

**MINUTES OF THE HARDYSTON TOWNSHIP PLANNING BOARD MEETING HELD  
JUNE 28, 2007**

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

**STATEMENT OF COMPLIANCE:** Pursuant to the Open Public Meetings Act, Chapter 231, 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  
Jim Armstrong – Excused  
Robert Neubig – Excused  
Bill Hickerson – Excused  
Robert F. Schultz – Present  
John Monell – Present  
James Homa – Present  
Brian Kaminski – Excused  
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, Jr., Esq., and Anne-Marie Wilhelm, Land Use Administrator

**APPROVAL OF MINUTES:** *Minutes of the Joint Special Meeting of the Hardyston Township Council and the Hardyston Township Planning Board Held May 17, 2007:* A motion to approve was made by Leslie Hamilton and seconded by James Homa. Roll Call: Leslie Hamilton – yes, Robert Schultz – yes, James Homa – yes, Stanley Kula – yes, Carl Miller – yes. The motion carried.

*Minutes of the Hardyston Township Planning Board Meeting Held May 24, 2007:* A motion to approve was made by Leslie Hamilton and seconded by John Monell. Roll Call: Leslie Hamilton – yes, Robert Schultz – yes, John Monell – yes, James Homa – yes, Carl Miller – abstain. The motion carried.

**RESOLUTIONS:**

**PB-8-06-2, Mogavero, Frank, Minor Subdivision, C Variances, Block 71, Lot 7.01:** William T. Haggerty, Esq., appeared on behalf of the Applicant. He presented a request to allow the phasing of development and for the Board to retain jurisdiction after memorializing the resolution to permit the Applicant to appear on notice for the potential adjustment of the lot line with the neighbors, the Specks. Mr. Collins stated the phasing would permit the son's lot and common driveway easement with the father and the neighbor would be recorded first with a deed for the remainder, being the total tract. Board members discussed the matter and agreed that future lot line adjustments would require a new application.

A motion to approve the memorializing resolution adding a condition that permits the Board engineer and attorney to review proposed deeds of minor subdivision for the son's lot and son's common driveway easement prior to the other lots was made by Leslie Hamilton and seconded by James Homa. Roll Call: Leslie Hamilton – yes, James Homa – yes, Carl Miller – yes. The motion carried.

**PB-10-05-1 (a) Richter, Tillman A. & Gisela, Extension of Minor Subdivision Approval, Block 67, Lot 25.02:** The matter was carried to the meeting of July 26, 2007.

**PB-4-07-1A, Sussex National Development, Crystal Springs II, Master Plan Amendment II, Block 14 Lots 24.01, 20, 7, 22.01, 24.02; Block 16, Lots 6.01, 1.02, 6.02, 8.02, 14.01, 1.09, 1.10, 1.07, 8.03, 8.01, 3.03, 3.05, 3.06, 3.07, 30.03 and Block 17, Lots 1, 2, and 12.10/PB-4-07-2, Crystal Springs Builders, L.L.C., Preliminary and Final Subdivision; Preliminary and Final Site Plan, *Crystal Springs North, Phase II*, Block 14, Lots 22.01 and 22.04:** The matters were carried to the meeting of July 26, 2007.

#### **APPLICATIONS:**

**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, [carried to September 27, 2007;]** Chairman Miller confirmed that the matter was carried to September 27, 2007 without further notice.

**PB-12-06-3a, AMENDED [added Final Site Plan] AMARC Realty, L.L.C., Preliminary and Final Major Subdivision, Preliminary and Final Site Plan, Variance, Block 64, Lot 8.01:**

Mr. Rougharden appeared on behalf of the Applicant. Thomas F. Graham, P.E., confirmed that he had not submitted additional information for the Board's review. He submitted Exhibit A-9, titled *Building Elevation*, prepared by T.E.H. Architects, which shows the front façade of the building.

Mr. Graham presented Exhibit A-10, color samples of the building's stone and trim. Mr. Miller requested additional dressing on the building. Mr. Citarella stated he is willing to put shutters and dressing on the building to approve the appearance. Mr. Collins confirmed that Mr. Citarella was previously sworn.

Mr. Graham discussed outdoor storage and noted that the second building pad would be utilized as temporary storage. He submitted Exhibit A-11, *Temporary Storage Plan*, 6/26/07, showing the 120' x 200' area and the chain link fence and gate. He stated the Applicant understands the use is not permitted and this is a temporary solution. Ms. Hamilton stated "temporary" must be defined.

Referencing Exhibit A-12, *Landscaping*, sheet 1 of 1, dated 6/26/07, Mr. Graham stated that the Applicant would provide landscaping in the area of the sign. He stated that the plan is similar to the other industrial areas in town. Mr. Miller asked about the old machinery stored on the site and asked about a row of trees or bushes to discourage dumping. Mr. Citarella agreed to provide additional plantings. He stated he would like to plant dogwood or maple trees. Mr. Graham suggested that red maples with a 2.5-3' caliper would be appropriate. Mr. Citarella noted that the tenant that has the junk stored on the site has been asked to leave.

Referencing Exhibit A-13, titled *Site Lighting*, dated 6/26/07, Mr. Graham explained the plan. Chairman Miller explained that the matter would need to be carried in order to allow the Board and the engineer to review the matter.

Mr. Collins inquired about septic feasibility. He requested deed restrictions and notations on the plat concerning the percentages of space defining what is warehouse and what is office to ensure that NJPDES permits are not triggered by going over 2000 gallons. Mr. Guerin stated he would like to see specific numbers in the deeds. He suggested that the deeds be filed concurrently with the final plat. Mr. Collins noted that he wanted notice to the buyer of the lot and users of the building in the deeds so that no more than so many square feet of building one shall be office. Mr. Citarella expressed concern about carrying the matter. Chairman Miller noted that without plans to review, there would be no approval given.

With reference to outdoor storage, Mr. Rougharden stated that the Applicant is 100% willing to cooperate with the Board's request to clean up the site regarding the existing outdoor storage. He stated that the Superior Court judge threw the case out, the Township's Zoning Officials complaints were dismissed and the Township permits the outdoor storage. He stated the client will limit all future tenants and that any outdoor storage must be approved by the Township. He stated there is nothing the Applicant can do about what is there now. He stated the Township Zoning official is not doing anything and the Township attorney dismissed the matter.

Mr. Roughgarden confirmed that attempts to evict were not successful. Mr. Roughgarden presented rent issues and zoning issues. Mr. Citarella stated the lease is in effect for three years from October 2006. He stated the lease is for a large portion of the lot. He stated the amount of storage area is in dispute. Mr. Collins stated that if the tenant storage issue can not be resolved in accordance with the ordinance, there is a jurisdictional issue. He inquired how the use can be kept at the Planning Board. Mr. Roughgarden stated all the Applicant has been doing is trying to clean up the site. He stated he has written confirmation of existing violations.

Mr. Collins noted that the matter before the Board is *tabula rasa*. He stated the Board can not increase a preexisting nonconformity of the use through subdivision.

With regard to time limits, Mr. Roughgarden stated the Applicant can not enforce the zoning ordinance. He explained court events. He stated the Applicant is not applying for a preexisting use and the Applicant is not interested in having them continue that use. He stated the Applicant has been roadblocked from eliminating the use. He stated he does not want Reelcology to stay and continue the use.

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

Board members discussed time limits. Mr. Collins stated that time limits involve the right to record the subdivision and exercise the right to draw permits and Certificates of Occupancy. Mr. Collins stated that he did not believe that the subdivision could be recorded with the tenant in place. Mr. Collins noted that he would look into the matter. Board members requested the history of resolutions in the matter.

Chairman Miller suggested further review between the attorneys and suggested the matter carry.

A motion to carry the matter to July 26, 2007 at 7:30 p.m., without further notice with the plans being in at least 10 days prior to the hearing was made by Leslie Hamilton and seconded by John Monell. All were in favor. The motion carried.

**PB-8-06-1, Mogavero, Gerard c/o Frank Mogavero, Minor Subdivision, C Variances, Block 67 Lot 25.01:** William T. Haggerty, Esq., appeared on behalf of the Applicant and requested to carry the matter to a future meeting with notice. A motion to dismiss without prejudice was made by Leslie Hamilton and seconded by John Monell. Roll Call: Leslie Hamilton – yes, Robert Schultz – yes, John Monell – yes, James Homa – yes, Stanley Kula – yes, Carl Miller – yes. The motion carried.

The Board recessed at 8:55 p.m. The meeting was called to order at 9:10

**PB-3-05-1b, CJS Investments, Inc., Preliminary and Final Major Subdivision, “C” Variances, Block 63 Lots 26 and 27:**

**BILLS:** Board members reviewed the bills cited below. A motion to approve the bills was made by James Homa and seconded by Leslie Hamilton. All were in favor. The motion carried.

#### HARDYSTON TOWNSHIP PLANNING BOARD

#### ESCROW REPORT

JUNE 28, 2007

Vogel, Chait, Collins AND Schneider

Invoice 43742	Planning OE	\$	185.00
Invoice 43743	PB-12-06-1, Ridgefield Commons, L.L.C.,		75.00
Invoice 43744	PBC-6-03-1, Senyszyn.Hook,		105.00
	[Brecia Farms]		

Invoice 43840	PB-11-05-3, Crystal Springs Builders, L.L.C., [Ordinance Amendment]	5460.00
Invoice 43747	PB-4-07-1, Sussex Natl. Development [Crystal Springs II Master Plan Amendment]	645.00
Invoice 43750	PB-10-06-4, Crystal Springs Builders, L.L.C., [Crystal Springs North, Phase II]	525.00
Invoice 43751	MCS-01, Crystal Springs Builders, L.L.C., [Hayloft Winery]	210.00
Invoice 43748	PB-12-06-3, AMARC Realty, Inc.	525.00
Invoice 43749	PB-12-06-4, Leidenfrost, R.	75.00
Invoice 43752	PB-10-05-1, Richter, T.	150.00

**Guerin & Vreeland Engineering, Inc.**

Invoice WO626H	PBC-6-03-1, Senyszyn.Hook	237.50
Invoice WO525Y	PB-1-03-2, Toll Bros., Inc., [The Briars]	200.00
Invoice WO600J	PB-3-05-1, CJS Investments, Inc.	380.00
Invoice WO707G	PB-10-06-4, Crystal Springs Builders, L.L.C., [Crystal Springs North]	950.00
Invoice WO379FF	MCS-01, Crystal Springs Builders, L.L.C.,	95.00
Invoice 632E	MCS-01, Crystal Springs Builders, L.L.C.,	345.00
Invoice WO401UU	PB-11-05-3, Crystal Springs Builders, L.L.C., [Ordinance Amendment]	2232.50

**Guerin & Vreeland Engineering, Inc., (continued)**

Invoice WO439Y	PB-4-07-1, Sussex National Development, Inc., [Crystal Springs II Master Plan Amendment]	\$ 665.00
Invoice WO604X	PB-4-05-3, Crystal Springs Development, L.L.C., [Grand Cascades]	1757.50
Invoice WO723E	Planning OE	665.00
Invoice 713C	PB-10-06-2, Metra Industries, Inc.,	285.00
Invoice WO663F	PB-12-06-3, AMARC Realty, L.L.C.,	950.00
Invoice WO720I	PB-12-06-2, Pottersville Properties, L.L.C., [Ridgefield Commons V]	1315.00

**Heyer, Gruel & Associates**

Invoice 26928	PB-11-05-3, Crystal Springs Builders, L.L.C., [Ordinance Amendment]	2495.00
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incomplete and deny the waivers for completeness without prejudice to the right of the Applicant to address those waivers at the July 26, 2007 was made by Leslie Hamilton and seconded by James Homa. Roll Call: Leslie Hamilton – yes, Robert Schultz – yes, James Homa – yes, John Monell – yes, Stanley Kula – yes, Carl Miller – yes. The motion carried.

The Board reviewed a special meeting request in the matter of Crystal Springs Builders, L.L.C., Village Center Ordinance. A motion to grant the request was made by Leslie Hamilton and seconded by John Monell. Roll Call: Leslie Hamilton – yes, Robert Schultz – yes, James Homa – yes, John Monell – yes, Stanley Kula – abstain, Carl Miller – yes. The motion carried. The Board granted the request and a meeting date of August 8, 2007 was set.

**DISCUSSION:** Board members discussed lot disturbance variances. Mr. Collins provided an update in the matter of COAH. He stated the Supreme Court gave COAH until the end of the year to revise the rules by the end of the year.

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

**ADJOURNMENT:** A motion to adjourn was made by Leslie Hamilton and seconded by James Homa. All were in favor. The meeting was adjourned at 9:30 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm