

MINUTES OF THE HARDYSTON TOWNSHIP PLANNING BOARD MEETING HELD JANUARY 22, 2009

CALL THE MEETING TO ORDER: Chairman Miller 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 Meetings Act, Chapter 231, P.L. 1975, adequate notice as defined in section 3D of Chapter 21 P.L. 1975, has been made to the New Jersey Herald and is also posted on the bulletin board at the Hardyston Township Municipal Building.

ROLL CALL:

Leslie Hamilton – Present
Ken Kievit – Present
Robert Neubig – Present
Robert F. Schultz – Present
William Hickerson – Present
John Monell – Excused
James Homa – Present
Brian Kaminski – Present
Randy Roof (Alternate No. 1) – Present
Stanley Kula (Alternate No. 2) – Present
Carl Miller – Present

OTHERS PRESENT: Robert P. Guerin, P.E., P.P., Thomas F. Collins, Esq., Carrine Piccolo, Assistant Planner, and Anne-Marie Wilhelm, Land Use Administrator

APPROVAL OF MINUTES:

Minutes of the Joint Special Meeting of the Hardyston Township Council and the Hardyston Township Planning Board Held December 2, 2008: A motion to approve was made by Ken Kievit and seconded by Leslie Hamilton. Roll Call: Leslie Hamilton – yes; Ken Kievit – yes; Robert Schultz – yes; William Hickerson – yes; Brian Kaminski – yes; Randy Roof – yes; Carl Miller – yes. The motion carried.

Minutes of the Hardyston Township Planning Board Meeting Held December 18, 2008: A motion to approve was made by Ken Kievit and seconded by Robert Schultz. Roll Call: Leslie Hamilton – yes; Ken Kievit – yes; Robert Schultz – yes; William Hickerson – yes; James Homa – yes; Carl Miller – yes. The motion carried.

RESOLUTIONS: **PB-10-08-2a, Ignaczak, Barbara & Zdislaw, Great Beginnings Day Care and Learning Center, Amended Preliminary Site Plan and Final Site Plan, Block 64 Lot 4.03:** A motion to adopt the memorializing resolution was made by Ken Kievit and seconded by Robert Neubig. Roll Call: Leslie Hamilton – yes; Ken Kievit – yes; Robert Schultz – yes; William Hickerson – yes; James Homa – yes; Carl Miller – yes. The motion carried.

APPLICATIONS:

PB-1-06-2b, Crystal Springs Builders, L.L.C., Balmoral Estates III, Request for Extension of Final Subdivision, Block 17, Lots 6.01 and 10: Bernd E. Hefele, Esq., appeared on behalf of the Applicant. He stated the 37- lot phased subdivision received approval in 2006. He stated one extension was granted last year. He stated the first two sections have inventory and the proposed section will take more time to build out. He asked for a two-year extension based on present economic conditions.

Mr. Guerin presented that the performance bond prepared in 2006 should be revised due to increases in paving and construction costs. He stated that a performance bond, based on current costs, should be requested when the final plat is being prepared for signature.

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

The Board's professionals had no objections to the granting of a two-year extension. A motion to approve was made by Ken Kievit and seconded by Robert Neubig. Roll Call: Leslie Hamilton – yes; Ken Kievit – yes; Robert Schultz – yes; Robert Neubig – yes; William Hickerson – yes; James Homa – yes; Brian Kaminski – yes; Randy Roof – yes; Carl Miller – yes. The motion carried.

PB-4-08-1a, Richter, Tillman A. Amended Minor Subdivision, Request for Extension, Block 67 Lot 25.02: Francis J. McGovern, Esq., appeared on behalf of the Applicant. He stated the Applicant was so close and that the deeds have been revised as suggested by the Board's professionals. He stated the Developer's Agreement was on the next Council agenda. Mr. Collins recommended the reapproval of the subdivision making it effective for 190 days more and making it effective immediately. Mr. Guerin had no comment.

Chairman Miller opened the meeting to the public. No member of the public addressed the Board. The meeting was closed to the public.

A motion to decide and adopt the resolution inserted below, which was dictated by Thomas F. Collins, Esq., granting a 190-day extension was made by Robert Neubig and seconded by James Homa. Roll Call: Leslie Hamilton – yes; Ken Kievit – yes; Robert Schultz – yes; Robert Neubig – yes; William Hickerson – yes; James Homa – yes; Brian Kaminski – yes; Randy Roof – yes; Carl Miller – yes. The motion carried.

HARDYSTON TOWNSHIP PLANNING BOARD RESOLUTION OF MEMORIALIZATION

DECIDED AND ADOPTED: January 22, 2009

MEMORIALIZING RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF HARDYSTON REAPPROVING THE AMENDED MINOR SUBDIVISION OF TILLMAN A. RICHTER IN THE MATTER OF PB-4-08-1A, BLOCK 67 LOT 25.02

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of Hardyston, County of Sussex, State of New Jersey that the minor subdivision of Tillman Richter relating to Block 67 Lot 25.02 is hereby reapproved and the prior approval is extended for authorization to sign and record deeds of minor subdivision subject to all the prior conditions of the prior approval, effective January 22, 2009.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Planning Board at its regular meeting of January 22, 2009.

Anne-Marie Wilhelm
Board Secretary

DISCUSSION: Carrine Piccolo, Assistant Planner, informed the Board that the petition to COAH was deemed complete and public notice was made. She stated that if there are no negative comments during the 45-day comment period, COAH will proceed with the review.

In the matter of the Highlands Master Plan, Ms. Piccolo presented that the Township Council adopted a resolution expressing the Township's notice of intent to petition for plan conformance. She stated the Highlands Council has approved a grant program and each municipality that passes the notice of intent resolution and completes the application is eligible. She stated each municipality will receive \$50,000 to begin the basic plan conformance process. She stated the application has been completed and everything has been submitted. Ms. Piccolo provided a copy of the grant application and an overview of the plan conformance process. She noted the application would be prepared for the preservation area.

CORRESPONDENCE: Board members reviewed an advanced training opportunity offered by NJPO.

BILLS: A motion to recommend payment of the bills cited below to the Township Council was made by Ken Kievit and seconded by Robert Schultz. Roll Call: Leslie Hamilton – yes; Ken Kievit – yes; Robert Schultz – yes; Robert Neubig – yes; William Hickerson – yes; James Homa – yes; Brian Kaminski – yes; Randy Roof – yes; Carl Miller – yes. The motion carried.

**HARDYSTON TOWNSHIP PLANNING BOARD
ESCROW REPORT
JANUARY 22, 2009**

Vogel, Chait, Collins AND Schneider

Invoice 50652	Planning OE	\$ 300.00
Invoice 50653	PB-12-06-4, Leidenfrost, R. a.k.a. Leiden	30.00
Invoice 50654	WV-02, Govel, Polizzi, Walden,	90.00
Invoice 50655	SND-01, Sussex National Development Corp.	405.00
Invoice 50656	PB-4-08-1, Richter, Tillman	420.00
Invoice 50657	PB-5-08-1, Beaver Run Shopping Center	255.00
Invoice 50658	PB-10-08-2, Ignaczak, B.	540.00

The New Jersey Herald

Invoice 2124721	Legal Notice: Planning OE	20.80
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**HARDYSTON TOWNSHIP PLANNING BOARD
ESCROW REPORT
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ADDENDUM**

Guerin & Vreeland Engineering, Inc.

Invoice WO565N	PBC-6-03-1, Senyszyn, B.	\$ 131.25
Invoice WO624M	MCS-01, Crystal Springs Builders, LLC, General Escrow – The Shotmeyer	105.00
Invoice WO600Y	PB-3-05-1C, CJS Investments, Inc.	930.00
Invoice 563H	PB-7-03-7, Christian Faith Fellowship Church	236.25
Invoice WO493T	PB-5-08-1, Beaver Run Shopping Center	210.00
Invoice WO753L	Planning OE	577.50
Invoice 674F	PB-4-08-1, Richter, T.	183.75
Invoice 747G	PB-8-07-3, West Essex Management	157.50

PUBLIC PARTICIPATION: Mr. Eugene Lubowicki was sworn. He asked the number of and identity of the Class IV members so that he could determine who gets paid. Ken Kievit stated that no members of the Board are paid to be Planning Board members. Mr. Collins questioned the relevancy and Mr. Lubowicki stated he wanted the information for empathy. Mr. Lubowicki stated that Mr. Guerin visited his site while no permits were pulled and submitted a bill. He noted an affidavit on the bill. It was confirmed that Mr. Guerin was reappointed. Mr. Lubowicki stated that he contested the reappointment due to Guerin's billing rate. He stated Mr. Guerin was billing him for things not required or needed and the Board passes it through. Mr. Collins stated that Mr. Lubowicki was incorrect and that Mr. Guerin properly billed the escrow for the matter and explained that Mr. Guerin has to inspect sites. He stated Mr. Guerin is entitled to inspect the site. Mr. Collins stated that should Mr. Lubowicki

disagree, he should consult with his attorney. He stated the meeting was not the forum to bring up the subject.

Mr. Lubowicki discussed notice issues in his matter. Mr. Collins stated that the attorney got an extension and that Mr. Lubowicki is objecting to his own extension. He explained the notice issue. He stated Mr. Lubowicki could treat his approval as void.

Chairman Miller cautioned Mr. Lubowicki regarding his behavior and explained the Board's jurisdiction. Mr. Lubowicki apologized and requested permission to present his excavator. Mr. Collins stated that a review of the case would require an application to the Board and it could not be done immediately. Mr. Collins explained that to change the approval previously granted, an application for an amendment to the approval would need to be made.

Mr. Lubowicki stated that paving a driveway before you begin construction is like building a house and asking the carpet to be put on the floor without the roof on. Mr. Lubowicki stated that he sought relief on the conditions applicable to the driveway via requests to the Board engineer. Mr. Collins explained that the conditions of approval could not be discussed without an application to amend the prior approval. He explained that the subdivision requires the paving of the common driveway. He stated it is necessary because there is the opportunity to subdivide the land without having to build a public street. He noted that is a concession that the ordinance provides. He stated the Township and Board give a tremendous break to those who want to subdivide on a common driveway. He explained the rationale and noted a bond is not acceptable to the Township because the Township is not going into private property to construct a common driveway.

Mr. Lubowicki presented costs of development and stated that he would make the property tax exempt, take the property off the tax rolls, and sell it. Chairman Miller noted that COAH and the stormwater management requirements are imposed by the state. Mr. Lubowicki presented reported state action in an Atlantic City matter. He asked if the Board would like him to get the state to overturn the Board. Chairman Miller noted that the professionals have advised that the posting of a bond is not in the best interest of the town.

Mr. Lubowicki stated that he has spoken with a Council member and the appointment of Mr. Guerin will be reviewed at the next Council meeting. Chairman Miller spoke on behalf of Mr. Guerin. Mr. Lubowicki began to discuss the advice given by Mr. Collins.

ADJOURNMENT: Mr. Kievit made a motion to adjourn. All were in favor. The meeting was adjourned at 8:10 p.m.

Minutes respectfully submitted by:



Anne-Marie Wilhelm
Land Use Administrator

HARDYSTON TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

DECIDED: DECEMBER 18, 2008
MEMORIALIZED: JANUARY 22, 2009

MEMORIALIZING RESOLUTION OF
THE PLANNING BOARD OF THE
TOWNSHIP OF HARDYSTON
APPROVING THE AMENDED PRELIMINARY
AND FINAL SITE PLAN APPLICATION OF
ZDZISLAW AND BARBARA IGNACZAK
FOR RELOCATION OF STORAGE SHEDS ON
PROPERTY LOCATED AT 3501, ROUTE 94,
AND KNOWN AS BLOCK 64, LOT 4.03.
APP. NO.: PB-10-08-2a

WHEREAS, Zdzislaw and Barbara Ignaczak with a mailing address of 53 Bracken Hill Road, Hardyston, New Jersey 07419 (hereafter "the Applicant") applied to the Hardyston Township Planning Board (hereafter the "Board") for amended preliminary and final site plan application in accordance with a one-page site plan entitled "Amended Preliminary Site Plan for Sheds prepared for Great Beginnings Child Care, Sheet 26, Block 64, Lot 4.03, Township of Hardyston, Sussex County, NJ" dated October 3, 2008 with revisions through November 5, 2008, and prepared by Lehman & Getz, P.C. Consulting Engineers, Inc. ("Amended Site Plan"); and

WHEREAS, the matter was discussed at a public meeting of the Board on December 18, 2008; and

WHEREAS, it has been determined that the Applicant has complied with all of the procedural requirements, rules and regulations of the Hardyston Township Land Use Ordinance and that all required provisions of procedural compliance have been filed with the Planning Board; and

WHEREAS, the Planning Board of the Township of Hardyston hereby makes the following findings of fact and conclusions based upon the testimony and documentary evidence produced by the Applicant and by the Planning Board staff:

1. Joel Murphy, Esq. attorney for Applicant appeared and presented the application on behalf of the Applicant.

2. By Memorializing Resolution adopted December 18, 2003 the Hardyston Township Planning Board granted preliminary and final site plan approval for a licensed day care facility operated by Applicant on the subject to property and known as the Great Beginnings Day Care and Learning Center. The 2003 site plan included two 12' X 24' storage sheds located to the rear of the property approximately 40 feet east of the principal building on the site.

3. Applicant seeks approval to amend the prior site plan to permit relocation of the two storage sheds to a location adjacent to the easterly end of the parking lot. Mr. Murphy explained that the previously approved shed location was not functional and interfered with child day care activities in the immediate area of the prior shed locations. The proposed location of the sheds is more functional, accessible and safe.

4. Robert P. Guerin, Planning Board Engineer, reviewed the application and amended site plan and submitted a report to the Board dated November 10, 2008. Mr. Guerin also provided the Board with his comments at the December 18, 2008 public hearing. Mr. Guerin reported that the site is located in the Residential Commercial (R-C) Zone District and the proposed location of the sheds complies with the R-C Zone setback requirements for accessory structures.

5. Mr. Guerin further reported that while the new shed locations do not present engineering concerns, during his site inspection he observed that the current dumpster enclosure is not adequate to accommodate the two dumpsters being utilized by the Applicant. This has resulted in the placement of one dumpster in the paved parking lot, a condition that does not conform to the approved site plan. He recommends that this non-conforming condition be eliminated by either enlarging the dumpster enclosure and pad to accommodate two dumpsters or by removal of one of the dumpsters from the site. Mr. Murphy represented that the Applicant would accept the foregoing as a condition of approval.

6. No members of the public sought to address the Board regarding the application.

7. The Board finds that the proposed amendment to the site plan conforms to the ordinance standards, and will result in a more functional and safe location for the storage sheds.

NOW, THEREFORE, be it resolved by the Planning Board of the Township of Hardyston, County of Sussex, State of New Jersey that the application of Zdzislaw and Barbara Ignaczak for amended preliminary and final site plan approval is hereby granted subject to the following terms and conditions:

1. The terms of this approval are to be strictly in accord with the plans, Exhibits and representations presented to the Board herein, and same are incorporated into this resolution by reference.
2. Within ninety (90) days from the adoption of this Resolution Applicant shall eliminate the non-conforming placement of dumpsters on the site by either enlarging the dumpster enclosure and pad to accommodate two dumpsters or by removal of one of the dumpsters from the site. No dumpsters shall be located outside of the dumpster enclosure..
3. All fees, taxes, assessments, escrows and other monies due to the Township of Hardyston shall be paid in full.
4. The Applicant shall obtain governmental approval from any other governmental agencies with jurisdiction relating to the property.
5. The Applicant shall comply with all statutes, ordinances, rules and regulations of the United States of America, State of New Jersey, County of Sussex, and Township of Hardyston.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Planning Board at its regular meeting of January , 2009.



CHAIRMAN