

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, August 15 2024, at 7:30 P.M.
Meeting Held at: 10 Mansfield Drive, Byram Township NJ

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **OPENING STATEMENT:** Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meetings Act.
4. **FLAG SALUTE**
5. **MEETING MINUTES-** August 1, 2024
6. **RESOLUTIONS**
 - Z09-2024, Daniel Scully, 33 Allamuchy Trail, Block 144 Lot 135 and 136, R-5 Zone
Application to construct 3-bedroom dwelling on a property with three front yards

 - SP7-2024, Vincent Dominach, 519 Stanhope Road, Block 343 Lot 4, NC Zone
Application for ramp and roof alterations

 - SP3-2024 Veolia, 8 Mountain Avenue, Block 43 Lot 206.02, R-5 Zone
Application for tank painting and temporary tank set-up

 - SP4-2024 Cartridge Actuated Devices (CAD), 40 Old Indian Spring Road, Block 362 Lot 4, Block 226 Lot 8.01, R1 Zone
Application for bringing site into conformance including trailer removal, addition of a new two-story building, and replacement of a building

 - Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone
Denial of application for shed in the front yard
7. **NEW BUSINESS**
 - Z13-2024 Shawn Steffens, 99 Lake Drive, Block 249 Lot 89.02, R5 Zone
Application for second story addition and garage addition

 - Z14-2024 Rupesh Patel (Kyosis LLC), 1 Catalina Drive, Block 337 Lot 9.14, R2 Zone
Application for new home construction

 - SP8-2024 North Shore Water Association, 28 Allamuchy Trail, Block 148 Lot 168, R5 Zone
Application for new sanitary system for PFAS treatment, including lot subdivision and preliminary and final site plan
8. **REPORTS FROM COMMITTEES**
 - Architectural Review Committee
 - Environmental Commission
 - Open Space
 - Township Council
 - Zoning Report
9. **OPEN TO THE PUBLIC**
10. **ADJOURNMENT**

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

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

ROLL CALL: Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Walsh, Chairman Shivas

Members Absent: Mayor Rubenstein, Messrs. Serrilli, and Smith

Also Present: Engineer Cory Stoner, Attorney Alyse Hubbard, Secretary Caitlin Phillips

OPENING STATEMENT: Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meetings Act.

FLAG SALUTE: led by Chairman Shivas

MINUTES: July 18, 2024. Mr. Proctor motioned to approve the minutes, seconded by Mr. McElroy.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, and Chairman Shivas

Abstaining: Messrs. Morytko, Walsh

Absent: Mayor Rubenstein, Messrs. Serrilli, and Smith

None opposed. Motion carried.

RESOLUTIONS

Z11-2024, Michael Menduni, 40 Lynn Drive, Block 337.01 Lot 22, R-3 Zone

Application for 6-foot fence in the front yard

Mr. Proctor motioned to approve the resolution, seconded by Mr. McElroy.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, and Chairman Shivas

Abstaining: Messrs. Morytko, Walsh

Absent: Mayor Rubenstein, Messrs. Serrilli, and Smith

None opposed. Motion carried.

Z03-2024 Charles Cirella 10 Hawthorne Trail, Block 210 Lot 17, R-5 Zone

Application for carport in the front yard

Chairman Shivas noted this is for the second driveway, as the carport will be removed. Mr. Proctor motioned to approve the resolution, seconded by Mr. Walsh.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, Walsh, and Chairman Shivas

Abstaining: Mr. Morytko

Absent: Mayor Rubenstein, Messrs. Serrilli, and Smith

None opposed. Motion carried.

SUBCOMMITTEE MEETING

SP8-2024 North Shore Water Association, 28 Allamuchy Trail, Block 148 Lot 168, R5 Zone

Application for new sanitary system for PFAS treatment

Mr. Walsh said this application is for a private water company that's building a new well house. The application involves a site plan, a few variances, and a lot line adjustment. They granted the waiver request for an Environmental Impact Statement because it's already a developed area. He motioned to deem the application complete and schedule their hearing for 08/15, seconded by Ms. Raffay.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Walsh, and Chairman Shivas

Absent: Mayor Rubenstein, Messrs. Serrilli, and Smith

None opposed. Motion carried.

PRESENTATION FROM COUNTY: PARCEL DOCUMENT VIEWER WITH DAN FREED

Mr. Freed is the records manager at Sussex County. In 2011 the County had a flood in the records center, and they worked to get everything scanned with an imaging group. The towns have documentation, such as tax maps, site plans, and zoning information, and Mr. Freed makes sure the

documentation is updated at the County. They have been working on a Parcel Document Viewer. There is a video tutorial that shows how to access the parcel viewer, which has every parcel shown with 99% accuracy. The application allows people to look up a parcel and it will show the tax assessor data, and pull up tax maps, site plans, and septic and well documents.

NEW BUSINESS

Z09-2024, Daniel Scully, 33 Allamuchy Trail, Block 144 Lot 135 and 136, R-5 Zone

Application to construct 3-bedroom dwelling on a property with three front yards

Michael Mullin of Schenck, Price, Smith & King represented the applicant. Jason Dunn was sworn in as a Planner at 11 Lawrence Road in Newton. He has worked in Wantage and Sparta, and in Warren and Sussex County. His license is in good standing and was deemed an expert. Paul Ashworth was sworn in as an Architect at 49 Old Creamery Road in Newton. He has worked in Sparta, Wantage, Morristown, Morris Plains, Denville, and Byram. His license is in good standing and he was deemed an expert.

Mr. Dunn said the lots would be combined as a result of the application. It is an undersized lot and fronted on three sides. He submitted **Exhibit A1**, a submitted sheet with highlighted elements. There is a 22-foot difference in elevation on the property. They tried to find details on the house that was there before. It had three bedrooms and roof and water damage, and the water was not potable. The structure was demolished in 2017; whether it fell in on itself or was demoed, they're not certain. There are remnants of the foundation, retaining walls, and septic system, which is on the north-west corner. The County is reviewing it now. The retaining walls are going to be removed, and the gravel parking area would be turned back into lawn. They are going to clean up the overgrowth. For at least 10 years the property has been an eyesore. The proposed is 3 bedrooms and 2.5 bathrooms. It matches the style of the neighborhood, with gable roofs and a covered porch. There is a proposed attached one-car garage. Mr. Mullins asked if the change in elevation affects the design. Mr. Dunn said there are proposed retaining walls, and they have to compensate for the change in elevation. He reviewed the variances. Mr. Mullin confirmed the need for the variances is because of the unique quality of the property. Mr. Dunn said there's no real alternative to make this work and meet the setbacks. He reviewed the Environmental Commission recommendations, including additional landscaping to help with runoff. He said the applicant agreed there are some planting areas in the north and foundation plantings parallel to Greywood Lane and Ka-Ton-Nah Trail that can be done. They'd want to limit the plantings near the house so it doesn't become overgrown. They would submit a planting plan as a condition of approval. Chairman Shivas asked how they're mitigating stormwater runoff into other properties. Mr. Dunn said they don't have a drywell proposed because of where the septic is. They're planning to do roof liter drains into splash blocks. Mr. Stoner said they can't put anything in the yard along Allamuchy Trail because of the septic proximity, and the other side is higher up. His concern is water going onto a neighbor's property. It should discharge towards the front of the property or run across the lawn area near the septic towards Allamuchy. They discussed landscaping and drainage. Mr. Ashworth said he can pitch the water. Mr. Dunn submitted **Exhibits A2 and A3**, MLS listings showing the lot with and without the house. **A2** is the listing from 2013. Mr. Stoner suggested daylighting the drains, since they'd have trouble getting a seepage pit on the property. Ms. Raffay asked about the curved retaining wall on the north-west corner. Mr. Dunn said there would be plantings there. The property steps down quickly, and when calculating the building height it becomes part of the calculation to keep it below 35 feet. Mr. Ashworth said it's for aesthetics as well.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Mr. Ashworth went over the look of the house including vinyl siding, that's either a muted grey or brown. He reviewed the floorplan. Chairman Shivas asked about the playrooms. Mr. Ashworth said they made

them bigger in case there's a kid using the room there'd be a room to play, or it could be an office with furniture. Chairman Shivas said there are no closets in the bedroom. Mr. Ashworth said it's becoming more common that people don't want closets, but rather furniture to store clothes. Some people do built-ins. He agrees this will conform to the neighborhood. Chairman Shivas said they should have inspections done as the house is being built to verify the height.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Ms. Raffay confirmed the health department will verify the septic. She's in favor of plantings near the retaining wall. Ms. Hubbard confirmed Mr. Gleitz should review the planting plan. Mr. Walsh confirmed Mr. Stoner is okay with the drainage plan; this is not a large home, so as long as the water is not directed to the neighbors it will be okay. Ms. Hubbard noted they'll have to merge the lots. Ms. Raffay motioned to approve the application, seconded by Mr. Morytko.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Walsh, Chairman Shivas

Absent: Mayor Rubenstein, Messrs. Serrilli, and Smith

Motion carried. Ms. Hubbard explained the appeal period.

Z01-2024 Tom Chamberlin, 2 Briar Lane, Block 365.02 Lot 1, R-3 Zone

Application for driveway expansion for a second driveway

Thomas Chamberlin was sworn in. Chairman Shivas asked about the driveways. Mr. Chamberlin said one is just a parking spot for his kids' cars. There's a walkway to the shed area. The other area is an access road for where they store the trailers. Chairman Shivas said the road for the trailers is too close to the intersection. He asked if there is a way he could go from his house, so that he'd have two driveways rather than three. Mr. Chamberlin said the area that goes down to the sheds has blacktop, but nothing parks other than next to the road. Ms. Hubbard asked what the sheds are used for. Mr. Chamberlin said one is existing, and is used for tractors and quads. The other shed has his kids' side-by-side terrain vehicles. Ms. Hubbard confirmed the McAdam driveway on the survey is where the vehicles are parked. Mr. Chamberlin said to the right of that is flat and he put QP rocks down and they bring trailers down that area. Nothing else parks there, the vehicles just bring the trailers to that spot and leave. He prefers backing the trailers the way they do in case people are coming up the road. Mr. Stoner said in the past two weeks Mr. Chamberlin added a stone retaining wall. Mr. Chamberlin said that was approved through the Zoning Office. Mr. Stoner said the concern was the height, which was adjusted; his concern is the access to the trailer driveway if the wall is near where he'd turn. Mr. Chamberlin said there's room. Ms. Raffay said it doesn't look like the driveway for the trailers is used infrequently; it's dirt. Mr. Chamberlin said the grass was killed from the trailers. It's dirt at the beginning because of construction work from the electric company for utilities. Ms. Raffay said there's wheel marks. Mr. Chamberlin said it normally looks like just two wheel marks rather than the dirt patch. Mr. Chamberlin noted it looks bad now too because of the retaining wall being built.

Mr. McElroy asked about the accessory structures. There is a shed, garage, and carport. Mr. Stoner said there are two sheds. Mr. Chamberlin said they're all a little over 6 feet apart from one another. Mr. McElroy said it looks like less than six feet. Mr. Chamberlin said the Zoning Officer and the Town Manager visited and measured. Mr. McElroy noted there's a notice of violation for these. Mr. Stoner said the violation may have been issued before they visited. He confirmed they're moveable and that if they find that they're less than 6 feet, Mr. Chamberlin will move them. Mr. Stoner noted issues with lot disturbance for the gravel and paved areas. He confirmed no trees were removed in the area with the sheds. Mr. Chamberlin said there was a chicken coop there when he bought the house. Ms. Raffay suggested access near Brookwood Road rather than Briar Lane. Mr. Chamberlin said there's a hill there. Mr. Chamberlin said it will be grass again, but periodically the kids will get the trailer. Mr. McElroy noted

that there needs to be a hardship to justify the variances. There needs to be something about the property that precludes being able to do this another way, not just saying you want something because it's convenient. Mr. Chamberlin asked if the issue is accessing the wooded area. Mr. McElroy said the Township doesn't allow three driveways, so there needs to be a valid reason to grant an approval. Mr. Proctor noted the driveway is defined by the access, so if he went with Chairman Shivas suggestion, it would be two instead of three. Chairman Shivas said the problem is he's accessing the road. If he uses the main driveway then it takes away one. Mr. Chamberlin said that's the way they'll access it then. Mr. Morytko noted it's clear that this area is a driveway, so it needs to be restored and landscaped to the point where they can't pull a trailer in that way. Mr. Walsh confirmed the trailer driveway isn't used for parking. Mr. McElroy asked how long the other driveway was there. Mr. Chamberlin said it's been there since they bought the house and it was so overgrown no one saw it. Mr. Stoner noted his concern about maintenance. Ms. Raffay noted the access to the trailers and the use of the ATVs would be done no matter the weather, so it may end up being a dirt area again. Ms. Hubbard confirmed the trailers can't be parked near the ATVs. Mr. Chamberlin noted that area is only about 10 feet wide. The road narrows as it goes down. Mr. Morytko confirmed there are two trailers. Mr. Walsh confirmed Mr. Stoner's concern is the amount of disturbance to access the trailers off the main driveway.

Chairman Shivas opened to the public. Jack Moran was sworn in. He asked with the additional driveway are there going to be more vehicles or traffic. Mr. Chamberlin said everything will remain the same. It's just an access to get what's typically looked at, which is the trailers. Mr. Moran said their back yard corner is towards the wooded lot. He asked if they plan to put any screening around the trailer area to soften the look. Mr. Chamberlin said everything is as it has been. Chairman Shivas closed to the public.

Ms. Raffay noted she can't figure out how everything is fitting. She wants to make sure everything is what they're agreeing on. The Board looked at the survey to determine distances. They discussed an as-built. Ms. Raffay asked about getting a survey before an approval so they know where everything is. Mr. Chamberlin said he could draw the dimensions. Ms. Raffay noted that's after the vote; she'd like to see a survey. Mr. Walsh confirmed the trailers would be backed in. He asked the material as the trailer is backed up. Mr. Chamberlin said grass; that area isn't steep. Mr. McElroy said he still has an issue; sometimes it's the lot causing an issue, and sometimes it's the intensity of the proposal. The lot isn't oddly shaped or too small. Unless he has a better idea of the hardship, he will have trouble voting for this application even with the new survey information. Ms. Hubbard explained what a hardship means. She noted once something is disturbed, it remains that way, which is different than removing coverage. Mr. Walsh confirmed with Mr. Stoner that there are five structures on the property, but not all of them are on the survey. Mr. Stoner said there are four shown, and one small shed that's not. Mr. Morytko said he'd like to see landscaping shown and the access area. Mr. Walsh summarized what they're looking for is an updated survey that shows landscaping, existing driveways, wall location, new access point, and depictions of the accessory structures. Mr. Stoner added showing existing landscaping. Chairman Shivas noted he has to explain why this is placed there rather than another area that wasn't already disturbed.

Mr. Morytko motioned to carry the application to 09/05, seconded by Mr. Proctor.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Walsh, Chairman Shivas

Absent: Mayor Rubenstein, Messrs. Serrilli, and Smith

Motion carried. The Board took a five-minute break.

SP7-2024, Vincent Dominach, 519 Stanhope Road, Block 343 Lot 4, NC Zone

Application for ramp and roof alterations

Vincent Dominach was sworn in in Somerville NJ. He said this is a minor site plan application. There was a deli at this location which closed about a year and a half ago. The property was purchased and Mr.

Dominach is planning to reopen with the property owners. They're removing the existing ramp and walkway and enlarging them to meet ADA requirements. They also want 8 seats, and to have a roof over the walkway. There will be no seating inside. Ms. Hubbard confirmed the seats are not on the plan. Mr. Stoner said the original plan is from Mr. Kolody which is about 19 years old. Chairman Shivas noted there was an ice machine near the door. Mr. Dominach said that won't be there. Chairman Shivas confirmed the roof is not an enclosed area. Mr. Stoner asked, in order to use the survey provided, that the site be brought back to what it was when approved. Mr. Stoner noted there are two residential spaces behind the building. Mr. Dominach said the dwelling is there but not occupied. The property owner lived there for 13 years. Chairman Shivas said if someone takes over the house, they'll need spaces for it. He added that they can't tear the house down because it's a historic site. Mr. Dominach noted if they are required to come back to the Board for anything they will. Chairman Shivas said he prefers an as-built survey when things are done because the plan presented is complicated. Mr. Dominach said they will do it as determined by the Board. He said the only approval he was able to find was from 1990, to allow for farming. Mr. Walsh confirmed the plan submitted was not approved by the Board, as far as records show. The Board discussed the need for an as-built survey. They're not proposing any lighting. They're expecting to be open 6am-3pm.

Ms. Hubbard asked about screening. Mr. Dominach said they'll have the first ten feet on the right side for the seats, so there's nothing on the left side. Ms. Hubbard confirmed lighting won't cast onto adjoining properties.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Mr. Morytko motioned to approve the application, seconded by Mr. Walsh. Mr. Walsh noted that's conditioned on the as-built reviewed by the engineer, and if there are issues they'll come back or remedy them.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Walsh, Chairman Shivas

Absent: Mayor Rubenstein, Messrs. Serrilli, and Smith

Motion carried.

BILLS:

Harold Pellow (15): \$5,020.75. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Morytko. All were in favor. Motion carried.

Maraziti and Falcon (14): \$4,760. A motion to approve the bill was made by Ms. Walsh, seconded by Morytko. All were in favor. Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said there's been no meeting.

Environmental Commission: Mr. McElroy said they didn't have a quorum so there was no meeting.

Chairman Shivas said Mr. McElroy should discuss with them how the reports are sent over. Ms. Hubbard noted a name and date would be helpful.

Open Space: Mr. Morytko said the next meeting is August 12th.

Township Council: Mr. Proctor said there's been no meeting since the last Board meeting. They are going to discuss the annual report on September 3rd.

OPEN TO THE PUBLIC

Chairman Shivas opened to the public. Patricia Moschella asked the Board to consider remote meetings to help residents. She wasn't able to come to the last meeting, and she wrote something she wanted presented, but she was advised that she can't share comments that are passed along. Ms. Hubbard noted

that's per the Municipal Land Use Law that anything submitted needs to be subject to cross examination. Ms. Moschella said it'd be nice to sit in on the meetings. She noted she went to attend the last Environmental Commission meeting, but no one was there. She asked if there's a way to be notified. Mr. McElroy said he'll mention it to the committee. Ms. Hubbard noted they should post cancellations on the door. Chairman Shivas closed to the public.

ADJOURNMENT

A motion to adjourn the meeting was made at 10:30 by Mr. McElroy, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Michael Menduni
Case No. Z11-2024
MF#5000.114

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: Height of Fence in Front Yard

WHEREAS, Michael Menduni has applied to the Planning Board of the Township of Byram seeking approval to install a fence in front yard for premises located at 40 Lynn Drive, and known as Block 337.01, Lot 22 on the Tax Map of the Township of Byram which premises are in a “R-3” Residential 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. 40:55D-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 the subject property. The Applicant is proposing to install a fence around the perimeter of the property, requiring the following relief, pursuant to N.J.S.A. 40:55D-70c from Section

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240-24A of the Township's Zoning Ordinance to construct a 6-foot high in the front yard, where 4 feet is permitted.

2. The Applicant submitted the following documents along with the Application for a Variance:
 - a. Survey of Property, prepared by Lakeland Surveying, dated March 18, 2024.
 - b. Tax Map, prepared by Harold Pellow Associates, dated June 2006, Sheet 10.03.
 - c. Pictures of the Property, four (4) total.
3. A duly noticed public hearing was conducted on July 18, 2024, at which time Michael Menduni presented sworn testimony in support of the application. The subject property is a corner lot, with frontage on Lynn Street and a second frontage on Carlisle Drive with two side yards. The property is situated with driveway access to Lynn Street and approximately 75 feet of frontage and 175 feet of frontage on Carlisle Drive. The property is developed with a one- and one-half story dwelling and decking at grade.
4. The Applicant testified that a 6-foot-high fence is desired to keep his dog inside the yard and the neighborhood dogs outside of his yard. He testified that the dogs are capable of jumping a 4-foot-high fence.
5. The Applicant is proposing to install a 6-foot-high fence around the back yard of his home, which starts on the southern rear corner of the home 10 feet to the property line, then runs 27 feet west to the property line, then runs 77 feet north to the frontage on Carlisle Drive, then runs 58 along Carlisle Drive and

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approximately 50 feet back to the side of the home. The fence will be white vinyl and located at least 2 feet off the frontage on Carlisle Drive. There are trees and shrubs along the western property line, the fence will be located on the eastern side of the tree line.

6. There is a shed in the southwestern corner of the lot that is caddy-cornered, 4.4 feet from the southern sideline and 5.7 feet from the western sideline, requiring variance relief. The Applicant amended the application to seek relief for side yard setbacks for both, as shown on the survey.
7. The Applicant testified that no trees would be removed. The portion of the deck that is a walkway will be removed as part of the project.
8. There was no one from the public present for 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. The Board determined that relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance:
 - a. Section 240-24A – Maximum height of a fence in the front yard: 4 feet permitted, 6 feet approved.
 - b. Section 240-16B(4) – Minimum side yard setback for an accessory structure: 10 feet required, 4.4 feet existing and approved on the

southern side line and 5.7 feet existing and approved on the western side line.

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 purpose 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 a corner lot, with two front yards, creating a hardship for the Applicant to construct a conforming fence. But for the second front yard, relief would not be required for the fence.
4. The Board determined that the benefits of granting relief to create a safe environment for the homeowner outweigh the detriments that may result from the fence. The requested relief does will not impede the Zoning Scheme or the Master Plan, as the lot unique as a corner lot and fences are common amenities for residential lots.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 18th day of July 2024 that the approval of the within application be granted subject, however, to the following conditions:

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1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
5. Applicant shall obtain all necessary zoning or construction permits.
6. No trees shall be removed for the construction of the fence.



George Shivas

On motion of: Mr. Proctor

Seconded by: Mr. McElroy

The vote on the Resolution was as follows:

AYES: Four (4): Mr. Proctor, Mr. McElroy, Ms. Raffay, Chairman Shivas

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NAYS: Zero (0)

ABSTAINING: Two (2): Mr. Morytko, Mr. Walsh

ABSENT: Three (3): Mayor Rubenstein, Mr. Serrilli, Mr. Smith

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 1, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 08/02/2024

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Charles Cirella
Case No. Z-03-2024
MF#5000.103

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Two Driveways w/less than 200 feet of frontage**

WHEREAS, Charles Cirella has applied to the Planning Board of the Township of Byram seeking approval to maintain two driveways for premises located at 10 Hawthorne Trail, and known as Block 120, Lot 17 on the Tax Map of the Township of Byram which premises are in a “R5” Residential 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. 40:55D-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 the subject property. The Applicant paved an existing gravel area, creating a second driveway, and constructed a temporary carport on the driveway, requiring the following

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relief, pursuant to N.J.S.A. 40:55D-70c, from the following Sections of the Township's Zoning Ordinance:

- a. Section 240-40A(2) – Only one driveway permitted unless the property frontage exceeds 200 feet; two driveways existing
 - b. Section 240-16B – Accessory structures are not permitted in the front yard; accessory structure existing in front yard
2. The Applicant submitted the following documents:
- a. Septic System – As Built, prepared by Civil Engineering, Inc, dated July 8, 2010, two copies marked up by the client.
 - b. Tax Map, prepared by Harold E. Pellow, PE, LS, dated June 2006, Sheet 3.03.
 - c. Pictures of the Carport – three (3) total.
3. The Board received a memorandum from Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated April 30, 2024.
4. Four pictures of the house and carport were marked A-1 for identification.
5. A duly noticed public hearing was conducted on July 19, 2024, at which time Charles Cirella, the Applicant, and Jeanne Colligan, his aunt, presented sworn testimony in support of the application. The subject property is square shaped lot, with an irregular front yard and approximately 100 feet of frontage on Hawthorne Trail. The subject property is developed with a three-bedroom dwelling, with a breezeway, a garage, and driveway. The rear of the property contained a septic system.

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6. The Applicant testified that he has lived in the home since 1996 when his parents purchased it. His parents are now deceased and he maintains and lives in the home. The witnesses testified that when the Applicant's parents purchased the property in 1996, the second driveway area existed and was used to park the boat. The primary driveway can park 4 cars, but it is constricted.
7. The driveway, as well as another area on the northern side of the property, were gravel and the Applicant had both paved recently. Mr. Cirella works on cars and is utilizing the carport to park one of the vehicles, as the garage is used for tool storage. The carport was recently built by the Applicant, with a metal slip tubing frame that is secured to the pavement and a tarp that is secured to the frame. The carport is considered a temporary structure and will likely not meet the UCC code to remain a permanent, year-round structure, as it will not support the wind and snow load requirements.
8. The second driveway is at an angle from the roadway, more than is indicated on the plans. The carport was not dimensioned on the plans, but the Board and its Engineer opined that a side yard variance is likely required. The adjacent lot is vacant.
9. During the public portion of the application, Joe Toto, who owns 6 Hawthorne Trail, testified that Mr. Cirella is a good neighbor, who has made improvements to the property and he has no objection to the application.

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10. During a discussion with the Board, it was noted that the Applicant receive a Notice of Violation after the construction of the carport. The Board offered suggestions, including a preference of a permanent structure instead of the existing, temporary carport. After being advised of the need for grading, a new application and timing of construction, the Applicant amended to the application to remove the carport and seek approval for the second driveway.

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 Section 240-40A(2) of the municipal zoning ordinance to permit two driveway with less than 200 feet of frontage.
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

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further determined that the benefits of granting the variance outweigh any detriments which might result from it.

3. The subject property is developed with a single-family home and septic system that severely constrains the rear yard. The second driveway has existed on the property for at least 40 years and was paved by the Applicant to construct a carport. The Board determined that relief could be granted without a substantial detriment to the neighborhood, as the property is located next to a vacant lot and has been in existence for many years without issue. The Board further determined that the second driveway would not impede the Master Plan or Zone Scheme, as the driveway will have little impact on the area.

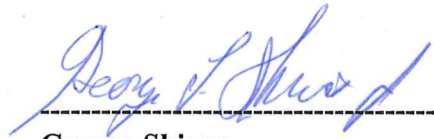
NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 18th day of July, 2024 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in

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granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval

3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
5. The carport shall be removed from the property.



George Shivas

On motion of: Mr. Proctor

Seconded by: Mr. Walsh

The vote on the Resolution was as follows:

AYES: Five (5): Mr. Proctor, Mr. McElroy, Ms. Raffay, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Mr. Morytko

ABSENT: Three (3): Mayor Rubenstein, Mr. Serrilli, Mr. Smith

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 1, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

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Dated: 08/02/2024

Prepared by: Alyse Landano Hubbard, Esq.

{380233.DOC.1}7

CirellaZ03-2024
MF# 5000.102
7/19/24

ZONING REPORT

(August 2024 for activity during July 2024)

Zoning Activity

July

ZP Approved

22 (1 post resolution)

ZP Denied

1

ZP Not Required

1

ZP Var/Site Plan Waiver Compl.

0

ZP Change of Tenant Waiver

0

Investigation of Complaints

July

Property Maint./Zoning Complaints

Complaints Received

10

Open Cases

13

Cases Cleared

4

Summonses Issued

1

July

Signs removed from roadside

14



Nick Cutrone, Zoning and Code Enforcement Officer