

**JULY 16, 2020
MEETING MINUTES
BYRAM TOWNSHIP
PLANNING BOARD**

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
ABSENT											
EXCUSED				E							
LATE											

Also present: Attorney Alyse Landano Hubbard, Esq.
 Planner Paul Gleitz, P.P.
 Secretary Cheryl White

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 prohibits all gatherings of more than ten people and requires social distancing. In an effort to continue Planning Board business, the regularly scheduled meeting for July 16, 2020 is being held by remote video/audio connection only. This service allows the Board, it's professionals, applicants and members of the public to participate. Participation is taking place via webinar connection and telephone conference. Access information was posted on the Township's Website under Planning and Zoning, Meeting Agendas. 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.

This meeting has also been electronically sent to the newspapers and uploaded to Byram's website at: https://www.byramtpw.org/useruploads/docs/planning/Agenda_for_July_16,_2020_Audio_Call_Meeting_Material.pdf

at not less than 48 hours in advance of the meeting. In addition, a copy of this notice is on file in the office of the Planning Board Secretary.

FLAG SALUTE led by Chairman Shivas

MEETING MINUTES

A motion to approve the July 02, 2020 meeting minutes as written 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.

Site Plan Waiver Review

Alibi Bar & Grill, 172 Lackawanna Drive, Block 265 Lot 287, N-C Zone

Minor site plan changes

Ms. Shimamoto said the committee reviewed the material submitted and said they proposed minor changes to the site that includes the addition of docks, a fire pit, a horseshoe pit and some bistro lighting around the deck area for ambience.

Mr. Gonzalez had concerns about the lighting, if it will illuminate beyond the property boundaries. Mr. Steffens said no, and the lights are dimmable if needed.

Ms. Shimamoto asked if the sand is replacing a natural buffer or landscaping. Mr. Steffens said the area between the deck and the building was once sand but was not maintained and is now overgrown. Mr. Skot Koenig, a local engineer that is involved with the lake provided the applicant with guidance on adding sand to the shoreline and preventing the sand from running into the lake. Mr. Steffens assured the Board that the existing lake front buffer will remain a natural buffer and will not change.

Ms. Shimamoto added that the applicant provided the ARC with a color swatch and although it is a dark color, which is strongly discouraged, the committee believes the color suites the location and fits well for a “beach bar”.

Ms. Hubbard, Esq. said this application meets the criteria to allow for a waiver, apart from the minor lighting changes and she wanted to be sure the committee was acceptable with the change. It was the consensus of the subcommittee that since the addition of the bistro lighting was de minimis, and can be dimmed by the applicant, they did not believe it would be an issue. The Board agreed. The committee had no further questions.

A motion to grant the waiver was made by Ms. Shimamoto. The motion was seconded by Mr. Gonzalez. 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

Z03-2020, William & Denise Koellhoffer, 87 Lake Drive, Block 249 Lot 77, R-5 Zone

Variance relief for a setback to a body of water to construct a roof over and existing deck in the rear yard.

Mr. William Koellhoffer, applicant and owner were sworn in and said he wants to install a 12’ X 30’ roof over his existing deck which requires relief from Byram’s code Section 240-55 C (9), a setback to a body of water, because the proposed roof is within the setback, emphasizing that this is a per-existing condition. Chairman Shivas noted that years ago there was a roof over the deck but was since removed.

Mr. Gonzalez asked about water runoff and Mr. Koellhoffer said his gutters are directed into the ground and he is not proposing gutters on the deck roof because he did not anticipate water runoff problems. Mr. Olson recommended adding 1’ to the variance so that if he does encounter problems, he can add the gutters without having to return to the Board. Mr. Koellhoffer agreed with Mr. Olson and the zoning table was corrected to reflect a variance request of 16 ft. vs. 15 ft. from the lake’s edge.

Mr. Koellhoffer said his request does not cause harm to the public good and will allow him to enjoy his deck in all weather conditions. The Board had no further questions.

Chairman Shivas opened to the public.

Amanda Beelitz, 167 Glenside Trail believed that the Board was giving Mr. Koellhoffer a difficult time because he wants a roof over his deck. Chairman Shivas explained the Board must ask certain questions and he did not agree with her statement.

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

A motion to approve this application was made by Mr. Walsh with the change to the setback. 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.

Ms. Raffay wanted to make clear with Mr. Koellhoffer that he understood that the Board was not giving him a hard time and that their intent was to help him. Mr. Koellhoffer understood and agreed that the Board was offering help, not resistance.

RESOLUTION

Z02-2020, Michael Gilbert, 33 Richmond Road, Block 246 Lot 390, R-5 Zone

To erect an 18' diameter pool, shed and 6ft. fence in the front yard. (This property has two front yards).

A motion to approve the resolution as written was made by Mr. Olson. The motion was seconded by Mayor Rubenstein. 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.

CONSISTENCY REVIEW - 2020 Open Space and Recreation Plan Update, an Element of Byram's Master Plan.

Presenter, Ben Spinelli, Greener by Design, LLC

Mr. Benjamin Spinelli, with Green by Design said that thru a grant by the NJ Highlands, and under the direction of the Council, and the Open Space Committee, Greener By Design was selected to prepare this document. He said this is an update to the 2010 plan and although this document offers good planning, it is a requirement of the New Jersey Green Acres Program in order to remain eligible for grants and added

Mr. Spinelli provided a brief summary saying this document has the traditional elements of an open space plan where it assesses current needs, evaluates the recreational facilities, looks at Byram's future needs and identifies a targeted list of acquisitions for future open space project. However this plan is different because several elements were added such an inventory and assessment of all assets of open space., a projection of the life span of open space assets, identifies the cost of maintenance or replacement of these assets, and provides a "pricing tool" so that these costs can be included in future planning and the budgeting process.

Another element of the plan was incorporating the Trails Master Plan in the document, which is an extension of our open space plan. He said the plan evaluates existing trails and outlines opportunities in connecting township and state trails, and privately-owned land thru easement access. This integration of trails will provide a great opportunity for the township to have a comprehensive, township wide, open space trails plan that will connect parks, township facilities, neighborhoods, and other municipalities. He added that the Trails Master Plan contributes to Eco-Tourism based on the Economic Development Plan, which establishes a

sustainable economic development plan strategy to promote the Township as a destination for outdoor activities like hiking, fishing boating, etc. He said this segment of the plan takes advantage of open space projects and natural assets and provides recommendations to the town to utilize these assets to promote economic development which is consistent with Byram’s Master Plan and the character of our community.

The plan also includes a list of 12 potential capital investments and projects to be done over the next ten years, if found viable by the Township, which were identified as part of the public outreach program. He said this long-term planning allows the Township to include them as part of the budgeting process which will help lessen the tax burden to the residents. Mr. Spinelli said asset management is an integral part of planning and helps the township to project future growth.

Mr. Olson reiterated the importance of the plan and the significance it holds for future planning. He said the inventory and assets section, which is extensive, is a great tool to allow for future planning of recreational facilities.

Mr. Gonzales agreed that the plan is well thought-out and was pleased to see tying in the Village Center by a trail, which may help in marketing the land. He added that the connection of trails thru Waterloo Village is also important. Mr. Morytko also agreed it is a great plan and provides all the data, assets and tools for future planning.

Mr. Spinelli said the plan also includes constraint maps which is very useful because it identifies where expansion can occur. Mr. Spinelli said tying in the downtown into open space is great planning. He said the Highlands trail from the Hudson River to the Delaware River goes thru Byram and the State is in the development and promoting stage of a “mini Appalachian Trail” and since Byram is the halfway point of the trail, Byram has the perfect opportunity, and is in prime position to be a host community and a stop point for visitors to have lunch, shop, and visit Byram Township.

Mr. Spinelli said this has been a yearlong project involving surveys, interviews with stakeholders, and public outreach to guide and help put this plan together and thanked everyone involved.

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

A motion was made by Mr. Olson that the 2020 update to the Open Space and Recreation Plan is not inconsistent to Byram’s Master Plan. The motion was seconded by Mr. Walsh. 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.

ANY OTHER BUSINESS THE BOARD DEEMS NECESSARY

Review by the Board – Draft Ordinance - An Ordinance amending Chapter 87 Entitled “Animals”, of The Township Of Byram Code to add a Section 87.20 Entitled “up To five (5) chickens on a single-family residential lots” To allow and regulate the keeping of up to five (5) female chickens on any single-family residential lot

Mayor Rubenstein said that the Council supports this ordinance but due to public concern the Council consented to having the Planning Board review the draft ordinance and offer comments or recommendations.

Mr. Gonzalez said that 98% of Byram is in the Highlands preservation area and the Master Plan focuses on protecting our natural resources and this ordinance is in direct conflict with our Master Plan. He said allowing chickens on any size lot could result in every resident owning chickens and over the course of time could degrade our lakes and ponds. He said this ordinance does not address the control of noise, or health risks to adjoining property owner’s, and added that chickens invite wild animals and should not be treated like domestic animals like cats and dogs, he said chickens are livestock.

Mr. Olson supports the ordinance and pointed out to Mr. Gonzalez that the ordinance does have a

required setback to a body of water. Mr. Olson added that dog and cat waste has as much potential to cause risks to our storm drains as chickens may.

Mr. Paul Gleitz, Board Planner looked at surrounding town ordinances and gave a brief overview and in short, most towns require more acreage, or require a greater setback. There was a lengthy discussion and most Board members felt the setbacks should be greater, or the more acreage should be required, or that the distance to the neighboring dwellings should be greater. Two Board members supported the ordinance as drafted. Chairman Shivas opened to the public.

Harry Williams, 164 Glenside Trail thanked the Board for their remarks saying they have a different view on chickens than the Council. He said this all began with an order issue because two neighbors that have small lots have chickens. He said the issue has been cleaned up but has future concerns that if this ordinance passes as is, the issues will reoccur. He believes the setbacks or acreage should be greater.

Jack Moran, 7 East Waterloo Road asked the Board to put the setback requirement of the proposed ordinance into the perspective of a “yard” saying that 15 ft. is equal to 5 yards and looking at it in terms of a football field, it isn’t too far. His concerns included smell, attracting wildlife and the potential to create a nuisance. Mr. Moran’s recommendations for an ordinance are:

Requiring predator proof coops

Topography of each lot should be considered because of potential runoff

Storage of feed needs to be clarified

Periodic Inspection of coops should be required

Proof of vaccination and origin of chickens should be required

Coops should be shielded from neighbor’s view

Waste removal regulations should be addressed

Tagging or licensing of chickens should be required

In summation he believes the existing ordinance is enough, and if someone wants chickens that cannot meet the regulations, they can apply for a variance. If the variance process is too onerous, the town should consider changing the variance process, not the chicken ordinance. He said we should support our local farmers rather than compete with them.

Shannon Mahoney, 175 Glenside Trail believes the draft ordinance addresses all issues. She said she should have the same right to privacy as a dog owner, adding that a dog owner does not have to release the origin of the dog when they license it, same with the chicken feed. She supports the ordinance and says some are overthinking the entire issue.

Jeanne Moran, 7 East Waterloo Road said she tried to share information with the Board thru the Board secretary but was told that the information should be presented during the meeting discussion. Ms. Moran did not believe that was fair. She said this issue derived from a complaint about order and she feels the violators are being rewarded. She said if the violators had investigated if chickens were allowed, they would have found that their lot size was insufficient, and they could not have chickens. She believes this impacts residents quality of life. Ms. Moran would like the ordinance to include that chickens must be vaccinated; the origin of chickens must be disclosed, and that this ordinance needs more thought. She said chickens are expensive to keep and she believes after a while people will get “sloppy” and they will become a problem.

Harry Williams, 164 Glenside Trail said in response to Ms. Mahoney’s comments that dogs require licensing and vaccinations and must always be kept under the owner’s control. He said his main concerns are order issues which originate from a personal experience.

Again, another lengthy discussion. Mr. Sabatini said with the draft ordinance, if regulations cannot be met, there is no mechanism for relief, you cannot seek a variance. Mr. Gleitz added that however this turns out he recommends the township review these ordinances because of confliction and vagueness in our code.

Mayor Rubenstein said he would take comments back to the Council.

REPORTS FROM COMMITTEES

Architectural Review Committee – Ms. Shimamoto said the ARC looked at façade changes to On Time Sign and Design and had positive comments.

Board of Health – Meeting will be held at the end of July and a septic waiver one of the items for discussion.

Building Committee – Mr. Morytko said no new report.

Environmental Commission – Ms. Shimamoto said the meeting is next week.

Open Space - Mr. Spinelli's presentation on Open Space.

Township Council – Mayor Rubenstein said the Council will discuss the new chicken ordinance on July 21, 2020 meeting which will be held virtually via Zoom.

Zoning Report for June 2020 – The Board had no comment.

BILLS

Law Office of Larry Wiener – (5 bills) \$750.00

A motion to approve Ms. Hubbard's bills was made by Mr. Walsh and seconded by Mayor Rubenstein. All were in favor. Motion carried.

Harold Pellow & Associates, Inc. (7 bills) \$1,943.40

A motion to approve Ms. Stoner's bills was made by Mr. Walsh. The motion was seconded by Mr. Morytko. All were in favor. Motion carried.

CP Engineers (1 bill) \$1010.00

A motion to approve CP Engineer bills was made by Mr. Walsh. The motion was seconded by Mr. Morytko. All were in favor. Motion carried.

PUBLIC COMMENT

Chairman Shivas opened to the public.

Jack Moran, 7 East Waterloo Road wanted to confirm what recommendations are going back to the Council regarding chickens. Mayor Rubenstein said the value setback and minimum acreage amount. Jack said he should add feeding and licensing.

Mike Gilbert, 33 Richmond Road asked if his resolution passed. Chairman Shivas said yes. No one else from the public came forward. Chairman Shivas closed to the public.

BOARD BUSINESS

Ms. Hubbard, Board attorney said Wawa wishes to move forward with a public meeting and asked the Board about their concerns with a zoom meeting. Most members seemed to prefer a zoom meeting. Mr. Walsh was disappointed with the fact that the fire department was not receptive to the idea of the township having Planning Board Meetings at the firehouse. for meetings. Mr. Gallagher said the cost of cleaning the building after use would befall on the township, or the applicant.

She also wanted to get an idea of who can participate since the Mayor and the Council liaison must recuse. Ms. Raffay and Ms. Shimamoto said they must recuse because of conflict issues. Ms. Hubbard said that would be seven members voting and the applicant would like at least seven members present.

ADJOURNMENT

A motion to adjourn the meeting was made at 10:00 p.m. by Mr. Kaufhold. The motion was seconded by Mr. Walsh. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Cheryl White