

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, August 21 2025, 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 of the Byram Township Planning Board was given as required by the Open Public Meeting Act. A resolution indicating the time, date, and location of regular Board meetings for the year 2025 was forwarded to the Board's designated newspaper, and posted on the bulletin boards and main doors of the Municipal Building.
4. **FLAG SALUTE**
5. **MEETING MINUTES-** August 7, 2025
6. **RESOLUTIONS**
Z02-2025, Leah Lowrie, 79 Tamarack Road, Block 360 Lot 42.01, R2
Application for multiple structures on property and proposed generator slab

WOSP7-2025, Salt Gastropub, 109 Route 206, Block 70 Lot 9, VB Zone
Waiver of site plan application for site improvements
7. **DISCUSSION ITEM**
Z14-2024 Rupesh Patel (Kyosis LLC), 1 Catalina Drive, Block 337 Lot 9.14, R2 Zone
Application for new home construction
8. **NEW BUSINESS**
SP4-2025 Ionna EV (Wawa), 75 Route 206, Block 34 Lot 15, VB Zone
Application for EV charging stations in Wawa parking lot
9. **BILLS:** Harold Pellow (5): \$1,876 / Maraziti and Falcon (9): \$3,520.65
10. **REPORTS FROM COMMITTEES**
Environmental Commission
Open Space
Township Council
11. **OPEN TO THE PUBLIC**
12. **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.

MEETING MINTUES OF THE BYRAM TOWNSHIP PLANNING BOARD: August 7 2025

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

ROLL CALL:

Members Present: Mss. Raffay, Colligan, DeMagistris; Messrs. Mayor Rubenstein, Proctor, McElroy, Morytko, Chairman Shivas

Members Absent: Ms. Lewandowski, Messrs. Smith, Walsh

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

OPENING STATEMENT: Adequate notice of this meeting of the Byram Township Planning Board was given as required by the Open Public Meeting Act. A resolution indicating the time, date, and location of regular Board meetings for the year 2025 was forwarded to the Board's designated newspaper, and posted on the bulletin boards and main doors of the Municipal Building.

FLAG SALUTE: led by Chairman Shivas.

MINUTES: July 17, 2025

Motion of Mr. Proctor to approve the minutes, second of Mr. McElroy.

Ayes: Mss. Raffay, DeMagistris; Messrs. Mayor Rubenstein, Proctor, McElroy, Chairman Shivas

Abstaining: Ms. Colligan, Mr. Morytko

Absent: Ms. Lewandowski, Messrs. Smith, Walsh

None opposed. Motion carried.

RESOLUTIONS

Z07-2025, Anthony Castelluccio, 4 Sandys Road, Block 403 Lot 77, R4

Application for gable roof cover and house generator

Motion of Mr. Proctor to approve the resolution, second by Ms. DeMagistris.

Ayes: Mss. Raffay, DeMagistris; Messrs. Mayor Rubenstein, Proctor, McElroy, Chairman Shivas

Abstaining: Ms. Colligan, Mr. Morytko

Absent: Ms. Lewandowski, Messrs. Smith, Walsh

None opposed. Motion carried.

SP3-2025 Aqua New Jersey, Inc., Lynn Drive, Block 337.04 Lot 25.45, R3 Zone

Application for utility enclosure for PFAS water treatment equipment

Motion of Mr. Proctor to approve the resolution, second by Ms. DeMagistris.

Ayes: Mss. Raffay, DeMagistris; Messrs. Mayor Rubenstein, Proctor, McElroy, Chairman Shivas

Abstaining: Ms. Colligan, Mr. Morytko

Absent: Ms. Lewandowski, Messrs. Smith, Walsh

None opposed. Motion carried.

SP2-2023 Venture Two LLC, 11 and 13 State Route 206, Block 27 Lots 383, 384, 381.02, VB Zone

Motion of Mr. Proctor to approve the resolution, second by Ms. DeMagistris.

Ayes: Mss. Raffay, DeMagistris; Messrs. Mayor Rubenstein, Proctor, McElroy, Chairman Shivas

Abstaining: Ms. Colligan, Mr. Morytko

Absent: Ms. Lewandowski, Messrs. Smith, Walsh

None opposed. Motion carried.

SUBCOMMITTEE

WOSP7-2025, Salt Gastropub, 109 Route 206, Block 70 Lot 9, VB Zone

Waiver of site plan application for site improvements

Ms. Raffay said the Subcommittee feels it's appropriate to grant a site plan waiver with conditions, including: only interior renovations to the kitchen, bathrooms, and front door modifications to take place; the outdoor Covid seating is removed, bringing it back to the original site plan circulation; no exterior changes to the building; no expansion of the existing bar or additional seating; and to submit an updated architectural floor plan showing these conditions. Mayor Rubenstein asked what's not being approved. Ms. Raffay said on the architectural plan, there were some stair renovations and an expansion of the bar, which may change parking requirements. The ordinance says having a certain amount of seats means specific numbers for parking spots. They can open the restaurant with interior renovations, but expanding the seating or the bar, or adding in items not on the original site plan, may cause it to be a site plan. Mr. Stoner noted the bar expansion was on the original plan but not the updated one. The bar expansion would change the number of seats. The plans show the kitchen modification, the bathroom being moved, and the door changes. The exterior items would mean submitting a new site plan application. Ms. Raffay noted their decision was based on what constitutes a site plan waiver; any modification to the exterior of the building means they can't do a site plan waiver. Ms. Phillips confirmed Mr. Boyle, present in the audience, had no questions on the decision for his application.

Motion of Ms. Raffay to approve the application subject to the conditions discussed, second by Mr. McElroy.

Ayes: Mss. Raffay, Colligan, DeMagistris; Messrs. Mayor Rubenstein, McElroy, Morytko, Chairman Shivas

Abstaining: Mr. Proctor

Absent: Ms. Lewandowski, Messrs. Smith, Walsh

None opposed. Motion carried.

NEW BUSINESS

Z02-2025, Leah Lowrie, 79 Tamarack Road, Block 360 Lot 42.01, R2

Application for multiple structures on property and proposed generator slab

Leah Lowrie was sworn in as the applicant. She is looking for approval for existing structures, including an 8x6 greenhouse, 12x17 shed, 10x26 greenhouse, and 6 foot fencing that doesn't go past the side of the house. There is a proposed slab for an AC unit. Currently there is a stone driveway, and it's sloped and eroding. She wants to put in a retaining wall to fix it, and pave the existing driveway. Chairman Shivas said the wall can't be higher than 4 feet, otherwise it needs engineered plans. Ms. Lowrie brought a copy of the quote for the wall, that states it will be 75 feet long and 5 feet high. She mentioned Geogrid. Ms. Raffay noted that's a type of structure, but the design needs to be engineered. Ms. Lowrie said the wall will be at the end of the driveway. The original contractor put a bunch of boulders around, and it's eroding, and the driveway hasn't been resurfaced. Mr. Stoner said they travel down the asphalt driveway, and then there's a slope and a rock line. Ms. Lowrie noted she tried to plant shrubs to keep it from eroding. Mr. Stoner noted the wall isn't part of the variance application. Ms. Lowrie said it's not because she needed the quote, and she mentioned the driveway and side driveway. Ms. Raffay asked why the driveway needs to be that wide. Mr. Stoner noted if the driveway is wider than 13 feet it needs a variance. The driveway has two grades, one by the house and the other for the gravel driveway, which drops off

in grade down to the back shed. He imagines the wall will be along the asphalt driveway shown on the survey. Ms. Lowrie confirmed that it will be between the two. Mr. Stoner noted right now it's like a laid-up boulder wall that's between the paved and gravel areas. Ms. Lowrie said it's going to taper off to grade. Mr. Stoner noted this application is for after-the-fact items, done without approvals. He asked what brought Ms. Lowrie here. She said her husband was working with the Zoning Officer, Nick, and he wasn't responding to Nick. They ended up in Andover Court. Ms. Lowrie is not sure how Nick and her husband started discussing these issues. Chairman Shivas noted if they went to court, there must be a violation.

Ms. Raffay asked why the driveway needs to be widened. Ms. Lowrie said they can't turn any vehicles around in their driveway. They have a trailer they'd like to park on the property. The driveway that goes down has a double-fence at the end, so that's the only access to their back yard if they need to bring any dirt or gravel back there. For deliveries, they won't drive heavy vehicles unless it's paved. Ms. Lowrie said the design is a "u" so that it retains the driveway. Mr. Stoner asked her to mark up her survey to show the wall. Ms. Lowrie submitted Exhibit A1, a survey markup of the retaining wall. They don't know how wide the off-shoot is because the contractor has to figure out the wall, and whatever is left, it will go to the edge of the fence. Ms. Lowrie submitted Exhibit A2, the quote from the contractor with the description. Ms. Raffay confirmed it's going all the way to the property line. Mr. Stoner said he's including both driveways together because they're parallel; it's a wide driveway split in half by a wall.

Mr. Stoner reviewed his report and the variances needed for each structure. Mayor Rubenstein noted in code section 240:16B, it explains the setbacks for an accessory structure or building under 200 square feet. Ms. Lowrie noted the slab for the generator. It would be on the same side as the greenhouse, close to the chimney and AC unit. Her lot is so narrow they needed a variance to build the house to begin with. Ms. Phillips confirmed which structures need variances for distances to other accessory structures. Chairman Shivas asked how they have a greenhouse in the woods. Ms. Lowrie said the greenhouse in the back was put back there because they needed shade, and the one in the front needs full sunlight. Everything proposed is within the fence, and the fence is in their property line. When they moved in, they put in a 6 foot chain link fence. Mayor Rubenstein submitted Exhibit B1, a notice of violation from August 2024, for the accessory structures. Chairman Shivas noted Ms. Lowrie submitted a letter stating the accessory structures don't encompass 50% of the size of the house. Ms. Lowrie said that was an initial letter, but Mr. Stoner's memo was updated.

Mr. McElroy noted the right looks wooded, and the left is near the neighbor. He asked if the greenhouse near the property line could go somewhere else. Ms. Lowrie said they need full sunlight. The back yard has a lot of rock outcrops, mature trees, and grade changes. Mr. McElroy noted he's not sure about having the greenhouse, AC, and proposed generator on the side near the neighbor. Ms. Lowrie said the generator needs to go there because of where the connection is. Chairman Shivas asked if she discussed this with her neighbor. Ms. Lowrie said she talked to them about the variances for the existing structures. There didn't seem to be a problem. Ms. Hubbard said their driveway is next to her lot. Mayor Rubenstein confirmed the greenhouse has been there at least 10 years. Ms. Hubbard confirmed all the structures have been there about that long. Mayor Rubenstein noted she has an open construction permit from 2010, for gas piping for a stove and fireplace. She should close this out as part of this application.

Mr. Stoner noted she should get a zoning permit. The wall will need engineered designs and construction permits. He wants the plan to be updated to show the wall, and the survey should say the driveway will be paved. Any gravel off the property line should be removed. He needs to see the property lines so when he goes out to do an inspection, he can make sure everything stays within the property. Ms. Raffay confirmed she can draw the wall and driveway information on the survey rather than have the surveying company do it. Mr. Stoner said he needs a copy of the plan that shows: where the wall is going to be located, that the driveway is going to be paved, the gravel going over the neighbor's property will be removed, and the location of the generator pad. He recommends submitting one zoning permit that includes the wall and the driveway paving, as well as the fence. Mr. Stoner noted when this application started, he looked at aerial maps, which showed vehicles and trailers on a neighbor's property. Ms. Lowrie said those are gone. Mr. Stoner confirmed that won't happen again. Ms. Lowrie said that was from her husband. He put up a structure and put his car there. Mayor Rubenstein noted that property is the New Jersey Conservation Foundation, and it's state land. Mr. Morytko said this is preserved Open Space. Chairman Shivas and Mr. Stoner explained what the next steps would be. Mr. Stoner wants the revised plan before the driveway is done. Chairman Shivas recommended she have the contractor mark up the plan, since they'll be doing the work. He noted the markup needs to be accurate. Mr. Stoner said she should get a zoning permit for the driveway, retaining wall, fencing, and the generator pad as one permit application. Mayor Rubenstein and Mr. Stoner explained the purpose of zoning permits.

Mr. Morytko asked about the driveway. Mayor Rubenstein noted part of it will split and dive down. Mr. Morytko asked if there should be a barrier at the taller height, for safety. Ms. Lowrie noted there will be a chain link fence. Ms. Raffay noted that may be a building code consideration. Mr. Proctor asked about the fencing and if it'll be on the retaining wall. Chairman Shivas noted the wall would need to be engineered if over 4 feet because they need to make sure it's not going to fall over. Mr. Stoner said the Construction Official may ask for something to make sure nothing falls off the side. They may need a guiderail.

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

Motion of Ms. Raffay to approve the application subject to the revisions to the plan being submitted, showing the changes to the gravel driveway to be paved, any portion of the driveway over the property line being removed, and the location of the wall and generator pad. Ms. Hubbard added zoning permits being filed, a variance for the driveway, engineered plans and construction permits for the wall, and updating the plans. Mr. Stoner noted the plans and permits may be decided through the Construction Official. Ms. Lowrie added the accurate, hand-drawn plans. Second by Mr. Proctor.

Ayes: Mss. Raffay, Colligan, DeMagistris; Messrs. Mayor Rubenstein, Proctor, McElroy, Morytko, Chairman Shivas

Absent: Ms. Lewandowski, Messrs. Smith, Walsh

None opposed. Motion carried. Ms. Hubbard explained the appeal period. Mr. Stoner recommended that she doesn't pave the driveway until the wall issue is addressed. He needs to do an inspection. The contractor should reach out to him before they pave.

SP4-2025 Ionna EV (Wawa), 75 Route 206, Block 34 Lot 15, VB Zone

Application for EV charging stations in Wawa parking lot

Chairman Shivas noted they have asked to be carried to 08/21. Mayor Rubenstein asked how this is a use variance. Ms. Hubbard said originally it was not a permitted use. When they went to the DEP, they had to come back to the Board to make changes to the site, and they did that as an amended use variance. Mr. Bloch's position was that they're coming back again and moving the EV from one side to another, and they proposed two stalls with one system, and now they're doing five with ten stalls. Site suitability is part of the use of the site, so they need to prove that it's still suitable for the use. Mr. Stoner noted they're modifying the approval. Ms. Hubbard noted during testimony they will need to explain how the changes don't impact the use. She added that the noticing had issues, and they didn't have an attorney at first. The attorney then said they'd like to correct the notice and carry the hearing. Motion of Mr. Proctor to carry the application with notice, second by Mr. McElroy.

Ayes: Mss. Raffay, Colligan, DeMagistris; Messrs. Mayor Rubenstein, Proctor, McElroy, Morytko, Chairman Shivas

Abstaining: Ms. Colligan

Absent: Ms. Lewandowski, Messrs. Smith, Walsh

None opposed. Motion carried. Ms. Phillips asked that the Board members let her know if they are not available. Ms. Colligan is recusing and Mr. Proctor and Mayor Rubenstein can't vote. Mr. McElroy is not available.

BILLS: Colliers (1): \$1,260.00. A motion to approve the bills was made by Mayor Rubenstein, seconded by Mr. Morytko. All were in favor. Motion carried.

REPORTS FROM COMMITTEES

Environmental Commission- Mr. McElroy said they met last week. There is someone coming to a Council meeting to discuss the controlled burn application. Mayor Rubenstein noted it's the forest fire service. Mr. McElroy said they discussed the riparian buffer ordinance, and Mr. Dlugos is coming to the next Council meeting. If anyone is interested in being a Byram Trail Keeper, they're doing an event to review invasive species. There is a Waterloo hike on 09/14.

Open Space- Mr. Morytko said their meeting is on Monday.

Township Council- Mayor Rubenstein said they didn't have a meeting due to vacations. They will meet next week.

OPEN TO THE PUBLIC

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

Ms. Hubbard noted Mr. Patel has withdrawn his application.

ADJOURNMENT

A motion to adjourn the meeting was made at 8:55 pm by Mr. McElroy, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Anthony Castelluccio
Case No. Z07-2025
MF#5000.137

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

**RELIEF GRANTED
FOR ACCESSORY STRUCTURE:**

**Side Yard Setback
Rear Yard Setback
Size of Structure
Distance to Principal Structure**

WHEREAS, Anthony Castelluccio has applied to the Planning Board of Township of Byram seeking approval to construct an accessory structure for premises located at 4 Sandys Road, and known as Block 403, Lot 77 on the Tax Map of the Township of Byram which premises are in the “R-4” 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 construct a boat house on the subject property, requiring variance

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

- a. Section 240-16B(3) – Maximum size of an accessory structure: 400 square feet permitted, 416 square feet proposed.
 - b. Section 240-16(5) – Minimum side yard setback: 15 feet required, 2 feet proposed.
 - c. Section 240-16(5) – Minimum rear yard setback: 40 feet required, 8 feet proposed.
2. The Applicant submitted the following documents along with an Application for a Variance:
- a. Location Survey, prepared by Alan A. Lamoureux, L.S., undated.
 - b. Tax Map, prepared by Harold E. Pellow, PE, LS, dated June 2006, Sheet 7.06.
 - c. Architectural Drawings, hand sketched by the Applicant, two (2) sheets, undated.
 - d. Pictures of the property, taken by the Applicant, six (6) total, undated.
3. The Board received a memorandum from Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated June 19, 2025.
4. A duly noticed public hearing was conducted on July 17, 2025, at which time Anthony Castelluccio, the Applicant, presented sworn testimony in support of the application. The subject property is an oddly shaped lot, which slopes down from Sandy's Road and is level where the house and shed are located. The rear of

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the property is wooded. The lot is improved with a one and a half (1½) story frame dwelling, with a rear deck, driveway and shed.

5. The Applicant is proposing to construct a 16'x26' roof structure, which will be approximately 13 feet in height, to protect his 20' fishing boat from weather. The structure will be 416 square feet, where only 400 square feet is permitted, requiring a variance. The structure will be constructed with 6"x6" posts, cross beams and a gabled roof. The proposed structure will be set back 2 feet from the side yard, where 15 feet is required, and 8 feet from the rear yard, where 40 feet is required, requiring variance relief. The setbacks are measured from the roof overhang. The ground underneath the roof structure will be comprised of gravel, which will extend to the existing driveway.
6. The Board determined that an additional variance was required as the accessory structure will be 7 feet from the principal structure, where 10 feet is required. A discussion ensued regarding alternate locations for the structure, which would mitigate or eliminate the variances. Constructing the boat house 3 feet further away from the home would result in a 5-foot rear yard setback, where 40 feet is required. (it should be noted that the setback is measured from the jog in the lot line and not the furthest distance from the home.) If the structure was constructed behind the home, it would be difficult to maneuver the boat into the structure. There is no access from the roadway on the opposite side of the rear yard. The Applicant decided to amend the application to seek a variance from Section 240-16B.(1), distance between a principal and accessory structure.

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7. There is no storage proposed in the “second story” of the structure (under the roof), but the Applicant suggested that he may install hooks to hang life jackets, etc., to dry.
8. The neighboring property is at a higher elevation than the subject lot, and will not be impacted by the structure. Runoff from neighboring lots currently flows onto the subject property and into the rear portion of the lot.
9. The Applicant testified that the septic field is located in the front yard of the property and there is an existing shed in the rear yard that will remain. There is a tree house in the pictures of the property that were submitted by the Applicant, who testified that most of the house has already been removed and that he will be removing the remaining platform and the Ash Tree.
10. The property is located within the Highlands Preservation Area and the proposed improvements can be accomplished under Highlands Exemption #5, which permits the construction of various improvements to a single-family dwelling, including the construction of an accessory structure.
11. The Applicant testified that he spoke with his immediate neighbor, as well as 11 residents within 200 feet of the property, and no one had any concerns regarding the application. No one from the public was in attendance at this 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:

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1. The Board found the witness testimony to be competent and credible. The Board determined that the relief can be granted, pursuant to N.J.S.A. 40:55D-70c, from the following Sections of the municipal zoning ordinance:
 - a. Section 240-16B(1) – Minimum distance between principal structure and accessory structure: 10 feet is required, 7 feet is approved.
 - b. Section 240-16B(3) – Maximum size of an accessory structure: 400 square feet permitted, 416 square feet approved.
 - c. Section 240-16(5) – Minimum side yard setback: 15 feet required, 2 feet approved.
 - d. Section 240-16(5) – Minimum rear yard setback: 40 feet required, 8 feet 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 a uniquely shaped lot, with an irregular rear lot line, that is sloped from the right-of-way to the rear of the property. The portion of the property where the home is located is level, and the rear of the property is

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wooded. The existing conditions create a hardship for the Applicant to construct a conforming accessory structure to protect the fishing boat. The proposed location is the only logical place to construct the roof structure, which is accessible from the driveway. Due to the shape of the lot, the Applicant requires relief for side and rear yard setbacks. The boat house is being constructed in the location where the Applicant often parks the boat, and is large enough to house the boat with easy maneuverability.

4. Additionally, relief can be granted pursuant to c(2), as the location of the boat, which requires a variance for distance between an accessory and principal structure, is the best location on the property. The Board weighed the need for a variance versus the potential impact to the neighbors and determine that granting the variance would be the better option.
5. Finally, the Board determined that permitting deviations from the zoning regulations would not result in a substantial detriment to the surrounding area, as the subject property sits at a lower elevation than the surrounding lots and will not impact the neighbors. The proposal is not inconsistent with the Master Plan and the Zoning Scheme, as this property is unique due to the shape and configuration of the lot.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 17th day of July, 2025, that the approval of the within application be granted subject, however, to the following conditions:


1. The Applicants shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicants shall be subject to all

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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 Applicants shall be bound to comply with the representations made before this Board by the Applicants, 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. Applicant shall pay 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 permits and approvals from the Township's Construction and Zoning Department prior to the commencement of work.
6. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
7. The two open construction permits shall be closed out prior to the issuance of new construction permits.
8. The height of the structure shall not exceed 13 feet.
9. Stormwater runoff shall be maintained on the property, continuing the current drainage pattern, and not direct onto an adjacent lot.

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George Shivas

On motion of: Mr. Proctor

Seconded by: Ms. DeMagistris

The vote on the Resolution was as follows:

AYES: Six (6): Mayor Rubenstein, Mr. Proctor, Mr. McElroy, Ms. Raffay, Ms. DeMagistris, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mr. Morytko, Ms. Colligan

ABSENT: Three (3): Mr. Smith, Mr. Walsh, Ms. Lewandowski

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 8, 2025.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 08/08/2025

Prepared by: Alyse Landano Hubbard, Esq.

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In the matter of Aqua New Jersey, Inc.
Case No. SP3-2025
MF#5000.130

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: Conditional Use

WHEREAS, Aqua New Jersey, Inc. has applied to the Planning Board of Township of Byram seeking Conditional Use, along with Amended Preliminary and Final Site Plan approval to construct a utility enclosure for premises located on Lynn Drive, and known as Block 337.04, Lot 25.45 on the Tax Map of the Township of Byram which premises are in the “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. Richard Wells, Esquire, represented the Applicant.
2. The Applicant is a utility company, with easement rights to the subject property.

The Applicant is proposing to construct a utility enclosure to house a treatment

facility, requiring Conditional Use Approval, as set forth in Section 240-13 of the Township's Zoning Ordinance, which states:

Public utilities and public or institutional uses, such as schools teaching academic subjects, hospitals, churches and federal, state, county or municipal buildings used for public purposes, may be located in any of the residential zones if permitted by the Planning Board as conditional uses, pursuant to N.J.S.A. 40:55D-67. However, before a building permit or certificate of occupancy is issued, application for site plan approval or waiver thereof shall be made to the Planning Board which, after a hearing, may authorize the issuance of such permit or certificate if, in the Board's judgment, the structure or use will not be detrimental to the health, safety and general welfare of the community and is reasonably necessary for the convenience of the community.

3. The Applicant submitted the following documents, along with the Land Development List and Checklists:
 - a. Preliminary and Final Site Plan, prepared by H2M Architects and Engineers, Inc., dated April 23, 2025, consisting of four (4) sheets.
 - b. Topography Survey, prepared by DMC Associates, Inc., dated June 24, 2024, revised August 28, 2024, consisting of three (3) sheets.
 - c. Well #2 Distribution Map prepared by Aqua New Jersey, Inc., as of June 2025.
 - d. Upper Delaware Conservation District, Non-Applicability Determination, dated April 29, 2025.
 - e. Application for Highlands Applicability Determination (Exemption Approval No. 11), prepared by H2M Architects & Engineers, dated March 10, 2025.
 - f. New Jersey Highlands Water Protection and Planning Council, Highlands Applicability Determination, dated March 19, 2025.

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- g. New Jersey Department of Environmental Protection, Highlands Applicability Determination (Water Quality Management Plan), dated May 8, 2025.
 - h. Legal Notification for the Highlands Applicability Determination, dated March 10, 2025.
 - i. Existing Conditions Site Photos, as of April 2025, consisting of four (4) total.
 - j. W-9 and related Sub Account Request Form for Aqua New Jersey Inc. with Fulton Bank, dated April 25, 2025.
 - k. Corporate Disclosure Information Statement, undated.
4. The Board received the following memorandum:
- a. Cory L. Stoner, P.E., P.P., of Harrold Pellow Associates, the Planning Board Engineer, dated June 2, 2025.
 - b. Daniel N. Bloch, PP, AICP, EADA, of Colliers Engineering and Design, dated July 11, 2025.
 - c. Exempt Site Plan Letter from the Sussex County Division of Planning & Economic Development., dated May 6, 2025.
5. The improvements related to the water system are within an easement area, located on the subject property that is owned by the Forest West Homeowners Association, who did not consent to the application. The Applicant must provide the Board with documentation of the Property Owner's Consent to the within application.
6. The Applicant submitted pre-marked Exhibits:
- a. A-1 - Witness and Exhibit List
 - b. A-2 – Byram Well #2 Distribution Map

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- c. A-3 – Aerial Photograph of Site
 - d. A-4 – Existing Conditions Plan (Sheet V 100.00)
 - e. A-5 – Proposed Improvement Plan (Sheet C 100.00)
 - f. A-6 – Photograph of Existing Well House
 - g. A-7 – Utility Enclosure (Excerpt from Sheet C 500.00)
 - h. A-8.1 – Photographs of Existing Frontage – East
 - i. A-8.2 – Photographs of Existing Frontage - Driveway
 - j. A-8.3 – Photographs of Existing Frontage - West
7. A duly noticed public hearing was conducted on July 17, 2024, at which time Elias Bachash, the Engineering Manager for Aqua New Jersey, and Richard B. Schommer, Jr. PE, PP, of H2M Architects & Engineers, Inc., who was accepted as an expert, presented sworn testimony in support of the application.
8. The subject property is a 4.2 acre, “U” shaped lot, with two (2) separate frontages on Lynn Drive, and five (5) residential lots that are surrounded by the property. The property contains two easements, with access from Lynn Drive, one on each frontage. Well #2, the well house, the pump and treatment center, and the distribution facilities are located on the eastern side of the property. The water tower and a one-story shed are located on the western side of the property. The water system services the Forest West community and was constructed as part of the original subdivision. The Forest West Homeowners Association and the related water company were formed and operated the water system until it was purchased in 2016 by Aqua New Jersey Inc. Aqua has made no site improvements since the purchase of the property.

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9. The water system facilities in not manned, it is monitored remotely, with an operator that visits the site once a day, in a small pick-up truck. The operations are a regulated public water utility, which is overseen by the United States Environmental Protection Agency and the New Jersey Department of Environmental Protection (“DEP”). Pursuant to DEP regulations, the PFAS (per- and polyfluoroalkyl substances) concentration levels in the waters system exceed the acceptable amount and a PFAS filtration system must be installed by 2029 for compliance with the DEP.
10. The Applicant is now proposing to install a pre-fabricated utility enclosure on the eastern side of the property which will house a water treatment facility. The enclosure will be 7.5’ x 11.5’ x 9.5’ high and will be constructed on the existing pavement at the end of the driveway. A wall mounted light fixture is proposed above the door to the enclosure. The area is well vegetated and the vegetation will remain, with no tree removal being required. There are no variances required and there will be no increase in impervious coverage, no change in the grading or runoff, and no new access from Lynn Drive is required.
11. The water flows into the Ion Exchange System, is filtered, and flows out of the system, without any backwash. The system does not produce noise, vibrations or chemicals. The system is fully sealed, as required, and the filters are changed once a year. The system will be located in an industry standard enclosure, that will be locked and accessible from the top. The equipment is sized based on the capacity of the well it is serving and designed based on the flow and hydraulics of the system. A new water line is proposed from the well house to the street to provide

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- enough contact time for the chlorine to stay in contact with the water before it reaches the residential homes. The water system should be running in a year.
12. The enclosure will only be visible from Lynn Drive looking directly up the driveway, as the site is heavily wooded and the enclosure will be located 78.7 feet from the Lynn Drive right-of-way. The location of the enclosure was chosen for accessibility to service the system and will have minimal impacts on the site and the area.
 13. A portion of the property is located within the wetlands transition area, but no work is proposed in that portion of the site. Permits from the DEP are not required for the construction of the treatment systems and related enclosure.
 14. The property is located within the Highlands Preservation Area and the proposed improvements can be accomplished under Highlands Exemption #11, as the project is considered Not Addressed in the Water Quality Management Planning Rules.
 15. The Applicant also received exemptions from the Sussex County Planning Board and the Upper Delaware Soil Conservation District.
 16. It was noted that there is an encroachment of the fence on western side of the property onto the adjacent lot. The Board takes no action regarding same.
 17. Well #1 was also tested and is compliant with the PFAS regulations. If it is determined the PFAS concentrations exceed the limits, the Applicant will have to comply with the DEP regulations and return to the Board for approval.
 18. The fire flows and fire hydrants are tested regularly for sufficient water pressure.

19. The system, as approved with the original subdivision, was designed as a closed loop, but the Distribution Map indicated that there was a gap in the loop.
20. At the request of the Board, the Applicant agreed to utilize a green enclosure instead of the brown that was proposed with the application.
21. No one from the public was in attendance at this hearing.

WHEREAS, the Board has determined that the application is consistent with the conditional use requirements in the Zone Plan and Zoning Ordinance of the Township of Byram and that neither the structure nor the use will be detrimental to the health, safety or general welfare on the community and is reasonably necessary for the convenience of the community for the following reasons:

1. The Board found the witness testimony to be competent and credible. The Board determined that site plan approval can be granted pursuant to N.J.S.A. 40:55D-67 and Section 240-13 of the municipal zoning ordinance. The proposed structure will house the PFAS treatment facility that will treat the water that is distributed to the residents in the Forest West community.
2. There are no variances needed for the proposed structure, which will have limited visibility from the road. The Applicant agreed to change the color of the structure to green, at the Board's request, and add landscaping for additional screening.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 17th day of July 2025 that the approval of the within application be granted subject, however, to the following conditions:

1. Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. Applicant shall be subject to all other

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applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.

2. Applicant shall be bound to comply with the representations made before this Board by the Applicants, 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. Applicant shall pay 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 permits and approvals from the Township's Construction and Zoning Department prior to the commencement of work.
6. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
7. Applicant shall submit an Affidavit of Ownership to the Board as part of Resolution Compliance, prior to the issuance of zoning or construction permits.
8. Applicant shall repave the driveway after construction has been completed, prior to the issuance of a Final Certificate of Occupancy.
9. Applicant shall close the open electrical permit prior to obtaining zoning or construction permits.

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10. Applicant shall submit the Resolution of Approval permitting the construction of the conditional use on the property to the Board Engineer and Attorney prior to the issuance of permits.
11. Applicant shall submit documentation regarding the approved “closed loop” system and demonstrate compliance with the Subdivision Approval, subject to the review and approval of the Board Engineer.
12. The proposed enclosure shall be forest green, at the request of the Board.
13. Applicant shall plant additional shrubbery, including an evergreen tree, 8-10 feet in height, to the southwest of the proposed structure to provide a visual buffer. The landscaping shall be subject to the review and approval of the Board Engineer and/or Planner.
14. A Byram Township Street Excavation Permit shall be obtained for the work proposed within Lynn Drive.


George Shivas

On motion of: Mr. Proctor

Seconded by: Ms. DeMagistris

The vote on the Resolution was as follows:

AYES: Six (6): Mayor Rubenstein, Mr. Proctor, Mr. McElroy, Ms. Raffay, Ms. DeMagistris, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mr. Morytko, Ms. Colligan

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ABSENT: Three (3): Mr. Smith, Mr. Walsh, Ms. Lewandowski

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 7, 2025.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 08/08/2025

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Venture Two LLC (Extension)
Case No. Z23-133
MF 5000-044

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Extension of Preliminary and Final Site
Plan, and Variance Relief**

WHEREAS, Venture Two, LLC applied to the Planning Board of the Township of Byram for Preliminary and Final Site Plan, along with conditional use and bulk variance relief for the premises located at 11 Route 206 and known as Block 27, Lot 383 on the Tax Map of the Township of Byram which premises are in a “VB” Village Business 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 Applicants and having conducted a public hearing the subject application was approved; and

WHEREAS, based on the foregoing, the Board was requested to revisit the subject approval:

1. The Applicant is the owner of the subject property, and received Planning Board Approval to construct a mixed-use building, with commercial uses on the first floor and eleven (11) residential apartments on the first and second floor, requiring conditional use variance relief from Section 240-63 of the Township's Zoning Ordinance to exceed the residential density permitted on the property, as well as construct residential units on the first floor.
2. APEP, Inc. is the owner of Block 27, Lot 381.02, 13 Route 206, which is a fully developed mixed use of retail and residential. Anthony Reis is an owner of both Venture Two and APEP, which will ultimately develop the two lots with cross access and common amenities.
3. Venture Two and APEP received Amended Preliminary and Final Site Plan, with the conditional use approval, on August 3, 2023, memorialized in a Resolution dated September 7, 2023, and published in the New Jersey Herald on September 13, 2023. As part of the 2023 Amended approval, the Applicants proposed to change the commercial uses on each site, which required the renovation of the first floor of the existing structure to accommodate a restaurant.
4. Section 45-23 of the Township's Ordinances provides that any variance granted that permits the creation or alteration of a structure shall expire unless construction has commenced within one year from the date of publication of the resolution.

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5. N.J.S.A. 40:55D-52 provides protections from changes in zoning for Final Site Plan Approval for a period of two (2) years after the date of the resolution.
6. Via a letter from John P. Gallina, Esq., legal counsel for Venture Two, dated June 16, 2025, the Applicant requested an extension of the approval, stating that they are unable to complete the construction in the allotted time frame and that the Applicant plans to start construction in Spring of 2026.
7. At the Board meeting on July 17, 2025, Mr. Gallina and Mr. Reis appeared and explained to the Board that the Applicant has received Title 39 Approval, prepared the required Affordable Housing Restrictions, and recorded the Cross Access Easements, as well as installed new curbs, sidewalks, and repaved the parking lot in furtherance of resolution compliance.
8. Mr. Reis further testified that the restaurant renovations are almost complete, with the plan of opening this fall. Once the restaurant is open, the Applicant can then obtain the financing to construct the improvements on Lot 383.
9. Accordingly, the Applicants have requested a one-year extension of said approvals.

WHEREAS, the Board determined that, based on the information provided, the Variance Approval shall expire on September 13, 2025, and the Final Site Plan Approval shall expire on September 7, 2025 and the Applicants are entitled to a one-year extension of the subject approvals to commence construction per the applicable law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 17th day of July, 2025 that the variance approvals, as stated

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herein, shall be extended for a period of one year from the date of the publication of the Resolution, to September 13, 2026.



George Shivas

On motion of: Mr. Proctor

Seconded by: Ms. DeMagistris

The vote on the Resolution was as follows:

AYES: Six (6): Mayor Rubenstein, Mr. Proctor, Mr. McElroy, Ms. Raffay, Ms. DeMagistris, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mr. Morytko, Ms. Colligan

ABSENT: Three (3): Mr. Smith, Mr. Walsh, Ms. Lewandowski

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 7, 2025 and is in effect for one year.

Caitlin Phillips

Caitlin Phillips, Planning Board

Secretary

Dated: 08/08/2025

Prepared by: Alyse Landano Hubbard, Esq.

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Byram Township Planning Board Bills		
August 21 2025		
Harold Pellow	Date	Amount
Inv. 83656 Carkhuff: plan review, meeting, report	08.04.2025	\$ 943.50
Inv. 83661 Lowrie: report	08.04.2025	\$ 145.00
Inv. 83662 Heineman: meeting	08.04.2025	\$ 72.50
Inv. 836623 Aqua: meeting preparation, meeting	08.04.2025	\$ 145.00
Inv. 83665 Castelluccio: plan review	08.04.2025	\$ 570.00
Harold Pellow Total		\$1,876.00
Maraziti and Falcon	Date	Amount
Inv. 60014 Wawa/Ionna: review, attendance, communications	08.07.2025	\$ 350.00
Inv. 60006 Carkhuff: resolution, review	08.07.2025	\$ 875.00
Inv. 60008 Venture II: review, communications, resolution	08.07.2025	\$ 385.00
Inv. 60010 Salt: review	08.07.2025	\$ 87.50
Inv. 60009 Scully: review, resolution	08.07.2025	\$ 262.50
Inv. 60007 Tomahawk Lake:review, attendance	08.07.2025	\$ 105.00
Inv. 60011 Aqua: review, attendance, resolution	08.07.2025	\$ 1,032.50
Inv. 60012 Lowrie: review	08.07.2025	\$ 55.65
Inv. 60013 Castelluccio: review, attendance, resolution, communications	08.07.2025	\$ 367.50
Maraziti and Falcon Total		\$3,520.65
Colliers	Date	Amount
Colliers Total		\$ -
Grant Total		\$5,396.65