

**MEETING MINTUES
BYRAM TOWNSHIP PLANNING BOARD
JANUARY 21, 2021**

CALL TO ORDER

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

Chairman Shivas welcomed Mr. Gregory Smith II, to the Board as an Alternate II member. Mr. Smith took his oath which was witnessed by Ms. Hubbard, Esq.

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
ABSENT											
EXCUSED								E			
LATE											

Also present: Attorney Alyse Hubbard, Esq.
 Engineer Cory Stoner, P.E. C.M.E.
 Planner Paul Gleitz, P.P. A.I.C.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 limits the number of people allowed to gather, and requires social distancing. To continue Planning Board business, the regularly scheduled meeting for January 21, 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

MEETING MINUTES Approval of the January 07, 2021 Meeting Minutes

A motion to approve the minutes as written was made by Mr McElroy. 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.

OLD BUSINESS

SP2-2020, Byram Route 206 Developers, LLC., 75-77 Route 206, Block 34 Lots 14 & 15, V-B Zone (carried from November 19, 2020)

To construct a 5,585 sq. ft. food market with fueling stations, and associated site improvements; parking, lighting, landscaping, and utilities

The record should reflect that Ms. Franco, Ms. Raffay, and Mayor Rubenstein stepped down for this application. Ms. Hubbard noted for the record that Mr. Serrilli, Mr. McElroy, and Mr. Smith have certified that they have listened to the meeting recordings on the dates this application was heard; September 10, October 29, and November 19, 2020, and are eligible to vote.

Mr. Mike Selvaggi, Esq., representing the applicant said this is a continuation from the November 19, 2020 meeting and based on concern from Board members, the applicant preformed a sign presentation at the site which was videotaped and Nicholas Verterese, Traffic Engineer with Dynamic Engineering will review the presentation and videos with the Board this evening.

Mr. Verterese said on January 6, 2021 representatives from Dynamic Engineering and Wawa displayed faux signs of different styles and height, and from the southbound approach at the recommended speed limit of 35 mph, they videotaped the signs to demonstrate to the Board the visibility of the sign at various heights and styles.

Video #1, a 20 ft. Monument Sign, having the fuel pricing and logo are side by side. Mr. Verterese said that the sign becomes visible at approximately 350 to 375 ft.

Video #2, a 12 ft. Monument Sign, Mr. Verterese said there is no visibility of the sign until the CVS entrance saying the sign is mostly obscured by the CVS sign, landscaping, and vehicles in their parking lot.

Video #3, a 20 ft. Pylon Sign which Mr. Verterese said has similar visibility as the 20ft. Monument.

Video #4, a 12 ft. Pylon Sign has visibility like the 12 ft. Monument sign with poor visibility and again is frequently obscured with CVS sign, landscaping, and parked vehicles.

Mr. Verterese said the best visibility was the 20 ft. Monument sign. He said knowing some Board members have issues with a 20ft. high sign, they did some modifications to the sign and reduced the sign to 18 ft. He reviewed the submitted sign detail document of the "Hybrid Monument & Pylon Sign, dated January 08, 2021 saying this

sign is similar to the 14ft. Monument Sign at the Hackettstown site, and this modification reduces the sign square feet to under 50 ft., with 18" lettering. He noted that at the last meeting they reported that also removed the Spanner Sign from the fuel canopy and reduced the sign size at the rear store access.

Mr. Morytko said he was present for the sign presentation and he believed they tested a 16 ft. sign and would like to see that video and would like to see a presentation of a 14 ft. sign. He said he was under the impression that Wawa was going to test the sign at more heights to give the Board a better variation.

Mr. Verterese presented Exhibit A14, 16 ft Sign Video, saying it also has poor visibility. He said after they deliberated, they believed the 18 ft. sign was the best choice. It provided good sight visibility without being intrusive.

Mr. Morytko said in previous testimony it was stated that grading of the site would have to occur, raising the site elevation, and was that taken into consideration. Mr. Verterese said yes, the increase in grade was considered, and Mr. Stoner confirmed this.

Mr. Smith said in November 2020 the Board reviewed sign visibility images which included the canopy superimposed on one of those images. He said if the canopy elevation is the same as the proposed sign, would Wawa consider using the canopy for the sign and forgo the monument/pylon sign. Mr. Verterese said for good visibility fuel pricing should be on the roadway. Ms. Hubbard said the record should reflect that Mr. Smith was referring to Exhibit A10 submitted at a previous meeting.

Mr. Morytko didn't believe there was a great difference in visibility in the 16 ft vs. the 18 ft. sign. Mr. Verterese said the first thing you see is the Wawa sign, then your eyes are drawn to the gas pricing. There is only a two-foot difference in height, which will not be noticeable by travelers, but it is more visible, and he recommends for safety reasons the 18 ft. sign. He said Wawa is doing it's best to satisfy the Board while keeping safety at the foremost importance. Mr. Verterese said any business asking for approval on this site would be asking for the same size sign. Mr. Walsh disagreed.

The Board had no more questions of this professional.

Chairman Shivas opened to the public.

Mr. James Braun 51 Lackawanna Drive asked if the 20 ft. sign will cause traffic problems at the intersection. Mr. Verterese said he would not relate traffic problems to the sign, only if the sign were too low.

Mr. Earl Riley, 5 Louis Drive, was sworn in and said these videos were taken during the day and asked if the Board considered seeing the sign with the LED pricing and Wawa sign lite. He believes once the sign is lighted, it will be more visible, and a 16 ft. sign would be sufficient.

Ms. Annelise DeMagistris, 7 Lackawanna Drive was sworn in and said she is a local business owner and believes sign visibility is very important to a business, especially on a major highway. She said with the widening of Route 206 and Lackawanna Drive at her entrance to her business her signs are now set far from the curb and people comment to her often that they cannot find her business and drive right by.

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

Mr. Lawrence Galiano, an environmental specialist was introduced by Mr. Selvaggi and he was sworn in. He provided his education and experience to the Board and the Board accepted him as an expert in his field.

Mr. Galiano said he has reviewed the applicants plans and the environmental impacts the proposed development may have on the C1 stream and wetlands on the site. It is Mr. Galiano's opinion this development will not pose any environmental impacts to the site or be detrimental to the environment. He said Wawa uses state of the art tank systems saying they are doubled walled tanks and piping with interstitial sensor monitoring between the tank walls and is monitored continuously, and if a tank is breached, and because the systems have secondary containment when an alarm is sounded the system is shut down immediately before an environmental impacts occur.

He added that for stormwater runoff the site is enhanced to protect against any stormwater runoff contamination and the Wawa has taken proactive measures with installing hoods with carbon filters over each one of the stormwater inlets which are also connected to oil and water separators before it enters the underground detention basins. He said this is not typical with most gas stations and is an added measure to ensure water quality. Mr. Galiano said it is important to note that Wawa must meet all NJDEP regulations as would any business wishing to develop on this site. He added that Wawa offers a full-service site with well-trained employees to dispense fuel.

Mr. Selvaggi asked if the E.I.S. provided by the applicant was competent. Mr. Galiano said yes, it is in line with industry standards and environmental regulations.

Mr. Galiano said he reviewed the comments from Byram's Environmental Commission and concerns about Lubber's Run and the wetlands and he does not believe this site will be subject to a Floor Hazard Area permitting by the DEP, and that Riparian Zone mitigation will not be applicable as the site is proposed and added that he believes the required buffer is 50 ft., which is standard.

Mr. Serrilli asked Mr. Galiano to review the system design, the monitoring of systems, and secondary containment system. Mr. Galiano said the interstitial has a probe which continuously monitors for moisture between the tank walls. Inside the store is a panel that displays how the system is functioning. He said it is a reliable system and he has a high level of confidence no issues will occur. He said in his experience he has not experienced a failure in this system, it is inspected regularly for compliance.

Mr. Stoner said regarding Mr. Galiano's previous comment about the Riparian zone mitigation and the wetlands buffer he disagrees. He said the L.O.I. will establish buffers and notes that if this application is approved, it will be conditional that all outside permitted is obtained, i.e. NJDEP, NJDOT, etc. He said the Conservation Easement on the south side of the site will also have to be addressed.

Mr. Morytko said he believes the Board should have been provided with a copy of the Conservation easement, which is very restrictive.

Mr. Galiano said conservation easements are in sensitive areas to protect wetlands, threatened or endangered species or areas of natural resources and the current established LOI is perhaps the result of a previous submitted site plan and the easement is a result of that plan and added that each site plan submitted to the NJDEP for an LOI is treated differently, depending on the development plan, saying it could be more restrictive or less restrictive.

Mr. Morytko said he believes the DEP should review the proposed development prior to Board approval because the DEP may look differently on an approved plan.

Mr. Stoner said the Board cannot hold up a review of a site plan based on DEP approval. If DEP does not approve the plan as submitted, and it impacts the approval obtained within this application, the applicant will be required to return to the Board. Mr. Stoner said the DEP could approve development in the conservation easement but limit other areas. Mr. Galiano agreed that DEP has full control and does not take local approvals into account. The Board had no more questions of this witness.

Chairman Shivas opened to the public.

Donna Griff, 71 Brookwood Road who was sworn in previously and acknowledged she is still under oath and asked about tank longevity and tank replacement.

Mr. Galiano said typically they last 25 years. Ms. Griff asked about lines to the pumps and if they are inspected.

Mr. Galiano said inspections are done periodically to ensure piping is good, saying that the piping system is also doubled walled with interstitial monitoring and pressure tested on a regular basis to examine the integrity of the lines. Ms. Griff has concerns about gas leaks when filling fuel tanks or employees dispensing fuel. Mr. Galiano said Wawa is particular about fuel delivery providers which are fully vetted, and the employees that dispense fuel are well trained.

Mr. Scott Olson, 194 Glenside Trail asked why Mr. Galiano believes that a wetlands or flood hazard permits will not be applicable. Mr. Galiano said based on his review that was his determination, however the LOI will determine what permits will be required.

Mr. Olson said the EIS submitted does not speak about the nearby C1 stream. Mr. Galiano said in May 2020 the State updated the classification of streams. Mr. Olson said shouldn't the EIS submitted by Wawa be updated to include this information. Mr. Galiano said the Dynamic Engineering team should address this.

Mr. Olson agreed with Mr. Morytko that the Board should see the easement agreement which was the result of a 2006 development plan, and Mr. Olson wondered if they received any feedback regarding a new LOI. Mr. Galiano said no information yet in response to the LOI has been received and because it was submitted prior to the new class designation of the stream, that DEP will take that into consideration.

Kathleen Parrish, 5 Ross Road acknowledged she is still under oath and asked if the applicants considered the impacts on a historically filled stream and if any permits were required for this. She said in that Phase II, of the 2017 Geotechnical Investigation report submitted by Sovereign Consulting Inc., notes the existence of the historically filled stream on the site which is not reflected in the EIS or Environmental reports submitted by the applicant and wanted to know if permits are required. Mr. Galiano said no, if it is not recognized as a current wetland area, that should have no bearing on this development. He said is mentioned in the report to make people aware who are going to develop the site that feature exists, so technically speaking the soils may be softer soils and that is why it is mentioned. She said when she spoke to representative of the Lake Musconetcong Watershed Association and the Highlands Commission, she said they believed special permitting was required to build near an historically filled stream. Ms. Parrish believes it is an issue and has concerns about water quality and if they can guarantee no spills will occur. She said the plan shows a 50 ft. buffer and the parking and retaining wall appear to be within that buffer and what kind of permit is required for development within that buffer. Mr. Stoner said the applicant has a lot of work to do with the DEP and the LOI will determine the area of allowed development and the required buffer.

Ms. Parrish also has concerns in the increase in impervious coverage and has concerns about the lack of ground water re-charge and how that will impact the stream. Mr. Galiano said the way the stormwater system is established the stormwater infiltration at the underground detention basin and so water will re-enter the environment but can't answer how the water will get back to the stream. Ms. Parrish would like to hear testimony from a ground water re-charge expert that can address her concerns.

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

Mr. Gleitz asked Ms. Hubbard that if the DEP findings are more restrictive, and the applicant is required to return to the Board could that impact the use variance. Ms. Hubbard said site suitability is a factor when granting a use variance so, yes, it could impact that variance. Mr. Selvaggi acknowledged that and said the applicant is aware of this and is willing to take that risk. He added the applicant still needs DOT approval, and that the applicant filed their plan with the DEP in February 2020. Mr. Stoner agreed with Ms. Hubbard and if the DEP comes back with additional, major requirements it could affect the use variance. Ms. Hubbard asked about timing of DEP applications. Mr. Sharo, P.E. said because of COVID they are backed up, but their review is on-going.

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

Chairman Shivas said he believed the applicant's planner was to return. He had several questions about some of the variances requested. Mr. Selvaggi said Mr. McDonough had a prior commitment, but when they return to the Board, he will be present, and they will revisit the sign discussion and may have an update from the DEP.

Mr. Selvaggi had Mr. Mike Redel, Operations Manager for Wawa who was previously sworn in and acknowledged he is still under oath talk about the piping between tanks and pumps, the fueling stations, the containment unit, and sensor reliability reiterating that it is continuously monitored and if a breach occurs it is addressed immediately. He added that they measure fuel gallons delivered and fuel gallons dispensed, and the numbers must match. He said Wawa has a contract with an Emergency Response Team that guarantees arrival within 2 hours and are ready for cleanup. Pump attendants are fully trained, and since Wawa is a recognized company that provides fuel to 2% of the entire country, they can negotiate contracts with reputable, reliable safe fuel delivery companies.

Chairman Shivas opened to the public.

Ms. Donna Griff, who is still under oath expressed concerns about fuel delivery driver and leaks. She added she is in favor of a Wawa store without fuel dispensing.

Ms. Kathleen Parrish, who is still under oath asked who will be accountable for the site 20 to 30 years from now.

Mr. Redel said Wawa wants to be a good neighbor and they have robust maintenance schedules and periodic quality check. Mr. Redel added that Wawa goes above and beyond to ensure a safe, clean environment and normally replaces tanks before the expiration date.

Mr. Scott Olson, who is still under oath believed that this development would require the disturbance of steep slopes, which would require a variance, and had questions about the Conservation easement. He said on Sheet 5 of the submitted plan, the topo depicts steep slopes being disturbed. Mr. Stoner said he would check on that and report back to the Board. Mr. Olson said the Highlands maps shows this area as severely constrained.

No other public came forward. Chairman Shivas closed to the public.

The applicant requested a special meeting date and will return with Mr. McDonough for testimony.

A motion to carry this application to January 28, 2021 was made by Mr. Walsh. The motion was seconded by Mr. McElroy. 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 – No meeting was held.

Building Committee – No meeting was held.

Environmental Commission – No representative present.

Open Space – Meeting in February.

Township Council – Mayor Rubenstein said on February 4th the Board will so a consistency review with Byram’s Master Plan for Ordinance 002-2021, Stormwater Control. Mr. Stoner said this ordinance is the result of changes to DEP requirements and green infrastructure and more restrictive development changes.

He added the Council is forming an ADHOC subcommittee relating to the memorial for Mr. Harrison, the young veteran murdered in the East Brookwood section of Byram.

Zoning Report for December 2020 – the Board had no questions.

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

BILLS

Harold Pellow & Associates, Inc. (9 bills) \$2,561.30

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

Law Office of Larry Wiener, Inc.

A motion to approve Ms. Hubbard’s bills was made by Mr. Serrilli. The motion was seconded by Mr. Walsh. All were in favor. Motion carried.

Latini & Gleitz, (7 bills) \$2,760.00

A motion to approve Mr. Gleitz’s bills was made by Mr. Serrilli. The motion was seconded by Mr. Walsh. All were in favor. Motion carried.

WAIVER OF SITE PLANS

WOSP9-2020, Ronetco Supermarkets, Inc., 90 Route 206, Block 226 Lot 14, V-B Zone

Change of Tenant, Approved by the Zoning Officer - Temporary COVID-19 Vaccination Center.

WOSP10-2020, McDonald’s, 90 Route 206, Block 226 Lot 14, V-B Zone

Change of facade color – approved by the Zoning Officer

PUBLIC COMMENT

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 10:30 p.m. by Mr. Smith. The motion was seconded by Mr. Serrilli. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Cheryl White