

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MEETING HELD FEBRUARY 5, 2015**

**CALL TO ORDER:** Chairman Murphy called the meeting to order at 7:37 p.m., led the flag salute, 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  
Gerald Laughlin – Present  
Candace Leatham – Absent  
James Homa – Present  
Ellis Marples – Present  
Jane L. Caiazzo – Present  
John Bazelewich (Alt. 1) – Present  
Jeff Albanese (Alt. 2) – Present  
Robert T. Cook (Alt. 3) – Present  
Mary Ann Murphy – Present

**OTHERS PRESENT:** Robert P. Guerin, P.E., P.P., and Richard Briigliodoro, Esq.

**FLAG SALUTE:** Chairman Murphy led the *Pledge of Allegiance*.

**APPROVAL OF MINUTES:** *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held December 4, 2014:* A motion to approve was made by James Homa and seconded by William Walsh. There was no discussion. William Walsh – yes; James Homa – yes; Jane Caiazzo – yes; John Bazelewich – yes; Mary Ann Murphy – yes. The motion carried.

**APPROVAL OF RESOLUTIONS: ZB-11-14-1, Edgewater Professional Associates, LLC, Final Site Plan, Block 67.17 Lot 2.02.** A motion to adopt the resolution was made by James Homa and seconded by Jane Caiazzo. There was no discussion. Roll Call: William Walsh – yes; James Homa – yes; Jane Caiazzo – yes; John Bazelewich – yes; Mary Ann Murphy – yes. The motion carried.

**APPLICATIONS: ZB-10-14-1, Crystal Springs SPE, LLC, “D”: Variance, Block 17 Lot 17.01:** Mary Ann Murphy, Bill Walsh, and Michael G. Vreeland, P.E., P.P., recused. It was noted Robert P. Guerin, P.E., P.P., would serve as the Board’s engineering consultant on the matter. A motion to appoint Ellis Marples to the position of Chairman Pro Tem was made by James Homa and seconded by Gerald Laughlin. There were no other nominations. Roll Call: Gerald Laughlin – yes; James Homa – yes; Ellis Marples – yes; Jane Caiazzo – yes; John Bazelewich – yes; Jeffrey Albanese – yes; Robert T. Cook – yes. The motion carried.

Bernd E. Hefe, Esq., appeared on behalf of the Applicant. He stated the application is for the continued use of a five-bedroom home located in the Crystal Springs Golf Resort. He stated the application was prompted by the Zoning Officer’s request for compliance with the conditional use ordinance. He described the location and history of the property. He stated the subject single-family home was built over thirty years ago and has changed hands a number of times. He stated the building has been used for a variety of uses, including office and storage, over the years.

Mr. Hefe stated the single-family use is conditionally permitted; the Applicant does not meet three conditions, and as such, variances are requested. He identified the unmet conditions as the home not having a connection to public water, a connection to public sewer, or an attached garage. He stated the home was built in the 80’s before the ordinance requiring these items was in place.

Kenneth D. Dykstra, P.E., L.S., P.P., was sworn and accepted by the Board as an expert. Exhibit A-1, a colored rendering titled *Crystal Springs Single Family Rental, Block 17 Lot 17.01, Sugar Maple Lane, Township of Hardyston, Sussex County, New Jersey*, dated 12/4/14 and prepared by Kenneth D. Dykstra, P.E., L.S., P.P., was submitted. Referencing the exhibit, Mr. Dykstra provided an overview of the existing conditions noting the tract size as 17.7 acres. He identified the location of the existing sales office building, golf hole #11, tennis courts, a parking area, hydrant, and the subject home. He confirmed the golf course property consisted of at least 100 acres. He presented that the application is unique in that the home is set back on the lot, out of site from other residents; and the home is buffered by tennis courts, topography, and vegetation. He stated that the home does not need a garage as there is room for five cars. He explained that the cars would not be visible as the nearest town house dwelling is 750' away. He opined that the home does not need to connect to the public water system as there is a good well, a great aquifer in the area, no problem with the septic system, and the existing fire hydrant is located within the requisite RSIS standard. Noting that the ordinance contemplates a single-family home, Mr. Dykstra stated the application poses no detriment to the public or surrounding property owners, no detriment to the Master Plan, and no detriment to the zoning ordinance.

With reference to the well and septic, Mr. Dykstra confirmed that the well is 50' from the septic and draws from the same aquifer as the municipal water system. He stated he did not know if the septic system was the original system, but with almost 20 acres, he stated there would be negligible contamination to groundwater. He confirmed he did not check the current operational status of the septic. He stated that the Sussex County Health Department had no record of the system. Mr. Hefele stated the Applicant would agree to have the septic inspected.

Mr. Dykstra stated the home is rented by five tenants. He confirmed the home is 1800 sq.ft. and has four bedrooms. Mr. Hefele added that culinary interns currently lease the premises for twelve-month terms. Following discussion regarding the single-family home definition and tenancy, Mr. Hefele stated the Applicant has a right to rent the property out. Board Attorney Briigliodoro advised that the Board did not have the right to determine who is in the home. He also advised Homeowners Association issues are beyond the Board's jurisdiction.

Board members reviewed a report prepared by Michael G. Vreeland, P.E, P.P., dated November 17, 2014. Mr. Hefele stated the Applicant would implement all the recommendations. Mr. Dykstra stated a master plan update would be provided. Mr. Guerin discussed garbage service. Mr. Dykstra stated there is an existing dumpster, and he believed the service would access the dumpster from Old Quarry Road. The Applicant agreed to add a recycling dumpster.

Mr. Dykstra reviewed a 10/29/14 report prepared by the Hardyston Township Fire Department. He stated the location of the existing hydrant meets RSIS standards and conforms to the ordinance. Referencing Exhibit A-1, he identified the location of the hydrant and explained how firemen could run a hose down to the house. Mr. Hefele presented that there is a straight shot from the hydrant to the home. Following discussion, Mr. Dykstra confirmed that the hose run to the house is approximately 500' in a landscaped area. Mr. Briigliodoro advised the Board that the comments of the Applicant's attorney are representations and not testimony.

With reference to fire truck access via Old Quarry Road, Mr. Dykstra stated that the turning radius at Old Quarry Road to the subject property could not be widened due to wetlands and an existing bridge. He stated a fire truck cannot access the property via Old Quarry Road.

With reference to the existing gate at Sugar Maple Lane, Mr. Dykstra stated the Applicant would like to leave the gate as a breakaway gate to prevent through traffic to and from Old Quarry Road. He stated this would also define the entrance-way to the home as Old Quarry Road.

With reference to the existing driveway, Mr. Dykstra stated the gravel driveway conforms to ordinance requirements. Mr. Hefele confirmed that both ends of the gravel driveway are plowed and the Applicant would agree to maintain the driveway. Mr. Hefele noted the driveway is flat.

With reference to the existing fire alarm system, the applicant agreed to address the issue. Mr. Hefele stated the Applicant would meet with the Hardyston Township Fire Department to satisfy their concerns.

With reference to bringing the building up to code, Mr. Dykstra stated that current standards do not apply as this is not new construction.

Acting Chairman Marples opened the meeting to the public. Chris Woods, Esq., appeared on behalf of the Bluff @ Crystal Springs Homeowners Association and inquired about the septic. Mr. Dykstra confirmed that there were no records found. He stated that the only reason to replace a system is if it is failing. Mr. Woods asked about the size of the homes bedrooms and whether or not the interns were affiliated with an educational program. Mr. Hefele stated he did not know what school the students were affiliated with or what size the bedrooms of the structure are. He presented that today's codes do not apply to the structure.

Peter Ort was sworn. He identified himself as an adjoining property owner. He stated the subject structure does not predate the ordinance and was never meant to be a house. He stated the Kurlander home burned down in the 80's, and the subject structure was built as an office for the Crystal Springs core recreational area. He stated the Applicant should be required to update the Crystal Springs Master Plan for the core recreation area. He identified concerns about traffic, the existing bridge, and the Quarry Road access point. He also presented there is an agreement with his family that prohibits general access to the Crystal Springs development utilizing Old Quarry Road.

Mr. Hefele agreed to update the Crystal Springs Master Plan and confirmed that the access via Old Quarry Road would serve the structure's residents only. He noted that the application was not for a preexisting nonconforming use. He stated the history of the property does not change the Applicant's request to make the structure compliant today.

Bill Walsh was sworn. He identified himself as the Fire Marshall and as a member of the Hardyston Township Fire Department. He explained why the Fire Department wanted the hydrant closer to the structure. He stated there have been four fire alarms and one fire at the structure in the past three years. Mr. Walsh also stated that there are no permit records for the structure. He asked if taxes had been paid on the structure and if the building ever had a building permit. Mr. Hefele presented that taxes were current as the mortgage company pays them, and the grace period had not lapsed. It was noted that a waiver request relative to the taxes had been filed.

Chris Wood, Esq., presented an objection to calling the use a single-family use. He stated the use is a boarding house. He stated the Applicant fails to meet the requirements of the ordinance. He suggested a well test. Following discussion, the Applicant agreed to conduct a well test.

Timothy Day was sworn. He stated he is the President of the Bluffs Homeowners Association. He stated the subject home has had a tremendous impact on the residents of the Bluff. He stated his opposition to the application noting he is an 18-year resident that bought into a concept that was promoted in the original public offering statement. He stated the subject home has been treated like a fraternity house, and it is not consistent with the neighborhood. He stated outdoor garbage has been an issue with beer cans and cigarette butts surrounding the building. He stated the tenants are transitory and change every three to six months. He stated the tenants walk through his neighborhood. He stated there have been incidents of vandalism that he reported to the property manager. He stated he was afraid. He stated the whole area was deplorable and not being maintained. He presented Mr. Mulvihill's promises to maintain the sales office as a temporary use have not been fulfilled. He stated the proposed use is not compatible, and not fair. Mr. Day further noted that there are trees by the fire hydrant.

Mr. Hefele noted that members of the public could file a complaint to address vandalism. He stated the Board does not regulate who Mr. Mulvihill rents to.

Michael Lewis was sworn. He asked the Board to exercise wisdom and vote no. He stated the people and traffic would be impacted. He suggested that transients be housed at the old Playboy Hotel or in a different structure at a different location. He suggested that the sandpit would be a good location for employee housing.

Heather Higgins was sworn. She stated that the recreation area is not maintained and garbage is stored outside. She stated she is not comfortable with letting her children go down there. She stated that Crystal Spring's residents cannot leave their garbage out and store their garbage in the garage. She noted there is a problem with bears in the area. Mr. Hefele presented that the condition of the recreation area is not part of the application.

Donald Browne was sworn. He stated he agreed with the playground issues and asked the Board to consider the disrepair of the area. He stated that garbage is an important issue.

Janet Kleedorfer was sworn. She asked if she has the right to lease to six different people. Board Attorney Briigliodoro cited two New Jersey Appellate Division cases: Repair Master, Inc. v. Borough of Paulsboro and Glassboro v. Vallorosi. He presented the Board did not regulate occupancy, but regulated uses. He noted multi-family housing consists of multiple dwelling units, not a single dwelling unit with different occupancy. She asked if she could lease her garage. Acting Chairman Marples stated that the Board did not have jurisdiction to discuss the question.

No other members of the public addressed the Board and Acting Chairman Marples closed the meeting to the public.

Mr. Hefele summarized and requested to carry the matter to the March 5, 2015 meeting with no further public notice required. He stated this would allow the Applicant an opportunity to meet with the Hardyston Township Fire Department. He also agreed to provide a report on the well and septic system.

The matter was carried to the March 5, 2015 meeting. It was noted that public comment would be limited to new evidence.

**DISCUSSION:** There was no discussion.

**BILLS:** Board members reviewed the February 5, 2015 escrow report. There was no discussion. A motion to pay the bills was made by James Homa and seconded by Jane Caiazzo. Roll Call: Gerald Laughlin – yes; James Homa – yes; Ellis Marples – yes; Jane Caiazzo – yes; John Bazelewich – yes; Jeffrey Albanese – yes; Robert T. Cook – yes.

**CORRESPONDENCE:** There was no correspondence scheduled for review.

**ADJOURNMENT:** Having no further business, a motion to adjourn was made by James Homa. All were in favor. The motion carried. The meeting concluded at 9:55 p.m.

Minutes respectfully submitted by:

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