

**MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS
MINUTES**

Thursday, September 22, 2022 – 7:00 P.M.
Webex Video Special Meeting/Hearing

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, Vice Chairman Jeffrey Betz, (4)
John Kostrowski, Jr., Sean Donlon

Alternate Members: Kimberly Hurley, Timothy Braden (2)

ABSENT: Herald Endean, Nick Marucci (2)

ALSO PRESENT: Staci L. Santucci, Esq., Assistant County Counsel
Sheila M. Leary, CPM, Board Secretary
Commissioner Stephen H. Shaw

APPROVAL OF MINUTES: Draft minutes of the meeting held on July 28, 2022, previously distributed and unanimously approved as submitted

APPROVAL OF RESOLUTIONS: None

CASE TO BE HEARD:

MC#2022-11 Fong S. & Jui C. Lin, 20 Greenwood Avenue, Block 6, Lot 22, Chatham, NJ v Borough of Madison, NJ

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.

Appellant, Fong S. Lin

Witness – Michael Quinn, Building Subcode Official for the Borough of Madison

Appearing on behalf of the Borough of Madison, Raymond M. Codey, Esq.

The Board considered the following documents, stipulated to by both Mr. Fong Lin and Mr. Raymond Codey, Esq. that were previously received by the Board Secretary and distributed to the Board members, constitute the record:

Appellant Exhibits

- 1) 7/22/2022 Plans
- 2) 7/13/2022 Plans
- 3) 7/1/2022 Plans submitted on 7/5/2022
- 4) Email exchanges between parties from 6/29/2022 to 8/1/2022 (Printed in reversed chronological order.)
- 5) MBD's Issues and Lin's Responses Between 6/29/2022 and 8/1/2022

Municipal Exhibits

- A. Snow covered exterior of brick structure - prior to construction
- B. Rear view of structure under construction
- C. Side view of structure under construction
- D. Interior view of structure
- E. Interior view of structure

The Morris County Construction Board of Appeals heard an appeal from Mr. Fong S. Lin., concerning the denial of approval of the submitted construction design plans and application for the associated building permit. The municipality's Subcode Official, Michael Quinn, testified that the municipality denied approval of the Appellant's design plan and application for a building permit due to the failure of the design plan(s) to meet code compliance as it related to the proof of existence of footings below the frostline, necessary to support the new structure load.

The Appellant's cross examination of the witness established that issuance of the Stop Work Order and \$2,000 penalty for the construction work, previously performed without a permit, was not the purpose or result of the denial of the design plans or the denial of the application for the required building permit.

The Appellant, Fong S. Lin, presented evidence by way of emails (Exhibit 4), to and from the building department and personal testimony to support his belief that his design plans were consistent and compliant with the New Jersey Uniform Construction Code.

The Board heard testimony from both parties and questioned both parties concerning the UCC/chapters relating to slabs, foundations, and footings. After a lengthy discussion, John Kostrowski, Jr. made a motion to affirm the municipality's decision to deny approval of the design plans as submitted by the Appellant and therefore to deny approval of the application for a construction permit, with Alternate Member Kimberly Hurley 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 unanimously affirmed the enforcing agency decision as shown on the voting record below,

<i>VOTING RECORD</i>	<i>Yes</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
Regular Member & Chairman Ted Maglione, Builder, Professional Engineer, Construction Official, Building Subcode Official/Insp. HHS, Special member - Escrow	x			
Regular Member & Vice Chairman Jeffrey Betz, Certified Fire Official, Fire Protection Subcode Official, Construction Official, Building Inspector – RCS, Fire Protection Inspector HHS, Housing Code Official, Inspector Hotels & Multiple dwellings	x			
Regular Member John Kostrowski, Jr., Master Plumber, Plumbing Subcode Official/Insp. ICS/HHS, Construction Official, Building Inspector RCS/ICS	x			
Regular Member Sean Donlon, Construction Official, Building Subcode Official/Insp. HHS/ICS/RCS, Housing Code Official, Insp. Hotels & Multiple dwellings	x			
Alternate Member Kimberly Hurley, Architect	x			

CASES POSTPONED (correspondence received/ issued - made part of the case files)

MC#2022-7 MJZ LLC (worksite 172 Smithtown Rd, Mount Olive Twp., Block 900, Lot 49) v Twp. of Mount Olive

MC#2022-12 Lallygone LLC, (worksite 159 Kanouse St., Boonton, NJ, Block 71.08, Lot 36.01) v Town of Boonton, NJ

CASE WITHDRAWN:

MC#2022-5 Host Realty Hotel, LLC % Ryan LLC d/b/a Sheraton Parsippany (worksite: 199 Smith Rd, Parsippany, NJ 07054, Bock 735, Lot 3) v Twp. of Parsippany, NJ (Withdrawn August 17, 2022)

CASES RETURNED (not heard subsequent to legal review):

MC#2022-9 WCGP LLC (worksite 10 DeHart St., Morristown, NJ, Block 6101, Lot 11) v Town of Morristown

MC#2022-10 ADP, LLC, (worksite 99 Jefferson Road, Parsippany-Troy Hills, NJ, Block 736, Lot 7.4) v Parsippany-Troy Hills, NJ

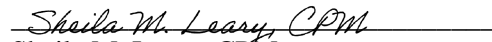
CORRESPONDENCE: Budget \$3,841.00

OLD BUSINESS: Commissioner Shaw discussed the need and ongoing effort to fill the vacant Board Member position

NEW BUSINESS: Board Member John Kostrowski, Jr., requested discussion and consideration of shortening the meeting duration to end at 10:00 P.M. rather than 11:00 P.M. Chairman Maglione expressed the need and rationale to maintain the hours of 7:00 P.M. to 11:00 P.M.

NEXT MEETING: October 27, 2022.

ADJOURN: On motion duly made by Board member John Kostrowski, Jr., and seconded by Chairman Theodore Maglione, the meeting adjourned at 9:00 P.M.


Sheila M. Leary, CPM
Board Secretary