

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING HELD SEPTEMBER 1, 2011**

CALL TO ORDER: Chairman Murphy 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 Meeting Act, Chapter 231, P.L. 1975, adequate notice as defined in Section 3D of Chapter 231 P.L. 1975 was made to the New Jersey Herald, and a copy is posted on the bulletin board at the Hardyston Township Municipal Building.

ROLL CALL:

William Walsh – Present
Santo Verrilli – Present
Gerald Laughlin – Excused
Candace Leatham – Present
Roger Kabbash – Excused
Hugh Krone – Excused
Mary Ann Murphy – Present
James Homa (Alternate 1) – Present

OTHERS PRESENT: Richard Briigliodoro, Esq., Michael G. Vreeland, P.E., P.P.

APPROVAL OF MINUTES:

A motion to approve the *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held, August 4, 2011* was made by Candace Leatham and seconded by James Homa. Roll Call: William Walsh – yes; Candace Leatham – yes; James Homa – yes; Mary Ann Murphy - yes. The motion carried.

APPROVAL OF RESOLUTIONS: There were no resolutions scheduled.

APPLICATIONS: ZB-9-09-1(b), Edgewater Associates, Extension Request, Minor Subdivision, “C” Variance, Block 67, Lot 2.01 and Lot 2.02; ZB-9-09-1(a.1), Edgewater Associates, Extension Request, Preliminary Site Plan, Block 67, Lot 2.01 and Lot 2.02; and ZB-11-10-1(a), Extension Request, Edgewater Commons Office Park, L.L.C., Final Site Plan, Phase II, Block 67.17 Lot 2.01, Lot 2.02 – The matters were carried to the October 6, 2011 meeting with notice required.

ZB-6-11-01, County Wicklow Holdings, LLC, “D” Variance, Preliminary and Final Site Plan, “C” Variance, Solar Energy Facility, Block 62 Lot 6: George F. Sweeney, Esq., appeared on behalf of the Applicant. He stated the property is in the Medium Industrial Zone. He stated the Applicant seeks to install a number of solar panels on the existing building as well as on the vacant land. He stated the Applicant requests a “D” Variance and two bulk variances - one for the height of the panel on one side of the roof and the other for the height of a fence.

Richard Briigliodoro, Esq., explained the review process to be utilized in an inherently beneficial use case. Mr. Briigliodoro explained that even though the use is not permitted in the I-2 Zone, the Applicant does not have to prove the positive criteria because solar applications are inherently beneficial. He explained that the Applicant is required to address the negative criteria. He stated that the Applicant must show that the “relief can be granted without substantial detriment to the public good and the granting of the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.” Mr. Briigliodoro explained that the Board must identify the public interest at stake and the detrimental effect that would ensue if the variance were granted. He noted that the Board must also review whether or not the detrimental impacts could be reduced or eliminated by the imposition of reasonable conditions. He stated the Board must weigh the positive and negative criteria and determine, whether on balance, the granting of the variance would cause a substantial detriment to the public good. Mr. Briigliodoro noted that a

municipality can impose appropriate conditions on the use, and the municipality may exclude an inherently beneficial use when the negative impact of the use is significant.

Addressing procedural issues, Mr. Brioliadoro noted there were five Board members present. He stated the Applicant, at the conclusion of testimony, could carry a decision to the next meeting when additional Board members eligible to vote may be present.

Kenneth D. Dykstra, P.E., L.S., P.P., was sworn, qualified, and accepted by the Board as an expert witness. Applicant Kevin Byrne was sworn. Mr. Dykstra presented Exhibit A-1, titled *Solar Facility Plan Exhibit*, Preliminary and Final Site Plan, Block 62 Lot 6, #240 North Church Road, (Sussex County Route 631) Township of Hardyston, Sussex County, New Jersey, Sheet 1 of 1, dated 8/30/11, prepared by Kenneth D. Dykstra, P.E., L.S. He stated the subject property is 8.8 acres and is located in the I-2 zone. He stated the property has a 12,000 sq.ft. building containing 10,000 sq.ft. of dedicated warehouse and manufacturing space and 2,000 sq.ft. of office space. He stated a small parking lot is located in front of the building, and a loading area is located at the rear of the building. He stated the property is under-developed, as there is 10% impervious coverage at present; and the Hardyston Township Code permits 50% impervious coverage. Mr. Dykstra explained that 3.6 acres of the property would be cleared for a total disturbance of 4.8 acres. He explained the slope would be graded uniformly to install racking systems for approximately 3220 solar panels on the ground. He stated that 540 panels are proposed for placement on the principal building's roof, which he noted, could supply most of the building's power.

Mr. Dykstra stated the property is ideally suited to the project as to obtain coverage, it has a good angle to the sun; and once the facility is constructed, it is passive other than routine maintenance. He stated turf grass would be located under the panels and this would need to be maintained. He stated the height of the panels would range from 2' to 12'. Mr. Dykstra stated an inverter and transformer would be located in a building to be located behind the existing building. He explained the existing building would serve as a buffer, and no one would see the building other than the owner of the property. He stated an 8' black chain-linked fence is proposed in the interest of security so as to avoid access to the facility from the cemetery property.

With reference to visual impact, Mr. Dykstra stated the Applicant would maintain a 23-foot band of trees on the ridge, where what would be seen above the panels is a tree line. He stated the array of anti-reflective panels, which are tinted blue, will look like a sloping body of water from a distance. He noted the orientation of the racking system is such that the visual impact is minimized. He stated the plane is facing toward the street, and one would see very little of the racking system other than the very bottom of it. He stated the racking system can handle up to a 20° slope or a 36% grade. With reference to the reflection that would be seen when driving from Franklin, Mr. Dykstra explained that the panels are set at 30°, and the array is primarily set above the road. He stated the glare occurs above the surface of the road. Mr. Dykstra submitted Exhibit A-2, a photo of solar panels covering a hillside in Les Mees, France. Board members also reviewed photographs of the site dated 7/15/2011. Mr. Dykstra stated that when placed properly, the arrays can be very attractive.

With reference to the detriments, Mr. Dykstra stated the obvious detriment is the clearing of the trees, which could be cut for an industrial use. Mr. Dykstra stated the intent is to add energy to the grid. He stated the state is encouraging these type of developments. He stated this would reduce the general public's reliance on fossil fuels and large electric generation facilities. He stated the facility would be a substantial power generator and could supply enough energy for 150 homes. He stated one would not necessarily see a change to the local utility bills.

With reference to blending the facility into the natural environment, Mr. Dykstra stated the tree line and the trees located in the southeast corner of the property are being maintained. He stated natural vegetation will also be maintained around the property.

With reference to the site's maintenance, Mr. Walsh asked about the lack of striping on the existing parking lot, and if that has not been maintained, how would the panels be maintained. Mr. Byrne stated the current operation is a distribution business of replacement parts for commercial printing presses. He stated the parking lot is not striped, and the Applicant is willing to do so but would like to do so after the facility is built. Mr. Dykstra noted the Applicant has three employees and has made many improvements to the site.

Mr. Verrilli asked about the height of the proposed fence. Mr. Dykstra stated that the 8' height was chosen in the interest of security. Mr. Byrne stated that a 4' fence could be gotten over by virtually anyone.

With reference to the surrounding properties, Mr. Dykstra identified the cemetery, cell tower, the Hardyston Township DPW building, and single-family homes to the west, the quarry to the east, and single family homes across the street.

With reference to the sizing of the facility, Mr. Dykstra stated sizing was established to maximize the utilization of the property. He stated a goal is to provide as much power to the grid as possible. Mr. Dykstra discussed other potential industrial uses. He noted that additional development of the property could generate the need for another well and septic system resulting in more impact to the environment. He stated solar projects do not use any water, do not need a septic system, and do not increase run-off. He explained that because the subject area would change from a wooded area to a grassy area, run-off would be addressed via a recharge area. Mr. Dykstra stated the soils in the area are outstanding and are basically sand and gravel.

Michael G. Vreeland, P.E., P.P., expressed a concern about the stabilization of the slopes. Mr. Dykstra explained that the initial project was scaled back to allow for an increase in the spacing between the rows. He stated this additional space would increase the ease of maintenance and the penetration of additional sunlight to facilitate turf growth.

With reference to the project's development, Mr. Dykstra noted that the plan is to grade, stabilize and then install the racking system. He stated once stabilization has been achieved, the panels could be installed.

Referencing the requirements of Hardyston Township Code §185-125F, Mr. Briigliodoro asked how the Applicant would blend the facility into the natural environment. Mr. Dykstra stated the color of the panels is a bluish tint, the tree line and a section of trees in the southeast corner of the property would be maintained, and a buffer is located in the back. He stated natural vegetation around the property would also provide screening. He noted the property is well-oriented as it is "essentially a bowl that faces to the south." He confirmed the owner would be responsible for maintenance.

Referencing the requirements of Hardyston Township Code §185-125G, Mr. Briigliodoro asked about tree removal. He noted that the ordinance requires the placement of energy systems so that tree removal is not required to the extent reasonably possible. Mr. Dykstra stated there is tree removal needed, but it is an industrial zone. He acknowledged that the Applicant does not comply with the ordinance. He stated the Applicant would provide power to the grid that serves the public good.

Chairman Murphy opened the meeting to the public. No members of the public addressed the Board.

The Board recessed at 8:20 p.m. The meeting was called to order at 8:30 p.m.

Mr. Sweeney stated that the use is an inherently beneficial use. He asked the Board to note their concerns. He requested to carry the matter to allow for the participation of the full board and to allow Michael G. Vreeland, P.E., P.P., time to review the additional calculations presented regarding storm water. He noted that no neighbors appeared to object.

Mr. Homa asked who benefits from the site. He expressed concern about tree removal. He asked how the project benefits the residents of Hardyston Township. Mr. Verilli stated he did not like the height of the fence. He stated it bothered him that the application was all against the code. Chairman Murphy asked about buffering for the proposed fence. Mr. Walsh asked about the positive criteria and the storm water runoff. Mr. Vreeland asked if the size of the facility could be reduced with a utilization of additional buffers. Mr. Dykstra stated the Applicant would have to review the matter.

The meeting was continued to October 6, 2011 without further notice.

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

DISCUSSION: Board members discussed financial matters.

BILLS: A motion to pay the bills cited below was made by Santo Verrilli and seconded by William Walsh. Roll Call: William Walsh – yes; Santo Verrilli – yes; Candace Leatham – yes; James Homa – yes; Mary Ann Murphy - yes. The motion carried.

Guerin & Vreeland Engineering, Inc., Michael Vreeland, P.E., P.P.

Invoice WO855E	Zoning OE	\$	210.00
Invoice 781N	ZB-11-10-1, Edgewater Commons		157.50
Invoice WO868A	ZBC-6-11-1, Byrne, K.		840.00
Invoice 796K	ZB-2-09-1, Crystal Springs Builders, LLC		105.00

Richard Briigliodoro, Esq., Weiner Lesniak, LLP

Invoice 145469	Zoning OE		300.00
Invoice 145470	ZB-2-09-1, Crystal Springs Builders, LLC		795.00

CORRESPONDENCE: There was no correspondence received.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Santo Verrilli and seconded by William Walsh. All were in favor. The motion carried. The meeting adjourned at 8:45 p.m.

Minutes respectfully submitted by:

/s/Anne-Marie Wilhelm
Anne-Marie Wilhelm
Land Use Administrator