

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING HELD JULY 6, 2006**

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	Present
Gerald Laughlin	Present
Gary Bargiel	Excused
Candace Leatham	Present
Mary Ann Murphy	Present
Roger Kabbash (Alt. 1)	Present
Carl Miller	Present

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

APPROVAL OF MINUTES: A motion to approve the *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held May 4, 2006*, was made by Santo Verrilli and seconded by Mary Ann Murphy. Roll Call: Santo Verrilli – yes, Gerald Laughlin – yes, Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes, Carl Miller – yes. The motion carried.

APPROVAL OF RESOLUTIONS: ZB-2-06-1 [ZB-7-00-2,] Boyer, Jeffrey D. “D” Variance, Block 75 Lot 17.04: A motion to adopt the memorializing resolution was made by Santo Verrilli and seconded by Gerald Laughlin. Roll Call: Santo Verrilli – yes, Gerald Laughlin – yes, Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes. The motion carried.

APPLICATIONS:

ZB-5-06-1, Collins, Daniel S. “C” Variance, Minor Site Plan, Block 49, Lot 43:

Mr. Daniel S. Collins was sworn. He stated that the reason for asking for the variance was due to his daughter’s medical condition. He stated that she is scheduled for additional surgery and would benefit from the physical therapy opportunity afforded by a pool. He stated the pool would help as it would have a railing to hold onto and a flat surface to walk on. He explained that the lake is unswimable at times and that he did not want to risk infections. He stated that all of his daughter’s doctors have recommended a pool.

Mr. Collins submitted a series of exhibits as follows:

Exhibit A-1: an x-ray of Meaghan Collin’s femur;
Exhibit A-2: an x-ray of Meaghan Collin’s femur;
Exhibit A-3: a series of four photographs of the lakefront and beach area;
Exhibit A-4: a series of nine photographs of the Applicant’s yard; and
Exhibit A-5: a sketch of the pool in proximity to the home.

Mr. Collins stated that he could not put the pool in any other location as to the right there is less than 30' from the side line and to the left there is approximately 12' of property. He stated that the front yard is 20' x 20'. He stated that the backyard slopes down and there is room for the pool. Chairman Miller noted that the property contains a little more than 12,000 s.f. and the requirement is 15,000 s.f. He stated the one side of the property abuts a town road and the other side is the neighbor’s property. Mr. Collins stated the property is a corner lot and confirmed that

he could not obtain additional property to achieve conformity. He confirmed that there is no other location to put the pool in. He confirmed that the pool would be screened and fencing installed. He stated he would have no objection to removing the pool when he sold the house and would remove the pool when the therapeutic period was over.

Mr. Collins provided an overview of the site plan and explained that the area would be screened. He confirmed the pool is not permanent and would not be built into the ground.

Chairman Miller opened the meeting to the public. Mr. Allen Morales of 4 Lakeside Ave. stated he had no problem with Mr. Collins putting the pool in. He stated that Mr. Collins is a great neighbor and very responsible. He stated he did not believe the addition of the pool would have a negative impact on his property. No other members of the public addressed the Board. The meeting was closed to the public.

Board members reviewed an aerial photograph of the property submitted by Michael G. Vreeland, P.E., and marked as Exhibit B-1. Michael G. Vreeland, P.E., was sworn. He provided an overview of applicable ordinances. He noted that Mr. Collins's septic is located in the side yard. Chairman Miller noted that it was virtually impossible for the Applicant to conform to the ordinance. Mr. Briadoro noted that the property is unique in that it has three front yards. He stated the ordinance permits a pool in the side or rear yard and the Applicant is limited by the unique circumstances particular to the application. Mr. Miller stated this is compounded by the unique size and shape of the property. Mr. Miller stated that the spirit of the ordinance that designates the front yard as the back yard on lake front lots prohibited construction on the lakeside to avoid visual obstructions.

Upon inquiry, Mr. Collins noted that he has joined the Y and it is difficult to get there. He stated it would be an immense help to have the pool.

Mr. Briadoro noted that the application is a unique situation as the property has three front yards and the Applicant is limited by the circumstances.

Chairman Miller expressed concern with setting a precedent. He stated that the situation is unique. He noted the pool is for therapeutic use during a rehabilitative period, it is not permanent, and would be taken down when it is not needed. Michael G. Vreeland, P.E., suggested landscape screening.

A motion to approve the "C" Variance subject to the conditions noted above was made by Santo Verrilli and seconded by Roger Kabbash. Roll Call: Santo Verrilli – yes, Gerald Laughlin – yes, Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes, Carl Miller – yes. The motion carried.

Mr. Briadoro explained Municipal Land Use law procedures. Chairman Miller noted that the Applicant waived the reading of the resolution.

ZB-4-06-1, Shotmeyer Brothers, Inc., "D" Variance, Preliminary and Final Site Plan, Block 16, Lot 2.01. Board members reviewed a request to carry the matter. A motion to carry the matter without further notice was made by Candace Leatham and seconded by Roger Kabbash. All were in favor. The motion carried.

ZB-6-06-1, SECTV of NJ, Inc., Interpretation, Variance, Conditional Use, Preliminary and Final Site Plan, Block 20, Lot 16.01: M. Richard Valenti, Esq., appeared on behalf of the Applicant. He stated that the Planning Board gave approval in 1987 for two satellite dishes currently on the site. He stated the applicant proposed to keep the two dishes and add three more.

Jason Dunn, P.P., Landscape Architect, and Larry Shewack of SECTV were sworn.

Board members reviewed the attached report of June 23, 2006, prepared by Mr. Vreeland. He stated he had no objections to the waiver requests. A motion to grant the waiver requests for completeness only was made by Carl Miller and seconded by Roger Kabbash. Roll Call: Santo

Verrilli – yes, Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes, Carl Miller – yes. The motion carried.

Mr. Larry Shewack stated the two existing dishes were installed in the 1980's and are obsolete. He stated that one has been removed from a mount and the remaining dish is providing all the service. He noted that over the years, satellite spacing was dropped 2 degrees to address overcrowding. He stated that the current dish, installed when 4 degrees was used, is having problems pulling from satellites located at 2 degree spacing. He stated that the installation of two additional antennae would enable the reception of most of the arc resulting in increased reliability and quality from the dishes as well as providing the company with the option to go forward with services. He stated the third dish would be for back-up in the event of electronic failure. He confirmed that the dishes receive only and do not emit waves.

Mr. Valenti submitted Exhibit A-1, a Planning Board resolution decided on March 2, 1987, and read the first paragraph of the approval. Mr. Shewack confirmed that the 1987 approval permitted the installation of three dishes and the existing 200' tower. He testified that the proposed dishes could not be placed on the existing tower due to weight and wind load prohibitions. He stated the dishes were designed to be ground mounted. He stated smaller dishes could be used but are not as reliable. He explained that each dish is 14' wide and 16' high. He noted that the dimensions of the concrete pad for each dish total 4' x 4'. He noted that 6-8 feet spacing between the dishes would be required and there would be spacing between the concrete pads. Mr. Valenti noted that the 168 s.f. pad would be within the fenced facility.

The Applicant's planner, Mr. Dunn, was qualified and accepted by the Board as an expert witness. He stated that the overall tract is 140 acres. Referencing Exhibit A-2, a series of photographs of the site, he provided an overview of the site including the dish to be replaced, the access drive, the 200' tower, and an aerial photo of the property. He noted the nearest residence is over 1000 ft. from the site. He noted that the back of the property abuts the Hamburg Wildlife Preserve and very little of the property would need to be cleared. He stated that the new dishes would not be seen from the road due to the wooded nature of the area. Mr. Shewack testified that the dishes would not produce smoke or odors and they are strictly receiving dishes.

With respect to the benefits that would accrue to the three proposed dishes, Mr. Dunn stated the dishes are an inherently beneficial use and it was confirmed that SECTV participates in emergency broadcasts. Mr. Dunn noted that the site has existing structures and there would be minimal disturbance to the land. He stated that the application is consistent with the Hardyston Township Master Plan. He stated that the disturbance is less than 1/100th of one percent of the entire tract. Mr. Valenti stated that the dishes would be permitted but for the fact that they are on the ground and not collocated on the tower. Mr. Valenti stated that if the dishes were located on the tower or on land that was owned by a governmental entity they would be permitted.

Mr. Schewack stated no additional employees would be required for the site and the hours of operation would remain the same.

Mr. Dunn confirmed that one requirement of the conditional use criteria, i.e., that the ownership of the property is the municipality, was not satisfied. With referenced to the conditional use criteria, he stated the application meets all criteria but for the ownership issue. He clarified the distance between the fenced area and property line and stated the closest distance to the property line is 100'. He stated that the adjacent property is the Wildlife Refuge and the nearest property line to a residence is over 1000 ft. He noted that the road into the site is approximately one mile and is far removed. He stated that there would be no detriment to the public good should the Board approve the matter. He stated he did not see any evidence of wetlands or buffer areas that would impact the application and agreed to provide a written statement affirming same. With reference to the dish, he stated the receivers would comply with the ordinance as to setback, height, and land area conditions.

Mr. Verilli asked if there were negatives. Mr. Dunn noted that the dishes could not be located on government property as it is not feasible. He stated that the site has a clear view to the sky and any other location would require a lot more disturbance to the land.

Mr. Verilli asked if there were any health concerns. Mr. Shewack stated there were none. He stated he did not know the location of other dishes in the County and Mr. Shewack noted the

dishes serve both Sussex and Warren County. Mr. Shewack noted that he would like to keep the obsolete dish as a back up.

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

Chairman Miller stated that while not collocating, the dishes would still be in the same compound and that would minimize visual impacts. Mr. Vreeland affirmed that the Applicant should submit a wetlands letter.

Mr. Valenti noted that a recent trial court case found that an ordinance requirement that the use be located on municipal land was found to be invalid.

A motion to grant the conditional use variance and preliminary and final site plan application was made by Carl Miller and seconded by Gerald Laughlin. Roll Call: Santo Verrilli – yes, Gerald Laughlin – yes, Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes, Carl Miller – yes. The motion carried.

BILLS: A motion to recommend payment of the attached bills was made by Candace Leatham and seconded by Roger Kabbash.

CORRESPONDENCE: No comments were noted.

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

ADJOURNMENT: Having no further business, a motion to adjourn was made by Santo Verrilli. The meeting was adjourned at 8:45 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm
Board Secretary