

**MINUTES OF THE HARDYSTON TOWNSHIP PLANNING BOARD MEETING HELD
MARCH 27, 2008**

CALL THE MEETING TO ORDER: Chairman Miller called the meeting to order at 7:30 p.m. and read the following Statement of Compliance.

STATEMENT OF COMPLIANCE: Pursuant to the Open Public Meetings Act, Chapter 23 1, P.L. 1975, adequate notice as defined in section 3D of Chapter 21 P.L. 1975, has been made to the New Jersey Herald and is also posted on the bulletin board at the Hardyston Township Municipal Building.

ROLL CALL:

Leslie Hamilton – Present
Ken Kievit – Present
Robert Neubig – Present
William Hickerson – Present
Robert F. Schultz – Present
John Monell – Present
James Homa – Present
Brian Kaminski – Present
Randy Roof (Alternate No. 1) – Excused
Stanley Kula (Alternate No. 2) – Present
Carl Miller – Present

OTHERS PRESENT: Robert P. Guerin, P.E., P.P., Thomas F. Collins, Esq., and Anne-Marie Wilhelm, Land Use Administrator

APPROVAL OF MINUTES:

A motion to approve the *Minutes of the Hardyston Township Planning Board Meeting Held February 28, 2008* was made by Robert Neubig and seconded by Ken Kievit. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Carl Miller – yes. The motion carried.

RESOLUTIONS:

PB-9-07-2, Petar Bubalo & Andrea Zeibekis, Preliminary Subdivision, Forest Knoll, Block 72 Lots 5.01 and 21: A motion to carry was made by Leslie Hamilton and seconded by James Homa. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried. The matter was carried to the meeting of April 24, 2008.

PB-8-07-3, West Essex Management, Preliminary and Final Site Plan, Block 62 Lot 18.12: A motion to carry was made by Leslie Hamilton and seconded by James Homa. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried. The matter was carried to the meeting of April 24, 2008.

PB-12-06-4, Leidenfrost, R. Minor Subdivision Extension, Block 72, Lot 3.12: A motion to carry was made by Leslie Hamilton and seconded by James Homa. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried. The matter was carried to the meeting of April 24, 2008.

APPLICATIONS:

PB-8-06-1a, Mogavero, Gerard; Florence Mogavero; and Frank Mogavero, Minor Subdivision, C Variances, Block 67 Lot 25.01: Board members reviewed an appeal to suspend the matter forwarded by William T. Haggerty, Esq., dated March 26, 2008. A motion to request the Board secretary to write a letter to the Applicant requesting an appearance at the next hearing to discuss when the Applicant can present the matter and to show cause why the matter should not be dismissed without prejudice was made

by Ken Kievit and seconded by Robert Neubig. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried

PB-8-06-2a, Mogavero, Frank. Minor Subdivision Extension, C Variances, Block 71, Lot 7.01:

Board members reviewed an appeal to suspend the matter forwarded by William T. Haggerty, Esq., dated March 26, 2008. A motion to request the Board secretary to write a letter to the Applicant requesting an appearance at the next hearing to show cause when an application can be presented to the Board and why the matter should not be dismissed without prejudice was made by Ken Kievit and seconded by Robert Neubig. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

PB-4-07-2a, Crystal Springs Builders, L.L.C., Final Subdivision, *Crystal Springs North, Phase II*, Block 14, Lots 22.01 and 22.04: The Applicant withdrew the matter via e-letter from Dale E. Pierson, Crystal Springs Administrator of Development.

PB-2-08-2, Patel, Pravinbhai C. Minor Subdivision, Block 72.04, Lot 8.01: Pravinbhai Patel and Ken Dykstra, P.E., L.S, were sworn. Mr. Dykstra was recognized and accepted by the Board as an expert witness. Mr. Guerin reviewed completeness issues and waiver requests. A motion to grant the waiver requests, provided that no development takes place on the commercial/residential lot until a stormwater management plan, acceptable to the Township Engineer, is provided; and provided the common driveway and drainage agreements are included in the deeds was made by Leslie Hamilton and seconded by Ken Kievit. There was no discussion. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

Exhibit A-1, titled *Grading & Utility Plan, Minor Subdivision for Pravinbhai C. Patel, Block 72.04, Lot 8.01*, N.J.S.H. Route 94, Bayberry Lane & Oxbow Lane, Township of Hardyston, Sussex County, New Jersey, sheet 4 of 8, dated 1/24/08, prepared by Kenneth D. Dykstra, P.E., L.S., was submitted.

Mr. Dykstra stated the property has frontage on Route 94 and is a total of 9.5 acres. He stated the Applicant is in the RC-Zone and both commercial and residential uses are permitted. He stated the Applicant proposes to create three lots — Lot 8.01 being a future commercial lot consisting of 2.4 acres; Lot 8.03, planned for a residential home, consisting of 3.4 acres; and Lot 8.04, consisting of 3.7 acres and also planned for a residential home. He stated all the lots exceed the minimum lot size of 40,000 sq.ft. He noted there is a wetland area delineated on the front part of Lots 8.03 and 8.04 and the reason for the common driveway is that the Applicant does not want to cross the wetlands from Route 94. He stated the Applicant wanted to access the two residential homes using a common driveway from Bayberry Lane. He stated the Applicant has a wetland letter of interpretation (LOI) certified by the New Jersey Department of Environmental Protection (NJDEP) and it is valid for three more years. He stated all the lots will be served by wells and septic systems and soil testing has shown satisfactory conditions. He stated a small stormwater infiltration basin will be located on Lot 8.04 and maintained by that homeowner in perpetuity. He stated the common driveway would have a shared maintenance agreement. Mr. Dykstra confirmed that no variances were requested. He stated that the county, in a letter dated February 25, 2008, noted *no further action*.

Board members reviewed the attached report prepared by Robert P. Guerin, P.E., P.P dated February 11, 2008.

Comments were noted as follows:

- Comments 1 and 2: The Applicant confirmed that the items were previously discussed during the completeness review.
- Comment 3 – The Applicant stated they had no objection to providing stone shoulders on the common driveway and that they would add the typical section to the plans.
- Comment 4: Mr. Patel presented that he would move the shed onto his property, which adjoins the subject property.
- Comment 5: Mr. Dykstra stated the Applicant would adjust the grading so there is no driveway runoff to the septic area. Mr. Dykstra described the location of the septic systems. He stated

Lot 8.01 has not been designed, as it would be the subject of a future site plan. Mr. Dykstra confirmed that five test pits were done on that lot.

- Comment 6: Mr. Dykstra stated the Applicant would adjust the profile of Bayberry Lane to ensure that none of the stormwater would run out from the common driveway to Bayberry Lane. He stated the Applicant would maintain the gutter line with either a swale or a pipe.
- Comment 7: Mr. Dykstra stated the Applicant would construct the common portion of the driveway and the sediment basin before the deeds are filed. He stated he would like ample time to file the deed. Mr. Collins stated that a one-year approval would be recommended.
- Comment 8: Mr. Dykstra stated the Applicant would incorporate the rights into the deeds.
- Comment 9: Mr. Dykstra stated the notes would be added to the plans.
- Comment 10: Mr. Dykstra stated the maintenance provision would be included in the deed.
- Comment 11: Mr. Dykstra stated the Applicant would provide the information concerning the off-tract drainage areas.
- Comment 12: Mr. Dykstra agreed to provide additional soil testing in the vicinity of the infiltration basin.
- Comment 13: The Applicant agreed to comply.
- Comment 14: The Applicant agreed.
- Comment 15: The Applicant agreed.
- Comment 16: The Applicant confirmed that the Township could access the basin if needed.

Mr. Collins noted that the Applicant should have a Developer's Agreement to address growth share obligation in accordance with the current ordinance.

Chairman Miller opened the meeting to the public. There were no participants. The meeting was closed to the public.

Following an inquiry by Mr. Schultz, Mr. Guerin confirmed that the grading plan addressed a sight distance issue. He stated the grading would be done up front. Mr. Dykstra acknowledged that there is a rock knob at the corner that has to be moved back. He stated the Applicant has provided 280' of sight distance in each direction.

A motion to approve the minor subdivision subject to the conditions discussed above; the standard conditions; the engineer's report of February 11, 2008; completion of the common driveway and detention basin before the deeds of minor subdivision are recorded; authorization to file the deeds within one-year; no development of Lot 8.01 unless and until a stormwater management plan is approved by the Township Engineer; and entry into a Developer's Agreement was made by Leslie Hamilton and seconded by Robert Neubig. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

PB-2-08-1, St. Jude the Apostle Parish, Preliminary/Final Site Plan, C Variance, Block 68 Lot 14: Board members reviewed a request to carry forwarded by Roberta M. Quinn, Paralegal for Cynthia M. Collins, Esq., dated March 25, 2008. A motion to carry the matter to the April 24, 2008 meeting was made by Robert Neubig and seconded by Bill Hickerson. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

BILLS: Board members reviewed the following escrow reports.

**HARDYSTON TOWNSHIP PLANNING BOARD
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Thomas F. Collins, Jr., Esq.

Invoice 47161	Planning OE	\$ 3345.00
Invoice 47162	PBC-6-03-1, Hook, D. & B. Senyszyn	45.00
Invoice 47163	PB-1-06-2, Crystal Springs Builders, L.L.C., [Balmoral Estates III]	75.00
Invoice 47168	PB-4-07-2, Crystal Springs Builders, L.L.C., [Crystal Springs North II]	60.00
Invoice 47170	PB-9-07-1, Crystal Springs Builders, L.L.C., [Golf Training Building]	150.00
Invoice 47165	PB-8-06-2, Mogavero, F.	45.00
Invoice 47164	PB-8-06-1, Mogavero, G.	45.00
Invoice 47166	PB-12-06-4, Leidenfrost, a.k.a. Leiden	30.00
Invoice 47167	PB-3-05-1, CJS, Inc. [Emerald Estates]	585.00
Invoice 47169	PB-8-07-3, West Essex Management	90.00
Invoice 47171	PB-9-07-2, Bubalo, P. [Forest Knoll]	480.00
Invoice 47172	PB-2-08-2, Patel, Pravinbhai	60.00

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ADDENDUM

Guerin & Vreeland Engineering, Inc.

Invoice WO717E	PB-9-07-2, Bubalo, P.	\$1680.00
Invoice WO719C	PB-12-06-4, Leidenfrost, R.	997.50
Invoice WO758B	PB-2-08-1, St. Jude the Apostle	367.50
Invoice WO720N	SPLIT:	
	PB-12-06-2, Ridgefield Commons VI	107.50
	PB:12-06-1, Ridgefield Commons V	75.00
	PB:-10-03-2, Ridgefield Commons Sales Trailer	47.50
	WV-02, Govel, Polizzi, Walden: General Escrow-	137.50
Invoice WO720N	TOTAL:	367.50
Invoice 747D	PB-8-07-3, West Essex Management	630.00
Invoice WO753B	Planning OE	1350.00

The New Jersey Herald

Invoice 1614564	Legal Notice	33.75
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Heyer, Gruel & Associates

Invoice 27731	Planning OE	487.50
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A motion to recommend payment of the bills to the Township Council was made by Ken Kievit and seconded by James Homa. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried

DISCUSSION: PBD-3-08-1, SJZ, L.L.C., Jurisdictional Review - Paradise Pools, Hardyston Township Block 14, Lot 21.02 and Hamburg Borough, Block 36 Lot 2: Thomas F. Collins, Jr., Esq., presented that the Applicant is proceeding with an application in Hamburg where the subject property is also in Hardyston Township and has asked the Board to authorize a letter confirming that the Board does not assert jurisdiction as there is nothing proposed in Hardyston Township.

Peter V. McArthur, Esq., appeared on behalf of the Applicant. He presented that the proposal is to build a larger location for Paradise Pool's office showroom and yard. He stated that the 4.8 acre tract is bisected by the boundary line between Hamburg and Hardyston. He stated the front 3.4 acres is located in Hamburg and the remaining 1.4 acres is located in Hardyston. He stated a use variance application is to be filed next month in Hamburg Borough.

Mr. McArthur explained that the Hamburg portion is a split-lot, zoned business commercial in the front and residential in the rear. He noted the Hardyston portion is zoned MIDD V. He stated the vast majority of the development would take place in Hamburg and there is an existing residential use on the premises that will be demolished. He stated that part of the construction is for a 5670 sq.ft. building for Paradise Pools; an 1800 sq.ft. pool display area; a proposed 3840 sq.ft. warehouse building; 46 parking spaces; and an equipment and storage area behind the parking lot in a paved area. He stated a detention basin would encroach onto the Hardyston portion of the property. He stated that the only development in Hardyston Township would be the basin.

Kenneth Dykstra was sworn and accepted by the Board as an expert. He submitted Exhibit A-1, a colored rendering titled *Site Layout Plan, SJZ, L.L.C., Block 36, Lot 2, Borough of Hamburg, New Jersey State Highway Route 23, Sussex County, New Jersey*, sheet 1 of 1, dated 2/5/08, prepared by Kenneth D. Dykstra, P.E., L.S. Mr. Dykstra confirmed that the updated grading and drainage plan is different from the plan distributed to the Board for review. He stated grading and drainage would occur in Hardyston Township.

Mr. Collins stated that in view of the changes, and in view that a structure accessory to a commercial facility would encroach into Hardyston Township, the matter should go to the Hardyston Township Zoning Board of Adjustment for a use variance and site plan, or waiver of site plan, for the detention system of the commercial use in a residential zone. He noted that while it is an accessory structure, it is the sole principal structure in Hardyston Township so it is a use variance. He stated the Planning Board does not have the authority to review anything commercial or quasi-commercial in the MIDD V Zone.

Mr. McArthur asked about the site plan waiver noting that the §147-3A.5(b) of the ordinance states the construction of a drainage system may be exempt from site plan approval. Mr. Collins stated the Zoning Board of Adjustment would need to make the determination.

A motion to authorize the Board Secretary to forward a letter to the Applicant confirming that based upon the review, the Board finds the proposed plans should be the subject of an application to the Hardyston Township Zoning Board of Adjustment for a "D" Variance and Site Plan or waiver of Site Plan was made by Ken Kievit and seconded by Robert Neubig. Roll Call: Leslie Hamilton – yes, Ken Kievit – yes, Robert Schultz – yes, Robert Neubig – yes, Bill Hickerson – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried

Mr. Collins provided a training in Board jurisdiction, member's responsibilities, and COAH issues.

CORRESPONDENCE: Board members received the following correspondence. There were no comments.

**Hardyston Township Planning Board
Correspondence List – March 27, 2008**

1. Antoinette Wasiewicz, Senior Planning Aide, Sussex County Dept. of Engineering & Planning
Re: Preliminary Site Plan, SCPB# 12(PSP)08, Applicant: Group 5 Development LLC, Block 70 Lot 7.05, Route 23, Franklin Borough (Notice to Hardyston) (February 27, 2008)

2. Wini Straub, District Manager, Sussex County Soil Conservation District
Re: Pending Expiration of Soil Erosion & Sediment Control Plan # HY212, Applicant: Crystal Springs Acquisition, LLC, Project: The Cornwall – 1 Acre Roadway and Drainage, Block 17, Lot 17.01 (February 27, 2008)
3. Antoinette Wasiewicz, Senior Planning Aide, Sussex County Dept. of Engineering & Planning
Re: Preliminary Site Plan, SCPB# 57(PSP)07, Applicant: West Essex Management, Block 62 Lot 18.12, Park Drive (March 4, 2008)
4. New Jersey Planning Officials
Re: 2008 Achievement in Planning Awards Nominations
5. Marianne Smith, Township Manager
Re: Highlands Applicability Determination Application – 29 Stockholm-Vernon Road, Block 41 Lot 11 (March 11, 2008)
6. Minutes – Hardyston Township Municipal Utilities Authority - February 4, 2008

PUBLIC PARTICIPATION: No members of the public addressed the Board.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Ken Kievit. All were in favor. The meeting was adjourned at 9:00 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm
Land Use Administrator