

**MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS  
MINUTES**

Thursday June 22, 2023 – 6:00 P.M.  
Webex Video Meeting

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, John Kostrowski, Jr., (4)

Keith Lynch, Sean Donlon

**Alternate Members:** Harold Endean, Timothy Braden (2)

**ABSENT:** Vice Chairman Jeffrey Betz, Kimberly Hurley, Nick Marucci, (3)

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

**APPROVAL OF MINUTES:** Draft minutes of the meeting held on May 25, 2023, previously distributed and unanimously approved as submitted.

**APPROVAL OF RESOLUTIONS:** MC-2023-2

MC#2023-6, Morris Blue/CoHome, 42-46 Miller Road, Block 7301, Lot 2.02, Morristown, NJ v Town of Morristown

**CASE TO BE HEARD:** MC#2023-3, JDM Property Holdings LLC, 199 Pomeroy Road, Block 737, Lot 3.1, Parsippany, NJ v Parsippany-Troy Hills, NJ  
(N.J.A.C. 5:23-2.23 (b) Occupying an Altered Structure Without a Certificate)

*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.*

County Counsel Staci L. Santucci, Esq. swore in the witnesses.

Appearing on behalf of the Appellant, Ronald J. Campione, Esq.

Witnesses: David Hannah (Employee that supervised the construction process including meeting with Township Inspectors)  
Edvie Castro, Esq. (General Counsel for JDM Property)

Appearing on behalf of the Twp. of Parsippany-Troy Hills, Wade T. Baldwin, Esq

Witnesses: Twp of Parsippany-Troy Hills – Charles F. Flenner, Jr., Asst. Construction Official/Fire Subcode Official and Steven Krayniak, Electrical Inspector

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

**Municipal Exhibits**

<u>Exhibit Number</u>	<u>Description</u>
M-1	2/2/22 Compilation of documents including: Fire Protection Subcode, Technical Section #1 – 4, State Permit Forms, along with handwritten notes; 9/8/22 Fire Protection Subcode Technical Section #1; 2/16/23 Contractor’s Material and Test Certificate for Aboveground Piping; 2/13/23 Correspondence from Jeffrey A. Castner, New Jersey Professional Engineer to Whom It May Concern; Document titled System Record of Completion; Document titled Notification Appliance Power Panel Supplementary Records of Completion
M-2	6/11/2021 Zoning Department – Commercial Zoning Permit
M-3	Document titled 199 Pomeroy Road, 22-CP-1091, dated 3/17/2023
M-4	2/28/23 Temporary Certificate of Occupancy/Compliance
M-5	2/8/23 Correspondence from Ronald Campione, Esq. to Michael Lavery, Esq. regarding Violation Number 2023-00039, with exhibits
M-6	Collection of photographs showing electrical wiring
M-7	Photograph showing office cubicles
M-8	Photograph showing office cubicles
M-9	Photograph showing office cubicles
M-10	Photograph showing office cubicles
M-11	Photograph showing office cubicles
M-12	Photograph showing office cubicles

Appellant’s Exhibits

<u>Exhibit Number</u>	<u>Description</u>
A-1	Open Public Records Request submitted to Parsippany Troy-Hills Township on March 9, 2023
A-2	Township of Parsippany-Troy Hills Zoning Department Commercial Zoning Permit No. Z21:319
A-3	February 23, 2022 E-mail from Ron Ferrari to J.R. Frank indicating “I am reviewing this as a Reconstruction with alteration and renovation aspects as defined in N.J.A.C. 5:23-6.3.”
A-4	Township of Parsippany-Troy Hills May 16, 2022 correspondence to Michael LaMotta
A-5	J.R. Frank Architect Drawings TS-1 with Parsippany approval stamp
A-6	J.R. Frank Architect Drawings TS-1 with revisions with Parsippany Building Department approvals
A-7	Van Praet Electrical and Fire Drawings with Parsippany Building Department approvals
A-8	United Fire Protection Drawing Index 3rd Floor Sprinkler System Renovations with Parsippany Township Receipt Stamp
A-9	United Fire Protection Drawing Index 3rd Floor Sprinkler System Renovations with Parsippany Township Receipt Stamp
A-10	Parsippany Troy Hills Permit Index
A-11	Parsippany Troy Hills Construction Permit Updates dated June 13, 2022, February 22, 2023, November 15, 2022
A-12	Temporary Certificate of Occupancy requiring conditions to be met by May 29, 2023
A-13	Parsippany Troy Hills Building Subcode folder dated November 15, 2022
A-14	Parsippany Troy Hills Building Electrical Subcode folder (undated)
A-15	Parsippany Division of Fire Prevention Certificate of Inspection dated July 19, 2023
A-16	Parsippany Troy Hills Fire Protection Subcode folder May 18, 2022, March 2, 2022, June 13, 2022, February 22, 2023

A-17	Parsippany Troy Hills Plumbing Subcode Folder February 2, 2022
A-18	Parsippany Troy Hills Inspector Visit Log
A-19	Parsippany Troy Hills Subcode Review Status
A-20	Electrical Inspector Visit List from February 15, 2023 through February 15, 2023
A-21	Temporary Certificate of Occupancy Application submitted by JDM Property Holdings, LLC
A-22	Township of Parsippany Final Inspection Stickers
A-23	E-mail from Michael Lavery, Esq. to Ronald Campione, Esq. re: DOWC Building stating, among other things, “[t]hey have now scheduled the necessary inspections and the violation will soon be abated.”
23(a)	Merriam-Webster Dictionary website capture for “abate”
A-24	JDM Property Holdings, LLC application to the Morris Country Construction Board of Appeals with the Exhibits
A-25	State of New Jersey Department of Community Affairs Division of Codes and Standards publication on New Jersey Uniform Construction Code

This matter was heard, Thursday June 22, 2023, at 6:00 PM, via Webex videoconference. 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/witness.

Mr. Baldwin introduced his witness, Charles Flenner, Asst. Construction Official for the Twp. of Parsippany-Troy Hills and familiar with JDM properties. Mr. Baldwin introduced Municipal Exhibit M-2, Zoning Dept./Zoning Permit with Mr. Flenner further describing this as the prior approval for the expansion of a 5,000 sq. foot office to a 25,000 sq. foot space, and what they considered renovations, also alterations. Mr. Flenner further confirmed that he imagined the preexistence of a Certificate of Occupancy (CO) for the 5,000 sq. foot space and the additional space was taken from the architect’s plans that were submitted. Mr. Baldwin requested Mr. Flenner’s clarification that this was creating an entirely new space, from 5,000 sq. feet to 25,000 sq. feet, requiring the issuance of a new CO; and

Mr. Baldwin questioned Mr. Flenner regarding the requirement for the issuance of a new CO, with Mr. Flenner further explaining that due to the alterations and renovations to the expanded space, along with the creation of new rooms, classified this as a reconstruction. Mr. Baldwin followed up with an inquiry regarding Mr. Flenner’s opinion as to whether or not this presented any safety issues requiring a new CO. Mr. Flenner specifically noted the creation of a new room with a glass partition wall, deviating from the plan; and

Mr. Baldwin established that Mr. Flenner met with the various inspectors without visiting the site as is customary of Mr. Flenner’s administrative position. Mr. Flenner explained the challenges experienced by the inspectors with regard to the ceiling panels needing to be removed for the periodic inspections to be completed. Introducing Exhibit M-3 (page 4), inspection log, listing inspectors and electrical problems noted. Exhibit M-6, photos showing violations observed by Mr. Krayniak; and

Mr. Baldwin completed his direct examination of Mr. Flenner with the use of Municipal Exhibits 3 (page 2), 9, 10 and 11 to support the Township’s findings of fire and electrical problems, no egress (glass door), and employees actively working during the construction. Mr. Flenner confirmed these conditions as accurately depicted on February 7, 2023; and

Upon cross examination of Mr. Flenner, Mr. Campione relied upon Exhibits A-24, M-1 and M-2, to establish that a Certificate of Occupancy existed on February 7, 2023, with Mr. Flenner disputing that the penalty must be satisfied regardless of the existing CO; and

Mr. Campione’s direct examination of Ms. Edvie Castro, Esq., began with Ms. Castro confirming her position as General Counsel for JDM and specifically the details associated with the closing of the property and bank requirements of proof of an existing CO, previously provided by the Township of Parsippany-Troy Hills. Ms. Castro confirmed the client/tenant was authorized to occupy the space immediately after the purchase and bank closing; and

Ms. Castro confirmed occupancy throughout the renovations and inspections were at all times conducted without advanced notification to JDM employees. Ms. Castro testified that the employees continued to work in the spaces available outside of the areas being renovated and would move their work, as needed, to other areas as the renovations were completed in various phases. Mr. Campione completed his direct examination with Ms. Castro’s explanation that immediately upon notification of the alleged violations, all employees vacated the property and the Township’s attorney in an email (Exhibit A-23 & A-23a) assurance/representation that violations once abated, should void the penalty; and

Mr. Baldwin’s cross examination of Ms. Castro explored the bank requirements with Ms. Castro restating the existence of the CO, provided by the Township, for the entire building and not individual spaces: and

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; and

The Board heard testimony from both parties and after a lengthy discussion, concluded that the work performed at 199 Pomeroy Road was consistent with a renovation and not a reconstruction. Chairman Theodore Maglione, made a motion to reverse the enforcement agency’s Notice of Violation and Order to Terminate, N.J.A.C. 5:23-2.23(b)(e); 2.30(b); 5:23-6, dated February 7, 2023, with John Kostrowski, Jr., seconding the motion. A vote was taken of the five (5) voting Board members and pursuant to the authority granted to it under N.J.A.C. 5:23A - 2.3, the Board, by a unanimous vote, reversed the enforcing agency decision as shown on the voting record below:

<b><i>VOTING RECORD</i></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>John Kostrowski, Jr., - Regular Member</b> Master Plumber, Plumbing Subcode Official/Insp. ICS/HHS, Construction Official, Building Inspector RCS/ICS	✓			
<b>Keith Lynch - Regular Member</b> Certified Fire Official, Fire Protection Subcode Official, Construction Official, Electrical Contractor, Electrical Insp. HHS, Building Subcode Official/Insp. HHS	✓			
<b>Sean Donlon – Regular Member</b> , Construction Official, Building Subcode Official/Insp. HHS/ICS/RCS, Housing Code Official, Insp. Hotels & Multiple dwellings	✓			
<b>Harold Endean - Alternate Member</b> Electrical Subcode Official/Insp. HHS, Construction Official	✓			

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

**MC#2023-4**, Patricia Strata, 59 Park Road, Block 193, Lot 4, Parsippany, NJ v Parsippany-Troy Hills, NJ

**MC#2023-7**, Marble Hill Condo Assoc., 835 Belvidere Rd, Lopatcong, NJ v Lopatcong, Twp., NJ

**(Transfer from Warren County – Accepted 5/23/23)**

**CASE WITHDRAWN:**

**MC#2023-5**, Venture X Parsippany, 8 Campus Way 105, Parsippany NJ v Parsippany-Troy Hills, NJ

(Withdrawn - June 22, 2023)

**CORRESPONDENCE:** Budget \$3,995.93

**OLD BUSINESS:** Alternate Member vacancy

**NEW BUSINESS:** Old Code Books (4 boxes) in Storage

**NEXT MEETING:** Regular Meeting July 27, 2023

**ADJOURN:** On motion duly made by Keith Lynch, and seconded by Chairman Theodore Maglione, the meeting adjourned at 8:55 P.M.

*Sheila M. Leary, CPM*

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Sheila M. Leary, CPM  
Board Secretary