

**MEETING MINUTES**  
**BYRAM TOWNSHIP PLANNING BOARD MEETING**  
**JUNE 1, 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             | H               |
| ABSENT  |           |             |             |            |              |           |           |              |               |                 |
| EXCUSED | EA        |             |             | 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

**MINUTES**

Approval of the May 18, 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.

Ms. Raffay arrived at 8:15 p.m.

**RESOLUTION**

Z02-2017, David A. Nufrio, Block 273 Lot 300, 138 Lackawanna Drive, R-5 Zone (carried from March 2, and April 20, 2017)

Request for the modification or relief from previous conditions of approval in 2007.

A motion was made by Mr. Morytko, the motion was seconded Mr. Chozick. 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.

Ms. Shimamoto stepped down for this application.

**OLD BUSINESS**

Rt. 206 Byram GW LLC (Quick Chek Corporation) Rt. 206 & Brookwood Road, Block 41 Lots 88.01, 88.02 & 89, V-B Zone (carried from August 4, Sept. 1, Oct. 6, Nov. 3, and Dec. 1, 2016, and Jan. 5, 2017, Feb. 2, 2017, April 6, 2017)

Use variance and associated site improvements for a retail store with gas pumps.

Attorney, Mr. Scott Carlson from Carlson Sidsma LLP, representing the Heller Property Partners, LP said they have concluded their testimony and that their Planner, Mr. Peter Steck, who is still under oath is present tonight for cross examination by the applicant. Also present, objecting to this application is Attorney Ron Gasiorowski representing PMG New Jersey, LLC, 27 Rt. 206. Mr. Gasiorowski said he will present a traffic engineer to provide testimony.

In 2010 Mr. Steck represented Quick Chek, as a Professional Planner for the development of Quick Chek in Sparta, NJ. Mr. Wyciskala asked Mr. Steck the loss of a tenant where Quick Chek currently leases space has anything to do with the objection of this application. Mr. Steck said he was hired by the Heller Group to provide planning testimony regarding this proposed development and didn't have any information about the lease agreement with the Heller Group. Mr. Wyciskala asked Mr. Steck if he believed there would be a negative impact to the adjacent Brookwood neighborhood; Mr. Steck said no but said he believed that the traffic impact was understated by the applicant.

Mr. Wyciskala asked Mr. Steck about the site similarities, the proximity of neighbors, and traffic at the Sparta Quick Chek, adding that gas stations were prohibited use in Sparta. Mr. Steck believed that gas stations were a permitted use in Sparta. Mr. Wyciskala presented Exhibit A21 – *Resolution of Approval, Sparta Quick Chek* which stated that the use was prohibited. Mr. Wyciskala pointed out that Mr. Steck's testimony of this application was contrary to his testimony when representing Quick Chek in Sparta whereas Mr. Steck said it will provide employment opportunities to the community, and that a twenty-four hour operation will benefit the community. Mr. Wyciskala concluded his cross examination.

**OPEN TO THE PUBLIC**

Chairman Shivas opened to the public.

Georgette Schroeder, 9 Brian Lane asked Mr. Steck if he would stand behind a development application such as this one if the adjacent neighborhood had only one ingress and egress. Mr. Steck said no.

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

Mr. Gasiorowski introduced traffic engineer, Mr. Gordon Meth who was sworn in and provided his education and experience to the Board. The Board accepted him as an expert in his field. Mr. Gasiorowski told the Board that Mr. Meth reviewed the transcripts, copies of professional reports, and that he is familiar with the area of this proposed development.

Mr. Meth presented and reviewed the following Exhibits, all dated 6/1/2017:

- 20-1-2017 - *Comparison Trip Generation Chart*
- 20-2-1017 - *Real Samples of Convenience Store with Gasoline*
- 20-3-2017 - *Accuracy of Traffic Study Generation Assumptions*
- 20-4-1017 - *Convenient Mart w/Gas Pumping, LU 853 Chart*
- 20-5-2017 - *Twenty-Four Hour Convenient Mart w/ no gas, LU 851 Chart*

The Board was pleased that Mr. Meth provided them with data from nine convenient stores, similar in comparison, and in New Jersey. Mr. Walsh did find some inconsistencies with the data provided but overall it did not drastically change the data. There was Board discussion about the exhibits presented, the validity of the ITE Handbook, LU 853, and Land Use Code 851, which are resources engineers rely on when performing traffic studies. Mr. Meth believes that the data presented should have included the land use categories of:

- a convenience store with gas pumps
- a gas station with a convenience mart
- a stand-alone convenience store, and a stand-alone gasoline station

He said with that data the Board could make a more informed decision of how this site will be impacted. Mr. Chozick asked Mr. Meth if he looked at the study provided by the applicant whereas they doubled and tripled the trips, and asked Mr. Meth how reliable was that data. Mr. Meth said he did review the study but said the applicant only looked at one time period, the morning, and secondly they did not use the same base line data, and because of that the level of service shown as a “d” level, would have become “e” or “f” level of service. Mr. Meth said the applicant should have provided data from different options, not just the ITE Handbook, which is outdated and is from much smaller sized stores.

Mr. Gleitz asked Mr. Meth since his data was higher than what the applicant presented, how this would impact the site, level of service, and nearby intersections. Mr. Meth said he had not studied the site so he could not provide that information. Mr. Gleitz said he understands that Mr. Meth provided raw numbers, and the Board has to look at trips on site, truck turning radius, signal timing, isle width, parking depth and other on-site and off-site design features and questioned Mr. Meth’s testimony since he did not study the impact on the site. There was Board discussion about Mr. Meth’s presentation and if Mr. Meth’s data should be taken into consideration. Mr. Gasiorowski believes that if the site was designed to handle “X” number of cars, and Mr. Meth’s data suggest that “X” is not realistic and that it will be two or three times the number provided, Mr. Gasiorowski believes it is obvious that it will impact the site and surrounding areas as well. Mr. Gleitz does not agree with Mr. Gasiorowski saying that the site was designed to accommodate traffic on site and off site. Mr. Meth said the fundamental proof the Board should be looking at is a level of service for a use permitted in this zone, and on this site, and then look at the level of service for a use not permitted in this zone and on this site and the differential impact. Mr. Meth added that traffic studies are not as crucial to approval or denial of an application that is a permitted use verses a prohibited use. There was a lengthy discussion about the data source and the information provided.

In summary, Mr. Meth believes that the traffic studies presented to the Board was based on inaccurate data and it is Mr. Meth’s contention that local data is best to be considered and that the Board should request new, same time, same day studies. He added that it is the applicant’s obligation to prove traffic will not impact the site, intersections, adjacent neighborhoods or major roadways, and that the Board should consider the highest and best use for this site. Mr. Meth concluded his testimony.

Chairman Shivas advised the public that this application will continue on July 6 at 8:00 p.m.

A motion was by Mr. Chozick and the motion was seconded by Ms. Segal to carry this application to July 6, 2017 at 8:00 p.m. without further notice. 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.

**REPORTS FROM COMMITTEES**

Township Council – No representative was present.

Environmental Commission – Ms. Shimamoto said the committee reviewed the O’Donohue, Rubenstein, Aqua NJ and Greenhalgh application and provided comment for the Board.

Open Space – Mr. Morytko said that the opening celebration for Tamarack Park has been scheduled for Friday June 9. The Ribbon Cutting Ceremony will begin at 6:00 p.m. and light refreshments will be served. He added that on Saturday, June 10 the hike will begin at the Tamarack Park athletic fields. You may hike the 1.6-mile trail to Roseville Road or any portion of the trail before turning back. There will be no shuttle bus transportation. Parking for both portions of the event will be at the Tamarack Park fields on Jones Lane just off Route 206.

Architectural Review Committee – Ms. Shimamoto said no meeting was held.

Board of Health – Ms. Segal said the last meeting was canceled.

**BILLS**

No bills were submitted

**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 11:15 p.m. by Mr. Riley, and seconded by Mr. Kaufhold. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted: Cheryl White