

MEETING MINUTES
THE BYRAM TOWNSHIP PLANNING BOARD
DECEMBER 21, 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	EA	H	H
ABSENT										
EXCUSED										
LATE		L								

Also present: Attorney Planner Engineer Secretary
 Kurt Senesky Paul Gleitz Cory Stoner 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 December 7, 2017 Meeting Minutes

A motion was made by Mr. Kaufhold to approve the minutes as written. The motion was seconded by Mr. Riley. 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.

COMPLETENESS

SP9-2017 Jeff Lake Day Camp, 38 Jefferson Lake Road, Block 366 Lot 3.01, Block 370 Lot 7.01, C-R Zone

Amended site plan to remove two buildings and construct a new, two story office building.

Mr. Walsh said the subcommittee met and reviewed the material submitted and the engineering memo provided by the Board engineer. Mr. Walsh said the applicant requested several waivers which are not significant in nature. The motion was made by Mr. Walsh to deem the application complete and to set a public hearing date of January 18, 2018. The motion was seconded by Ms. Segal. 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

Z20-2017, Donald Robbins & Nancy Green, 233 Lake Dr., Block 255 Lot 215, R-4 Zone

Variances for a front, and side yard setback, and relief from the setback requirement for an accessory structure to a principle structure needed to permit an already existing carport, and for a second driveway not having 200 linear feet of road frontage.

A motion was made by Ms. Segal, the motion was seconded by Mr. Riley to approve the resolution as presented. 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.

Mr. Morytko arrived at 8:10 pm
SP8-2017, JP Morgan Chase, 80 Route 206, Block 226 Lot 15.01, V-B Zone
 Minor Site Plan with variance to add a fourth sign.

A motion to approve the resolution as presented was made by Mr. Riley, the motion was seconded by Ms. Shimamoto. 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.

Z06-2016, Jose Goncalves, Carpenter Road, Block 238 Lot 208, R-3 Zone

Request to grant a one year extension of approval for prior approval to construct a single-family dwelling.

A motion was made by Mr. Walsh to approve the resolution as presented. The motion was seconded by Ms. Segal. 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.

Rt. 206 Byram GW LLC (Quick Chek Corporation) Rt. 206 & Brookwood Road, Block 41 Lots 88.01, 88.02, and 89, V-B Zone (carried from Sept. 7, 2017)

Use variance and associated site improvements for a retail store with gas pumps.

Mr. Senesky said he has read over 1,500 pages of transcript and said the resolution will be ready for the January 4, 2018 meeting. A motion to carry the resolution to Jan. 4, 2018 was made by Mr. Walsh. The motion was second by Mr. Kaufhold. 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.

Appeal of the Zoning Officer's Violation (Carried from Dec. 7, 2017)
Byram Land Development, 9 Lackawanna Drive, Block 226 Lot 16, IPR Zone

Expansion of outdoor storage not permitted.

Mr. Senesky said this matter has been carried to January 18, 2018. Mr. Walsh asked why has the matter been carried many times. Mr. Senesky said he has a conflict and cannot represent Byram and the substitute attorney has had conflicts with our meeting dates. It appears that Jan. 18 works for all involved.

A motion was made by Ms. Segal to carry this matter to January 18, 2018. The motion was seconded by Mr. Chozick. 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

Ms. Shimamoto, Mr. Riley and Ms. Raffay stepped down for this application.

SP4-2017, Gordon Byram Associates, LLC. 90 U.S. Route 206, Block 226 Lot 14, V-B Zone

Conditional use approval/with variance to allow outdoor storage, display, sales, special events and dining.

Mr. James Scott, Esq. representing Gordon Byram said that in June 2017 Byram Township adopted a new ordinance allowing commercial business the opportunity, as a conditional use, for sidewalk display and sales, sidewalk café, tent sales, and special events. Mr. Scott said that Shop Rite is requesting an amendment to their site plan requesting conditional use approval and requests two deviations to the conditions which require two D3 variances; to allow storage to remain outside, Byram's ordinance 240-63 E. (2) calls for outdoor storage to be brought in a night, and 240-63 F. (3) and to allow a special event to take place in an area greater than 2,000 sq. ft.

Mr. Scott introduced Mr. John McDonough, Project Planner and he was sworn in. Mr. McDonough has provided testimony before this Board previously, and the Board accepts him as an expert in his field. Mr. McDonough said that his site is in the Village Business zone which is an extension of the Village Center, the heart of the Township. Mr. McDonough presented Exhibit A1, dated 12/21/17, *Amended Site Plan*, and Exhibit A2, *Retail Placemaking – Outdoor Dining & Sidewalk Café's*, a series of photos showing growing trends around the country of outdoor dining and other alternative opportunities for retail providers. He said that on-line

shopping has effected brick and mortar retail business and retail business need to make positive changes that encourage downtown shopping and create a sense of place.

Mr. McDonough talked about why the applicant is seeking a variance from 240-63 E. (2) saying that it is impractical to move the products this retailer provides in an out every night, adding that if this business were open twenty-four hours a day, a variance would not be required. He added that with the unique characteristics of this site; the building sits far off the road, horizontally and vertically, and has a berm around the perimeter, the products will not be seen visually from pass by traffic and will not have a negative impact to the site. Mr. McDonough said this is a reasonable request for this specific use, and leaving the products out at night will help with operational efficiency.

Mr. McDonough asked for an interpretation of the ordinance 240-63 E. (2) where as it calls for products to be stored on racks, shelves or tables and if the Board would consider pallets, shelves. He said products are delivered on pallets and for the ease of operations and efficiency the applicant would like to leave the items on pallets and believes this request is minor and will not have a negative impact. Ms. Segal asked where the plant racks in the summer will be displayed. Mr. Scott said all areas have been designated on the site plan, they will be against the building and in compliance with the ordinance requirements. There was Board discussion about this and although it was the consensus of the Board that pallets are not shelves; this request could be granted.

Chairman Shivas asked about the shopping carts and if five feet is provided as the ordinance requires. Mr. David Romano was sworn in and said they reduced the carts to two rows saying that after business closes at night all the carts are moved to sidewalk in front of the store to keep the parking lot free, this is crucial especially during inclement weather. First thing in the morning, the carts are taken back out to the cart corral and Mr. Romano assured the Board that carts, and outdoor display/storage will comply with the requirements of five feet of clearance. Mr. Walsh said he would like the site plan to be amended to depict the cart storage area. The applicant agreed.

Mr. McDonough reviewed Exhibit A1 saying that the applicant has delineated six areas on the site to accommodate outdoor tent sales such a health fair, selling fresh food, things of this nature. He discussed area five, which is in front of the northern most building and will be used one day per year for a special event. This area requires a variance 240-63 F. (3) whereas the applicant is requesting an area greater than 2,000 sq. ft. as allowed by ordinance. Mr. McDonough said the applicant wishes to utilize 9,100 sq. ft. Mr. McDonough said with a D3 variance the applicant must prove that the request can be granted without creating a substantial deterrent to the public good. He added that on the positive side this proposal will enhance the Village Center, creating a sense of community and a place to gather. He said this request does not present a problem for vehicle or pedestrian circulation, vehicles will not interfere with activities in this area, and there will be no net loss of parking. Mr. Kaufhold has concerns about safety in this area, vehicles jumping the curb and pedestrian safety. Mr. McDonough presented Exhibit A3, *Event Sign Plan* dated 12/21/17 prepared by Langan Engineering which depicts the temporary signs that will be posted when this special event takes place. He said, as mention in the comments from the Byram Police, barricades and signs will be used during this event. Mr. Scott added that when area five is in use there will not be any other activities on the site, and the applicant is required to apply for a permit via the zoning official. This permit will allow the township to confirm that parking requirements are met, along with other provisions. Mr. Scott clarified that various tent sales can occur on the site simultaneously, for no longer than three consecutive days, but the special event will only be once per year. Mr. Gleitz said this is not an intensification of the use and said that this ordinance allows businesses to display/sell products that they normally display/sell inside, outside. Mr. Scott added however that tent sales allow for a broader scope of products or services to be sold, for example they might hold a blood drive.

There was Board discussion about Mr. Stoner’s report and the sidewalk display area possibly causing customers to walk outside of the covered area into inclement weather. Mr. Romano said there is no way to avoid this, the store is twenty years old and they must work with what they have. Mr. Morytko asked if the outdoor display and storage is only for Shop Rite use, the applicant said yes.

Mr. McDonough presented Exhibit A4, a photo of the subway store and said that because of the ramp and planters in this area the dining area had to be located to the east of the door. There was Board discussion and since there is a wider sidewalk which will allow for a ten-foot-wide display area, complying with the five-ft. required setback. Mr. Gleitz asked if McDonald’s was interested in outdoor dining and Mr. Scott said they were not interested and if they decide to participate, they would have to come to the Board for approval.

In summary Mr. McDonough said this site is suitable for the proposed use, the requested deviations from the conditions do not present a deterrent to surrounding properties, it does not impair the intent and purpose of the zone plan. He said this use encourages vitality and vibrancy to the zone, and creates a celebratory environment.

There were no further questions. Chairman Shivas opened to the public.

Tom Dixon, Byram Township Zoning Officer asked if outdoor cooking was intended under the covered area on the sidewalks. Mr. Scott said regardless of what they cook or prepare they must comply with fire code requirements and County Division of Health requirements. Mr. Walsh believes the intent of the ordinance is to allow food to be served in the areas for outdoor dining, but not prepared or cooked, and would like to see that language in the resolution if approved. Mr. Scott reiterated that food preparation can occur in the tent areas in the parking lot. There was Board discussion about this and Mr. Romano said that he wants to be able to use popcorn machines, hot dog machines and equipment on the sidewalk in front of his store. There was a lengthy Board discussion and under section E of Ord. 240-63 the applicant will ask for a variance to allow to use this type equipment, however on areas designated for outdoor dining, no food preparation shall occur. Mr. Senesky said he will add language to the resolution that says hot dog carts, smoothie carts, sausage carts and popcorn carts and other types of equipment of the like is permitted. *Scott Yappen, 5 Catherine Terrace* said that he is a resident of Byram and loves to shop at the plaza and said that the Board did a good job.

Ms. Shimamoto, Brookwood Road asked if the Board would limit the height of the outdoor storage and Mr. Scott said they will comply with the ordinance.

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

Mr. Walsh said the resolution should stipulate conditions about the cart storage area be defined on the site plan, the site plan should show the area limited to outdoor display and overnight storage areas and they can be left out overnight, the site plan show where the outdoor dining area for Subway will be located, that relief be granted to allow the applicant to use pallets for storage, that popcorn, hot dog and machines of the like can be used on the sidewalk in front of Shop Rite, and lastly that relief be granted to exceed 2,000 sq. ft. for a special event.

A motion was made by Mr. Walsh to approve this application with the conditions stipulated. The motion was seconded by Mr. Chozick. 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.

Ms. Raffay, Mr. Riley and Ms. Shimamoto returned to the meeting.

REPORTS FROM COMMITTEES

Township Council – Ms. Raffay said that on Dec. 19, it was her last Council meeting. She said that Joe Sabatini recognized her and Mayor Oscovitch and wished them a farewell. She said that the Township recently adopted an ordinance recognizing the purchase of the East Brookwood Estates Property Owner’s Association by Suez Water Company, and lastly that the Township acquired property in Forest South for open space.

Environmental Commission – Ms. Shimamoto said the recycling post cards were mailed and the commission looked at their accomplishments for 2017 and goals for 2018. She added that the EC has two open seats.

Open Space – Mr. Morytko said that open space acquired property in Forest South, and that the vote passed to allow funding for the stewardship and maintenance of open space. He added that Tamarack Park will be ready in the Spring.

Architectural Review Committee – No meeting was held.

Board of Health – No meeting was held.

ANY OTHER BUSINESS THE BOARD DEEMS NECESSARY

There was no other business to discuss.

BILLS

Schenck, Price, Smith & King LLP (8 bills) \$2,795.00

A motion to approve Mr. Senesky bills was made by Mr. Walsh. The motion was seconded by Mr. Riley. All were in favor. The motion was carried.

OPEN TO THE PUBLIC

Chairman Shivas opened to the public.

Alex Rubenstein, 3 Carpenter Road asked the Board why the Board was reluctant with regards to outdoor food preparation, why is it not allowed. Mr. Gleitz said the Board wanted to expand the opportunity for these events but not the capacity. Mr. Rubenstein said if food preparation is governed by the Division of Health and fire safety code why would the Board have issue with this. Mr. Walsh said this is a new ordinance and they may learn there may be items that need to be included or excluded from the ordinance. Mr. Senesky said the ordinance is a creature of the Governing Body and if they choose to amend the ordinance, it can certainly happen.

Skip Danielson, 18 Hunters Lane said he was glad to see these changes, they will be good for the town. He also wished everyone a Happy New Year.

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

ADJOURNMENT

A motion to adjourn the meeting was made at 10:20 p.m.by Mr. Walsh, and the motion was seconded by Mr. Kaufhold. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted: *Cheryl White*