

**DECEMBER 03, 2020
MEETING MINUTES
BYRAM TOWNSHIP
PLANNING BOARD MEETING**

CALL TO ORDER

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

ROLL CALL

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
HERE	H	H	H	H	H	H	H	H	H	H	H
ABSENT											
LATE											
EXCUSED											

Also present: Attorney Alyse Landano Hubbard, Esq.
 Engineer Cory Stoner, P.P., C.M.E.
 Secretary Cheryl White

OPENING STATEMENT - both the Federal and State governments have declared a state of emergency in response to the outbreak of the Covid-19 Virus, that limits the number of people allowed to gather, and requires social distancing. To continue Planning Board business, this special meeting for December 03, 2020 is being held by remote video or audio connection only. This service allows the Board, it's professionals, applicants and members of the public to participate.

Adequate notice of this meeting has been published specifying the time and access information in compliance with the provisions of the Open Public Meetings Act. Notice of this meeting is on file in the office of the Planning Board Secretary, posted on the main door, the bulletin board of the Municipal Building, on the Township website at:

https://www.byramtp.org/index.php/meetings/committees/planning_board

and has been forwarded to those persons requesting notice.

Secretary.

FLAG SALUTE led by Chairman Shivas

MEETING MINUTES

A motion to approve the minutes for November 19, 2020 was made by Mr. Olson. The motion was seconded by Kaufhold. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED				√							
AYE	√		√	√	√	√	√	√	√	√	√
NAY											
ABSTAIN											
ABSENT		√									

Motion carried.

RESOLUTIONS

SP3-2018, Weber Brothers Properties, LLC, 35 Route 206, Block 36 Lot 39, V-B Zone

Request for a one-year extension of approval for a previously approved site plan, approved December 20, 2018 SP2-2019.

A motion to grant a one-year extension of approval through December 20, 2021 was made by Mr. Olson. The motion was seconded by Mr. Walsh. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED										√	
AYE	√		√	√	√	√		√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

Anty Trucking Inc., 9 Lackawanna Drive, Block 226 Lot 16, IRP Zone

Request for a one-year extension of approval for a previously approved site plan, approved May 2, 2019.

Ms. Hubbard explained to the Board that a more recent report was received and that the violations occurring on the site are greater than previously reported such as the expansion of outdoor storage and receiving payment for the storage of equipment/vehicles not owned by Anty Trucking. There was a lengthy Board discussion and Ms. Hubbard explained that granting an extension of approval extends the time to perfect the approved plan and that non-compliance of that approval is an enforcement issue to be handled by the zoning official. She said if the NOV is ignored, a summons would be issued which could carry penalties up to \$1,000.00 a day and that would be more motivating to comply than denying the extension of approval. The Board directed Ms. Hubbard to reach out to Mr. Michael Lavigne, attorney that represented Anty Trucking for this approval, so he is aware of the violation occurring on the site and the possible severity of these infractions.

A motion to grant a one-year extension through November 19, 2021 was made by Mayor Rubenstein. The motion was seconded by Mr. Walsh. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION								√			
SECONDED										√	
AYE	√		√	√	√	√		√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

NEW BUSINESS

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

Mr. Frank McGovern, Esq., representing the applicant and owner, Barbara Bolen introduced Eric Wilson, P.E. of Wilson Engineering and Ms. Bolen and Mr. Wilson were sworn in. Mr. Wilson provided his education and experience to the Board and the Board accepted him as an expert in his field.

Ms. Bolen said she purchased the home "as is" in 2019. The home was vacant for many years and dilapidated. She said the home is a Crane Style home, which she is trying to preserve. She said over the years two additions were added to the home but not to code and now the dwelling is structurally unsound. She said when they began home renovations and the installation of a new septic system the driveway was too steep for trucks to access so a temporary access point was created which disturbed critical slopes and a Notice of Violation was issued in July 2020 by Byram's Zoning Officer. Mr. Wilson said after they began excavating this temporary access for the septic installation, they realized it encroached on a pipe in the culvert, which was clogged with dirt and debris, so they cleaned the culvert pipe and relocated the water pipe for the septic. Mr. Wilson said once the septic is installed and the home improvements are complete, they will stabilize and restore this area.

Mr. Wilson said after receiving Mr. Stoner's report they reduced the size of the dwelling and made some changes to the walls on the property and wanted to present those changes to the Board. Ms. Hubbard said that because meetings are virtual the rules and procedures established by Resolution PB2-2020, memorialized October

29, 2020, states that any revisions must be provided to the Board Secretary at least ten days prior to the public hearing. Ms. Hubbard explained that this allows time for the secretary to upload documents to Byram’s website so the are available to the public, and the public has ample time to review the proposed project. Mr. Wilson explained that revisions were only made to the home, and walls, not the garage. The Board agreed to hear testimony on the garage tonight, however the applicant will have to return to the Board so the Board can review the entire site.

The Board discussed the required variances for the garage:

- To permit an accessory structure greater than 400 sq. ft. – 578 sq. ft. structure proposed.
- Front yard setback, 35ft. is required, 3.3 ft. is proposed.
- To exceed height permitted, 15 ft. is permitted, 17.8 ft. is proposed.
- To allow 2 story accessory structure when one story is permitted.
- Maximum building area, 474 is proposed, it was noted that this number needs to be revised because the deck proposed on the accessory structure till be covered.
- To permit an accessory structure in the front yard.

It was also noted that the measurements taken for the setbacks for the garage were not taken from the eave or gutter, but the building façade and a new revised plan must be submitted with the correct measurements.

Mr. Wilson said the garage will be two stories in height saying that with the slope of the property presently the roof of the garage in the rear is at ground, so a second story was added for easier access. He said they propose a staircase to access the deck, which will be covered to help with water runoff. They propose electric, but no water, and the garage will be used to store a boat because Lake Mohawk will not allow boats to be stored in the yard, and other recreational equipment.

Mr. Stoner asked about the parking area behind the garage, if that will remain. Mr. Wilson said it is only for construction but will be restored to grass when construction is complete. Mr. Stoner said the plan should be revised to show that. Exhibit B1, Google street view of the garage, was presented and reviewed by the Board

Mr. Stoner asked about the wall height and Mr. Wilson said he will provide wall calculations.

Mr. Morytko asked about tree removal. Ms. Bolen said no trees are being removed.

Mr. Wilson said as far as drainage, the new garage will have gutters and they run off will be directed to the culvert that goes under the road. Mr. Stoner would like this depicted on the plan. Mr. Wilson agree to add drainage to the plan. The Board had no more questions.

Chairman Shivas opened to the public.

Harry Williams, 164 Glenside Trail was sworn in and said he is a 20-year resident and commends Ms. Bolen’s efforts to beautify the neighborhood but does have concerns about such a large structure next to the road but said if Lake Mohawk is okay with it, then he supports this request.

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

It was noted that a revised plan be provided prior to the February 18 meeting to show:

- Revisions plans showing changes made to the dwelling and retaining walls.
- Corrected setback measurements – to be taken from the eave/gutters.
- Revised plan should show the removal of the temporary parking area behind the garage.
- Wall height calculations to be provided.
- Drainage to be shown on the plan.

A motion to carry this application to February 18, 2020 without further notice was made by Mr. Olson.

The motion was seconded by Mr. Morytko. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED					√						
AYE	√		√	√	√	√		√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

Z13-2020, Marina & Kevin Prokup, 33 Amity Road, Block 336 Lot 31, R-2 Zone

To install a fence over the permitted height, and an accessory structure that exceeds allowable size.

Mr. Frank McGovern, Esq., representing the applicant introduced Mr. George Gloede, P.E. and the owner and applicant, Mr. Kevin Prokup, and they were sworn in. Mr. Gloede provided the Board with his education and experience and the Board accepted him as an expert in his field.

Mr. McGovern said this is a 44-acre parcel made up of two lots owned by the applicant which they purchased in early 2020. Mr. Prokup said before moving to Byram they had chickens at their previous residence and when they bought this property there was an existing dilapidated chicken coop so after they moved in, they erected a 10' X 16' shed on a concrete pad, surrounded by a 7ft. fence to keep their 3 hens and 1 duck. Mr. Prokup said after visiting the construction department for an electrical permit, he was told he needed Planning Board approval because the height of the fence exceeds what is permitted, and the accessory structure is too close to a waterway.

Mr. Prokup explained that the total area for the birds is 77 sq. ft. which consists of the shed and two separate fenced areas covered on top with mesh to keep the birds in the pen, and predators out.

Mr. McGovern reviewed the minor site plan with the Board saying that the fencing is necessary for the protection of the animals, and the structure is not visible to neighbors for adjacent properties or from the pond.

The Board presented Exhibit B1 – Highlands Map, an aerial view of the location of the previous structure and the proposed structure. Mr. Prokup said because of the slope of the property, this is the best location for the structure. The Board had concerns about water runoff and Mr. Prokup said they have not had issues with runoff problems and they had some heavy rains since this was erected. He added that the concrete pad is raised and covered with hay so if water does get into the chicken area, the hay will absorb the water.

Mr. Prokup explained that he feeds and cleans the coop several times a day. He said they have no intention of running a business, the chickens are for personal use only.

Ms. Hubbard explained the relief needed from the applicant only applies to regulations in Chapter 240, Zoning. She said within the application the applicant refers to seeking relief from regulations in Chapter 215, which talks about Livestock. Ms. Hubbard said Chapter 215 relates to commercial farms and said this Board can only grant relief from Section 240, so this Board is not approving the keeping of chickens, they are determining if the fence and the accessory structure near the brook can be approved. The Board had no further questions. Chairman Shivas opened to the public.

Jack Moran, 3 East Waterloo Road asked when Section 215 applies. Ms. Hubbard said to commercial farms saying that under Byram's Code family farms are permitted in residential neighborhoods. No one else from the public came forward.

Ms. Hubbard asked Mr. Prokup about the Environmental Commission comments regarding water run-off. Mr. Gloede said the water will disperse into the ground and there will be no runoff into the lake. Ms. Shimamoto said it is an improvement to what existed previously, and that answer was satisfactory.

A motion to approve this application was made by Mr. Walsh. The motion was seconded by Mayor Rubenstein. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION										✓	
SECONDED								✓			
AYE	✓		✓	✓	✓	✓		✓	✓	✓	✓
NAY											
ABSTAIN											
ABSENT											

Motion carried.

Z14-2020, Safa LLC, (Joe Ahmad), 16 Weaver House Cove Road, Block 109 Lot 2, R-5 (This application will be carried to February 04, 2021) - Raise the pitch of the roof on an existing single-family dwelling.

A motion to carry this application to February 4, 2021 was made by Mr. Morytko. The motion was seconded by Mr. Kaufhold. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION					√						
SECONDED				√							
AYE	√		√	√	√	√		√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

Z11-2020, John Petersen, 6 Ascot Lane, Block 337.11 Lot 32.15, R-3 Zone (Carried from November 19, 2020)

(This application will be carried to February 04, 2021)

To install 1,204 sq. ft. of ground mounted solar array panels.

A motion to carry this application to February 4, 2021 was made by Mr. Morytko. The motion was seconded by Mayor Rubenstein. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION					√						
SECONDED								√			
AYE	√		√	√	√	√		√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

REPORTS FROM COMMITTEES:

Architectural Review Committee – Mr. Morytko said the next meeting is Wednesday, December 9 and they will review an application to be filed for improvements to a commercial property at 16 Route 206.

Board of Health – Mr. Olson said the Board granted three septic pumping waivers to homes that have been vacant for some time.

Building Committee – Mr. Morytko said on January 12 the Council will hold a joint meeting to discuss the design document. He said the document will be available for public view a week prior to the meeting.

Environmental Commission – Nothing to report.

Open Space – The meeting is on December 14, 2020

Township Council – Mayor Rubenstein said the chicken ordinance was repealed.

BILLS

Law Office of Larry Wiener (3 bills) \$2,655.00

A motion to pay Ms. Hubbard's bill was made by Mr. Walsh. The motion was seconded by Mayor Rubenstein. All were in favor. Motion carried.

OPEN TO THE PUBLIC

Chairman Shivas opened to the public.

Jack Moran, 3 East Waterloo Road asked to whom does the zoning official get guidance. Ms. Hubbard said Mr. Dixon has reached out to her for guidance.

Township Manager, Joe Sabatini said to clarify a violation was issued wrongly. He said Section 215 of Byram's Code does not apply to residential properties.

Mr. Gonzalez asked for an explanation. Mr. Sabatini said family farms are allowed according to Byram's Code and they would have to meet the setbacks and regulations for an accessory house the chickens, and if they can't meet those regulations, they can apply for a variance. Mr. Gonzalez was frustrated because he felt the residents of Byram spoke loudly against the proposed ordinance. This prompted Board discussion Section 215 vs, 240 and Mayor Rubenstein said at the last Council meeting when the ordinance was repealed, he apologized to the public because that Section of the Code was interpreted incorrectly, and until the Board Attorney was engaged was it

realized that Section 215 did not apply to residential properties so residents cannot seek relief from this Board under section 215, only under Section 240.

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

ADJOURNMENT

At 10:45 pm. a motion to adjourn the meeting was made by Mr. Kaufhold. The motion was seconded by Mr. Morytko. All were in favor. Meeting was adjourned.

Respectfully submitted,
Cheryl White

DRAFT