

MINUTES
BYRAM TOWNSHIP PLANNING BOARD
June 3, 2010

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>Mrs. Segal</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	P	P	P	P

Attorney	Kurt Senesky
Engineer	Lou Slaby
Interim Secretary	Doris Flynn

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:

May 20, 2010:

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

	<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. 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	X
Nay											
Abstain											
Absent											

RESOLUTIONS:

Trac Contracting, Inc., Waterloo Rd. (Cranberry Ledge), Block 91 Lot 286, Z11-08: Tabled until the next meeting, the resolution was not available.

Joseph Shakh, 40 Ash St., B7 L259, Z22-06: Request Tabled until the next meeting, the resolution was not available.

Guy Mariani, 13A Birch Rd., Block 216 Lot 13.03; Z4-10: Above ground pool. Resolution for application S4-10 approved with a few typographical corrections to be made and in addition Mrs. Raffay would like to clarify no deck around pool.

Planning Board Member	Mr. Chozick	Mr. Kaufhold	Mr. McElroy	Mrs. Raffay	Mrs. Segal	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										

Motion carried.

Nathan Kerr, 6 Weaver House Cove Rd., B 110 L10-13, Z2-10: variance to construct a garage in a front yard.

Planning Board Member	Mr. Chozick	Mr. Kaufhold	Mr. McElroy	Mrs. Raffay	Mrs. Segal	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										

Resolution Z2-10. Approved with a few typographical corrections and Ms. Shimamoto would like correction made to paragraph 2, fee standing should be free standing. Mr. Senesky will correct.

OLD BUSINESS:

Brian Leahy, 60 Sherwood Forest Dr., B281 L417.02, Z3-10: rear & side yard variance to extend deck.

Applicant stated he amended the survey to match drawing, labeled walkways, dimensions to match print. The stairs will be pocketed as shown on corrected version and he labeled the septic and well survey.

Mr. Senesky verified that the applicant updated the original survey submitted; he did not get a new survey. The board's copy will be marked exhibit A-1-6-3-10.

Mr. Chozick stated the left side setback should depict 10'.9", not 14'.9" because of existing stairs; a change was made to reflect accordingly. Mr. Senesky stated if depicted with setback to existing stairs applicant would not have trouble if he wanted to rebuild stairs.

Mr. Shivas opened the meeting to the public. No one wished to be heard and the meeting was closed to the public.

Planning Board Member	Mr. Chozick	Mr. Kaufhold	Mr. McElroy	Mrs. Raffay	Mrs. Segal	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										

NEW BUSINESS:

Lutz, John & Jennifer, 59 Lake Drive, Block 249 Lot 46; Z6-10. Construct boat shed.

Mr. Hassing, Esq., Attorney for the applicant reiterated that this application is the same as the variance granted in 2004 with no changes and that his position is the ruling is binding and the Board was correct to pass the variance in the past and should pass it today. Mr. Hassing stated there has been no substantial change in the application itself or the conditions surrounding the property. Mr. Senesky stated that the application is consistent with conditions of the approved variance, not the original application. Mr. Senesky asked Mr. Hassing if the Board approved the application would the applicant continue with the litigation pending. Mr. Hassing stated it is the intention of the applicant to end the litigation.

Mr. Senesky advised the Board if the boat shed was approved in 2004 and no substantial change has been made to area/property and structure then the matter has already been decided and the ruling should stand.

Mr. Gonzalez asked if this application affects the highlands and Mr. Senesky stated they do not need highlands approval.

Mr. Mc Elroy stated the Zoning Ordinance was amended in 2006, and if the change affected bulk standards this needs to be addressed. Mr. Hassing stated no changes from 2006.

Mr. Kaufhold stated key issues were setbacks and asked if they changed? Mr. Hassing stated they have not changed but structure to eave will be setback from neighboring property. Mr. Hassing stated at the time of the original application it was an R-2 Zone and is now an R-5 Zone which required smaller lots and is less of an ordinance, the setbacks are not as severe as they were in 2004 and other than landscape changes and tree growth the lot has not changed. With the exception of the neighboring property, changes to the driveway, the Smith's added a circular driveway and planted trees; there has been no substantial change. Ms. Lutz stated the neighbors to the north have added an addition and a garage but no other change. Photographs were submitted to the board and marked as evidence A-1.

Mr. Hassing introduced the applicant's Architect, Keith T. Chambers, AIA, Chambers Architecture Inc., P. O. Box 1058 Flemington, N.J. Mr. Chambers stated his training and education and that he is licensed in N.J. and PA. since 1992. The Board accepted Mr. Chambers as a professional.

Mr. Chambers presented and marked exhibit A-2, previously submitted drawings with changes based on Mr. Slaby's letter dated 06-01-10. Mr. Chambers clarified the siding will match the house, roof to match roof on house, shutters and overhead door and single door entrance facing Lutz's residence. Mr. Hassing asked Mr. Chambers if footprint has changed; Mr. Chambers replied "no". There will be a complete teardown of current structure and the overhand close to Smith's property will be 6'.07". Ms. Lutz agreed with Mr. Chambers's testimony. Mr. Chambers pointed out that the structure would blend in nicely with the neighborhood and be in character as other sheds and structures in Lake Lackawanna. Ms. Lutz agreed.

Mr. Mc Elroy confirmed there are no plans for electric and asked if they could add as a condition of the resolution the proximity of septic to structure. Mr. Senesky said they can add as a condition.

Mr. Chozick noted that the architect did not take the gutter width into account. Mr. Chambers agreed and changed the setback to 5'.74".

Mr. Hassing talked about the distance requirements from the boat shed to the septic tank. The Board of Health indicated to him that since the structure is uninhabited, that would be okay. Mr. Slaby asked for a letter stating such. Mr. Hassing said he would request another letter. Mr. Slaby wanted to confirm that the applicant did not want electric. Mr. Slaby felt for safety issues outdoor lighting that did not affect the neighbors may be a good idea and to add a receptacle inside the structure as well. Mr. Mc Elroy pointed out that it is just a boat shed to store boats not a work room. He believes the Board Members in 2004 made no electric as part of the original condition for a reason.

Mr. Shivas opened the meeting to the public.

OPEN TO THE PUBLIC:

Joann Smith, 57 Lake Drive.

Ms. Smith pointed out to the Board that the first structure was illegal and there are 2 counts directed to the Zoning officer and summons that were postponed to August and wanted to know how they can hear an application when there are still outstanding issues pending. Ms. Smith wanted to know if height of structure on page 2 of exhibit A-2 is 9'10". Mr. Hassing clarified the height is 5 on 12, the same as in 2004 application. Ms. Smith expressed concerns that the "pole barn" structure will be knocked down and the applicant will adhere to conditions set by the

Board. Ms. Smith stated while Ms. Lutz stated there were no major changes to the property Ms. Smith pointed out that a septic cap is exposed and a drainage ditch added. Ms. Lutz stated her septic was pumped and the cap broken so it was installed above grade to avoid this from happening again. Ms. Lutz assured the Board that stone was added for erosion purposes only and will be removed. Ms. Smith questioned if the “Stop Work Order” means the shed cannot be used. Mr. Senesky stated yes, it cannot be used. Ms. Smith stated that the size of the properties Mr. Hassing used as comparables are much larger lots and that the boat shed does not fit with the neighborhood and none are less than 25’ from roadway. Ms. Smith also stated that the applicant built an illegal “pole barn” and the applicants have no regard for town rules, the boat shed would devalue her property, there is a safety issue when backing out of her driveway, the 5’ setback is ridiculous, septic proximately is too close to the structure, and the applicant has no regard for the neighborhood and this has caused her trauma and expense. Ms. Smith added she is adamantly opposed to the application and agrees she made a wrong decision in 2004 when she did not oppose the structure.

Mr. Senesky reiterated to Ms. Smith that the applicant is complying with the Judge who said it was incumbent for the Lutz’s to go before the Board with this application. Mr. Senesky stated that it is his recommendation that if the applicant presents the same application to the Board at present as in 2004, the Board should approve the application as long as no substantial change has been made to area/property and structure then the matter has already been decided and the ruling should stand.

Mark Smith, 57 Lake Drive.

Mr. Smith wanted to confirm that the original structure will be coming down and the originally approved structure will be built. He stated he made a mistake not opposing the structure in 2004 and does not want it there now.

Mr. Shivas closed the meeting to the public.

Mr. Valentine asked if applicant if they received an approval tonight when will current structure be removed and new construction start? Ms. Lutz could not answer the question because she did not know the construction official’s time schedule or permit issuance process. The applicants plan is to demolish and build at the same time. If the application is approved, they will however wait the 45 day appeal period.

Mr. Slaby wanted confirmation that the 4’ .34” setback shortening structure by .24”. Mr. Hassing stated the entire structure will be shifted back 5’.

A motion was made by Mr. Walsh to approve the application with conditions no vehicles to be parked between shed and roadway and to include all conditions from 2004.

Mr. Shivas would like a submission of an asbuilt drawing.

Mr. Valentine second the motion and added condition of silt fence on road side and lake side of the property. Mr. Walsh agreed to amend his motion to include a submittal of an asbuilt and the requirement of a silt fence.

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

Vote was six to three therefore application was granted subject to conditions. Resolutions will be ready for the July 15th meeting.

BILLS:

One bill totaling \$137.50 for Mr. Slaby was approved by all in attendance after a motion by Valentine and seconded by Kaufhold.

OTHER BUSINESS:

Mrs. Segal asked if the Variance checklist could add that he applicants provide septic files as part of the application. Doris will check to see if the checklist includes this request.

Ms. Shimamoto questioned on Zoning Table Principal vs. Maximum building size envelope. She asked what the difference was and feels it is confusing. The Board tabled this discussion until the Sign sub-committee is complete.

Mr. Shivas advised the Board that Mr. Steyh submitted a letter of resignation to the Planning Board. Mr. Shivas will review the special requirements for replacement.

Adam Todd requested a certificate for zoning district change of non-conforming structure and uses. The Board would like to do what is least expensive to the township and the property owner. Doris read proposed letter that would be sent to the property owners if requested. The Board accepted the letter.

ADJOURNMENT:

At 11:10 p.m. Mr. Valentine made a motion to adjourn, it was seconded by Mr. Kauffold, all were in favor and Chairman Shivas adjourned the meeting.

Respectively submitted:

Cheryl E White