

**BYRAM TOWNSHIP
PLANNING BOARD AGENDA
FOR THURSDAY
July 1, 2021**

When: Jul 1, 2021 07:30 PM Eastern Time (US and Canada)

Topic: Planning Board Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/88143335016>

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 267 831 0333 or +1 646 518 9805

Webinar ID: 881 4333 5016

1. CALL TO ORDER

2. ROLL CALL

3. OPENING STATEMENT:

Both the Federal and State governments have declared a state of emergency in response to the outbreak of the Covid-19 Virus, that limits the number of people allowed to gather, and requires social distancing. To continue Planning Board business, the regularly scheduled meeting for July 1, 2021 is being held by remote video or audio connection only. This service allows the Board, its professionals, applicants, and members of the public to participate. Adequate notice of this meeting has been published specifying the time and access information in compliance with the provisions of the Open Public Meetings Act. Notice of this meeting is on file in the office of the Planning Board Secretary, posted on the main door, and on the bulletin board of the Municipal Building, on the Township website at: https://www.byramtwp.org/index.php/meetings/committees/planning_board and has been forwarded to those persons requesting notice.

4. FLAG SALUTE

5. SCHEDULING UPDATE

John Petersen, 6 Ascot Lane (Application Z11-2020) has withdrawn his application

6. COMPLETENESS REVIEW

SP6-2021 Matthew Akerman, 34 Route 206, Block 40 Lot 15, VB Zone

Variances for outdoor storage, conducting wood sales, and using land for a non-permitted use.

<https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/EkjeIwv5bBFHpmER0ix1ZMUBwBCM3mrxANStumqzy7fWDg?e=q6mGwp>

7. **RESOLUTIONS**

SP1-2021, 16RT 206 Stanhope NJ, LLC (Skylands Surgery Center), Block 41/42 Lot 95, 109.01 & 109.02, VB Zone

Preliminary and final site plan. Proposed surgery center, doctor's office, residential apartment, and retail/office.

SP5-2020 Mountainside Country Store and Garden Center, 198 State Highway Route 206, Block 226 Lot 3, N-C Zone

Conversion of a restaurant to a retail store and garden center and associated site improvements.

SP2-2019, Anty Trucking, 9 Lackawanna Drive, Block 226 Lot 16, IPR Zone

Amended site plan approval for an office trailer, two pole barns, reconfigured trailer parking, and outdoor storage.

Z07-2021 Kevin Lukich, 27 Deer Run, Block 284 Lot 211, R-5 Zone

Addition of a third story for a master bedroom.

Z09-2020 Barbara Bolen, 89 Glenside Trail, Block 312 Lot 2050, R-5 Zone

Renovation of the existing single-family dwelling and garage.

8. **OLD BUSINESS**

Z02-2021 Eric Schuffenhauer, 271 Lackawanna Drive, Block 344 Lot 2.03, R-2 Zone

Addition of a pole barn, attached garage, front porch, and pool deck on property with critical lot disturbance.

<https://byrampdtpw.sharepoint.com/:f:/s/PlanningBoard/Eh3H-0n99hBEujDTowU0XskBW0yxdYoHMhNWcEM1GUsRRQ?e=6nNORP>

9. **NEW BUSINESS**

Z05-2021 Alissa Macmillan, 6 Fox Trail, Block 116 Lot 19, R-5 Zone

Approval for existing sheds, 2 gazebos, stone patio, hot tub, and paved driveway in the right-of-way, and approval to extend their front porch to make it enclosed.

<https://byrampdtpw.sharepoint.com/:f:/s/PlanningBoard/EpsTAMRSmg5In2PxrHCZtAQBR2QlnOSHh3gT-X28ZRRerg?e=q78Z3m>

10. **REVIEW ITEM-** Municipal Building Site Plan presentation

https://byrampdtpw.sharepoint.com/:f:/s/PlanningBoard/EnrwCU_QIJBGqa2WN55dghUBWAQyW30EOmB6w70vYDa_Q?e=GPDB9F

11. **REPORTS FROM COMMITTEES**

Architectural Review Committee

Building Committee

Environmental Commission

Open Space

Township Council

12. **DISCUSSION ITEM**

Decision from Board members on their preference of digital packets and/or paper packets, and of receiving paper packets prior to or at the meeting.

13. BILLS

Law Offices of Larry Weiner- (2) \$1,950.00

14. OPEN TO THE PUBLIC

15. ADJOURNMENT

* The next Planning Board meeting will be live

The Board Engineer, Board Planner and Board Attorney are sworn in at the beginning of each year and are deemed to be under oath on a continuing basis.

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED:

- Front Yard Setback**
- Side Yard Setback**
- Minimum Landscape Buffer and Sidewalk**
- One Row of Parking in Front Yard with Landscape Buffer**
- Rear Parking Area 10 feet from Building**
- One Loading Zone Required**
- Rear Entrance for Public Access**
- Size of Directory Sign**
- Size of Ground Sign**
- Maximum Number of Signs**
- Commercial Sign Above First Floor**
- Number of Projecting Signs**

WHEREAS, 16 RT 206 Stanhope NJ, LLC (Skylands Surgery Center) has applied to the Planning Board, Township of Byram for Preliminary and Final Site Plan to construct a surgical center for premises located at 14 & 16 US Route 206 and known as Block 41, Lot 95 & Block 42, 109.01 & 109.02 on the Tax Map of the Township of Byram which premises are in a “VB ” Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the

Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. William Askin, Esquire represented the Applicant.
2. The Applicant is proposing to develop two (2) commercial sites which will share access parking. The construction of this facility will include the rehabilitation of the existing commercial building on Lot 95 to contain a 6,500 square foot commercial medical office on the first floor, 518 square feet of office space on the second floor, three (3) two-bedroom apartments and one (1) one-bedroom apartment all on the second floor and the renovation of the existing building on Lot 109.01 to include 1,168 square feet of commercial on the first floor, one (1) one-bedroom apartment and one (1) two-bedroom apartment on the second floor., along with related site improvements.
3. The Applicant submitted the following documents:
 - a. Plans entitled “Preliminary & Final Site Plan Blocks 41/42, Lots 95/109.01 & 109.02 #14 & #16 U.S. Route 206 Township of Byram, Sussex County, New Jersey”, prepared by Dykstra Walker Design Group, P.A., consisted of fifteen (15) sheets, dated November 24, 2020, and last revised February 18,2021.
 - b. Architectural plan and elevations entitled “Skylands Surgical Center, LLC, Lot: 95, Block:41, Address: 16 Rt. 206, Byram, NJ”, prepared by

Matthew Smetana R.A. Architect, consisting of two (2) sheets and last revised December 7, 2020.

- c. Architectural plan and elevations entitled “14 Route 206, Lot: 109.01, Block: 42, Address: 14 Rt. 206, Byram, NJ”, prepared by Matthew Smetana R.A. Architect, consisting of one (1) sheet and last revised November 24, 2020.
- d. Document entitled, “Stormwater Management Calculations for Skylands Surgery Center, #14 & #16 US Route 206, Block 41/42 – Lots 95/109.01 & 109.02 Situated in Township of Byram Sussex County, New Jersey”, prepared by Dykstra Walker Design Group and dated November 24, 2020.
- e. Letter entitled, “Environmental Impact Statement for Skylands Surgical Center, LLC”, prepared by Dykstra Walker Design Group and dated February 18, 2021.
- f. Land Development Application and other supporting documents.

4. The Board received the following memorandum:

- a. Cory Stoner, Planning Board Engineer, dated February 12, 2001, Completeness and Highlands Exemption determination and May 18, 2021, Engineering Review.
- b. Paul Gleitz, Planning Board Planner, dated May 18, 2021.
- c. Byram Township Architectural Review Committee dated February 16, 2021.
- d. CP Engineers dated November 19, 2020.

- e. Assistant Fire Chief Michael A. Pellek, Byram Township Fire Department, dated May 13, 2021.
 - f. Chief Kenneth Burke, Byram Township Police Department, dated May 13, 2021.
5. A duly noticed public hearing occurred on May 20, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.
6. An apartment as a second principal use on the second floor is a conditional use in the Village Business and Neighborhood Commercial Zone, requiring a preliminary determination that the conditions are met and relief is not needed, per N.J.S.A. 40:55D-70(d)(3). The Applicant presented testimony that following conditions are set forth in Section 240-63 of the Township’s Zoning Ordinance:
- a. Minimum lot size of one acre. *Complies for both lots.*
 - b. Minimum lot yield of six units per acres. *Complies for both lots.*
 - c. Apartments are only to be on the second or third floor. No apartments shall be built on a first floor or in a one-story building, unless the

number of apartments on site would require an elevator, then a first-floor apartment would be permitted for ADA compliance only.

Complies for both lots.

- d. The development of apartments above permitted commercial uses as a second principal use requires that 15% of the residential units be deed restricted as affordable housing if the project is a rental project and that 20% of the residential units be deed restricted as affordable housing if the project is a for-sale project. All affordable units would be subject to any applicable Council on Affordable Housing rules and be compliant with the Uniform Commercial Code. *The Applicant agreed to comply with the required deed restriction for one unit.*

The Board voted 8-0 to confirm that the conditions were met and that a Conditional Use Variance was not required. The application was heard as a preliminary and final site plan application with bulk variance as a planning board.

7. The following relief is required from the Township's Ordinances:

Variances for Lot 95 -

- a. Section 240-56.E.3 - front yard setback shall be a minimum of 45 feet and a maximum of 55 feet, proposed front yard setback of 57.6 feet.
- b. Section 240-56.E.4 - side yard setback of a minimum of 10 feet on one side, proposed side yard setback of 8 feet.

- c. Section 240-56.E.4 - four foot wide landscaped buffer and a six foot wide sidewalk in the side yard, four foot wide landscape buffer has not been provided.
- d. Section 240-56.E.(11)(c) - one row of parking is permitted in the front yard and there shall be four feet of landscaping buffer between the parking area and any sidewalk, relief required from both.
- e. Section 240-56.E.(11)(d) - rear parking areas shall be no closer than 10 feet to any building, parking areas less than 10 feet from the building are proposed.
- f. Section 240-56.E.(11)(e) - one loading space is required, no loading spaces are provided.
- g. Section 240-56.E.(12) - a rear entrance shall be provided for public access to the principal building from rear parking area, a public access does not exist for the first floor use.
- h. Section 240-47.2D.(2) - a directory sign shall not exceed 2 square feet per tenant (8 square feet total), a 9.3 square foot directory sign is proposed.
- i. Section 240-47.2F.(2) - a ground sign shall be no more than 32 square feet, a sign 41 square feet sign is proposed.
- j. Section 240-56.E.11.d – minimum separation distance between rear parking and any building shall be a minimum of 10 feet, 6 feet is proposed.

Variances for new Lot 109.01:

- k. Section 240-56.E.3 - the front yard setback shall be a minimum of 45 feet and a maximum of 55 feet, proposed front yard setback of 75.2 feet.
- l. Section 240-56.E.4 - side yard setback of a minimum of 30 feet on one side, proposed side yard setback of 29.1 feet.
- m. Section 240-56.E.4 - a four foot wide landscaped buffer and a six foot wide sidewalk in the side yard, a six-foot-wide sidewalk has not been provided.
- n. Section 240-56.E.(11)(c) - one row of parking is permitted in the front yard and there shall be four feet of landscaping buffer between the parking area and any sidewalk, relief required from both.
- o. Per Section 240-56.E.(11)(e) - one loading space is required, no loading space is provided.
- p. Section 240-56.E.(12) - a rear entrance shall be provided for public access to the principal building from rear parking area, public access does not exist for the first floor use.
- q. Section 240-47.1.A - a maximum of 3 signs permitted on site, five (5) signs are proposed on this site.
- r. Section 240-47.1.F - signs advertising a commercial use are prohibited above the first floor of any structure where residential uses exist on the second floor, a commercial sign above the second floor is proposed.

- s. Section 240-47.2F.(2) - a ground sign shall be no more than 32 square feet, a sign 37.9 square feet is proposed.
 - t. Section 240-47.2G.(3) - only one projecting sign is allowed per business, two (2) projecting signs are proposed for one business on the first floor.
8. The following waivers are required from the Township's Site Plan Ordinance:
- a. Section 215-30.2.C.(5)(b) – All parking stalls shall be a minimum of 180 square feet, the proposed spaces are 9'x18' (162 square feet).
 - b. Section 215-29.C.(1) - Shade trees are to be planted along all streets at a rate of 10 trees per acre, no shade trees have been proposed along Route 206.
 - c. Section 215-29.E.(1) - At least 5 percent of the interior parking lot shall be landscaped, additional landscaping should be provide within the paved parking areas.
 - d. Section 215-29.E.(3) - Evergreen planting shall be required to screen parking areas from public rights-of-way and all residential properties, an evergreen screen has not been provided between the parking lot and Route 206.
 - e. Section 215-29.J.(4) - Landscape buffers between parking and abutting property lines shall have a minimum width of 10 feet, 10 foot buffers have not be provided.
 - f. Section 215-34.B.(2)(a) - Parking areas of low activity levels shall have a minimum of 0.5 foot candle and a maximum of 1 foot candles

per square foot. Parking area illumination exceeds 1 foot candle in the access drive south of the building on Lot 95 and in the rear parking.

g. Section 215-34.B.(2)(b) - Sidewalks of low activity levels shall have a minimum of 0.5 foot candle and a maximum of 1foot candles per square foot. Sidewalk illumination exceeds 1 foot candle along a few of the sidewalk areas.

h. Section 215-34.B.(4) of the Byram Township Code, lighting at property boundaries shall not exceed 0 footcandles. The lighting on the property boundary in 0.5 footcandles along the southern property line and 5.9 footcandles along the northern property line.

9. Vishal Rupani and Bobby Rupani, the Applicants, Matthew Smetana, AIA, and Kevin Robine, PE presented sworn testimony in support of the application. Mr. Smetana and Mr. Robine were accepted as experts in their respective fields.

10. The Applicants are siblings and owners of 16 RT Stanhope NJ, LLC and Skylands Surgical Center, which operates on site. The Applicants are proposing to renovate the building on Lot 95 to maintain the first-floor medical use and add apartments and office space on the second floor. The building on new Lot 109.01 will be renovated to create retail space on the first- floor and apartments on the second floor.

11. The medical building (Lot 95) will contain a 6,550 square foot commercial medical office on the first floor, 518 square feet of office space on the second

floor, three (3) two-bedroom apartments and one (1) one-bedroom apartment all on the second floor.

12. Lot 109.01 and Lot 109.02 will be merged into one lot. Renovation of the existing building on Lot 109.01 to include 1,168 square feet of commercial on the first floor, one (1) one-bedroom apartment and one (1) two-bedroom apartment on the second floor.

13. Mr. Robine testified to the site plan and design. The property consists of three lots, Block 41, Lot 95 and Block 42, Lots 109.01 and 109.02, which will be merged into one new lot 109.01. To the north of the property is undeveloped wooded land, to the east there is residential property beyond the wooded buffer, and to the south there is an existing commercial use. The site is composed of two buildings, which will remain, and a farm stand, which will be demolished.

14. Access driveways are proposed on both lot, with overflow parking for employees and the residential units in the rear. Cross-access easements are proposed for access driveways. There is two-way traffic in all parking areas and one-way circulation around the center island. The medical office is by appointment only, which limits traffic on site and the parking demand. Access for the public is through the front of the building, residential access is in the rear. A variance is needed, as there is no public access in the rear of the building. Emergency access is provided but based on the nature of the use; public access is not needed in the rear of the site.

15. Per Section 240-38 of the Byram Township Code, general offices and medical office require 5 spaces per 1,000 square feet. Per RSIS standards, 1.8 spaces are required per one-bedroom apartment and 2 spaces are required per two-bedroom apartment. Based on these requirements, a total of 53 spaces are required for the entire project and 56 spaces have been provided. However, a total of 43 parking spaces are required for the uses in the building on Lot 95 and only 28 parking spaces are being provided. The additional required parking spaces are being provided in the 15 parking spaces that are being constructed in the front of the building on the new Lot 109.01 property. Accordingly, a parking easement will be utilized to meet the parking requirements for both sites.
16. Turning templates were provided on Sheet 8 of the site plan that indicate that emergency vehicles can circulate throughout the site. The driveway in the rear was widened to allow fire trucks and large delivery trucks to maneuver safely around the center island. Most deliveries occur with box trucks, which can access the site the same way passenger vehicles do. No loading area is proposed, but a parking space for both buildings will be designated for delivery trucks. “No Loading Zone” and “Fire Zone” striping will be added to the site, as well as appropriate signage.
17. The existing rock embankment shall be modified and graded to create the center island, but largely remain as it currently exists. The rock embankment in the rear shall also be modified and 2 retaining walls are proposed in the rear of the parking area on Lot 95 and another retaining wall is proposed behind

the southern parking area, which shall not exceed 6 feet in height. Per comments from the Environmental Commission, a rain garden or a dry well with additional landscaping shall be utilized on the retaining walls.

18. The curbing and sidewalk around the medical center is flush with the parking lot to eliminate any barriers, which occurs only in front of the medical center.
19. There will be building mounted light fixtures on the medical building and pole mounted light fixtures throughout the site, in compliance with the ordinance. At the Board's request, the Applicant will upgrade the light fixtures to "neo-traditional lantern-like" fixtures.
20. Landscaping is proposed throughout the site but is limited along the frontage of the site due to a utility easement. Shade trees, shrubs and perennial flower beds are proposed around the signs and center island. Foundation plantings shall be added to Lot 109.01. Adequate buffering is not proposed, as there is limited space to provide the appropriate buffer.
21. Dumpsters are proposed in the rear of the site that will be properly screened. An emergency generator is proposed near the dumpster enclosure on Lot 95. There are picnic tables proposed in the rear of both buildings for residential use.
22. The site slopes from east to west and the stormwater sheet-flows toward Route 206. There is currently no stormwater management on site. The site disturbance is less than one acre therefore, it is not a major development requiring stormwater management. However, inlets are proposed to capture the parking lots, flow into the underground detention basin, and tie into the

current system on Route 206. There is a shared drainage system between the two lots and an easement and maintenance agreement will be required.

23. An underground fire sprinkler storage tank is proposed for fire suppression water supply on Lot 109.01 that will service both buildings. An easement and maintenance agreement will be required for the shared use of the water storage tank and appurtenances.

24. The project qualifies under Exemption #4 of the Highlands Water Protection and Planning Act, which states:

Reconstruction for any reason of any building or structure within 125 percent of the footprint of the lawfully existing impervious surfaces on the site on August 10, 2004, provided that the reconstruction or development does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use.

25. The lighting on site is adequate, with minimal spillage. The lighting will remain on for one hour after the close of business, with some lighting remaining dim overnight for security reasons.

26. A freestanding sign, with the primary sign above and the directory sign below is proposed on Lot 95. The directory sign exceeds the permitted size, 8 feet is the maximum permitted and 9.3 feet is proposed. A ground sign shall be no more than 32 square feet, the proposed sign on Lot 95 will be 41 square feet. The number of uses and the need for visibility from Route 206 impacts the size of the signs.

27. One decorative sign is proposed on the tower element of the building on new Lot 109.01, which requires relief as it is above the first floor. Relief is also needed for the number of projecting signs, only 1 is permitted and 2 are proposed on the commercial building. A ground sign shall be no more than 32 square feet, the proposed sign on Lot 109.01 will be 37.9 square feet. The total number of signs permitted is 3 and 5 total signs are proposed. The variances related to signage are driven by the design of the site and the uses proposed.
28. Both ground signs will have stone piers and a wooden arch at the top.
29. The property will be managed and maintained by the owners. Residential parking shall be designated.
30. The separation distance between the building and the parking area will soften the interaction. The proposed grading, landscaping, and retaining walls are designed based on the contours on the site.
31. Mr. Smetana provided an overview of the architectural design of the buildings. The witness submitted the following images, which were marked for identification:
- a. A-1 – a photo of a house depicting the color scheme that was submitted to the Architectural Review Committee (ARC)
 - b. A-2 – Example of Eldorado Stone, Cognac used for trim
 - c. A-3 – Example of Taupe used for siding
 - d. A-4 – Example of Desert Tan roof shingles
 - e. A-5 – Example of Lamp Plus lighting fixture

f. A-6 – Example of Laminated beams use for entranceway

32. The existing buildings have no decorative elements, and the Applicant wishes to enhance the appearance of the buildings. The proposal includes removing the garage door on the commercial building and adding a decorative tower on the corner, with stone veneer. The roof will be copper with cedar brackets, Hardie Board siding in the front, with vinyl along the sides and the rear. The tower is a small addition to the second floor. The basement will be excavated in the front of the building to create retail space with frontage on Route 206, which will have glass front and stone foundation. The building is designed with a parapet to screen the equipment.
33. The medical building has a stucco façade that will remain but will change to match the color scheme of the commercial building. The center entrance will have a raised archway, with upgraded lighting that will be lit from below and deflect down. There are two canopies that protect the entranceways and cable suspended roof system canopies. The rear of the building will have a vestibule for access to the second floor. The second story on north side will have office space and a document storage area and the second story on the south side will have three apartments. The center of the second floor will be storage and utilities for the surgical rooms.
34. There was no one from the public present for this application.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially

impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. The Conditions were met to permit the proposed uses on the site without the need for a use variance. The Board determined that the submitted plans and reports were sufficient to review the subject application and that the proposed site plan was generally consistent with the applicable ordinance.
2. It was further determined that relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:

Variances for Lot 95 -

- a. Section 240-56.E.3 - front yard setback shall be a minimum of 45 feet and a maximum of 55 feet, front yard setback of 57.6 is approved.
- b. Section 240-56.E.4 - side yard setback of a minimum of 10 feet on one side, side yard setback of 8 feet is approved.
- c. Section 240-56.E.4 - four foot wide landscaped buffer and a six foot wide sidewalk in the side yard, the four foot wide landscape buffer will not be provided.
- d. Section 240-56.E.(11)(c) - one row of parking is permitted in the front yard and there shall be four feet of landscaping buffer between the parking area and any sidewalk, there will be two rows of parking and the necessary buffers will not be provided.

- e. Section 240-56.E.(11)(d) - rear parking areas shall be no closer than 10 feet to any building, parking areas less than ten feet from the building are approved.
- f. Section 240-56.E.(11)(e) - one loading space is required, no loading spaces will be provided.
- g. Section 240-56.E.(12) - a rear entrance shall be provided for public access to the principal building from the rear parking area, a public access will not exist for the first floor use.
- h. Section 240-47.2D.(2) - a directory sign shall not exceed 2 square feet per tenant (8 square feet total), a 9.3 square foot directory sign is approved.
- i. Section 240-47.2F.(2) - a ground sign shall be no more than 32 square feet, a sign 41 square feet sign is approved.
- j. Section 240-56.E.11.d – minimum separation distance between rear parking and any building shall be a minimum of 10 feet, 6 feet is approved.

Variations for new Lot 109.01:

- k. Section 240-56.E.3 - the front yard setback shall be a minimum of 45 feet and a maximum of 55 feet, front yard setback of 75.2 feet is approved.
- l. Section 240-56.E.4 - side yard setback of a minimum of 30 feet on one side, side yard setback of 29.1 feet is approved.

- m. Section 240-56.E.4 - a four foot wide landscaped buffer and a six foot wide sidewalk in the side yard, a six-foot-wide sidewalk will not be provided.
- n. Section 240-56.E.(11)(c) - one row of parking is permitted in the front yard and there shall be four feet of landscaping buffer between the parking area and any sidewalk, there will be two rows of parking and the required buffer will not be provided.
- o. Per Section 240-56.E.(11)(e) - one loading space is required, no loading space will be provided.
- p. Section 240-56.E.(12) - a rear entrance shall be provided for public access to the principal building from rear parking area, public access will not exist for the first floor use.
- q. Section 240-47.1.A - a maximum of 3 signs permitted on site, five (5) signs are permitted on this site.
- r. Section 240-47.1.F - signs advertising a commercial use are prohibited above the first floor of any structure where residential uses exist on the second floor, a commercial sign will be located above the first floor.
- s. Section 240-47.2F.(2) - a ground sign shall be no more than 32 square feet, a sign 37.9 square feet is approved.
- t. Section 240-47.2G.(3) - only one projecting sign is allowed per business, two (2) projecting signs are permitted the businesses on the first floor.

3. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the C(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.
4. The property is an existing site that contains two buildings that will remain but be renovated. It follows that the existing, non-conforming conditions of the front and side yard setback can be granted under the hardship provision of the Statute. Additionally, the relief required for insufficient buffers and sidewalks is a result of the configuration of the buildings on the site, and the slope of the property, which requires retaining walls and embankments that prohibit compliance with the Zoning Ordinance. The testimony supported the justification of granting relief from the requirement of a loading space and rear access for the public, as neither are needed for the proposed uses and the benefits outweigh the detriments by enhancing the functionality of the site. The Applicant agreed to designate a parking space to loading and there is emergency access from the rear of the medical building for public safety.
5. The variances related to signage stem from the nature of the use and the need for the signage to be visible from Route 206. The signage on the commercial

building is necessitated by multiple uses on site and adding to the aesthetic appeal of the building by enhancing the tower element.

6. It was determined that there would be little impact to the surrounding area and the site will be improved both aesthetically and functionally as a result of the proposed site improvement. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan.
7. The following waivers are granted from the Township's Site Plan Ordinance, as it was determined that there was justification for the relief.
 - a. Section 215-30.2.C.(5)(b) – All parking stalls shall be a minimum of 180 square feet, the spaces will be 9'x18' (162 square feet).
 - b. Section 215-29.C.(1) - Shade trees are to be planted along all streets at a rate of 10 trees per acre, no shade trees will be provided along Route 206.
 - c. Section 215-29.E.(1) - At least 5 percent of the interior parking lot shall be landscaped, additional landscaping should be provided within the paved parking areas. A revised parking plan will be submitted which may eliminate the need for a waiver.
 - d. Section 215-29.E.(3) - Evergreen planting shall be required to screen parking areas from public rights-of-way and all residential properties, an evergreen screen will not be provided between the parking lot and Route 206.
 - e. Section 215-29.J.(4) - Landscape buffers between parking and abutting property lines shall have a minimum width of 10 feet, 10 foot buffers will not be provided.

- f. Section 215-34.B.(2)(a) - Parking areas of low activity levels shall have a minimum of 0.5 foot candle and a maximum of 1 foot candles per square foot. Parking area illumination will exceed 1 foot candles in the access drive south of the building on Lot 95 and in the rear parking.
- g. Section 215-34.B.(2)(b) - Sidewalks of low activity levels shall have a minimum of 0.5 foot candle and a maximum of 1foot candles per square foot. Sidewalk illumination will exceed 1 foot candles along a few of the sidewalk areas.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 1st day of July 2021 that the approval of the within application be granted subject, however, to the following conditions:

- 1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances.
- 2. The Applicant shall obtain all outside agency approval prior to the issuance of a construction permit, including, but not limited to:
 - a. New Jersey Department of Transportation (NJDOT)
 - b. Sussex County Planning Board
 - c. Sussex County Health Department
 - d. Upper Delaware Soil Conservation District
 - e. Byram Township Construction Department
 - f. Byram Township Fire Subcode Official
 - g. Byram Township – Sewer Connection
 - h. Musconetcong Sewer Authority

3. The Applicant shall submit a Deed Restriction for the Affordable Housing Unit for review and approval by the Board and the Township Attorneys. The Deed Restriction shall be recorded in the Office of the Sussex County Clerk.
4. The applicant shall enter into a Developer's Agreement with the Township that details the requirements for the administration of the Affordable Housing Unit per all relevant State statutes, including UHAC and COAH regulations for the marketing and renting of the Affordable Housing Unit.
5. A Major Access Permit for access from Route 206 shall be obtained from the New Jersey Department of Transportation.
6. Cross Access Easement shall be submitted for review and approval by the Board and the Township Attorneys. The Easement shall be recorded in the Office of the Sussex County Clerk.
7. A Deed of Easement shall be required for the construction of parking required for Lot 95 to assure that the parking lot on new Lot 109.01 will always remain available for cross use. The form of Deed of Easement is subject to the review and approval of the Board's Engineer and Attorney.
8. Structural calculations and plans prepared by a licensed engineer will be required for the retaining walls before construction permits are granted.
9. The plans shall be updated where necessary to illustrate a stormwater drainpipe of no less than 15 inches.
10. NJDOT approval shall be obtained for the proposed drainage improvements that will tie into the drainage system that runs along Route 206.

11. A drainage easement shall be filed for both properties to address construction and maintenance requirements related to the drainage system that will cross over onto each of the two properties.
12. A maintenance manual prepared in accordance with Chapter 8 of the NJDEP Best Practice manual shall be submitted for review. Upon approval, this document shall be deed recorded as per NJAC 7:8-5.8(d).
13. Any modifications to the proposed sewer usage and/or new connections to the existing sewer system shall be subject to Township Connection Ordinances and approval from the Musconetcong Sewer Authority.
14. Approvals from the Sussex County Health Department shall be required for the new well that will be drilled on both properties.
15. The 18,000-gallon water suppression tank and all other fire-suppression items shall be subject to the review and approval of the Byram Township Fire Department and the Byram Township Construction Official.
16. An easement shall be filed for both properties to address construction and maintenance requirements related to the water suppression tank, subject to the review and approval of the Board's Engineer and Attorney.
17. Any proposed lights under the entrance canopy shall be shown on the plan and a detail provided.
18. Applicant shall designate a parking stall in front of each building for "Delivery Vehicles Only." The designation and related signage shall be indicated on the revised site plans, for review and approval by the Board's Engineer.

19. A revised landscape plan shall be submitted for review and approval by the Board's Planner.
20. A detailed signage plan shall be submitted for review and approval by the Board's Planner.
21. A revised lighting plan shall be submitted for review and approval by the Board's Planner and Engineer. The plan shall be revised to reflect a new-traditional, craftsman style, lantern fixture.
22. Wall mounted, downward facing lighting shall be utilized on the medical building and indicated on the revised lighting plan.
23. The retaining wall design shall be subject to review and approval of the Board's Engineer. Either boulders or traditional blocks shall be utilized to construct the retaining walls.

George Shivas

On motion of:

Seconded by:

The vote on the Resolution was as follows:

AYES:

NAYS:

ABSTAINING:

ABSENT:

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on July 1st, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

**RELIEF REQUESTED: Minimum Building Height
Minimum Front Yard Setback
10-foot Landscape Buffer
Freestanding Sign within Front Yard Setback
Fence 8' high**

WHEREAS, Mountainside Country Store & Garden Center has applied to the Planning Board, Township of Byram for Preliminary & Final Site Plan approval to convert a restaurant to a retail store and garden center with associated site improvements for premises located at 198 U.S. Route 206 and known as Block 226, Lot 3 on the Tax Map of the Township of Byram which premises are in a “N-C” Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. Steven C. Schepis, Esquire represented the Applicant.

2. The Applicant is the owner and operator of a landscape company that will operate on the site.
3. The Applicant submitted the following documents:
 - a. Site Plans entitled, “Byram Trading Post, Garden & Hardscape Center, Preliminary and Final Site Plan, Lot 3, Block 226, Byram Township, Sussex County, New Jersey”, prepared by Craig Stires PE of Stires Associates, P.A. consisting of 9 sheets dated July 15, 2021, last revised May 18, 2021.
 - b. Architectural Plans entitled, “Proposed Addition and Alterations for a Country Store and Garden Center, Landscapes by Lou” prepared by Bilow Garret Group Architects and Planners, LLC consisting of 3 sheets, dated September 20, 2019; SK-100 and SK-200 last revised May 26, 2021.
 - c. Stormwater Management Report prepared by Craig Stires PE of Stires Associates, P.A., dated December 2020.
 - d. Approval of Individual Subsurface Sewage Disposal from the Sussex County Department of Health and Human Services, dated December 21, 2020.
 - e. Exemption from the Sussex County Planning Board, dated October 28, 2020.
 - f. Approval from the Upper Delaware Soil Conservation District, dated October 21, 2020.

- g. Access Permit from the State of New Jersey Department of Transportation, dated February 8, 2021.
 - h. Land Development Application, correspondence, review letters, and other supporting application documents.
4. The Board received the following memorandums:
- a. Cory L. Stoner, Planning Board Engineer, Municipal Highlands Exemption Determination, dated January 27, 2021
 - b. Cory L. Stoner, Planning Board Engineer, Completeness & Engineering Review, dated January 27, 2021
 - c. Cory L. Stoner, Planning Board Engineer, Engineering Review – Updated Plans, dated June 14, 2021
 - d. Paul Gleitz, Township Planner, dated April 6, 2021
 - e. Chief Kenneth Burke, Byram Police Department, dated March 23, 2021, updated June 4, 2021
 - f. Donna Fett, DPW/Environmental Commission Secretary/Tax Assessor Assistant, dated March 26, 2021, updated June 10, 2021
 - g. Michael A. Pellek, Assistant Fire Chief, Byram Fire Department, dated March 25, 2021, updated June 8, 2021
 - h. Thomas S. Dixon, Architectural Review Committee Secretary, dated April 9, 2021
 - i. Bilow Garrett Group, Architects and Planner, P.C., dated December 7, 2020

5. Variance relief is required from the following Sections of the Township's Zoning Ordinance:

- a. Section 240-47.2.E(4) – minimum setback of freestanding sign, 15 feet required and 2 feet are proposed
- b. Section 240-57.E(3) – minimum front yard setback, 65 feet required, 21.59 feet proposed
- c. Section 240-57.E(7) – minimum building height, 20 feet is required and 14.16 feet proposed
- d. Section 240-57.E(9) – parking prohibited in the side yard, 15 spaces are proposed in the side yard

6. Waivers are required from the following Sections of the Township's Site Plan Ordinance:

- a. Section 215-29.B(1) – Landscape plans are prepared by an Engineer and not a Landscape Architect
- b. Section 215-29.B(2) – partial waiver for the non-structural stormwater elements in the landscape plan
- c. Section 215-29.C – partial waiver for the shade trees along the streets
- d. Section 215-29.E(4) – lack of evergreen parking area screening
- e. Section 215-29.E(5) – non-structural stormwater elements in the parking area
- f. Section 215-30.2 – partial waiver for parking setback from building for the landscape buffering, as patio and display area are in the buffer area

- g. Section 215-30.2 – required parking stall size is 180 feet, 162 feet proposed
7. The following exhibits were marked for identification:
- a. A-1 – Aerial of the subject property (100 scale), dated July 15, 2021
 - b. A-2 - Aerial of the subject property (30 scale), dated July 15, 2021
 - c. A-3 – Colorized Aerial of the site improvements (20 scale), dated July 15, 2021
 - d. A-4 – Aerial of tax map with overlay of site plan
 - e. A-5 – Photo Array prepared by Bilow Garrett Group, dated April 12, 2021 (PH-1)
 - f. A-6 – Colorized version of the Landscape Plan, dated May 18, 2021
8. Duly noticed public hearings occurred on April 15, 2021 and June 17, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.
9. Lou Coviello, a principal of the Applicant, Craig Stires, PE, of Stires Associates, and Anthony Garrett, AIA & PP of Bilow Garrett Group,

presented sworn testimony in support of the application and deemed experts in their respective fields.

10. A lawn and garden center is a conditional use in the Neighborhood Commercial Zone, requiring a preliminary determination that the conditions are met and relief is not needed, per N.J.S.A. 40:55D-70(d)(3). The Applicant presented testimony that following conditions are set forth in Section 240-63B of the Township's Zoning Ordinance:

- a. Tract size: a minimum of one acre. *Complies*
- b. Side yards: not less than 30 feet when abutting a right-of-way or residential use. *Complies*
- c. Lot coverage: a maximum of 70% of the property. *Complies*
- d. Outdoor storage shall be limited to a single area of the site that does not exceed 50% of the lot area and shall be partially screened within the defined area on the site. The screening may consist of landscaping and/or fencing to create an attractive border. *Complies*
- e. Small engine repair facilities shall also be permitted as function of a lawn and garden centers. Repair work, other than incidental minor repair, shall take place within the building, and all repair or service apparatus shall be located within the building. *Applicant testified that they will comply*
- f. Design and build, as well as routine maintenance landscaping services shall be permitted as function of lawn and garden centers. *Complies*

- g. All equipment used in the operation of lawn and garden centers shall be maintained and operated in such a manner as to eliminate so far as practical noise, vibration, or dust which would injure or annoy persons living in the vicinity. *Applicant testified that they will comply*

The Board confirmed that the conditions were met and that a Conditional Use Variance was not required. The application was heard as a preliminary and final site plan application with bulk variance as a planning board.

- 11. The property consists of 3.25 acres (141,625 square feet) at 198 Route 206 (Block 226, Lot 3) approximately 800 feet south of the intersection of Route 206 and Pierson Drive. The property is currently developed as the Mountainside Restaurant. The site consists of a one-story frame restaurant building and a large, undefined pavement area for parking, with three access driveways. The remainder of the site is wooded and surrounded by vacant property. The property is in the NC Neighborhood Commercial zone.
- 12. The application is to renovate an existing restaurant building into a Country Store for general retail sales and for the development of a Lawn and Garden Center with an associated landscaping business. The applicant is making interior renovations and creating a patio and landscape display area, constructing a 500 square foot garage, creating 17 parking spaces in the side yard to the south of the building and 6 parking spaces to the rear of the building inside a fenced enclosure. The applicant is also proposing 7 outdoor material storage bins, a trash enclosure, a loading zone, landscape display

areas and exterior storage racks. The applicant is also proposing a new sign, sidewalks, and circulation improvements.

13. The property is south of a self-storage facility and the fire department, with Tilcon to the east and property owned by the State of New Jersey to the west. There are no residences in the immediate vicinity of the site. There are state wetlands across Route 206, which is a major arterial highway.
14. The renovated structure will contain a thrift shop, antiques, a retail coffee and ice cream store and a lawn and garden center. The property is serviced by a well that was determined to be acceptable for the proposed use. The septic was approved by Sussex County for use, with “no food preparation or open foods retail use only”. The Applicant proposes to upgrade the existing septic system for food preparation approval from the County Health Department.
15. The building renovations include new siding and a stone veneer and roof, along with a 500 square foot garage. A boulder wall is proposed along the back of the improved area and 10’x10’ storage bins constructed of stacked block are proposed to store material such as mulch and stone. There are steps near the garage that lead to the storage area for trees and shrubs. There will be a new sidewalk and the paved area will be replaced with stone and grass. A new paved parking area is proposed with one way traffic circulation. Customer parking is located in the front of the building.
16. The existing signs will be removed and replaced with a new monument sign, which is proposed 2 feet from the right-of-way, requiring variance relief. Mr. Stires testified that the proposed location is the only place to put the signs. An

ordinance compliant façade sign is also proposed on the building's front façade.

17. Colonial style, 11' high, pole mounted lighting is proposed throughout the parking lot, with 3 wall mounted light fixtures on the building.
18. The landscaping business is located in the rear of the building, which utilizes dump trucks, trailers, excavators, bobcats, front end loaders and forklifts that will be stored on site; some will be stored in the proposed garage. There will be no storage of commercial landscape material on site; material is delivered to the job sites directly from the wholesalers. The landscapers leave the site at 7:00 a.m. to work off site during the day.
19. Although most deliveries occur via box truck, tandem and triaxles can maneuver on site. Deliveries will be scheduled, during off hours, to the extent possible. There is sufficient parking on site, 21 spaces are required and 23 spaces are proposed (spaces were added during the course of the hearing when the landscaped island was removed). The parking stalls in the main parking area are 9'x20' and the parking stalls in the rear of the site are 9'x18', which requires variance relief. The entire site will be resurfaced and restriped.
20. The stormwater drains from the rear to the front of the site, onto Route 206. There is a swale along the north side of the property that directs the runoff toward Route 206.
21. Although a trip analysis was not performed, the proposed use is less intense than the prior restaurant use. It was noted that the focus will be on the stores and landscape business and less on the food aspects. The proposed hours of

operation are 8:00 am to 5:00 pm, which is subject to change if the food service aspect is approved. When the sale of ice cream is approved, the store will stay open until 9:00 pm.

22. The proposed improvements are located in the Highlands Preservation Area and is subject to Highlands Exemption #4, which allows for the reconstruction of any building or structure within 125 percent of the footprint of the lawfully existing impervious surfaces on the site.

23. After the first hearing, the Applicant made substantial changes to the site plan. A landscape island was initially proposed in the parking area, but was removed based on comments from the Board, creating additional parking spaces. The dumpsters were originally located in the rear parking and storage area and were relocated to the parking stall closest to the garage and a loading area was proposed the southeastern corner of the developed portion of the site. Additional evergreens were added to the plan for screening and the fence area was redesigned to enclose the outdoor storage area, with a sliding gate enclosure. The fence will be an 8' vinyl clad chain link fence for security, which will require variance relief, as only 6' fences are permitted. A split-rail fence with wire mesh shall be installed along the retaining wall for safety reasons.

24. A dirt and gravel trail begins in the parking area to access the rear of the lot. There is a flat area in the rear that may be used to grow landscape plantings and vegetation, but will not be used for storage. Truck access is possible

through the trail without the need for improvements. The Applicant will define the area to limit the expansion of same.

25. The landscape area was redesigned, with the storage bins moved to the northern side of the parking area and employee parking was moved to the southern end of the parking area.

26. Mr. Garrett provided an overview of the building design and layout. The building will be renovated to create a thrift store, with exterior access doors, an antique shop, a general store/trading post, an ice cream parlor and a garden center. The building will also contain an office, utility areas, bathrooms, and an oil tank storage room. There is proposed vertical expansion of the access vestibule and it will be ADA compliant.

27. The exterior of the building will have Hardie plank siding, buff in color with grey stone veneer utilizing indigenous stone from the site. There will be new windows and the roof will be repaired. A garage is proposed in the rear of the property that will be utilized for storage of items that need to be protected from the elements, with the same exterior design as the building. Additional doors were added to improve pedestrian site circulation.

28. The proposed signage includes a double sided, monument sign that is 6' in height; 48" x 88" with a 2' stone veneer base, which will be surrounded by a planting bed of perennials. There is a proposed wall mounted sign that is 3.6' x 7.6' that will be illuminated with goose-neck lighting during business hours. The Architectural Review Committee was in favor of the application as presented.

29. Mr. Garrett also provided testimony in reference to A-5, noting that the building was in need of upgrades, including signage, and the terrain of the property. The proposed sign in the front condition affecting the structure yard setback will be 18' from the curb, which is safer and provides for better visibility from Route 206. The front yard setback of the building is a pre-existing non-conforming use that will be vertically expanded. Relief is required for minimum building height, as the building is currently undersized and would require numerous upgrades to add a second story to be conforming with the zoning requirements. The proposal only includes raising the roof, which will provide adequate light and air and avoid the need for additional parking. Finally, the parking in the side yard, which will be channelized as a result of reconfiguring the parking and access areas. These bulk variances are all pre-existing, non-conforming conditions that can be granted relief pursuant to N.J.S.A. 40:55D-70(c)(1) under the hardship criteria.

30. Mr. Garrett opined that the proposed development advances the purposes of the Municipal Land Use Law, including maintaining commercial uses in appropriate locations and encouraging the free flow of traffic, by utilizing channelization and curb minimizing curb cuts. It further advances the goals of the Master Plan, but retaining the natural features on the property, encouraging economic growth on an existing site, maintaining the wildlife habitats, improving the appearance of the site, while providing convenient commercial space. The use is not in conflict with other uses, site disturbance

is minimized, the signage and appearance along the Route 206 gateway and traffic corridor will be improved.

31. There was no one present from the public regarding this application.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. The Applicant presented a well thought out plan and addressed the concerns of the Board during the course of the public hearing.
 - a. Section 240-47.2.E(4) – minimum setback of freestanding sign, 15 feet required and 2 feet is approved
 - b. Section 240-57.E(3) – minimum front yard setback of a principal structure, 65 feet required, 21.59 feet existing and approved
 - c. Section 240-57.E(7) – minimum building height, 20 feet is required and 14.16 feet approved
 - d. Section 240-57.E(9) – parking prohibited in the side yard, 17 spaces are permitted in the side yard
 - e. Section 240-?? - the proposed black vinyl clad chain link fence shall be 8’ in height, where 6’ is permitted
2. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or

by reason of the location of the existing structures on the property. The variance relief stems from the location of the structure and the existing conditions on the site, which create a hardship for the Applicant.

3. The benefits of approving the deviations outweigh the detriments that may result from denying the requested relief. The Applicant's Planner testified that the proposed improvements will advance the following goals of the Municipal Land Use Law:

- a. Purpose C - By maintaining non-conforming building height, the will provide adequate light, air and space.
- b. Purpose H – the parking will be channelized but eliminating curb cuts to promote the free flow of traffic.

4. The relief can be granted without substantially impairing the zoning scheme or Master Plan. Mr. Garrett provided extensive testimony to establish that the development is consistent with Master Plan, by promoting economic growth and improving the visual appearance of the site. There will be minimal impacts to the natural resources and limited site disturbance. It was determined that, based on the location of the property and the improvements, there would be no negative impact to the surrounding area.

5. The following waivers were determined to be reasonable and were therefore granted by the

- a. Section 215-29.B(1) – Landscape plans are prepared by an Engineer and not a Landscape Architect

- b. Section 215-29.B(2) – partial waiver for the non-structural stormwater elements in the landscape plan
- c. Section 215-29.C – partial waiver for the shade trees along the streets
- d. Section 215-29.E(4) – lack of evergreen parking area screening
- e. Section 215-29.E(5) – non-structural stormwater elements in the parking area
- f. Section 215-30.2 – partial waiver for parking setback from building for the landscape buffering, as patio and display area are in the buffer area
- g. Section 215-30.2 – required parking stall size is 180 feet, 162 feet proposed

32. Finally, a lawn and garden center is a conditional use in the Neighborhood Commercial Zone, requiring a preliminary determination that the conditions are met and relief is not needed, per N.J.S.A. 40:55D-70(d)(3). The Applicant presented testimony that the following conditions set forth in Section 240-63B of the Township’s Zoning Ordinance are met and Use Variance relief is not required.

- a. Tract size: a minimum of one acre. *Complies*
- b. Side yards: not less than 30 feet when abutting a right-of-way or residential use. *Complies*
- c. Lot coverage: a maximum of 70% of the property. *Complies*
- d. Outdoor storage shall be limited to a single area of the site that does not exceed 50% of the lot area and shall be partially screened within

the defined area on the site. The screening may consist of landscaping and/or fencing to create an attractive border. *Complies*

- e. Small engine repair facilities shall also be permitted as function of a lawn and garden centers. Repair work, other than incidental minor repair, shall take place within the building, and all repair or service apparatus shall be located within the building. *Applicant testified that they will comply*
- f. Design and build, as well as routine maintenance landscaping services shall be permitted as function of lawn and garden centers. *Complies*
- g. All equipment used in the operation of lawn and garden centers shall be maintained and operated in such a manner as to eliminate so far as practical noise, vibration, or dust which would injure or annoy persons living in the vicinity. *Applicant testified that they will comply.*

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 1st day of July 2021 that the approval of the within application be granted subject, however, to the following conditions:

- 1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances.
- 2. Pursuant to Section 240-62B, a home and garden center is a conditional use, accordingly;
 - a. Repair work, other than incidental minor engine repair, shall take place within the building and all repair or service apparatus shall be located within the building.

- b. All equipment used in the operation of lawn and garden centers shall be maintained and operated in such a manner as to eliminate so far as practical, noise, vibration, or dust which would injure or annoy persons living in the vicinity.
3. Structural calculations proving the overall structure stability of the retaining walls shall be provided for the review and approval of the Board's Engineer. Construction permits shall be obtained for the retaining walls prior to the start of construction.
4. Access permits shall be obtained from the New Jersey Department of Environmental Protection; same shall allow the drainage runoff that will result from the redirection of the runoff from the curb-enclosed parking area.
5. The stormwater flow shall be redesigned to channel water along the north side of the building toward the Route 206 right-of-way and not directed over the neighboring property. Revised stormwater plans shall be subject to the review and approval of the Board's Engineer.
6. The lighting plans shall be revised to reflect the following:
 - a. Any additional building façade lights.
 - b. Indicate the location of all A-11 lights that will be installed.
 - c. Removal of the flood light on the utility pole in the northern corner of the site near Route 206.
7. Applicant shall utilize native, non-invasive plant species suitable for planting in the steep slope area.

8. Applicant shall obtain approval from the Byram Township Health Department to permit the preparation of food on the subject premises.
9. The architectural drawings shall be revised to accurately reflect the “self-serve coffee area” and confirm the location of access doors throughout the building.
10. The existing on-site “trail” shall not be utilized for storage of landscape material or vegetation.
11. No improvements shall be made to the trail; it shall remain in its current state, but for routine maintenance.
12. The flat area in the rear of the property, that will be used as a vegetation area, shall be defined on the site plan.
13. A black vinyl clad chain link 8’ fence shall be installed for security around the landscape storage area, with a rolling gate for access. Same shall be added to the plans, subject to the review and approval of the Board’s Engineer.
14. A split-rail fence with wire mesh shall be installed along the retaining wall for safety reasons. Same shall be added to the plans, subject to the review and approval of the Board’s Engineer.
15. The northern fence shall be redesigned to follow the property line, providing additional storage space. Same shall be added to the plans, subject to the review and approval of the Board’s Engineer.
16. The dumpster enclosure shall be relocated to the northern most parking stall in the parking area in the rear of the building.
17. Sheet 6 of the plans shall be revised to identify all plants in the planting schedule, subject to review and approval of the Board’s Planner.

18. All necessary revisions, contained herein, shall be submitted to the Board's Engineer for review and approval as part of Resolution Compliance, prior to the issuance of building permits.

George Shivas

On motion of:

Seconded by:

The vote on the Resolution was as follows:

AYES:

NAYS:

ABSTAINING:

ABSENT:

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on July 1st, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:
Prepared by: Alyse Landano Hubbard, Esq.

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

Relief Required	Building footprint of an accessory structure
	Square footage of an accessory structure
	Height of an accessory structure

WHEREAS, DJA of Byram, LLC d/b/a Anty Trucking, Inc. has applied to the Planning Board, Township of Byram for an Amended Site Plan for premises located at 9 Lackawanna Drive and known as Block 226, Lot 16 on the Tax Map of the Township of Byram which premises are in a “IPR” Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. Michael Lavigne, Esquire represented the Applicant.
2. The Applicant is the owner of the subject property, which is the site of Anty
3. The Applicant submitted the following documents:

- a. Site Plan, prepared by MCB Engineering Associates, LLC, dated February 25, 2021, revised May 18, 2021, consisting of 6 sheets.
 - b. Colorized Site Rendering, prepared by MCB Engineering Associates, LLC, dated February 25, 2021, revised May 18, 2021, consisting of 1 sheet.
 - c. Architectural Drawing, prepared by Pioneer Pole Buildings, Inc, dated April 7, 2021, consisting of 8 sheets.
 - d. Building Layout of the Office Trailer Building, with pictures attached, prepared by First String Space, Inc, dated May 28, 2020.
4. The Board received the following memorandums:
- a. Cory Stoner, Planning Board Engineer, dated 12/1/20 and 4/14/21
 - b. Paul Gleitz, Planning Board Planner, dated 4/20/21
 - c. Chief Kenneth Burke, Police Department, dated 3/23/21 and 5/27/21
 - d. Donna Fett, DPW/EC Commission Secretary/Tax Assessor Assistant, dated 4/5/21 and 6/2/21
 - e. Michael A. Pellek, Assistant Fire Chief, dated 3/30/21
 - f. Thomas S. Dixon, Zoning Officer, dated 9/23/20
5. The following variance relief is required:
- a. Section 240-16.A.4 - the height of the accessory storage buildings since no accessory building or structure, shall exceed 15 feet in height or be more than one story in height. In no circumstance shall the

accessory building or structure be greater in height than the principal building. The proposed pole barns are 26.5 feet in height.

- b. Section 240-16.A.5 - the size of accessory structures since the total footprint of all accessory buildings or structures on a lot, shall not exceed more than 50% of the footprint of the principal structure on the lot. The applicant proposes 2 structures, 12,800 square feet in size, where 8,000 is permitted.
 - c. Section 240-16.C.4 - the size of accessory structures since no accessory building in a nonresidential district shall have an area greater than 500 square feet. The applicant proposes 2 structures 12,800 square feet in size, where 500 square feet for each (1,000 square feet total) is permitted.
6. A design waiver is required from Section 215-30.2.C - all off-street parking areas shall be surfaced with an asphalt bituminous or cement binder pavement, the existing gravel surface is proposed.
 7. The following documents were marked for identification during the hearing:
 - a. A-1 – Page 5 of the Site Plan, with site changes indicated
 - b. A-2 – Colorized Site Plan with comparison of site changes, dated April 22, 2021
 8. Duly noticed public hearings occurred on April 22, 2021 and June 3, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings

and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.

9. Dominick Antonucci and Richard Kretschmaier of Anty Trucking and Patrick D. McClellan, PE of MCB Engineering Associates, LLC, who was accepted as an expert engineer, presented sworn testimony in support of the application. The subject property contains the general operations for Anty Trucking, which includes the temporary storage of customer construction material until said material is brought to the construction site. It was determined that the storage of customer material was previously approved, so a use variance for the expansion of the storage was not required. Additional site changes are proposed; the Applicant is utilizing an office trailer instead of the proposed building addition. The trailer is located near the existing building, will be attached with a hallway and the loading dock will be removed. Two new pole barn buildings are proposed to replace the previously approved fabric domes. The pole barns will be located near the outdoor storage areas. Additional landscaping and berms are proposed throughout the site.

10. The existing office trailer is already in use and will be attached to the principal building by a hallway. A new staircase is proposed, and the building will be compliant with the American's with Disabilities Act requirements.
11. The pole barns will be 80' x 160', with decorative copulas, which will resemble a barn. The structures will be 26.5 feet in height, requiring variance relief, as only 15 feet is permitted for an accessory structure. Additional relief is required for the size of the structures, as the building footprint shall not exceed more than 50% of the footprint of the principal structure on the lot (8,000 square feet) and 25,600 (12,800 each building) square feet is proposed. Finally, the structures exceed the permitted accessory building area, as 500 square feet is permitted, and 25,600 (12,800 each building) square feet is proposed. The structures will be utilized for storage only; they will have electrical service, but no plumbing, heating nor sprinkler system.
12. The parking area will remain gravel, as the truck traffic on site will damage the pavement, requiring a waiver from the Site Plan Ordinance.
13. Roof leaders will be utilized to collect rainwater and direct it into trenches to mitigate drainage concerns. Lighting shall be installed above the main doors of the pole barns and security cameras shall be installed around the site.
14. During the June 3, 2021, hearing, in response to comments from the Board and its professionals, the buildings were relocated, with trailer storage in front of the buildings and a loading area and outdoor storage areas in the rear as shown on the Site Plan approved under this resolution. A landscape berm is

proposed in front of the buildings. These changes were indicated on Sheet 1 of the Site Plan, dated May 18, 2021. Additionally, the Applicant was able to demonstrate the turning radius and site circulation throughout the site, by referring to Sheet 2 of the Site Plan, date May 18, 2021.

15. Numbered utility poles, 6” in diameter and 4’ in height will be installed to indicate the buffer area around the storage areas and Surveyor Monuments will be utilized to control the limits of outdoor storage on the site.
16. Trailer parking areas will be located on the eastern and western sides of the site, outside of the Riparian buffer areas that exist on both the eastern and western sides of the site. Additional landscape screening will be added along the western portion of the site to screen the property from the adjacent Daycare Center.
17. Sheet 6 of the May 18, 2021, Site Plan was added, which provided a Visual Cross Section Analysis showing the line of site from a vehicle on Lackawanna Drive. The topography and additional landscaping, as well as the proposed pole barns screen the outdoor storage from Lackawanna Drive. The outdoor storage is set back 675 feet from the right-of-way.
18. The Fire Department has access to the site through the existing gate. The gates are locked between 5:00 p.m. and 6:30 a.m.
19. No one from the public was in attendance at the hearing.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:
 - a. Section 240-16.A.4 - the height of the accessory storage buildings shall be 26.5 feet in height, where only 15 feet is permitted.
 - b. Section 240-16.A.5 - the footprint of accessory structures shall be 12,800 square feet each in size, where only 8,000 is permitted (50% of the footprint of the principal structure on the lot).
 - c. Section 240-16.C.4 - the size of accessory structures shall be 12,800 square feet in size each, where 500 square feet is permitted.
2. Pursuant to N.J.S.A. 40:55D-70C(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.
3. The height and size of the proposed structures are driven by the nature of the use. The topography of the site and the proposed landscaping provide sufficient

buffers from Lackawanna Drive. The Board determined that the proposed changes were both functional and aesthetic improvements to the property.

4. The benefits of granting the requested variance outweigh the detriments that may result from denying the requested relief. The Applicant is providing additional screening to the site and addressed the concerns of the Board to create a better site plan for the property. Accordingly, it was determined that there would be little impact to the surrounding area and that relief can be granted without substantially impairing the zoning scheme or Master Plan.
5. A design waiver was granted from Section 215-30.2.C for all off-street parking areas that shall be surfaced with an asphalt bituminous or cement binder pavement. The existing gravel surface is proposed to remain, and it was determined that waiver was reasonable.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 1st day of July 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances, except as otherwise set forth in this resolution, or any other resolution adopted by the Planning Board with respect to the use and occupancy of the subject property by the Applicant.
2. In response to the June 2, 2021 report from the Environmental Commission:
 - a. There will be no gas dispensed on site.

- b. There will be no truck maintenance in the pole barns or outdoor storage areas; all truck maintenance in the existing building only.
 - c. Only native, non-invasive species will be planted on site.
3. The two storage buildings shall be registered as a life hazard with the State Division of Fire Safety and subject to annual inspections by the authority having jurisdiction.
 4. Sawed-off utility poles as described above and Surveyor Monuments shall be installed to demarcate the outdoor storage area limits, subject to the review and approval of the Board's Engineer.
 5. No hazardous material shall be stored on site.
 6. The office trailer shall be connected to the principal structure, via hallway or walkway.
 7. All plans shall be updated to agree with the exhibits presented to the Board as A-1 and A-2.

George Shivas

On motion of:

Seconded by:

The vote on the Resolution was as follows:

AYES:

NAYS:

ABSTAINING:

ABSENT:

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on July 1st, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

**Dated:
Prepared by: Alyse Landano Hubbard, Esq.**

In the matter of Kevin Lukich
Case No. Z07-2021

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Height of Principal Structure**
 Number of Stories of Principal Structure

WHEREAS, Kevin Lukich has applied to the Planning Board, Township of Byram for permission to construct an addition onto the existing dwelling for premises located at 27 Deer Run and known as Block 284, Lot 211 on the Tax Map of the Township of Byram which premises are in a “R-5” Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. The Applicant is the owner and occupant of a single-family residence. The Applicant is proposing an addition to the existing structure which would result in the dwelling being three (3) stories, where 2 ½ stories is permitted and

exceeding the average building height, as 26.1' is proposed and 25' is permitted. Relief is required from Section 240-55(c)7 of the Township's Zoning Ordinance.

2. The Applicant submitted the following documents to the Board:
 - a. Map of the Property, prepared by DMC Associates Inc, Land Surveyors, dated July 11, 2013, consisting of 1 sheet.
 - b. Architectural Plans, prepared by Jesse Moore, dated April 15, 2021, consisting of 3 sheets.
 - c. Approval from Sussex County Department of Health and Human Services, for the Individual Subsurface Sewage Disposal System, dated January 26, 2021.
 - d. Four pictures of the dwelling from various views
3. The Board received a Memorandum from the Zoning Officer, Thomas Dixon, dated May 11, 2021.
4. A duly noticed public hearing occurred on June 3, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey" issued by the Department of Community Affairs, Division of Local Government Services.

5. Kenneth and Brittany Lukich presented sworn testimony in support of the Application. The Applicant appeared before the Board with a proposed first story addition requiring side yard setback relief and were denied for the addition as proposed. Considering the input from the Board, the Applicant submitted the subject proposed addition, adding another story to the structure.
6. The addition includes a master suite on the front-left side of the structure from the Deer Run frontage. The basement is approximately 80% underground, but has a walk-out to the back yard, and is therefore considered a story resulting in the addition being a third story where 2 ½ are permitted. The addition will raise the pitch of the roof and add attic space and dormers. However, it will appear as a two-story building from the front yard. The addition will also result in the building height exceeding the permitted building height of 25,' as 26.1' is proposed. The variation is *de minimis* in nature.
7. There will be no encroachment on the neighboring property, which sits at a higher elevation than the subject lot. The proposed addition includes a front porch, which will balance the appearance of the home and be an aesthetic improvement.
8. No setback variances are needed, and no tree removal is proposed. The Board noted that the current proposal was a much better plan for the property and would result in an increased curb appeal and improvement to the neighborhood.
9. No one was present to oppose the application.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the Section 240-55(C)7 of the municipal zoning ordinance, for the following variances:
 - a. Building Height – 25’ is permitted, 26.1’ is approved
 - b. Total Building Stories – 2 ½ stories are permitted, 3 stories are approved
2. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.
3. The subject property is fully developed, which limits the Applicants’ ability to construct an addition without variance relief. The proposed addition is a better alternative to the prior proposal, as it will not impact the adjoining property. There is no tree removal or setback relief required, and it will aesthetically improve the dwelling and the neighborhood. The deviation from the height

requirement is *de minimis* and the deviation from the story requirement will not be visible from the street due to the topography of the property. Accordingly, the benefits of permitting the deviations outweigh the detriments that may result from denying the requested relief. It was determined that there would be no impact to the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 1st day of July 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances.
2. The addition shall be constructed consistent with the plans submitted to the Board and the representations made at the hearing.
3. The height of the structure shall not exceed 3 stories nor 26.1'.

George Shivas

On motion of:

Seconded by:

The vote on the Resolution was as follows:

AYES:

NAYS:

ABSTAINING:

ABSENT:

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on July 1st, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Barbara Bolen
Case No. Z 09-2020

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Disturbance of Steep Lots**
 Disturbance of Lot Area
 Accessory Structure in the Front Yard
 Size of Accessory Structure
 Height of Accessory Structure
 Number of Stories of Accessory Structure

WHEREAS, Barbara Bolen has applied to the Planning Board, Township of Byram for permission to renovate the existing dwelling and detached garage for premises located at 89 Glenside Trail and known as Block 312, Lot 2050 on the Tax Map of the Township of Byram which premises are in a “R-5” Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. The Applicant is the owner of the subject property, which contains an existing dilapidated dwelling and detached garage that are in need of repair. The

Applicant is proposing to renovate the structure and construct a substantial addition to modernize the home. Additional renovations are proposed on the garage.

2. Relief is required from the following Sections of the Township's Zoning Ordinance:

- a. Section 240-55(c)6 for the maximum lot disturbance, 50% is permitted and 37% is proposed.
- b. Section 240-29.2A for the temporary critical disturbance of steep slopes in excess of 25% during construction and maximum lot disturbance.
- c. Section 240-16.B(2) for the detached garage which is located in the front yard.
- d. Section 240-16B(3) for the size of an accessory structure, 578 sf proposed and 400 sf permitted.
- e. Section 240-16B(4) for height of an accessory structure, 17.8' proposed and 15' permitted
- f. Section 240-16B(4) for number of stories of an accessory structure, 2 stories proposed and 1 story permitted.

3. The following documents were submitted by the Applicant:

- a. Survey of Property, prepared by Dykstra Associates, dated July 31, 2019.
- b. Proposed Home Renovation Plans, prepared by Wilson Engineering PLLC, dated July 20, 2020, consisting of 5 sheets.

- c. Alterations and Additions to Bolen Residence, prepared by Kurt H. Schmitt, Architect, dated August 3, 2020, consisting of 2 sheets.
- d. Alterations and Additions to Bolen Residence, prepared by Kurt H. Schmitt, Architect, dated August 11, 2020, consisting of 4 sheets.
- e. Alterations and Additions to Bolen Residence, prepared by Kurt H. Schmitt, Architect, dated May 29, 2021, consisting of 3 sheets.
- f. Stormwater Management Summary, prepared by Wilson Engineering, PLLC, dated August 2020.
- g. Approval from the Upper Delaware Soil Conservation District dated September 9, 2020.
- h. Approval for the Individual Subsurface Sewage Disposal System from the Sussex County Department of Health and Human Services, dated August 19, 2020.
- i. Waiver of Approvals from the Lake Mohawk Country Club dated November 25, 2020.
- j. Notice of Violation of Section 240-29.2D from Thomas S. Dixon, Zoning Officer, dated July 24, 2020.

4. The Board received the following memorandum:

- a. Cory Stoner, P.E., C.M.E., Planning Board Engineer, Engineering Review, dated October 26, 2020.
- b. Donna Fett, Environmental Commission, dated November 20, 2020 and June 10, 2021.

5. Duly noticed public hearings occurred on December 20, 2020 and June 12, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey" issued by the Department of Community Affairs, Division of Local Government Services.
6. Barbara Bolen, the Applicant and Eric Wilson, P.E., who was accepted as an expert engineer, presented sworn testimony in support of the application. The subject property is an irregularly shaped, oversized lot in the R-5 zone, where 10,000 sf is required, and 63,863 sf is existing.
7. The Applicant purchased the property at an auction, sight unseen. The property has been vacant for many years and is in extreme disrepair and structurally unsafe. The original cabin had two renovations that were structurally unsound, which were demolished with the plan to renovate and reconstruct the dwelling. When excavating for the new septic, it was determined that they had to stabilize the original cabin. The existing system was not constructed to code, or maintained, requiring approval for a new septic system. Tree removal was required for the installation of the septic system. The property is overgrown and had to be cleaned of debris. Steep

slope disturbance was needed for the construction of the septic system, as well as the renovations of the existing dwelling.

8. The existing garage is 3.3' from the front yard setback, 30' from the right-of-way, where 40' setback is required. The Applicant is proposing an expansion of the existing structure, but that will not exacerbate the front yard setback. The eave overhangs the structure by 2', which impacts the setback measurements. Accessory structures are not permitted in the front yard. A Google Street View was screen shared and marked as B-1, which shows the reality of the setback of the structure.
9. The garage is a 578 square foot structure, where 400 square feet is permitted. The existing garages have doors that are only 6' in height. The proposal includes raising the roof to 17.8' to the mean of the gable, where 15' is permitted. The proposed garage doors will be increased in height to be useful, allowing for the parking of boats, etc. Three sides of the garage are below grade. There is a covered deck proposed on the second story of the rear of the garage with a staircase to grade and first floor access to the storage area through a man-door at grade. The roof will help channel the runoff around the garage into an drainage swale. Electricity will be run to the garage for lighting, but there will be no plumbing or temperature controls. The garage front yard and side setbacks are existing, nonconforming conditions.
10. During construction, an area behind the garage was leveled. It will be restored to a grass area, which will be indicated on the plans.

11. After the first hearing, the Application was changed to reduce the impact of the retaining walls by eliminating the tiers. The proposed structure will be constructed in one phase, not two as originally proposed. A thick block wall is proposed in the rear of the structure to retain the soil. The steep slopes disturbance was reduced, and one of the two 4' retaining walls was eliminated.
12. Additionally, aspects of the original cabin will be maintained, and the addition will include a bedroom, kitchen and family room, a porch and sunroom and an elevated garage. The home will be constructed in the hillside, so the walls will act as retaining walls.
13. The result is a reduction in steep slopes disturbance. The roof leaders on the house also drain into the depression near the culvert and a rain garden is proposed. A 26' turnaround was added at the top of the driveway.
14. The Applicant saved the cedar siding and plans to reuse the siding, with white trim and green shutters, which is subject to the review of the Lake Mohawk Aesthetic Committee.
15. The large pines and red maple trees will be maintained, and native vegetation will be replanted in the slope.
16. A Google Earth view of the garage was screenshared and marked as B-2 for identification and a Google view of the propane tank that was removed from the property was marked as B-3 for identification.
17. Harry Williams, 164 Glenside Trail, commented that he supports the Applicant's efforts to improve the site but was concerned about the garage

being so close to the road. However, if the Lake Mohawk Associations support the application, that he supports the request.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance.
 - a. Section 240-55(c)6 for the maximum lot disturbance, 50% of the total area of lot or a maximum of 10,000 square feet is permitted and 23,935 square feet is approved.
 - b. Section 240-29.2A for the temporary critical disturbance of steep slopes in excess of 25% during construction is approved.
 - c. Section 240-16.B(2) the detached garage which is located in the front yard is approved.
 - d. Section 240-16B(3) for the size of an accessory structure, 400 sf permitted, 578 sf is approved.
 - e. Section 240-16B(4) for height of an accessory structure, 15' permitted, 17.8' is approved.
 - f. Section 240-16B(4) for number of stories of an accessory structure, 1 story permitted, 2 stories approved.

2. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.
3. The subject property contained a dilapidated structure in need of renovation and reconstruction, with existing locations on the property, creating a hardship for the Applicant. The proposed improvement will maintain a portion of the existing structure, while improving the safety and aesthetic appearance of the property. The garage is a pre-existing, non-conforming condition that will be improved as part of the proposed renovations on the property.
4. The overall benefits of permitting the deviations associated with the renovations outweigh the detriments that may result from denying the requested relief. The vacant property fell into disrepair and was structurally unsafe and dangerous. The Applicant has undertaken steps to upgrade the septic system and modernize the home, while maintaining some of the original charm. It was determined that there would be little impact to the surrounding area and the improvements would be beneficial to the neighborhood. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 1st day of July 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances.
2. The construction area behind the garage shall be restored to a grass area, which shall be indicated on the plans.
3. The proposed drainage controls shall be indicated on the plans, subject to the review and approval by the Board Engineer.
4. The top and bottom of the wall elevations for the proposed boulder wall around the property shall be placed on the plans to indicate the actual wall heights.
5. Structural calculations for the proposed wall shall be signed by a licensed engineer and subject to review and approval of the Board's Engineer.
6. Applicant shall obtain construction and zoning approval for the construction of the retaining walls.
7. A 20' turnaround shall be constructed at the top of the driveway.
8. Additional grades shall be provided on the plans to clearly depict the grade of the covered porch and stairs in the rear of the garage.
9. Details for the rain garden shall be subject to review and approval of the Board's Planner.

George Shivas

On motion of:

Seconded by:

The vote on the Resolution was as follows:

AYES:

NAYS:

ABSTAINING:

ABSENT:

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on July 1st, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

**BYRAM TOWNSHIP PLANNING BOARD
REVISED BILL LIST FOR July 1, 2021**

<u>HAROLD PELLOW & ASSOCIATES, INC</u>	DATE	AMOUNT
Harold Pellow total		\$0.00

<u>LAW OFFICE OF LARRY WIENER</u>	DATE	AMOUNT
Inv. 2021 –39 Planning Board- emails, phone calls, attendance at 06/03 and 06/17 meetings	6/22/21	\$975.00
Inv. 2021 –40 Skylands Surgical Center- Resolution	6/22/21	\$975.00
Larry Wiener Total		\$1,950.00

<u>LATINI & GLEITZ, PLANNING</u>	DATE	AMOUNT
Paul Gleitz total		\$0.00

<u>CP Engineers</u>	DATE	AMOUNT
No bills submitted		
Total for CP Engineers		\$0.00

<u>GRAND TOTAL</u>		\$1,950.00
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