

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING HELD APRIL 5, 2012**

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
James Homa – Present — left early at 8:30 p.m.
Ellis Marples – Present
Mary Ann Murphy – Present

OTHERS PRESENT: Michael Vreeland, P.E., P.P.; Richard Briigliadoro, Esq.,

APPROVAL OF MINUTES: A motion to approve the *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held March 1, 2012* was made by William Walsh and seconded by James Homa. Roll Call: William Walsh – yes; Santo Verrilli – yes; James Homa – yes; Ellis Marples – yes; Mary Ann Murphy - yes. The motion carried.

APPROVAL OF RESOLUTIONS: There were no resolutions scheduled.

APPLICATIONS: ZB-3-12-1, Skylands Ownership Group, LLC, “D” Variance, Conditional Use, Amended Preliminary and Amended Final Site Plan, Block 60 Lots 8, 9, 10: M. Richard Valenti, Esq., provided an overview of the matter stating a day care with an 830 sq.ft outdoor playground is proposed. He stated no new buildings or expansion to the existing building is proposed. He stated the ice rink use is unique to the Township, and the proposed day care use is permitted.

Mr. Valenti stated the issue at hand is parking, and the Township’s parking ordinance is aggressive. He noted that the square footage of a day care does not count toward the required number of parking spaces. He stated the Skylands facility is underutilized, and there is always sufficient parking. He stated the facility needs uses during the slow periods to be economically viable. He stated adding a day care will not cause a problem with respect to parking. He presented the Applicant is applying for a New Jersey license and would be subject to regulation. He stated day care is an inherently beneficial use and would provide the community with day care options.

Richard W. Shriner, Jr.; Richard Wostbrock, P.E.; and Brittany Litteral, Events, Party, and Summer Camp Manager, were sworn. Mr. Wostbrock was qualified and accepted as an expert witness.

Board consultant, Michael G. Vreeland, P.E., P.P., was sworn. Referencing his March 23, 2012 report, Mr. Vreeland presented no objections to the waivers requested and confirmed that the matter was complete.

Mr. Shriner presented that over the last seven to eight years, he has worked to ensure the financial viability of existing ice rinks. He confirmed that he has managed the Skylands facility for the last three years. He stated his intent is to continue the functioning of the ice rink for the benefit of the community. He noted the ice rink business is a tough seasonal business that needs to operate twelve months a year. Exhibit A-1, titled *Ice Rink Seasons – Primary Usage* was submitted. Mr. Shriner explained that a critical management area is the development of off-season and daytime programming. He distributed copies of Exhibit A-2, which he identified as a Skylands Ice World

prime season schedule. He stated the exhibit illustrates the daytime business void. He stated the intent is to fill this void with a synergistic use. Mr. Shriner stated that the day care is synergistic to the core business because it does not overlap with the busy times of year or day. He stated the facility is "all about kids." He stated the day care would not interfere with the core business.

With reference to parking, Mr. Shriner stated he has visited approximately 300 double-rink ice rinks since 1994, and he is not aware of any rinks that have 400 parking spaces. He stated you usually see 175-200 parking spaces. He confirmed that there will be 288 parking spaces during the period of time the day care is operating.

Mr. Shriner stated he owns an ice rink in Connecticut. He noted the building size is comparable, and the facility does twice the business of Skylands. He stated the facility does not have a parking problem. He distributed copies of Exhibit A-3, an exhibit comprised of two sheets. Mr. Shriner explained that sheet one is an aerial photo of a Connecticut ice rink. Sheet two is titled *Zoning Information*. Referencing sheet one, Mr. Shriner identified surrounding parking areas and a strip mall. He confirmed that ice rink patrons are not permitted to park in the strip mall. He stated they get tickets, and on Saturdays there are women watching. Mr. Shriner stated that the Connecticut rink does not contain a day care. He stated a fitness center, ballet program, and dance program operate at the ice rink. He noted there is a small childcare area. He confirmed that it is a drop-off area to care for children while the kids are skating. He noted there were no other fitness centers near the area.

Mr. Shriner stated the activity that brings the most people to the facility is public skating. He stated a good number of session patrons totals 200. He stated in the 3.5 years he has been working at Skylands, he can only recall one event where parking was full, and that was during a championship game on a weekend. With reference to the hours of operation of the proposed day care, Mr. Shriner stated that the hours of operation would be 6:30 a.m. – 6:30 p.m. He further discussed events at the rink such as skate jams and birthday parties. He noted the restaurant upstairs would be open in the evening and on weekends, and there is no intent to make the restaurant a destination type restaurant. He also confirmed that the birthday parties are held on weekends during public skating times.

Mr. Shriner presented that ice time is limited for hockey hours, and that ice time is booked. He confirmed that high school games are not played weekdays before 5:00 p.m. He stated most games are played on Saturdays. Mr. Shriner confirmed that the occupancy load for the Skylands building is 1000 persons.

Ms. Litteral presented a sequence of photographs that was marked as Exhibit A-4. She stated the photographs were taken by a photographer in her presence on Friday, March 30, 2012. She stated the pictures show typical daytime-weekday parking. She confirmed the sequence of photographs was taken at 11:00 a.m., 1:00 p.m., 3:00 p.m., 5:00 p.m., and 7:00 p.m. She confirmed that no hockey games were taking place when the photographs were taken. She identified a section of the parking lot and stated the lot is seldom used. She stated the March photo date falls within the peak hockey season. She confirmed she has worked at Skylands for approximately five years. She stated her hours vary, and she works mostly Tuesday – Saturday.

Mr. Walsh stated that Exhibit A-4 does not reflect the parking he has seen when driving by on weekdays. He stated the photographs do not reflect the typical parking during the day when he has gone to the site. He stated the side parking lots are crowded with cars in the afternoon. He stated he agreed with the photograph of the back parking lot. Mr. Shriner stated the photographs were taken on a Friday and were the only photographs taken. He stated the parking shown is typical. Mr. Marples asked how a presentation of typical parking view can be determined utilizing only one set of photographs. Mr. Shriner stated it is determined by experience.

Referencing Sheet 20 of the site plan, Mr. Wostbrock identified the 92-space rear lot. Ms. Litteral and Mr. Shriner confirmed that cars do not park in the rear lot during the work week during the day. Mr. Wostbrock explained parking calculation methodology. He stated the parking requirement is 401 spaces, and the Board granted variance relief to permit 288 parking spaces. He confirmed the Board also granted relief to allow 214 parking spaces in the matter of *Kings Court*. He stated a parking calculation is not required for the day care.

Robert B. McBriar, Esq., representing an objector, Kaiser Pendergast Properties, asked about the use of a traffic engineer. Mr. Shriner confirmed that a traffic study was not done. Mr. McBriar stated there is a heightened concern due to one access. He stated the Board may not have all the information required to make a decision. Mr. Vreeland noted that NJDOT issued a driveway permit.

Mr. McBriar stated the Board needs more competent data and objected to the photos being introduced. He stated the person who took them was not present, and the photographs were not dated. Board consultant, Richard Briigliodoro, Esq., noted that Mr. Shriner testified that he has worked onsite for 3.5 years, and Ms. Litteral testified she was present when the photographs were taken. He stated it is up to the Board to weigh the evidence, and it was appropriate to enter the photographs.

With reference to the proposed playground, Mr. Wostbrock identified the location as being at the south west corner of the existing building in the area of the dumpsters. Ms. Murphy expressed concern about the location noting bears may be in the area. Mr. Valenti noted that if the outdoor space could not be used, the state would permit the use of the indoor open space. He stated that he believed that the outdoor space would be in the best interest of the children. The Applicant agreed to work with the Board engineer to determine a better location.

With reference to the day care, Mr. Shriner noted it would be located on the second floor of the Skylands facility. He confirmed that he believed that the day care use was chosen over a restaurant as a full blown restaurant would conflict with the number of people in the building in the evening. He noted there is a food service facility on the second floor of the premises to which he intends to add tables and chairs. He confirmed that the restaurant would not be open during the week during the day. He stated it is designed for the parents and children that are playing. Mr. Shriner also identified a potential party area. He stated the facility does not need any more people during the busy time. He submitted Exhibit A-5 titled *Skylands Ice World 2nd Floor* and identified the location of the day care facility, food service area, and a jungle gym play area. Mr. Shriner confirmed that the game room is still operating, and more activities are planned for that area.

With reference to day care operations and parking, Ms. Litteral stated the day care facility intends to begin with 25 children and operate Monday – Friday. She stated an application for a child care license to provide services for up to 80 children ranging in age from infants to 8th graders has been submitted to the state. She identified the lowest employee ratio for childcare is one adult to four infants. She presented that if the facility had all infants, twenty staff members would be required. Ms. Litteral stated that day care patrons would not trigger long-term parking. She noted that pick-up time would be between 4:00 p.m. and 6:30 p.m.

Upon inquiry, Mr. Shriner stated he could recollect one issue with parking at Skylands on a Saturday at a state playoff game. Ms. Litteral confirmed that there was an issue with parking at a state playoff game. She stated she was not sure where people parked in that instance. With reference to other Skylands employees, Ms. Litteral stated there is a total of approximately 50 employees. She stated there are 20-25 employees on site at the busiest times.

Mr. Verilli asked how far the proposed facility was from the existing day care. Mr. Valenti confirmed that the proposed facility is next door to the existing day care. Mr. Verilli asked about the purpose of the day care center and questioned the impact of locating the day care next to an existing day care. Mr. Valenti questioned Mr. Verilli about possible objections. Mr. Verilli confirmed that he would follow the Municipal Land Use Law. Mr. Shriner noted there was another day care center up the street, and they are replacing that one.

With reference to Mr. Vreeland's report of March 23, 2012, Mr. Wostbrock stated he believed the day care is a complementary use and well suited to the site. He stated in light of the surrounding mixed uses, he did not believe that adding a day care would cause damage to the character of the commercial neighborhood. Mr. Wostbrock stated the use is permitted and would be in character with the zoning. With respect to the parking, he stated the use would not be detrimental to the intent of the zoning ordinance. Mr. Wostbrock confirmed he would work with the Board engineer with respect to the dumpster's location to address the Board's concerns. Ms. Litteral confirmed that open spaces within the building could be used as an alternative to outdoor space if outdoor space cannot be provided. With reference to Highlands Council approval, Mr. Valenti stated that he researched the matter, and Hardyston Township could review a Highlands Exemption request. Mr. Vreeland agreed to look into the matter.

Chairman Murphy opened the meeting to the public. Robert B. McBriar, Esq., presented an overview of the site's history of approvals and a review of testimony. He questioned if a traffic engineer was used. Mr. Shriner confirmed that a traffic engineer was not used. Mr. McBriar questioned the program schedule submitted. McBriar stated there is no competent data to show what

the average capacity of the parking lot is. He asked about the number of employees on site. He asked about parking problems. Attorneys Valenti and McBriar discussed the use of traffic engineers. Mr. McBriar stated that a traffic engineer would be competent to discuss the matter. He expressed concerns about the site's ability to address multiple competing uses. He stated that introducing a new use will increase the number of patrons. He questioned the compatibility of the uses and stated the proposal is beyond the anticipated uses of the site. Mr. McBriar stated testimony from a

2008 hearing presented that the facility receives 300 patrons per day. He stated the overlap caused by the competing uses will have a detrimental impact on traffic flow and congestion. He stated the Applicant has not provided the information necessary for the Board to make a decision and requested that the Board not approve the application as requested.

Ms. Danielle Evers was sworn. She stated she wanted to comment on parking noting that parents sometimes stay a half an hour at her facility to chat. She noted that some parents carpool. She stated she owns Stepping Stone Day care and has been in business for eight years. She stated there about fifty families enrolled at Stepping Stone. She stated her experience with a local day care creates a fear that there is not a lot of business to support another day care. She asked how she could compete with Skylands. She presented that Skylands has unlimited funds. She noted Skyland's amenities. She stated her business would close if Skylands opened a day care. She questioned the variance process and asked how many uses Skylands could have on the property. She questioned the safety of having a day care in the Skylands facility. Mr. Valenti asked how many businesses her landlord had on the property. Mr. Verrilli asked if more parking could be added to the Skyland's lot.

Mr. Peter Sharp was sworn. He stated he has been in business in Hardyston Township for approximately 20 years and had a business located in Skylands when it first opened. He stated that during the week the parking lot was a lot busier than the photos show. He stated that being a photographer, he could make the parking lot look a lot busier. He noted that Ms. Litteral presented that after-school programs are being considered and that after-school children would be bused there. He asked about efforts to do figure skating programs. He stated there is a demand for figure skating ice time. He asked what the parking lot would be like if the economy picks up. He spoke about the impact of big business. He confirmed he did not know who owns Skylands now. He confirmed that Ms. Evers is a customer of his.

Mr. Shriner provided an overview of program scheduling. He noted that the only people using the facility when the day care would be operating are high school and youth hockey groups. He stated the times are contracted and would be the same. He stated the ice business will not grow in those time slots. Mr. Shriner discussed efforts to incorporate figure skating programming.

Chairman Murphy called a recess at 9:30 p.m. The meeting resumed at 9:45 p.m.

Ms. Melissa Llosa was sworn. She stated she stated she has been a customer of Stepping Stone day care since 2006. She spoke about the day care services provided at Stepping Stone. She explained the drop-off service provided by Stepping Stone day care. She stated she wouldn't feel comfortable with picking up her children and walking across the parking lot. She expressed concern about child safety potentially being compromised by interface with strangers in the Skylands facility. She presented potential difficulties with drop off and pick up at Skylands. She noted that there are times, such as school vacation, where many events are planned during the day at Skylands. She stated she had attended a day skating event and there were approximately 30 patrons that day. Ms. Llosa questioned the route to the outdoor play area. Mr. Wostbrock identified the sidewalk leading to the proposed playground. Ms. Llosa questioned the safety of children walking on the sidewalk.

Ms. Llosa noted her concerns with Skyland's business ethics submitting a flyer, marked as Exhibit O-1 and titled *Color Your Best! You May Win a 4 Week Learn to Skate Session*. Ms. Litteral explained the flyer was distributed for a raffle to win a skate. Ms. Evers confirmed that children walked from the Stepping Stone day care to Skylands for activities.

Ms. Weiss was sworn. She stated she is employed by Stepping Stone day care. She stated it is a family atmosphere. She stated she needs her job, and the opening of Skylands will cause Stepping Stone to close. She stated she would not feel comfortable bringing her children to a day care where strangers can come and go all day long. She noted Stepping Stone day care has events and parties where parents are invited to stay for the in-house event.

Ms. Kathryn Barta was sworn. She stated she is a teacher that commutes to work that utilizes Stepping Stone day care. She stated Stepping Stone provides a family atmosphere. She stated her concern with parking. She stated she talks to the other parents and follows up with other parents at pick-up. She talked about the challenges of drop off and pick up over a few feet with multiple items. She stated Stepping Stone's teachers greet the parents at the door. She expressed concern about the interface of day care children with older children in the hockey arena. She stated she believed the business would not build the revenue sought.

Ms. Lisa Casselano was sworn. She stated the parking would be a problem as having to park far away is not safe. She explained the challenges of off-loading toddlers in the morning. She stated the children at Skylands will be in a locked room with no windows. She expressed concerns with safety at Skylands and the day care's proximity to the elevator. Ms. Casselano raised liability as an issue. Mr. Valenti noted that the facility is subject to state regulation and licensing requirements. He stated the concern regarding elevators cannot be part of the Board's decision making process. Ms. Casselano wanted to submit a petition. Mr. Valenti objected. Mr. Briigliodoro denied the acceptance of the petition.

No other members of the public addressed the Board on the matter. Chairman Murphy closed the meeting to the public.

Mr. Valenti requested a full Board be able to vote on the application and moved all documents into evidence. Mr. Walsh advised he would not be in attendance at the May 3, 2012 meeting. Mr. Valenti stated he would work with six members. The meeting was carried to May 3, 2012. Mr. Briigliodoro advised the public that the matter was carried without further notice.

PUBLIC PARTICIPATION: Chairman Murphy opened the meeting to the public for general questions and comments. No members of the public addressed the Board. The meeting was closed to the public.

DISCUSSION: Board members discussed scheduling technology training.

BILLS: A motion to approve the bill list below, and recommend payment of the bill noted to the Township Council was made by William Walsh and seconded by Santo Verrilli. Roll Call: William Walsh – yes; Santo Verrilli – yes; Candace Leatham – yes; James Homa – yes; Ellis Marples – yes; Mary Ann Murphy - yes. The motion carried.

**HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
ESCROW REPORT**

April 5, 2012

Guerin & Vreeland Engineering, Inc.

Invoice WO391P

ZB-3-12-1, Skylands Ownership Group, LLC

\$517.50

CORRESPONDENCE: There was no correspondence.

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 10:40 p.m.

Minutes respectfully submitted by:

/s/ Anne-Marie Wilhelm

Anne-Marie Wilhelm
Land Use Administrator