

**MEETING MINTUES
BYRAM TOWNSHIP PLANNING BOARD
MEETING, FEBRUARY 17, 2022**

CALL TO ORDER

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

ROLL CALL

	Mayor Rubenstein	Chris Franco	Andrew McElroy	Lisa Shimamoto	Marie Raffay	John Morytko	Robert Chozick	Eric Serrilli	Greg Smith	Michael Walsh	George Shivas
Present			√	√	√		√	√	√	√	√
Absent											
Excused	√	√				√					
Late											

Also present: Attorney Alyse Hubbard, Esq.
Engineer Cory Stoner, P.E. C.M.E.
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

MEETING MINUTES

Approval of February 3, 2022 Meeting Minutes

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

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion			√								
Second							√				
Aye			√	√	√		√		√		√
Nay											
Abstain								√		√	
Absent	√	√				√					

Motion carried.

RESOLUTIONS

20-2021 Stephen Colacurcio, 1 Mansfield Drive, Block 364.01 Lot 1, R-3 Zone

Approval for an existing AC unit in the front yard.

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

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion				√							
Second							√				
Aye			√	√	√		√		√		√
Nay											
Abstain								√		√	
Absent	√	√				√					

Motion carried.

SUBCOMMTTEE MEETING

SP8-2021 Goksun Goksu, 12 Ghost Pony Road, Block 361 Lot 2.03, R-3 Zone

Expansion a 4-family dwelling to 6 family

Mr. Walsh recommended this be deemed complete, but they need to submit information on a draining area and calculations for the additional runoff, fire protection details, and a landscape and lighting plan. Mr. Walsh motioned to deem this application complete with a hearing date of 03/17, seconded by Ms. Shimamoto. The below vote was taken:

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion										√	
Second				√							
Aye			√	√	√		√	√	√	√	√
Nay											
Abstain											
Absent	√	√				√					

Motion carried.

OLD BUSINESS

Z02-2021 Eric Schuffenhauer, 271 Lackawanna Drive, Block 344 Lot 2.03, R-2 Zone

Addition of a pole barn, attached garage, front porch, and pool deck.

Mr. Schuffenhauer remains under oath from the last hearing. He was provided an updated report from Mr. Stoner on the updated plans. Chairman Shivas noted there are also photos circulated of a boat new to the property, taken by the Zoning Officer on 02/11/2022. Mr. Schuffenhauer said at the last meeting he was asked to provide a floor plan with dimensions, a driveway drainage plan, a sketch of the pole barn, driveway material and construction details, a delineation of the storage area, accurate setbacks, and overall disturbance, which he indicated he provided. Mr. Stoner went through his report on the submitted documents. The added pond is a good idea but without the calculations he doesn't know how it'll work. His concern for the drainage is County approval and how it will function. He also discussed the driveway grade and the circular driveway in relation to the septic system; it looks to have been gone for a few years, probably around 2017. He thinks the County would need an updated permit for the driveway. Mr. Schuffenhauer said it was a horseshoe at one point, when he did the septic the machine broke it; the septic is in the front yard and the horseshoe went between the tank and septic. He noted the asphalt for this went away but they didn't stop using it. Ms. Shimamoto asked if there was a drawing of the septic so they can see the driveway. Mr. Schuffenhauer indicated it was in his original submission. Ms. Shimamoto noted she wants to see if the County approval is necessary since the driveway is still used.

Ms. Raffay confirmed the septic is not shown on the new plans. She noted that typically this information is all on one plan to lessen confusion and misinformation. Ms. Hubbard noted the septic plan was done by the same engineer that did the plans. There was further discussion about the driveway. Mr. Stoner noted there are no details for the driveway drainage. Mr. Schuffenhauer submitted **Exhibit A1**, a photo he took himself of the property, depicting the driveway. The photo indicates the gravel driveway and the neighbor's driveway, used to bring fill up. The neighbor's driveway is steep and has no water issues. Mr. Stoner noted the problem is there's no plan to indicate this; he's not sure how much is collected and how it'll be addressed. Ms. Raffay confirmed the seepage pits were calculated with the square footage of the driveway and compared to seepage pits and made bigger. Ms. Raffay asked if he accounted for runoff from the surrounding ground; he took the calculations from the driveway and the left and right will be grass and impervious. Mr. Schuffenhauer said he's not expecting the pit to do anything; it was added to the plan because the Board requested it. Chairman Shivas said his concern is the rain eroding the driveway. Mr. Schuffenhauer said that's why he put the swales in; if it erodes and goes in the road, the Zoning Officer can handle it—he's sure this won't be a problem.

Mr. Stoner asked about the pond area further up on the property; he confirmed the ditch is being retained, it's not a new pipe. Mr. Schuffenhauer put the pond at the top of the ditch, where the mountain face channels through and goes down to the porch. He noted his swimming pool has to be drained every year; in the spring the water coming from the mountain fills it in a day. He has never had an issue with flooding. Ms. Raffay noted this concerns her more because of the volume and velocity, against unimproved vegetation. Mr. Schuffenhauer said the existing ditch catches it. Ms. Raffay confirmed the water is being held back in the pond area. Ms. Hubbard asked if there will be more runoff because of the proposed structures. Mr. Schuffenhauer said the cisterns will help, one on each side of the barn.

Ms. Shimamoto said her issue is that when stormwater is discussed, there's typically a plan calculated by an engineer. With the drawings provided, she can't make a decision on the application. Mr. Schuffenhauer asked what happens if the Board says no. Ms. Shimamoto said everything would need to be restored, including trees. Mr. Schuffenhauer asked if the application can pass at this meeting with Ms. Shimamoto voting no; Ms. Raffay noted she cannot vote for it either. Mr. Schuffenhauer indicated there's no point in continuing. He'll put grass back, and everything will still stay where it is on the property and complaints will still be sent. The Board discussed the viability of multiple sheds for storage, as well as what's needed for the steep slope disturbance. Ms. Shimamoto asked about the

fill that was brought in; they cannot require that it be tested but can ask for it. Mr. Schuffenhauer submitted **Exhibit A2**, a confirmation from the DEP that they did smell-testing for the soil on the property, and stating that they don't require anything. He also submitted **Exhibits A3** and **A4**, further documentation on the soil on site. Ms. Hubbard noted that he's entitled to put sheds on his property, but the steep slopes are a violation, and the documentation he just discussed may help resolve this.

Chairman Shivas circled back to the pond, confirming it will be for water retention, and then would go into the drainage ditch, and then goes into the drains on the road and gets to Lubbers Run. The pond would be slow release. The pole barn water will drain into the cisterns on either side. There was further discussion about drainage. Chairman Shivas noted that some things seem to be an improvement. Ms. Raffay noted she doesn't know how this is being tracked; the plans differentiate from the testimony. Mr. Schuffenhauer said there's a seepage pit and a pond, and on either side of the barn will drain into the ground, and will be a seepage pit rather than the cistern marked on the plan. Ms. Raffay and Mr. McElroy noted that it matters what's reflected on the plans, because that's what people will use to check for compliance. Ms. Raffay asked about measurements for the pond; Mr. Schuffenhauer said he's going to dig a hole in line with the ditch and it'll be bigger than what's shown on the plans. Ms. Raffay noted that applicants come to the Board to tell the Board what they're looking to do; the Board can't design plans and projects for people. Mr. Schuffenhauer noted that when things start sometimes issues come up and that's when field work comes into play. Mr. Stoner noted that typically when he reviews projects for completeness, he has something to go off of. Mr. Schuffenhauer said he added the pond because he thought the Board would like it but he's okay taking it out. Mr. Walsh noted that when the Board considers applications for approval, they're considering the plan; the testimony provided helps the Board understand the plan, but the plan is what's approved. Right now, the plans submitted lack clarity in placement, measurements, and function. Chairman Shivas asked if any walls will be built; Mr. Schuffenhauer said only what's shown behind the garage, starting at a foot and then go up to ten feet.

Mr. McElroy asked about the garage height. The Board further discussed the height requirements. Ms. Shimamoto noted this is why engineered plans are needed, to make sure calculations are correct. Chairman Shivas noted Mr. Schuffenhauer has to calculate what the maximum height will be. Mr. McElroy asked about the pole barn height and the variances needed for that. Mr. Schuffenhauer said he needs a variance for the garage for 35 feet. Ms. Shimamoto confirmed the roof pitch will be 7 and will match the existing. There was further discussion about the proposed walls. Mr. Stoner noted there's not enough information provided to say for certain the measurements for the proposed work. There was further discussion about the leveling for the structures. Mr. McElroy confirmed with Ms. Hubbard that if the height goes to 35 feet, this would then be a D variance. Mr. Schuffenhauer confirmed he'll be under 33 feet. Mr. Schuffenhauer said from the corner where the house meets the garage, and along the garage to the access driveway, the slope drops 3 feet, so the garage will be sunk 3 feet lower than the house. Mr. Stoner asked about the door in the garage; that goes to a utility room. The steps go to the second floor of the garage, which will be used for storage. There will be power in the pole barn but not water. The car lift is a standalone item for hobbies, not a business. The boat there now is having a problem with a motor, and when fixed will be stored at the marina. Mr. Schuffenhauer still wants the height on the doors.

Mr. Walsh left the meeting at this time. Ms. Raffay asked about the noticing; Ms. Hubbard confirmed the noticing was for what was originally sought, and doesn't include the added variances. There's no clause about other variances deemed necessary. Mr. Schuffenhauer said the storage near the pole barn will be for toys, boats, snowmobiles, and other such items. Whatever is in the front yard would be there. He won't detail what will be there in two years because that will change, but everything will be contained within the outlined square. Ms. Hubbard said the noticing doesn't include the driveway grade or the height. Mr. Stoner said without the proper information he can't say if the height needs a variance. The front porch variance has been eliminated. Jennifer Schuffenhauer remains under oath to provide testimony. There was further discussion about the septic area. The horseshoe driveway is used to drive through or park cars, and will be paved. Ms. Hubbard noted they don't have jurisdiction to vote on anything not noticed. They can carry this to a further date with notice required. Chairman Shivas noted that while this is being carried he can provide measurements. Mr. Schuffenhauer said he didn't want to do so much detail if it's not going to be approved. Chairman Shivas noted that people have questions about the details and it would help to have those answered. The issue is not the plan, it's the understanding of the plan. Mr. Schuffenhauer said he believes all the numbers are there. Mr. Stoner noted the plan provided is what the Board is going to base their vote on. Mr. Schuffenhauer asked why the issue for noticing wasn't brought up earlier; Ms. Hubbard said Mr. Stoner's recent report brought up new variances, and the noticing didn't include the catch-all language for other variances. Ms. Hubbard offered to review the noticing to make sure it's cleared to be heard.

There was further discussion of the driveway. The driveway wouldn't need a variance if they consider it pre-existing. Mr. Chozick noted he has an issue with the Soil Conservation documents; he thinks a permit is needed. Mr. Stoner said the plans should be resubmitted to show what's being proposed versus what's existing. The Soil Conservation is ok with the fill solely because it's stable. Ms.

Hubbard confirmed that the DEP is the one with jurisdiction over soil quality and contaminants. Mr. Chozick said the DEP letter indicated the fill came from the demolition of a pool; Mr. Schuffenhauer said they took concrete from around the existing pool. Other fill was brought on site. Mr. Schuffenhauer noted that dirty dirt is tracked and clean dirt doesn't seem to have paperwork. Ms. Hubbard noted that when fill is brought in, sometimes it's certified clean fill.

Mr. McElroy asked about Mr. Stoner's report, regarding the timelines to accomplish the project. Mr. Schuffenhauer said his projected timeline was two years, and he noted he can come back and ask for an extension for up to three years. Chairman Shivas said if they're fully started within the year they don't need to come back. Ms. Hubbard provided Anty Trucking as an example of a timeframe that wasn't statutory. She noted extensions are typically for site plans. Mr. Stoner reminded the Board there are violations on this property. Mr. Schuffenhauer said the first thing he'd do is build the storage area with the fencing. Mr. McElroy noted that he won't vote on this application unless there's a concrete timeline. The plan should include the work being done and when it'll be done by (i.e. dates and the number of days needed for each project). Chairman Shivas noted that he should consider padding time to account for any delays. Mr. Schuffenhauer said he can do the storage area, driveway, and barn within a year and start the garage within two years. Mr. McElroy noted he should include details of what will be in each for storage. A big part of the application is how to manage the storage.

The Board discussed the next available hearing date and noticing. Ms. Raffay noted she's still uncomfortable with the architectural drawings and plans. The original plan was put together by an engineer, but marking it up makes it unofficial. Mr. McElroy noted that if this application gets approved by the Board, the plans submitted won't be approved anywhere else that needs them, including the Building Department and Soil Conservation. He reiterated Chairman Shivas' point that there don't seem to be any issues with the plan itself, it's the way the plan is presented. Mr. Schuffenhauer noted that the plans are how they're going to be; if the Board won't approve them this way, he won't bother re-noticing for a new meeting. He noted that it won't help anyone if this doesn't get approved because people will still be unhappy; Ms. Hubbard noted that the Board has certain criteria it needs to meet to approve an application. She discussed the requirement of having a hardship or a benefit; if it can't be proven that the water won't hurt neighbors, it would be hard to prove the benefits outweigh the detriments. Chairman Shivas noted that he likes the concept, but he needs to know how it all works. The plans considered by the Board become an official document memorialized and referenced by different groups and departments. Mr. Chozick noted the Upper Delaware Conservation District will only accept engineered plans. Ms. Hubbard said that can be a condition of approval to get the proper paperwork from them. Ms. Schuffenhauer noted that this process is a significant cost, and they're worried about investing more in engineering only for this to not get approved. She asked if there's anything besides an engineering drawing that would be accepted; Ms. Raffay said she wants an engineered drawing because this is a significant change to the property. Ms. Shimamoto said she likes what they're doing and wants to be able to approve this, but the drawings need to match the testimony. Mr. McElroy noted that the report from Mr. Stoner highlights concerns, and that makes it hard to approve anything. Mr. Stoner said what's been discussed sounds better than what's there today, but he needs numbers and calculations. There was further discussion about how the plans are viewed by members of the Board. Mr. Schuffenhauer asked if they could approve part of the application tonight; Mr. McElroy noted all the items are too tied together. Mr. Schuffenhauer wants to have the pool deck and garage approved; Mr. Stoner said he needs to provide the calculations that show the garage meets requirements. There was further discussion about various measurements. Chairman Shivas noted that if they were just approved things for the house, they'd still need new plans because they can't just cross off the other items on the plan. Mr. McElroy noted that at a previous meeting, he recalls Chairman Shivas recommending this application not be bifurcated.

Mr. McElroy motioned to carry this application with additional notice to 04/07, seconded by Mr. Serrilli. Mr. McElroy said they should consider what they want to do, in terms of noticing, preparing plans for only part of the application, or being prepared to take a vote on everything as is. Chairman Shivas said to take Mr. Stoner's report and review what's needed. The below vote was taken:

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion			√								
Second								√			
Aye			√	√	√		√	√	√		√
Nay											
Abstain											
Absent	√	√				√				√	

Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. McElroy said there was no meeting.

Building Committee: No one was there to report for this.

Environmental Commission: Ms. Shimamoto said there's nothing to report.

Open Space: No one was there to report for this.

Township Council: No one was there to report for this.

Zoning Report: Everyone had a copy.

BILLS

Law Offices of Larry Weiner (1)- \$600.00

A motion to approve the bills was made by Mr. McElroy. The motion was seconded by Ms. Shimamoto. 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 10:15 by Mr. McElroy. The motion was seconded by Mr. Chozick. All were in favor. Motion carried. Chairman Shivas noted that he received two people's input for the report to the Town Council on things to fix. If anyone has things to change, they need to bring it to the next meeting. Items like the checklist can be fixed by the Board without the Council. The meeting was adjourned.

Respectfully submitted,
Caitlin Phillips