

The Planning Board Public Hearing Meeting for December 17, 2020 to begin at 7:30 p.m. EST, (Eastern Standard Time) will be held via Zoom, a remote video and telephone conference only.

When: Dec 17, 2020 07:30 PM Eastern Time (US and Canada)

Topic: Byram Township Planning Board Meeting

Please click the link below to join the webinar:

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[Click the link below each item to view details.](#)

**BYRAM TOWNSHIP  
PLANNING BOARD AGENDA  
FOR THURSDAY, DECEMBER 17, 2020  
7:30 P.M.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **OPENING STATEMENT** - both the Federal and State governments have declared a state of emergency in response to the outbreak of the Covid-19 Virus, that limits the number of people allowed to gather, and requires social distancing. To continue Planning Board business, the regularly scheduled meeting for December 17, 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.byramtwp.org/index.php/meetings/committees/planning\\_board](https://www.byramtwp.org/index.php/meetings/committees/planning_board) and has been forwarded to those persons requesting notice.
4. **FLAG SALUTE**
5. **MINUTES**  
Approval of the December 03, and December 10, 2020 Meeting Minutes
6. **RESOLUTION**  
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.
7. **NEW BUSINESS**  
Z12-2020, Edward King, 16 Chestnut Street, Block 26 Lot 370.02, R-4 Zone  
To permit a 6ft. fence in the front yard, this property has two front yards.  
[https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/EiHvGm\\_ZtRVFhCqdq7TxDRABfHQGdOuXgmFVfVr\\_auzBlqQ?e=4hFPOK](https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/EiHvGm_ZtRVFhCqdq7TxDRABfHQGdOuXgmFVfVr_auzBlqQ?e=4hFPOK)

8. **OLD BUSINESS**

SP5-2018, Raimo of Stanhope Inc., 49 Route 206, Block 35 Lot 36 & Block 37 Lot 26, V-B Zone  
Preliminary & Final site plan to add new structures (carried from September 17, 2020)  
<https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/EmhIxT49-t5Ar2XNGtS9kk4BMlyQBUBKaLA65qCAQJFVaA?e=EOaaXh>

9. **REPORTS FROM COMMITTEES**

Architectural Review Committee  
Board of Health  
Building Committee  
Environmental Commission Open  
Space  
Township Council  
Zoning Report – November 2020

10. **BILLS**

Law Office of Larry Wiener (2 bills) \$1,500.00

11. **OPEN TO THE PUBLIC**

12. **ADJOURNMENT**

Upcoming Meetings:

- January 07, 2021 – Planning Board Reorganization  
263 Route 206 Real Estate, LLC.
- January 21, 2021 - Byram Route 206 Developers, LLC.

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

**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.byrampwp.org/index.php/meetings/committees/planning\\_board](https://www.byrampwp.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 dispatch 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



**DECEMBER 10, 2020  
MEETING MINUTES  
BYRAM TOWNSHIP  
SPECIAL 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
ABSENT											
LATE											
EXCUSED		E									

Also present: Attorney Alyse Landano Hubbard, Esq.  
 Engineer Cory Stoner, P.P., C.M.E.  
 Planner Paul Gleitz, P.P. AICP  
 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 10, 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.

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[https://www.byrantwp.org/index.php/meetings/committees/planning\\_board](https://www.byrantwp.org/index.php/meetings/committees/planning_board)

and has been forwarded to those persons requesting notice.

**FLAG SALUTE** led by Chairman Shivas

**RESOLUTION**

SP1-2020, Tomahawk Lake, Tomahawk Trail, Block 343 Lots 1 and 2, C-R Zone

Planning Board determination that this is a permitted use in the C-R Zone.

A motion to approve the resolution as written was made by Mr. Kaufhold. 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.

## OLD BUSINESS

### SP1-2020, Tomahawk Lake, Tomahawk Trail, Block 343 Lots 1 and 2, C-R Zone (carried from November 5, 2020)

Amended site plan to add two new waterslides, construct a 36' X 40' retail building, and to relocate and install a 10' X 20' ticket booth.

Mr. Askin, Esq. representing Tomahawk lake said that this application involves amended site plan approval to construct two new slides, a concession building for the retail of park memorabilia, and a ticket booth on Lot 2 of Block 343, adding that the concession building requires two bulk variances.

1. To exceed the size allowed for an accessory structure; 500 sq. ft. is permitted, and a 1,440 sq. ft. (36' X 40" sq. ft.) is proposed.
2. To exceed the allowable height of an accessory structure where 15 ft. is permitted and 21.6' is proposed.

Mr. Kolody, P.E., reviewed Sheet 1 of 2 of the submitted plan revised and dated 11/07/2019, saying this revision involves the elimination of Lot 3, adding that the picnic tables on Lot 3 will be relocated to the east of the site and will not have an impact on park activities.

Mr. Kolody gave a summary of the proposed improvements saying that proposed slides are to keep the park viable and up to date, adding that in the past, when new slides were added, the number of patrons visiting the site did not increase. Mr. Kolody said the water slides must be approved by State Amusement Ride Inspectors and they must comply with State and Municipal regulations.

He said the existing ticket booth is 30 years old and in need of replacement. The proposed 10' X 20' ticket booth will be an improvement to the park. He said the concession building, which many facilities of this type have today, will be used to sell park memorabilia. He said the building will sit 40 ft. below elevation from Tomahawk Trail so it will not cause a detriment to the surrounding neighborhood or have a negative visual impact.

Mr. Kolody reviewed the site plan and changes that were made to keep traffic off the roadway. He showed how cars will enter the main access gate and cars will be stacked in a grassy area for the collection of fees, before they are directed where to park. He said the cost for park admittance is per person, and the fees are collected by the attendance. Exhibit B1, Google street view of the main entrance was displayed so show the main entrance and grassy area. Mr. Kolody said the ticket booth is for the sale of tickets for each ride. Mr. Kolody reviewed the entrance to the west of the site and said temporary fencing will be used to ensure parking does not occur on Lot 3, or anywhere on the site where parking is not permitted. He said the entrance to the west, which was usually used for employees, will allow access for 2 vehicles in width, and the stacking area will accommodate 60 vehicles until fees can be collected and then directed to a parking space., adding that this should keep vehicles off the roadway. Chairman Shivas recommended widening the main gate access drive to allow enough width for 4 vehicles to enter and then be stacked. Exhibit B2 Google street view of entrance dated August 2019 was shown. Mr. Kolody said they are limited to impervious coverage by the Highlands so adding pavement is not doable. There was a lengthy Board discussion about different alternatives that may work to keep traffic off the road.

Ms. Raffay asked that Mr. Kolody to explain what process takes place when a vehicle arrives at the park. Mr. Kolody reviewed the access areas and new procedures in place to get traffic off the roadway and into the park. It was not clear to the Board that the stacking of vehicles, or the widening of lane traffic will resolve the issue. Mr. Kolody said they have incorporated some of the changes and have seen improvement. He said on high traffic days Byram Police, and special police were hired for traffic control. Lynn Wallace, partner of Tomahawk Lake, was sworn in said the last incident whereas traffic caused gridlock was due to high, unexpected temperatures, and they were unprepared. Since then, they met with Byram Police Chief Zabita and came up with a plan to improve the problem which has appeared to work. She said they hire extra attendants, open the park early, and stack vehicles in staged parking areas so fees can be collected before they are directed where to park. He said the new way the

attendant's direct people to park has also improved the situation.

Mr. Kolody said the applicant is willing to add notes to the plan, and the resolution can have language about keeping cars off the roadway. Mayor Rubenstein said that has been in many resolutions however the problem still occurs. Mr. Gleitz recommended on high traffic days using the entrance to the west and allowing vehicles to stack along the entire internal roadway. Ms. Lynn Wallace said once vehicles are inside the gate many people exit their vehicles and enter the park before they can be counted, and fees collected for their admittance. Mr. Morytko said that is an operational issue they need to resolve, and that the Board's concern is keeping traffic off the road.

There was a lengthy Board discussion about traffic problems and it was the consensus of the Board that the applicant demonstrate to this Board by way of a circulation plan that shows where people will access the park, where vehicles will be stacked, how and where are they directed to park, where and how fees are collected, and how it will improve so that a traffic backup will not occur on Tomahawk Trail or the surrounding area. Mr. Stoner said the plan should include parking spaces should be delineated on the plan, not only parking areas, and the number of patrons allowed on site.

Mr. Olson said he recently discovered information in the Historic Resource Inventory that a slave cemetery may have existed on Lot 2. Mr. Askin was not aware of this but asked that Mr. Olson to send him the information and he will investigate that.

Mr. Askin said Mr. Mark Wallace, his chief witness, is having difficulty participating in the meeting, so he requested that the public hearing be carried to another date.

The applicant agreed to return to the Board with a revised plan. The applicant requested the hearing be carried to March 3, 2021. A motion to carry this application without further notice to March 4 was made by Mr. Olson. The motion was seconded by Mr. Morytko. Mr. Kolody announced that he may not be available for March 4, so the date was amended to February 18, 2021

Mr. Olson and Mr. Morytko agreed to the amendment. 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.

### OPEN TO THE PUBLIC

Chairman Shivas opened to the public. Mr. Askin said Mr. Kolody has not finished his testimony so questions from the public must wait until his testimony has concluded.

Ms. Wendy Wallace had questions relating to Tomahawk Lake and was instructed to save her questions for the next public meeting on this application.

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

Mayor Rubenstein asked Ms. Hubbard if the annual notice must contain Zoom call information for the entire year. The Local Finance Notice 2020-21 was reviewed, and it was determined that the notice must contain language where the information can be found, but specific zoom information does not have to be included in the annual notice.

### ADJOURNMENT

At 9:15 pm a motion to adjourn the meeting was made by Mr. Kaufhold. The motion was seconded by Mr. Walsh. All were in favor. Meeting was adjourned.

Respectfully submitted,  
Cheryl White

**BYRAM TOWNSHIP**

**PLANNING BOARD**

**RESOLUTION OF MEMORIALIZATION**

**RELIEF GRANTED:**

- **Setback from water source**
- **Height of a fence**

**WHEREAS**, Marina & Kevin Prokup have applied to the Planning Board, Township of Byram for *ex post facto* approval to construct a chicken coop and fence requiring variance relief for premises located at 335 Amity Road and known as Block 336, Lots 31.0 & 31.02 on the Tax Map of the Township of Byram which premises are in a “R-2” Zone;

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

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

1. Francis J. McGovern, Esquire represented the Applicants.
2. The Applicant is the owner and occupant of the subject property.

3. The Applicant has constructed a chicken coop and fence enclosure on the subject property, requiring relief from the following Sections of the Township's Zoning Ordinance:
  - a. Section 240-24A – Maximum height of a fence; 7' high was constructed where 6' is permitted
  - b. Section 240-16(A)(7) – Setback from a lake, pond, stream or wetlands; 40' is existing where 75' is required
4. The Applicant submitted the following:
  - a. Minor Site Plan prepared by G. Gloede and Associates, dated July 22, 2020, revised September 1, 2020.
  - b. System Review of Individual Subsurface Sewage Disposal Approval from the Sussex County Department of Health and Human Services, dated September 25, 2020
5. The Board received the following:
  - a. Memorandum from Cory Stoner, P.E., C.M.E., dated November 24, 2020
  - b. Emailed comments from the Environmental Commission, dated November 20, 2020
6. A duly noticed public hearing occurred on December 3, 2020 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of

Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.

7. Kevin Prokup, the Applicant and George Gloede, P.E., who was accepted as an expert engineer, presented sworn testimony in support of the Application. The subject property is 43 acres, comprised of 2 tax lots, containing a principal dwelling, detached garage and shed and a 5’x10’ chicken coop. The Applicant purchased the property this year and removed the existing chicken coop and replaced it with a 10’x16’ chicken coop, constructed on a slab, and a 77’x32’ fence enclosure. The new coop and enclosure is 40’ from the top of the bank of a stream, requiring relief from the Township’s Ordinance for distance of an accessory structure from a waterway. The Application shall be amended to remove the relief requested from Section 215 of the Township’s Ordinance.
8. The coop is located 13’ from the side of the enclosure and within a covered portion of the enclosure. The fence is 7’ in height to accommodate the access door to the coop, requiring relief from the Township’s Ordinance for height of an accessory structure.
9. The application requested relief from Section 215-56 from the Township’s Ordinances, the Chapter entitled “Subdivision and Site Plan Review.” Pursuant to N.J.S.A. 40:55D-37(a), individual lot applications for detached one- or two-family dwelling unit buildings shall be exempt from site plan

review and approval. Accordingly, this application was strictly for the review of variance relief needed for the construction of an accessory structure and a fence in violation of the Township's Zoning Ordinance, as set forth in Chapter 240.

10. It was noted that family farms are permitted in residential zones and that a coop is an accessory structure. The coop houses 3 chickens and a duck, which are the Applicant's pets. The Applicant provided extensive testimony regarding the care of the pets, noting their feeding schedule and how the coop was maintained. The waste is cleaned regularly and properly disposed of. The chicken wire roofing protects them from predators and prohibits them from escaping.
11. An aerial view of the home and the chicken coop on the Highlands Council Map was marked B-1 for identification. The aerial provided a visual of the home and accessory structures in relation to the neighboring properties. All structures are located in the center of the lot, which is steeply sloped, with limited buildable area. There is no other location on the property where the coop could be constructed.
12. The coop is located within the setback of a C1 tributary stream that feeds Kofferls Pond. The Applicant testified that the coop sits 2 feet higher than the top of the bank, within a disturbed area on the property. The surrounding area is natural rocks and vegetation that has remained undisturbed. During the heaviest of rain, the stream has not risen higher than the bank. The ground

within the enclosure consists of gravel covered in hay, which absorbs any runoff from the coop.

13. It was noted that the appearance of the coop was attractive and an improvement from the dilapidated coop that previously existed on the property.

14. During the public portion of the hearing, Jake Moran, a Byram resident, asked for clarification regarding the difference between site plan review and variance relief. No other member of the public had questions or testimony for this application.

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

1. The Board found the witnesses testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:
  - a. Section 240-24A – Height of a fence; 7’ high is approved, where 6’ is permitted
  - b. Section 240-16(A)(7) – Setback from a lake, pond, stream or wetlands; 40’ setback is approved, where 75’ is required
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, the “flexible C”, 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 criteria for a “hardship” variance are met, as the subject property is encumbered by slopes, with limited buildable area. The coop is located in the only level and disturbed area on the property.
4. Although located within the setback of a C1 stream, the Board was satisfied that the Applicant properly disposed of the waste, preventing it from running into the stream. Additionally, the use of gravel and hay absorbs the run-off from the coop and prevents it from flowing toward the stream and Kofferls Pond. The Applicant has mitigated any detriments resulting from the construction of the accessory structure within the required setback from a water source.
5. The criteria set forth in the “flexible C” are met with regard to the height of the fenced enclosure, as the height prevents the chickens and duck from escaping the enclosure and protects them from predators.
6. It was determined that there would be little impact to the surrounding area, as the lot is over sized and the structures are constructed a significant distance away from neighboring properties. As family farms are permitted in the zone, and the coop is an accessory structure to a family farm, the relief can be granted without substantially impairing the zoning scheme or Master Plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Byram on the 17<sup>th</sup> day of December 2020 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances.
2. The Applicant shall obtain permits for the construction of the coop and the fence from the Township's Zoning and Construction Departments.

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**George Shivas**

**On motion of:**

**Seconded by:**

**The vote on the Resolution was as follows:**

**AYES:**

**NAYS:**

**ABSTAINING:**

**ABSENT:**

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on December 17, 2020 and is in effect for one year.

\_\_\_\_\_  
**Cheryl White, Planning Board Secretary**

**Dated:**

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

Zoning Report  
November 2020

Permitting

zoning permits approved	8	
<i>typical, variance not req'd</i>		8
<i>post-resolution to begin work</i>		0
<i>none</i>		
<i>for C.O. or C.A</i>		0
<i>none</i>		
zoning permits denied	1	
site plan waivers / change of tenant	0	
<i>none</i>		
Highlands determinations	0	
<i>none</i>		
COVID-19 Special Permits	0	
<i>none</i>		

Investigation of Violations

notices of violation (NOVs)	12	
zoning cases cleared	6	
summonses issued	1	
signs removed from roadway	2	

**BYRAM TOWNSHIP PLANNING BOARD  
REVISED BILL LIST FOR DECEMBER 17, 2020**

Revised 12/11/2020

<b><u>HAROLD PELLOW &amp; ASSOCIATES, INC</u></b>	<b>DATE</b>	<b>AMOUNT</b>
No bills submitted.		
<b>Harold Pellow total</b>		<b>\$0.00</b>

<b><u>LAW OFFICE OF LARRY WIENER</u></b>	<b>DATE</b>	<b>AMOUNT</b>
Inv. 2020-61 Board Business	11/30/20	\$660.00
Inv. 2020-61 Board Business	12/11/2020	\$840.00
<b>Larry Wiener Total</b>		<b>\$1,500.00</b>

<b><u>LATINI &amp; GLEITZ, PLANNING</u></b>	<b>DATE</b>	<b>AMOUNT</b>
No bills submitted		<b>\$0.00</b>
<b>Paul Gleitz total</b>		<b>\$0.00</b>

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

<b><u>GRAND TOTAL</u></b>		<b>\$1,500.00</b>
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