

**MEETING MINUTES**  
**BYRAM TOWNSHIP PLANNING BOARD MEETING**  
**MAY 4, 2017**

**CALL TO ORDER**

Chairman Shivas called the meeting to order at 8:00 p.m.

**ROLL CALL**

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
HERE	H	H	H	H	H	H	H	EA	H	H
ABSENT										
EXCUSED										
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 April 20, 2017 Meeting Minutes

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

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion					√					
Seconded		√								
Aye	√	√		√	√	√			√	√
Nay										
Abstain			√				√			
Absent								√		

Motion carried.

**MINUTES**

Approval of the April 27, 2017 Meeting Minutes for the Special Joint Meeting of Planning Board and the Township Council

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

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion		√								
Seconded					√					
Aye		√		√	√	√			√	√
Nay										
Abstain	√		√				√			
Absent								√		

Motion carried.

**RESOLUTION**

Z04-2017, Richard Sullivan, Block 276 Lot 520.02, 143 Forest Lake Drive, R-5 Zone

Variance for a front yard setback to construct a deck.

The Board had no questions. A motion to approve the resolution as written was made by Mr. Riley, and the motion was seconded by Mr. Morytko. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion	√									
Seconded		√								
Aye	√	√		√	√	√			√	√
Nay										
Abstain										
Absent										

Motion carried.

**NEW BUSINESS**

Z03-2017, Fred and Karen Kuechenmeister, Block 8 Lot 631, 16 Union Street, R-5 Zone

Bulk variance for maximum lot disturbance, to exceed principle building coverage allowed, and a setback to a body of water to construct a 683 sq. ft. two bay garage.

Fred and Karen Kuechenmeister, owner and applicant, and son, Frank Kuechenmeister was sworn in. Frank Kuechenmeister said they wish to add a 683 sq. ft., attached, two bay garage, and enlarge their driveway. He added that they will be removing a shed, and a shed platform in the rear of the property. Mrs. Kuechenmeister said that there is a temporary shed behind the house.

There was Board discussion because the applicants submitted two surveys, one drafted by Moran Engineering, LLC dated 10-28-13, and another drafted by Careaga Engineering, dated 8-20-15. There were discrepancies between the two surveys, and the Board needed clarification. The survey drafted by Moran Eng. shows the shed to the rear of the property outside of the Kuechenmeister property boundaries, and the survey done by Careaga shows the shed inside the property line. The Kuechenmeister's contend that the shed is inside their property line, however since the shed is being removed, the Board believed it is not an issue. The applicants agreed to restore the shed and platform area to grass after they are removed. It was also noted that the Moran survey shows a brick patio off the rear of the home and the Careaga survey shows a deck off the rear of the home. Mrs. Kuechenmeister verified it is a brick patio.

Mr. Senesky pointed out discrepancies with the zoning officer's memorandum dated March 8, 2017 and the engineer's report dated March 13, 2017 with regards to building coverage. It was determined the zoning officers calculation included the deck as building coverage, however since it was determined there is no deck, it should not be included, so a variance is not required.

Mr. Senesky asked why the garage could not be pushed forward, not to encroach on the wetlands; Mrs. Kuechenmeister said the septic is located in that area. The Board had a question about the number of bays, saying that the application indicates a two bay garage; however the site plan indicates a three bay garage. Frank Kuechenmeister said it is a large; two bay garage so that he can store a recreational vehicle he owns. Frank Kuechenmeister said that the existing garage will be converted into a family room/storage space and will not be used as a bedroom.

Chairman Shivas said that the Environmental Commission had concerns about water run-off. Mr. Stoner recommended a dry well or a seepage pit be installed. The applicant's agreed.

It was noted that the applicant acquired a GP8 from the DEP Land Use Regulations because of the wetlands buffer.

The Board did note that an updated survey and site plan will be required since there were discrepancies, and a seepage pit or dry well be installed and approved by the Planning Board engineer.

A motion was made by Mr. Walsh to approve the application with the conditions mentioned above. The motion was seconded by Ms. Segal. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion							√			
Seconded						√				
Aye	√	√	√	√	√	√	√		√	√
Nay										
Abstain										
Absent								√		

Motion carried.

Z05-2917, Robert A. Freeman, Jr., Block 348 Lot 2, 101 Amity Road, R-2 Zone

Use variance to permit a use not permitted in an accessory structure

Ms. Raffay and Mr. Riley stepped down for this application.

Mr. Mike Selvaggi, from Lavery, Selvaggi, Abromitis & Cohen, P.C. representing the owners and applicants, Robert Jr. and Kelly Freeman and they were sworn in.

Mr. Selvaggi said the Freeman's meet the conditions of a Home Occupation under Byram's ordinance, Mr. Freeman is a professional musician and Mrs. Freeman is a photographer, however since they wish to use their barn/accessory structure, not their home dwelling, it cannot be considered a home occupation. There was Board discussion as to whether it should be considered a D1 use variance, or a conditional use variance. It was the consensus of the Board it is a conditional use variance.

Mr. Freeman said they purchased the home in July 2016 and installed a septic in with hopes of adding a full bathroom to the barn. They said their home is about 700' away, and since they plan on using the barn for mainly recreational purposes, a bathroom would add convenience. After the septic was installed they went to the Township to gain a plumbing permit and it was brought to the attention of the zoning officer. The zoning official told them they needed to go to the Planning Board, it was the zoning officer's belief, based on their site plan; the intended use would not be considered an ancillary use to the principle structure. Mr. Selvaggi asked Mr. Freeman his intentions for the barn, Mr. Freeman said their house is old, has low ceilings and small rooms. He said the barn would be used as a music studio, recreational space, an exercise room, entertainment space and storage space. He added that occasionally, if one of his clients were in close proximity to his home, he would use his barn and record music with his clients. The Freeman's said it was never their intention to use the barn as a second residence or apartment and they would agree to that as a condition of approval.

Planner, Ms. Jessica Caldwell, was sworn in and reiterated that under the conditional use standards; the Freeman's meet all of the conditions with the exception of the barn not being in their principle dwelling. She said the use is of low intensity, they will not have any employees, there will be no change to lighting, the use will not create any traffic, noise, no signs will be posted, and there is ample parking. She said the proposed use will not have a negative impact to neighbors and that this use meets the intent of the ordinance.

Ms. Shimamoto asked how the second story of the structure will be used. The Freeman's said it will be open space and mainly will be used for storage. Chairman Shivas said it cannot be used for sleeping or living. It was also noted that the music room will be soundproofed. The Board had no more questions.

Chairman Shivas opened 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 with the condition that the barn not be used as a residence or an apartment. The motion was seconded by Mr. Morytko. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion							√			
Seconded		√								
Aye		√	√		√	√	√		√	√
Nay										
Abstain										
Absent										

Motion carried.

Z06-2017, Gerard Finegan, Block 54 Lot 14, 26 Stony Brook Road, R-4 Zone

Bulk variance for a rear yard setback, a setback to a body of water, and a side yard setback to construct a deck, a rear yard addition, and a shed.

The applicant and owner, Mr. Gerard Finegan, and his engineer, Jason Dunn from Dykstra Engineering was sworn in. Mr. Dunn provided his education and experience to the Board and the Board accepted him as an expert in his field.

Mr. Finegan said he recently purchased the home and is doing a total renovation but would like to add an 88 sq. ft. addition to the rear of the home for a bathroom off of the master bedroom, and a 42 sq. ft. addition to the existing deck. The deck will be demolished and rebuilt. Mr. Finegan said the existing septic tank will be moved and replaced, and he has obtained permits from the Sussex County Division of Health and Environmental Services. He said this renovation will be an improvement to the neighborhood.

The Board reviewed the four variances required, and it was noted that some non-conformities are pre-existing.

- Side yard setback 4.5 ft. for the deck enlargement
- Rear yard setback 13.1 ft. for the addition
- Distance from the 100 year flood plain of 19.4 ft.
- Maximum building coverage

After Board discussion, Mr. Stoner said the applicant has to obtain certification from an engineer or a GP8 from the DEP Land Use Regulations stating that this project is outside of any wetland buffer. The Board also noted a barrier, such as a silt fence be installed to protect Lubbers Run from any debris from construction. The Board had no further questions.

Chairman Shivas opened 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 with the conditions a GP8 or a certification from an engineer that this project is outside of the wetlands buffer. Also that a silt fence be installed to protect Lubber's Run. The motion was seconded by Ms. Segal. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion							√			
Seconded						√				
Aye	√	√	√	√	√	√	√		√	√
Nay										
Abstain										
Absent										

Motion carried.

**ORDINANCE REVIEW**

240-16, Accessory buildings and structures in connection with agricultural activities  
 240-30, Article V, Nonconforming Buildings and uses, continuance of nonconforming uses.

When the accessory structure ordinance was amended it was found that language giving exceptions to those using accessory buildings or structures in connection with agricultural activities from certain requirements of the ordinance was omitted. The Board reviewed the memo from the zoning officer, dated April 25, 2017. Mr. Senesky believed that the Right to Farm Act is covered under the preview of the County Board of Agriculture, and that the municipality does not control farming activities. There was a lengthy Board discussion and it was decided that the secretary would reach out to the County Agriculture Board for clarification. Chairman Shivas opened to the public.

Mike Finn, 22 Ghost Pony Road was present at the meeting and said he wants to build a barn for horses and was present in case the Board had any questions and was hoping there would be some resolution tonight. No one else from the public came forward. Chairman closed to the public.

**REPORTS FROM COMMITTEES**

Township Council - Ms. Raffay said there may be discussion in the near future about the Sign Ordinance. She said banners went up promoting an even at the Waterloo Concert Field, and they had to be removed because they were in violation. She said the Council is looking at alterations to the ordinance since our goal is to help business in Byram. She also mentioned that on May 6 at 1:00 p.m. the Friends of Waterloo will host an event in the mule barn at Waterloo Village. All are encourage to come.

Environmental Commission – No meeting was held.

Open Space - Mr. Morytko reminded everyone about the opening of Tamarack Park which will be held on Saturday, May 13, 10:00 am to 1:30 p.m. Festivities will include a ribbon cutting ceremony at noon, guest speakers from the County, State, and the DEP, and food will be served. He said it will also kick off the second Township Hike series. Mr. Morytko said everyone is encouraged to park at C.O. Johnson Field where shuttles will be available to bring folks back and forth, or you can hike the trail from C.O. Field to the park, which is about 1.3 miles. He said you can register on line so the Township has an idea of how many people will be attending, and added that volunteers are needed. He said all of this information is available on the Byram Township Website.

Board of Health - No meeting was held.

Architectural Review Committee - No meeting was held.

**BILLS**

Schenck, Price, Smith & King, LLP (3 bills) \$1,177.50

A motion to approve Mr. Senesky's bills was made by Mr. Walsh; the motion was seconded by Mr. Chozick. All were in favor. Motion carried.

Harold Pellow & Associates, Inc. (7 bills) \$714.60

A motion to approve Stoner bill was made by Ms. Segal and the motion was seconded by Mr. Riley. All were in favor. The motion was carried.

**OPEN TO THE PUBLIC**

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. Walsh, and seconded by Mr. Kaufhold. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted: Cheryl White