



**SITE PLAN WAIVER REQUEST - Game Stop 90 Rt. 206 - (Gordon Byram Assoc.) Bl 226 L14**

**Change of occupancy – Dairy Queen to Game Stop**

*Site Plan Waiver Granted* - Mike Walsh explained that the site plan subcommittee recommends to the Board that the Site plan waiver request be granted since its one retail store to another retail store. Motion made by Mr. Walsh and seconded by Ms. Segal to grant the request. 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	X	X
Nay											
Abstain											
Absent						X		X			

Motion Carried

**SITE PLAN WAIVER REQUEST - APEP Inc. Bl 27 L 381.02**

***Site plan Waiver Granted* - Take square footage from Laundromat and add new space**

The site plan subcommittee recommended the waiver be granted so APEP can begin construction and have the space available to show to a perspective tenant with a condition that stipulates that once a tenant is available APEP will come back before the site plan subcommittee for approval.

Site plan waiver request granted. Motion made by Mr. McElroy and seconded by Ms. Segal to grant the request. 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	X	X
Nay											
Abstain											
Absent						X		X			

Motion Carried

**Extension for Variance – Z4-08 John Kurilko 4 Harbor View Drive BL 284 L 183-185**

**Steep Slope Variance for Addition**

Mr. Senesky confirmed this is the request for a second extension. A motion was made by Mr. Kaufhold and seconded by Mr. Walsh to approve the extension. 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	X	X
Nay											
Abstain											
Absent						X		X			

Motion Carried

**NEW BUSINESS:**

Z09-10 Tedesco, Barbara – Cub Lake Road BL 360 L 1.03 –

C Variance – Steep slope disturbance and setback from body of water.

Mr. Senesky, Board Attorney confirmed that Mr. Gherlone, Attorney representing the Applicant had the opportunity to read Mr. Slaby, Board Engineer, reports dated August 10<sup>th</sup> and October 5<sup>th</sup>. Mr. Gherlone indicated yes.

Mrs. Tedesco spoke briefly of her long time desire to build a house in Byram and that she would be a model citizen and a positive resident to the community.

Mr. Senesky swore in Barbara Tedesco, Applicant, Jason Dunn, Planner for Dykstra Associates and the Applicant's Engineer, Owen Dykstra.

Mr. Dunn explained he is a Professional Planner and Licensed Landscape Architect, graduated from Rutgers and worked in Sparta, Wantage and Green Township as a qualified Planner. The Board accepted Mr. Dunn as a professional planner.

Mr. Dunn described the project; he began stating the property is a 10 acre tract off of Forest Lake Drive. It was the result of a subdivision in 2002 and a lot line adjustment in 2006. The Board approved the subdivision and as part of the lot, of which 8 acres is in a conservation easement, with approximately ½ acre for the building envelope. In 2007 Mr. & Mrs. Tedesco purchased the lot and proceeded to get everything in order to build. They obtained a well, septic, and soil erosion permit and began to blast out the rock and grade the site.

In October 2009 the contractor came to Byram for a zoning permit and was referred to Mr. Slaby for a review of the plan. Mr. Dunn prepared and changed the plans in response to Mr. Slaby's letter and construction was going on, plateaus/levels were being created. Mr. Dunn went on to say in June 2009 a stop work order was issued by the zoning officer due to the disturbance of the steep slopes and at a closer look, they realized that they were also closer than 75 feet to an open water – that is a variance. The third variance being sought was referenced in Mr. Slaby's letter dated October 5<sup>th</sup>, Item # 3 Section 240-11-6. The applicant is requesting to not prove out the mitigation of the stormwater run off on the site.

Mr. Dunn referred to Sheet 2, which is the same plan as the Board reviewed but was marked as exhibit A-1 because it was a colorized version. It shows the layout of the house, septic and walls. The lower right section of the map shows a slope zone analysis. The orange color represents the area of slope that are 25% or steeper. The building envelope is outlined in dark black marker.

The variance they are asking for is from the pre-existing development – the slopes have already been disturbed. The house that is proposed will be built into the land. There are 3 walls – tiered – highest wall 14 feet. Not all walls are erected but there are boulder walls that have already been erected by the contractor and are shown on the map and labeled as existing conditions. The boulder walls were built by the contractor for the convenience for the contractor to traverse through the site. In the application packet, the applicant has provided summary calculations of the engineered block wall design. Mr. Slaby was waiting for raw data used to design the wall including wall height; Mr. Dunn will ensure Civil Solutions will provide that information. Mr. Senesky asked Mr. Dunn the height of the boulder walls and he indicated approximately 3 or 4 feet. Mr. Shivas indicated anything higher than 4 feet would have to be Engineered and designed properly. Mr. Walsh confirmed that the proposal is not to have boulder walls but the walls depicted in the application, Mr. Dunn confirmed. Mr. Dunn stated they will be removed except for Wall #3, which is lower than 4 feet. The two main walls will be engineered walls with geogrid and will be block walls with a guiderail on top 3 feet from the face of the wall. Mr. Slaby stated for the record that the wall that extends into the conservation easement be removed; Mr. Dunn said yes that will be removed.

Mr. Dunn reviewed Lou Slaby's report dated October 5, 2010, below is their response.

- Item #1 -*        Submit a plan depicting critical slopes and extent of disturbance - Mr. Senesky requested that Mr. Dunn provide to the board additional sets of the plans with the shading.
- Item # 2 -*        Plan should depict location of waterway - Mr. Dunn pointed out on sheet 2 a black dash and dotted line clearly marks the existing edge of stream. Variance for Distance to the stream at the shortest width 52.77' from stream to porch. Mr. Dunn entered a photo of the stream into evidence, marked A-2 – it depicts how the water travels down through the rocks.  
Mr. Dunn stated that they have a soil erosion permit and there will be no adverse impact to the stream. The septic is far removed from the stream.
- Item # 3 -*        Section 240-11 E(6) Request for 3<sup>rd</sup> variance for the rate of run-off leaving the site. The ordinance states that it cannot be increased from predevelopment condition.  
Mr. Dykstra, previously qualified as an expert in his field, stated that the existing site is 70% bedrock.  
Mr. Slaby indicated since a lot of work was done Predevelopment it was hard to determine but there would be soil and trees on top of bedrock. The increase would not be much but Mr. Slaby feels that the applicant should apply for a variance to be on the safe side.
- Item # 4 -*        Revised calculations of retaining walls and signed plans by NY Licensed Engineer - Agreed to change the reference from a New York engineer to a New Jersey engineer and provide additional calculations.
- Item # 5 -*        Correct discrepancy in invert - Agreed that there was a discrepancy of the location of the invert—it should be 756.00
- Item # 6 -*        Roof drain & footing plan to indicate potential erosion - Mr. Dykstra stated that they will have a plan to show how they will address the potential erosion of discharge from roof drain.
- Item # 7 -*        Revise grading to eliminate encroachment - Applicant will correct.
- Item # 8 -*        Indicate all entry doors of dwelling - Mr. Dunn discussed front and rear elevation plan which is architectural plan sheet A-04 and sheet A-05 dated 9/28/09 with a

revision date of 8/19/10. Mr. Slaby found that a portion of the patio is in conflict with where the wall comes around the back of the house. They will work on changing the shape of the concrete patio and change the grading above the wall. They will provide Mr. Slaby with a new drawing showing how that will be resolved. In addition there were comments about the walkout doors and site plan that was misread showing that the door would open up to sheer wall, they resolved that issue and it was not the case.

*Item # 9 -* Guiderail and fencing indicated on plan & rectify where guiderail sits on wall. - Mr. Dunn will update his plans showing the exact location of where the guiderail will be.

*Item # 10 -* Indicate source and type of backfill material to be used. - Mr. Dunn will show a detail and specify the type of geogride they will use. Mr. Slaby said to prevent the soil from infiltrating into the shot rock by placing geogrid on top of the materials. Mr. Dunn will provide Lou Slaby with information as to the source of the soil during construction. The applicant said that it could be a condition of the resolution for Mr. Slaby to verify the source of the soil before it is put down.

*Item # 11 -* Exemption from the Highlands - Mr. Dunn testified that the applicant is exempt from the Highlands Act. Mr. Slaby does agree that this lot is exempted from the Highlands. Mr. Shivas stated that the applicant may want to send a letter to the Highlands stating why they feel they are exempted from the Highlands. Mr. Dunn stated that they will contact Eileen Swan at the Highlands Council.

Mr. Dunn provided brief summary for why he feels the variances should be granted. They should be able to develop the site as it was intended and that the previous Planning Board approved it and it will not have a negative impact to the neighbors or downstream.

Ms. Segal asked if they can provide some testimony on how they are going to remediate the conservation area that has been encroached on. Mr. Dunn pointed out that in the wetlands rules are provision that you can encroach within the transition area around 20 feet so that you can do the construction, you can work up to the line provided and then restore the area back to how it existed before. Mr. Dunn indicated once they remove the encroachment, they will seed it and restore it and eventually it will grow to its natural state in a few years.

Mr. Shivas asked if he would review the architectural, Mr. Shivas has concerns with the façade height and the overall height. Mr. Dunn explained how he came up the calculation and did find that it was under the maximum. The applicant will submit a foundation plan to Lou Slaby so that he can verify the height before the house is built. Byram's ordinance calls for 2-1/2 stories. The applicant will have to be careful with the grading.

Mr. Senesky asked if Mr. Slaby was satisfied with the height of the retaining walls and specifically if they should be tiered. Mr. Slaby stated he preferred they be tiered but the limitations have to do with the soil conservation easement, when you tier walls it causes a greater horizontal distance and Mr. Slaby assumes that this is something that the applicants engineer took into consideration when laying out the walls. Mr. Slaby stated it is a very difficult site to develop.

Mr. Senesky asked if there was a condition to the granting of this subdivision if the roads had to be paved. Barbara Tedesco stated that the roads are paved. They are private roads.

Mr. Kaufhold asked if there was another way to accomplish a patio without putting concrete. Mrs. Tedesco said that she could use pavers. Mr. Dunn stated that he could use brick pavers instead of concrete.

Mr. Kaufhold questioned the variance for being within 75 feet of the stream. There is an elevated deck 52.7' to the stream – there is not a patio underneath this portion.

Mr. Walsh asked if Mr. Dunn could summarize why this location of the house is the best place – Mr. Dunn stated it is not restricted by development with the exception of the steep slope Ordinance. During the initial subdivision that applicant had to go to the DEP and they determined this was the best place on the lot to put the house.

Mr. Slaby indicated that the applicant will have a licensed surveyor prepare a sealed foundation plan and wall height for his review.

Mr. Shivas opened to the public. Closed to the public.

Mr. McElroy made a motion to approve application with all the conditions that were stipulated this evening. It was seconded by Mr. Walsh. Mr. Senesky stated there were several other conditions that will be listed in the resolution.

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	X	X	X
Nay											
Abstain											
Absent						X	X				

Motion Carried

**OTHER BUSINESS**

Mr. Shivas stated that the Board asked Mr. Senesky to work on a new site plan waiver request process. The object is to streamline the process so if a tenant or owner is changing tenants such as retail to retail – it would be a nominal fee – a recommendation can be made by the Zoning Officer the Board can vote to approve. A generic form will be use and completed specific to the tenant, George would sign the form the evening of the meeting. Mr. Senesky is working on a change in the ordinance – a check list – and fill in the blank resolution. It will be less costly and a quicker process.

Mr. Walsh asked about the businesses that have to move their sign because of the Route 206 improvements. If it was only moving the sign, we could use this process; but if they were moving parking, etc. they would have to come before the board.

Shop Rite is having a problem because he cannot get a demo permit until he has a new tenant. Mr. Shivas will investigate this through the construction department to find out why that is.

Mr. Shivas indicated he has to get back to the sign ordinance and master plan review. Next year we will be putting in a lot of effort to “marry” the highlands plan with our master plan.

Open Space and Outdoor Recreation Plan – Mr. Shivas stated that it appears that the recreational portion has been removed but he received some feedback they may not be true.

Ms. Segal – spoke about the Open Space meeting and the revisions that they made and encourage the Board to read the material and look at the memo by Township Manager Joe Sabatini.

Mr. Gonzalez questioned the accuracy of the open space maps and felt there could be a mistake on the quarry property. He will look into further and discuss it with Margaret McGarrity secretary for the Environmental Commission.

Mr. Senesky indicated he has read the appellate decision on the COAH – 75 pages. If anyone would like to read it, he will forward it.

Mr. Senesky will prepare resolutions for the three site plan waivers presented tonight for \$125.

Mr. Shivas has a new granddaughter – born last night at 9:30 p.m.

**BILLS:**

Heyer Gruel & Associates	\$ 675.00
Lou Slaby	\$ 1,158.60
Kurt Senesky	\$ 1980.10

A motion was made by Mr. Walsh and second by Mr. Chozick to approve **Mr. Slaby’s bills**. All were in favor. Motion Carried

A motion was made by Mr. Walsh and seconded by Ms. Segal to approve **Heyer Gruel & Associates** bill. All were in favor. Motion Carried

A motion was made by Mr. Walsh and second by Mr. Chozick to approve **Kurt Senesky’s bills**. All were in favor: Motion Carried

**OPEN TO THE PUBLIC**

Chairman Shivas opened the meeting to the public. No one from the public commented. Meeting was closed to the public.

**ADJOURNMENT:**

At 10:15PM Mr. Kaufhold made a motion to adjourn; it was seconded by Mr. Walsh. All were in favor. Motion Carried

Chairman Shivas adjourned the meeting.

Respectfully submitted:  
Cheryl E White