

**MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS
MINUTES**

Thursday, November 21, 2024 – 6:00 P.M.
Morris County Commissioners Public Meeting Room
Administration & Records Building
10 Court Street
Morristown, New Jersey 07963-0900

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,
John Kostrowski, Jr., Keith Lynch (4)

Alternate Members: Kimberly A. Hurley, Timothy Braden, Larry D. Ott (3)

ABSENT: Sean Donlon, Nick Marucci (2)

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

APPROVAL OF MINUTES: Draft minutes of the meeting held on July 25, 2024, previously distributed and unanimously approved by the Board.

CASES TO BE HEARD:

(MC#2024 – 12: 446 Green Village Rd., Chatham Twp., NJ 07935 v Chatham Twp., 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.

Appearing on behalf of the Appellant, David B. Brady, Esq.

Appearing on behalf of Chatham Township, Nicholas Loiodice, Esq - McManimon | Scotland | Baumann LLC

Witness – Jack Daniels, Construction Official

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

Municipal Exhibits

Exhibit Number	Description
M-1	Photo obtained by Township Construction Official from Property Owner's Contractor – 10/8/24

M-2	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-3	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-4	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-5	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-6	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-7	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-8	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-9	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-10	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-11	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-12	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-13	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-14	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-15	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24
M-16	Photo obtained by Township Construction Official from Property Owner's Contractor - 10/8/24

Appellant's Exhibits

Exhibit Number	Description
A-1	Notice of Violation (3 pages)
A-2	Building Plans, Approved (12 pages)
A-3	Construction Inspection dated September 30, 2024 (2 pages)
A-4	Letter from Jay Petrillo, AIA, to Jack Daniels, dated October 3, 2024 (2 pages)
A-5	Notice from Building Inspector via SDL/Portal dated October 7, 2024 (1 page)
A-6	Certification of Greg Impink dated October 17, 2024 (2 pages)
A-7	Email from Sari Jepsen to Lubczenko dated September 30, 2024 (3 pages)
A-8	Email from Jack Daniels to Sari Jepsen dated September 30, 2024 (3 pages)
A-9	Framing Checklist
A-10	Photos (set of 4)
A-11	Photos (set of 57)

This matter was heard, Thursday, November 21, 2024, at 6:00 PM, in the Morris County Commissioners Public Meeting Room. Chairman Maglione began with a brief description of the procedure to be followed in which the Municipality would present their case and the Appellant would be provided an opportunity to cross examine the Municipal witness. Thereafter, the Appellant would present their case and the Municipality would likewise be provided an opportunity to cross examine the Appellant/witness.

Mr. Loiodice, on behalf of the Township of Chatham, described the main issue as being an undocumented inspection, that may or may not have happened, relied upon by the Appellant's photos, as process over substance. Mr. Loiodice stated the photos of the home show that the home is not code compliant. Mr. Loiodice introduced his witness, Jack Daniels, Construction Official for the Township of Chatham.

Mr. Daniels testified that he began his service in Chatham Township on April 1, 2023, and the field inspector failed the Appellant's inspection on September 30, 2024, due to the foam insulation preventing the inspection of the exterior walls and roof assembly. Mr. Daniels further testified that the Notice of Violation and Order to Terminate as not a Penalty Notice and was issued for failure to obtain a framing inspection (N.J.A.C. 5:23-2.18), as the file contained no documentation that a framing inspection had occurred.

Mr. Daniels testified that the Appellant was provided with a compliance summary which included three requirements; 1) submit photos of work to exterior framing, 2) submit certification describing conformance with the code, and 3) framing checklist with code compliance with the elements of the code requirements. Thereafter, Mr. Daniels testified that he received 57 photos from the Appellant along with a letter from the Appellant's architect, Mr. Petrillo, and noted that the photos confirmed non-compliance with the code.

Mr. Loiodice continued his direct examination of Mr. Daniels with Exhibits M-10, M-11, M-12, M-15 and M-16 (photos), discussing the specific examples of code non-compliance, that he could not sign off on. Mr. Loiodice concluded his questioning by stating that Mr. Daniels had shown non code compliance.

Mr. Brady, on behalf of the Appellant, cross examined Mr. Daniels by questioning his belief that no inspection had happened, with Mr. Daniels testifying that the file contained no inspection. Mr. Brady stated that, despite a certification from the prior Construction Official, Mr. Impink, that an inspection was conducted (in or about August of 2022), an OPRA request to review the file was submitted and received no response until he followed up with a second request and was notified that an extension of time, beyond the scheduled date of this hearing, was necessary.

Chairman Theodore Maglione addressed Mr. Brady and stated that Mr. Brady chose to proceed with the hearing date as scheduled and could have requested an adjournment. Mr. Brady responded by stating that further delays of the project was not an option.

Mr. Brady began his direct examination of the Appellant, Mads Jepsen, Scandic Builders, Inc., with Mr. Jepsen testifying that he has 25 years of construction experience, with approximately 200 completed projects. Mr. Jepsen continued by testifying that framing and sheathing inspections occur after the rough inspections and as it relates to this special project, the prior Construction Official, Mr. Impink, performed several inspections with no stickers or proof provided.

Mr. Brady referenced Appellant's Exhibit A-4 (letter dated October 4, 2024, to Mr. Daniels from Appellant's architect, Jay Petrillo) wherein Mr. Petrillo stated that he was onsite prior to the pre-framing inspection of Mr. Impink, confirming that the installation of the sheathing system conformed with the requirements of the 2015 IRC-NJ edition code.

Mr. Brady concluded his direct examination with Mr. Jepsen testifying to the cost of the delays with the second Construction Official, with a different opinion.

Mr. Loiodice cross examined Mr. Jepsen and began by inquiring as to whether or not he had prior inspection failures, with Mr. Jepsen testifying, "only from Jack."

Chairman Theodore Maglione clarified with Mr. Daniels that the permits issued in 2019 had not expired and Appellant's Exhibit A-4, letter from Mr. Petrillo, that blocking was required, and sheathing was

installed. Mr. Daniels testified that blocking/wind bracing was required. Chairman Maglione followed up by questioning Mr. Daniels as to whether or not sheathing can act as bracing, with Mr. Daniels testifying that strapping is required and the pictures conflict with the design plan.

Chairman Maglione questioned Mr. Jepsen regarding the blocking with Mr. Jepsen testifying that the zip sheathing was shown on the plans.

Vice Chairman Jeffrey Betz directed his comments to Mr. Jepsen as it relates to the manufacturer addressing wind load, with Mr. Jepsen testifying that wind load is specific to each individual project. Mr. Betz pointed out that Appellant’s Exhibit A-4 letter did not provide code citation, only a general statement of code compliance.

The Board heard testimony from both parties and after a lengthy discussion, Board member John Kostrowski, Jr., made a motion to modify the agency’s Notice of Violation and Order to Terminate (V-24-086), dated October 1, 2024, with Board member Keith Lynch seconding the motion.

Statement of Reasons – Board Member John Kostrowski, Jr.

The Construction Official, Jack Daniels has stated that an amended letter from the Appellant’s architect with clarifying language to include confirmation with code sections 602-10, NJ-IRC 2015, would satisfy Mr. Daniels concerns regarding code compliance and allow Mr. Jepsen to move forward with the construction of the project at 446 Green Village Road, Chatham Township.

Statement of Reasons – Board Member Keith Lynch

Mr. Daniels has provided a compliance summary that can be satisfied with an amended letter from Mr. Jepsen’s architect.

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, by unanimous vote, modified the enforcement agency’s decision as shown on the voting record below

VOTING RECORD	Yes	No	Abstain	Absent
Ted Maglione, Chairman Builder, Professional Engineer, Construction Official, Building Subcode Official/Insp. HHS, Special member - Escrow	✓			
Jeffrey Betz, Vice Chairman Certified Fire Official, Fire Protection Subcode Official, Construction Official, Building Inspector – RCS, Fire Protection Inspector HHS, Housing Code Official, Inspector Hotels & Multiple dwellings	✓			
John Kostrowski, Jr. Master Plumber, Plumbing Subcode Official/Insp. ICS/HHS, Construction Official, Building Inspector RCS/ICS	✓			
Keith Lynch Certified Fire Official, Fire Protection Subcode Official, Construction Official, Electrical Contractor, Electrical Insp. HHS, Building Subcode Official/Insp. HHS	✓			
Kimberly Hurley Licensed Architect	✓			

CASE(S) POSTPONED:

MC#2024 – 9: 82 Sunset Dr., Chatham, NJ v Chatham Township, NJ
(Pending Agreed Settlement)

CASE(S) WITHDRAWN:

MC#2024 – 5: FGM, LLC (worksite: 100 Riveredge Dr., Chatham, NJ), v Chatham Twp. NJ

(Withdrawn August 8, 2024)

MC#2024 – 7: Deck Pros (worksite: 11 Youngsters Lane, Gillette, NJ), v Long Hill Twp. NJ

(Withdrawn October 15, 2024)

MC#2024 – 10: 27 Wyndmoor Dr., Morristown, NJ 07960 v Morris Township, NJ

(Withdrawn November 4, 2024)

MC#2024 – 11: Request to Transfer/Somerset County – 452 Catherine St. v Somerville Borough

(Withdrawn October 29, 2024)

CORRESPONDENCE:

- Budget Balance as of November 21, 2024 - \$2,120.03

OLD BUSINESS:

- Pending review - Escrow/Professional Fees Application

NEW BUSINESS:

- Reappointment of Regular Board Member John Kostrowski, Jr.

NEXT MEETING: Thursday, December 19, 2024, at 6:00 P.M.

ADJOURN: 8:39 P.M.

Sheila M. Leary, CPM

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Board Secretary