

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING  
HELD APRIL 26, 2022**

**CALL TO ORDER:** Chairman Murphy called the meeting to order at 7:00 p.m., read the Statement of Compliance, and led the Flag Salute.

**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:**

Jim Homa – Present  
Ellis Marples – Present  
Jane L. Caiazzo – Present  
Vally Cicerale – Present  
Mary Ann Murphy – Present  
Doug Grayson – Present  
Eric Balinski – Absent  
David Van Ginneken – Present

**OTHERS PRESENT:** Michael G. Vreeland, P.E., P.P.; Richard Briigliodoro, Esq.

**APPROVAL OF MINUTES:** A motion to approve the *Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held March 22, 2022* was made by Jim Homa and seconded by Jane L. Caiazzo. There was no discussion. Roll Call: Jim Homa – yes, Ellis Marples – yes, Jane L. Caiazzo – yes, Vally Cicerale – yes, Doug Grayson – yes, David Van Ginneken – yes, Mary Ann Murphy – yes. The motion carried.

**APPROVAL OF RESOLUTION:** ZB – 1-22-2a, Minerals Resort and Spa SPE LLC/Wild Turkey Golf Club SPE LLC, *Proposed Accessory Structures for Grand Cascades*, Interpretation, “D” Variances, Preliminary and Final Site Plan, Block 16 Lots 1, 1.09, 6.02 — A motion to memorialize the resolution was made by Ellis Marples and seconded by Jim Homa. There was no discussion. Roll Call: Jim Homa – yes, Ellis Marples – yes, David Van Ginneken – yes, Mary Ann Murphy – yes. The motion carried.

**APPLICATION:** ZB-1-22-1, 2700 Route 23, LLC, “D” Variance, Preliminary and Final Site Plan, “C” Variances, Block 41 Lot 18.01 — John M. Barbarula, Esq., appeared on behalf of the Applicant and presented an overview of the project. He stated the proposed mixed-use with outside storage of equipment ancillary to the construction business of the owner is not permitted, as the Applicant does not meet all the conditions of the conditional use ordinance. Mr. Barbarula requested D (3) and D (1) variance relief, a “C1” parking variance, relief from off-street parking and loading requirements, and relief for setback encroachments. He noted he has attempted to work with Newark Watershed, which owns part of the parking lot and surrounding areas, for over a year and a half without success. He stated this has restricted his client’s options and impacted the scope of what can be done with the site.

Michael G. Vreeland, P.E., P.P., defined the conditional use variance in his report dated 4/7/22 stating the Applicant could not meet the conditional use standard that mandates the provision of at least 5000 square feet of rear yard area available for each dwelling unit in a commercial building, which yard area shall not be included in any required off-street parking space, and shall be available for the exclusive use of the occupants of the dwelling unit. The Applicant confirmed the project includes two apartments, a yard area for both residential units, three offices, storage areas, and an outdoor storage area for the construction company. The Applicant confirmed the building would be serviced by the on-site well and septic. Mr. Vreeland also identified non-conforming conditions relative to the buildings pre-existing front, side, and rear-yard setback encroachments.

Paul Riccardi, Jr., was sworn and identified as the managing member of 2700 Route 23, LLC. Mr. Riccardi stated his business, Riccardi Enterprises, is a construction business specializing in investment properties and home remodeling. He discussed the business stating he operates by referral only and works multiple jobs at once. He explained he employs 18 – 20 men and utilizes subcontractors as needed.

Further, Mr. Riccardi testified he purchased the subject property three years ago having “fallen in love” with the building. He presented he has spent a lot of money fixing it up and has removed approximately eight dumpsters of materials from the building. Mr. Riccardi noted two apartments existed in the building when he purchased it and both are occupied. He stated he uses the building to store construction materials as well

as toilets, lighting fixtures, and windows he often buys on sale. He explained that COVID has created problems with the supply chain that have motivated him to buy in bulk and buy when there is a good opportunity. He stated the building operates as a staging area for display of work and is not a retail site. Mr. Riccardi noted the hours of operation as 9:00 a.m. – 5:30 p.m., Monday – Friday, and he confirmed the construction business is not open to the public. He explained that he would meet with a client at the building as needed.

Referencing the architectural drawing, Mr. Riccardi detailed the layout of the building and its uses. He identified two office areas, two apartments, and a third office area for the construction business and ancillary storage areas. Mr. Riccardi stated office areas one and two could potentially be rented out. He also confirmed that the construction office materials are more than 250 feet from any apartment. With regard to the exterior, Mr. Riccardi stated he wanted to put siding on the building with stonework in areas along the foundation.

Mr. Doug Toth was sworn. Mr. Toth stated he has been a tenant at 2700 Rt. 23 since 2012. He stated he has his own entrance and believes an approval would create no adverse impacts. He stated he has had no issues with the existing conditions limiting his enjoyment of the apartment. With regard to the open space area, he presented no objections to the proposal.

Mark A. Stefanelli, R.A., was sworn, qualified, and accepted as an expert witness. He submitted Exhibit A-1 that was identified as a Sheet 1, Alterations for Existing-Auction House Proposed Mixed Use dated 4/26/22. The sheet included eight photographs titled Photos of Existing: View A – Front; View B – Left Side; View C – Front; View D – Right Side; View E – Rear, Apt. 2 – Exit 2; Apt. 2 - Kitchen; Apt. 1 – Exit 1; a floor plan; and a Schematic Roof Exit Plan. He also referenced Exhibit A-3, a drawing labeled Sheet 2, dated 1/26/22, showing front and right elevations, and two photos of the existing building. Mr. Stefanelli stated that the apartments would have a second access to grade. He noted the roof is a rubber roof, the building does not have a sprinkler system, and there are no exterior building lights. He stated he might add entry and pathway lights. Mr. Stefanelli stated there are no proposed changes to signage and no loading area in the front of the building. He stated loading would take place at the back. Mr. Stefanelli confirmed the constructions materials would comply with the code.

Tyler C. Vandervalk, P.E., was sworn, qualified, and accepted as an expert witness. He submitted Exhibit A2, a plan sheet titled GREEN SPACE FOR APARTMENT UNITS and dated 4/26/22; and he submitted Exhibit A3, which was identified as Sheet 2 from the MAS architect Plan dated January 26, 2022. Mr. Vandervalk identified 10,500 square feet of open space reserved for the apartment uses. He explained the D(3) variance was requested because the recreation space is not in the rear yard as required by the ordinance. It was noted that if the space were located in the rear yard, it would be closer to an active railroad. Mr. Barbarula stated the location also provided a buffer for the neighboring residential use as the open space would not be used for commercial purposes.

Mr. Vandervalk further reviewed the existing conditions with the Board including a description of the properties surrounding the project and the existing nonconformities. He stated the property is 1.8 acres in area, is located on the northbound side of Route 23, has 35 feet of frontage along Route 515, and an active railroad along the rear of the property. Mr. Vandervalk stated the property is served by a well located in the front of the property and septic in the rear. He stated everything goes to the system in the northerly corner of the property and another septic system, previously linked to the existing system, has been removed. He clarified that the easement shown on the plan benefits the house septic and is not an access easement. He stated a T-1 permit currently at the DEP allows for historical flows. He noted septic updates were required at the time of purchase; and Mr. Riccardi confirmed no underground oil tanks were found. Mr. Riccardi added that existing grease traps were ripped out. The Applicant presented that the project qualifies for a Highlands Exemption and would not be required to install a fire suppression tank.

With regard to parking, Mr. Vandervalk stated all parking would be located behind the building. He stated 32 parking spaces are proposed including two ADA spaces and six larger stalls 25 feet in length. He stated the building is surrounded by gravel that was used for parking through the years. The Applicant also agreed to install an electric vehicle charging station that would not be opened to the public. A variance for the location of nonresidential parking where five feet from the property line is required and 2.7 feet is proposed was noted.

With regard to access, Mr. Vandervalk stated the driveway access off Route 515 would be the primary access with the ADA parking area accessible from Route 23. He noted Newark Watershed owns a portion of the parking area and the northerly driveway along Route 23 would be closed off to prevent site clients traveling across the watershed's property. Mr. Riccardi noted this would also stop an existing cut-through situation. Further, Mr. Vandervalk stated the project would have no impact on the neighbor's access to Rt. 23.

With regard to outdoor storage, two shipping containers providing outdoor storage at the rear of the property were identified. The Applicant stated the containers are used to store various materials including those not permitted in the building. It was noted the Applicant requested D (1) use variance relief to permit outdoor storage on the site. Board members discussed the matter. The Applicant agreed to paint the containers green, provide screening subject to the engineer's approval, and lock the containers. Board members reviewed Mr. Vreeland's engineering report dated April 7, 2022. Additional stormwater runoff quality control measures were discussed. The Applicant agreed to provide a grass swale and plantings subject to Mr. Vreeland's approval. The Applicant further agreed to provide waste management information on the plan.

With regard to lighting, Mr. Vandervalk stated six recessed LED lighting fixtures are proposed for the parking area and driveway area. He stated the fixtures would be pointed down to avoid a direct line of sight. He noted there would be no spillage onto the neighbor's property.

With regard to landscaping, Mr. Vandervalk stated the Applicant is proposing shade trees and shrubs throughout the parking area with landscape islands to clean-up the edges. The Board discussed additional landscaping in the front of the building. The Applicant presented they did not own the cell tower lot. The Applicant agreed to add landscaping subject to review by the Board Engineer and Fire Department.

Donna Holmquist, P.P., was sworn, qualified, and accepted as an expert witness. Ms. Holmquist identified the surrounding uses and space constraints. She submitted Exhibit A-4, a colored aerial of the site titled 2700 Route 23 Land Use, and dated 4/25/22; and she submitted Exhibit A-5, a colored aerial of the site titled 2700 Route 23 Zoning, and dated 4/25/22. Referencing the exhibits, Ms. Holmquist presented the site was isolated, irregular in shape, and had extensive frontage on a railroad. She noted the site was surrounded by approximately 218 acres of watershed area. She identified the nearest residential use as being 200 feet from the building with the next residential use being 365 ft. Ms. Holmquist reviewed the uses and noted the outdoor storage, prohibited by ordinance and requiring a D1 Variance, is an accessory use for the business. She stated it would have no negative impact, as it is located in the rear of the property where there is a sunken area. She opined the building and vegetation would shield it. She confirmed the D3 Variance was requested because the open space area was not in the rear yard as required by ordinance.

Ms. Holmquist stated the project would not trigger a COAH fee and is consistent with the Master Plan and Zone Scheme. She described the property as a "zombie" property that has been deteriorating. Ms. Holmquist noted there is no State plan to extend the sewer service area. She stated granting the relief would serve a public purpose by rehabilitating a deteriorated structure; providing housing; adding to the aesthetics, host appropriate land uses; provide adequate space for recreation; and improve the site without substantial detriment to the zone plan.

The Applicant showed six photos on Mr. Riccardi's cell phone that were identified as Exhibits A-6: A-10. Mr. Riccardi stated the photographs were taken when the site was purchased and showed the interior of the apartments. Two additional photographs were submitted and marked as Exhibit 11A and 11B. The Applicant described these photographs as samples of the proposed siding and stone work to be utilized on site.

Chairman Murphy opened the meeting to the public. No members of the public addressed the Board. The meeting was closed to the public.

Mr. Barbarula stated the society was changing and the site would probably never be developed again as a restaurant or a dance club. He stated the property is an island surrounded by Newark Watershed and backed by an active railroad. He noted the property has been used as a cut-through to Rt. 515 and as a dumping ground. He stated the project would cut that off. He stated that the Applicant would stipulate to improve the front of the building first.

A motion to approve the application subject to the standard conditions, outside agency approvals, and the additional special conditions noted below was made by Mary Ann Murphy and seconded by Vally Cicerale. Roll Call: Jim Homa – yes, Ellis Marples – yes, Jane L. Caiazzo – yes, Doug Grayson – yes, Vally Cicerale – yes, David Van Ginneken – yes, Mary Ann Murphy – yes. The motion carried. The special conditions noted were: no retail operations; no unloading in front of the building; comply with Fire Department requirements including landscaping recommendations; install the grassy swale subject to the review approval of the Board Engineer, install a private electric charging station, for private use only, within one year of the Certificate of Occupancy, provided screening and landscaping as noted, and provide an as-built plan subject to the approval of the Board Engineer prior to the issuance of a Certificate of Occupancy.

**CORRESPONDENCE:** There was no correspondence.

**DISCUSSION:** There was no discussion.

**ADJOURNMENT:** A motion to adjourn was made by Jim Homa and seconded by Jane L. Caiazzo. All were in favor. The motion carried. The meeting concluded at 10:40 p.m.

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