

MEETING MINTUES
JOINIT MEETING OF THE BYRAM TOWNSHIP COUNCIL
AND THE BYRAM TOWNSHIP PLANNING BOARD
FEBRUARY 7, 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	H	H	H	H	H	H
ABSENT											
EXCUSED	EA		EA								
LATE											

Also present: Attorney, Kurt Senesky
 Planner, Paul Gleitz
 Engineer, Cory Stoner
 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

MINUTES

Approval of the January 17, 2019 Meeting Minutes.

A motion was made by Mr. Kaufhold to approve the minutes as written. The motion was seconded by Mr.

Morytko. 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.

RESOLUTIONS

SP6-2018, Thomas Brummer, 15 Lee Hill Road, Block 336 Lot 15.06 and Lot 15.09, R-2 Zone

Minor subdivision which requires variances for insufficient road frontage on Lot 15.09 and intensifying a pre-existing, nonconforming lot.

A motion was made by Mr. Kaufhold to approve the resolution as written. Mr. Dixon said on page 3 the acreage for Lot 15.06 should be 49 acres. Mr. Kaufhold amended his motion. The motion was seconded by Mr. Morytko. The following votes 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.

Z08-2018, Alex Rubenstein, 3 Partridge Lane, Block 234 Lot 1.04 and 1.05, and Block 364 Lot 8, R-2 Zone.

Relief from a 2017 prior approval, to add a new driveway.

A motion was made by Mr. Kaufhold to approve the resolution as written. The motion was seconded by Mr. Morytko. The following votes 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.

PLANNING SESSION

Mayor Rubenstein opened the meeting saying the reason for the joint meeting is to have an open conversation about the state of Byram Township and to discuss items listed below, or any other items the council or Planning Board may like to discuss.

Items of discussion this evening:

- Master Plan update/re-exam
- Future viability of current town center vision plan
- Council's vision for Route 206 development/redevelopment
- Marijuana: recreational use/retail sales
- Sewer gallonage opportunities within the Village Business area for redevelopment

Master Plan update/re-exam

Mayor Rubenstein said based on previously approved variance applications over the last several years that happened in the commercial districts are there any changes to the MP (Master Plan) that need to be made? He would also like to discuss why the Village Center has yet to be developed and should the town be looking at reasons for the lack of interest. Is the code too restrictive, is it the lack of available resources such as water and natural gas, or is it just not viable from a financial prospective?

Mr. Gleitz said the last time the Township revised the MP was in 2004 saying that the preamble to the MP was the Smart Growth Plan and the Lakefront Development Plan, which led to the establishment of the Village Center. He said the purpose of the Reexamination Report is to review and evaluate the local Master Plan and Development Regulations on a periodic basis to determine the need for update and revisions. The Municipal Land Use Law (MLUL) requires that this review be conducted at least every ten years and that it be conducted by the Planning Board. He added that a re-exam allows for recommendations or updates to town policy initiatives as it relates to the MP. Mr. Gleitz said Byram's last re-exam was in 2012 and at that time the Board considered if progress was made on the town's goals and objectives outlined in the MP, and if there were changes in the universe of land use that may have affected those goals, and lastly any redevelopment plans that the town may have. As far as changing Byram's Master Plan, there is no legal requirements, however if Byram is looking at making some changes to zoning, the easiest and least expensive method would be by a re-exam. Mr. Olson said as far as changing the MP there are legal requirements with regards to affordable housing, Highlands, etc.

Mr. Gleitz discussed the 2012 re-exam saying that the town looked at the open space acquisitions and open space zoning, the circulation plan, and the general status of commercial development. He said the land use and census data was updated and at that time there was discussion about updating the land use plan based on the Highlands Act. However, Mr. Gleitz said our current land use plan is silent on the Highlands Act requirements and during the Township's Plan Conformance process we looked at that issue and it was determined the town is better off keeping the base land use plan in place because if a property is exempt from Highlands regulations, that property would then be subject to our original MP and not the Highlands RMP. He said recommendations that were accomplished from the 2012 re-exam were:

- Open space property was rezoned to OS
- Eliminated SPLIT zoned lots
- Corrected zoning errors
- Drafted a Sustainable Economic Development Plan

Items recommended that need to be completed are:

- Involve the Planning Board in the five-year capital improvement planning process.
- Changes to the site disturbance ordinance, to further limitations on site disturbance on residential lots.
- Some circulation recommendations.
- Easement mapping monitoring

Mr. Gleitz reviewed the elements of the 2004 MP and said that if the town wanted to update the MP it would be easier than the last MP update based on a review of that MP. He said that the Introduction, the Vision Statement, and the Goals and Objectives of the Township should be reviewed and updated but should not require extreme changes. The Community Profile should be reviewed and updated based on the new census data from the 2016 Housing Plan. Mr. Gleitz said the Land Use Plan is where the focus should be if consideration is being made for a new Master Plan. He added that in terms of the Conservation Element, the town should reference the new ERI, the new Open Space and Recreation Plan, the Sustainability Plan, and the Forest Stewardship Plan. For housing we would reference the 2016 Housing Plan, for Community Facilities the municipality complex would probably be the only addition and he believes no significant changes occurred relating to EMS or Fire Services. He added that Historic Preservation, Utility Services and Recycling could be reviewed and updated if needed.

Mr. Olson asked if the recent changes to the commercial zones Neighborhood Commercial or Village Business (NC & VB) were a result of the Sustainable Economic Development Study or a review of the re-exam land use goals and objectives. Mr. Gleitz said the changes made to the NC and VB zone were based on streamlining the zoning in our commercial area. He said the Economic Development Plan was adopted as an amendment to the MP and those land use recommendations became part of the broader recommendations of the Land Use Plan. He said when we made those ordinance changes, the resolution adopted by Council was in effect to follow through on recommendations of the Sustainable Economic Development Study. He said the purpose of those changes was to simplify the zoning and to expand the uses allowed in those zones, making the language more general. He said the Board also looked at already established commercial properties and their uses and looked at making those uses conditional uses based on current conditions, making it easier for business.

There was discussion about the viability of the Village Center plan. Many of the Board members believed the sale price of the property is a major road block to developers. Mr. Kaufhold recommended reaching out to land use professionals for advice on marketing the land. Some Board members believe the best approach would be to leave the VC alone and

when a developer comes in with a plan work from there. Mr. Morytko said if we make changes based on one developers' idea, and that developer walks away, the town could be stuck with something not in line with the towns' vision. One idea was to encourage dialogue with the property owners and their expectations of the property's future. Mr. Gleitz said there are some requirements we need to be mindful of, one being the requirement of 33 affordable housing credit units out of the VC site. He said the residential unit mix of the VC was designed to have the least amount of impact from a tax standpoint to reach the 33-unit requirement. The Mayor asked if the footprint of the VC could be changed and Mr. Gleitz said the town would have to go to the Highlands Council. Mr. Gleitz said if a developer is willing to build within the footprint and provide 33 housing units the Township can be flexible with the number of retail units, housing units, lighting and landscape requirements, etc. Mr. Gleitz said years ago the town talked about redevelopment because it would give the town more control, allowing for PILOT programs (payment in lieu of taxes) and long-and short-term tax rebates, that would entice and help developers with infrastructure costs, etc., however that did not come to realization. Mr. Thomas Collins, Byram's Township Attorney, reminded the Board that the property owners of the VC zone sued the Township years ago, and the use of the word "Redevelopment" invites litigation. Mr. Gleitz said that if you have a lag in development and find that the Form Base Code does not work, the town can work with a developer cooperatively, taking eminent domain off the table, and name the property under "Redevelopment". This way the developer can get more money out of the land and it also gives the town more options in terms of financing the project. Mr. Collins disagrees and talked about the Supreme Court and one of the criteria for redevelopment saying that the land must be blighted or unlikely to be developed and Mr. Collins believes this property is not blighted. Mr. Collins believes that Redevelopment for this property is not valid and advises against it. He said maybe for the properties that abut Rt. 206, like HRS Well Drilling, but not this property.

Mr. Gleitz emphasized that the Economic Development Study identified that residents of Byram want to see the site developed as a walkable Village Center and the Study recommends the township market the site. Mr. Gleitz added that perhaps the township can have the New Jersey's Builders Association review our VC plan and code requirements and the viability of the plan. Chairman Shivas said having resources such as natural gas and water would entice developers. Mayor Rubenstein asked how important is it that this property be developed, maybe we shouldn't rush to develop the site, maybe some might feel it is okay to leave the land forested and wait for the right developer. Mr. Morytko believes it's important to keep the plan and property for future development, since Byram has a limited area for commercial development. Mr. Olson, and Mr. Walsh agree, especially because of affordable housing requirements. Ms. Raffay said she believes it's good to keep the VC plan but doesn't believe that marketing the site is necessary and would be okay if left forested. She would like to see more interconnectivity within the town; sidewalks linking sections of Byram together making it more walkable, adding more trails bringing the community together in a different way. Mr. Collins added that said Byram has a plan that is flexible and Byram shouldn't want any development, they want good development and we should wait for the right developer.

Marijuana

Mayor Rubenstein said soon adult recreational use of marijuana will be legalized in the State of New Jersey. He said from a planning and zoning perspective the township needs to act regarding the allowance or banning of the sales, manufacturing or farming of marijuana, adding that medical use of marijuana in New Jersey is already legal. The Mayor believes this will be a hot topic in Byram and he has already received two emails about this subject.

Mr. Gleitz said from a planning and zoning view point there are two main tracts, medical and adult recreational use. Medical is already allowed in New Jersey and Mr. Gleitz said each entity involved in medical marijuana distribution must have growing, manufacturer and distribution as part of their business model, saying they don't have to be within the same municipality but must have the three components. On the recreational side a business can be a retail company, a production company or the manufacturer, not requiring all three components. Mr. Gleitz said from a planning and zoning standpoint there's the potential for six elements a township can get involved in such as medical grow, medical production, medical distribution or adult recreational grow, adult recreational production, adult recreational sales. Mr. Gleitz said if the town opts in and decides for example they will allow a recreational grow facility, the town then must decide where the use will be permitted, and the standards to regulate it. Mr. Gleitz did say as far as medical marijuana; a town needs to be careful about not regulating the zoning requirements because it could be considered as inherently beneficial which is a good argument for a use variance for an applicant. Mr. Gleitz said that the New Jersey Agricultural Board has said it's a Right to Farm issue and it is a crop that can be grown with Right to Farm protections. He did say at this point is unclear how the County Agricultural Board may handle marijuana. He said towns can look at it from an economic side, health and wellness side, retail side or manufacture aspect. Mr. Gleitz said the township needs to decide if they are interested in that industry at all, and if so, what part of the industry to allow and how to regulate it. Mr. Gleitz said once legislation is passed towns will have 180 days to decide whether they opt in or out. Mr. Gleitz added that if you opt in the state will share the revenue with the municipalities.

Mr. Olson said we need to be cognizant of available resources for this industry such as enough water and land for growing facilities since they could be large. Ms. Raffay said in Colorado some towns opted in however the towns that opted out are still affected by the industry, so she believes the abutting counties and municipalities should have open discussions with each other.

Mr. Gleitz said the town can prohibit marijuana altogether and define that in ordinance with definitions and prohibitions. We will have to define alternate treatment centers, marijuana retail, production, etc., and have definitions that define what the use is and if it is permitted. Ms. Kash said last year at the League of Municipalities the New Jersey Cannabis Association was present, and she said that they have a public affairs department and will meet with towns to answer questions and provide guidance.

Mr. Collins said decisions still need to be made like how the state will share revenue with towns. Mr. Gleitz said his understanding is it's a five year opt in or out plan and if you opt out, in five years towns will have the opportunity to

revisit that option. Some Board members felt that waiting five years, see what happens in towns that have opted in and then decide.

Sewer gallonage opportunities within the Village Business area for redevelopment

Anytime a business serviced by sewer changes their use, a new sewer use permit must be provided to determine if the proposed use has adequate sewer allocation. Mayor Rubenstein said recently a business currently on sewer received approval for a third-floor apartment and during the review of the sewer allocation permit it was determined that they did not have adequate sewer allocation for the proposed apartment. Mr. Sabatini said currently it is difficult to get additional gallons and the township does not have excess gallons to transfer between commercial property owners, and if businesses want to grow this creates an obstacle. He said currently there are two ways to pursue extra gallons; one way would be working with an existing property that has extra gallons and working with through the township to transfer unneeded gallons to the property seeking additional gallons. The other option would be to go to a neighboring community, i.e. Stanhope and negotiate buying gallons from them. Mr. Sabatini said an opportunity he would like the Council to consider would be the township acquiring extra gallons from Stanhope, while some are still available, and hold the gallons in reserve. This way if a business wants to expand or a new business needs more edu's for their proposed use, the township would have them readily available for sale. Mr. Sabatini said the Council would have to decide if they are in favor of this because it is a budget issue. He said the acquisition costs would be insignificant and that the cost of holding gallons would be paid to Stanhope Musconetcong Sewer Authority. He said another option could be to talk to business owners to see if they are interested obtaining extra gallons for future growth or redevelopment. He said currently the township pays for 40 gal. per day to Stanhope MUA to reserve for the VC, which is required by COAH.

Council's vision for Route 206 development/redevelopment

The Mayor asked if anyone would like to see any substantial changes to zoning along Rt. 206. Mr. Olson said because of the Economic Development Study many changes were made to the VB and NC Zone, as discussed earlier, making more uses permitted or conditional. Mr. Gleitz added that the Board broadened the categories of permitted uses, making them more general.

Mayor Rubenstein asked if anyone had items they would like to discuss. Ms. Raffay said the Council needs to look at wireless being allowed in R.O.W.s and that the town needs regulations or the F.C.C. will put these structures wherever they want.

Mr. Roseff said he believes there is a need for a second entrance in the East Brookwood section of Byram. Chairman Shivas explained years ago they tried to achieve this but many of the residents were opposed and now Byram has a steep slope ordinance, and the property has wetlands, and there are many DEP issues associated with the infrastructure needed to achieve this. The Mayor asked Mr. Stoner to take a quick look at what would need to happen to get a second entrance and the associated costs.

Chairman Shivas opened to the public.

Mr. Richard Schneider, 73 River Road asked if there was a Village Center plan or map he could review. Mr. Sabatini said to give him a call.

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

At 10:05 p.m. a motion was made by Mr. Olson to adjourn the Council portion of the meeting. The motion was seconded by Ms. Kash. Motion carried. All were in favor. The Council portion of the meeting was adjourned.

REPORTS FROM COMMITTEES

Township Council – Mayor Rubenstein said he received an email about the property behind the old Consolidated School expressing a concern about the amount of water in that area. Mr. Stoner said there was always water retained in that area, but he will check to be sure there isn't a blockage or beaver dam somewhere.

Environmental Commission – Ms. Shimamoto said no meeting was held. Mr. Olson said U.S. Congresswoman Mikie Sherrill visited the Superfund site last week.

Architectural Review Committee – No meeting was held

Open Space – Meeting is February 12, 2019

January 2019 Zoning Report – Mr. Dixon gave the following report:

4 permits were issued.

1 permit was denied.

No waiver of site plans was issued.

14 Notice of Violations were issued.

10 cases were cleared.

7 summonses were issued.

1 sign was removed.

BILLS

Harold Pellow & Associates, Inc. (4 bills) \$562.50

A motion to approve Mr. Stoner's bills was made by Mr. Walsh. The motion was seconded by Mayor Rubenstein. 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 10:15 p.m. by Mr. Kaufhold. The motion was seconded by Mr. Olson. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Cheryl White