

MINUTES
BYRAM TOWNSHIP PLANNING BOARD
July 21, 2011

CALL TO ORDER

Chairman Shivas called the meeting to order at 8:08 p.m.

ROLL CALL

	<i>Mr. Chozick</i>	<i>Mr. Kaufhold</i>	<i>Mr. McElroy</i>	<i>Mrs. Raffay</i>	<i>Mr. Valentine</i>	<i>Mrs. 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	A	H	A	H	H	H	A	H	H	H	
	Attorney	Engineer	Planner	Secretary	Kurt Senesky	Lou Slaby	Ryan Conklin, from Heyer, Gruel & Associates.					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:

July 7, 2011:

A motion was made by Mr. Valentine and seconded by Mr. McElroy to approve the minutes with a minor correction. 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>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	X	
Nay												
Abstain												
Absent		X		X				X				

Motion Carried

NEW BUSINESS

Z05-2011 Jennings, Mary Block 213 Lot 1 – D Variance – Expansion of a pre-existing, non-conforming structure

Addition of a bathroom, extend kitchen

Ms. Jennings and her contractor, Mr. William Wroblewski was sworn in for testimony. Mr. Wroblewski gave a brief description of the plan which will encompass constructing an 8' X 9' addition for a handicap accessible bathroom, and extending the existing kitchen. The space underneath the addition will be a crawl space to allow for the needed plumbing and the roof line will match the existing roof lines. Currently the property utilizes a well that serves two parcels and has its own septic. No one from the Board had further questions. Chairman Shivas opened this application to the public. No one from the public came forward. Chairman Shivas closed to the public.

A motion was made by Mr. Walsh to approve the application which was seconded by Mr. Chozick. 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
Nay											
Abstain											
Absent		X		X				X			

Motion Carried

OLD BUSINESS

Z01-07 Nufrio, David Block 273 Lot 300 138 Lackawanna Drive

Status report on Nov. 1, 2007 approved addition

Mr. Nufrio noted that his Attorney, Mr. Jeffrey Patti sent a letter to the Board outlining his intent on filing suit against the general contractor and other parties involved with regards to the construction on his home. Chairman Shivas noted that this is the second letter the Board has received that virtually indicates the same intent and pointed out there is no progress being made. Chairman Shivas recommended Mr. Nufrio appear back before the Board on Oct. 18th and in the interim some action be taken such as a court date set, or removal of the building and that the Board can and will retract the temporary Certificate of Occupancy if no action is taken. Board Member Mr. McElroy recommended that in addition the Board be provided with a progress report from Mr. Patti every 30 days. The Board instructed Planning Board Attorney, Kurt Senesky to draft a letter to Mr. Patti indicating such, and to allow the temporary Certificate of Occupancy for another three (3) months.

A Motion was made by Mr. Valentine and Seconded by Mr. McElroy. 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
Nay											
Abstain											
Absent		X		X				X			

Motion Carried

REPORTS FROM COMMITTEES

Township Council

No one present from the Council to report.

ARC

Mr. McElroy said the ARC met with CVS Architect, Mr. Gehr on July 13th and a memo was distributed to all Board Members and the applicant’s Attorney outlining results of that meeting. The CVS building was modified to resemble the approved 2008 CVS building on the corner of Brookwood Road and Route 206. Other additional items requested by the ARC are to be provided by Mr. Gehr.

Environmental Commission

Nothing to report

Open Space

Nothing to report

At 8:45 P.M. Board Member Ken Kaufhold joined the meeting.

OTHER BUSINESS:

Sustainability Element – There was discussion amongst the Board regarding the written document and it was recommended that one bulleted item be changed to be non-specific such as, “Use of alternative energy sources for electricity, heating and cooling”. There was some

discussion on how other towns are moving on this subject and the opinion of the Board is that there should be an ordinance in place for alternative energy. Mr. Senesky will provide the Board with some recent case law on this subject and provide a recommendation to the Board. Chairman Shivas recommended sending the document back to the EC to be re-written, then to Mr. Senesky to review and then back to the Board for adoption. The next step would be to put an ordinance in place. Item tabled to August 4th meeting.

Zoning Officer's report – The Board reviewed the report. There were no questions by the Board.

OLD BUSINESS

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 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

First Hartford Realty Corp/CVS Pharmacy Attorney Michael Selvaggi introduced Attorney John Hague who represents property owner Pat Barone who was previously sworn in. Mr. Hague noted to the Board that based on Statue, phasing of construction is allowable by law and guidelines of specific phasing are usually left to the discretion of the Board and noted that the applicant is not requesting anything extraordinary. Mr. Hague gave a brief summary of the plan which includes the lot to be subdivided and the most northern lot to be sold to become what will be CVS and Mr. Barone will retain the balance of the site which he proposes two buildings. The sites will have cross easements and shared maintenance issues but Mr. Hague noted that First Hartford has no contractual obligation to fund Mr. Barone's site which requires financing. Mr. Hague went on to say that with the economy and current lending standards Mr. Barone is having trouble obtaining financing and CVS is requesting to the Board that Phase 1 of construction consist exclusively of the construction of the CVS Pharmacy and all associated infrastructure of the site. Mr. Hague added that approval for this application is also conditional on sewer capacity and CVS solely will have enough capacity to develop their site but Mr. Barone will not and noted that the applicant has no control or involvement in the process for obtaining extra sewer capacity. *Note: In the initial presentation of this project the Board was clear to the applicant that Phase 1 will consist of the construction and associated improvements of the CVS Pharmacy and Building 1.*

Mr. Selvaggi noted that CVS will ensure site stabilization and that all infrastructures will be complete in Phase 1 and the site will be left in a pleasant appearance. He added that the entrance, landscaping and frontage of the site must be completed and it is in CVS's best interest to have the entire site look uniform and the reason why the application was initially presented together, to achieve uniformity on the site.

Many of the Board Members questioned why the site was cleared leaving surrounding property owners with an unsightly, deforested site. Mr. Selvaggi indicated this was not done by CVS. Some Board Members indicated the applicant should look at changing the orientation of CVS and moving the building so that it is not too close to the northern property line that abuts adjacent property owners.

Mr. Selvaggi asked for the Board's approval to present to the Board at the next meeting a clearly outlined plan of what will happen during Phase 1 and what the site will look like after CVS is complete. He ensured the Board the site will not look like an abandoned construction project and a condition could be tied into the issuance of a Certificate of Occupancy.

Chairman Shivas opened to the public.

Earl Riley, 5 Louis Drive had concerns as to why the lot was cleared in the first place and believes that maintenance of the property will be an issue. Currently the weeds on the site are higher than some trees on the site. Mr. Riley also noted that the silt fence is 1' inside of Mr. Barone's property line.

Mr. Brice, 3 Louis Drive appreciates the Board's comments about clearing the lot and the scarred landscape that now appears. Mr. Brice questioned if this application is approved but the development does not occur how long could this extend and Mr. Selvaggi indicated with approval and extensions it could be 10 years. He noted he has made record of how the clearing of this lot has impacted his property and affected his quality of life. He reiterated that the proposed buffer with a 6' board on board fence and pines is not a sufficient buffer and also feels that site is not properly maintained today and will not be in the future. Mr. Brice again encouraged all Board Members to visit his property.

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

The Board agreed to move forward and hear Mr. Selvaggi's presentation at the next meeting. .
A motion was made by Mr. Valentine and seconded by Mr. Walsh to carry without further notice to August 18th, 2011. All were in favor.

OLD BUSINESS

Tomahawk Lake

A discussion took place amongst the Board and it was decided that the Zoning Officer would be the correct resource if there is a violation of the conditions set forth in the Resolution. In addition the Board felt that the Governing Body had a better mechanism, the conditions set forth in the Resolution for a Plenary Retail Consumption License, to enforce, control and regulate parking and traffic issues.

BILLS:

Heyer Gruel & Associates \$371.25 (2 bill)

A motion was made by Mr. Valentine and seconded by Mr. Walsh to approve Mr. Gleitz's bill. All were in favor. Motion Carried.

Schenck, Price, Smith & King LLP \$682.50 (5 bills)

A motion was made by Mr. Valentine and seconded by Mr. Walsh to approve Mr. Senesky' bills. All were in favor. Motion carried.

Louis Slaby & Associates \$5,270.50 (3 bills)

A motion was made by Mr. Valentine and seconded by Mr. Walsh to approve Mr. Slaby's bills. All were in favor. Motion carried.

ADJOURNMENT:

At 10:20 p.m. Mr. Valentine made a motion to adjourn, it was seconded by Mr. Kaufhold. All were in favor and Chairman Shivas adjourned the meeting.

Respectfully submitted:
Cheryl E White