

AGENDA
JANUARY 07, 2021
BYRAM TOWNSHIP PLANNING BOARD
10 MANSFIELD DRIVE,
BYRAM TOWNSHIP N.J.
REORGANIZATION & REGULAR MEETING
7:30 P.M.

Revised Jan. 04, 2021

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83178215159>

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 646 518 9805 or +1 267 831 0333 Webinar ID: 831 7821 5159

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **OPENING STATEMENT** - 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 January 07, 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.
4. **FLAG SALUTE**
5. **REORGANIZATION**
Nomination of Chairman
Nomination of Vice-Chairman
Nomination of Attorney
Nomination of Engineer
Nomination of Planning Consultant
Nomination of Secretary/Administrator Officer
Nomination of Newspaper
6. **MINUTES**
Approval of the December 17, 2020 Meeting Minutes
7. **RESOLUTION**
[PB1-2021 Annual Notice of the Calendar Dates of the Scheduled Regular Meetings of the Byram Township Planning Board](#)

Z12-2020, Edward King, 16 Chestnut Street, Block 26 Lot 370.02, R-4 Zone
To permit a 6ft. fence in the front yard, this property has two front yards.

8. **NEW BUSINESS**

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.

https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/ErGqnA_bFJLgHKRgTkZzp4B7tjg_5rjtuUnjeaQTaxYUw?e=cH3SB

9. **REPORTS FROM COMMITTEES**

Architectural Review Committee

Building Committee

Environmental Commission

Open Space

Township Council

10. **BILLS**

Law Office of Larry Wiener (11 bills) \$2,595.00

Harold Pellow & Associates (12 bills) \$4,335.80

11. **OPEN TO THE PUBLIC**

12. **ADJOURNMENT**

Next Meetings:

January 21, 2021 – Byram Route 206 Developers, LLC (Wawa)

February 4, 2021 - Uwe Toedter, Outdoor kitchen

Hassenfeld, James – Hot tub

Petersen, John – Solar Array Panels (carried from December 03, 2020)

Safa, LLC – Raise the roof pitch (carried from December 03, 2020)

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.

**DECEMBER 17, 2020
MEETING MINUTES
BYRAM TOWNSHIP
SPECIAL PLANNING BOARD MEETING**

CALL TO ORDER

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

ROLL CALL

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
HERE	H	H	H	H	H	H	H	H	H	H	H
ABSENT											
LATE											
EXCUSED											

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

OPENING STATEMENT - 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 meeting for December 17, 2020 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, is posted on the main door, and on the bulletin board at the Municipal Building, and is posted on the Township website at:

https://www.byrampwp.org/index.php/meetings/committees/planning_board

and has been forwarded to those persons requesting notice.

FLAG SALUTE led by Chairman Shivas

MEETING MINUTES

A motion to approve the minutes for December 03, 2020 was made by Mr. Morytko. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION					√						
SECONDED	√										
AYE	√	√	√	√	√	√	√	√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

A motion to approve the minutes for December 10, 2020 was made by Mr. Olson. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED	√										
AYE	√	√	√	√	√	√	√	√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

RESOLUTION

Z13-2020, Marina & Kevin Prokup, 33 Amity Road, Block 336 Lot 31, R-2 Zone

To install a fence over the permitted height, and an accessory structure that exceeds allowable size.

A motion to approve the resolution as written was made by Mr. Morytko. The motion was seconded by Mr. Olson. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION					√						
SECONDED						√					
AYE	√		√	√	√	√		√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

NEW BUSINESS

Z12-2020, Edward King, 16 Chestnut Street, Block 26 Lot 370.02, R-4 Zone

To permit a 6ft. fence in the front yard, this property has two front yards.

Mr. Edward and Christine King, applicant and owners were sworn in. Mr. King said he would like to erect a 6 ft. vinyl, brown in color fence, in the front yard, his property has two front yards. He said the fence will be ten feet off of the ROW and will begin at the rear corner of the back of the house, and it will extend along Broad Avenue, then across the rear yard property line, and then join to his neighbors' fence to the left. He said he would like a 6 ft fence is to contain his dog, for the safety of his grandchildren, and to keep animals out of his yard, saying lately they have had a problem with bear.

Mr. King said Picture 1, submitted with his application, shows the proposed fence location along Broad Avenue and noted that the hedges along Board Avenue from the street sign back will be removed, which will improve sight distance. Exhibit B1, Google Street View was shown, and Mr. King pointed out the hedges that will be removed. Ms. Raffay said she would like to see a condition in the resolution that the hedges from the street sign back will be removed. Mr. King agreed to that condition. Mr. Olson pointed out that other homes in the area have fences of similar height so it will not be out of character with the surrounding homes. The Board had no further questions. Chairman Shivas opened to the public. No one from the public came forward. Chairman Shivas closed to the public.

A motion to approve this application was made by Mr. Morytko. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION					√						
SECONDED	√										
AYE	√	√		√	√	√		√	√	√	√
NAY											
ABSTAIN											
ABSENT											

OLD BUSINESS

SP5-2018, Raimo of Stanhope Inc., 49 Route 206, Block 35 Lot 36 & Block 37 Lot 26, V-B Zone
Preliminary & Final site plan to add new structures (carried from September 17, 2020)

Mr. Charles Sarlo, Esq. representing the applicant said they reviewed revised reports from the Board Planner, Engineer, and comments from Byram’s Environmental Commission and said revisions to the plan were submitted and dated 11-04-2020, and Mr. Morris will review those changes with the Board.

Mr. Morris, who is still under oath, reviewed Sheet 7 of the submitted plan and talked about the proposed parking by the existing office, saying that four spaces are shown where the former access drive from Route 206 once existed, and has since been eliminated. He said with the widening of the former access drive, they will add five more parking spaces in that area for a total of nine spaces to be used for office parking, which is more than the applicant believes is needed. Mr. Morris said Building No. 5, and Auxiliary Building No. 3, located on Lot 36, were moved slightly because of the 300-foot riparian buffer. Mr. Morris talked about the concrete block wall, which is located along Netcong Avenue, along the rear yards of Lots 5 and 6 in Block 34 and extending down and across Millstream Lane. He said that the 10 ft. existing landscape buffer behind the residential properties will remain. Mr. Morris said the shredder, and the four shipping containers will be in the storage area on the south end of the property and are shown on the plan next to Buildings 1 & 2, adding that landscaping is proposed behind the buildings.

Mr. Frank Nemeth, Principal owner, who is still under oath provided photos of the proposed car flattener, and he reviewed that process with the Board. He said all fluids are drained and safely stored in the three, 275-gallon tanks to be stored outside on a concrete pad and within a lean-to. Mr. Nemeth said all vehicles are plugged after draining and stored inside the building until they are picked up and removed from the property, adding that no vehicles or vehicle parts will be stored outside.

Mr. Stoner reviewed his revised report dated December 10, 2020 and noted the variances required for each proposed building. Below is the applicant’s response to Mr. Stoner’s questions.

- Buildings No. 1 & 2 will be used for the bailing and storage of non-ferrous metals.
- Shipping containers shown on the plan will be used for the storage of equipment and/or material.

Mr. Nemeth said his main goal is to get the material that is outside, stored inside, especially the non-ferrous metals, because of their value. Mr. Stoner said the final, submitted plan must indicate the location, and number of all shipping containers/sea boxes that will be on the site. Mr. Stoner said the plan should also include the location of the weigh scale after the road vacation of Netcong Avenue is complete. Mr. Stoner reviewed the parking and gravel areas and said the plan must accurately indicate paved areas, gravel areas, and parking areas. Mr. Morris said the only paved parking areas will be located by the office. Mr. Stoner said they need to be clearly defined on the plan as well as the number and location of all roll-off containers, and dumpsters, and the plan should show the vehicle circulation around them.

Ms. Shimamoto said she would like to see the location of all outdoor storage areas defined on the plan, and what will be stored in them. Mr. Nemeth reiterated that once the buildings are been established, his goal is storing any debris, metals, tires, etc. inside buildings but agreed to show the areas

of storage for the sea boxes, dumpster, roll-off containers, equipment, etc., that will be used on the site.

There was Board discussion about the wall and oil/separator that encroach on the Township ROW on Millstream Lane and it was the consensus of the Board that the applicant approach the Council about vacating a portion Millstream Lane to rectify the encroachment, and if that cannot be accomplished, then the wall and inlet will have to be moved so that no encroachment occurs. Mr. Nemeth agreed.

Mr. Stoner talked about the fences on the property saying fencing that is in disrepair should be with replaced or repaired. Mr. Nemeth agreed. Mr. Stoner said the applicant also needs to show access for Lot 37 on the plan and Water quality information must be provided.

Mr Morris reviewed the Environmental Commission comments dated, December 15, 2020 and said if a portion of Millstream Lane is vacated the applicant will restore or landscape the gravel areas. Ms. Shimamoto said vegetation will help disrupt run off from this property to Lubber's Run. Mr. Stoner said the solid block wall that is proposed will help maintain run-off and did not see a need for replanting. Ms. Shimamoto was satisfied with that.

Continuing with answers from Mr. Stoner's report.

- A lean-to on a concrete pad near Accessory Building No. 3 is proposed and will house the three, 275-gallon tanks that will store the fluids drained from the flattened vehicles.
- A Storm Water Maintenance Plan must be provided.
- Details of the oil/water separator on the southwest corner of the lot must be provided.
- Mr. Nemeth said the hours of operation are 7 am to 5 pm, Monday thru Friday, and 7 am to 1 pm on Saturday.
- Mr. Nemeth will provide literature on the noise produced from the car flattener and guillotine.

There was further discussion about the car flattener and Mr. Stoner confirmed that no hazardous material will be stored outside, and Mr. Nemeth confirmed that.

- The Environmental Impact Statement must be revised to include the C1 stream; Lubber's Run. Mr. Sarlo agreed that they will update the EIS.

That concluded Mr. Stoner's review.

The Board reviewed Mr. Gleitz's report dated December 10, 2020:

- Mr. Gleitz said he can agree to the proposed species of landscaping regarding the landscaping behind Buildings No. 1 & 2 saying he can agree to the proposed species of landscaping if fence is to remain.

Mr. Gleitz asked about a lighting plan and Mr. Morris said lighting is not needed because when the operation is closed no work is done at night, adding that the applicant did not want site lighting that could impact any residential neighbors.

- Mr. Gleitz said if signage is proposed, details on signage plan should be submitted for his review.
- Vegetation that was disturbed in the riparian buffer will be restored. Mr. Stoner recommended ground cover and bushes.

The Board discussed the phasing of construction plan.

Mr. Nemeth said the area for Building No. 5 is already cleared. Buildings 1 & 2 will be constructed immediately. He said his goal is to complete all construction within 3 to 4 years. Mr. Sarlo reiterated that a phasing plan was discussed at the Sept. 17 meeting. There was discussion about the completion and timing of construction, and if C.O's can be issued if all construction is not complete. Ms. Hubbard said she will incorporate the phasing plan into the resolution so that CO's can be issued as each building is completed. It was at Mr. Gleitz's request that Phase 1 include all buffering, and hard scape. The road vacation of a portion of Millstream Lane be included in Phase 1, and if the vacation is not granted, then the removal and relocation of the wall and oil/water separator be included in Phase 1.

Ms. Husband said the Phasing Plan should be included within the site plan.

The Board had no more questions. Chairman Shivas opened to the public. No one from the public came forward.

Ms. Shimamoto asked where equipment that is used on the site, i.e. forklifts, cranes, etc. will be stored on the site. Mr. Nemeth said smaller equipment will be stored inside once buildings are complete but large equipment must be stored outside. Mr. Nemeth agreed to show those areas of storage and equipment however Mr. Gleitz reminded the Board this is a salvage yard and to see equipment of this type on site is typical.

Mr. Sarlo introduced Mr. Sean Moronski, P.P., and he was sworn in. Mr. Moronski provided his education and experience to the Board and he was accepted as an expert in his field.

Mr. Moronski said he reviewed all professional reports and is familiar with the site. He reviewed each variance requested and the rationale why these variances are needed. Mr. Moronski said Mr. Nemeth's proposal satisfies purpose A, G, and L of the MLUL and said this application is rather a consolidation of outdoor storage, not an expansion of outdoor storage. He said the scrap metal business is in demand and facilitates the recycling of non-ferrous metals. The applicant proposes an organized and orderly arrangement of the site and he said they will comply with the environmental standards to preserve the 300 ft. riparian buffer. He said to the rear are vacant lots and the applicant has demonstrated by the movement of buildings the consideration to the residents that abut this property. The applicant proposes landscaping and fencing to minimize the impact to travelers on the highway, and adjacent properties, and the vacation of the road will not impact the flow of traffic but will help define the site boundaries.

Mr. Olson said the car flattener is an added operation, would not that be considered an expansion of the use; however Mr. Olson did recognize that this operation assists with material salvage and recycling, which is a positive. Mr. Moronski agreed but said that this expansion will be done inside the buildings, and not adding to the expansion of outdoor storage. Mr. Moronski said this use has been in existence since 1960, they have a license to continue this use, and the new plan's objective is to bring operations inside buildings and is consistent with Byram's Master Plan and Byram's Re-examination Report. He believes there will be no substantial impact to the zone or the welfare of the public good. He reviewed the use, conditional, and bulk variances needed for this project and the reasonableness for granting the variances. Mr. Moronski said there is no expansion of activities on the site and that the applicant is trying to rectify encroachments of property boundaries that occurred prior to his purchase. He is cleaning up the site, getting equipment that use to be stored outside, inside and improving the aesthetics of the site.

The Board or their professionals had no further comments.

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

Mr. Sarlo provided a summation saying this application, if approved, provides a more efficient operation, the new owner is willing to rectify any encroachments inherited when he purchased the property. He believes Mr. Nemeth has communicated his goal to clean the property and run a clean, more organized operation. Mr. Nemeth has demonstrated his concern for nearby property owners, the environment and overall the entire community, and he hopes that the Board approves this application.

Chairman Shivas said before a vote can be taken it was the consensus of the Board that the applicant return with a revised plan detailing outdoor storage areas, the number and location of containers on the Lots, a phasing statement, details on parking, paved and gravel areas. In addition water quality information and an updated EIS must also be provided. Mr. Sarlo explained that the Council is waiting on the Board's decision with regards to the extension of Mr. Nemeth's salvage license. Mr. Stoner believes the Council will understand the cause of delay and he will include this information in his annual report.

A motion to carry this application to March 18, 2021 without further notice was made by Mr. Walsh. The motion was seconded by Mr. Olson. The following vote was taken:

	Mr. Chozick	Mr. Gallagher	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION										√	
SECONDED						√					
AYE	√		√	√	√	√	√		√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee – No meeting was held.

Board of Health – No meeting was held.

Municipal Building Committee – Mr. Morytko reminded the Board there will be a joint meeting with the Council and the Building Subcommittee on January 12, 2021 and added that the documents to be reviewed will be available on Byram’s website one week prior to the meeting.

Environmental Commission – No meeting was held.

Open Space Committee – Mr. Morytko said they had a meeting with Greener by Design and for the most part their work is finished with regards to the Recreation and Open Space Plan incentives. He added that Byram’s new Forrester, Gracie and Harrigan is working on the Forestry Plan and the goals of the Open Space Committee, and they discussed improvements to the CO Johnson Park. He added that Open Space and Architectural Committee have vacancies, and anyone that may be interested in joining the committee to send a resume to the Council. Lastly, Mr. Morytko said Doris will be retiring at the end of the year and she has been an asset to the OS committee and the Township, and she will be missed.

Township Council – Mayor Rubenstein said at the last meeting the Council recognized Doris Flynn’s 23 years of service to the Township, and that her experience and history with the Township will be missed. The Mayor added the Council discussed the alternate access routes for the East Brookwood section of Byram and are taking a further look at a possible easement into Block 42 Lot 113, 206 Acorn Development property. He said they are also discussing Little Paint Way drainage issues and added that the Planning Board also has a vacancy for an Alternate Member and if they know anyone who may be interested to send a resume to the attention of the Council.

Chairman Shivas recognized Ken Kaufhold and Frank Gonzales who will be leaving the Board at the end of this year. Chairman Shivas said Mr. Kaufhold began volunteering his time to Byram by joining the Board of Adjustment in 1989 and has continued his service with the Planning Board to date. He said he appreciates his hard work, expertise and commitment to the Board.

He said Frank joined the Planning Board in 2009 and joined the Board as an Alternate Member. He said Frank has been a valuable member to the Board and his hard work, and input will be missed. The Board agreed and wished both best of luck in the future.

Chairman Shivas opened to the public.

Jack Moran, 3 East Waterloo Road wanted confirmation that since there is no section in Byram’s code regulating livestock and the harboring of, that means there is no enforcement. Mr. Gleitz addressed the Section of Code in Chapter 215 saying residential properties do not fall under site plan review and would have to be under zoning or design for enforcement, saying the likely place would be under zoning, and if residents can’t comply with the code, they can ask the Planning Board for relief.

Mr. Gonzalez believes that quick action needs to be taken by the Council to address this and define “family farm” which is permitted in residential zones.

Mr. Moran said he requested a copy of a 1993 ordinance where livestock was discussed, according to Council meeting minutes, however the actual ordinance cannot be located and Mr. Moran wonders how

the Township can enforce or follow an ordinance that cannot be substantiated.

Chairman Shivas told Mr. Moran that the Planning Board's annual report will include recommendations with regards to chickens and animals.

Mr. Moran also noted that the toll-free numbers appearing on the meeting agenda are not valid, which the Mayor noted.

Mr. Moran asked why this Board is not involved with the Hazard Mitigation Plan for East Brookwood. Mr. Stoner said they are not required to participate. Mr. Moran asked if that can be included in the PB's annual report. Chairman Shivas said no and pointed out that it is in Byram's Master Plan and talked about the alternate routes and believes its good planning.

No one else from the public came forward.

Chairman Shivas closed to the public.

BILLS

Lay Office of Larry Weiner, Esq. (2 bills) \$1,500.00.

A motion to approve Ms. Hubbard's bill as made by Mr. Walsh. The motion was seconded by Mr. Olson. All were in favor. Motion carried.

ADJOURNMENT

At 10:45 pm a motion to adjourn the meeting was made by Mr. Kaufhold. The motion was seconded by Mr. Gonzalez. All were in favor. Meeting was adjourned.

Respectfully submitted,
Cheryl White

TOWNSHIP OF BYRAM, COUNTY OF SUSSEX, STATE OF NEW JERSEY

RESOLUTION NO. PB1-2021

ANNUAL NOTICE OF THE CALENDAR DATES OF THE REGULARLY SCHEDULED MEETINGS OF THE BYRAM TOWNSHIP PLANNING BOARD FROM 01/01/2021 UNTIL 12/31/2021

WHEREAS, the Legislature of the State of New Jersey has passed into law Chapter 231, P.L. 1975m the Open Public Meetings Act; and

WHEREAS, Section 13 of the above-mentioned law requires a posting of regularly scheduled meeting dates for the benefit of the public.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram, County of Sussex and State of New Jersey, that said Board shall meet as follows during calendar year 01/01/2021 UNTIL 12/31/2021

REGULAR MEETINGS
2021 PLANNING BOARD MEETING DATES

JANUARY	07 Reorganization Mtg.	21
FEBRUARY	04	18
MARCH	04	18
APRIL	01	15
MAY	06	20
JUNE	03	17
JULY	01	15
AUGUST	05	19
SEPTEMBER	02	16
OCTOBER	07	21
NOVEMBER	04	18
DECEMBER	02	16
JANUARY	06 (2022)*	

(*Denotes 2022 Reorganization Meeting)

All the above meetings shall begin at 7:30 p.m. prevailing time. 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. All meetings are being held remote using the zoom platform, by video and audio connection only. Access information for each meeting will be posted on the Township’s Website under Planning and Zoning, Meeting Agendas. Official action may be taken.

BE IT FURTHER RESOLVED that certified copies of the Resolution be forwarded to the New Jersey Herald and the Township Journal and shall be posted on the bulletin board in the Byram Township Municipal Building.

BYRAM TOWNSHIP PLANNING BAORD

Attest:

I certify that the foregoing resolution was adopted by the Byram Township Planning Board at a meeting held on January 07, 2021, and official action may be taken.

Cheryl White

Cheryl White, Board Secretary

**BYRAM TOWNSHIP
PLANNING BOARD**

RESOLUTION OF MEMORIALIZATION

- **RELIEF GRANTED: 6' FENCE IN FRONT YARD**

WHEREAS, Edward & Christine King have applied to the Planning Board, Township of Byram for permission to install a 6' fence requiring variance relief for premises located at 16 Chestnut Street and known as Block 26, Lot 370.02 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 owners and occupants of the subject property.
2. The Applicants were proposing to construct a 6' fence in the front of his home, requiring relief from Section 240-24A, which permits 4' fences in the front yard and 6' fences on side and rear yards.

3. The Applicants submitted the following:
 - a. Survey of Property, prepared by Lakeland Surveying, dated April 9, 2020, with fence and setbacks hand drawn by the Applicants.
 - b. An Approval of the System Review of Individual Subsurface Sewage Disposal, from Sussex County Department of Health and Human Services, dated September 4, 2020.
 - c. Four pictures of the property, with a hand drawn depiction of the fence location prepared by the Applicants.
4. A duly noticed public hearing occurred on December 17, 2020 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey" issued by the Department of Community Affairs, Division of Local Government Services.
5. Edward and Christine King, the Applicants, presented sworn testimony in support of the application. The subject property is a corner lot, with frontage on Chestnut Street; the side of their home has a second frontage on Broad Avenue, creating a hardship for the Applicants.
6. The Applicants testified that they have a dog and young grandchildren that play in the yard. The fence will provide a safe area, keeping the children and

the dog in the yard and predators out of the yard. To be consistent, the Applicants are proposing a 6' fence around perimeter of the rear yard, requiring variance relief for the portion of the fence that fronts on Broad Avenue, which is the second front yard. The proposed fence will be a solid brown vinyl fence.

7. The Board viewed a Google Street View of the property, which was marked B-1 for identification. When the Applicants purchased the property, it was overgrown. They have cleaned up a majority, of the property, but there is a row of hedges along the Broad Avenue side of the property, running toward Route 206. The Applicants will remove the hedges, which are unhealthy and need to be removed. Removing the hedges will increase the sight line.
8. It was noted that there are several lots in the surrounding area that have a 6' fence in the front yard.
9. No one from the public attended the meeting regarding this application.

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 witnesses' testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from Section 24-24A of the municipal zoning ordinance, permitted the construction of a 6' fence in the front yard of the subject property.

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.
3. The subject property is a corner lot, creating a hardship for the Applicants, as the property has two front yards. The proposed fence will provide safety and security for the family and their pets. The benefits of the fence outweigh the detriments that may result from denying the requested relief.
4. It was determined that there would be little impact to the surrounding area, as there are other homes in the surrounding area with similar fences in their front yard. Fences are common amenities in residential neighborhoods. 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 7th day of January 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 a zoning permit for the subject fence.
3. The fence shall be constructed as indicated on the plans and testified to by the Board.
4. The Applicant shall remove the existing row of hedges.

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 January 7, 2021 and is in effect for one year.

Cheryl White, Planning Board Secretary

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

**BYRAM TOWNSHIP PLANNING BOARD
REVISED BILL LIST FOR JANUARY 07, 2021**

HAROLD PELLOW & ASSOCIATES, INC	DATE	AMOUNT
Inv. 71827 Board business	12/22/2020	\$65.00
Inv. 71836 Highlands Exemption - Bolen	12/22/2020	\$202.40
Inv. 71835 Review of Prokup Plan	12/22/2020	\$151.80
Inv. 71834 Review of Plan - Mountainside	12/22/2020	\$404.80
Inv. 71833 Review of Plan - Petersen	12/22/2020	\$820.30
Inv. 71832 Review of Plan - Bolen	12/22/2020	\$315.30
Inv. 71831 Review of Plan - 16 Rt 206	12/22/2020	\$361.20
Inv. 71830 Review of Plan - 263 Rt 206	12/22/2020	\$195.00
Inv. 71829 Plan review - Lombardo	12/22/2020	\$390.00
Inv. 71828 Plan review - Wawa	12/22/2020	\$1,105.00
Inv. 17826 - NJDEP Ltr review - Bouquet	12/22/2020	\$130.00
Inv. 17825 - Plan review - Tomahawk Lk	12/22/2020	\$195.00
Harold Pellow total		\$4,335.80

LAW OFFICE OF LARRY WIENER	DATE	AMOUNT
Inv. 2020-63 - Prokup review & perpare resolution	12/15/20	\$405.00
Inv. 2020-64 Board business - Anty Trucking	12/15/20	\$345.00
Inv. 2020-65 Board business - Tomahawk Lk	12/15/20	\$450.00
Inv. 2020-66 Resolution - On Time Sign and Design		\$45.00
Inv. 2020-67 Resolution - Weber Brothers	12/15/20	\$120.00
Inv. 2020-68 Board preparation - Wawa	12/15/20	\$180.00
Inv. 2020-69 Application review - Bolen	12/16/20	\$75.00
Inv. 2020-70 Board business - Safa LLC	12/17/20	\$90.00
Inv. 2020-71 Application review - Petersen	12/18/20	\$75.00
Inv. 2020-72 Board business	12/19/20	\$570.00
Inv. 2020-73 Raimo review	12/20/20	\$240.00
Larry Wiener Total		\$2,595.00

LATINI & GLEITZ, PLANNING	DATE	AMOUNT
No bills submitted		\$0.00
Paul Gleitz total		\$0.00

CP Engineers	DATE	AMOUNT
No bills submitted		
Total for CP Engineers		\$0.00

GRAND TOTAL		\$6,930.80
--------------------	--	-------------------