

**MINUTES - 8:00 P.M.**  
**April 21, 2011**  
**THE BYRAM TOWNSHIP PLANNING BOARD**

**CALL TO ORDER**

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

**ROLL CALL**

	/	/	/	/	/	/	/	/	/	/	/	/
	Mr. Chozick <i>(arrived 8:05)</i>	Mr. Kaufhold	Mr. McElroy <i>(arrived 8:55)</i>	Ms. Raffay	Mr. Valentine	Ms. Segal <i>(arrived 9:25)</i>	Mr. Walsh	Mayor Oscovitch	Mr. Gonzalez	Ms. Shimamoto	Mr. Shivas	
Roll Call	A	H	A	A	H	A	H	A	H	A	H	

Township Engineer                      Lou Slaby  
Township Planner                        Ryan Conklin *for* Paul Gleitz  
Township Attorney                       Kurt Senesky  
Board Secretary                            Cheryl White

**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: April 7, 2011**

A motion was made by Mr. Kaufhold and seconded by Mr. Valentine to approve the minutes. The following vote was taken:

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

Motion Carried

**RESOLUTIONS**

Site Plan Waiver B1 225 L 15.01 - 276 Route 206 – Tenant - Stephen Chirco

Change of use from office space to service retail

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

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

Motion Carried

SP2-05 Gupta/Shantivan Management Bl 27 Lot/s 383 & 384 9 – 11 Route 206 VB Zone

1 year extension for preliminary and final site plan approval to construct commercial structure w/ associated improvements. A motion was made by Mr. Valentine and seconded by Mr. Chozick to approve the Resolution. The following vote was taken:

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

Motion Carried

Z11-10 - Doerr, T. – 11 Cabin Spring Trail B332 L3.01 – carried from Feb. 17<sup>th</sup>

Variance to permit expansion of non-conforming use – add a deck, expand a bedroom and add a vestibule. A motion was made by Mr. Kaufhold and seconded by Mr. Valentine to approve the Resolution as presented. The following vote was taken:

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

Motion Carried

Z01-11 – Wardell, J – 86 Birch Pkwy. B308 L1844

C Variance to construct canopy over existing stoop. A motion was made by Mr. Valentine and seconded by Mr. Kaufhold to approve the Resolution as presented. The following vote was taken:

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

Motion Carried

Z03-11 – Thomas, K. – 42 Strawberry Point Dr. B320 L14.01

C Variance to construct a 187 sq ft second story addition over existing structure with 332 sq. ft deck. A motion was made by Mr. Valentine and seconded by Mr. Kaufhold to approve the Resolution as presented. The following vote was taken:

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

Motion Carried

**NEW BUSINESS**

Z02-2011 Waterhouse, Robert & Jacqueline Bl 144 L 121 25 Allamuchy Trail Zone R-5

C- Variance – Front yard setback - To construct a 2<sup>nd</sup> story addition

Ms. Waterhouse was sworn in and gave a brief description of her plan to add a master bedroom up stairs, with a ½ bath and to convert the downstairs bedroom into an office. Chairman Shivas noted that a letter was received from the Sussex County Dept. of Environmental and Public Health Services stating that the existing system appears suitable to accommodate the addition and that the structure shall *not* exceed 2 bedrooms. There was no further discussion amongst the Board. Chairman Shivas opened to the public. No one from the public came forward. Chairman Shivas closed to the public.

A motion was made by Mr. Valentine and seconded by Mr. Kaufhold to approve the application with the condition the house remains 2 bedrooms only. The following vote was taken:

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

Motion Carried

SP1-10 First Hartford Realty Corp/CVS Pharmacy/Barone’s B 34 Lot/s 14 & 15 77 Rt. 206 VB-Zone

Preliminary & Final Site plan, Minor Subdivision, & Use Variance

Attorney for the applicant, Mr. Joel Kobert of Courter, Kobert & Cohen. P.C., Hackettstown, N.J. introduced Mr. David Caruso, Engineer from Vanasse, Hanger & Brustlin. Mr. Caruso was sworn in and has appeared before the Board previously and was accepted by the Board as an expert in his field. Mr. Caruso gave an overview of the current and proposed condition of the site and presented Exhibit A-1 Colorized version of page C3 of submitted plans, and A2, page L1 of submitted plans which is the Landscape Plan, an enlarged, colorized version.

Current Conditions			Proposed Conditions		
Lot 14	(Lot A)	3.92 Acres	Lot 14	(Lot A)	1.6 Acres
Lot 15	(Lot B)	2.55 Acres	Lot 15	(Lot B)	3.9 Acres

Currently the site has a restaurant and tavern and the project calls for the consolidation of lots 14 and 15 and a subdivision into proposed lots A which will be CVS and proposed Lot B which will be buildings 2 & 3. The topography is such that the property grade falls from west to east, approx. 30ft. from the rear of the property toward Route 206 with wetlands on the south side of property which will not be disturbed.

The proposed project consists of three buildings, CVS Pharmacy, restaurant, retail and 15, 2 bedroom apartments.

**Lot A (CVS)** – will be comprised of a 12,900 sq ft. foot print consisting of Pharmacy with mezzanine area for storage, a proposed drive thru for prescription pick up only and associated parking. The entire CVS site will be 14,500 sq. ft. with the building facing center and rear and side facing Route 206. The drive thru will be on the northern side of the building.

**Building 2 (Restaurant, Retail, Apartments)** – proposes three (3) levels visible from the south of the building and two levels visible from the upper level on the northern side.

*Level A* – 10, 418 sq. ft. of retail space, 738 sq. ft. of unoccupied space. Unoccupied space being hallways, stairways, etc.

*Level B* will be 5,147 sq. ft of restaurant and bar with outside seating, 5,088 of retail and 921 sq.ft. of unoccupied space.

*Level C* proposes 8,496 sq. ft of (7) Seven, (2) two bedroom apartments and 900 sq. ft of unoccupied space.

**Building 3** – which is toward the western portion of the property proposes two 2 levels.

*Level A* proposes 9, 342 sq. ft of retail with 1,058 sq. ft of unoccupied space.

*Level B* proposes 9,338, (8) Eight (2) two bedroom apartments with 462 sq. ft of unoccupied space.

**Parking and Access** –Lot A, (CVS) proposes 58 parking spaces, the bulk being in the center of the site which is a shared parking area. *Building 2* (Lot B) proposes 99 parking spaces, some in the front row and in the center of the parking field and some parking along the southern property line and the southeastern property line. *Building 3* proposes 58 parking spaces along front of building and also parking on the side and rear of the site. Site access proposes three (3) curb cuts, the first on the northern side of the site which is an “In” only access. The main access point will be Lackawanna Drive which will be a signalized intersection with 3 lanes, 1 lane in and 2 lanes out and a southern exit which will be “out” only. The site will have pedestrian access, steps and sidewalks off Route 206 to CVS and Building 2.

Mr Robert Gehr, of Larson Design Group, Williamsport, PA., Architect for First Hartford Realty was sworn in. Mr. Gehr has testified previously before the Board and the Board accepted Mr. Gehr as an expert in his field. Mr. Gehr presented Exhibit A-3, labeled A 4.1 – Building Elevations and presented O-1 (not marked as an exhibit) which depicts a floor plan of CVS. Mr. Gehr briefly outlined the floor plans, mezzanine storage area in rear of CVS and a layout of the pharmacy. He also discussed the building elevation, façade materials of the building, which will be brick, hardy plank and colonial type detail with dental molding, dormers, and shutters with window heads. The applicant tried to incorporate more features to compliment other buildings designed on the site. He also gave a brief summary of the mechanicals and how they will be shielded from site view and Route 206 view.

Mr. Kobert introduced Mr. Michael Byrne, of Byrne Design Assoc., Chester, N.J., Architect for Barone’s. Mr. Byrne was sworn in and has previously testified before the Board and the Board accepted Mr. Byrne as an expert in his field. Mr. Byrne presented Exhibits A4 a rendering of the 3 story façade of Building 2. He noted it would be 3 stories on one side and 2 stories on the other side with the restaurant to front Route 206 with outside dining. Mr. Byrne presented Exhibit A5, an internal rendering of Building 2 & 3 from an uphill view. Mr. Byrne noted the buildings will have a clock tower feature; and they will be streetscape with various facades to each building to create diversity amongst the buildings. He discussed the buildings access, elevators, stairs and parking and noted that all mechanicals will be concealed on high roofs.

Testimony for signs will be provided later along with testimony from the applicants Planner.

Mr. Kobert presented Traffic Engineer, Dwayne Nelson from Vanasse, Hanger & Brustlin who was sworn in and presented his credentials. The Board accepted Mr. Nelson as an expert in his field. Mr. Nelson provided a general overview of the traffic study with existing and proposed development. The study was conducted according to ITE (Institute for Transportation Engineers) Standard rates. ITE surveys different land uses across the county and publishes a manual of average rates and when divided by the building size and other applicable variables are taken into account it provides standards to estimate the amount of traffic for a specific site. Mr. Nelson explained that level of service A represents the *best*, F representing the *worst* and he looked at the highest hours of traffic; weekday PM rush and Saturday mid-day and Mr. Nelson concluded that currently the level of service at the site today is E at the intersection during weekday PM peak and a level of service E during midday Saturday peak. The level of service for the site after development would be C at the intersection during weekday PM peak and a level of service D during midday Saturday peak. In conclusion Mr Nelson noted that with the improvements to Route 206 and Lackawanna Drive the level of service will improve.

Chairman Shivas opened to the public.

- *Earl Riley, 5 Louis Drive* wanted to know if CVS will be a 24 hour store. Mr. Anthony Gallinari representative for First Hartford Realty, (CVS) was sworn in and testified yes, they may close early on some holidays but it will be a 24 hour, 7 days a week store. Mr. Riley also asked about the mechanicals on the roof and if they took the neighboring community into account. Mr. Byrne indicated that was the reason for this specific design.
- *Barbara Mc Loughlin, 42 River Road* wanted to know where the nearest CVS store was located. Mr. Gallinari answered there are stores in Mt. Olive, Ledgewood and Sparta and a new store is being built in Budd Lake.

- *Christi Horton, 7 Broad Ave* asked about number of apartments and estimated date of completion. Mr. Gallinari indicated they propose 15, 2 bedroom apartments and dependant on the Board's decision their time frame for construction would spring 2012.
- *Ed Brice, 3 Louis Ave* asked about parking areas. Mr. Gallinari indicated there would be a total of 215 whereas 226. Mr. Brice questioned Mr. Nelson if the restaurant traffic was figured in to the calculations and where they got their rates. Mr. Nelson indicated they use rates from restaurants in ITE manual and he took a conservative approach.
- *Donna Griff, 71 Brookwood Rd* asked given that CVS was before the Board previously and obtained approval is this new plan representative of the approved building and is it what residents would like to see in this town. Mr. Caruso indicated that they did take some aspects into account but the plans are not identical.  
Ms. Griff also expressed concerns about a collaborative planning process, she also asked if the applicant was aware of the significance that this is an historical site and if they considered using the existing building for CVS verses demolishing the building. Mr. Caruso indicated they did not consider using the existing structure and that the building is not a registered historical site.  
Ms. Griff asked if the traffic engineer took into account the phasing of the light at the intersection. Mr. Nelson indicated yes and all the information was obtained from DOT.
- *Mr. Sanchez, 9 Louis Dr* asked if there is an area for recreation for the tenants of the apartments. Mr. Caruso indicated yes, between Building 2 & building 3 there is about 800 – 900 sq. ft of landscaped area with benches and patio. He also asked if the Fire Department can handle these building in the event of an emergency. Mr. Caruso indicated he did not see the Fire Department report but will review it. Mr. Sanchez asked if the apartments will be children or age restricted. Mr. Kobert indicated there is no restrictions, but will provide COAH units.

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

Mr. Caruso provided engineering testimony regarding each variance as noted in the application several of the comments are outlined below.

- Township Engineer, Lou Slaby asked if there was any impact on traffic circulation especially for emergency vehicles. It was noted that if 4 vehicles were in queue at the drive thru this would impact vehicle traffic and deliveries. It was also noted that hours of deliveries can be prescribed by the Board.
- Mr. Gonzalez asked if the loading area faces Route 206 and Mr. Caruso indicated yes and presented Exhibit A6 which depicts the loading area and site view from Route 206. He noted that the loading area sites at a higher elevation than Route 206, and with the landscape buffering it should obstruct the Route 206 view of the loading area.
- Ryan Conklin asked about some curbing to impact traffic circulation and Mr. Caruso indicated the curbing will be pulled back if imposed on.
- Mr. Kaufhold asked about the size of store and if they reduced the size maybe that could eliminate some variances. Mr. Gallinari indicated the store is the standard prototype. Mr. Kaufhold noted that CVS should be prepared to provide better testimony for granting variances. Mr. Kobert said they can provide a chart of what variances are resulting from size of building.
- Chairman Shivas asked about utilities and indicated the applicant should be prepared to provide testimony on water supply and sewer capacity. Mr. Caruso briefly discussed utilities such as cable, electric, and propane and indicated currently there are three existing wells on property and they propose to install a water tank 12' in height, 10' in diameter. Mr. Caruso added the site would be developed in phases. The phasing plan is sheet C19 of submitted plans and the proposal is to develop building A (CVS) along with Building 2 simultaneously. Chairman Shivas noted that the Board would not approve the application if the development did not happen this way.
- Mr. Chozick would like the Traffic Engineer to provide level of service with Route 206 improvement and no development.

A motion was made by Mr. Valentine and seconded by Mr. Kaufhold to carry the application to May 5<sup>th</sup> with no further notice. All in favor. Motion carried.

## **REPORTS FROM COMMITTEES**

### Township Council –

Councilman Olson reported that Byram Township received the 2011 New Jersey Future Smart Growth Award. The New Town Center Plan award was given for the Township's work on the Byram Highlands Village Center.

### ARC

Mr. McElroy reported that the last ARC meeting was April 13<sup>th</sup> and the committee discussed the CVS/Barone development and provided a memo to the Planning Board with comments. The Sustainability Element to the Master Plan was approved by the EC after the ARC made some changes, Mr. McElroy was not sure of the status but it should be before the Planning Board soon.

### Environmental Commission

No report, meeting for EC is April 28th

### Open Space

Ms. Segal gave a brief summary of the Mohawk View parcel which is 31 acres of non-buildable land that was to be deeded to the homeowners but a Homeowners Association was never formed. Taxes for the parcel are delinquent so the Township is looking at acquiring the land. Ms. Segal also noted that the Recreation Department in May is having a Byram Family Camp-Out at Jones Lane.

## **BILLS:**

Heyer Gruel and Associates \$2,356.25 (3 Bills)

A motion was made by Mr. Valentine and seconded by Mr. Chozick to approve Heyer Gruel's Bills. All were in favor. Motion Carried

Schenck, Price, Smith & King, LLP \$3,500.25 (9 Bills)

A motion was made by Mr. Valentine and seconded by Mr. Chozick to approve Mr. Senesky's Bills. All were in favor. Motion Carried

Chairman Shivas opened the meeting to the public.

*Skip Danielson, 18 Hunters Lane* complimented the Board on their dedication and commitment to this volunteer Board.

*Donna Griff, 71 Brookwood Rd* reported she is on the camp committee and the Byram Family Camp-Out will be May 20<sup>th</sup> – 21<sup>st</sup>; rain date may 21<sup>st</sup> – May 22<sup>nd</sup>. Some of the activities will be fishing, and trail hikes and this is a good opportunity to show the community Byram's new land acquisition. It should be a fun time for all!

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

## **ADJOURNMENT:**

At 10:45PM Mr. Valentine made a motion to adjourn, Mr. Kaufhold seconded the motion. All in favor. Motion Carried

Chairman Shivas adjourned the meeting.

Respectfully submitted; *Cheryl E White*