

**MINUTES
BYRAM TOWNSHIP PLANNING BOARD
February 18, 2010**

CALL TO ORDER

Chairman Shivas called the meeting to order at 8:02 p.m.

ROLL CALL

	<i>Mr. Chozick</i>	<i>Mr. Kaufhold</i>	<i>Mr. McElroy</i>	<i>Mrs. Raffay</i>	<i>Mrs. Segal</i>	<i>Mr. Steyh</i>	<i>Mr. Valentine</i>	<i>Mr. Walsh</i>	<i>Mr. Gonzalez</i>	<i>Ms. Shimamoto</i>	<i>Mr. Shivas</i>
Roll Call	P	P	P	P	P	P	A	P	P	P	P
	Attorney					Kurt Senesky					
	Zoning Officer					John Gutwerk (acting secretary)					

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

MINUTES:

February 4, 2010:

A motion was made by Mr. Kaufhold and seconded by Mr. Chozick to approve the minutes.

Mrs. Raffay wished to add a clarification to her comments in the section MUNICIPAL ROLE IN THE HIGHLANDS ACT. She wished to add the phrase “in the case of improvements or additions to a single family dwelling in existence on August 10, 2004 or on a lot existing on August 10, 2004”.

The motion and second was amended adding the correction.

	<i>Planning Board Member</i>	<i>Mr. Chozick</i>	<i>Mr. Kaufhold</i>	<i>Mr. McElroy</i>	<i>Mrs. Raffay</i>	<i>Mrs. Segal</i>	<i>Mr. Steyh</i>	<i>Mr. Valentine</i>	<i>Mr. Walsh</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	X	X
Nay												
Abstain					X							
Absent							X					

Motion carried

RESOLUTIONS:

Patriots Path Council SP1-05 Amended, Mount Allamuchy Scout Reservation, Block 377 Lot 2: reconstruct bathroom/shower facility.

Mr. Shivas discussed if a statement regarding the Highlands needed to be put in the conditions.

Mr. Kaufhold stated a paragraph could be added pursuant to Mr. Senesky’s memo regarding the Highlands.

Mr. Shivas stated the problem had to be corrected where conditions were not satisfied prior to the issuance of the C.O. He circulated a form he devised that will go to the Building Department.

Mrs. Raffay stated the applicant demonstrated the Highlands requirements were satisfied during their testimony.

Mr. Shivas stated he wanted to make sure the conditions are satisfied.

Mr. Chozick stated the conditions in the variance should be satisfied but the DEP regulations are not our responsibility.

Mr. Senesky stated the DEP permit is not the responsibility of this board.

Mr. Shivas stated all conditions must be met before the C.O. is issued.

Mr. Walsh asked if the Construction Official has the authority to withhold a C.O. if the D.E.P. permit is not satisfied.

Mr. Senesky stated we can require as a condition of approval that all other applicable permits be obtained.

Mr. Steyh stated Mr. Shivas should meet with the Construction Official and the Health Official.

Mr. Walsh stated that the DEP is not enforcing their mandates. Maybe this is a way to partner with the DEP to work out a solution.

Mr. Senesky stated the applicant had the DEP permit. We cannot be the enforcement arm of the DEP. He stated the C.O. has to be issued and we can call the DEP advising the applicant did not comply with the DEP permit. He further stated we have to be careful how the conditions are phrased.

Mrs. Segal stated maybe we have to be more explicit in the language of the conditions.

Mr. Senesky stated we cannot have the enforcement officer responsible for things he/she cannot legally enforce. It is possible the Highlands Council will turn over the exemption process to this board.

Mrs. Raffay stated she liked Mr. Shivas' idea for a form to go the Building Department to make certain the conditions were satisfied.

Mr. Shivas stated an applicant should be advised by a Twp. Employee when a variance is ready to expire.

Mr. Senesky stated the applicant is responsible for the extension and it states the expiration on the variance. He stated Site Plans have different laws apply and most major developments the applicant has an attorney who advises his client regarding any expiration.

Mr. Shivas stated somebody should be contacting the applicant that the variance is getting ready to expire.

Mr. McElroy stated maybe the Manager and Construction Official should come in to a Planning board meeting to discuss these matters.

Mr. Walsh stated we should invite a DEP representative.

Mr. Shivas stated we should discuss the resolution.

Mrs. Raffay questioned item #4 regarding the scaled down size. She was told that is correct as the original project was much larger and included an in-ground pool. She also asked about item #7 as to why it is less than 125%.

Mr. Senesky stated he doesn't think that should be in the resolution.

Mrs. Raffay stated condition #2 has one correction "billed" not "built".

A motion was made and seconded to approve the resolution with the correction "billed" not "built" in condition #2. The following vote was taken.

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

Motion carried.

Kostiuk Z1-10, 40 River Road, Block 4 Lot 887: Height variance for 2.5' above 25' requirement.

A motion was made and seconded to approve the resolution. The following vote was taken:

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

Motion carried.

OLD BUSINESS:

WGB Properties LLC & WGB Properties LLC/ James Weichert SP-03-06 & SP03-06B , Block 90.01, 90-02 & 94: request for an extension.

Mr. William G Bilinkas of WGB Properties LLC, PO Box 263, Ironia, N.J. 07845-0263, was sworn in by Mr. Senesky.

Mr. Bilinkas testified the two resolutions were approved in February 2007 and November 2007. He was advised that he did not need extensions due to the Permit Extension Act. He asked the Township for a clarification that the Permit Extension Act applied. Mr. Weichert's attorney advised him he had not met the statutory requirement to perfect the subdivision (condition #19, page 11, SP-03-06). Mr. Bilinkas stated his attorney advised him the time period has not started yet.

Mr. Senesky stated the Site Plan approval is valid for two years according to Section 52 of the MLUL. Mr. Senesky stated he assumed the sewer allocation had been obtained.

Mr. Bilinkas stated he signed an agreement with Mr. Weichert on May 12, 2006 and it was valid for twelve months plus two six month extensions. He was ready to start work forty-five days after the resolution was approved in 2007. Mr. Weichert would not sign maps and agreement until the sewer allocation was satisfied. Mr. Bilinkas stated he offered to give the sewer allocation to Mr. Weichert for one dollar. Mr. Weichert would not meet or talk with Mr. Bilinkas. He stated he is not sure what the future brings for the property.

Mr. Senesky asked if the necessary sewer allocation had been obtained.

Mr. Bilinkas stated no.

Mr. Senesky stated it would be his recommendation that the extension should be granted. He asked Mr. Bilinkas what is the timetable for the sewer allocation.

Mr. Bilinkas stated he had a commitment from former Twp. Manager Gatti for 10,000 gallons allocation. The Village Center took back the 10,000 gallons. He then had a meeting with then Twp. Atty. Megan Ward. An agreement had been worked out for 5,000 gallons per day but that agreement fell apart. He explained the agreement with Mr. Weichert and the financial details of the agreement. Mr. Bilinkas asked then Mayor Danielson to intercede and to try and resolve the matter. Mayor Danielson tried and Mr. Weichert's position would not change. Mr. Weichert then wanted Mr. Bilinkas to pay for the site improvements in June 2008.

Mr. Senesky stated the subdivision was valid for two years and they are exempt from any zoning change for that period of time plus any extensions. If there is no zoning change, then the subdivision continues forever. Section 52 of the MLUL states if the zoning changes after the two years, then they must meet the new zoning. Extensions can be granted to exempt them from the new zoning.

Mr. Shivas stated the Township must match the Highlands requirements because the Township decided to opt in to the Highlands.

Mr. Kaufold stated if we grant the extensions, then the project is exempt from any Highlands changes.

Mr. Walsh stated this will be the second of three extensions.

Mr. Senesky stated he believes the Permit Extension Act does not apply to properties in the Highlands.

Mr. Shivas stated the water requirements will have to be met as required by the Highlands. He stated he believes the Permit Extension Act does not apply due to the Highlands.

Mr. Senesky stated the Board would be voting on two one year extensions for each Site Plan, February 1, 2009 through February 1, 2011 for SP-03-06 and December 20, 2009 through December 20, 2011 for SP-03-06B.

Mr. Shivas opened to the public.

Mr. Eskil S. Danielson, 18 Hunters Lane, Byram Twp., stated Mr. Bilinkas testimony is accurate and it is the right thing for Byram. He further states economic development is essential for this town. He stated there is a problem with putting the remaining 2% of this town into the Highlands. He stated the Planning Board could recommend again to the Council to opt out. He further stated the grant money received does not equal the tax revenues lost from WGB properties.

Mr. Shivas closed to the public as no one else came forward to be heard.

Mrs. Raffay stated she took extensive notes. She will go the Highlands Council and ask as to what kind of guidance they can give us. She will also report this to the Council.

Mr. Gonzalez stated there is no clarity on sewer and water in this Township.

A motion was made and seconded to approve Resolution SP-03-06 providing the Permit Extension Act does not apply. The following vote was taken on SP-03-06:

Planning Board Member	Mr. Chozick	Mr. Kaufhold	Mr. McElroy	Mrs. Raffay	Mrs. Segal	Mr. Steyh	Mr. Valentine	Mr. Walsh	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				

Motion carried.

A motion was made and seconded to approve Resolution SP-03-06B providing the Permit Extension Act does not apply. The following vote was taken on SP-03-06B:

Planning Board Member	Mr. Chozick	Mr. Kaufhold	Mr. McElroy	Mrs. Raffay	Mrs. Segal	Mr. Steyh	Mr. Valentine	Mr. Walsh	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				

Motion carried.

NEW BUSINESS:

ANJEC Smart Growth Grant:

Mrs. Raffay stated the Environmental Commission circulated the flyer to all boards to see if anyone had any ideas for the grant. A Lake Management Study and an Open Space Master Plan update are the items proposed.

Mrs. Segal stated the Manager wants to file for the Open Space Master Plan update as number one priority and the Lake Management Study as number two priority.

Mr. Shivas stated we will not have a Village Center designation if we are not in the Highlands. There were no further recommendations for the grant made by the Planning Board.

Municipal Role in the Highlands Act: Mr. Senesky asked that this be tabled to the next meeting.

Sign Ordinance:

Mr. Senesky distributed copies of sign ordinances from other towns to Mrs. Raffay.

Mrs. Raffay suggested a subcommittee of the Planning Board and Twp. Council to work on the sign ordinance. Councilman Rafferty volunteered to be a Council representative.

Mr. Senesky stated a subcommittee can come up with a recommendation to this Board.

Mr. Shivas stated a subcommittee should be formed without it being a quorum (no more than four). The Planning Board members volunteering were Mr. Shivas, Mr. McElroy, Mr. Walsh and Mrs. Raffay.

BILLS: Mr. Slaby totaling \$2002.50.

A motion was made and seconded to approve the bills totaling \$2002.50 for Mr. Slaby. The following vote was taken:

Planning Board Member	Mr. Chozick	Mr. Kaufhold	Mr. McElroy	Mrs. Raffay	Mrs. Segal	Mr. Steyh	Mr. Valentine	Mr. Walsh	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				

OPEN TO THE PUBLIC: No one came forward and the meeting was closed to the public.

ADJOURNMENT:

At 9:58 p.m. Mr. Kaufhold made a motion to adjourn, it was seconded by Mr. Chozick, all were in favor and Chairman Shivas adjourned the meeting.