

**BYRAM TOWNSHIP PLANNING BOARD AGENDA**  
**For Thursday, December 2<sup>nd</sup>, 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.

Z06-2021 Dennis Fornarucci, 3 Opa Pass, Block 142 Lot 102, R-5 Zone  
**Correction** from 14 x 20 to 14 x 24 shed.

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](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. **DISCUSSION ITEM-** Electrical Vehicle Ordinance from the State

8. **REPORTS FROM COMMITTEES**

Architectural Review Committee

Building Committee

Environmental Commission

Open Space

Township Council

**9. BILLS**

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

**10. OPEN TO THE PUBLIC**

**11. 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 2<sup>nd</sup> 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 2<sup>nd</sup>, 2021 and is in effect for one year.

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**Caitlin Phillips, Planning Board  
Secretary**

**Dated:**

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

In the matter of Dennis Fornarucci  
Case No. Z 06-2021

**BYRAM TOWNSHIP**

**PLANNING BOARD**

**RESOLUTION OF MEMORIALIZATION**

**AMENDED**

**RELIEF GRANTED:**        **Minimum Front Yard Setback**  
                                  **Minimum Side Yard Setback**  
                                  **Minimum Rear Yard Setback**

**WHEREAS**, Dennis Fornarucci has applied to the Planning Board, Township of Byram for permission to construct a garage requiring variance relief for premises located at 3 Opa Pass and known as Block 142, Lot 102 on the Tax Map of the Township of Byram which premises are in a “R-5” 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 Applicant is owner and occupant of the single-family home located on-site.



2. The Applicant is proposing the removal of an existing shed and the construction of a 14'x20' garage, as testified to at the hearing, requiring relief for front yard setback, side yard setback and rear yard setback.
3. The Applicant submitted the following documents:
  - a. A plan entitled "Map of Property" prepared by Stewart Surveying & Engineering, LLC consisting of one (1) sheet dated July 23, 2021.
  - b. A survey prepared by Robert D. Poole, PLS, consisting of one (1) sheet dated September 29, 2007.
  - c. Hand drawn elevations of the proposed garage.
  - d. Five (5) pictures of the current conditions on the property.
  - e. Letter from the Applicant dated October 8, 2021, with proposed drainage system
4. The Board received memorandums from the following:
  - a. Cory Stoner, Planning Board Engineer, dated September 2, 2021 and November 1, 2021 (with comments to drainage system).
  - b. Donna Fett, Environmental Commission Secretary, dated September 2, 2021 and November 2, 2021.
  - c. Thomas Dixon, Zoning Officer, dated April 21, 2021.
5. Duly noticed public hearings occurred on September 16, 2021 and November 4, 2021, at which time Dennis Fornarucci presented sworn testimony in support of the application. The subject property is an irregularly shaped lot that was the enlarged as a result of the vacation of Wo-Ma-Ga Trail by the Township, whereby a 10-foot-wide strip of land was merger along the

northern property line. The Applicant provided an updated survey to the board indicating the current lot line and the location of the proposed shed, which is setback 10 feet from the new property line.

6. The Applicant testified that the existing 8'x10' shed will be removed as part of the proposal for the construction a 14'x24' accessory structure to serve as a workshop for the Applicant's hobbies. With the proposed overhangs, the shed will measure 15.5' x 25.5'. The Applicant reviewed the pictures that were submitted with the application to depict the conditions on the property and the location of the proposed accessory structure.
7. It was noted that the existing driveway and walkway are gravel. The house is situated at an angle and the lot is constricted by shelf rock and a septic system. Additionally, the property slopes toward Opa Pass and there is existing vegetation.
8. The Applicant has taken steps to improve the appearance of the property, including the removal of dead trees and boulders and the reconstruction of the access to the front door.
9. During the public portion of the meeting, Ms. Niemiak and Mr. Turpack, owners and occupants of 10 Panther Pass, which is located to the south of the subject property and at lower elevation, testified that since the trees and boulders have been removed, they have had significant flooding in their basement. The Applicant confirmed that the water naturally flows in their direction. The Board requested that the Applicant provide a drainage system

on site to address the current stormwater runoff and future runoff from the accessory structure on the subject property.

10. Prior to the November 4, 2021 hearing, the Applicant worked with Mr. Stoner, the Board Engineer, and proposed stone trenches along the northern and southern side of the proposed accessory structure. The stormwater will continue to flow in the southerly direction and the Applicant constructed an infiltration basin to collect some of the runoff on site. The following were marked for identification purposes:

- a. A-1 – Six pictures from various angles of the infiltration basin, taken by the Applicant
- b. B-1 – Picture of the house from Opa Pass, taken by Harold E. Pellow & Assoc.
- c. B-2– Picture of the infiltration basin area prior to construction, taken by Harold E. Pellow & Assoc.

11. The infiltration basin is 2-3' deep, with a decorative design, with a lower level of 2" stone, covered with 3/4" stone. There will be additional plantings of native species in the area. The basin will require standard maintenance, such as leaf removal.

12. There are 2 additional unhealthy trees that were removed, one in relation to the construction of the basin and one near the home. After construction, the Applicant will restore the lawn area.

13. There was no one from the public at the November 4, 2021 public 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 the following Sections of the municipal zoning ordinance:
  - a. Section 240-16 – Minimum Front Yard Setback: 45 required, 35 feet approved
  - b. Section 240-16 – Minimum Side Yard Setback: 15 required, 10 feet approved
  - c. Section 240-16 – Minimum Rear Yard Setback: 20 required, 14.4 feet approved
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, 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. Accordingly, the subject property is an irregularly shaped property, that is constricted by the septic system and the existing shelf rock on the site. The proposed accessory structure will replace an existing, dated shed and will provide a workshop for his hobbies. The proposed structure is part of a plan to improve the aesthetic appearance of the property, which also includes landscaping and a raingarden to mitigate stormwater runoff that impacts the neighbors.
4. The benefits of the overall improvements outweigh the detriments that may result from denying the requested relief. It was determined that there would be little impact to the surrounding area and will, in fact, improve the drainage concerns in the area. Accordingly, 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 2<sup>nd</sup> 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 accessory structure shall be constructed as indicated on the plans and represented at the public hearing.
3. The Applicant shall plant native species around the infiltration basin, as set forth in the information provided by the Board Secretary.
4. The landscaping is subject to the review and approval of the Board Engineer to ensure the control and mitigate stormwater runoff on site. A Certificate of

Occupancy for the accessory structure shall not be issued until the landscaping has been approved by the Board Engineer.

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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 2<sup>nd</sup>, 2021 and is in effect for one year.

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**Caitlin Phillips, Planning Board  
Secretary**

**Dated:**

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

**BYRAM TOWNSHIP PLANNING BOARD  
BILL LIST FOR December 2, 2021**

<b><u>HAROLD PELLOW &amp; ASSOCIATES, INC</u></b>	<b>DATE</b>	<b>AMOUNT</b>
<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. 2021-76 Planning Board- emails, phone calls, attendance at 10/21 and 11/4 meeting	11/9/2021	\$1,215.00
Inv. 2021-77 Cranberry Lake- review application, phone calls, emails, review of emails	11/9/2021	\$375.00
<b>Larry Wiener Total</b>		<b>\$1,590.00</b>

<b><u>LATINI &amp; GLEITZ, PLANNING</u></b>	<b>DATE</b>	<b>AMOUNT</b>
<b>Paul Gleitz total</b>		<b>\$0.00</b>
<b><u>GRAND TOTAL</u></b>		<b><u>\$1,590.00</u></b>