

**MEETING MINTUES  
BYRAM TOWNSHIP PLANNING BOARD  
JANUARY 03, 2019**

**CALL TO ORDER**

Chairman Shivas called the meeting to order at 7:30 p.m.

**ROLL CALL**

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Ms. Raffay	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
HERE	H	H	H	A		H	H	H	H	H	H
ABSENT											
EXCUSED					EA						
LATE											

Also present: Attorney Kurt Senesky  
 Engineer Cory Stoner  
 Planner Paul Gleitz  
 Secretary 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 Meetings Act.

**FLAG SALUTE** led by Chairman Shivas

Ms. Raffay arrived at the meeting at 7:35 p.m.

**REORGANIZATION**

Nomination of Chairman

George Shivas was nominated for Planning Board Chairman by Mr. Walsh; the nomination was seconded by Mr. Morytko. There were no other nominations. A motion to close the nomination was made by Mr. Walsh, the motion was seconded by Mr. Morytko. All were in favor. Motion carried.

Nomination of Vice-Chairman

Michael Walsh was nominated for Planning Board Vice-Chairman by Mr. Morytko, the nomination was seconded by Mr. Chozick. There were no other nominations. A motion to close the nomination was made by Mr. Morytko, the motion was seconded by Mr. Olson. All were in favor. Motion carried.

Nomination of Attorney

Mr. Kurt Senesky from Schenck, Price, Smith & King, LLP was nominated for Planning Board Attorney by Mr. Morytko, the nomination was seconded by Mr. Walsh. There were no other nominations. A motion to close the nomination was made by Mr. Walsh, the motion was seconded by Mr. Morytko. All were in favor. Motion carried.

Nomination of Engineer

Mr. Cory Stoner from Harold Pellow & Associates was nominated for Planning Board Engineer by Mayor Rubenstein, the nomination was seconded by Mr. Walsh. There were no other nominations. A motion to close the nomination was made by Mr. Walsh, the motion was seconded by Mayor Rubenstein. All were in favor. Motion carried.

Nomination of Planner

Mr. Paul Gleitz from L&G Planning was nominated for Planning Board Planner by Mr. Walsh, the nomination was seconded by Mr. Olson. There were no other nominations. A motion to close the nomination was made by Mr. Walsh, the motion was seconded by Mr. Morytko. All were in favor. Motion carried.

Nomination of Secretary

Ms. Cheryl White was nominated for Planning Board Secretary by Mr. Walsh, the nomination was seconded by Mr. Morytko. There were no other nominations. A motion to close the nomination was made by Mr. Walsh, the motion was seconded by Mr. Chozick. All were in favor. Motion carried.

Nomination of Newspaper

The New Jersey Herald and Strauss Newspaper was nominated for the Planning Board Newspaper by Mr. Walsh, the nomination was seconded by Mr. Morytko. There were no other nominations. A motion to close the nomination was made by Mr. Walsh, the motion was seconded by Mr. Morytko. All were in favor. Motion carried.

**RESOLUTIONS**

PB1-2019 Annual Notice of the Calendar Dates of the Scheduled Regular Meetings of the Byram Township Planning Board.

After Board discussion it was decided to amend the resolution omitting the July 4, 2019 meeting date. A motion to approve the resolution with the amendment was made by Mr. Olson. The motion was seconded by Mr. Walsh. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Ms. Raffay	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION							√				
SECONDED										√	
AYE	√	√	√	√		√	√	√	√	√	√
NAY											
ABSTAIN											
ABSENT					√						

Motion carried.

**RESOLUTION NO. PB1-2019**

**ANNUAL NOTICE OF THE CALENDAR DATES OF THE SCHEDULED REGULAR MEETINGS OF THE BYRAM TOWNSHIP PLANNING BOARD  
01/01/2019 UNTIL 12/31/2019**

**WHEREAS**, The Legislature of the State of New Jersey has passed into law Chapter 231, P.L. 1975m the Open Public Meetings Act; and

**WHEREAS**, Section 13 of the above-mentioned law requires a posting of regularly scheduled meeting dates for the benefit of the public.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Byram, County of Sussex and State of New Jersey, that said Board shall meet as follows during calendar year  
01/01/2019 UNTIL 12/31/2019

**REGULAR MEETINGS  
2019 PLANNING BOARD MEETING DATES**

<b>JANUARY</b>	<b>03 Reorganization Mtg.</b>	<b>17</b>
<b>FEBRUARY</b>	<b>07</b>	<b>21</b>
<b>MARCH</b>	<b>07</b>	<b>21</b>
<b>APRIL</b>	<b>04</b>	<b>18</b>
<b>MAY</b>	<b>02</b>	<b>16</b>
<b>JUNE</b>	<b>06</b>	<b>20</b>
<b>JULY</b>		<b>18</b>
<b>AUGUST</b>	<b>01</b>	<b>15</b>
<b>SEPTEMBER</b>	<b>05</b>	<b>19</b>
<b>OCTOBER</b>	<b>03</b>	<b>17</b>
<b>NOVEMBER</b>	<b>07</b>	<b>21</b>
<b>DECEMBER</b>	<b>05</b>	<b>19</b>
<b>JANUARY</b>	<b>09 (2020) *</b>	

(\*Denotes 2020 Reorganization Meeting)

All the above meetings shall begin at 7:30 p.m. prevailing time. All meetings shall be held in the Municipal Building, 10 Mansfield Drive, Byram Township unless otherwise noticed and official action may be taken.

**BE IT FURTHER RESOLVED** that certified copies of the Resolution be forwarded to the New Jersey Herald and the Township Journal and shall be posted on the bulletin board in the Byram Township Municipal Building.

**BYRAM TOWNSHIP PLANNING BAORD**

Attest:

I certify that the foregoing resolution was adopted by the Byram Township Planning Board at a meeting held on January 03, 2019, and official action may be taken.

*Cheryl White*

Cheryl White, Board Secretary

Z10-2018, Jeffrey Butterfield, 31 Belton Street, Block 6 Lot 499, R-5 Zone

Variance for a setback of an accessory structure to a principal structure, and a side yard variance to keep a pre-existing shed.

A motion to approve the resolution as written was made by Mr. Morytko. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Ms. Raffay	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED	√										
AYE	√	√	√	√		√		√	√	√	√
NAY											
ABSTAIN											
ABSENT					√						

Motion carried.

**MINUTES**

Approval of the December 20, 2018 Meeting Minutes.

A motion was made by Mr. Morytko to approve the minutes as written. The motion was seconded by Mr. Walsh. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Ms. Raffay	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED										√	
AYE	√	√	√	√		√		√	√	√	√
NAY											
ABSTAIN							√				
ABSENT					√						

Motion carried.

**NEW BUSINESS**

SP4-2018, Tomahawk Lake Inc., Tomahawk Trail, Block 343 Lots 1, 2 and 3, C-R Zone Amended site plan to construct a 36' X 40' concession stand, to add overflow parking areas on the grass, and to install two new waterslides.

Mayor Rubenstein and Mr. Olson stepped down for this application.

Planning Board Attorney Kurt Senesky announced Attorney Roger W. Thomas, from Dolan & Dolan

P.A., who is representing members of the Seneca Lake Community. Mr. Thomas said that in August 2018 he sent a letter to the Board members saying that his clients oppose this application and believe there are some jurisdictional issues that need to be addressed preliminarily. Mr. Thomas outlined to the Board various items that give cause for them to believe this application should be handled as a D1 use variance vs. and not as a use permitted in the zone, as previously approved. He said Byram's ordinance, Section 240-58, Commercial- Recreation (C-R) Zone, does not specifically call out water park/slides and therefore it is not a use permitted in the zone and added that many activities occurring on the site today are not in keeping with the intent of the zone. Mr. Thomas acknowledges that many issues that will be brought up tonight by his clients and area residents may be an enforcement/zoning issues however he believes over the years the expansion of this use, along with the expansion of improvements proposed tonight, exasperates these issues are not consistent with the definition of the ordinance. Mr. Thomas believes that the Board has not been provided full and accurate information with regards to the activities on the site, which are causing off-site problems and that the applicant has made no attempt to resolve these issues. Mr. Thomas said a use variance is also required for this application because it violates Section 240-58 E. of Byram's ordinance saying that the applicant has failed to provide enough parking on site and that on holidays or high temperature days traffic becomes gridlocked and offsite parking becomes an issue. Lastly, Mr. Thomas said that because a non-conforming use was illegally granted in the past does not mean that it should continue to be granted and stands firm that a D1 variance is required. Mr. Thomas concluded.

Mr. William Askin, from Askin & Hooker, the attorney representing the applicant said he believes that the issues raised by Mr. Thomas are code enforcement issues and that it is the intent of the Board that this use is and always has been permitted. He said two variances are required for this proposal which are to exceed the height and size of an accessory structure allowed by Byram's ordinance. Mr. Askin said if there are issues occurring off the property they can be dealt with by conditions imposed by this Board and set forth in a resolution but holds steadfast that the use is permitted.

Mr. Senesky said that the Board has the power to interpret the ordinances and should be consistent and that over decades the Board has agreed this use is permitted in the C-R zone and no one has ever appealed or challenged the Board's decision.

Chairman Shivas opened to the public.

*Mr. Leo Steingall, 93 Tomahawk Trail* was sworn in and said he is a forty-five-year long resident and over the years traffic has continually gotten worse. He said other issues caused by patrons at the park include littering, loitering, trespassing, illegal parking, public urination, and traffic gridlock. He believes the traffic issues are brought on by the location of the ticket booth and he believes the park should make the patrons park first, then pay for tickets. Mr. Steingall added that slides that were approved in the past are close to resident's homes and create people noise and should be moved away from homes. Mr. Steingall also believes moving the entrance may also help alleviate traffic problems.

*Ms. Joann Scally, 144 Seneca Lake Road* was sworn in and said she has lived there twenty-eight years and as a tradition she would host family fourth of July parties and for the last ten years has had to discontinue this tradition because of traffic. She said on a holiday or when the weather is hot she and her family are prisoner's in their home. She said on one occasion to reach her home she had to travel down the wrong side of the road which created a safety issue. She said in the past when patrons have parked on her property and she called the police to have the vehicle removed she was told that if they tow the vehicle it would be at her expense. She added that if there is an emergency, emergency vehicles cannot respond in a timely manner. She said her quality of life has suffered and she repeated Mr. Steingall's concerns adding that drug use also takes place. Ms. Scally added that she believes that the motorized boats at the park were never approved. Mr. Walsh asked why she objects to the motorized boats. Ms. Scally said she believes they are illegal and unsafe since patrons can drink on the premises.

*Mr. Shawn Bennett, 115 Seneca Lake Road* was sworn in and said for the last decade Tomahawk Trail has had problems erupting from the park with regards to parking on the street, noise, etc., however more recently the problems have worsened. He believes the park exceeds permitted capacity, creating parking problems and traffic gridlock. He said it presents a safety issue because emergency vehicles cannot move freely if an emergency arises.

*Christa Collis, 124 Seneca Lake Road* was sworn in and she has lived there for eighteen years and agrees with the concerns raised by the residents tonight and said that several years ago a driver under the influence of alcohol leaving the park collided with her vehicle causing an accident. She said the fact that the park allows alcohol concerns her.

*David Mazzerella, 119 Seneca Lake Road* was sworn in and said he has lived there for twenty-three years and is a member of Seneca Lake Association and expressed his concerns regarding traffic, parking on the street, and trespassing. He said many times he is called at home to come to Seneca Lake because when the park is full people often try to use Seneca Lake, which is private lake, and their facilities and he is called to ask them to leave.

*Sergeant Jeffrey McCarrick* said he is a Sparta Township police officer and has observed on holidays and high temperature days a high volume of traffic, causing gridlock. He said he has observed public urination, illegal parking, trespassing, etc. He said that police officers cannot serve the Sparta residents because of the problems that are caused by the park and their patrons. He believes that Tomahawk Lake should hire Sparta Police Officers to control traffic. He said the current situation creates a public safety and health hazard and if an emergency occurred, emergency response teams cannot respond quickly and puts the patient at risk and many times he has had to travel down the road in the wrong direction because of traffic issues.

Mr. Walsh asked if Sparta Township has reached out to Tomahawk Lake to see if they would

consider hiring officers. Mr. McCarrick said he was not sure.

Mr. Senesky said he believes Byram Township has an agreement with Tomahawk Lake and assigns Byram Police Officers on busy days.

Mr. Askin had no questions for the witnesses.

Mr. Thomas summarized by saying this property creates a serious public health issue and believes Byram’s ordinance requires not to create a dangerous situation and that this use is more in line with an amusement park vs. a camp park. He said the residents do not want the park to close but want a safer environment and a better quality of life.

Mr. Askin said Byram has a mechanism for traffic issues and that many towns have events, such as fairs, or parades, that cause traffic issues. Mr. Askin believes this is a permitted use in the zone and proofs should not be required of this applicant. He said the applicant has met with township officials, and police to try to resolve traffic problems. He said the applicant hires Byram Township Police on high traffic days, has moved where tickets are taken and has agreed to other conditions in previous approvals to help alleviate the problems. He said the applicant would be receptive to other conditions to resolve resident and township concerns and part of his recent proposal is to add an area for overflow parking.

Mr. Senesky said at this point the Board is charged with deciding if this is an amended site plan with bulk variances or a use variance.

Mr. Gleitz said in the past the Board has always viewed this as a permitted use. The Board needs to determine that as the park expands, does that change the nature of the use.

Chairman Shivas said that in the past, as the park has expanded, it has always been considered a use permitted in the zone.

Mr. Senesky asked if the Mr. Thomas or Mr. Askin had a planner present this evening in the event it is determined to be a use variance. Neither attorney had a planner available. Mr. Rogers asked for a break to speak to his client. The Board took a ten-minute break and at 9:25 p.m. the hearing resumed.

Mr. Thomas asked for a one-month postponement so that he could return with a planner for testimony. Mr. Askin objected. There was a discussion and it was determined to postpone the meeting to Feb. 7, 2019.

A motion to carry this application to Feb. 7, 2019 without further notice was made by Mr Walsh. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Ms. Raffay	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION										√	
SECONDED	√										
AYE	√	√	√	√		√			√	√	√
NAY											
ABSTAIN											
ABSENT					√						

Motion carried.

**REPORTS FROM COMMITTEES**

Township Council – No one was present for a report.

Environmental Commission – No meeting was held.

Architectural Review Committee – Mr. Morytko said the meeting is next week.

Open Space – No meeting was held.

Zoning Department – The zoning officer provided the December 2018 report:

2 zoning permits were issued. No permits were denied.  
 No site plan waivers were issued. 14 Notice of violations were issued.  
 13 violations were cleared. 2 summonses were issued.  
 2 signs were removed.

Ms. Raffay asked if anyone has checked the intensity/brightness of the Liquor Factory LED sign. Mr. Stoner said it is on his list to check.

Chairman Shivas reviewed the committee members and said that there is a vacancy on the Master Plan Committee and Ms. Raffay agreed to be on the committee.

**BILLS**

Harold Pellow & Associates (3 bills) \$444.15

A motion to approve Mr. Stoner’s bills was made by Mr. Walsh. The motion was seconded by Mr. Morytko All were in favor. Motion carried.

**PUBLIC COMMENT**

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

**ADJOURNMENT**

A motion to adjourn the meeting was made at 9:50 p.m. by Mr. Walsh. The motion was seconded by Mr. Morytko. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,  
 Cheryl White