MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING HELD JANUARY 15, 2009

CALL TO ORDER: Chairman 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	
Candace Leatham	Present	
Mary Ann Murphy	Present	Late – 7:35 p.m.
Roger Kabbash	Present	
Hugh Krone (Alt. 2)	Present	
Carl Miller	Present	

OTHERS PRESENT: Michael Vreeland, P.E., P.P.; Richard Brigliadoro, Esq., and Anne-Marie Wilhelm, Secretary.

Chairman Miller presented Candace Leatham with a certificate from the Department of Community affairs for successfully completing a course in land use law and planning.

APPROVAL OF MINUTES: A motion to approve the *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held December 4, 2008* was made by Roger Kabbash and seconded by Candace Leatham. Roll Call: William Walsh – yes; Santo Verrilli – yes; Gerald Laughlin – yes; Candace Leatham – yes; Roger Kabbash – yes; Hugh Krone – yes; Carl Miller – yes. The motion carried.

APPROVAL OF RESOLUTIONS: There were no resolutions scheduled for review.

APPLICATIONS:

ZB-3-07-1A, Schappert, Christopher M., "D" Variance, Minor Subdivision, "C" Variance, Block 17 Lot 12.08: Following discussion of timing and notice issues, a motion to carry was made by Santo Verrilli and seconded by Carl Miller. Roll Call: William Walsh – yes; Santo Verrilli – yes; Gerald Laughlin – yes; Candace Leatham – yes; Mary Ann Murphy – yes; Roger Kabbash – yes; Carl Miller – yes. The matter was carried to the meeting of February 5, 2009 at 7:30 p.m. without further notice.

ZB-10-08-1, Zabriskie, Heather, Certificate of Nonconformity, Block 75 Lot 69.01: Joseph J. Ragno, Jr., Esq., appeared on behalf of the Applicant. Mr. Brigliadoro swore Mrs. Heather Zabriskie in.

Mr. Ragno stated there are occasions in a municipality where a Planning Board changes a zone and a property is zoned into nonconformity. He explained that an Applicant could, in the first year of the zoning change, go to the Zoning Officer and obtain a Certificate of Nonconforming Use. He stated few people know of the law and the law provides a second avenue, via the Zoning Board of Adjustment, to make that application. Mr. Ragno presented three things the Applicant must prove to obtain a Certificate of Nonconforming Use as follows: 1. the use was legal at the time the zone change; 2. it has been a continuous use since the zone changed; and 3. the use is substantially similar to what was occurring at the time of zone change.

Mr. Ragno submitted Exhibit A-1, a Deed to the subject property numbered D-1854-064/ 92-95163, between Eunice Franek and Heather Perry. Mrs. Zabriskie confirmed that it was her Deed and confirmed the date of purchase as 5/6/92. She stated she moved in on 5/7/92 with her husband. She stated two commercial dump trucks were brought there on that day and two commercial dump trucks have been parked there since. She stated there were never more than two, or less than two, commercial dump trucks parked on the property. She stated that minor repairs are done and have been done on the trucks at the property for 16 years.

Michael Vreeland, P.E., P.P., presented that a township engineering report dated 5/12/92 identified the subject property as being in the Industrial Zone. Mr. Vreeland stated that some industrial zoned lots had residential uses at that time. Mr. Ragno confirmed that the zone change took place on February 18, 1993.

Chairman Miller opened the meeting to the public for questions or commentary. Mr. Roger M. Frey stated he has been a resident on Old Prospect School Road for 46 years and that he has seen two zone changes. He stated he operated a heating-service business out of his home for 39 years. He stated a new resident built a million dollar plus home in the neighborhood.
Mr. Frey commented on the vibration and noise that is caused by a train that comes through the neighborhood and stated he wondered what would be done about that. He stated he has no objection to his neighbor making an honest living with his trucks.

Mr. Jerry VanTassel stated he lives on Davis Road over the hill. He stated he has no problem with the trucks and that Mr. Zabriskie has been there a long time. He stated he did not see why someone can move in and change the whole world.

No other members of the public addressed the Board. Chairman Miller closed the meeting to the public.

Mr. Ragno stated that the use was legal at the time of the zone change, that the use has run continuously, and that the use is substantially unchanged.

A motion to authorize the Zoning Officer to issue a Certificate of Nonconformity based on the proofs presented was made by Carl Miller and seconded by William Walsh. Roll Call: William Walsh – yes; Santo Verrilli – yes; Gerald Laughlin – yes; Candace Leatham – yes; Mary Ann Murphy – yes; Roger Kabbash – yes; Carl Miller – yes. The motion carried.

CORRESPONDENCE: There was no correspondence.

DISCUSSION: Mr. Brigliadoro presented that the Hardyston Township Ordinance and the Municipal Land Use Law mandate the preparation of an annual report. Board members reviewed a draft of the 2008 report and discussed proposed ordinance changes. Review of the final 2008 report was scheduled for the February 5, 2009 meeting.

PUBLIC PARTICIPATION: Chairman Miller opened the meeting to the public. No members of the public addressed the Board. The meeting was closed to the public.

BILLS: A motion to recommend payment of the bills cited below was made William Walsh and seconded by Candace Leatham. Roll Call: William Walsh – yes; Santo Verrilli – yes; Gerald Laughlin – yes; Candace Leatham – yes; Mary Ann Murphy – yes; Roger Kabbash – yes; Carl Miller – yes. The motion carried.

HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
ESCROW REPORT
JANUARY 15, 2009

Richard Brigliadoro, Esq.

Invoice 123382	Zoning OE	$	300.00
Invoice 123383	ZB-8-08-1, SJZ, LLC		1170.00
Invoice 123384	ZB-10-08-1, Zabriskie, Heather		420.00

Michael G. Vreeland, P.E., P.P.

Invoice 706E	ZB-3-07-1, Schappert, C.	840.00
Invoice WO754H	Zoning OE	420.00

The New Jersey Herald

Invoice 2097560	Legal Notice	18.00
Invoice 2097561	Legal Notice	21.15

HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
ESCROW REPORT
JANUARY 15, 2009
ADDENDUM

Richard Brigliadoro, Esq.

Invoice 124031	ZB-10-08-1, Zabriskie, Heather	$	120.00
Invoice 124030	Zoning OE		1020.42

The New Jersey Herald

Invoice 2106230	Legal Notice	13.65

ADJOURNMENT: Having no further business, a motion to adjourn was made by William Walsh The meeting was adjourned at 8:30 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm
Board Secretary