

**MEETING MINTUES
BYRAM TOWNSHIP PLANNING BOARD
MEETING, December 2, 2021**

CALL TO ORDER

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

ROLL CALL

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
HERE	H	H	H	H	H			H	H	H	H
ABSENT						A	A				
EXCUSED											
LATE											

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

OPENING STATEMENT

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

RESOLUTIONS

Z14-2021 Patricia and Fausto Brito, 37 Lockwood Avenue, Block 26 Lot 352.01, R-4 Zone

Approval for an existing deck not meeting the left and right side setbacks.

Mr. Walsh motioned to approve the resolution, seconded by Mr. Morytko. The below vote was taken:

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION										√	
SECONDED				√							
AYE	√	√	√	√	√			√	√	√	√
NAY											
ABSTAIN											
ABSENT						√	√				

Motion carried.

Z06-2021 Dennis Fornarucci, 3 Opa Pass, Block 142 Lot 102, R-5 Zone

Correction from 14 x 20 to 14 x 24 shed.

Ms. Hubbard discussed the changes made to reflect the measurements of the shed when it's completed. They don't need to submit corrected plans because the measurements are on documents already submitted, as well as the testimony.

Mr. Morytko motioned to approve the resolution, seconded by Mr. McElroy. The below vote was taken:

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION				√							
SECONDED			√								
AYE	√	√	√	√	√			√	√	√	
NAY											
ABSTAIN											√
ABSENT						√	√				

Motion carried.

NEW BUSINESS

Z18-2021 Dennis Argul, 8 Reis Avenue, Block 241 Lot 476.01, R-5 Zone

Approval to keep an existing shed in the second front yard.

Dennis and June Argul of 8 Reis Avenue were sworn in. Mr. Argul said they moved in around June, and found they needed extra storage space for tools. They purchased the shed and then discovered they need a zoning permit. They can't move the shed anywhere else because of the topography. The shed is 10x16, and is to the right of the driveway, in the front yard. The property is a steep hill up to the house, so they don't know that the shed could be moved any further up. The shed is within 5 feet of the property line on the side, so that is a second variance needed. The structures in the back yard are a fabric pop-up tent, and another shed, along with a little plastic structure on the right side. Where it says "wood structure" on the survey, the only

thing there is a birdhouse. The shed is under 15 feet high. Ms. Raffay asked if there's any way to move it further back. Ms. Argul said they'd probably need to excavate some of the hill. Ms. Shimamoto asked if neighbors have a similar situation; Ms. Argul said in terms of the 4 houses in the area, this is normal and all have varying topography. She noted their neighbors have complimented the shed. Mr. Gleitz asked if there are any photos to show the visual impact of the shed.

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

Ms. Argul submitted **Exhibit A1** of the shed in relation to the street. Mr. Gleitz asked if they'd consider planting holly to soften the impact; Mr. Argul said they have trouble growing things there but would if anything will grow. The Board discussed distances from the shed. Ms. Argul showed **Exhibit A2**, a view of the shed from the house. Mr. Stoner said there are a few fences, regarding encroachments; Ms. Argul said the wire screen is their neighbor's to catch golf balls. Ms. Shimamoto said if they didn't have the shed there already, she would have an issue with this because of the visibility. She would've suggested placing the shed to align it with the neighbor's house.

Mr. Chozick motioned to approve the application, seconded by Mr. Walsh. The below vote was taken

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION	√										
SECONDED										√	
AYE	√	√	√	√	√			√	√	√	√
NAY											
ABSTAIN											
ABSENT						√	√				

Motion carried.

SP6-2021 Cranberry Lake Community Club, PO Box 360, Block 193 Lot 1, R-5 Zone
Maintenance for a boat dock.

Mr. Walsh recused himself from this application. Mr. Roger Thomas of Dolan and Dolan law firm represented Cranberry Lake Community Club, Inc. Lawrence Niech of 7 Dennis Hill Road, an Executive Board member for the Club, was sworn in. Mr. Thomas noted this application is a repair and replacement of the docks. He submitted **Exhibit A1**, a history of Cranberry Lake given to him by Mr. Niech. He noted that the Board attorney went to the DEP, who seemed to indicate this is a permit-by-rule because of the repair and replacement. He noted the lot in question is surrounded by a right-of-way. The work was done in the Briar Heights section of the lake. Mr. Niech noted the club keeps a list of docks around the lake (they have around 25). They knew the lake was being lowered to fix the bridge on North Shore Road, and they have a year or two notice ahead of time, so they took the opportunity to repair the area. There are finger docks and a boardwalk; they were rotting and unsafe and about half the space needed to be replaced. Mr. Niech has also been working on ownership of trails in Cranberry Lake, so he's familiar with the process and the need to work with the state. They contacted the DEP, and because it was a repair and replace of 50%, they didn't need approval. They took out a wooden boardwalk on pipes, and dropped in pre-made concrete block, and pulled the finger docks off and attached them back, putting wood planking on top of the concrete blocks. Shortly after the blocks were put in, the Zoning Officer came by. Mr. Niech has taken pictures before and after the work. They reviewed the submitted photos; the only difference from the repair was the boardwalk is no longer wood but pipes, with concrete blocks covered with stone and a wood boardwalk on top. Mr. Niech discussed submitted sketches that represent the finger docks back as they were, as well as where the new wood was put in. The sketch is part of a survey done before the end of last year. The survey shows the unnamed right-of-way. Mr. Niech said the Zoning Officer told him the issue is not so much the work but the right-of-way. Ms. Hubbard clarified about the finger docks, there being 3 total.

Mr. Niech reviewed Exhibit A1. He compiled this documentation to show the proof of any ownership; the lake was formed in 1824. Historically, the Morris Canal went bankrupt, and the assets went to the State of New Jersey. The property was owned by the French's, who sold some of the property to the Cranberry Lake Development Corporation. The first existence of the docks is in a letter from around 1927, where 11 docks were already existing. There are maps that show docks since the 1930s. The Corporation sold it to people, which became the Community Club. Mr. Thomas and Mr. Niech reviewed the attachments in the exhibit. On older maps, the dock in question is number 19. They discussed attachment G, which references trail ownership. They got an opinion from the town and Council at some point in the past, stating they'd need state approval for trail work regarding structures, but they can maintain the area. Mr. Thomas confirmed with Mr. Niech that there is no impediment for an emergency vehicle in the area. Mr. Niech added that there's no demarcation for the right-of-way, or any indication of ownership. Chairman Shivas noted that a few years ago there was a discussion about dock regulations for lakes. Each lake wanted their own rules, so they decided that the lake communities make the rules for their area, so the Board doesn't have jurisdiction over the docks. He noted that when

the lake areas were coming up with their rules, there should have been a determination of land ownership. Mr. Niech said the original deeds allow for access to the lake when people aren't directly on it, through nearby trails.

Chairman Shivas opened to the public. Wallace Parker of 14 Sautaug Trail was sworn in. He noted his house was bought in 2002, and their deed states they have access to trails to get to the lake. The docks in question are directly below their house. The dock at the time only had one finger dock, and things have been added since. The parking is tight in the area, and he's concerned about the space. Ms. Hubbard confirmed the gravel area is the parking. Mr. Parker is worried that the facility is growing; there were portable toilets on the right-of-way, and thinks the Club may be expanding its use and making more permanent structures. Mr. Thomas said that's not before the Board, and if they did want to do that, they'd need to come to the Board. Ms. Hubbard asked when the other finger docks were added; Mr. Parker said throughout the years; some docks were acquired from Lake Mohawk and attached. Ms. Hubbard noted her concern is if things are being replaced with permanent structures.

Mr. Parker said his deed gives him access to the lake; as a non-member of the Club, he has limited access to the lake now. If he were to walk on the right-of-way, he wonders if he'd be considered trespassing. Ms. Hubbard said this is a legal issue with Cranberry Lake; the Board cannot vacate the properties. Chairman Shivas said he has a right to discuss this with the Council and argue for his access to the lake. Mr. Parker asked since this is a private club, could he as a resident apply for a variance to get his own dock. Ms. Hubbard said the DEP may have some rights, and the ownership of the area is unclear. She noted that the applicant has shown proof of ownership through the submitted documents. Mr. Gleitz noted that they've used the right-of-way as an extension of their property to get to the lake. Ms. Hubbard noted that the terms of usage can be challenged in court if desired. Mr. Gleitz asked if the Board should be silent on the vacation of the right-of-way. Chairman Shivas agreed, saying that's not the Board's responsibility. Ms. Hubbard confirmed their standing with the DEP is just the permit-by-rule. She noted that they had stated earlier that the water is owned by the DEP. Mr. Niech noted they have no intention of putting permanent structures in the area, and the portable toilets were not them.

Jeanine Colligan of 6 Cabin Springs Trail was sworn in. She's lived in Cranberry Lake since 1978, and is a club member since 1992. She is the club secretary for the past 12 years and assigns the docks. She noted that docks being replaced are the same ones that have been there for the past 15 years. The portable toilets were from a resident, and had nothing to do with Cranberry Lake. Ms. Hubbard confirmed docks are assigned by club membership. Chairman Shivas asked if someone has to live in Cranberry Lake to dock a boat; Ms. Colligan said there are no public docks to park a boat. Mr. Niech said someone can be a member and not live there, but none of those memberships include overnight mooring. If someone is not a member, they can still go in the lake since it's state water. Chairman Shivas closed to the public.

The Board went over the variances needed. Mr. Thomas said this is a Planning variance, explaining the details. Mr. Gleitz said some of the improvements are in the unnamed right-of-way, and the ownership is unclear. He noted this is not a typical application, but these kind of approvals do occur. Mr. Thomas said the DEP assumes jurisdiction for this application; Mr. Gleitz noted property is governed by the Department of Treasury who controls state lands. Ms. Raffay confirmed they're just looking at the right-of-way, not the finger docks or boardwalk. Chairman Shivas noted they're here not for approval of a structure, but for repair of something existing. Ms. Franco asked how far back the restricted access goes; Mr. Niech said up until 1980 the only way to the lake was through the trails; there was no state ramp. Ms. Hubbard noted her concern about consent for the application. Mr. McElroy asked that if the State disagrees with the docks being present, the Board approval doesn't change that. Mr. Thomas noted that if the Board approves this and then the State doesn't want the docks there, the Board approval is overridden.

Mr. McElroy motioned to approve the application, seconded by Ms. Shimamoto. The below vote was taken:

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION			√								
SECONDED								√			
AYE	√	√	√	√	√			√			√
NAY									√		
ABSTAIN										√	
ABSENT						√	√				

Motion carried.

SP2-2021 Matthew Akerman, 34 Route 206, Block 40 Lot 15, VB Zone

Variances for outdoor storage, conducting wood sales, and using land for a non-permitted use.

Mr. Smith and Ms. Franco rescued from this application. Daniel Bekendorf from Askin and Hooker’s office appeared to represent the application. He requested to be carried because a report from the Board Planner was submitted the day prior. He requested time to review the report with their own planner and client. Mr. Gleitz noted that his report doesn’t say anything that should change their testimony or variances requested. Mr. Bekendorf noted that the professional representing the application is also not available, which he found out earlier that day. He requested to be carried until 01/06/2022 to ensure that enough Board members are present. Ms. Raffay noted her concern that the business seems to still be operational, and the application keeps getting moved. Chairman Shivas said the other meetings where they were moved, they needed an EIS report submitted.

Mr. Walsh motioned to carry this application with no further notice to 01/06/2022, seconded by Mr. Morytko. The following vote was taken:

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION										√	
SECONDED				√							
AYE	√		√	√	√			√		√	√
NAY											
ABSTAIN		√							√		
ABSENT						√	√				

Motion carried.

Ms. Franco and Mr. Smith rejoined the meeting.

DISCUSSION ITEM- Electrical Vehicle Ordinance from the State

Ms. Hubbard said that the Department of Community Affairs has introduced new legislation for charging stations. They want to include it in every district to make it more accessible, and it is in effect now. The model ordinance governs the regulations. Ms. Hubbard reviewed the regulations; she noted that the Board doesn’t have much room for changing these. 15% of the parking, if there are over 25 spaces, would need to be for charging. There was further discussion about the regulations of this ordinance. Chairman Shivas confirmed that applications that were already approved don’t need to come back; this is only for future applications. Mr. Smith asked what can be changed; Mr. Gleitz said location and buffering are the main things. Ms. Hubbard noted timing is also factored, to account for the time to charge and then leave rather than stayed parked. Ms. Hubbard recommended the Board review the ordinance to discuss it at the next meeting.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said there’s no meeting.

Building Committee: Mr. Morytko said there’s no meeting.

Environmental Commission: Ms. Shimamoto said there is a meeting next week.

Open Space: Mr. Morytko said there’s a meeting on the 13th.

Township Council: Ms. Franco said there’s a meeting on Tuesday.

BILLS

Law Offices of Larry Weiner (2)- \$1,590.00

A motion to approve the bills was made by Mr. Walsh. The motion was seconded by Mr. Chozick. All were in favor. Motion carried.

OPEN TO THE PUBLIC

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

ADJOURNMENT

A motion to adjourn the meeting was made at 9:40pm by Mr. McElroy. The motion was seconded by Mr. Franco. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Caitlin Phillips