

MEETING MINUTES
THE BYRAM TOWNSHIP PLANNING BOARD
AUGUST 3, 2017

CALL TO ORDER

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

ROLL CALL

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
HERE		H	H		H	H	H		H	H
ABSENT										
EXCUSED	EA			EA				EA		
LATE										

Also present: Attorney Kurt Senesky
 Engineer Cory Stoner
 Secretary Cheryl White

STATEMENT BY CLERK

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

FLAG SALUTE led by Chairman Shivas

MINUTES

Approval of the July 6, 2017 Meeting Minutes

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

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

Motion carried.

Approval of the July 20, 2017 meeting minutes.

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

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

Motion carried.

RESOLUTIONS

Z07-2017, James and Donna O'Donohue, 5 Meteor Trail, Block 171 Lot 1, R-5 Zone

To request an amendment to a condition of the approved resolution obtained on June 15, 2017

A motion was made by Mr. Kaufhold to approve the resolution as written. Mr. Chozick pointed out the date of the vote was incorrect, the Board secretary will correct. Mr. Kaufhold amended his motion. The motion was seconded by Mr. Morytko. There was no further discussion. The following vote was taken:

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

Motion carried.

NEW BUSINESS

Z11-2017, Darren Daniel, Block 185, Lot 12.02, 5 Laurel Cove Road, R-5 Zone

To exceed permitted height more than 10%, to exceed the permitted façade height, to exceed number of stories allowed, and to exceed building coverage to construct a 404 sq. ft. addition to a single family dwelling.

A motion was made by Mr. Kaufhold, the motion was second by Mr. Morytko to approve the resolution as presented. There was no further discussion. The following vote was taken:

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

Motion carried.

NEW BUSINESS

Alex Rubenstein, Block 234 Lots 1.04, (3 Partridge Road) and Lot 1.05 (1 Partridge Road) and Block 364 Lot 8 (14 Reis Avenue), R-2 Zone.

Variance to erect a 2,400 sq. ft. garage in the front yard, the purchase a portion of Block 364 Lot 8, proposal of a lot line adjustment, and a request to amend the delineation of conservation easements.

Mr. Michael Selvaggi from Lavery, Selvaggi, Abromitis & Cohen, P.C. representing the owner and applicant, Mr. Alex Rubenstein began by saying Mr. Rubenstein's application was filed almost two years ago but required the applicant to file a petition to the Municipality for approval of the relocation of conservation easements, and to purchase a 19.55 portion of a 279 acre parcel owned by Lake Lackawanna Investment Corporation. The petition was necessary because the Township is currently a co-signer on the loan held by the LLIC. Mr. Senesky has some questions relative to the township's involvement so Mr. Rubenstein was sworn in and explained that in 2010 a loan was secured through DEP funding to dredge Lake Lackawanna and the Township was required as a third party guarantor to the loan. Mr. Rubenstein said that an agreement in January, 2017 was made with the Township, the LLIC, and Mr. Rubenstein consenting to the filing of this application, and if a portion of the LLIC property is transferred to the Rubenstein's that this loan will be paid in full and the Township will be released of any obligation of the loan.

Mr. Selvaggi introduced Mr. Dennis Keenan from French and Parrello Associates. Mr. Keenan provided his education and experience, and the Board accepts Mr. Keenan as an expert in his field. Mr. Keenan presented Exhibit A1, *Sheet 1 of 7* of the submitted plan and gave an overall review of the original subdivision. Mr. Keenan said that Mr. Rubenstein's house Lot 1.04 is 2.40 acres of which 1.74 consist of a conservation easement, adding that all five lots have conservation easements that restrict use and development. He added that Mr. Rubenstein also owns lot 1.05, and proposes to merge lots 1.04 & 1.05 together and construct a 2,400 sq. ft. accessory structure. If approval is granted and the lots are merged, and a lot line adjustment is granted Mr. Rubenstein's property will be a total of 29.90 acres, of which 9.01 acres will consist of conversation easements. Mr. Rubenstein would then like to relocate the conservation easements located on his property which will cover a total area of 10.03 acres, which will be a net increase of 1 acre of conserved land. The LLIC property will be reduced to a total of 259 acres.

Mr. Keenan review the variances sought with this application:

- Size of proposed accessory structure exceeds size allowed.
- Accessory structure in the front yard.
- Height of accessory structure exceeds permitted height.
- Disturbance of steep slopes.
- Number of garage spaces allowed.

Mr. Keenan said the size of Mr. Rubenstein's property supports a structure of this size. He added that Mr. Rubenstein's use of the structure will be strictly for personal use to store ATV's, a tractor, and other work equipment. It will not be use as living space or for commercial/business use. He added that the property is well screened by trees and will not have a negative impact to the public. Mr. Selvaggi added that the accessory structure will not require a septic or well which will reduce lot disturbance and will not be a burden to the township or school services since it will not be developed as a residential lot.

Mr. Keenan reviewed the current easement delineations saying that on Mr. Rubenstein's house lot, which is surrounded by the heavily restricted easement, limits his use and enjoyment of his property. He reviewed the proposed relocated easements saying that the current easements limit access to his land, and the relocation of the easements will provide access and better utilization of his land. There was a lengthy discussion about the original intent of the easements, how and why they were delineated in the areas they are. Mr. Senesky was concerned that the easements were put in place for a reason and relocating them may cause issues for other lots. Mr. Morytko believed that the already protected wetlands, where a relocated conservation easement is proposed, would serve no purpose because wetlands are already protected and added that that these easements were in place when Mr. Rubenstein purchased the property. Mr. Chozick pointed out he's asking for easements to be moved where wetlands and slopes are already protected, and a parcel that cannot be developed because of Highlands limitations. Mr. Chozick shared Mr. Morytko concerns.

Mr. Selvaggi stated that Lots 1.04 & 1.05 is not developable, due to steep slopes, 150 ft. wetlands, and a 300 ft. riparian buffer. He added that if this application were approved and the lots merged, the lot overage would exceed what is permitted by ordinance today and Mr. Rubenstein would have to return to the Board if he wishes further development. Mr. Chozick asked the intent of the land that is being removed from the easements. Mr. Walsh believed whether the land is in a conservation easement or not there is little that can be done with the land. He asked Mr. Rubenstein what the relocation of easements would allow him to do that he cannot do today. Mr. Rubenstein said at this time he has no intentions for the land but said he recently renovated his pool area and added some landscaping and had to be careful he did not disturb the easement area. He added that easement is so close to the house, in some cases 20 ft. off the front porch, and 3 ft. from the house at the southwest corner of the easement. Mr. Rubenstein said at this time the true intent is to loosen up the restrictions, and enjoy their land more freely.

Mr. Stoner said he believes that the reason the easements were delineated in such a way is because at the time the area of total disturbance of the lot was limited to 30,000 sq. ft., and it appears they carved out 30,000 sq. ft. for the area of disturbance based on what the code allowed, and then put the easements around that area. He said now the code says 50% of the lot, or 40,000 sq. ft of lot disturbance. Mr. Stoner added that since there are no engineering reports to substantiate this, it is only a guess. He added that he is not saying these areas are not critical. Chairman Shivas believed at the time the Environmental Commission had a big part of where the easements should be. Ms. Segal asked Mr. Rubenstein why he was proposing two easements on each side of his property, and not contiguous easements. Mr. Rubenstein said it would allow him the best utilization of his property. The Environmental Commission shared Ms. Segal's concern that they would like to see the conservation easement contiguous. Ms. Segal asked what the land consisted of; Mr. Rubenstein said it is heavily wooded and rocky terrain. The Board understood Mr. Rubenstein's desire to have the easements relocated that directly impacted the use around his home, however had concerns on the other easements being relocated and the impact that may have. The proposed easement on the property that abuts Block 237 Lots 517, 515, 513 would provide a buffer for the neighbors, and for the most part the Board was okay with that easement, however the Board had some concerns with the easement proposed that abuts Block 364 Lot 8.

The Board proposed some changes to the proposed easement proposed abutting Block 364 Lot 8. Mr. Rubenstein agreed with the recommendation and will return with an amended plan.

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

Mr. Keenan reviewed the accessory structure saying that the face of the structure will face the residence and will have a 14' X 10' overhang door and on the right side of the building an overhang to protect vehicles that may be parked there. He added that since Lot 1.05 was originally intended for a home the driveway will not be necessary and Mr. Rubenstein intends on tying the driveway for the accessory structure into his current asphalt driveway, which will be the only vehicle access to the accessory structure. Mr Rubenstein said it will be used for storage, not living space; it will not have a septic or water but will have electric. He reviewed the architectural drawing saying the structure will have a concrete floor, an open floor plan; a second story which will be used for storage will have open trussed ceiling and a plywood floor. He said he proposes recessed lighting under the overhang and a flood light in the front, which if the Board prefers, a timer can be installed. Mr. Rubenstein did indicate that the land he is purchasing is currently under Farmland Assessment, which if this application is approved Mr. Rubenstein intends on continuing, but said the accessory structure will not be used in connection with any farming activity. The Board did say that Cory will have to inspect the height of the structure during construction. Mr. Rubenstein agreed. Mr. Rubenstein added that he has an

approved soil erosion plan, and said that the structure will have gutters and run off will be directed to a stoned lined channel which will tie into the existing drainage channel.

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

A motion to carry this application to August 17, 2017 was made by Ms. Segal. The motion was seconded by Mr. Mortyko. The following vote was taken:

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

Motion carried.

REPORTS FROM COMMITTEES

Township Council – No representative present at meeting.

Environmental Commission – Ms. Shimamoto said they reviewed the Lake Mohawk County Club application and provided comment.

Open Space – Meeting next month.

Architectural Review Committee – No meeting was held.

Board of Health – Ms. Segal said they reviewed an application for Byram Day Spa to be located at the former location of Byram Medical. Further details need to be provided before BOH approval.

BILLS

Harold Pellow & Associates, Inc. (8 bills) \$1,813.85

A motion to approve Mr. Stoner’s bills was made by Mr. Walsh, the motion was seconded by Ms. Segal. All were in favor. Motion carried.

Schenck, Price, Smith & King, LLC (6 bills) \$1,800.00.

A motion to approve Mr. Stoner’s bills was made by Mr. Walsh, the motion was seconded by Ms. Segal. All were in favor. Motion carried.

L & G Planning (3 bills) \$540.00

A motion to approve Mr. Stoner’s bills was made by Mr. Walsh, the motion was seconded by Ms. Segal. All were in favor. Motion carried.

OPEN TO THE PUBLIC

Chairman Shivas opened to the public.

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

ADJOURNMENT

A motion to adjourn the meeting was made at 10:35 p.m. by Ms. Segal, and seconded by Mr. Kaufhold. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted: *Cheryl White*