

MINUTES
JANUARY 20, 2011
8:00 P.M. THE BYRAM TOWNSHIP PLANNING BOARD

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>Ms. Raffay</i>	<i>Mr. Valentine</i>	<i>Ms. 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	H	A	H	H	H	A	A	A	H	H

Board Secretary	Cheryl White
Township Engineer	Lou Slaby
Township Attorney	Kurt Senesky
Township Planner	Mr. Gleitz

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: January 06, 2011

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

<i>Planning Board Member</i>	<i>Mr. Chozick</i>	<i>Mr. Kaufhold</i>	<i>Mr. McElroy</i>	<i>Ms. Raffay</i>	<i>Ms. 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>
Motion		X									
Second					X						
Aye	X	X		X	X	X				X	X
Nay											
Abstain											
Absent			X				X	X	X		

Motion Carried

RESOLUTIONS

Block 226 Lot 15.02 - Christine Braun – 7 A Lackawanna Drive - Change of Use from Office to Retail
A motion was made by Mr. Kaufhold and seconded by Mr. Valentine to approve the Resolution with the condition that if the use changes or they acquire a new tenant they must appear before Board. The following vote was taken:

<i>Planning Board Member</i>	<i>Mr. Chozick</i>	<i>Mr. Kaufhold</i>	<i>Mr. McElroy</i>	<i>Ms. Raffay</i>	<i>Ms. 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>
Motion		X									
Second						X					
Aye	X	X		X	X	X				X	X
Nay											
Abstain											
Absent			X				X	X	X		

Motion Carried

Attorney for the Applicant, Michael Selvaggi of Courter, Kobert and Cohen gave a brief summary of the Applicant’s desire to construct a 6 bay garage to house his classic car collection. Mr. Selvaggi introduced the Applicant, Mr. Rubenstein for testimony. The Applicant was sworn in.

Mr. Rubenstein indicated he is under contract to purchase this vacant and subject to the Board’s approval Mr. Rubenstein’s intent is to build a new single family dwelling with an attached two car garage along with this attached 6 bay garage. Mr. Rubenstein added that he has been a classic car collector for many years and does not intend to do auto repair or automobile restoration for resale, he is an Information Technology professional and he only works on the cars he collects for himself, which he currently stores at various friends houses throughout New Jersey.

Chairman Shivas asked Mr. Rubenstein if he intends on installing a lift in the garage and Mr. Rubenstein said not at this time but that is the reason for the height, to allow for that option in the future. He intends on adding a floor above the garage in the attic space for storage, not to be used as living space and the garage would have electric but no water.

Planning Board Attorney Kurt Senesky said the plans indicate the garage would be 40 x 50 which would indicate he may be able to get more than 6 vehicles in this area. Planning Board Engineer Lou Slaby said according to his calculations he could fit up to 10 vehicles. Mr. Rubenstein said that the extra area allows for a workshop. Chairman Shivas asked if the applicant would object to a condition that only 6 vehicles be stored in the 6 bay garage. Mr. Rubenstein had no objection to that condition. Mr. Slaby asked if he would be storing any vehicles outside and Mr. Rubenstein said no, this would be his primary residence and that would take away from the overall appearance of the house.

There was some discussion about the ceiling height. Mr. Rubenstein’s Architect, Mr. Michael Bryne of Bryne Design Associates was sworn in and testified that the maximum roof ridge from the average grade line would be 34’4” on any elevation which is less than 35’ to the ridge height. Mr. Slaby confirmed that the measurements were from the average grade around the perimeter of the building. Mr. Slaby said at time of construction that will be confirmed that they are in conformance regarding the height.

The Applicant’s Engineer, Mr. Glasson of Civil Engineering who was sworn in and has testified before the Board many times. The Board accepts Mr. Glasson as an Expert in his profession. Mr. Glasson reviewed the site plans, the building envelope, drive-way grade, a conservation easement (for steep slopes and rock out crops) on the property and the size of parcel (7.95acres). The total disturbance for the construction would be under an acre and the structure would not be visible to the public, it sits far off the road. That concluded the testimony for this application.

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

A Motion was made by Mr. Valentine and seconded by Mr. Kaufhold to approve the Application with the condition no more than 6 vehicles in this garage, no commercial operation on this property and no water. 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	X
Nay											
Abstain											
Absent			X				X	X	X		

Motion Carried

Mr. Gleitz provided the Board with an update on COAH reforms and other aspects of the state’s enforcement of affordable housing requirements.

Planning Board Member Andrew McElroy arrived at the meeting at 9:13P.M.

Councilwoman Marie Raffay stepped down at 9:15PM due to JTK Application.

SP2-10 JTK ASSOCIATES, LLC – 9 Lackawanna Dr. BL 226 Lot 16 –

Site Plan with Variance for prohibited use, minimum distance for parking to building and outdoor storage.

Attorney for the Applicant, Mr. Kron who was previously sworn in said they have addressed all the issues raised by the Board, the ARC, the Boards experts and the public and they feel the

process was positive and the application has evolved to the extent that it will be beneficial to both the area and community. They believe the project will be cohesive and well planned.

Mr. Kron addressed the ARC Review memo dated January 14, 2011 and the Applicant feels they have incorporated the lighting, signs, landscaping and other site amenities based on the input from the ARC and everyone involved and feels the total re-design of the buildings does not fit with the look of an industrial site and feels the look of the building they presented meets the purposes of the intended use. With the ARC recommendations of the building styles shown in their memo structurally don't work due to the large spans that are required for this use and functionally, the buildings recommended will limit the use bearing in mind this is an industrial site, not a retail site. The Applicant believes the look of their buildings is an appropriate transition between their renderings and the ARC's recommendations. Mr. Kron went on to add they made their best effort to meet the intent and purpose of the Ordinance. The variance for outdoor storage the applicant has addressed extensively to assure the storage will not be unsafe or unsightly. Finally, the Applicant is advancing the most important goal of the Master Plan and Ordinance; to provide an economic spark and support for the Village Center.

Planning Board Chairman, George Shivas asked if they could project an approximate number of tenants if the construction was complete and the buildings were full. Mr. Jacobson, one of the owners previously sworn indicated in *Building A* approximately 3/4 tenants, *Building B*, 7/8 tenants (the owner plus 6 others) and *Building C*, 3/6 tenants.

Planning Board Member Ms. Shimamoto asked Mr. Gleitz, Township Planner about the testimony of the Applicant's Planner, Mr. McDonough on Jan. 6th regarding the positive and negative criteria. Ms. Shimamoto questioned that the Planner emphasized the economic reasons for approving this Application. Ms. Shimamoto pointed out that the Planning Board should not consider economic benefits when making a decision on an application. Mr. Gleitz summarized that the positive criteria can be met in one or two ways, either prove there is a hardship that exists or that the purposed use advances the purposes zoning per the MLUL and the site is suited for the purposed use. Mr. Gleitz stated the applicant went with the later; advancing purposes of zoning. Mr. Gleitz didn't feel that the applicant focused on the economic impact alone and provided other positive criteria. To finalize Mr. Gleitz reiterated that the Planner indicated that you must look at this application as a whole and how it impacts the surrounding area; this area is a low density residential area and is surrounded by existing retail and the quarry.

Ms. Shimamoto had some concerns about future developers to the Village Center site and would this type of development have a negative impact. There was some discussion on this issue, how close would the nearest residential unit be, what type of buffering would be between this site and the nearest unit. Mr. Gleitz's best guess is that there may be some townhouses within 400 to 500 feet of the outdoor storage area. Ms. Shimamoto asked about noise and dust. Mr. Jacobson indicated that the quarry already has dust control measures in place and this is state regulated.

Planning Board Member Ken Kaufhold asked about the phases of construction and would he landscape at each phase and Mr. Jacobson reiterated that a phasing exhibit was presented and entered as evidence and said yes, the landscaping would happen as each building was constructed. Mr. Jacobson did indicate that he would landscape along Lackawanna Drive during the first phase of construction.

Township Engineer Mr. Slaby wanted to confirm that the height of the water tower would be to grade and not to the pedestal on the water tower. There was also discussion about the 52 'banked' three areas of parking spaces (which are related to the construction of the mezzanine), paved areas and the phased mezzanine construction. It was pointed out that the resolution should indicate this is a "phasing application" and the mezzanine is not a part of those phases, the construction of the mezzanine is driven by number of tenants and space needed. Mr. Jacobson said the resolution should stipulate that he can't get a building permit to construct the mezzanine until the 'banked' parking areas are installed. Mr. Jacobson indicated that the Board has his verbal commitment that if the mezzanine is constructed, the parking spaces will be installed.

Chairman Shivas opened the meeting to the public.

Fred Braun – 7 Lackawanna Drive hopes the application is approved. He feels it is better than what we have there now and believes this will benefit the town and community.

Mr. Danielson – 18 Hunters Lane expressed that many years ago Peter Kero owned the parcel and quarried the mountain of rock until it was flat with the intent to build an industrial type park. Approving this Application would bring Mr. Kero's vision to reality.

Chairman Shivas closed the meeting to the public.

A motion was made by Mr. Valentine and seconded by Mr. Kaufhold to approve this application with many conditions. Mr. Kaufhold added approval of preliminary and final site plan. 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									X		
Abstain											
Absent				X			X	X	X		

Motion Carried

Mr. Senesky wants everyone to review the list of conditions carefully and pay close attention so not to miss anything. In addition Mr. Gleitz and Mr. Slaby must review the resolution for compliance before any plans are signed.

Chairman Shivas opened the meeting to the public.

Mr. Danielson – 18 Hunters Lane – Told the Planning Board Member and Professionals “Great job”!

Chairman Shivas closed the meeting to the public.

BILLS:

Heyer Gruel & Associates	\$ 2.285.00 (4 Bills)
Schenck, Price, Smith & King LLP (Kurt Senesky)	\$ 1.440.00 (10 Bills)

A motion was made by Mr. Chozick and second by Ms. Segal to approve Heyer Gruel & Assoc. bills. All were in favor. Motion Carried.

A motion was made by Ms. Segal and second by Mr. Chozick to approve Mr. Senesky’s bills. All were in favor. Motion Carried

ADJOURNMENT:

At 10:07PM Mr. Valentine made a motion to adjourn; it was seconded by Mr. Kaufhold All were in favor. Motion Carried

Chairman Shivas adjourned the meeting.

Respectfully submitted; *Cheryl E White*