that date as the Housing Department placed a phone call to Mr. Mecca and Mr. Ricci testified that, during that call, Mr. Mecca denied that anyone was living in the space and that it was rented out as a storage unit. Mr. Ricci testified that he explained to Mr. Mecca the

violations and how they could be easily addressed and why the charred beam, shower/sink, would necessarily require Mr. Mecca to obtain permits.

Mr. Baldwin concluded his questioning of Mr. Ricci seeking clarification of the meaning of each violation, their purpose and whether there were other violations that could have been issued. Mr. Ricci testified as to the differences between “use groups” commercial vs. residential, conservative issuance of violations to encourage compliance.

Mr. Mecca began his cross-examination of Mr. Ricci by asking how long Mr. Ricci has been with the Parsippany-Troy Hills Construction/Building Department. Mr. Ricci testified that he has been with the department for five years. Mr. Mecca continued by asking if Mr. Ricci had ever gone into the property for inspections and Mr. Ricci testified that he had not and would only do so if work was being performed with a permit under the Uniform Construction Code. Mr. Mecca stated that Fire Prevention has gone into the property every year for the past five years. Mr. Ricci testified that he could not attest to that.

Mr. Mecca was then sworn in to testify on his own behalf as he addressed the Board with testimony that he has owned the building for five years as a Health Center; the Fire department inspected the property annually and tested the smoke detectors. Mr. Mecca testified that the \$4000 penalty was overly burdensome and very difficult, but he was willing to comply with the town. Further, Mr. Mecca had a problem with the charred beam being his responsibility and specifically the cost of an engineer as this should be the responsibility of the HOA. Mr. Mecca stated that the space has always been a gym, and he has not made any changes.

Board Member Keith Lynch asked Mr. Mecca if had a lease and Mr. Mecca testified, “no, Javier died in May.” Mr. Lynch followed up by asking whether there was/was not a life safety cost or rent? Mr. Mecca confirmed that he received \$500 rent per month.

Mr. Mecca testified, in response to Vice Chairman Betz’s questions regarding his ownership in the building, that he paid HOA fees and told them about the appeal. Vice Chairman Betz asked if the property was used as a Health Care Center when the property was purchased. Mr. Mecca testified in the affirmative and Vice Chairman Betz concluded by asking Mr. Mecca if he was allowing people to live there. Mr. Mecca testified that he was not allowing anyone to live there.

Board Member Sean Donlon asked for clarification and/or confirmation that Mr. Mecca owned the property for five years and the building had six units with three of the units designated as commercial on the ground level.

The Board heard testimony from both parties and after a lengthy discussion, Board Member Keith Lynch made a motion, seconded by Vice Chairman, Jeffrey Betz, to affirm the enforcement agency’s violations and penalties pursuant to N.J.A.C. 5:23-2.23(b) Occupying Altered Structure Without a Certificate; violations and penalties pursuant to N.J.A.C. 5:23-2.14(a) Work Performed Without Required Permit

#### Statement of Reasons – Board Member Keith Lynch.

- \*Violations were properly issued in a timely fashion
- \*Property owner was negligent in his responsibilities
- \*Violations and penalties should be upheld

#### Statement of Reasons – Vice Chairman Jeffrey Betz

- \* Property owner, business or otherwise, is required to ensure the safety of all occupants
- \*Penalties issued were appropriate
- \*Township took appropriate action

The Board, pursuant to the authority granted to it under N.J.A.C. 5:23A - 2.3, may affirm, reverse, or modify the action, decision, notice or order of the enforcement agency or remand the matter to the enforcing agency for further action.

A vote was taken of the five (5) voting Board members, by unanimous vote, affirmed the enforcement agency's decision as shown on the voting record below.

The Morris County Construction Board unanimously voted to affirm the Notices of Violation and Order to Terminate/Notices and Order of Penalty No. 2024-00090; and No. 2024-00091 of the enforcement agency.

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<b><i>VOTING RECORD</i></b>				
<b><u>REGULAR MEMBERS (5)</u></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Abstain</i></b>	<b><i>Absent</i></b>
<b>Ted Maglione, Chairman</b> Builder, Professional Engineer, Construction Official, Building Subcode Official/Insp. HHS, Special member - Escrow	✓			
<b>Jeffrey Betz, Vice Chairman</b> Certified Fire Official, Fire Protection Subcode Official, Construction Official, Building Inspector – RCS, Fire Protection Inspector HHS, Housing Code Official, Inspector Hotels & Multiple dwellings	✓			
<b>Keith Lynch</b> Certified Fire Official, Fire Protection Subcode Official, Construction Official, Electrical Contractor, Electrical Insp. HHS, Building Subcode Official/Insp. HHS	✓			
<b>Sean Donlon</b> Construction Official, Building Subcode Official/Insp. HHS/ICS/RCS, Housing Code Official, Insp. Hotels & Multiple dwellings	✓			
<b><u>ALTERNATE MEMBERS (4)</u></b>				
<b>Timothy Braden</b> Construction Official, Building Subcode Official/Insp. RCS/ICS/HHS	✓			

**CASE(S) POSTPONED:**

**CASE(S) WITHDRAWN:**

**CORRESPONDENCE:**

- Budget Balance as of April 10, 2025 - \$1760.73

**OLD BUSINESS:**

**NEW BUSINESS:**

For consideration - New Appeal Application: 40 Quail Run, Randolph, NJ

On January 27, 2025, violation V-25-0004 (Notice of Unsafe Structure), was issued by Rod Schmidt, Construction Official for the Township of Randolph, New Jersey, to Cameron and Megan Crotts 40 Quail Run, Randolph, NJ 07869. The property owners' position is that the dangerous electrical issue exists at the transformer. The transformer is owned by JCP&L. The property owners' position is supported by their independent electricians. The property owner contacted the County of Morris, Construction Board of Appeals on March 7, 2025, to inquire about the process of filing an appeal. On April 2, 2025, the Morris County Construction Board of Appeals received an appeal application from James T. McCarthy, Esq., on behalf of his clients, Cameron & Megan Crotts.

On April 10, 2025, the Morris County Construction Board of Appeals met and discussed the merits of the appeal.

The Morris County Construction Board of Appeals has thoroughly reviewed and denied the appeal application of the property owners, Cameron & Megan Crotts, consistent with N.J.A.C. 5:23A-2.1, for the reasons stated by the following Board members and by a majority, agreed upon by the Board, subsequent to a motion by Chairman Theodore Maglione to deny the acceptance of the application and seconded by Timothy Braden, as shown on the voting record below:

Statements of Reason – Chairman Maglione

- \* This is a Notice of Unsafe Structure.
- \* The appeal is untimely filed.
- \* The nature of the appeal is beyond the scope and authority of the Construction Board of Appeals.

Statements of Reason – Timothy Braden

- \* The homeowner's appeal of a Notice of Unsafe Structure would necessarily be asking the Board to find the structure to be, "safe."
- \* The appeal is untimely filed.

<b><u>REGULAR MEMBERS (5)</u></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Abstain</i></b>	<b><i>Absent</i></b>
<b>Ted Maglione, Chairman</b> Builder, Professional Engineer, Construction Official, Building Subcode Official/Insp. HHS, Special member - Escrow	✓			
<b>Jeffrey Betz, Vice Chairman</b> Certified Fire Official, Fire Protection Subcode Official, Construction Official, Building Inspector – RCS, Fire Protection Inspector HHS, Housing Code Official, Inspector Hotels & Multiple dwellings		✓		
<b>Keith Lynch</b> Certified Fire Official, Fire Protection Subcode Official, Construction Official, Electrical Contractor, Electrical Insp. HHS, Building Subcode Official/Insp. HHS	✓			
<b>Sean Donlon</b> Construction Official, Building Subcode Official/Insp. HHS/ICS/RCS, Housing Code Official, Insp. Hotels & Multiple dwellings	✓			
<b><u>ALTERNATE MEMBERS (4)</u></b>				
<b>Timothy Braden</b> Construction Official, Building Subcode Official/Insp. RCS/ICS/HHS	✓			
<b>Larry Ott</b> Electrical Subcode Official/Insp. HHS, Construction Official			✓	

**NEXT MEETING:** TBD – For approval of Resolution to Deny Appeal Application of Cameron & Megan Crotts – 40 Quail Run, Randolph, NJ

**ADJOURN:** 8:11P.M.

Sheila M. Leary, CPM  
Sheila M. Leary, CPM  
Board Secretary