

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING HELD AUGUST 3, 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	Present
Santo Verrilli	Present
Gerald Laughlin	Present
Gary Bargiel	Present
Candace Leatham	Present
Mary Ann Murphy	Present
Roger Kabbash (Alt. 1)	Present
Hugh Krone	Present
Carl Miller	Present

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

Richard Briigliodoro, Esq., administered the Oath of Allegiance to Mr. Hugh Krone. Chairman Miller welcomed Mr. Krone on behalf of the Zoning Board of Adjustment.

APPROVAL OF MINUTES: A motion to approve the Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held July 6, 2006, 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, Carl Miller – yes. The motion carried.

APPROVAL OF RESOLUTIONS:

ZB-5-06-1, Collins, Daniel S. “C” Variance, Minor Site Plan, Block 49, Lot 43: A motion to adopt the memorializing resolution was made by Santo Verrilli and seconded by Candace Leatham. Roll Call: Santo Verrilli – yes, Gerald Laughlin – yes, Candace Leatham – yes, Mary Ann Murphy – yes, Roger Kabbash – yes, Carl Miller – yes. 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: A motion to adopt the memorializing resolution was made by Roger Kabbash 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.

APPLICATIONS: ZB-4-06-1, Shotmeyer Brothers, Inc., “D” Variance, Preliminary and Final Site Plan, Block 16, Lot 2.01: Jerome A. Vogel, Esq., appeared on behalf of the Applicant. Richard Briigliodoro, Esq., confirmed that notice was in order. Mr. Vogel presented that the property is located in the Commercial Recreation District. He stated that the property is long and narrow and that at least half of the property contains restricted wetlands and transition areas that can not be used. He stated that the NJDOT (New Jersey Department of Transportation) has taken a good portion of the property.

Mr. Vogel stated that Applicant requests a use variance for a car wash and a 10,000 sq.ft. building for commercial uses. He stated prospective uses are a restaurant with a drive-thru and a bank with a drive-thru. He noted there are no specific users at present. He noted that he

obtained an approval in 1989, prior to current regulations and ordinance changes. He suggested that the proposed uses are not consistent with the Commercial Recreation Zone.

Michael John O’Krepky, P.E., 12 Dana Drive, Lafayette, N.J., was sworn, qualified, and accepted by the Board as an expert witness. He stated the site contains 12.522 acres in Hardyston Township and a small contiguous piece located in Vernon Township. He stated the wetlands constrain the development of the property and limit development to the narrowest portion of same. He stated the Applicant recognizes the zoning requirements for both the Commercial Recreation Zone and the B-2 Zone.

Mr. O’Krepky presented Exhibit A-1, a map illustrating 1.71 acres of NJDOT taking as well as the wetlands and transition areas. He noted that the wetlands and transition areas comprise approximately 50% of the property. He stated the DOT is adding a detention basin on the property. Mr. Vogel stated the basin is designed to take water from the roadway that will be collected via various catch basins that will feed into a routing system. He stated the site’s access points have been renewed and result from the previous 1989 approval. He presented they would need to be reevaluated by the NJDOT in view of the change of use. He stated the narrow end of the property affected how the buildings were shaped. He stated that the Applicant cannot comply with the Commercial Recreation Zone requirements. He stated the Applicant applied B-2 Zoning requirements and would still require variances due to the above-noted restraints. He stated that Rt. 94 is at the front of the property and the railroad line is located at the rear of the property. He confirmed there is no ability to add to the property due to the physical constraint of the railroad.

Referencing sheet 4 of 10 of the site plan, Mr. O’Krepky provided an overview of the site’s circulation plan. With reference to the southwesterly portion of the property, he stated that the site’s design and size of the buildings accommodates the traffic flow in and around the structures and is consistent with current standards established by the Institute of Traffic Engineers. Referencing sheet 9 of 10 of the site plan, Mr. O’Krepky provided an overview of traffic patterns for the proposed car wash and oil change facility. He stated the access ways and parking stalls either meet or exceed The American Association of State Highway and Transportation Officials (hereinafter “AASHTO”) standards. He noted the minimum turning radius conforms to AASHTO standards. He stated all the turns meet the minimum turning radius requirements.

With reference to the southerly portion of the property, he stated parking requirements for the one-story 10,000 sq.ft. flex-use building meets the B-2 Zone requirements. He stated that if the Commercial Recreation Zone requirements were followed, the setbacks could not be met and only a small portion of the property could be utilized. He stated the total buildable area is 12,054 sq.ft. out of a total of approximately 12 acres. He stated the application of B-2 Zone requirements cannot be met for minimum lot width and the front yard setback.

With reference to the easterly portion of the site and the flex use building, Mr. O’Krepky stated the turning radius and parking meet or exceed industry standards.

Mr. O’Krepky provided an overview of the applied design standards. Referencing sheet 10 of 10, he noted that there are no significant fill or cuts on the plan. He noted that the lighting plan shows a minimum of .5 foot candles for all of the parking areas.

Mr. Verrilli asked for the minimum parking space requirement and Mr. O’Krepky stated that the Ordinance requires a minimum of 24 stalls and 30 stalls are proposed. For the office flex space requires 52 stalls and 56 stalls are proposed. He confirmed that the total number of stalls equals 86.

With reference to the Vernon portion of the property, Mr. O’Krepky stated that there is no development proposed because it is wetlands. He stated that the portion of the property is in Vernon’s C-2 Zone. Mr. Vogel confirmed that the Vernon portion of the property would never be developed.

Chairman Miller opened the meeting to the public for questions for the witness. No members of the public addressed the Board. The meeting was closed to the public.

Jack O’Krepky, P.E., P.P., 12 Dana Drive, Lafayette, New Jersey, was sworn, qualified, and accepted as an expert witness. He stated the whole corridor contains commercial and retail uses. He stated that applying the Commercial Recreation ordinance to the property is not appropriate in view of the historical activities of the zone. He stated the zone was written around Wild Turkey’s plans, particularly the reference to the lot size requirement of 200 acres. He stated the only use the zone would permit would be a golf putting business, a public swimming pool, or a tennis court. Mr. Guerin noted that the proposal is for a shopping center, which is a conditionally permitted use. Mr. O’Krepky stated that the Applicant cannot fit a shopping center on the property. He stated the Applicant is proposing a service type use. He stated he did not agree with stepping down the economic best use of the property. He stated the proposed uses would not violate the Master Plan as it is consistent with the uses in the area and in the adjacent town. He stated he could not think of a negative impact to the community.

Chairman Miller opened the meeting to the public for questions to the witness. No members of the public addressed the Board. The meeting was closed to the public.

Mr. Wayne T. Johnson, P.P., Architect, 397 Franklin Ave., Wyckoff, was sworn, qualified, and accepted by the Board as an expert witness. He presented Exhibit A-2, an architectural plan for the flex building on the larger portion of the site. He stated that the building is close to the road and conforms to the height requirement. He stated the building’s L-shaped design is broken up to extenuate the curve of the highway. He presented Exhibit A-3, a colored architectural plan of the carwash. He stated the façade is broken up to avoid monotony. He stated there is a significant amount of trim on both buildings to add style. He presented Exhibit A-4, the floor plan of the flex building, which is truncated to allow for the drive-thrus. He stated the main entrance is located at the vortex of the L and subordinate entrances are located at the ends.

Mr. Johnson stated he believed the buildings are distinctive and that he believes the buildings work with the community. He confirmed that the Applicant is hoping for a bank as a tenant. He confirmed that the building could also accommodate a fast-food restaurant. He stated the building could potentially service five tenants, depending upon uses.

Chairman Miller opened the meeting to the public for questions of the witness. No members of the public addressed the Board. Chairman Miller closed the meeting to the public.

Chairman Miller informed the Applicant that the Board would prefer to bifurcate the application. He stated the Board would review the variance issues first.

With regard to variance issues, Mr. Vogel stated that the principal application was for the car wash and if on review of site plan it was found that the oil change use was not appropriate, it would be removed. He stated that if the lube bays were not compatible, they would be removed. With regard to the multi-use building, he stated the Board would not be locked into the uses.

Mr. Walsh asked if water and sewer allotments were in place for the site. Mr. Vogel stated that an agreement was in the works with the MUA for 3,000 gallons. Michael G. Vreeland, P.E., stated that MUA counsel is working on the issue. He stated there were no fundamental blocks to the allocation that he was aware of.

Chairman Miller stated that he believed the uses blend in with the other uses in the area and commended the architect for the presentation. Mr. Walsh stated he liked the buildings but was concerned about packing the site with many things. Mr. Verilli asked what it was being called. Mr. Vogel stated the best description of the proposal was *mixed use*. He stated the car wash would have its own access to Route 94 and the flex building would have its own access to Route 94. He stated it looks like two separate sites.

Mr. Guerin stated that from a planning standpoint the reason the proposal does not meet the definition of a shopping center is because the site is not connected. He stated based on the uses proposed, the site should be separated. Mr. Brigliadoro noted that if the oil change facility does not work on the site, the oil change facility would be removed.

Mr. Brigliadoro, referencing an April 4, 2006, letter forwarded by Mr. Vogel, read an excerpt stating that “Mr. Vogel is relying upon the Medici case decided by the New Jersey State Supreme Court in 1987 and in that case the Court held that the typical commercial use can be

described as a convenience to its patrons and as an inherent benefit to the general welfare for such use as any benefit to the general welfare derives not from the use itself but from the development of the site in the community that is particularly appropriate for that very enterprise.”

It was noted that the planning report prepared by John E. O’Krepky, P.E., P.P., dated 2/8/06, would be marked as Exhibit A-5.

A motion to approve the “D” Variance including the car wash, oil change facility, and flex building, subject to the stipulation that should uses be found not to fit during the site plan review process, they would be removed was made by Gary Bargiel and seconded by Candace Leatham. Roll Call: William Walsh – yes, Santo Verrilli – yes, Gerald Laughlin – yes, Gary Bargiel – yes, Candace Leatham – yes, Mary Ann Murphy – yes, Carl Miller – yes. The motion carried.

The Board recessed from 9:00 p.m. – 9:10 p.m.

Mr. Vogel stated two lube bays were removed in response to comments made by Robert P. Guerin, P.E., P.P. He submitted a concept plan, marked as Exhibit A-6, for the Board’s review. He stated this plan was revised to remove the Jiffy Lube bays and add a self-serve car wash bay for a total of four traditional bays and one large-car wash bay. The Applicant provided an overview of traffic patterns and stacking. He stated that when a person drives into the site, they must decide to go to the self serve or full-wash car wash. He stated all the traffic decisions are made toward the rear of the property. He stated two lanes are proposed for cuing and if the line is too long they can go around. He stated there is plenty of parking for drying vehicles and there is parking for six cars to dry. He stated this differs from the original plan, which required stacking in front following a hard right turn. He stated the revised plan offers less of an opportunity for stacking along Route 94. He stated the building was flipped and the cars end up in the same area. He stated the architectural design would need to be modified. It was noted that most of the stack-up would be located behind the buildings. Chairman Miller requested revised architectural drawings. Mr. O’Krepky noted there is a capacity of 10 cars to stack in the rear of the building. He stated there is also increased efficiency on site. He stated additional relief is obtained by installing two lanes out and how this is applied will be determined by the NJDOT.

Mr. O’Krepky stated he based his parking design for the car wash section on service stations and garage requirements. Mr. Guerin suggested a review of parking schemes to reduce impervious coverage.

Mr. O’Krepky stated that the use of two dumpsters prevents potential tenant issues.

With reference to the flex-use building, Mr. O’Krepky stated parking was added to the area in front of the building. He noted the parking was located where the property gets wider and the person entering the site has direct access to the rear of the building. He stated there is no longer a drive thru in the rear of the building. He stated a loading zone was added to accommodate truck deliveries. He stated a bank drive-thru and pass-thru lane was added. An extended drive lane with bumpers was added. He stated that all the radii on site, including a right turn onto Route 94 S, accommodates truck turns. Chairman Miller requested an exhibit to demonstrate the turning radii. Mr. O’Krepky agreed to provide an exhibit that references standards.

Mr. O’Krepky asked if the Board would have a problem with a drug store drive-thru. Chairman Miller stated the Board would consider a bank drive thru only.

Mr. O’Krepky stated a sign variance would be required and that two signs would distinguish the uses. He stated the signs would conform to the ordinance.

With reference to the landscaping plan, Mr. O’Krepky noted that the plans would be revised to accommodate changes and that an aerial view of the landscaping plan would be submitted.

Mr. Vogel agreed to prepare a summation of variances and to submit fees in accordance with the schedule.

Mr. Vreeland suggested a review of the parking spaces in the detailing area and suggested a review of the one-way driveway. Mr. Guerin suggested that the north side dumpster be turned perpendicular to the drive aisle.

The matter was carried to the October 5, 2006, meeting without further notice. Chairman Miller noted that the stormwater management plan would also need to be addressed.

BILLS: A motion to recommend payment of the bills cited below was made by Santo Verrilli and seconded by Candace Leatham. All were in favor. The motion carried.

**HARDYSTON TOWNSHIP ZONING BOARD
ESCROW REPORT
August 3, 2006**

Richard Briigliodoro, Esq., Weiner Lesniak, LLP

Invoice 100381	ZB-2-06-1, Boyer, J.	\$ 42.00
Invoice 100382	ZB-5-06-1, Collins, D.	84.00
Invoice 100383	ZB-6-06-1, SECTV, Inc.	196.00

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ADDENDUM

Guerin & Vreeland Engineering, Inc.

Invoice WO616F	ZB-6-04-1, T.M. Brennan	\$142.50
Invoice WO688E	ZB-06-1 [PB-1-06-4], SECTV, Inc.	190.00
Invoice 682D	Zoning OE	380.00

The New Jersey Herald

Invoice 787401	Zoning OE: Legal Notice	17.30
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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 and seconded by Candace Leatham. All were in favor. The meeting was adjourned at 10:00 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm
Board Secretary