

**MEETING MINUTES  
BYRAM TOWNSHIP PLANNING BOARD  
MAY 16, 2019**

**CALL TO ORDER**

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

**ROLL CALL**

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

Also present: Attorney, Kurt Senesky  
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 May 2, 2019 Meeting Minutes.

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

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

Motion carried.

**COMPLETENESS**

SP7-2019, Elite Automotive, 254 Route 206, Block 216 Lot 3.04, N-C Zone

Amended Site Plan to re-locate the main entrance, architectural improvements to the building façade and height, and the rearrangement and addition of onsite parking.

The site plan subcommittee met and reviewed the revised site plan and the environmental report which was previously requested by the subcommittee, and the application was deemed complete. The Board determined that because of the nature of the business and that this site has environmentally sensitive areas, they requested that the applicant's architect and environmental specialist appear at the public hearing to provide testimony. A public hearing date of July 18<sup>th</sup> was set for this application.

A motion was made by Mr. Morytko. The motion was seconded by Mr. Kaufhold. The following vote was taken:

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

Motion carried.

**RESOLUTION**

Z04-2019, Kevin Cotter, 5 Cliff Drive, Block 320 Lot 1, R-5 Zone

Relief to add 985 sq. ft. second story addition, a 93 sq. ft. covered porch, and to keep a pre-existing carport in the front yard.

Mr. Cotter was present at the meeting and thanked the Board for their consideration.

A motion to approve the resolution as presented was made by Mr. Olson. The motion was seconded by Mr. Kaufhold. The following vote was taken:

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

Motion carried.

**OLD BUSINESS**

SP4-2018, Tomahawk Lake Inc., Tomahawk Trail, Block 343 Lots 1, 2 and 3, C-R Zone (This matter has been carried to September 5, 2019.

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.

The applicant requested this matter be carried to September 5, 2019.

A motion to carry this application to September 5, 2019, without further notice, was made by Mr. Kaufhold. The motion was seconded by Mr. Morytko. The following vote was taken:

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

Motion carried.

Chairman Shivas opened to the public.

*Jeffrey Butterfield, 31 Belton Street* said he received approval in January 2019 to erect an above ground pool which required a variance for relief of a setback from a principal structure to an accessory structure. He said during the installation of the pool they discovered a large boulder that could not be removed which caused the pool location to change and encroach on the rear yard setback. Mr. Butterfield asked the Board if his previous approval can be amended by the Board without having to apply for a new variance. The Board was sympathetic of Mr. Butterfield’s circumstance however they acknowledged that a variance would be required, and Mr. Butterfield would have to file a new application.

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

**REPORTS FROM COMMITTEES**

Township Council – Mayor Rubenstein said on Tuesday the Council charged the Township Planner with writing a draft ordinance for changeable message board signs. He added that Ms. Raffay provided a presentation to the Council on 5G (fifth generation cellular network technology) and said some of these nodes can be unsightly and large and Ms. Raffay urged the Council to create an ordinance. The Mayor said the Council’s focus will be the safety and health of Byram’s citizens because the power levels and frequencies are significantly different than the currently employed 4G nodes. He added that these are being installed on light and telephone poles in other towns and Byram needs to act and create an ordinance to modify the township code to regulate their location, appearance and required buffers since local governments are limited to what they can regulate. Mayor Rubenstein said both items are at the Councils forefront and added that the Planning Board should see the ordinances within a month or so for a consistency review.

Mr. Olson added that a presentation was made to the Council about the Warren Scenic Bi-way being extended from Phillipsburg and to end at Waterloo Village. Mr. Olson said it originally started in Hackettstown and now ends in Greenwich Township. The Council was in favor, and the resolution will be adopted at the May 21<sup>st</sup> Council meeting. He said this will have an impact on Byram’s economic development and provide an opportunity to promote the natural resources in town.

Environmental Commission – No representative was present.

Architectural Review Committee – No meeting was held.

Open Space – No meeting was held.

Mayor Rubenstein advised the Board he has been contacted by a developer about a proposed Wawa next to the CVS site. He said there were some site issues which have been worked out and the Board should expect an application to be filed within the next few weeks.

**ANY OTHER BUSINESS THE BOARD DEEMS NECESSARY**

Mayor Rubenstein said he recently attended a planning class and they discussed, amongst other things, D variances which raised some questions such as when an application for development is submitted who determines if the application requires a bulk variance, a use variance or both.

Mr. Senesky said generally it is obvious and is usually pre-determined either by the applicant, the applicant’s attorney or the zoning official. He said sometimes the professionals, such as the Board Planner or Engineer will weigh in on that determination and if a question remains it can be handled as an interpretation and the Board would make that decision. Mr. Senesky said the Mayor and the Class III Board member can hear the interpretation but if it is determined to be a D variance, then they must recuse.

Mayor Rubenstein asked to what level of change or enlargement must occur on a property to warrant a D2 variance? The Mayor passed around an excerpt from literature from Greenwich Township that referenced D1 and D2 variances and based on that literature it was the Mayor’s opinion that a change in signage would not constitute a D variance of any type. Not all Board members agreed, some Board members believed it would be a D1 variance based on the literature. Mayor Rubenstein said if a property owner was increasing the amount of traffic or customers visiting the site he would consider that an “enlargement”, however he does not believe a change in the style or type of sign should be considered an enlargement/expansion. Mr. Morytko disagreed and said even though you may not be intensifying the number of customers that visit the site, you may be intensifying or changing the characteristics of the site and he believes the handout implies a D1 variance would apply. Mr. Stoner believes adding signage would not be considered and enlargement or expansion of use.

Mayor Rubenstein asked what the consequence would be if the wrong determination was made regarding the type of variance. Mr. Senesky said normally an appeal would be filed which is time consuming and expensive. There was Board discussion about the completeness process and Mr. Stoner said when he looks at an application for completeness he usually does a complete engineering review simultaneously. The Mayor wondered if having a subcommittee review the application with the applicant prior to a hearing would help streamline the process. It was also recommended that including prior resolutions of approval would be helpful. The Board secretary will ensure that previous resolutions of approval are included with new applications. Mayor Rubenstein asked if the Board wanted to make any changes to the current process, such as how completeness is done or when a professional should review the application. Mr. Senesky didn't feel it was necessary for an upheaval in our entire process but said he would do some research. Mr. Olson said in the past he, as a Class III member, or the Mayor were not provided copies of applications that were considered D variances and Mr. Senesky recommended that the Board secretary provide them a copy of the application so that they are aware of future development in the town.

Mr. Stoner said an application was recently approved whereas the applicant submitted hand drawn plans but when they applied for a permit, the plans were different than what was approved, and he believes hand drawn plans have a history of being unclear. Mayor Rubenstein said the fact the plans were hand drawn seems irrelevant, but more so that the plans submitted for a construction permit varied from the approved plan. Mr. Senesky said this is quite often a problem for the Board's he represents. He said it is expensive to have a professional draft plans and township are always trying to cut costs to residents of the town.

#### **BILLS**

Law Office of Larry I. Wiener (2 bills) \$1,275.00

A motion was made by to approve Mr. Wiener's bills was made by Mr. Morytko. 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 8:45 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*