

**MEETING MINUTES**  
**BYRAM TOWNSHIP PLANNING BOARD MEETING**  
**JULY 5, 2018**

**CALL TO ORDER**

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

**ROLL CALL**

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Ms. Raffay	Ms. Kash	Mr. Kaufhold	Mr. Morytko	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
HERE	H	H	H	H				H	H		H
ABSENT											
EXCUSED					EA		EA				
LATE						L				L	

Also, present: Attorney Kurt Senesky  
 Engineer Cory Stoner  
 Secretary Cheryl White

**STATEMENT BY CLERK**

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

**MINUTES**

Approval of the June 21, 2018 Meeting Minutes

A motion was made by Mr. Gonzalez to approve the minutes as written. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez Alt. 1	Ms. Kash	Mr. Kaufhold	Mr. Morytko	Ms. Raffay Alt. 2	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
Motion			✓								
Seconded	✓										
Aye	✓	✓	✓				✓	✓			✓
Nay											
Abstain									✓		
Absent				✓	✓	✓				✓	

Motion carried

**NEW BUSINESS**

Z04-2018, Jim Mershon, Block 155 Lot 246.01, 10 Cabin Spring Trail, R-5 Zone

Variance for a front and left side yard setback to replace existing deck and stairs, and a variance for a right yard setback to keep a pre-existing, nonconforming shed.

Mr. Jason Tunick, Contractor, was sworn in and said that the original installation of the deck and stairs were not permitted and, was not installed in compliance with the UCC. To bring the deck and stairs to code compliance a variance to encroach on the front and left yard setback is required. Mr. Tunick stated that the deck and stairs will be constructed in the same footprint. Chairman Shivas asked if the deck will have to be pinned because of the rock. Mr. Tunick was not sure but said that will probably be the case. Mayor Rubenstein asked about the 15" RCP drainage pipe which runs along the edge of the stairs and is indicated on Mr. Mershon's survey. Mr. Tunick believes it is for storm drainage but cannot confirm that, and he believes it was installed by the Township to direct water run-off to the lake. Mr. Stoner does not agree that this is a Township drain. Ms. Raffay asked if that is going to interfere with the construction of the deck. Mr. Tunick said they are aware it is there and he believes it is 6' under the ground and the footings will only be dug 3' into the ground.

Mr. Tunick said that the 9' X 13' shed has existed on the property when it was purchased by Mr. Mershon and since there is no record with the Township it was permitted Mr. Mershon is seeking a variance for a right yard setback of 7ft. to keep the shed. Chairman Shivas said by the map presented it looks like the shed is on the neighbor's lot, however Mr. Tunick confirmed it is not, the lots were merged and are owned by Mr. Merson. Mayor Rubenstein asked where the house on the property behind the shed is in comparison to the located of the shed. Mr. Tunick said the lot is vacant.

Mr. Mershon's survey indicated two wells on the property. Mr. Tunick did not know if both wells were operational. The Board asked that a condition of approval be that the applicant confirm to the satisfaction of the zoning officer which well is active, which well is abandoned, or are they both active. Mr. Tunick agreed.

The Board had no further questions.

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

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

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez Alt. 1	Ms. Kash	Mr. Kaufhold	Mr. Morytko	Ms. Raffay Alt. 2	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
Motion									✓		
Seconded	✓										
Aye	✓	✓	✓				✓	✓	✓		✓
Nay											
Abstain											
Absent											

Motion carried.

Mr. Kaufhold arrived at the meeting at 7:40 p.m.

Z02-2018, Richard and Laura Nifenecker, Block 132 Lot 10, 17 Lakeview Trail, R-5 Zone  
Variances to renovate and enlarge a single-family dwelling, and to replace an existing garage with a new, three-car garage.

Owner and applicant, Mr. Richard Nifenecker, and the Project Engineer, Mr. Eric Wilson, were sworn in. Mr. Wilson described the property saying that this property was purchased by the Nifenecker's family in 1963 and that the property consists of two single family dwellings, a garage, and two driveway cuts from Lakeview Trail. Mr. Wilson noted that the access and parking will remain the same, however the applicant is proposing a larger circular driveway which will avoid the residents from having to back up onto the street, making it safer. He said the lot is 80% disturbed with buildings, driveways, sidewalks, etc. He said the home to be renovated was originally constructed in two stages and the original portion of the home, the one-story section, the building supports, footings and mechanicals are in poor condition so it makes better sense to bring this portion of the building to current code and modern standards. He said they are proposing 3,013 sq. ft. of building coverage, whereas 2,958 currently exist, increasing the building coverage by 55 sq. ft. He said the increase in sq. ft. is a result of squaring off the existing home, and adding a small vestibule for an entry way.

*Mr. Walsh arrived at the meeting at 8:15 p.m.*

Mr. Wilson reviewed the survey submitted to the Board showing the portion of the home being replaced, and the portion of the home which will not change. He said the second home on the property will have the exterior painted and some interior renovations, and said currently the home is used by visiting guests but not as a permanent residence. He said the garage is being replaced in-kind.

Mr. Wilson presented Exhibit A1, Sheet 3 of 3 of the submitted plan with a revision date of July 5, 2018, saying they relocated the propane tank, which will be underground, so that the 25ft. setback from the lake can be maintained. Mr. Wilson reviewed the variances required.

**House:**

- Rear yard setback (pre-existing).
- Maximum Lot Disturbance (pre-existing).
- Maximum Building Coverage (pre-existing).
- Setback to a body of water.

**Accessory structure:**

- Accessory Structure in the front yard.
- Accessory structure greater than 400 sq. ft.
- Front and side yard setback.
- Insufficient distance between accessory structures.

Mr. Wilson presented Exhibit A2, Garage Average Grade Plan, dated July 5, 2018 which provides building calculations for the garage showing it meets the height requirement. Mr. Senesky asked if the R.S.I.S. have been met as far as number of parking spaces provided. Mr. Stoner said yes.

Mr. Wilson discussed the landscape of the property relative to the Environmental Commission comments for a landscape buffer. Mr. Wilson said counting the natural wooded area and rock face along the lakefront if the applicant supplements plantings behind the dock area they will achieve the buffer requirement. Mr. Senesky discussed the process for a lakefront buffer and approval by the Board Planner. The applicant agreed. Mr. Wilson said as far as stormwater management the water flows over land, towards the lake and will not change. He added that the increase in 55 sq. ft. will not change the water flow or have any adverse effect on adjacent properties. Ms. Shimamoto said that EC comment was relative to the proposed deck replacing the concrete and asked if the measurements were taken from the overhand of the deck or the center line of the column. Mr. Wilson verified it was from the limit of the deck, not the footings. Lastly, he addressed the EC question as to whether it is proper to install a leach field under a gravel driveway and Mr. Wilson said the applicant proposes a new pump septic system with a traditional style field, which was previously approved by the County Division of Health. He said a copy of the letter from the County dated July 7, 2018, was provided to the Board. Mr. Wilson said in response to their comment the system approved is a traffic rated system designed so that vehicles and trucks can ride over it without incident. Mr. Wilson said a copy of the septic approval from the County will be provided to the Board Secretary. Mr. Wilson added that the existing well was abandoned about two years ago in compliance with Division of Health approval. He said that well serviced three homes, the two homes on this property and a home on the adjacent property. A new well has been drilled, inspected and is operational and provides water to the Nifenecker's homes. Mr. Wilson added that the applicant will comply with all necessary approvals and permits such as a Soil Erosion Plan to be reviewed the Sussex County Soil Conservation District and any NJDEP requirements will be addressed by Permit by Rule.

Mr. Wilson said the proposed project is within the same footprint except for the minor changes to "square off" the home. Mr. Wilson reviewed the architectural plans saying the two homes and the garage will have a consistent façade, much like today, white and teal. He added that the applicant wishes to create an open floor plan, and he reviewed those changes with the Board. Mr. Wilson confirmed that the home will remain a three-bedroom home. Mr. Wilson talked about the change to the pitch of the roof which is proposed to correct the water and ice problem that exist today. Mr. Wilson confirmed that the maximum building coverage calculation did consider both buildings. Ms. Shimamoto said that the Board requires existing and proposed conditions and that the plans submitted did not provide that detail. She said it is difficult to determine what exists today and what is being proposed. Mr. Kaufhold agreed with Ms. Shimamoto saying that providing existing and proposed drawings helps the Board determine if the changes will impact the neighbor's views. Mr. Wilson said the portion of the home seen by neighbors is not changing. There was Board discussion about the changes in the roof and not being able to see the change without existing and proposed drawings and as to whether an existing plan should be provided before the Board can approve this application. Mr. Stoner said that the applicant submitted a site plan and when he inspects the property he will be looking at the site plan and if something is on the property that is not shown on the site plan he will question so he does not need a demo plan. The Board was okay with this.

Ms. Raffay asked if the driveway will remain gravel. Mr. Wilson said yes. The Board would like that as a condition in the resolution and noted on the plan. Ms. Shimamoto said since the driveway is enlarging won't that cause the impervious coverage to increase. Mr. Wilson said since the various sidewalks and stairs are being removed the impervious coverage will not increase. Ms. Shimamoto said since this property is largely developed the EC believes more greenspace should be

provided. Mr. Wilson said a wooded area already exists, the applicant has agreed to the vegetative buffer and the applicant would prefer to keep the lawn and barbeque area. The Board had no further questions.

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

A motion to approve this application was made by Mr. Chozick with the conditions that the driveway remain gravel, an as-built plan and the County Septic approval is provided to the Board Secretary and a vegetative buffer is planted. The motion was seconded by Mayor Rubenstein. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez Alt. 1	Ms. Kash	Mr. Kaufhold	Mr. Morytko	Ms. Raffay Alt. 2	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
Motion	√										
Seconded								√			
Aye	√	√	√		√		√	√	√		√
Nay											
Abstain											
Absent				√		√					

Motion carried.

**REPORTS FROM COMMITTEES**

*Township Council* – Mayor Rubenstein said he received calls and emails regarding traffic and garbage issues at Tomahawk Lake on July 1 and knowing that the applicant has a pending application before the Planning Board, the Council hopes that these problems will be resolved during the public hearing.

*Environmental Commission* – Ms. Shimamoto said they reviewed the Mershon and Nifenecker application and provided their comments and concerns. She added that the TCE contamination site in the East Brookwood section of Byram is moving along and that one more home was found with contamination.

*Open Space* – No representative was present at the meeting.

*Architectural Review Committee* – No meeting was held.

*Zoning* – Mr. Dixon said he approved nine zoning permits; none were the result of a Planning Board application. Two permits were denied. One Site Plan Waiver was issued. Eighteen Notices of Violations were sent, most relating to tall grass. He added that four cases were cleared, he removed eight signs and issued one summons. Mr. Dixon added that he went to court regarding the property next to Trailerama because of the prohibited use of outdoor storage on the property. He said a schedule to clean the property was provided by the owner.

**BILLS**

No bills were submitted.

**PUBLIC COMMENT**

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

**CLOSED SESSION**

A motion to go into closed session was made by Mr. Walsh. The motion was seconded by Mr. Kaufhold. All were in favor. Motion carried.

**RESOLUTION**

WHEREAS, the Open Public Meetings Act, P. L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Byram, that the public shall be excluded from discussion of the following matter:

Closed Session – Litigation Update – Quick Chek

BE IT FURTHER RESOLVED that Minutes will be kept on file in the Planning Board Secretary’s office, and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes shall be made public.

**BYRAM TOWNSHIP PLANNING BOARD**

Certification: I certify that the Byram Township Planning Board adopted the above resolution on July 5, 2018.

Cheryl White  
Board Secretary

A motion to return to open session was made by Mr. Walsh. The motion was seconded by Mr. Chozick. All were in favor. Motion carried.

**ADJOURNMENT**

A motion to adjourn the meeting was made at 9:15 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