

**MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS
MINUTES**

Thursday, June 25, 2020 - 2 p.m.
Webex Video 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., Keith Lynch

Alternate Members: Timothy Braden, Nick Marucci (2)

ABSENT: Sean Donlon, Harold Endean, Kimberly Hurley, Chris Walthour (4)

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

APPROVAL OF MINUTES:

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

CASE TO BE HEARD:

MC#2020-6 Zack Olson/Brandt Hospitality Group. (Block 96, Lot 77.04 worksite: 170 Route 10 West, East Hanover, NJ) v. Township of East Hanover, New Jersey

Appearances:

Gregory F. Kotchick, Esq., Township Attorney for East Hanover, New Jersey
Thomas Pershouse, Construction Official/Building Inspector, East Hanover, New Jersey
Carmine Davino, Fire Chief, East Hanover, New Jersey
Butch McConn, General Counsel, Vice President of Construction, Brandt Hospitality Group
Zack Olson, Project Manager, Brandt Hospitality Group
Matt Kalbus, Architectural Design Manager, Brandt Hospitality Group
Tim Donofrio, Superintendent, Brandt Hospitality Group

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

The Morris County Construction Board of Appeals received the appeal on June 5, 2020, wherein Thomas Pershouse, Construction Official/Building Inspector, Township of East Hanover, New Jersey, issued a Denial of Permit, dated May 14, 2020 for the, “Roof construction and associated

secondary members must have a one hour fire resistance rating” and, “IBC NJ 2015 602.1 Reference Table 601 UL Design P533 Fails to 1 Hour Fire Rate of Secondary Members.”

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

M-1 UL Design No. P533, dated June 19, 2018, Unrestrained Assembly Rating – 1 Hour, Finish Rating - with handwritten notations: Attn: Tom Pershouse, Home 2 Hotel, → From: Matt Kalbus

M-2 FIRE PROTECTION INFORMATION (Structural Element; Fire Rating; Design Number)

M-3 Design - Cross section of design (exterior wall);

M-4 Page 4 of Construction Code Communicator – Balconies, Decks, Porches, and Exterior Stairways Fire Resistance Rating?

M-5 Chapter 6, Page 103 – International Building Code 2015, New Jersey Edition, “Types of Construction”

M-6 Correspondence dated April 21, 2020, from Matt Kalbus/Brandt Hospitality Group to Thomas Pershouse.

M-7 Email dated April 13, 2020, from Michael Whalen, NJ Dept. of Community Affairs, to Land Use (marieb@easthanovertownship.com), Lisa Kiss for Township of East Hanover, Land Use/Planning Board Secretary.

Mr. Pershouse testified that the design submitted by Brandt Hospitality Group, for the cross section of the truss of the exterior wall failed to provide a 1-hour fire rating and further failed to protect secondary members. To support Mr. Pershouse’s opinion and denial of the requested permit, documents described and marked as M1 – M7 were presented.

Cross-examination of Mr. Pershouse by Mr. Kalbus Architectural Design Manager, Brandt Hospitality Group and Mr. McConn, General Counsel, Vice President of Construction, Brandt Hospitality Group regarding the relevance of M-4 and M-7 was followed by further discussion and questions offered by Chairman Maglione (704.5/Truss Protection, page 109), Vice Chairman Jeffrey Betz (clarification/confirmation and issue #2 secondary members), Board Members, Timothy Braden (UL P533; inquiry 1 Hour assembly and secondary member protection), Keith Lynch (describes secondary assembly/members). Mr. Donofrio asked for Mr. Pershouse’s definition of the term, “secondary member.” Board Member Keith Lynch provided a response/interpretation of secondary member. Matt Kalbus followed with the actual definition of the term secondary members, as defined in Chapter 2 of the International Building Code. Chairman Maglione offered analysis of Primary Structure at page 23 of the code.

Thomas Pershouse, subsequent to consultation with Attorney, Gregory F. Kotchick, Esq., and further discussion with Brandt Hospitality Group, reached an agreed compromise resolution whereby, two adjustments to the design plans would be made and resubmitted for approval of the required permit(s) as follows:

- Removal of Spray Foam Insulation

- Ventilated Truss Assembly

The Board, by motion of Chairman/Member, Theodore Maglione, to rule in favor of the agreed upon compromise between the parties; Vice Chairman, Jeffrey Betz seconded the motion. The motion was approved by the following roll call vote:

YES: Chairman Ted Maglione, Vice Chairman Jeffrey Betz, John Kostrowski, Jr., Keith Lynch

NO:

NOT VOTING: Harold Endean, Tim Braden, Sean Donlon, Kimberly Hurley, Nick Marucci, Chris Walthour

The parties were advised that the 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 5/28/2020*)

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, stayed on 3/16/2020 due to COVID-19 situation, parties will be notified of new hearing date*)

MC#2020-4 Amerigas Propane, L.P. (Block 19, Lot 9, worksite: 145 W. Main Street, Chester) v Township of Mt. Olive (*appeal received 3/13/2020 parties will be notified of hearing date pending COVID-19 situation*)

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

MC#2020-5 DiBlasi Contracting (Block 28, Lot 18.02, worksite: 62 East Mill Rd, Long Valley) v Washington Township

CORRESPONDENCE

- Budget Balance – June 25, 2020 = \$2,991.90

OLD BUSINESS ---NONE---

NEW BUSINESS

NEXT MEETING: July 23, 2020

ADJOURN: On motion duly made and seconded, the meeting adjourned at 3:10 p.m.

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