

MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS

MINUTES

DATE: Regular Meeting Thursday February 24, 2011 – 7:30 p.m.
FREEHOLDER PUBLIC MEETING ROOM

Chairman Bruce Alatary called the meeting to order and read the Open Public Meeting Statement.

Chairman Bruce Alatary requested a roll call.

PRESENT: Chairman Bruce Alatary, Jeffrey Betz, Edward Bucceri, Harold Endean, (6)
Vice Chairman Ted Maglione, Craig Villa

ABSENT: Kimberly Hurley, Raymond Stromberg, Michael Spillane (3)

ALSO PRESENT:

Martin Barbato, Esq., Board Attorney
Evelyn Tierney, Board Secretary

APPROVAL OF MINUTES:

Minutes of the meeting held January 27, 2011 were previously distributed. Ted Maglione moved the approval of the minutes as submitted. Edward Bucceri seconded the motion. The Board approved the minutes as submitted by the following roll call vote:

YES: Chairman Bruce Alatary, Jeffrey Betz, Edward Bucceri, Harold Endean, (6)
Vice Chairman Ted Maglione, Craig Villa

NO: None (0)

CASE TO BE HEARD

Mr. & Mrs. Rojas (Block 5701, Lot 32) v. Town of Morristown MC#2011-1

Counsel Barbato advised that he spoke to the parties to the appeal and that the UCC matters have been settled between the parties, therefore there is nothing left before this Board to be heard and the matter should be considered closed.

Chairman Alatary acknowledged and advised that is turning the dais over to Vice Chairman Ted Maglione for the next case to be heard as he has been the Acting Chair in hearing that appeal at the previous meetings due to his absence.

CASE TO BE HEARD

Deborah Post v. Chester Township (Block 33, Lot 4) *ESCROW APPEAL* MC#2009-35 which is a continuance of previous hearings held in August, November, December 2010 and January 2011.

Appearances:

Nicole B. Dory, Esq., Connell Foley law offices on behalf of Ms. Post
John Suminski, Esq., Counsel representing the Township of Chester

The witness was advised by Counsel Barbato that he is still sworn in from the previous hearings held.
Peter Turek, P.E., Township Engineer

Mr. Turek extensively testified regarding his Invoices #91871, 94924, 98305, 102406, 105446 and the charges that were for a total of 14.8 hours totaling \$2,205. He believes that the charges were necessary and reasonable.

Cross examination by Counsel Dory followed. Objections were made by Counsel Suminski as to the questioning of his witness Mr. Turek. Extensive discussion followed.

The following documents were provided by Counsel Dory to be marked.

- Letters on Hatch Mott MacDonald letterhead dated June 9, 2009 (2 pages), September 8, 2009 (3 pages), and December 3, 2009 (3 pages). An objection was made by Counsel Suminski on the written notes on the letters. The Board acknowledged and advised that the hand written notes will be disregarded.

Cross examination and re-direct followed. Question by the Board followed of the witness.
The witness was excused.

Counsel Suminski summarized.

Counsel Dory summarized, objection was made by Counsel Suminski that the provided Certification of Appellant Ms. Post dated February 22, 2011 and as instructed by Court Order dated February 22, 2011 which indicated that "Plaintiff may submit closing arguments in written form" the Board should not allow for a closing by Counsel Dory. Discussion followed and only a narrow summarization of the witness's testimony will be allowed for Ms. Dory to provide.

Counsel Dory summarized.

A motion was made by Edward Bucceri that the fees charged in the Invoices issued by Mr. Turek are upheld. Craig Villa seconded the motion. Discussion followed. The motion was approved by the following roll call vote:

YES: Vice Chairman Ted Maglione, Jeffrey Betz, Edward Bucceri, Harold Endean, (6)
Craig Villa

NO: None (0)

ABSTAIN: Chairman Bruce Alatary (1)

The Acting Chairman advised that the decisions as valid as of tonight and a written resolution will be sent to all parties following the approval by the Board at the next scheduled meeting.

The parties were excused and Chairman Alatary continued with the items on the Agenda.

CASES STAYED/POSTPONED (*Postponement requests/consent and case correspondence was made part of the file*)

Mr. Bove, Jr. (Block 40.08, Lot 23) v. Twp. of East Hanover MC#2005-37 (*pending Court Decision, stayed 10/24/05 update received 1/9/08, status update requested 1/24/201, phone call received from applicant on 1/26/11 – he will review documents and get back to the Board within the week, letter mailed 2/18/11 appeal withdrawal form*).

William Schaefer (Block 4401 Lot 42 – Denial of Permit 2/25/2010, Block 2604, Lot 19 Notice of Unsafe Structure 2/17/2010 = worksite: 441 Turnpike) v. Township of Pequannock MC#2010-7 (*stayed open ended with monthly status update – dated July 6, 2010, 8/6/2010, 9/14/2010, 10/15/2010, 1/12/2010, 1/13/2011 - and made part of the file*)

Scheller Properties LLC (Block 20, Lot 50) v. Township of Washington MC#2010-21 (*stayed open ended @6/23/2010 pending litigation, status update received 10/29/2010*)

Tucker Kelley (Block 30503, Lot 12) v. Twp. of Rockaway MC#2006-34/1 (*stayed to 4/ 28/ 2011*)

CASES POSPONED TO NEXT HEARING SCHEDULED FOR MARCH 24, 2011

Giovanni Granata (Block 4602, Lot 2 worksite: 11 Newark Pompton Turnpike) v. Township of Pequannock MC#2010-36 (3rd Mtg. Date)

Richard LiFrieri (Block 7901, Lot 36) v. Town of Morristown MC#2011-3 (2nd Mtg. Date)
(CONSIDERATION OF REFUND OF THE APPEAL FEE. ACTION TAKEN: The decision was tabled to the next meeting date.

Partridge Run Apartments Inc. (Block 767, Lot 16 Bldg F, G & R, 130 New Road) v. Township of Parsippany-Troy Hills MC#2011-5 (2nd Mtg. Date)

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

Walter Mulvany (Block 120, Lot 11 worksite: 44 Ridge Dr.) v. Township of East Hanover. Applicant is requesting the refund of the appeal fee (*Case filed 2/10/2011 -1st mtg. 2/24/201– Case withdrawn 2/22/2011*). Chairman Bruce Alatary made a motion to approve the refund of the appeal fee. The motion was seconded by Edward Bucceri. The motion to approve the refund of the appeal fee was approved by the following roll call vote:

YES: Chairman Bruce Alatary, Jeffrey Betz, Edward Bucceri, Harold Endean, (6)
Vice Chairman Ted Maglione, Craig Villa

NO: None (0)

CORRESPONDENCE

- An OPRA request was received on February 10, 2011 from P. Smith for a copy of the December 16, 2010 meeting recording and minutes. The requested copies were provided by the Board secretary on February 14, 2011 through the Records Custodian Tom Zaccone.

- A letter dated January 27, 2011 was received on February 2, 2011 from a Mr. Rieselmann regarding a Violation issued by Hanover Township. The Board secretary mailed a letter dated February 2, 2011 advising of the appeal process including the necessary appeal form asking for reply within 10 days. A follow up letter was sent on February 16, 2011 returning originals. The Board secretary received a phone call on February 22, 2011 from Mr. Rieselmann advising that he will not be sending in a completed appeal.

OPEN ACTION ITEM --- NONE---

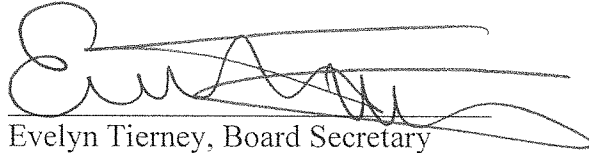
OLD BUSINESS --- NONE---

NEW BUSINESS

- DCA Education Unit conference announcements were received and provided to all members.
- UFC Subscription renewal notice was received and the Board Secretary is updating and renewing all member subscriptions.
- The 2010 Annual Report was distributed

NEXT MEETINGS: Thursday March 24, 2011

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



Evelyn Tierney, Board Secretary