

MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS MINUTES

Thursday, February 27, 2020 - 7:00 p.m.
MC CBA Hearing Room
30 Schuyler Place, 2nd Floor, Morristown, NJ 07960

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, (5)
Harold Endean, John Kostrowski, Jr., Keith Lynch

Alternate Members: Timothy Braden, Sean Donlon, Kimberly Hurley, Nick Marucci, (5)
Chris Walthour

ALSO PRESENT: Staci L. Santucci, Esq., Assistant County Counsel
Evelyn Tierney, Board Secretary

APPROVAL OF MINUTES:

Minutes of the meeting held on January 23, 2020 were previously distributed. Member Kostrowski, Jr. made a motion to approve the minutes as submitted. Member Endean seconded the motion. The Board approved the minutes as submitted unanimously.

CASE TO BE HEARD

MC#2020-2 Loren Caso/Gaston Holding Inc. (Block 74, Lot 3 worksite: 117 N. Gaston Ave.)
v. Borough of Somerville (SOMERSET COUNTY) (*1st mtg. date 2/27/2020*)

Appearances:

David Myers, Electrical, Fire and Plumbing Subcode Official, Borough of Somerville
Robert Lynn, Jr., Fire Marshal, Borough of Somerville
Loren Caso, Owner in Fee
Margaret Petersen, Architect, Petersen Associates

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 Santucci swore in the witnesses.

Chairman Maglione stated for the record that the appeal was forwarded to Morris County Construction Board of Appeals by the Somerset County Construction Board of Appeals due to a conflict of interest. The appeal was filed by Mr. Caso after receiving a denial to remove a fire suppression system for the property located on 117 Gaston Avenue, Somerville, NJ from the Borough of Somerville.

It was noted and stipulated by the parties that the following documents previously received by the Board Secretary and distributed to the Board members constitute the record:

- A-1 Appeal application dated February 5, 2020 (received by MCCBA on February 10, 2020, (11) pages including the following:
- E-mail dated January 28, 2020 issued by David Myers, Electrical, Fire and Plumbing Subcode Official to Loren Caso denying the request to remove the fire suppression system and providing appeal details.
 - E-mail dated January 30, 2020 issued by Robert Lynn, Jr., Fire Marshal, concurring with the denial issued by Mr. Myers
- M-1 Municipal package dated February 19, 2020 (received by MCCBA on February 21, 2020, (12) pages)
1. E-mails between Myers and Caso
 2. UCC Subchapter 6 code citation
 3. UFC Chapter 9
 4. NFPA Glossary of terms 2019

Mr. Myers testified that Mr. Caso requested to remove a fire suppression system under a change of use from an A-2 (Commercial/Restaurant) use to an R-5 (two family dwelling) use. Mr. Caso applied and received a permit for the change of use to an R-5. Mr. Myers noted that an R-5 building does not require a fire suppression system. Mr. Myers stated that he issued the denial to remove the fire suppression system on January 28, 2020, based upon his review and interpretation of the word redundant/redundancy for which he is seeking clarification from the Board. The code section is N.J.S.A. 5:23-6.31(a) 4.

“Fire protection system removal: Any fire protection system providing partial or redundant protection originally installed to protect a special hazard that no longer exists and that is not required in accordance with the current Uniform Construction Code, is allowed to be removed with the written approval of the fire subcode official and fire official. All disconnected equipment and devices, such as pull stations, nozzles, detectors, sprinklers, sensors, panels, and hose connections, shall be removed so as not to give a false indication that the structure, area, or space is protected. (Fire).”

The current occupancy is an A-2 (Certificate of Occupancy not issued at this time). The proposed use is to an R-5 two family home which will require interconnected smoke detectors, two means of egress from the second floor, and two means of egress from the first floor.

The proposed plans under the permit issued for a change of use to R-5, two family home meet all rehab code requirements.

Member Lynch noted that the code section states “redundant protection”, and not “redundant system”. The protection in an R-5 use building is provided by the code required smoke detectors and means of egress.

Member Braden noted that the applicants appeal package included an opinion issued by Michael Whalen, Department of Community Affairs confirming that the current code does not require sprinkler systems in an R-5 dwelling. Member Braden asked if the municipality reached out to the DCA for an opinion as well. Mr. Myers noted that they had not.

Member Kostrowski, Jr. made a motion to rule in favor of the owner of the property, authorizing the removal of the fire suppression system. The motion was seconded by Vice Chairman Betz. Discussion followed. It was noted that in this case the change of use from an A-2 which was a special hazard no longer exists, and the proposed R-5 use does not require a sprinkler system. The motion was approved by the following roll call vote:

YES: Chairman Theodore Maglione, Vice Chairman Jeffrey Betz, Harold Endean, (5)
John Kostrowski, Jr., Keith Lynch

NO: NONE

NOT VOTING: Timothy Braden, Sean Donlon, Kimberly Hurley, Nick Marucci, (5)
Chris Walthour

The parties were advised that the written decision/resolution will be approved at the next meeting of the Board and mailed to all parties shortly thereafter. The parties were excused and the Chairman continued with the items on the Agenda.

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

MC#2017-8 Estate of Edward Cantor (Block 12 Lots 1.10, 1.12) v. Township of Chester (*1st mtg. date 10/26/2017 - stayed pending Superior Court proceedings to 3/26/2020*)

MC#2019-6 Reiter & Rayter, Tatiana & Wyczeslav (Block 96, Lot 47, worksite: 30 Katie Court) v. Township of East Hanover (*1st mtg. date 3/28/2019, 2nd mtg. date 5/23/2019, 3rd mtg. date 8/22/2019 HD – stayed on 8/15/2019, update received 2/12/2020 continued stay pending Supreme Court appeal proceedings*)

MC#2019-7 Reiter & Rayter, Tatiana & Wyczeslav (Block 96, Lot 47, worksite: 30 Katie Court) v. Township of East Hanover (*1st mtg. date 5/23/2019, 2nd mtg. date 8/22/2019 stayed on 8/15/2019 update received 2/12/2020 continued stay pending Supreme Court appeal proceedings*)

MC#2019-23 Madison Movie Development LLC (Block 2702, Lot 24 worksite: 14 Lincoln Place) v. Borough of Madison (*1st mtg. date 1/23/2020, stayed pending BOA/other jurisdiction determination*)

MC#2020-1 EH Associates LLC, d/b/a OYO Hotel (Block 96, Lot 83, worksite: 130 Route 10) v Township of East Hanover (*1st mtg. date 1/23/2020, 2nd mtg. date 2/27/2020, 3rd mtg. date will be 3/26/2020 HD*)

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

---NONE---

CORRESPONDENCE

- Budget Balance as of February 27, 2020 = \$2,791.90

- **MC#2020-3 N/A - CASE FORWARDED TO SOMERSET COUNTY DUE TO CONFLICT OF INTEREST** – Notice issued by Borough of Rockaway Construction Official, Timothy Braden. Appeal document package forwarded to Somerset County CBA by letter dated February 25, 2020 copying all parties to the appeal. Correspondence received on February 27, 2020 from the municipal attorney advising that the case has been settled by the parties.

OLD BUSINESS --- NONE ---

NEW BUSINESS --- NONE ---

NEXT MEETING: Thursday, March 26, 2020 at 7:00 p.m.

ADJOURN: On motion duly made and seconded, the meeting adjourned at 7:30 p.m.

Evelyn Tierney, Board Secretary