MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING HELD MARCH 5, 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	Excused
Mary Ann Murphy	Present
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.

APPROVAL OF MINUTES: *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held February 5, 2009*: A motion to approve was made by William Walsh and seconded by Roger Kabbash. Roll Call: William Walsh – 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: William T. Haggerty, Esq., appeared on behalf of the Applicant. Richard Brigliadoro, Esq., confirmed that notice was in order and that Mr. McClellan was still under oath.

Mr. McClellan presented an overview of the revised stormwater management plan. He explained that the plan uses nonstructural best management practices. He stated the water quality would be provided by natural versus mechanical means. He confirmed that modifications to the plan addressed stormwater issues only. Exhibit A-1, titled *Schappert Properties, Block 1 Lot 12.08, Lot Grading & Drainage Plan,* Drawing 1 of 1, dated 12/22/07 with a revision date of 3/5/09, prepared by MCB Engineering Associates, L.L.C., was marked.

Mr. McClellan stated the proposal includes two sand filters on proposed Lot 1. He stated one is located just in front of the house, and another is located further up on the other side of the driveway along the property line. He stated the intention is that the stormwater would be collected by way of overland flow, most of which gets into the smaller basin. He stated that what is not cleaned here discharges to the second basin for additional water quality benefit. Mr. McClellan stated the plan satisfies the stormwater management rules for quantity discharge reduction, water quality, and groundwater recharge. He stated the maintenance for the system is inline with typical lawn care. With reference to the lot on the right, Mr. McClellan stated the devices are not on that property and there would need to be a cross agreement.

Board members reviewed the following report. Comments noted are inserted below the relevant item.

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1*February 23, 2009*

Board of Adjustment
Hardyston Township
Municipal Building
149 Wheatsworth Road
Hardyston, New Jersey 07419
Re: Variance & Minor Subdivision
Christopher Schappert
Block 17, Lot 12.08
Application No. ZB-3-07-1
(Our Project No. 1002)

Dear Board Members:

We are in receipt of the following supplement technical information relating to the above referenced matter:

- *Plan entitled: "Lot Grading & Drainage Plan, Schappert Properties, Block 17 - Lot 12.08, Situated in the Township of Hardyston, County of Sussex, New Jersey". The plan was prepared by MCB Engineering Associates, LLC, consists of 1 sheet and is dated December 22, 2007 with a latest revision date of February 18, 2009.*

- *Report entitled: "Storm Water Management Plan for Minor Subdivision, Block 17, Lot 12.08, Township of Hardyston, Sussex County, New Jersey".*

The report was prepared by MCB Engineering Associates and is dated January 2, 2008 with a latest revision date of February 18, 2009.

We have reviewed the aforementioned information and offer the following comments for the Board's consideration:

1.0 *While soil logs describing the conditions encountered at recently completed test holes have been submitted soil permeability testing is not included. The applicant's qualified professional should provide his opinion relating to the suitability of the conditions encountered for the proposed stormwater management measures.*

– **Mr. McClellan stated the tests were completed and the results were in the range of a K4 soil. He stated the soil is sufficient for groundwater recharge and water quality. He stated the documents would be submitted**.

Stormwater Management Report

– **Mr. McClellan stated that the items in this section had been addressed in the revision. The Board elected to discuss Item 2.4.**

2.0 The stormwater design calculations include weighted averages for areas tributary to and areas that are not tributary to the proposed water

quality/recharge basins. In order to substantiate these calculations the post development area tributary to the basins should illustrated.

2.1 The area of disturbance and impervious area noted on page 3 do not correspond with the hydrograph calculations.

2.2 The proposed stormwater system discussed in the first paragraph on page 4 does not correspond with the most recent proposal.

2.3 The groundwater recharge spreadsheet does not correspond with the configuration of the proposed system. In addition, the spreadsheet does not correspond with the land cover and drainage areas used in the hydrograph calculations.

2.4 Although we agree that the stormwater regulations and guidelines assign 80% TSS removal to sand-filters we do not believe this type of structural BMP addresses the groundwater recharge requirement.

– **Mr. McClellan stated that a sand filter serves both water quality and groundwater recharge. He stated the Applicant proposes a perforated pipe at the bottom of the sand. He stated there is a perforated pipe at the bottom of the sand to assist the system in extreme circumstances. He stated there is a bed of stone under the pipe that will contain the entire volume of water quality required. Following discussion, Mr. McClellan agreed to remove the perforated pipe from the lower basin.**

2.5 It is unclear how the manual hydrograph utilized in the stormwater design report was developed. We recommend that additional information regarding this element be included in the report.

Grading and Drainage Plan

3.0 Based on our discussions with the applicant's engineer we understand that this plan is no longer conceptual and illustrates the proposed development of these lots. If this is the case it may be appropriate to change General Note No. 2.

– **Mr. McClellan stated the note was eliminated.**

3.1 The areas noted in General Note Nos. 3 and 4 do not correspond with the calculation presented in the stormwater report.

– **Mr. McClellan stated there was a slight discrepancy between the areas of disturbance shown on the plan versus the drainage report. He stated the drainage report considers a small area in the Crystal Springs right-of-way. He stated the on-site disturbance omits the small off-site area. He stated the discrepancy is a few hundred square feet.**

3.2 An updated driveway profile and construction detail will need to be prepared. We recommend that this information be deleted from the Minor Subdivision Plan prepared by Caffery and Associates and be added to the Grading and Draining Plan prepared by the applicant's engineer.

– **Mr. McClellan stated the revised plan shows the profile of the driveway.**

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Christopher Schappert
Block 17, Lot 12.08
February 23, 2009

General

4.0 An updated minor subdivision plan will need to be provide once the grading and drainage issues have been resolved.

– **Mr. Haggerty stated the Applicant would comply.**

4.1 The comments noted in our previous reports should be addressed.

– **Mr. McClellan stated that many of the issues have been resolved or eliminated. He stated the Applicant acknowledges the obligation to provide an operation and maintenance manual. He stated he is deferring the preparation of the manual until the Board determines that the plan is acceptable.**

He also acknowledged responsibility for providing a construction certification from a licensed engineer documenting that the proposed stormwater management system has been properly constructed.

Very truly yours,
GUERIN & VREELAND ENGINEERING, INC.

/s/MichaelG. Vreeland,P.E., P.P.

Michael G. Vreeland, P.E., P.P.
Board Engineer and Planner
For the Firm

cc: Richard Brigliadoro, Esq.
Patrick McClellan, P.E
Bernard M. Caffrey, L.S.

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With regard to providing a well for the property across the street on Lot 14.04, Mr. Haggerty stated the matter would be addressed.

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

Chairman Miller suggested the matter be carried to the next meeting. He asked the Applicant to provide the revised plan to the engineer. Mr. Brigliadoro was authorized to prepare a favorable resolution for the Board's review at the next meeting. He suggested that should there be engineering issues that cannot be resolved; the Applicant's engineer should appear. The matter was carried to April 2, 2009, without further notice required.

ZB-2-09-1, Crystal Springs Builders, L.L.C., "D" Variance, Crystal Springs North Soil Removal Operation, Block 14, Lots 22.01, 24.01, 24.02, 24.04.; ZB-2-09-2, Crystal Springs Builders, L.L.C., Preliminary and Final Site Plan, Crystal Springs North Soil Removal Operation, Block 14, Lots 22.01, 24.01, 24.02, 24.04.

M. Richard Valenti, Esq., appeared on behalf of the Applicant. Andrew Mulvihill, Principal, Joseph Golden, P.E., P.P., and Brian Cramer, Project Manager were sworn. Mr. Cramer was qualified and accepted as an expert.

Board members discussed completeness. Mr. Vreeland stated the plans were reviewed utilizing the Soil Removal Ordinance. He stated the Applicant addressed the completeness requirements.

Mr. Mulvihill presented the proposed location of the operation. He provided an overview of Planning Board approvals granted for the subject parcel including the village center and Crystal Springs North. He discussed current land conditions stating that it is rugged in areas. He stated that part of the development plan includes the cutting of a road by the ridge. He explained that the property contains excess fill and in one area, there is sand and gravel material of value. He stated he would like to excavate the good dirt, bring some to the Shotmeyer, and sell some. He stated he would like to over excavate the land and fill it with material from another section of the property. He stated that a 1997 Hardyston Township Zoning Board of Adjustment approval permitted an 800,000-yard soil removal operation on 50 acres of the subject property. Mr. Mulvihill noted the current proposal is smaller in scope.

He stated the amount requested was reduced on this application due to environmental constraints. He stated that the old farm roads on the property have been kept alive by ATV use, and that he would use the existing roadways to access the site. Mr. Mulvihill confirmed that no new roads would be cut in to access the site. He stated there is an objection to the plan by a neighbor. He stated he is going to change the application to move the entrance away from the vicinity of the objector's home. He stated he would get a NJDOT opening permit onto Route 94 further down − roughly across from the existing entrance. He stated times are tough and this is an opportunity to get income. He stated the operation is not within the viewshed. He stated there would be no processing or blasting.

Mr. Verrilli asked what would happen if the soil is removed and the Applicant elects not to proceed with development. Mr. Valenti explained that a restoration bond is mandated by the Soil Removal Ordinance.

Mr. Valenti entered Exhibit A-1, *Resolution, Township of Hardyston, Zoning Board of Adjustment In The Matter Of Sussex National Development, Inc., Application #PB-7-97-2, Decided on September 4, 1997, Memorialized on October 2, 1997, Use Variance, Site Plan Approval and a Recommendation for Soil Removal.* Mr. Mulvihill confirmed that the approval permitted more than 800,000 cubic yards of soil to be removed over an area of 50-plus acres. He confirmed that the current application contains 13.3 acres and about 300,000 cubic yards of soil.
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Referencing Exhibit A-2, titled *Overall Plan, Crystal Springs North, Block 14 Lot 24.01 & 22.01., New Jersey State Route 94, Township of Hardyston, Sussex County, New Jersey, Sheet 1 of 1, dated 3/5/09, prepared by Golden & Moran Engineering, LLC,* Mr. Golden stated 18,000 truckloads of soil could be removed. He discussed the amount of excavation that will be necessary to build roads in the Crystal Springs North project. He identified the access road where the material could be hauled out as well as a temporary processing area. He stated what is not processed on a portion of the property would need to be located in a fill. He explained that a controlled fill is required for future homes and that this proposal is a more efficient use of the land as the sand would be removed in a controlled manner versus en masse. Mr. Golden confirmed that he did not have a full evaluation of the cut/fill. He stated the land is ideally suited for the proposal. He identified the area of disturbance and location of the stormwater management facility.

Mr. Golden distributed his planner's report titled, *Crystal North Soil Removal, Planning Report − March 4, 2009, Request for a "D1" Use Variance, Soil Removal Operation, Crystal North, Block 14, Lot 22.01, 24.01, 24.02 & 24.04, State Route 94, Hardyston, Sussex County,* and marked it as Exhibit A-3. He confirmed that the overall acreage for the housing development totals 305 acres and 13.3 acres are proposed for the soil removal operation, which represents approximately 4.3% of the total tract.

Mr. Golden marked Exhibit A-4, an aerial photo with the areas of disturbance outlined, titled *Soil Mining Plan*, *Crystal Springs North,Block 14 Lot 24.01 & 22.01, New Jersey State Route 94, Township of Hardyston, Sussex County, New Jersey, Sheet 1 of 1, dated 3/5/09,* prepared by Golden & Moran Engineering, LLC. He identified the areas of disturbance, quad trails, buffers, and the environmental constraints that were previously permitted under the Letter of Interpretation for the main development. He stated the area is self-contained within the area of previous disturbance. Mr. Golden stated a bowl effect would not be created. He acknowledged that the Applicant may require stormwater permitting. He stated this proposal coordinates with the construction process.

With reference to the soil removal process, Mr. Golden stated it is proposed that as lifts of ten feet are removed, test pits are dug. He stated if water is not found, the Applicant may go down another ten feet. He stated the Applicant is required to adhere to a standard limit of ten feet to the ground water. He stated the operation would not be visible from Route 94.
Mr. Golden explained that the property slopes and drops down. He identified a buffer created by mature trees. He identified an area where trees would be removed and stated that would be part and parcel to the future development. He confirmed that it is about 1400 ft. to the nearest dwelling. He stated he anticipated that the soil removal operation would exist for about three years and would be on-demand. He stated the operation is really Phase I of the overall development of the parcel. He stated one or two loaders are anticipated and the operation would not be treated as a quarrying operation. He stated the site would be policed and maintained as a traditional construction site. Mr. Mulvihill stated the plan is to build out the Shotmeyer section on the south side of Route 94 and after that is built-out, Crystal

Springs North would be built simultaneously with the village center. He stated he has approximately 300 homes to build in the Shotmeyer and that he will be prepared to deliver homes in the fall. He stated he anticipated it would be three to four years before construction starts on the north side. He confirmed that the ability to take advantage of a soil removal operation would help with cash flow in the current difficult times.

Mr. Golden stated more than 95% of the site would remain undisturbed until the commencement of construction. He identified the area of concentrated sand and stated the material is ideal. He confirmed that the soils are not being removed because they are not suitable for building homes on. He stated the Applicant might stockpile some of the material to integrate it with materials for later on when rock is removed. He stated the material could be used to help fill the voids. Mr. Mulvihill stated the material could be used to backfill walls in the Shotmeyer. He stated more than 10,000 yards would be needed there.

With reference to the positive criteria, Mr. Golden stated the operation is far away from everything that is happening. He stated there are natural buffers for sound, dust, and visual impacts. He explained the site is surrounded by wetlands and streams, which act like a natural air conditioning set up. He stated that the Municipal Land Use Law states, "If a site is particularly suited to the use, it actually benefits the general welfare of the community." He further cited N.J.S.A. 4:55D-2m – "to encourage coordination of various public and private procedures and activities shaping land development with a view of lessening the cost of development and the more efficient use of the land." Mr. Golden stated the proposal is more cost effective. He stated the proposal is a coordinated effort, is a more efficient use of the land, and meets the positive proofs.

With reference to the negative criteria, Mr. Golden stated there are no negative criteria because the disturbance is limited, the operation is proposed in the middle of the site, no one will be disturbed, and the concerns of the person who had objected were addressed.
With reference to disturbance of the peripheral environment by moving the trucks in and out, Mr. Golden stated there are well-established trails that go through the property. He identified the proposed path for truck traffic. Chairman Miller requested the Applicant provide Board members with copies of the soil removal plan with the homes superimposed on it.

With reference to the impact of the proposal on the zoning and master plan, Mr. Golden confirmed that the proposal is a temporary use of the property. He confirmed that the ultimate use is to make a 480+ housing development approved by the Hardyston Township Planning Board. The Board took judicial notice that a soil removal permit has a limited life span.

Mr. Golden stated the following: "The application does promote one or more purposes of the land use law. The site is particularly suited to the proposed location and use, encourages the coordination of development activities to lessen the cost of development . . . it does not materially impact the integrity of the CR-Zone, it does not cause substantial detriment to the public good, it does not substantially impair the intent and purpose of the zone plan and zoning ordinance, and as such, the benefits outweigh any potential detriments."

Board Engineer Vreeland stated he did not understand how the application makes for a more efficient operation in the area of the property that would be over-excavated and then filled back in. Mr. Golden stated that all of the material taken out does not have to go back in. He noted that he did not know how deep the hole would be because of the need to test the water table. Mr. Golden stated that the Applicant is not proposing a big giant hole in the ground. He stated that the area is wide with gentle 4:1 slopes. He stated a couple of acres are flat. Mr. Vreeland queried if a calculation was performed to determine how much fill would need to come back for grading purposes. Mr. Golden stated that figure was not calculated.
Mr. Mulvihill stated if the soil removal operation was not done and there was excess material from blasting, the excess material would be processed, sold, and trucked off site. He stated that net-net, it is probably the same amount of truck-traffic, and it is not necessarily that much more efficient, except for the fact that revenue is generated. He stated he would like to generate revenue from a commodity there. He stated it does help to prepare the site.
Mr. Mulvihill stated he would evaluate the economics as they went along.

Board members discussed potential truck-traffic. Mr. Golden stated that the traffic would be significantly less than when the project is built-out. He stated he believed the current proposal to be more prudent because it is not going to be done in a rush. Mr. Mulvihill stated that the current access permit could be used at the Hayloft. He identified the location of the

temporary access modification made in response to an objector and noted that the Applicant would seek a permit in this area. He stated this permit may take three months to obtain and that he would like to start the project in May or June.

Board members reviewed the following report. Comments are inserted under the relevant section.

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1*February 23, 2009*

Board of Adjustment
Hardyston Township
Municipal Building
149 Wheatsworth Road
Hardyston, New Jersey 07419

Re: Variance & Site Plan
Crystal Springs North Soil Removal
Block 14, Lots 22.01, 24.01, 24.02 and 24.04
Application No. ZB-2-09-1
(Our Project No. 1002)

Dear Board Members:

We are in receipt of the following information relating to the referenced application:

- *Township of Hardyston Variance Application and Checklists*
- *Township of Hardyston Preliminary and Final Site Plan Application*
- *List of Variance, Design Waivers and Checklist Waiver Requests*
- *Correspondence from Matrix New World regarding NJDEP oversight.*
- *Plans entitled: "Soil Removal Plans, Crystal North, Block 14, Lots 22.01, 24.01, 24.02 & 24.04, Township of Hardyston, Sussex County, NJ". The plans were prepared by Golden & Moran Engineering, Inc., consist of 18 sheets, and are dated February 4, 2009 with no revision date.*

The plans propose to remove approximately 360,000 cubic yards of soil from Block 14, Lot 22.01. The plans indicate that the material will be hauled along existing "cartways" located on Lots 22.01 and 24.01. We assume the material will then be hauled: through the rear yard of the newly constructed administrative office building and parking lot located on Lot 24.04; through the parking lot for the Cava Winery and former Hayloft Restaurant located on Lot 24.02; and then along the common access drive serving Cava Winery, the Crystal Springs Office Building and Lakeland Bank, before reaching Route 94.

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Block 14, Lots 22.01, 24.01, 24.02 and 24.04
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The soil removal is proposed to be completed in 10 foot deep removal phases. The subject properties are located within the Township of Hardyston's Commercial-Recreation (C-R) District and the CR Village Center District.

We have reviewed the submitted information, visited the site and offer the following

comments for the Board's consideration:

A. Zoning

We have reviewed this application in accordance with the Land Use Chapters of the Revised General Ordinances of the Township of Hardyston. Based on our review of these requirements soil removals are not listed as a permitted use in either the CR or the CR Village Center Districts. The applicant has requested a use variance for the proposed soil removal.

The applicant will need to present special reasons in order for the Board to grant the requested relief (a.k.a positive criteria). The only special reasons which can be considered by the Board are those which promote the general purposes of zoning In addition to proving special reasons, the applicant must offer an enhanced quality of proof and satisfy the negative criteria. No variance or other relief may be granted without showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.

It appears that the subject property may have some unique features; in particular, the apparent existence of sand and gravel deposits on a portion of Lot 22.01. However, in our opinion, this fact by itself does not support the grant of a use variance. The application indicates that the soil removal is necessary to render the property developable for uses permitted in the zone, including those previously approved by the Planning Board. Based on our review of the information submitted along with the previous Planning Board approvals it is unclear how this will be accomplished. In fact, it appear that this proposal will likely create conflicts with these uses. The applicant's qualified professionals should present additional information concerning these issues as well as the positive and negative elements pertaining to the subject proposal.

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B. Soil Removal Plan

The applicant has requested preliminary and final site plan approval. Chapter 150 of the Township Code (Soil Removal) states "No person shall excavate for the removal of soil or otherwise remove soil for sale or for use other than on the premises from which the soil was taken except in accordance with an approved plan for which a permit has been first obtained. Conventional site plan review shall not be required for soil removal operations, and the review provided in this chapter shall be in lieu of conventional site plan review....". We recommend that the submitted plan and application be considered by the Board based on the standards in Chapter 150 (Soil Removal) rather than strictly considering the requirements of Chapter 147 (Site Plan and General Development Plan Review).

1. We have serious concerns relating to the haul route illustrated on the plan. The route across Lots 22.01 and 24.01 includes steep grades, sharp curves, narrow cartways, limited sight distance and a rutted and eroded surface. The route across Lots 24.04 and 24.02 will take vehicles through the Crystal Springs Administrative Office and the Cava Winery/Former Hayloft Restaurant sites. The applicant's engineer should address the safety, environmental and maintenance issues that will be created by the proposed access.

– **Mr. Golden stated the trucks are designed to traverse tough terrain. He stated that the sandy soils are less conducive to having problems with sinking in. He stated that if there is a rutting area, they have a right to fix it. Mr. Walsh**

asked about emergency access. Mr. Golden stated it would be a standard construction site. He stated the big trucks would pack the road down and make it more stable. Mr. Vreeland and Mr. Golden discussed grades and the vertical alignment of the road. Mr. Miller submitted a series of nine photographs that was marked as Exhibit B-1. Mr. Vreeland confirmed that on February 13, 2008, he and Mr. Miller visited the site and Mr. Miller took the photographs. He stated the photographs fairly and accurately depict the site conditions.

Mr. Mulvihill commented on the photographs and stated he has driven up the roads many times in various vehicles. He stated that he did not see an obstacle. He stated flagmen and radios would be used as needed so that trucks would not be driving at each other. He stated he has no intention other than to use the existing roads and follow to the letter of the law. Mr. Walsh noted that the site has to be accessible to all emergency vehicles. Mr. Mulvihill stated the road would be maintained.

Mr. Golden confirmed that the current condition of the roads would provide safe access. He stated the roads would be maintained within the right of the permitting process.

With reference to road maintenance, Mr. Cramer stated the Freshwater Wetlands Regulations permit the maintenance of the roads in their existing footprint and elevations. He defined the maintenance as minor grading to fill in ruts or placing stone to fill potholes. He confirmed that his interpretation of the regulations has withstood scrutiny from the DEP.

Mr. Miller asked if the path would need to be widened. Mr. Mulvihill stated they would not widen the road. Mr. Golden stated that in reviewing the photographs, there is room for a truck to drive through. He stated that he believes there would be no problem with the trucks utilizing the road and that he has reasonable faith that the Applicant would stay within the parameters of the environmental constraints. He stated there is encroachment of vegetation but the on-the-ground disturbance is 12' wide.

Mr. Golden agreed to check the proposed access roads and present his findings.

2. *Due to the size of the proposed disturbance, the proximity of the proposed disturbance to wetlands deemed habitat for an endangered species and the existing character of the land, the Board may want to consider an Environmental Impact Assessment be provided.*

– **Mr. Golden stated the activity is within the disturbance that has already been approved. Mr. Cramer stated the proposal is within the current permitting. He stated there would be no additional impacts other than what was approved by the DEP.**

3. *We have reviewed the proposed grading on Lot 22.01. This grading is not consistent with the grading illustrated on the Crystal Springs North Site Plan and Subdivision applications approved by the Planning Board. Although the limit of disturbance appears to respect the NJDEP wetlands permit provided with the Crystal Springs North plans the finished grades shown on the soil removal plan are more than 30 feet below the finished grades illustrated on the approved Crystal Springs North plan. In addition, the proposed grading will create a large depression which conflicts with provision of Section 150-10. The applicant's engineer should explain how this proposal is necessary and incidental to development of the Crystal Springs North project.*

– **Mr. Golden agreed to provide calculations and an exhibit concerning the proposed over excavation.**

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4. Based on the information submitted, we are unable to determine how the proposed soil removal operation will be conducted. We recommend that the applicant provide testimony regarding material processing, number and type vehicles and equipment that will be accessing the site, vehicle and equipment storage, fueling and maintenance, duration of operation, phasing of work, how much of the site will be disturbed at any one time, storage of trash, garbage and debris, etc.

– **Mr. Golden stated the equipment is really just one piece of equipment that would be fueled as on any construction site. Mr. Mulvihill noted this is a lot smaller operation than a residential construction or golf course construction site.**

5. Sheet 2 entitled "Existing Conditions" is outdated. More specifically, the Crystal Springs Administrative Office and the Cava Winery are not illustrated on the plan. In order for the Board to evaluate this proposal with respect to current conditions, we recommend that an updated exhibit be prepared. In addition, we recommend that the entire proposed soil removal operation (including haul route) be illustrated on one sheet.

– **Mr. Golden stated that now that the access has been moved, the Applicant is in an area where the survey is current.**

6. *A stormwater management plan will need to be prepared and submitted. Based on the information provided, we believe that the applicant will need to obtain authorization from the NJDEP pursuant to General Permit (R13) for Mining & Quarrying Activities.*

7.

– **Mr. Golden stated this could be a condition of approval and agreed to provide the information if necessary. He stated he would investigate to determine if the authorization is necessary.**

C. Soil Removal Permit

Chapter 150 of the Township Code (Soil Removal) requires that a permit be obtained from the Township Council for the soil removal. An application is to be filed with the Township Clerk and forwarded to the appropriate Board for its review and recommendation. The applicant has indicated that the permit application will be filed if the use variance is granted. Pursuant to Section 150-6 relating to information required for a permit application, we believe additional items will need to be addressed, including but not limited to:

1. An aerial photograph of the site needs to be provided.

– **Mr. Golden stated the Applicant has it.**

2. Topsoil storage areas need to be provided.

– **Mr. Golden stated the areas will be located and that stockpiling would be done.**

3. *Determination of the water table needs to be made and certified by a professional engineer.*

– **Mr. Golden stated test pits have been done up to 15' and there has been no experience of water. He stated they would dig to the limit of the bucket until**

groundwater is found.

4. A restoration bond will need to be posted.

– **Chairman Miller noted that bonds are subject to the Council's Review.**

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D. Other Agency Approvals

At this time, we believe other agency approvals that may be required for this project include, but may not be limited to:

1. Hardyston Township Council: Soil Removal Permit

2. New Jersey Department of Environment Protection: Stormwater

3. Sussex County Soil Conservation District

4. New Jersey Department of Transportation: Access from Route 94

Very truly yours,
GUERIN & VREELAND ENGINEERING, INC.

/s/Michael G. Vreeland, P.E., P.P.

Michael G. Vreeland, P.E., P.P.
Board Engineer and Planner
For the Firm

cc: Richard Brigliadoro, Esq.
Joe Golden, P.E., P.P.
Richard Valenti, Esq.
Dale Pierson

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Chairman Miller opened the meeting to the public. Mr. Russell Law was sworn. He stated he represents the neighbors on the Hamburg side of the project. He stated that work with the Planning Board and Mr. Mulvihill has been ongoing for two years and that nothing is shocking and there are no objections. He stated that as a community, if Mr. Mulvihill can meet the DEP requirements, there are no objections and they would like to see the project move forward.

No other members of the public addressed the Board. The meeting was closed to the public.

Mr. Vreeland stated he would like an opportunity to review a fill analysis. Chairman Miller requested the Applicant to provide copies of the layout and overlays.

Mr. Valenti asked if the ordinance has made the review a three-part process to include a Planning Board referral. Mr. Brigliadoro stated that his interpretation is that the Zoning Board, if they approve the application, could make a recommendation to the Council.

Chairman Miller asked about protecting the site when under construction. Mr. Mulvihill stated fencing and signage could be put up. He stated the ATV's have been problematic for years. He agreed to show fencing and signage on the revised plans.

The matter was carried to the April 2, 2009 meeting without further notice required.

CORRESPONDENCE: There was no correspondence scheduled for review.

DISCUSSION: There was no general discussion.

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 by Santo Verrilli Gerald Laughlin. Roll Call: Hugh Krone – yes; Roger Kabbash – yes; Gerald Laughlin – yes; Santo Verrilli – yes; William Walsh – yes; Mary Ann Murphy – yes; Carl Miller – yes. The motion carried.

HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
ESCROW REPORT
MARCH 5, 2009

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

Invoice WO787B	Zoning OE	$ 420.00
Invoice W760F	ZB-3-07-1, Schappert, C.	241.50

Richard Brigliadoro, Esq.

Invoice 124960	Zoning OE	570.00
Invoice 124961	ZB-10-08-1, Zabriskie, H.	375.00

ADJOURNMENT: Having no further business, a motion to adjourn was made by William Walsh and seconded by Gerald Laughlin. All were in favor. The motion carried. The meeting was adjourned at 9:40 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm
Board Secretary