

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, January 6th, 2022 at 7:30 P.M.
Meeting Held at: 10 Mansfield Drive, Byram Township NJ

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **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.

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. **MEETING MINUTES-** December 16th, 2021

7. **RESOLUTIONS**

PB1-2022 Annual Notice of the Calendar Dates of the Scheduled Regular Meetings of the Byram Township Planning Board

Z19-2021 Jara Werner, 104 Lynn Drive, Block 337.01 Lot 81, R-3 Zone

Approval for a fence in the side and rear yard and a shed in the second front yard.

Z15-2021 Melissa and Chad Pirnos, 71 Lake Drive, Block 249 Lot 62, R-5 Zone

Approval for the front yard setback and setback to the water to demolish the existing dwelling and rebuild a new single-family home.

SP6-2021 Cranberry Lake Community Club, PO Box 360, Block 193 Lot 1, R-5 Zone

Maintenance for a boat dock.

SP3-2021 Weber Brothers Properties, 35 Route 206, Block 36 Lot 39, VB Zone

Request for one-year extension on previous approval

8. **OLD BUSINESS**

SP2-2021 Matthew Akerman, 34 Route 206, Block 40 Lot 15, VB Zone

Variances for outdoor storage, conducting wood sales, and using land for a non-permitted use.

<https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/EkjeIwv5bBFHpmER0ix1ZMUBwBCM3mrXANStumqzy7fWDg?e=dvHAhI>

****THIS APPLICATION HAS REQUESTED TO BE CARRIED TO 01/20****

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.

<https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/Eh3H-0n99hBEujDTowU0XskBW0yxdYoHMhNWcEM1GUsRRQ?e=P0eUoX>

****THIS APPLICATION HAS REQUESTED TO BE CARRIED TO 02/17****

REPORTS FROM COMMITTEES

Architectural Review Committee

Building Committee

Environmental Commission

Open Space

Township Council

COMMITTEE APPOINTMENTS

Site Plan Subcommittee

Master Plan Subcommittee

9. BILLS

Law Offices of Larry Weiner (16)- \$6,630.00

Harold Pellow and Associates (19)- \$4,894.21

10. OPEN TO THE PUBLIC

11. ADJOURNMENT

01/20—Stephen Colacurcio, HRS Well Drilling

02/03—Wawa

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.

**MEETING MINTUES
BYRAM TOWNSHIP PLANNING BOARD
MEETING, December 16, 2021**

CALL TO ORDER

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

ROLL CALL

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
HERE	H	H	H		H	H			H		H
ABSENT							A	A		A	
EXCUSED											
LATE				L							

Also present: Attorney Alyse Hubbard, Esq.
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 November 18, 2021 Meeting Minutes

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

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

Motion carried.

Mr. Morytko joined the meeting at this time.

Approval of the December 2, 2021 Meeting Minutes

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

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

Motion carried.

RESOLUTIONS

SP4-2021 DeRosa Enterprises, 262 Route 206, Block 216 Lot 2, NC Zone

Merging of 2 lots into a single lot, and use variance for expansion of existing marina for service and sales.

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

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

Motion carried.

Z18-2021 Dennis Argul, 8 Reis Avenue, Block 241 Lot 476.01, R-5 Zone

Approval to keep an existing shed in the front yard

Mr. Morytko motioned to approve the resolution, seconded by Mr. Chozick. The below vote was

taken:

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

Motion carried.

SUBCOMMITTEE MEETING

SP9-2021 Byram 206 Developers, LLC, 77 NJSH Route 206, Block 34 Lots 14 and 15, VB Zone

Mr. McElroy motioned to deem the application complete and schedule a meeting for 01/20/2022, seconded by Mr. Chozick. The below vote was taken

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

Motion carried.

NEW BUSINESS

Z19-2021 Jara Werner, 104 Lynn Drive, Block 337.01 Lot 81, R-3 Zone

Approval for a fence in the side and rear yard and a shed in the second front yard.

Jara Werner of 104 Lynn Drive was sworn in. There was an existing shed when she bought the house and it got damaged, and the shed was removed. They want to replace the shed in the same spot and became aware of the zoning ordinances. They want a variance for a 6 ft fence because their large dog may jump over it otherwise. They don't have a fence currently. The Board reviewed the submitted photos to understand the shed placement and fencing style. They'd put aluminum decorative fencing, likely black, along the street, and along the woods would be a chain link fence. Mr. McElroy confirmed the house is elevated by around 5 feet. Ms. Werner doesn't want her dog to jump the fence and fall the additional footage to the ground. Ms. Raffay confirmed the fencing photos are just samples. The old shed was around 10 x 12 and the new shed is 12 x 16; the old shed was damaged by the trees above it. Mr. Chozick asked about the additional shed in the photos; Ms. Werner confirmed that's the neighbor's. She keeps lawn equipment in her shed; no bedrooms or bathrooms.

Chairman Shivas opened to the public, and no one spoke so Chairman Shivas closed to the public.

Ms. Raffay asked about the variances for this application. Ms. Hubbard confirmed the hardship is that there are two front yards on this property, and relocating the shed pad would be difficult. The majority of the property is sloped, so finding an area within the lot lines would also be difficult. Ms. Raffay asked where the septic is; Ms. Werner said it's to the left of where the survey says, "clean out."

Mayor Rubenstein motioned to approve the application, seconded by Mr. Smith. The below vote was taken

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

Motion carried.

Z15-2021 Melissa and Chad Pirnos, 71 Lake Drive, Block 249 Lot 62, R-5 Zone

Approval for the front yard setback and setback to the water to demolish the existing dwelling and rebuild a new single-family home.

James Glasson of Civil Engineering located at 1 Cole Street in Budd Lake, the architect Matthew Smetana located at 64 Sunset Lake Road in Sparta, and Melissa and Chad Pirnos of 197 Lake Drive were sworn in. Mr. Smetana has been before this Board before and is deemed an expert; both professionals' licenses are in good standing. Mr. Glasson noted that their attorney is held up in another hearing, and provided a description of the application. He submitted exhibit A1, a colorized version of sheet 2 of the plans. It's a large property, and is about 5 times the size requirement. Mr. Glasson discussed the variances. The coverage of the property at the moment is around 10%. Around 70% of the property is already disturbed. There are 3 wetlands areas on the property; one near the bulkhead on the lake, one along the right of the bulkhead—both of these were given intermediate value from the NJDEP and they got an LOI about a year ago. There's also an isolated pocket of wetlands between the house and the lake which is fillable and has no resource value. The adjacent property is predominantly the Lackawanna Golf Course, so they don't bother any neighbors. There's an existing cesspool and well; the well is 100 feet deep used for septic. Chairman Shivas confirmed there's a 300-foot riparian zone, but it's under a permit by rule because this is a disturbed area and there's a wood bulkhead along the shoreline. Mr. Glasson submitted exhibit A2, sheet 3 of 5 as a colorized version zoomed in. They're proposing to demolish the garage and home and construct a new dwelling. Mr. Glasson discussed the setbacks. They're proposing an inground pool on the lefthand side; there's a patio area around the pool and walkways that connect to a covered porch, which connects to a three-car garage. There are walkways in the front to connect to the road and the pool. The increase in coverage isn't much more because they're removing the gravel area, the paved driveway, and the existing house and garage. They're proposing an underground drywell system to help with the roof area. They're proposing the same well for water supply; they're looking to remove the cesspool and add in a compliant septic system in the front. This has been reviewed and approved by the County health department. They also received approval from the Sussex County Soil Conservation District, and received Highlands approval. They are buffer-averaging the areas in the right and left of the property to enable the development. All the dimensions given are to the overhangs. The well is between the house and the detached garage. The garage is a side-entry, and is part of the house. Ms. Raffay asked about the buffer averaging. Mr. Glasson noted that it allows them to take the buffering and average them down and then increase them in other portions of the property. Those areas are then in easements that are not touched. On sheet 3 there are planting detail. They have an application in to the DEP now to fill the pocket wetlands.

Chairman Shivas opened to the public. Bill Koellhoffer from 87 Lake Drive was sworn in. He noted that he wants this application to be approved; the current house's condition is horrible. Chairman Shivas closed to the public.

Ms. Raffay asked about the septic system—is there a backup? Mr. Glasson said there's a gravity-fed septic tank and is well-planned. Ms. Raffay confirmed the generators are along the back. She asked if the generators are too far from the septic pump. Mr. Glasson noted this is not an issue. Ms. Raffay asked about the seepage pits. Mr. Glasson said the soil around the area is great and the system doesn't have a pipe, it's a drywell instead. Ms. Raffay confirmed there's no concern about water mounding. Mayor Rubenstein asked about fueling the generator. Mr. Glasson said that is to be determined but likely be a propane tank. There was further discussion about the drainage; the water would go into the ground and run across the vegetative buffer. Ms. Raffay asked about the pool equipment regarding safety of it backflushing; Mr. Glasson doesn't see this as a potential issue.

Mr. Smetana went into the architectural of the proposed house. It will be a 4-bedroom single-family home. He submitted exhibit A3, a color scheme for the exterior with greys and white trim and stones, and exhibit A4 of the stones and siding. He proposed the wall heights lower to make the house less imposing. The area on the second floor near the master bedroom is a walk-in closet. Ms. Raffay confirmed there's no closet in the office. Mr. McElroy noted his question about the size of the house, but there's no neighbors across the street.

Chairman Shivas opened to the public, and no one spoke so Chairman Shivas closed to the public.

Chairman Shivas confirmed they'll go with radiant floor heating and likely propane for the house and pool. Mr. Glasson noted the propane is near the driveway. Mayor Rubenstein noted the proposed work is better than what's there now, and this looks fitting for the area and a great improvement. Ms. Raffay confirmed they're waiting on the DEP permits. Chairman Shivas confirmed they're doing plantings around the area. Ms. Raffay asked about the seepage pits and how they'll be maintained. Mr. Glasson said in some towns they make the applicant responsible for cleaning these; the systems are closed and he doesn't see this as a major concern. There will be access at grade to this area, and will be covered with plantings. Ms. Raffay confirmed there's no fence; Mr. Glasson said there'd need to be a fence for the pool because of UCC code requirements.

Chairman Shivas opened to the public, and no one spoke so Chairman Shivas closed to the public.

Mr. Chozick motioned to approve the application with the discussed conditions, seconded by Mr.

McElroy. The below vote was taken:

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

Motion carried.

REQUEST FOR EXTENSION OF APPROVAL

SP3-2021 Weber Brothers Properties, 35 Route 206, Block 36 Lot 39, VB Zone

Request for one-year extension on previous approval

Ms. Hubbard noted she spoke with the attorney who stated the financial issues, and the extension of approval given in 2020 actually was good through this year, so this will officially be their first extension request, as they haven't done any development work yet.

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

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

Motion carried.

DISCUSSION ITEM- EV Ordinance Suggestions

Chairman Shivas said he spoke with Mr. Stoner and Mr. Gleitz and they recommended to hold off on action; if a new application comes they'll follow the ordinance, but the state is likely to change some of this information, so rather than try to recommend changes they should use the state ordinance as is.

DISCUSSION ITEM- Climate Change-Related Hazard Vulnerability Assessment (CCRHVA) in relation to code revisions and a Master Plan Reexamination

Chairman Shivas said Mr. Gleitz thinks the Highlands will come up with regulations or plans for this, so if the Board recommends anything, it may be changed soon as well, so there should be no action taken at this time.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said there's no meeting.

Building Committee: Mr. Morytko said there's no meeting.

Environmental Commission: Ms. Shimamoto is absent.

Open Space: Mr. Morytko said there was a meeting but he wasn't present; they discussed 2021 accomplishments and 2022 goals.

Township Council: Mayor Rubenstein said the Re-Exam is coming up next year, and they need to review, likely with the Board, how they want to approach it. At the next Council meeting, there will be a discussion about floor plan changes to the municipal building project. There was further discussion about the project schedule.

Zoning Report: Everyone had a copy.

BILLS

Law Offices of Larry Weiner (11)- \$5,520.00

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

Harold Pellow and Associates (12)- \$3,565.64

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

Vogel, Chait, Collins, Schneider (3)- \$3,052.50

Chairman Shivas, Ms. Hubbard, and Mayor Rubenstein discussed the relevance of these invoices to the Board. A motion to approve the bills was made by Mr. Morytko. The motion was seconded by Mr. Chozick. 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 8:45pm by Mr. McElroy. The motion was seconded by Ms. Franco. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Caitlin Phillips

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

RESOLUTION NO. PB1-2022

ANNUAL NOTICE OF THE CALENDAR DATES OF THE SCHEDULED REGULAR MEETINGS OF THE BYRAM TOWNSHIP PLANNING BOARD 01/01/2022 UNTIL 12/31/2022

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 01/01/2022 UNTIL 12/31/2022

REGULAR MEETINGS
2022 PLANNING BOARD MEETING DATES

JANUARY	06 Reorganization Mtg.	20
FEBRUARY	03	17
MARCH	03	17
APRIL	07	21
MAY	05	19
JUNE	02	16
JULY	07	21
AUGUST	04	18
SEPTEMBER	01	15
OCTOBER	06	20
NOVEMBER	03	17
DECEMBER	01	15
JANUARY	05 (2023) *	

(*Denotes 2023 Reorganization Meeting)

All the above meetings shall begin at 7:30 p.m. prevailing time. All meetings shall be held in the Municipal Building, 10 Mansfield Drive, Byram Township unless otherwise noticed and official action may be taken.

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

BYRAM TOWNSHIP PLANNING BOARD

Attest:

I certify that the foregoing resolution was adopted by the Byram Township Planning Board at a meeting held on January 06, 2022, and official action may be taken.

Caitlin Phillips

Caitlin Phillips, Board Secretary

In the matter of Jara Werner
Case No. Z19-2021

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Side yard setback of an accessory structure
6' fence in the front yard**

WHEREAS, Jara Werner has applied to the Planning Board, Township of Byram for permission to construct a fence and shed requiring variance relief for premises located at 104 Lynn Drive and known as Block 337.01, Lot 81 on the Tax Map of the Township of Byram which premises are in a “R-3” Zone; and

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 Applicant is the owner and occupant of the single-family home located on-site.

2. The Applicant is proposing to replace the shed with a new shed and install the fence in the front yard.
3. The Applicant submitted the following:
 - a. Photographs the property and the location of the pad for the proposed shed.
 - b. Survey of the property, prepared by Scott M. Bleeker, PLS, dated November 7, 2021.
 - c. Survey of the property, prepared by Scott M. Bleeker, PLS, dated November 7, 2021, with the fence indicated on the property.
 - d. Boundary Survey, prepared by Ampol Surveying, dated July 30, 2015.
4. The Board received a memorandum from Donna Fett, Secretary of the Environmental Commission, dated December 14, 2021.
5. A duly noticed public hearing was held on December 16, 2021, at which time Jara Werner presented sworn testimony in support of the application. The subject property is a corner lot with frontage on Lee Hill Road and Lynn Drive. The previous shed was damaged when a tree fell on it, so the Applicant removed the shed and wanted to replace it with a slightly larger shed, on the existing pad. The proposed shed will be 12'x16' and 5.5 feet from the side yard setback where a 10-foot setback is required. The proposed location is one of the few level areas of the lot. The shed will be used for storage of lawn equipment and similar items.
6. Additionally, the Applicant is proposing to install a 6' fence to enclose the "rear" yard of the property, however a portion of the fence will run along the

Lee Hill Drive frontage, requiring a variance, as 6' fences are prohibited in front yards. The fence will be a decorative aluminum fence along Lee Hill Road, the rest of the fence will be chain link. The property is elevated along Lee Hill Drive, so the fence will provide a safer condition for the homeowners.

7. There was no one from the public in attendance at the hearing.

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 witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:
 - a. Section 240-16B(1) – an accessory structure with a side yard setback of 5.5 feet is approved, where 10 feet is required.
 - b. Section 240-24A – a 6-foot fence in the front yard is approved, where 6 foot fences are not permitted in front yards.
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. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes

are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.

3. The existing property is a corner lot with two front yards, creating a hardship for the Applicant. The fence will enclose the “rear” yard of the property creating a safer condition for the homeowners. Additionally, the shed was destroyed by a tree and new shed is proposed in the existing, non-conforming location. The shed will provide a needed storage space for the homeowners.
4. The benefits of permitting the deviations outweigh the detriments that may result from denying the requested relief. It was determined that there would be little impact to the surrounding area and 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 6th day of January 2022 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 the necessary municipal permits prior to the construction of the shed or installation of the fence.

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 6th, 2022 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Melissa & Chad Pirnos
Case No. Z15-2021

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Front yard setback**
 Setback from the lake for the dwelling
 Setback from the lake for the pool

WHEREAS, Melissa & Chad Pirnos have applied to the Planning Board, Township of Byram for permission to construct a new home requiring variance relief for premises located at 71 Lake Drive and known as Block 249, Lot 62 on the Tax Map of the Township of Byram which premises are in a “R-5” 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. Michael S. Selvaggi, Esquire represented the Applicant.

2. The Applicants are proposing the demolition of an existing dwelling on their property and the construction of a new, larger dwelling in the Lake Lackawanna section of Byram Township.
3. The Applicants submitted the following documents:
 - a. Site Plans prepared by Civil Engineering, LLC, consisting of five (5) sheets and dated September 17, 2021.
 - b. Architectural Drawing prepared by Matthew Smetana, RA, consisting of two (2) sheets and dated July 23, 2021.
 - c. Five (5) photographs of the property.
4. The Applicants are proposing to raze the existing dwelling and garage on the property and construct a new dwelling, in-ground swimming pool, septic system, and driveway.
5. The Board received the following memorandums:
 - a. Engineering Review prepared by Cory Stoner, Planning Board Engineer, dated November 12, 2021
 - b. Highlands Exemption Determination, prepared by Cory Stoner, Planning Board Engineer, dated November 12, 2021
 - c. Donna Fett, Environmental Commission Secretary, dated November 17, 2021.
6. A duly noticed public hearing was held on December 16, 2021. Melissa and Chad Pirnos, the Applicants, James Glasson, P.E. of Civil Engineering, who was accepted as an expert engineer, and Matthew Smetana, R.A., who was

accepted as an expert architect, presented sworn testimony in support of the application. The following were marked for identification:

- a. A-1 – Sheet 2 of 5 of the submitted site plan, date September 17, 2021, colorized.
 - b. A-2 – Sheet 3 of 5 of the submitted site plan, date September 17, 2021, colorized.
7. The subject property is an oversized lot, with five times the required lot area, 352 feet of lot width and 460 of frontage on Lake Drive. Currently 70% of the lot is disturbed with the existing structures and lawn area. There are three areas of wetlands; the Applicant has sought a Letter of Interpretation (LOI) from the New Jersey Department of Environmental Protection (DEP) for a 50' wetlands buffer for two of the areas. The third area is a "pocket" area with no resource value. The Applicant is utilizing a buffer averaging of wetlands per DEP Regulations to allow for construction within the previously developed lot area with buffers in undeveloped areas. There is also a 300' Riparian Buffer on the property and the proposed construction is permitted under DEP Permit by Rule #10 which permits construction inside a riparian zone outside of a flood hazard area as long as new disturbance does not occur within 25 feet of the top of any bank unless located behind a lawfully existing bulkhead. There is an existing bulkhead on site, so the improvements are permitted within 25 feet of the bulkhead.

8. The property across from the subject lot is the Lackawanna Golf Course and the surrounding residential lots are smaller in nature and comply with the lot area requirements.
9. The property is currently serviced by a private well and a cesspool.
10. The application includes demolishing the existing home (which has 1,488 square foot footprint) and constructing a new dwelling with a 2,861 square foot footprint, which is complying as to maximum building coverage. The dwelling will also be conforming as to both side yard setbacks. The front yard setback of the current dwelling is 17 feet, and the front yard setback of the proposed dwelling will be 16.3', which is a *de minimis* decrease in the existing setback. The required setback from the lake is 50 feet, only 24.7 feet is proposed.
11. In addition to demolishing the home, the proposal includes the removal of the detached garage, the gravel parking area, and driveway. The proposed dwelling will have a side yard facing 3 car garage, with a turnaround area in the proposed driveway, along with patios and walkways around the home. An odd-shaped pool is proposed in the side yard to fit the odd shape of the lot and unique shape of the dwelling. The pool requires variance relief as it is 27.8 feet from the lake and 24.3' from the wetlands, where 50 feet is required as per Township ordinance. A pool equipment pad is proposed in the rear of the home and a propane tank is proposed for the backup generator.
12. Roof leaders are proposed to tie into the underground drywell system that will be located in the front yard. A small portion of the leaders in the rear of the

home will drain into the lake. The existing cesspool will be removed and replaced with a compliant 4-bedroom septic system in the front yard. The seepage pits will require maintenance by the property owner.

13. Mr. Smetana provided an overview of the architectural design of the home.

The following were marked for identification:

- a. A-3 – Picture of the color scheme of the home, utilizing gray siding, natural stone, white trim, and cement board siding
- b. A-4 – Picture of similar exterior scheme with black window trim

14. The proposed dwelling will have an English Country designed, with the use of lower walls and peaks to reduce the impact of the size of the dwelling. A majority of the home is 1 ½ stories, with a loft proposed for the second floor, setback from the front of the home. The rooms are “tucked into” the roofline and dormers utilized to create dimension and reduce mass. The structure is conforming as to height and proportionate as to the size of the lot.

15. No basement is proposed due to the height of the water table, so all living space is on the main floor. The rooms are modern in size with volume in the second story area of the great room. The house is proposed with radiant floor heat that will likely be propane sourced. The proposed dwelling will be an improvement to the subject property and the neighborhood, providing a modern home and replacing a home that is in disrepair, unsightly and dangerous.

16. The following were noted during the hearing:

- a. Approval has been obtained from the Sussex County Health Department for the construction of a new 4-bedroom septic system.
- b. Approval has been obtained from both the Upper Delaware Soil Conservation District.
- c. During construction, a double row of silt fence will be utilized, per the Soil Erosion Control Plan.
- d. The proposed construction meets the criteria for Highlands Exemption #5 which permits the construction of improvements to a single-family home, including the removal of the existing dwelling and construction of a new one.
- e. A four-foot-high safety fence is required around the pool area and subject to the Uniform Construction Code and the Construction Department permitting process.

17. During the public portion of the meeting, Bill Koellhoffer, 87 Lake Drive, expressed his support of the application, noting that the existing house was in disrepair and the proposed house would be welcomed.

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 witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:

- a. Section 240-55C.2 – minimum front yard setback of 35 feet required, 16.3 feet approved
 - b. Section 240-55C.9 – minimum setback of 50 feet from the lake or wetlands is required for a building, whereas 27.8 feet from the pool to the lake is approved
 - c. Section 240-55C.9 – minimum setback of 50 feet from the lake or wetlands is required for a building, whereas 24.7 feet from the dwelling to the lake is approved
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. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.
 3. The subject lot is irregularly shaped, with excess frontage on both Lake Drive and the Lake Lackawanna frontage. The lot is currently 70% disturbed with a home that is in extreme disrepair. The proposed dwelling and related improvements are designed to fit the unique configuration of the lot, with minimal variance relief. The architectural design minimizes the impact of the size of the home, reducing the height of the walls and creating dimensions.

The proposed home will create a modern living environment for the homeowner, replacing a dilapidated, unsafe structure with an attractive, well-designed home.

4. The size of the home is comparable to the size of the lot and is across from the Lackawanna Golf Course, so there will be little impact to the surrounding area. The proposal will be an overall improvement to the neighborhood.
5. Accordingly, the benefits of permitting the construction of the home with minor deviations outweigh the detriments that may result from denying the requested relief. It was determined that there would be little impact to the surrounding area and 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 6th day of January 2022 that the approval of the within application be granted subject, however, to the following conditions:

1. Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances.
2. The proposed demolition and construction of the site shall be consistent with the plans submitted to the Board and the representations made at the public hearing.
3. The septic system shall be installed consistent with the approval from the Sussex County Health Department.
4. Any changes to the proposed septic system or existing well shall require approval from the Sussex County Health Department.

5. Applicant shall obtain a Freshwater Wetlands General Permit #6 for the permanent removal of the ordinary value wetlands on site.
6. A Freshwater Wetlands Transition Area Waiver shall be obtained for the proposed buffer averaging.
7. Any conditions of the NJDEP Permits shall be incorporated herein as conditions of the subject approval.
8. Applicant shall obtain the necessary zoning and construction permits for the various proposed improvements

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 6th, 2022 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Cranberry Lake Community Club Inc.
Case No. SP6-2021

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
RELIEF GRANTED

WHEREAS, Cranberry Lake Community Club Inc. has applied to the Planning Board, Township of Byram for *ex post facto* approval for the repair/reconstruction of boat docks requiring site plan and variance relief for premises located along South Shore Trail in the Cranberry Lake section and known as Block 193, Lot 1 on the Tax Map of the Township of Byram which premises are in a “R-5” 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. Roger Thomas, Esquire represented the Applicant.
2. The Applicant has made repairs and/or replaced boating docks that extend into Cranberry Lake requiring site plan and planning variance relief.

3. The Applicant submitted the following documents:
 - a. An unsigned and unsealed copy of a survey prepared by Robert D. Pool, PLS, consisting of one (1) sheet and dated December 12, 2020.
 - b. Project overview exhibits showing before and after photos.
 - c. Hand sketches of the improvements that have been completed.
4. The Board received the following memorandums:
 - a. Cory Stoner, Planning Board Engineer, dated October 20, 2021
 - b. Alyse Hubbard, Planning Board Attorney, dated November 8, 2021
 - c. Environmental Commission, Donna Fett, dated November 17, 2021
 - d. Byram Township Fire Department, dated November 22, 2021
 - e. Department of Police, Byram Township, dated November 30, 2021
5. The Cranberry Lake Community Club (“CLCC”) has completed, repaired, or fully replaced boating docks near the Block 193 Lot 1 property that is owned by the Club and is located along South Shore Trail in the Cranberry Lake section of the Township.
6. The application being submitted is for site plan and variance approval to permit the improvements to the docks that have existed for many years. The docks are located near the Block 193 Lot 1 property owned by the Club but are fully located within an unnamed paper street and within Cranberry Lake which is land owned by the State of New Jersey Department of Environmental Protection. N.J.S.A. 40:55D-35 requires that all building lots be constructed on an improved roadway. Applicant is seeking relief from that requirement, pursuant to N.J.S.A. 40:55D-36.

7. Board Member Michael Walsh recused himself from hearing the application.
8. The application was heard at a duly noticed meeting on December 2, 2021, at which time, Larry Niech, Executive Director of the CLCC presented sworn testimony in support of the application. Mr. Niech prepared a document entitled CLCC Dock Background that he prepared and presented to the Board, which was marked A-1 for identification. Mr. Niech provided the Board with a summary of information, noting that Cranberry Lake was created in 1824 by the New Jersey Legislature when it enacted legislation to incorporate the Morris Canal and Banking Company. The State of New Jersey took title to the canal when the Morris Canal and Banking Company declared bankruptcy, but the water rights continued to be vested in the Company “in trust for the State of New Jersey.”
9. The land was owned by James Frenche and sold to the original developer, who established the Cranberry Lake Development Co., Inc. The common land was deeded to the homeowner’s association, Cranberry Lake Community Club. The land was subdivided into individual lots, which were sold to purchaser, along with membership in the association. Pre-dating zoning, the subdivision was formalized via filed maps. The subject property is on Filed Map #8, June 1, 1926, and the first docks appeared on maps. Mr. Niech testified that the CLCC has authority to maintain the common areas, including the subject property. It was confirmed that each lake community has the authority to make their own rules and regulations.

10. The subject application is for the repair and replacement of a boardwalk and finger docks on the subject property, as the docks were rotting and unsafe. The repair and replacement of the docks was associated with the lowering of the lake by the New Jersey Department of Environmental Protection (“NJDEP”). The Applicant represented that there were communications with the NJDEP prior to the start of the work and that 50% of the repair and replacement of the docks was considered a permit-by-rule and formal approval was not required.
11. The Applicant took out the wooden boardwalk that was on pipes and installed pre-made concrete blocks and placed the wooden boardwalk on the blocks.
12. Several pictures were submitted with the application to depict the property prior to and after the repair and replacement of the docks was completed. The boardwalk and docks appear to be in similar configuration in the before and after pictures.
13. Mr. Neich testified that the lot contains a gravel area, the boardwalk and finger docks. There are no structures on the property that would impede emergency access to the docks. The right-of-way that runs through the lot is unimproved and provides limited access to the docks.
14. During the public portion of the hearing, Wallace Parker of 14 Sautaug Trail, testified that his deed provides him access to the trails to get to the lake. Mr. Parker expressed his concerns about how the development of the property would interfere with his rights to use the property and access the lake. Jeanine Colligan, of 6 Cabin Springs Trail and Chairman of the Dock Committee

testified to the assignment of docks to members of the community and explained that overnight parking is only for club members, all other boats can access the lake for daily use only.

15. An in depth discussion ensued regarding the ownership rights and access to the lake through the docks and the State's public access ramp. The Board acknowledged that the Applicant is seeking a planning variance for the construction of a structure on an unimproved right-of-way and that the Applicant repaired and replaced existing docks.

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. Pursuant to *N.J.S.A. 40:55D-35, Permit to Build on Lot not Abutting a Street*, no permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. As there exists an unimproved paper street that does not provide the required access, the Board hereby grants a planning variance to allow for the repair and replacement of the existing docks on an unimproved and unapproved roadway.
2. Pursuant to *N.J.S.A 40:55D-36*, when enforcement of Section 35 would entail practical difficulties and unnecessary hardship, the Planning Board, may direct the issuance of a permit subject to conditions that would provide emergency access to the property. The Applicants and their witnesses were

found to be competent and credible and were able to establish that emergency access was available to the boardwalk and docks. The Board found a sufficient basis to approve the repair and replacement of the boardwalk and docks, *ex post facto*, on the unnamed, unimproved right-of-way.

3. At the advice of the Board Engineer, it was determined that the repair and replacement of the boardwalk and docks could fall under Permit-by-Rule 2, which authorizes repairs to a lawfully existing structure, or Permit-by-Rule 17, which authorizes the construction of repairs to a dock, pier, or boathouse.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 6th day of January 2022 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 all necessary local, county and state approvals, including, but not limited to New Jersey Department of Environmental Protection, if it is determined that the work performed does not fall within a Permit-by-Rule.

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 January 6th, 2022 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Weber Brothers Properties, LLC
Case No. SP3-2018

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

WHEREAS, Weber Brothers Properties, LLC previously applied to and received approval from the Planning Board, Township of Byram for amended site plan approval for premises located at 35 Route 206 South and known as Block 36, Lot 39 on the Tax Map of the Township of Byram which premises are in a “VB” Village Business Zone; and

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 approved amended site plan approval, with bulk variances on December 20, 2018; and

WHEREAS, as set forth in a letter from Chris H. Colabella, Esq., dated December 9, 2021, said approval is said to expire on December 20, 2021 and a one-year extension has been requested; and

WHEREAS, pursuant to N.J.S.A. 40:55D-49, an Applicant is entitled to seek an extension of one (1) year of protection under the general terms and conditions on which site plan approval was granted; and

WHEREAS, the construction was delayed as a result of financial difficulties resulting from the Covid-19 pandemic; and

WHEREAS, the Board finds sufficient cause to grant the Applicant's request for a one year extension of the subject approval through December 20, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 6th day of January 2022 that the approval of the within application be granted a one-year extension through December 20, 2022.

I hereby certify the above to be a true copy of a resolution adopted by the Byram Township Planning Board at a duly convened meeting held on January 6, 2022.

Caitlin Phillips, Board Secretary

**BYRAM TOWNSHIP PLANNING BOARD
BILL LIST FOR JANUARY 6, 2022**

HAROLD PELLOW & ASSOCIATES, INC	DATE	AMOUNT
Inv. 74065 Planning Board: 12/02 meeting	12/17/2021	\$65.00
Inv. 74077 Sohail Khan: 11/16 meeting	12/17/2021	\$130.00
Inv. 74078 Werner: memo and review	12/17/2021	\$315.07
Inv. 74049 Argul: 12/02 meeting, review	12/17/2021	\$412.57
Inv. 74073 Pirnos: app and drainage review	12/17/2021	\$804.32
Inv. 74074 Pirnos: Highlands	12/17/2021	\$205.50
Inv. 74075 12 Ghost Pony: 11/18 meeting and review	12/17/2021	\$503.25
Inv. 74076 12 Ghost Pony: Highlands	12/17/2021	\$206.50
Inv. 74062 Wawa: review	12/17/2021	\$205.50
Inv. 74061 Raimo: 11/10 meeting	12/17/2021	\$162.50
Inv. 74063 Landscapes By Lou: Memo	12/17/2021	\$130.00
Inv. 74064: Schuffenhauer memo	12/17/2021	\$65.00
Inv. 74066 Skylands: memo and deed review	12/17/2021	\$427.75
Inv. 74067 Akerman: 12/02 meeting	12/17/2021	\$32.50
Inv. 74068 DeRosa: 11/18 meeting	12/17/2021	\$325.00
Inv. 74069 Center for Change: memo and resolution	12/17/2021	\$130.00
Inv. 74070 Bukos: 11/04 meeting	12/17/2021	\$65.00
Inv. 74071 CLCC: 12/02 meeting	12/17/2021	\$162.50
Inv. 74072 Brito: 11/18 meeting and review	12/17/2021	\$546.25
Harold Pellow total		\$4,894.21

LAW OFFICE OF LARRY WIENER	DATE	AMOUNT
Inv. 2021-93 DeRosa: review app, plans, reports, emails, comments	12/28/21	\$1,455.00
Inv. 2021-96 Planning Board: Emails, phone calls, review ordinances, 12/02 meeting, review of agenda items, 12/16 meeting	12/28/21	\$2,505.00
Inv. 2021-94 Skylands: review documentation	12/28/21	\$60.00
Inv. 2021-95 Akerman: Phone calls and review of app.	12/28/21	\$240.00
Inv. 2021-96 Cranberry Lake: Documents, phone calls, emails, resolution	12/28/21	\$645.00
Inv. 2021-97 Bukos: review survey and prep resolution	12/28/21	\$195.00
Inv. 2021-98 Wawa: emails, call, review of docs	12/28/21	\$225.00
Inv. 2021-99 Raimo: documentation/emails	12/28/21	\$420.00
Inv. 2021-100 Kahn: phone call/emails	12/28/21	\$60.00
Inv. 2021-101 Brito: review application, resolution	12/28/21	\$195.00
Inv. 2021-102 Argul: application and resolution	12/28/21	\$195.00
Inv. 2021-103 Fornarucci: Phone calls/emails, resolution	12/28/21	\$90.00
Inv. 2021-108 Dustin Lovenberg: emails	12/28/21	\$60.00
Inv. 2021-109 Schuffenhauer: emails, phone calls, documents	12/28/21	\$105.00
Larry Wiener Total		\$6,630.00

LATINI & GLEITZ	DATE	AMOUNT
Larry Wiener Total		\$0.00
VCCS total		\$0.00
GRAND TOTAL		\$11,524.21