

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING HELD JUNE 7, 2007**

**CALL TO ORDER:** Chairman Carl Miller called the meeting to order at 7:30 p.m.

**STATEMENT OF COMPLIANCE:** Pursuant to the Open Public Meetings Act, Chapter 231, P.L. 1975, adequate notice as defined in Section 3D of Chapter 231 P.L. 1975 has been made to the New Jersey Herald and is posted on the Bulletin Board at the Hardyston Township Municipal Building.

**ROLL CALL:**

William Walsh	Excused
Santo Verrilli	Excused
Gerald Laughlin	Excused
Candace Leatham	Present
Mary Ann Murphy	Present
Roger Kabbash	Excused
Hugh Krone (Alt. 2)	Present
Carl Miller	Present

**OTHERS PRESENT:** Michael G. Vreeland, P.E., Richard Briigliodoro, Esq., Anne-Marie Wilhelm, Secretary.

**APPROVAL OF MINUTES:** A motion to approve the *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held April 5, 2007* was made by Candace Leatham and seconded by Mary Ann Murphy. Roll Call:

**APPROVAL OF RESOLUTIONS:** There were no resolutions scheduled.

**APPLICATIONS: ZB-3-07-1, Schappert, Christopher M., Interpretation, "D" Variance, Minor Subdivision, "C" Variance, Block 17 Lot 12.08:** William T. Haggerty, Esq., appeared on behalf of the Applicant. Board members reviewed completeness issues. Mr. Haggerty presented the Applicant's intent to bifurcate the case and proceed with an interpretation review. Mr. Haggerty explained that the Applicant seeks an interpretation to determine if the subdivision could be a three-lot subdivision. Mr. Vreeland confirmed that the matter was technically complete for the purposes of an interpretation review.

Robert Michaels, P.P., and Christopher Schappert were sworn. Mr. Haggerty explained that the 4.212-acre property is vacant except for a well that services a residence across the street. He stated the Applicant proposes to create three residential lots.

Mr. Schappert stated he would like to construct single-family homes between 3,000 and 4,000 sq.ft. in size. Mr. Michaels provided his credentials and was accepted by the Board as an expert witness. He submitted Exhibit A-1, a colored rendering of the tax map that was on the plans submitted that identifies the property; and Exhibit A-2, an aerial photograph of the subject property and surrounding area and six photographs taken in March 30, 2007. Utilizing the exhibits, Mr. Michaels identified the subject property and he described the surrounding properties for Board members. He noted that there are many homes in the general area with smaller lots as well as many townhouses. He stated single-family homes are permitted in the CR Zone pursuant to the MIDD III Zone. He asked for an interpretation as to whether it is one unit per acre or .3 units per acre. He stated the proposed lots are 1.4 acres in size. He stated that at .3 units per acre, only one dwelling would be permitted on the property. He stated the Applicant is seeking a density of .7 units per acre.

Mr. Michaels stated that the application meets the special reasons criteria for granting a density variance. He stated there are three purposes of planning advanced by the application. He noted that the property is uniquely suited to the proposed use. Referencing the special reasons

listed in the preamble to the M.L.U.L., Mr. Michaels stated that the proposal would advance the purposes of the Municipal Land Use Law through (a,) the encouragement of municipal action to guide the appropriate use or development of all lands in the state in a manner that will promote the public health, safety, morals, and general welfare. He stated the Applicant is also promoting (d,) which is to insure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the colony, and the state as a whole, and (e,) which is to promote appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities, and regions and the preservation of the environment. He stated these purposes of planning are met because the general welfare is being advanced since the proposed lots conform to the neighborhood development pattern. He stated the lots are not inconsistent with what is going on with the neighboring lots in Hamburg Borough. He noted the higher concentration of development across in the Inverness townhouse section. He stated the proposal is consistent and compatible with the neighboring property. He stated the property is distinguishable from the others in the area and the property is uniquely suited given the surrounding land uses and its location. He noted that the property is in the same zone as the Crystal Springs development. He stated the property abuts the golf course and overall Crystal Spring's development and neighbors will not be adversely affected by the proposal.

With reference to the negative criteria, Mr. Michaels stated the variances can be granted without a substantial detriment to the public good. He noted that the proposal fits the neighborhood scheme, the lots will be larger than some of the lots in the neighborhood, and the location of the houses back, off the road, are found within the neighborhood. He stated the residential use is the same that exists in the neighborhood and the dwellings can be sided and landscaped to compatibly fit in with the adjacent golf course. Mr. Michaels also stated that the variances can be granted without substantially impairing the intent and purposes of the zone plan and zoning ordinance. He stated this can be done because the property is located in the CR Zone, which allows a variety of residential uses. He stated the proposal is compatible with the uses and variety of uses. He stated one of the Master Plan's objectives is to preserve and enhance the existing established rural, residential, and recreational character of Hardyston. He stated the proposal is consistent with the character of the neighborhood and the character of existing development within the immediate neighborhood. He stated the density of the residential development is compatible with the neighboring development pattern located in Hamburg. He stated the burden has been met for a density variance should the Board determine that the variance is needed. Mr. Michaels noted that if the property were part of Crystal Springs, a higher density could be sought. Mr. Michaels noted the driveway would be located on the east side of property nearest the golf course and away from neighbors. He stated there is better sight distance in that location. It was noted that some trees might have to come down to do the driveway. He stated the proposal would be a good transitional use. He noted one home on the parcel would be out of character with the area.

Richard Brigliadoro, Esq., provided an overview of the applicable zoning requirements. He stated that the bulk requirements of the MIDD III zone apply. He stated the .3 units per acre is the maximum permitted density. Mr. Vreeland noted that design standards and bulk standards apply across the MIDD district. He noted that density is the factor that varies amongst the MIDD districts. He explained that the density requirements in the MIDD III applicable to the subject proposal would permit 1.4 lots. He noted each of the lots would be subject to the MIDD X design standards with regard to the maximum lot disturbance, the location of the building envelope, the yard requirements, and the minimum lot size. He stated the intent was that if there was a large tract, there would be a clustering of the houses to a relatively small portion of the tract and to leave as much open space as possible. He stated the objective was to minimize the impact of development.

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

A motion to find the MIDD III density of .3 units per acre applies in the matter was made by Carl Miller and seconded by Candace Leatham. Roll Call: Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes, Hugh Krone – yes, Carl Miller – yes. The motion carried.

With reference to the "D" Variance application, Chairman Miller noted that the matter was technically incomplete. Mr. Vreeland stated that he believed the "D" Variance should not be

bifurcated from the subdivision application. Mr. Vreeland noted that the items missing from the subdivision application are critical. He stated that the location of the building envelopes is also critical, as well as maximum lot size, and lot disturbance. Chairman Miller noted that additional information would be necessary. He inquired about the presence of wetlands. He noted that the Crystal Springs project has densely populated areas but also has open space. Mr. Vreeland noted that Crystal Springs is in the sewer service area, unlike the subject proposal.

Mr. Haggerty requested that the Board retain jurisdiction. Chairman Miller noted that the Board has jurisdiction. He asked the Applicant to provide the information requested and explained the hearing procedure.

A motion to carry the matter without further notice to the meeting of July 5, 2007, at 7:30 p.m. was made by Roger Kabbash and seconded by Hugh Krone. Roll Call: Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes, Hugh Krone – yes, Carl Miller – yes. The motion carried.

**BILLS:** A motion to recommend payment of the bills noted below was made by Candace Leatham and seconded by Mary Ann Murphy. All were in favor. The motion carried.

**HARDYSTON TOWNSHIP ZONING BOARD  
ESCROW REPORT  
JUNE 7, 2007**

**Richard Briigliodoro, Esq.**

Invoice108969	Zoning OE	\$525.00
Invoice108970	ZB-3-07-1, Schappert, C. [ZBC-8-06-3, ICMS Enterprises, Inc.]	330.00
Invoice 108971	ZB-4-07-1/PB-1-05-1, Cor Jesu Mission Fund, Inc.,	165.00

**HARDYSTON TOWNSHIP ZONING BOARD  
ESCROW REPORT  
JUNE 7, 2007  
ADDENDUM**

**Michael G. Vreeland, P.E.**

Invoice WO708C	ZB-10-6-1, Crystal Springs Builders, L.L.C.,	\$ 285.00
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**CORRESPONDENCE:** There were no comments.

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

**DISCUSSION:** Board members reviewed a letter submitted by a former Applicant, David and Deanna Gutt, requesting a reconsideration of a decision. Mr. Briigliodoro marked the letter for the Board's file. He stated the letter did not provide any zoning reasons or legal reasons for a reconsideration. Mr. Briigliodoro explained *res judicata* and stated that the Board's decision is final.

Chairman Miller made a motion to authorize Mr. Briigliodoro to write a letter to the Applicant explaining the Board's position that there are no grounds for a reconsideration. Candace

Leatham seconded the motion. Roll Call: Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes, Hugh Krone – yes, Carl Miller – yes.

Chairman Miller discussed conditions in the matter of ZB-5-06-1, Collins, Daniel S., C Variance, Minor Site Plan, Block 49, Lot 43. He stated conditions two and three of the resolution have not been addressed. The Board requested the Land Use Administrator notify the Zoning Official of the violation and requested status reports on any enforcement actions.

**ADJOURNMENT:** Having no further business, a motion to adjourn was made by Candace Leatham. All were in favor. The motion carried. The meeting was adjourned at 8:45 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm  
Board Secretary