

**MEETING MINTUES
BYRAM TOWNSHIP PLANNING BOARD
MEETING, FEBRUARY 18, 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	H	H
ABSENT											
EXCUSED											
LATE											

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

STATEMENT BY CLERK

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 February 18, 2021 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, and on the bulletin board in the Municipal Building, and on the Township website at: https://www.byramtwp.org/index.php/meetings/committees/planning_board and has been forwarded to those persons requesting notice.

FLAG SALUTE led by Chairman Shivas

MINUTES

Approval of the January 28, 2021 Meeting Minutes.

A motion to approve the January minutes as written was made by Mr. McElroy. The motion was seconded by Mr. Morytko. The following vote was taken:

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

Motion carried.

A motion to approve the February 4, 2021 minutes as written was made by Mr. Smith. The motion was seconded by Mayor Rubenstein. The following vote was taken:

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

Motion carried.

RESOLUTIONS

Z15-2020, Toedter Uwe, 135 Lackawanna Drive, Block 271 Lot 788, R-5 Zone

Relief sought for a setback to a body of water to keep an already installed outdoor kitchen.

A motion to approve the resolution was made by Mr. Morytko. The motion was seconded by Mayor Rubenstein. The following vote was taken:

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

The motion carried

Z16-2020, Hassenfeld James, 92 Birch Parkway, Block 308 Lot 1847, R-5 Zone

Relief sought for a side yard setback to install hot tub.

A motion to approve the resolution was made by Mr. Morytko. The motion was seconded by Ms. Shimamoto. The following vote was taken:

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

Motion carried.

Resolution of Recognition and Appreciation, Cheryl White

For Cheryl White, who served the Board from June 2010 to January 2021, and who interfaces with the Board and the public.

A motion to approve the resolution was made by Mr. Walsh. The motion was seconded by Ms. Raffay. The following vote was taken:

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

The motion carried.

OLD BUSINESS

SP1-2020, Tomahawk Lake, Tomahawk Trail, Block 343, Lots 1 & 2, C-R Zone (Applicant requested this application be carried to March 04, 2021).

Amended site plan to add two new water slides, to permit parking on Lots 1 & 2, to install a 10' X 20' ticket booth, and to construct a 36' X 40' building for retail sales.

The applicant requested to carry this application to March 4, 2021. The Board asked if this would need further notice, and Alyse noted since it's a date certain no notice is needed. A motion to approve this date was made by Mr. Walsh. The motion was seconded by Mr. Chozick. The following vote was taken:

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

Motion carried.

Z09-2020, Barbara Bolen, 89 Glenside Trail, Block 312 Lot 2050, R-5 Zone (Applicant requested this application be carried to April 01, 2021).

The applicant requested to carry this application to April 1, 2021. A motion to approve this date with no further notice was made by Mr. Walsh. The motion was seconded by Mr. Chozick. The following vote was taken:

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

Motion carried.

NEW BUSINESS

Z17-2020, Lukich Kevin, 27 Deer Run, Block 284 Lot 211, R-5 Zone

To build a two-car garage and extend the master bedroom on the second floor. Mr. Smith recused himself from this application.

Kevin Lukich was sworn in. The applicant would like to build an attached two-car garage with a master suite above. It requires two variances. One variance goes against the neighbor's yard; currently the setback is 28.1 feet and the proposed changes would bring the setback down to 5.625 feet. The second variance involves the detached garage used as a workshop, for a setback from an existing structure at 5.5 feet rather than the 11 feet from the house currently. Lukich explained that he can't use the existing detached structure for the garage because he uses it as a woodworking area, and you can only fit one car in there.

Chairman Shivas asked about fitting the two cars in the proposed garage with the sidewalk that is currently there. Lukich said he would likely take that sidewalk out and move the driveway over to the proposed structure. Chairman Shivas reminded Lukich that if a retaining wall for a new sidewalk is over 4 feet, he'd need a variance for that as well.

Ms. Raffay and Mayor Rubenstein asked about the proposed and current master bedroom and bathrooms. Lukich noted he is looking to extend rather than add any bathrooms and bedrooms, and give his daughter a walk-in closet. Ms. Raffay asked Lukich to justify the size of the proposed changes. Lukich said originally he was looking to make the extension 24 x 24 for the two-car garage, and moved it down to 22 feet, which is the minimum to fit both cars.

Ms. Shimamoto asked how Lukich plans on taking care of the additional runoff from the building. She also noted that there is a wooded area at the back of his property, and based on the Highlands mapping, that area could be part of the riparian buffer, and recommended he look into that with a surveyor. Lukich said the area in the back is not being touched, and in terms of runoff, rainwater runs into a PVC pipe and then out to the street, which he'd use for the proposed extension as well.

Chairman Shivas opened to the public.

Suzanne Menta of 46 Winding Way noted that she has an issue with how close the proposed structure would be to her property. It would invade in her privacy, as the side of Lukich's house looks into her dining area. She also noted there is an issue with the runoff, as the drain gets clogged easily and has caused flooding on the street. Menta said that part of the property line where the trees are is hers, and she was not asked about tearing them down. Lukich noted that the larger tree that needs to go down may not be on her property, and that he was going to discuss the trees when he was able to get the variance. Menta also noted that the previous neighbor had a light on that side that shined into her windows, and with the extension it would make it even brighter. Lukich noted he had no intention of putting a light on that side.

There was further discussion about the placement of the trees. Chairman Shivas said that tree looks to be too close and would need to be removed for the extension to be built. Mayor Rubenstein pulled up a Google image of the houses, **Exhibit B1**, to see the distances. Menta noted that if the fence were removed, with trees being cut down there wouldn't be a buffer between the houses.

Chairman Shivas closed to the public.

Chairman Shivas noted that there needs to be a determination about whose tree it is that needs to be cut down for there to be an approval. Board members offered different options for the garage and master bedroom to help with the concerns of the size and placement. Lukich noted that the two-car garage is important because they've needed to replace windshields from storms knocking branches onto the cars. Board members' suggestions included a one-car garage to minimize the size, moving the structure to the back of the property to fit setback requirements, cutting the proposed second story back further, connecting the workshop to the main structure, adding a carport instead of a garage, and adding a buffer between the neighbor's yard. Lukich noted that the size of the bedroom is important because the storage and movement in the house is cramped. He likes the uniformity he proposed for re-sale value, and he didn't want to attach the workshop because he was worried about the increase in taxes. Lukich said he spent a year trying to make these plans and doesn't see another way to do this.

A motion to deny this application was made by Mayor Rubenstein. The motion was seconded by Mr. Walsh. The following vote was taken:

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

Motion carried.

Z01-2021, Warden Trevor, 115 Lake Drive, Block 249 Lot 101, R-5 Zone

Setback to a body of water to keep an already erected shed. Mayor Rubenstein recused himself from this application.

Trevor Warden was sworn in and explained that there was a shed on the property that was broken by a tree after he moved there in November 2017. He installed a smaller shed on the location of the old one, and because of the shape of his property there isn't a better location.

The Board asked about the time between the old shed being demolished and the new shed replacing it. Warden said it was roughly two weeks. The Board asked Alyse if it's accurate to say when the old shed was demolished the grandfathering in of its placement no longer applied to the new shed, so that the current zoning applies. Alyse said yes, only if parts of the shed such as two walls remained would the old provisions apply. She also noted it's the setback to the lake not the size of the structure that's in question. Ms. Shimamoto reminded the board of the 80% vegetative buffer needed. Warden noted that he received a report from Scott Koenig addressing the environmental concerns, but wasn't able to submit it because he received it early that day. Chairman Shivas allowed him to read the report, which stated with Warden's bulkhead the vegetative buffer would not provide any further stabilization. Mr. Stoner responded that he has no objections to what is being proposed.

Chairman Shivas asked about the vegetative buffer in relation to the bulkhead. Paul noted that the vegetative buffer is a basic requirement of the lakefront buffer, and there is nothing mentioned about a bulkhead exception. There was some debate between Warden and the Board about the necessity of the buffer. Warden stated that the buffer shouldn't be needed and thinks that it would be detrimental to the lake, and the shed has been there for a while. Chairman Shivas noted that they could lessen the amount of the buffer, but it is still a requirement. Mr. Serrilli asked what constitutes a vegetative buffer, and Paul responded that the town provides a list of species to plant, and the 80% requirement is to ensure a limit to fertilizer runoff into the lake. Ms. Raffay noted that the discussion is meant not to address so much the shed but the fact that Warden has a lakefront property, which requires a buffer. Warden said the Board would need to tell him the percentage of buffer he needs; the Board said they don't have an exact number to give him. Mr. McElroy noted that the shed has been there and should be fine as it is.

Chairman Shivas opened to the public. No one expressed an interest. Chairman Shivas close to the public.

A motion to approve this application as requested with a 100% waiver on the buffer requirement was made by Mr. Walsh. The motion was seconded by Mr. Serrilli. The following vote was taken:

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

Motion carried.

SP3-2019, 263 Route 206 Real Estate LLC, 251 Route 206, N-C Zone

Preliminary Major Site Plan with Variances to demolish an existing structure and construct a 7,500 sq. ft. retail/office building and a restaurant with a drive thru. Mr. Walsh recused himself from this application.

John Ursin, 15 Roseview Road was sworn in along with *Michael Marotte, 3 Lakeview Trail* and *Jason Dunn, 11 Lawrence Road*. Mr. Dunn's credentials were put on record and he was deemed an expert for the environmental planning portion of the application. Ursin and Marotte are long-term residents of Byram who want to find a use for the property that is good for the town. They noted that they found that lower-profile buildings are better visually and would allow for more light and visibility to Cranberry Lake. Their proposed buildings are a restaurant/drive-thru and a commercial strip-building. They said that during the pandemic, drive-throughs seem to be more in demand. They consider their proposed site to be a neighborhood shopping center, but in the town ordinance a neighborhood shopping center can only be one building, so they're looking for a use variance for the two buildings and to keep the storage units. They don't want to demolish the buildings until there is some level of approval for their work, and they don't believe they'll have any interest in the building from buyers until they have a concept-level approval. For parking, they're looking to have two separate islands that would be an opportunity for landscaping. They noted they would need to come back for an amended preliminary site plan with further details.

Mr. Dunn showed images of the site plan, and pointed out the 3 access points from the highway, which they're trying to preserve. Dunn noted that he believes it's appropriate to approve this because it promotes goals A (general welfare), C (allows for appropriate light, air, and open space), and I (promotes a desirable visual environment) of the Land Use law. It promotes the general welfare by encouraging the economic growth of the area—the site has been vacant. It promotes light, air, and open space by separating the buildings, giving a better view to Cranberry Lake. It promotes a desirable visual environment by improving the architecture of the area, removing a dilapidated building.

Chairman Shivas asked about the entrance ways and how to navigate between the buildings, and about the garages. Ursin said he would fix the navigation for their next meeting, and that the garages would remain a storage facility for residents, but that whatever architectural standard applies to the other buildings would then apply to the garages as well. Chairman Shivas noted that they would need another use variance for the garages.

Ms. Shimamoto expressed concern about the restaurant's proximity to the road and asked if they would

consider just the retail area. Mr. Ursin said they'd be giving up square footage, and the visual interest would be impacted. Mr. Stoner asked about the parking, and how people would get from one building to the other. Chairman Shivas said he was looking at this like a conceptual drawing because the Board is not sure what it will really look like yet. Alyse noted to grant a preliminary approval, they'd need to deem a waiver acceptable. Signage, lighting, vegetative buffers, etc. would need a waiver at this point until the preliminary proposal is approved, when they would then come back and amend their plan. Alyse also said that they have the option to bifurcate the plan.

Chairman Shivas said they need better circulation details, for cars and people to navigate through the site. Paul noted that if approval is granted now, he thinks it would make sense to flip the building uses to put the drive-thru in the wider area. Mr. Ursin said they'd revise their plans.

A motion to carry this application to a special meeting on March 25th at 7:30 pm with no further notice was made by Mr. Chozick. The motion was seconded by Mr. McElory. The following vote was taken:

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

Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee – Mr. Morytko said they submitted a memo on Skylands Surgery, and they reviewed the Mountainside property; the Board will receive information on both.

Building Committee – Mr. Morytko said they met with the Council to review design documents and estimates for the proposed building.

Environmental Commission – Ms. Shimamoto said there's no meeting this month.

Open Space – Mr. Morytko said they met and reviewed the preliminary plans for CO Johnson and made recommendations for the Council for Forester and for the Open Space consultant.

Township Council – Mayor Rubenstein said after the Building meeting, the Council approved a resolution this past Tuesday to continue the site plans and development for the municipal building complex, authorizing permitting work to be done with the DEP in relation to stormwater. The NJDOT decided that the tunnel/bridge that goes under the Lackawanna cut-off in Andover needs to be fixed, meaning Route 206 could be closed for a year when construction starts.

Zoning Report- Everyone received a copy of the report.

BILLS

Harold Pellow & Associates, Inc. (10 bills) \$3,312.50

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

Law Office of Larry Wiener, Esq. (2 bills) \$855.00

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

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

ADJOURNMENT

A motion to adjourn the meeting was made at 11:15 by Mr. Chozick. The motion was seconded by Mr. McElory. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Caitlin Phillips