

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MEETING HELD APRIL 1, 2010**

**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 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 a copy 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
Roger Kabbash	Excused
Hugh Krone (Alt. 2)	Excused
Mary Ann Murphy	Present

**OTHERS PRESENT:** Richard Brigiadoro, Esq., and Anne-Marie Wilhelm, Secretary.

**APPROVAL OF MINUTES:**

A motion to approve the *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held March 4, 2010* was made by William Walsh and seconded by Santo Verrilli. Roll Call: William Walsh – yes; Santo Verrilli – yes; Gerald Laughlin – yes; Mary Ann Murphy – yes. The motion carried.

**APPROVAL OF RESOLUTION(S):** **ZB-2-09-1a, Crystal Springs Builders, L.L.C., Request for Extension, “D” Variance, Block 14, Lots 22.01, 24.01, 24.02, and 24.04:**

A motion to approve the memorializing resolution was made by Gerald Laughlin and seconded by Santo Verrilli. Roll Call: Santo Verrilli – yes; Gerald Laughlin – yes; Mary Ann Murphy – yes. The motion carried.

**APPLICATIONS:** There were no applications scheduled.

**PUBLIC PARTICIPATION:** Chairman Murphy opened the meeting to the public. There were no public participants. The meeting was closed to the public.

**DISCUSSION:** Board members reviewed a special meeting request and declined same for lack of member availability on May 20, 2010.

**BILLS:** Chairman Murphy recused herself. Following a review of the bills cited below, a motion to recommend payment of the bills to the Township Council was made by Santo Verrilli and seconded by William Walsh. Roll Call: William Walsh – yes; Santo Verrilli – yes; Gerald Laughlin – yes; Candace Leatham – yes. The motion carried.

**HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT  
ESCROW REPORT  
APRIL 1, 2010**

Weiner Lesniak, L.L.P.

Invoice 133268

ZB-9-09-1, Edgewater Associates

\$ 90.00

**Guerin & Vreeland Engineering, Inc.**

Invoice WO826B	Zoning OE	210.00
Invoice 796E	ZB-2-09-1, Crystal Springs Builders, L.L.C., [Soil Removal Operation]	367.50
Invoice 781H	ZB-9-09-1, Edgewater Associates,	577.50

**CORRESPONDENCE:** There was no correspondence.

**ADJOURNMENT:** Having no further business, a motion to adjourn was made by William Walsh and seconded by Gerald Laughlin. All were in favor. The meeting was adjourned at 7:45 p.m.

Minutes respectfully submitted by:  
*/s/ Anne-Marie Wilhelm*  
Anne-Marie Wilhelm  
Land Use Administrator

**RESOLUTION  
TOWNSHIP OF HARDYSTON  
ZONING BOARD OF ADJUSTMENT  
IN THE MATTER OF  
CRYSTAL SPRINGS BUILDERS, LLC  
APPLICATION NUMBER ZB-2-09-1a  
DECIDED ON MARCH 4, 2010  
MEMORIALIZED ON APRIL 1, 2010  
EXTENSION OF USE VARIANCE APPROVAL**

**WHEREAS**, Crystal Springs Builders, LLC (hereinafter "Crystal Springs" or "Applicant") has made application to the Township of Hardyston Zoning Board (hereinafter "Zoning Board" or "Board") for an extension of its use variance approval for property known and designated as Tax Block 14 Lots 22.01, 24.01, 24.02 and 24.04 on the Tax Map of the Township of Hardyston, which premises are located along Route 94, Hardyston, New Jersey in the C-R Commercial Recreation Zone and the Village Center District; and

**WHEREAS**, the Zoning Board granted use variance approval in order to permit a soil removal operation not to exceed 200,000 cubic yards of material on May 7, 2009 which approval was memorialized in a Resolution adopted by the Zoning Board on June 4, 2009; and

**WHEREAS**, the Zoning Board also contemporaneously granted preliminary and final site plan approval as well as issuing a favorable recommendation to the Township council to issue a soil removal permit in connection with this application on May 7, 2009 and memorialized in a Resolution adopted by the Zoning Board on June 4, 2009; and

**WHEREAS**, the Municipal Land Use Law provides for an extension of approvals pursuant to N.J.S.A. 40:55D-52; and

**WHEREAS**, pursuant to Hardyston Code Section 33-21 variances expire by limitation unless such construction or alteration shall have actually been commenced on each and every structure permitted by the granting of said variance or unless such permitted use has actually been commenced within ninth (9) months from the date of entry of the judgment or determination of the Zoning Board; and

**WHEREAS**, the Zoning Board considered this matter at a public hearing on March 4, 2010 after the Board determined it had jurisdiction; and

**WHEREAS**, the Applicant was represented by John Fetterly, Esq. (hereinafter "Fetterly").

**NOW, THEREFORE**, the Zoning Board makes the following findings of fact, based on evidence presented at its public hearing, at which time a record was made.

The application before the Board is a request for an extension of the use variance approval permitting the removal of up to 200,000 cubic yards of material from the site which application was decided on May 7, 2009 and memorialized in a Resolution adopted by the Zoning Board on June 4, 2009. The Applicant contemporaneously received preliminary and final site plan approval as well as a favorable recommendation to the Township Council to issue a soil removal permit in connection with this application on May 7, 2009 and memorialized in a Resolution adopted by the Zoning Board on June 4, 2009.

The subject site is located along Route 94 and is known and designated as Tax Block 14, Lots 22.01, 24.01, 24.02 and 24.04 on the Tax and Assessment Map of the Township of Hardyston, which premises are located in the C-R Zone and the Village Center District. Furthermore, pursuant to the Hardyston Code Section 33-21 variances shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced within nine (9) months from the date of entry of the judgment or determination of the Board of Adjustment.

The Applicant was granted final site plan approval on June 4, 2009, which therefore provides for a period of protection from subsequent zoning requirements for a period of two (2) years from the date upon which the Resolution of final approval was adopted. In this instance, the period of protection against subsequent zoning ordinance changes would be in effect until June 4, 2011. However, the variance approval would have long since expired. Therefore, the Applicant requests an extension of the "D" variance approval to run concurrently with the period of final site plan approval.

Testifying on behalf of the Applicant was Dale E. Pierson, (hereinafter "Pierson") Administrator of Development for the Applicant. Pierson represented that the Applicant is diligently proceeding with all other governmental approvals set forth in the memorializing resolution. The extension is necessary due to the lengthy process of the R-13 application to the New Jersey Department of Environmental Protection (NJDEP). At first it was determined that the R-13 permit was required as part of the application to

the Sussex County Soils Conservation District (SCSCD). In working with the NJDEP, they requested the SCSCD plan certification as part of the R-13 permit requirement. The R-13 permit application was submitted to the NJDEP on September 3, 2009. Prior to the submission, the Applicant had a meeting in June 2009 with the NJDEP representative to discuss the application. The Applicant also represented that its engineer, Mr. Moran, had further discussions during the application preparation. The NJDEP informed Mr. Moran that they required the SCSCD plan certification. As a result, Mr. Moran met with the SCSCD to determine the extent of their requirements and an application was submitted to SCSCD on February 9, 2010 along with a Stormwater Management Report and Sediment Detention Basin Design. Pierson also stated that the Applicant received a NJDOT access permit, and that they expect to receive shortly a Sussex County Soil Conservation District approval. Pierson also stipulated that the Applicant will comply with all conditions of the Resolutions. As such, the Applicant requests an extension of the use variance to run concurrently with the granting of final site plan approval.

The meeting was opened to the public and the Board was addressed by Russell Law of Hamburg, New Jersey who supports the Applicant's request.

**NOW, THEREFORE**, the Zoning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The application before the Board is a request for an extension of time pursuant to the Municipal Land Use Law under N.J.S.A. 40:55D-52 in regard to the granting of use variance approval by the Zoning Board on May 7, 2009 and memorialized in a Resolution adopted by the Zoning Board on June 4, 2009.

In addition, the Applicant seeks an extension of time relative to the granting of a "D" variance under Hardyston Township Code Section 33-21 which provides that variances shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced within nine (9) months from the date of entry of the judgment or determination of the Board of Adjustment.

The Zoning Board specially finds that the Applicant is diligently pursuing securing all governmental approvals that are required in order to construct the approved project.

The Board also determines that it would be appropriate to grant relief from Hardyston Township Code Section 33-21 which provides for the expiration of variance relief nine (9) months from the date of the entry of the judgment or determination of the Board of Adjustment in certain circumstances, especially when the variance relief is associated with the granting of preliminary and final site plan approval. The Board thus determines that it is appropriate to grant an extension of time with respect to the previously granted "D" variance so that the variance approval will run concurrently with the granting of final site plan approval.

In this instance, the Board determines that it is appropriate to grant the Applicant's request for an extension of use variance relief so that the use variance and final site plan approval shall all run concurrently. Therefore, the Board determines that it is appropriate to grant an extension of time through June 4, 2011 relative to the granting of use variance approval.

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of the Township of Hardyston that the application of Crystal Springs Builders, LLC bearing Docket No. ZB-2-09-1a requesting an extension of time with respect to use variance approval is granted pursuant to N.J.S.A. 40:55D-52 subject to the following terms and conditions:

1. Applicant represents that all of its representations and stipulations made by it or on its behalf to the Township of Hardyston Zoning Board are true and accurate, and acknowledges that the Zoning Board specifically relied upon the Applicant's stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.
2. The extension of time relative to the granting of use variance approval shall be extended through June 4, 2011 in order to run concurrently with the granting of final site plan approval.
3. Payment of all fees, costs and escrows due or to become due. Any moneys are to be paid by the Applicant within twenty days of said request by the Board Secretary.
4. Certification that taxes are paid to date of approval.

5. All terms of the Board's previous Resolutions remain in full force and effect except as modified by this Resolution granting the extension of time for the use variance through June 4, 2011.

6. Subject to other applicable rules, regulations, ordinances and statutes of the Township of Hardyston, County of Sussex, State of New Jersey, or any other agency or entity having jurisdiction thereunder.

The undersigned secretary certifies that the within Resolution was adopted by the Board of Adjustment on March 4, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on April 1, 2010.



Anne-Marie Wilhelm, Board Secretary

IN FAVOR:

AGAINST:

ABSTAINED:

BOARD MEMBERS ELIGIBLE TO VOTE: Santo Verrilli; Gerald Laughlin; Roger Kabbash; Hugh Krone; Mary Ann Murphy.