

**MINUTES**  
**BYRAM TOWNSHIP PLANNING BOARD**  
**APRIL 5, 2012**

**CALL TO ORDER**

Chairman Shivas called the meeting to order at 8:00 p.m.

**ROLL CALL**

	<i>Mr. Chozick</i>	<i>Mr. Kaufhold</i>	<i>Mr. McElroy</i>	<i>Mrs. Raffay</i>	<i>Mr. Valentine</i>	<i>Mrs. Segal</i>	<i>Mr. Walsh</i>	<i>Mayor Oscovitch</i>	<i>Mr. Gonzalez</i>	<i>Ms. Shimamoto</i>	<i>Mr. Shivas</i>
Roll Call	H	L	H	A	H	H	L	A	H	H	H
	Attorney	Secretary	Engineer	Susan Gruel	Kurt Senesky	Cheryl White	Lou Slaby	Planner			

Mr. Kaufhold and Mr. Walsh arrived late.

**STATEMENT BY CLERK**

Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meeting Act.

**FLAG SALUTE** led by Chairman Shivas

**MINUTES: March 15, 2012**

A motion was made by Ms. Segal and seconded by Mr. Valentine to approve the minutes as presented. The following vote was taken:

	<i>Mr. Chozick</i>	<i>Mr. Kaufhold</i>	<i>Mr. McElroy</i>	<i>Mrs. Raffay</i>	<i>Mrs. Segal</i>	<i>Mr. Valentine</i>	<i>Mr. Walsh</i>	<i>Mayor Oscovitch</i>	<i>Mr. Gonzalez</i>	<i>Ms. Shimamoto</i>	<i>Mr. Shivas</i>
<i>Planning Board Member</i>											
Motion					X						
Second						X					
Aye	X				X	X		X	X	X	
Nay											
Abstain			X								
Absent		X		X			X	X			

Motion carried.

**NEW BUSINESS**

**Z02-2012, Shatynski, Daniel, Block 105 Lot 39, 6 Spring Lane, R-5 Zone**

Variance relief for side yard setback for deck, front yard setback for front stair platform, and driveway exceeding maximum grade.

Mr. & Mrs. Shatynski were sworn in and Mr. Shatynski provided a brief history noting that he purchased the house partially finished with no Certificate of Occupancy but was unaware that the house was constructed 1.5 feet higher than depicted on the plan because of the ledge rock. This also caused an issue with the grade of the driveway. He noted a previous front yard variance was granted for having less than 25' for the front stoop but was unaware the ordinance had changed to a setback of 35', so he is seeking relief for the front stair platform that now exists. Mr. Shatynski said that at some point during construction sliding doors were added but a deck was not approved in the original plan, so he is seeking relief for a side yard setback to add a 12x12 deck. Since no hardship exists, the Board recommended Mr. Shatynski re-design or reduce the deck to eliminate the need for this variance.

Mr. Shatynski presented Exhibit A1, showing photos of nearby homes with steep gravel driveways, and noted that his request is not out of character with the neighborhood. There was discussion about allowing a gravel driveway. Mr. Slaby said the zoning ordinance calls for paving if the grade is greater than 5% but noted that this is not a long driveway and, if constructed of gravel it will not be unique. Mr. Slaby also noted this is a cul-de-sac and not a high traffic area, so snow removal shouldn't be a factor. There was also discussion about the width of the driveway and the turn-around radius. Mr. Shatynski said that leaving the driveway gravel allows for flexibility and noted Spring Lane is not paved. There was discussion about the

maintenance of the road, Mr. Shatynski explained that the three homeowners on Spring Lane share the expense of the road maintenance.

There was also Board discussion about a telephone pole on the property and Mr. Shatynski said that that he plans to move the pole. Chairman Shivas told him to try to find out who owns the pole, they might move it.

Mr. Shatynski presented a topographical survey that was not signed or sealed and Board Engineer Lou Slaby, said the Board has to assume that the numbers shown on the plan are accurate. After a lengthy discussion, it was determined that Mr. Shatynski added the numbers depicted based on a letter received from Mr. Careaga. Mr. Slaby had visited the site and noted that Mr. Shatynski may be depicting a steeper grade than exists; because of this the Board needs an updated, signed and sealed plan. The Board also noted that an as-built will have to be submitted when obtaining a building permit.

Chairman Shivas opened to the public. No one from the public came forward. Chairman Shivas closed to the public.

The Board determined that Mr. Shatynski must provide a grading plan signed and sealed by an LS and the grading plan must be signed and sealed by a PE. The plan must show existing and proposed conditions including the driveway and front platform, with setbacks, dimensions, and elevations. A motion was made by Mr. Valentine to carry the application to May 3, 2012. The motion was seconded by Mr. McElroy. The following vote was taken:

Planning Board Member	Mr. Chozick	Mr. Kaufhold	Mr. McElroy	Mrs. Raffay	Mrs. Segal	Mr. Valentine	Mr. Walsh	Mayor Osovitch	Mr. Gonzalez	Ms. Shimamoto	Mr. Shivas
Motion						X					
Second			X								
Aye	X	X	X		X	X	X		X	X	X
Nay											
Abstain											
Absent				X				X			

Motion carried.

**OLD BUSINESS**

SP1-10 First Hartford Realty Corp/CVS Pharmacy, Block 34 Lots 14 & 15, 77 Rt. 206, VB-Zone (carried from 3/1)

Preliminary & final site plan, waivers & variance relief for drive through pharmacy

Mr. Schwartz, attorney for Acorn Associates, Inc., who was previously sworn in continued with questioning the applicant regarding front yard parking, and the number of parking spaces, stating that the majority of the parking will occur in the front yard which is not permitted by Byram’s ordinance. Mr. Schwartz added that Byram’s Ordinance calls for a rear entrance but this application has none. Mr. George Ritter, planner for the applicant, stated that security is not the only reason for having no rear entrance; CVS also did not want to encroach on rear neighboring property owners. Mr. Ritter disagreed with Mr. Schwartz about the majority of the parking being in the front yard. Mr. Schwartz also pointed out that Byram’s design goals in the Master Plan Re-examination Report are to avoid strip like development and Mr. Schwartz reiterated this development does not meet Byram’s ordinance requirements because it has parking in the front, no rear entrance, an oversize building, and a drive-through window. Mr. Schwartz noted that the applicant did not approach the town about amending this ordinance to allow for drive-through’s.

Mr. Schwartz pointed out that the original plan submitted for development was more in line with Byram’s mixed use goals, with residential units that promoted pedestrian and bike traffic. Mr. Schwartz believes that this development does not promote pedestrian traffic; Mr. Ritter said it provides an important function with the convenience of a drive-through and that the sidewalks and access to Route 206 and Lot 15, do promote pedestrian traffic. Mr. Ritter said the overall design meets the purposes of the Master Plan. He also pointed out that the large lot size can accommodate this project. The development is not a detriment nor does it hinder the goals of the zone. The only negative impact resulting from a drive through would be more impervious coverage. He added that the Highlands Regional Master Plan promotes re-development.

Mr. Schwartz said that the number of variances and waivers requested is a measure of the applicant’s inconsistency with the Township’s Master Plan. Mr. Ritter disagreed and said that it comes down to how the development impacts the neighborhood.

Chairman Shivas opened to the public.

*Ed Brice, 3 Louis Drive*, was hoping the applicant's planner would provide testimony about the phasing of landscaping and was hoping the landscaping would happen first. Mr. Ritter responded that if the application is approved, they would have no problem doing the landscaping first. Mr. Brice also had concerns about drilling and blasting; Mr. Selvaggi said those items will be outlined at a pre-construction meeting and the applicant will comply. Mr. Brice questioned hours of construction, and it was noted Byram has an ordinance addressing this. Mr. Slaby said the Board can also impose different hours as part of the resolution.

No one else from the public came forward. Chairman Shivas closed to the public.

Mr. Schwartz introduced Professional Planner Mr. Steven Lydon, who was sworn in and provided his educational background and experience. The Board accepted Mr. Lydon as an expert in his field. Mr. Lydon provided an overview of the proposed CVS project and outlined the variances and waivers requested. He emphasized the significance of the zoning ordinance being consistent with Byram's Master Plan, and Re-examination Report. Mr. Lydon spoke about Byram's award-winning Master Plan and Byram's smart growth approach to re-development and the goal of promoting a village like, pedestrian friendly Center.

Mr. Lydon explained how each variance and waiver is inconsistent with Byram's goals and how the applicant has failed to prove that this development promotes Byram's goals, and is consistent with the zoning ordinance and Village Center design principles. Mr. Lydon presented Exhibit A0-1, "Negative Criteria, Zone Plan & Ordinance" and identified what the Master Plan contemplates for this lot. He argued that what currently exists on the lot is more in line with Byram's ordinance and the Master Plan than what is proposed.

At 11:03 p.m. a motion was made Mr. Valentine to carry the meeting to May 3, 2012; the motion was seconded by Mr. Kaufhold. Mr. Lydon will finish testimony at the May 3 meeting. The following vote was taken:

Planning Board Member	Mr. Chozick	Mr. Kaufhold	Mr. McElroy	Mrs. Raffay	Mrs. Segal	Mr. Valentine	Mr. Walsh	Mayor Oscovitch	Mr. Gonzalez	Ms. Shimamoto	Mr. Shivas
Motion						X					
Second		X									
Aye	X	X	X		X	X	X				X
Nay											
Abstain											
Absent											

Motion carried.

**REPORTS FROM COMMITTEES**

- TC Nothing to report.
- EC Nothing to report.
- ARC Nothing to report.
- OS Nothing to report.

**BILLS**

Lou Slaby & Associates \$2,600.00 (2 bills)

A motion was made Mr. Valentine and seconded by Mr. Kaufhold to approve Mr. Slaby's bills. All were in favor. Motion carried.

Schenck, Price, Smith & King, LLP \$75.00 (1 bill)

A motion was made Mr. Kaufhold and seconded by Mr. Walsh to approve Mr. Senesky's bill. All were in favor. Motion carried.

Chairman Shivas opened the meeting to the public. No one from the public came forward. Chairman Shivas closed the meeting to the public.

A motion to adjourn the meeting was made at 11:07 p.m. by Mr. Valentine and seconded by Mr. Kaufhold. Motion carried. The meeting was adjourned.

Respectfully submitted:  
*Cheryl White*