

# MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS MINUTES

**DATE:** Thursday, April 28, 2016 - 7:30 p.m.  
OIT CONFERENCE ROOM, 30 Schuyler Place, 4<sup>th</sup> Floor

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, (5)  
Edward Bucceri, Harold Endean, Craig Villa  
Alternate Members: William Asdal, Sean Donlon (2)  
**ABSENT:** Timothy Braden, Kimberly Hurley, Keith Lynch (3)

**ALSO PRESENT:** W. Randall Bush, Esq., Board Counsel, Evelyn Tierney, Board Secretary

## **APPROVAL OF RESOLUTION:**

**Resolution MC#2016-5** Frank Vastano (Metropolitan Farm LLC, Block 2102, Lot 55, worksite: 119 Hickory Lane) v. Borough of Closter, Bergen County. Case heard and decided on March 17, 2016. The resolution was previously distributed. Vice Chairman Jeffrey Betz made a motion to approve the resolution as submitted. Craig Villa seconded the motion. The Board approved the resolution by the following roll call vote:

**YES:** Chairman Ted Maglione, Vice Chairman Jeffrey Betz, Edward Bucceri, (7)  
Harold Endean, Craig Villa, William Asdal, Sean Donlon  
**NO:** None (0)

## **APPROVAL OF MINUTES:**

Minutes of the meeting held March 17, 2016 were previously distributed. Edward Bucceri made a motion to approve the minutes as submitted. Harold Endean seconded the motion. The Board approved the minutes by the following roll call vote:

**YES:** Chairman Ted Maglione, Vice Chairman Jeffrey Betz, Edward Bucceri, (7)  
Harold Endean, Craig Villa, William Asdal, Sean Donlon  
**NO:** None (0)

## **CASE TO BE HEARD**

**MC#2016-4** Kristian Elverum (Block 55, Lot 7 worksite: 35 Meyersville Rd.) v. Harding Township

### **Appearances:**

John Mills III, Esq. Mills & Mills P.C. representing the appellant  
Mark Roselli, Esq. Roselli, Griegel, Lozier & Lazzaro, PC, representing the Township of Harding  
Kristian Elverum, Owner in Fee  
Irena Bairova, Health Administrator, Harding Township Board of Health  
Mark Fornaciari, Construction Official, Harding Township

Counsel Bush marked the following documents as exhibits for the record:

B-1 Appeal application dated, signed and received by the Morris County Construction Board of Appeals on January 22, 2016.

M-1 Resolution BOH #05-20916 issued by the Harding Township Board of Health dated April 18, 2016.

Mark Roselli, counsel representing the Township of Harding made a motion that the Board deny the appeal based on the Boards lack of jurisdiction. Mr. Roselli argued that the basis of the appeal was a January 11, 2016 letter issued by the Board of Health Administrator, Irena Bairova in which she denied the request made by the homeowner to add a shower to a first floor bathroom. The Harding Board of Health held a hearing on March 10, 2016 to consider the January 11, 2016 denial. The Harding Board of Health reversed the denial and issued the April 18, 2016 resolution of approval with conditions. Counsel provided a copy of the April 18, 2016 resolution “M-1” to the Board for review. Based on the aforementioned, Mr. Roselli argued that the Morris County Construction Board of Appeals does not have jurisdiction in this matter.

John Mills, counsel representing the appellant, stated that his client asked for a permit which was denied and believes a denial of permit is under the Boards purview and within the UCC regulations.

Discussion followed. The Board members determined that pre-approval from various other entities such as zoning, board of health, soil conservation is not within the purview of the Uniform Construction Code and this Board. Pre-approval is the first step in the approval process before an application can be made and considered by the Construction Official at which time it could be considered under the Uniform Construction Code regulations.

Chairman Ted Maglione made a motion to deny the appeal for not having jurisdiction and to hear the appeal from a decision made by the Harding Board of Health. The motion was seconded by Edward Bucceri. Discussion followed. The motion was approved by the following roll call vote:

**YES:** Chairman Ted Maglione, Vice Chairman Jeffrey Betz, Edward Bucceri, (7)  
Harold Endean, Craig Villa, William Asdal, Sean Donlon

**NO:** None

The parties were advised that the decision is effective tonight with a written resolution to be issued and approved at the next meeting and forwarded shortly thereafter to all parties.

The Chairman thanked everyone for attending the meeting, and continued with the items on the Agenda.

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

**MC#2015-3** Victor & Lynn Boyajian v. Township of Harding - **ESCROW APPEAL** Case filed March 6, 2015, stayed to allow for settlement discussions to May 26, 2016

**MC#2015-20** Center Court at Morristown LLC (Block 9003, Lot 10 worksite: 65 Columbia Rd) v. Township of Morris Bureau of Fire Prevention (11/19/15 1<sup>st</sup> meeting date, stayed pending superior jurisdiction decision, Board will be kept updated on progress – status update received 4/20/16)

**MC#2016-1** Somerset County YMCA (worksite: 2 Green St.) v. Borough of Somerville Bureau of Fire Prevention/Somerset County (1/28/16 1<sup>st</sup> mtg. date, 2<sup>nd</sup> mtg. date 2/25/16, 120-day stay requested 3<sup>rd</sup> mtg. date 5/26/16)

**MC#2016-8** Frankoski Construction Co., Inc. (Block 2801, Lot 8 worksite: 26 Green Village Rd.) v. Borough of Madison (4/28/16 1<sup>st</sup> mtg. date, 2<sup>nd</sup> mtg. date will be 5/26/16)

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

**MC#2016-6** Robert & Kathleen Hulsy (Block 6606, Lot 2) v. Town of Morristown

**CORRESPONDENCE**

Budget Balance as of 4/28/2016 = \$2,142.00

**OLD BUSINESS** --- NONE---

**NEW BUSINESS**

- Review and approval of the revisions made to the “Process Instructions” regarding scheduling of Imminent Hazard Appeals. The Board reviewed the revised 4/28/2016 submission and approved the updated changes unanimously.

**NEXT MEETINGS:** Thursday May 26, 2016

**ADJOURN:** On motion duly made and seconded, the meeting was adjourned at 9:30 p.m.

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Evelyn Tierney, Board Secretary