

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, December 2nd, 2021 at 7:30 P.M.
Meeting Held at: 10 Mansfield Drive, Byram Township NJ

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **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.

4. **FLAG SALUTE**

5. **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.

SP4-2021 DeRosa Enterprises, 262 Route 206, Block 216 Lot 2, NC Zone

Merging of 2 lots into a single lot, and use variance for expansion of existing marina for service and sales.

6. **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

<https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/EosKYnH3VwBAhzNqZ8ScBZwBqPwP-2QkGzjp2lshOeSUQA?e=3SlAKX>

SP6-2021 Cranberry Lake Community Club, PO Box 360, Block 193 Lot 1, R-5 Zone

Maintenance for a boat dock.

https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/Eqdbf6oqFHIHrVSyAZjBjOUBAU_WqJ_e67NYzpHQhhimwg?e=Q77SPS

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.

<https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/EkjeIwv5bBFHpmER0ix1ZMUBwBCM3mrxANStumqzy7fWDg?e=qsdkgk>

7. **REPORTS FROM COMMITTEES**

Architectural Review Committee

Building Committee

Environmental Commission

Open Space

Township Council

8. **BILLS**

9. OPEN TO THE PUBLIC

10. ADJOURNMENT

Next Meetings:

12/16—Chad Pirnos, Jara Werner

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.

In the matter of Patricia & Fausto Brito
Case No. Z14-2021

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: Side Yard Setback

WHEREAS, Patricia & Fausto Brito have applied to the Planning Board, Township of Byram for variance approval for an existing deck for premises located at 37 Lockwood Avenue and known as Block 26, Lot 352.01 on the Tax Map of the Township of Byram which premises are in a “R-4” 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. The Applicants are the owners and occupants of the single-family home located on-site.

2. The Applicants are seeking approval for an existing deck that requires variance relief from the required side yard setback, as 15 feet is required, 7.5 feet is existing and proposed to remain.
3. The Applicant submitted the following documents:
 - a. Map of the Property, prepared by DMC Associates, LLC, dated August 19, 2021, revised September 17, 2021.
 - b. Pictures of the deck, 5 total.
4. The Board received the following memorandum:
 - a. Cory L. Stoner, P.E., C.M.E., Planning Board Engineer, dated November 12, 2021.
 - b. Donna Fett, Secretary of the Environmental Commission, dated November 2, 2021.
5. The application was heard at a duly notice public hearing on November 18, 2021, at which time Patricia and Fausto Brito presented sworn testimony to the Board in support of the application. The Applicants recently purchased the property. During the related home inspection, it was noted that the deck was not built to code and that the proper permits were not obtained. Applicants have engaged a contractor that will add additional footings to stabilize the deck, in conformance with the applicable codes.
6. The subject property is a narrow lot, that is developed with a single-family dwelling, a driveway, and the subject deck. The house is a pre-existing, non-conforming structure, with side yard setbacks of 8.05' on the eastern side of the lot and 7.5' +/- on the western side of the lot. The western setback of the

deck is a continuation of the setback to the existing home, decreased only as a result of the configuration of the house on the property.

7. The subject property is located within the Highlands Preservation Area and per the Highlands Water Protection and Planning Act, the construction activities related to the construction of a deck on a single-family dwelling are excluded from the Highlands regulations.
8. No one from the public was in attendance for this hearing.

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 witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from Section 240:54.C.(3) of the municipal zoning ordinance, the existing deck is approved with a 7.5 +/- foot side yard setback.
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. The subject property is a deep, narrow lot, with an existing dwelling. The deck is an extension of the side yard setback of the existing dwelling, which has a non-conforming setback, creating a hardship for the Applicants.

3. The benefits of permitting the deck outweigh the detriments that may result from denying the requested relief, as the deck is already existing and the Applicants are having the additional footings added, bringing the deck construction to the current code requirements.
4. It was determined that there would be little impact to the surrounding area and 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 2nd day of December 2021 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 the necessary construction permits related to the current construction and proposed upgrades.

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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 2nd, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.