

**BYRAM TOWNSHIP
PLANNING BOARD AGENDA
FOR THURSDAY
June 3, 2021**

When: Jun 3, 2021 07:30 PM Eastern Time (US and Canada)

Topic: Planning Board Meeting

Please click the link below to join the webinar:

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Webinar ID: 865 8461 6307

1. CALL TO ORDER

2. ROLL CALL

3. OPENING STATEMENT:

Both the Federal and State governments have declared a state of emergency in response to the outbreak of the Covid-19 Virus, that limits the number of people allowed to gather, and requires social distancing. To continue Planning Board business, the regularly scheduled meeting for June 3, 2021 is being held by remote video or audio connection only. This service allows the Board, its 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 of the Municipal Building, on the Township website at: https://www.byramtpw.org/index.php/meetings/committees/planning_board and has been forwarded to those persons requesting notice.

4. FLAG SALUTE

5. MINUTES

Approval of the May 20th, 2021 Meeting Minutes.

6. CONSISTENCY REVIEW- A discussion from the Board is needed to determine if the Town Council's Ordinance No. 006-2021 is consistent with the town's Master Plan.

7. OLD BUSINESS

SP2-2019, Anty Trucking, 9 Lackawanna Drive, Block 226 Lot 16, IPR Zone

Amended site plan approval for an office trailer, two pole barns, reconfigured trailer parking, and outdoor storage.

https://byramptwp.sharepoint.com/:f/s/PlanningBoard/Eoi-HVtCVWhHgis0qFG7JoEBUM_DMt0t7okApQkH08lzZg?e=pv07vZ

8. NEW BUSINESS

Z04-2021 Robert Lovenberg, 285 Lackawanna Drive, Block 344 Lot 33.05, R-1 Zone

Expansion of a previously approved roll-off dumpster and portable toilet business.

https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/EiIn17S7_qZOgQkv7C_tm1UBJbnxjeisiYUW4WkByPJicA?e=bfveKo

Z07-2021 Kevin Lukich, 27 Deer Run, Block 284 Lot 211, R-5 Zone

Addition of a third story for a master bedroom.

<https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/Eo5a6McRIqxIh0nL3IMEIa0Bg9k-FHuMe499aLZmqiap5g?e=d9ahDx>

9. REPORTS FROM COMMITTEES

Architectural Review Committee

Building Committee

Environmental Commission

Open Space

Township Council

10. DISCUSSION ITEM: Brief discussion of consistency review for CO Johnson Park improvements

11. DISCUSSION ITEM: Further discussion from the Board regarding live meetings.

12. OPEN TO THE PUBLIC

13. ADJOURNMENT

Next Meetings:

June 17th: Barbara Bolen and Mountainside Country Store

July 1st- Alissa Macmillan and Eric Schuffenhauer

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, May 20th, 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	H		H	H
ABSENT									A		
EXCUSED											
LATE											

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

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, this regularly scheduled meeting for May 20, 2021 is being held by remote video or audio connection only. This service allows the Board, its professionals, applicants, and members of the public to participate.

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FLAG SALUTE led by Chairman Shivas

MINUTES

Approval of the May 6, 2021 Meeting Minutes

Mr. McElroy motioned to approve the minutes from May 6, 2021, seconded by Ms. Raffay. The following 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

Z03-2021 Linda Burke, 12 Meadowbrook Terrace, Block 297 Lot 14, R-5 Zone

Expansion of family room, master closet, coverage entry and storage for property near water edge and rock cliff.

Ms. Hubbard noted that the first page is missing the relief, and it will be added and recirculated.

Mr. Morytko motioned to approve the resolution, seconded by Mr. Serrilli. The following 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.

SCHEDULE UPDATE: Chairman Shivas announced that Barbara Bolen’s application has been moved from tonight’s meeting, to notify anyone in the public who joined the meeting for that application.

NEW BUSINESS

SP1-2021, 16RT 206 Stanhope NJ, LLC (Skylands Surgery Center), Block 41/42 Lot 95, 109.01 & 109.02, VB Zone

Preliminary and final site plan. Proposed surgery center, doctor’s office, residential apartment, and retail/office

The applicants Vishal Rupani (38 East Shore Trail in Sparta) and Dr. Bobby Rupani (16 Forest Hill), Kevin Robine of Dykstra-Walker Design Group (21 Bowling Green Parkway, Lake Hopatcong), and the architect Matthew Smetana (64 Sunset Lake Road) were sworn in. They were accompanied by their attorney Mr. Askin.

Chairman Shivas noted that they need to address the authorization of the meeting regarding affordable housing and whether or not this application needs a D-variance. Mr. Askin requested the people providing testimony be deemed experts before addressing the variances. Mr. Robine is currently licensed in NJ and has been since 2012, and his license is in good standing. He has testified before the Land Use Boards in Rutherford, New Providence, and Warton, and was deemed an expert. Mr. Smetana is currently licensed as an architect in New Jersey, and has practiced privately since 2000, and presented in front of Byram, Sparta, Hopatcong, and Jefferson, and was deemed an expert.

Mr. Askin stated in addition to the bulk variances and waivers, they’re seeking conditional use approval for the residential units. The conditional uses include apartments as a second principle use on the second and third floor. They will comply with all conditions of approval, and will provide for one affordable housing unit, so they will qualify for conditional use approval without the need for any conditional use variance. Ms. Hubbard said it meets all the conditions of the use, and noted that if they didn’t provide the affordable housing unit, the application would become a D3 variance, making this a Zoning Board application. They can proceed as a Planning Board. Mr. Askin requested a motion to approve the proposed use as a conditional use in the zone. Ms. Hubbard explained the approval would be that they met the conditions of the ordinance, so they have a permitted use and not a conditional use.

Mayor Rubenstein motioned to approve that they met those conditions and proceed as a Planning Board, seconded by Mr. Serrilli. The following 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. Askin stated that Mr. Rupani and Dr. Rupani are the owners of 16 Route 206 Stanhope NJ LLC, and that LLC is the owner of all the properties that are subject to the application. They want to renovate the building on lot 95 to contain a surgical center and medical office on the first floor, and offices and residential apartments on the second floor. They also want to consolidate the two lots of 109.01 and 109.02 and renovate the building there to contain retail and commercial space on the first floor and residential apartments on the second and third floors.

Chairman Shivas requested that they go through one site at a time. Mr. Robine shared his screen and began discussing lot 95. They’re looking to have an office and residential apartment storage areas on

Page 2

the second floor of the left side, and retain existing layouts and apartments on the right side. The central portion of the building doesn't contain a second floor. They'd like additional parking at the front and rear, along with a cross-access easement to the other lot. All the parking will be accessed through a flush curb with no step for ease of access, and parking in the back is for residential and employee parking.

They're proposing building and pole lighting fixtures for parking and sidewalks. They're also providing an amenity outdoor space for the residents in the apartments above. There was a comment from the ARC requesting a more traditional-style light fixture, which was agreed upon. Mr. Stoner asked if traditional means lantern-style. Mr. Robine said it was more a craftsman style, which is what is being used for the businesses in the area. They're proposing as much landscaping as possible, but are constrained around the front. There's a utility easement that restricts large-scale landscaping so access to the utilities can be maintained. They're looking to plant shrubbery, and along the parking will have shade trees.

Mr. Robine moved on to discuss lot 109.01. Chairman Shivas asked if the two buildings will stay the same size. Mr. Robine said the only addition to the building on lot 95 is an entrance canopy. The building on lot 109.01 will have a small tower element that increases the square footage slightly. Chairman Shivas asked about the parking on lot 95 which looks to be two-tiered. Mr. Robine explained there's an existing boulder embankment, but they're using that area for parking now and will reconstruct retaining walls. Mr. Robine continued that on lot 109.01 there will be similar lights and landscaping to lot 95. At the rear of the property there will be shade trees and screening around the dumpster, along with a screening around the dumpster on lot 95.

Mr. Robine discussed site circulation between both sites. They want to get rid of 2 of the 4 access points and reconfigure each lot and minimize the turning points from Route 206. The public will want access to the front of buildings for retail space and the surgical/office center. They'd like 43 parking spaces, and parking requirements for the medical aspect is by appointment. Overflow would go to the front of the building on 109.01. They anticipate the residential parking use in the rear to access either side of the building. Access to rear parking lots is provided by a one-way circular access drive starting on lot 95. The elevations of the properties slope from east to west, and stormwater flows across the property towards Route 206. They're proposing to install inlets throughout the property to capture the runoff. The rear parking will discharge to an inlet and be piped down to the stormwater management basin. Chairman Shivas confirmed that is underground. Mr. Robine said the front portion of the parking area will discharge to another inlet and then to another basin. Chairman Shivas asked about the detention basin. Mr. Robine said it's sub-surface under the parking lot. Chairman Shivas asked about the rear one, and Mr. Robine said it's an underground fire/water storage tank. They're looking to install this fire-suppression measure. Ms. Raffay confirmed the runoff from lot 95 is going straight to the road. Mr. Stoner corrected the statement saying it's not all going to the roadway—it's being collected. They're just under the pervious coverage, so they don't need to comply with the stormwater infiltration and water quality or quantity since they're meeting the existing conditions. They'll need easements for drainage, access, and parking because the lots are tied together. Mr. Robine said they're located in the Highlands preservation area, so they're constrained by those limitations. Mr. Stoner said they qualify for a Highlands exemption.

Mr. Robine then discussed the circulation loop. They designed this for the trucks and vehicles can access items on the property, including garbage, fire, etc. They wanted to make sure the trucks could enter, turn, and leave comfortably. He thinks the circulation is designed adequately for the vehicles. Larger servicing trucks would be there in off-hours, so they don't need a designated loading space. They're looking to cut into the rear portion of the hill for the parking and access drive-thru, which generates excess fill materials that needs to be exported.

Mr. Askin said they need a list of all the variances they're requesting, and thinks they should do it lot by lot. Mr. Robine went through Mr. Stoner's report to discuss the variances for lot 95, adding any notes Mr. Gleitz's report had that were not in Mr. Stoner's. Mr. Askin added they are improving the variance conditions on the site. Chairman Shivas confirmed with Mr. Robine when they're finished they'll have two pieces of property, with two separate buildings. Mr. Robine discussed the sidewalks, noting that they're mimicking what's there now, but there's not enough space for a landscape buffer and walkway. At the south side, there will be a 6ft wide sidewalk, and the remaining portion will contain the existing stone embankment which is in sound condition. He then discussed parking, stating that the buildings are far back from the right-of-way so there is room for parking. They want to provide easy access to the buildings with the flush curbs and less barriers to lead to the building, and will provide a full curb for ADA parking. They want a pedestrian corridor by adding a sidewalk between the building and parking. They're not anticipating many large-van deliveries, but if there is one they will be coordinated to deliver outside of business hours. Mr. Gleitz noted that it's a mixed-use site, so if deliveries are occurring and they don't want to use the front parking access and instead sit in the loop or towards the back, they could be blocking residents. Mr. Robine said any larger deliveries can be coordinated with onsite operations so there is no blocking of the area. Chairman

Shivas said they could have a delivery truck be coming for residents too. Mr. Robine said those deliveries are speedy, and Chairman Shivas confirmed it wouldn't be a long-term impact. Mr. Robine said the smaller delivery vehicles can utilize parking spaces. Mr. Stoner asked if fire zones or one-way access isles could be added. Mr. Robine said they'll agree to what the Fire Department wants regarding circulation and signage. Mr. Stoner said his concern is that no one blocks the area. Mr. Robine noted it can be designated a no-loading zone as well as a fire lane. Mr. Gleitz added that the residents may have different shifts they're working, so is concerned about them being impacted by deliveries, and thinks fire zones would help. He likes the loop but because of the one-way nature they could be stuck. Mr. Robine said they could add no loading signage to help. Mr. Gleitz added that some sections of the loop are narrow so cars couldn't maneuver, so they should add signs noting no stopping or loading. Ms. Shimamoto asked if they could mark a parking space "for deliveries only." Deliveries are constant for residents and businesses, so they should have a place to park, even if it's one space for each lot. Mr. Askin deferred to the applicants to comment on the nature of deliveries. Mr. Rupani said they'd be expecting small deliveries, and big boxes are only for when they start to set up for business. Other deliveries would be about once a week. He's open to designating a spot, and Mr. Robine said this could be accommodated. Dr. Rupani said one issue is that patients are elderly and will need space at the entrance, so for deliveries, it should be towards the back, but the delivery people may not want to be so far back. The front spots are important for the patients to come into the surgery center and medical office. Mr. Robine said they could find a proper spot away from the front of the building. Mr. Askin concluded that they're open to adding as a condition of approval designated parking for deliveries. Mr. Robine noted that the main use of the building is for the medical center, so the parking is focused on the front. There is access in the back, and it's not for the general public but rather the operations.

Mr. Smetana moved on to the notes from Mr. Stoner's report regarding signage. For lot 95, their primary sign will mark the property and business. They want to list under the sign the directory of the uses within the building, so combining those into one sign triggers the variance. The signs will mimic the front entranceway, and will be ground-lit. He noted that the directory keeps with the scale of the sign and will be visible from a distance. Mr. Askin confirmed for the monument sign, the size difference is to keep the information combined on one sign for clarity, and they could use less lighting. They want to install 5 signs, for the number of the building, 2 retail signs, and the two monument signs. They want the number sign on the second floor, for a decorative element.

Mr. Robine continued with other variances pointed out in Mr. Stoner's letter. On lot 109.01, they are proposing a 4-foot-wide sidewalk instead of 6 because they're not anticipating the general public using it. Mr. Gleitz noted that the ordinance is about a buffer around the parking area, not necessarily for between the building and parking, but they still meet the variance requirements. Mr. Robine said the parking area at the rear is at the second floor and the access drive slopes down. An application was made to the NJDOT for the access points and is pending. The sidewalks will match the existing specifications. Mr. Askin asked about the deed of easement for lot 95 and confirmed with the applicants that they will execute the deed of easement for any condition of approval. Mr. Robine discussed the parking space sizes. Theirs are slightly smaller because the spaces have a 2 ft overhang, so they're not adding to the pervious pavement this way. Chairman Shivas asked regarding the retaining wall, what is going in the loop behind it. Mr. Robine said this will be the grade transition from the lower level up to the second-floor elevation at lot 109.01. They're maintaining the retaining wall and have the road meet it. On the opposite site they're cutting into the hill. Nearby will be open landscape areas with shade trees and shrubbery. On the back wall is two-tiered at about 12 ft.

Ms. Shimamoto noted that for the retaining wall the plans don't indicate any landscaping. She recommends speaking with Mr. Gleitz or the Environmental Commission for planting recommendations to avoid runoff. Mr. Robine said they did this in an area that would provide positive drainage to avoid ponding but agreed they could add landscaping. Ms. Shimamoto asked about landscaping between the retaining walls, because grasses slow down the water. Mr. Robine said they could work with Mr. Gleitz to add some plantings.

Mr. Robine continued with Mr. Stoner's report. They're amenable to increasing the pipe sizes for drainage. Mr. Askin added that Mr. Rupani is aware of the drainage easement and will execute a deed of drainage cross-easement. Mr. Robine acknowledged that well permits are required. He noted they're looking to maintain the utility services overhead. Chairman Shivas asked if they will need to upgrade their power for the medical services. Mr. Robine said he hasn't been advised that it needs to be upgraded, and Mr. Rupani doesn't have that information either.

Mr. Smetana discussed the surgical center. The rooftop units will be concealed behind a parapet wall and there will be small detailing at the front. Mr. Askin said the water suppression tank needs to be reviewed by the Fire Department. Mr. Robine continued with the foundation plantings. They're trying to develop the plan to provide initial landscaping, which might look sparse at the start but will fill together, rather than planting more and needing to remove them. He went on to discuss the shade trees, noting they can't plant trees in the utility easement, but they've tried to provide as many trees

as possible without blocking the utilities and signage. Mr. Robine discussed the buffer requirements in Mr. Stoner's letter, noting they want to have the most green space between properties possible. The buffering increases approaching the south. He then discussed the lighting, in which in spots they exceed the illumination levels. As they move to traditional-style lighting they could potentially lessen the intensity of the lighting. Mr. Gleitz asked if they could just do one building mount and Mr. Robine said that's a potential. Mr. Robine doesn't think their lighting at the property boundary will be intensified from what's there now, and won't impact the adjoining property. They want to make sure the lighting is proper for people arriving home in the dark, as well. Chairman Shivas asked if they could put shading on those lights, and Mr. Robine said they could work with the design of the light fixture to limit the light spillage. Mr. Stoner added there needs to be some kind of box-style light on the building for the emergency access.

Mr. Robine discussed the traffic and circulation plans. Mr. Stoner commented that the circulation is a bit unconventional in that they're driving on the left side of an island, but it makes sense for the business since most of the traffic is generated for them. They looked into vehicle trips per day, and calculated it currently to be 264, and under the proposed conditions it would be 275. On lot 109.01 the trips per day is 22 under the existing, and under proposed would be 28. They're looking to remove the rock embankment from the rear, and would try to use it for a new retaining wall, which would be subject to final design review. Chairman Shivas asked how tall the boulder wall is that's being removed, and Mr. Robine said it's around 12 feet. Mr. Robine finished answering the points in Mr. Stoner's report. Mr. Gleitz added they should revise the landscaping plan, and he'd want a signage plan to show all the signs and their numbers and dimensions to be approved.

Ms. Shimamoto asked regarding the site lighting, what the timing would be. Mr. Robine said they'd suggest operating it until one hour after closing to allow employees to get to their cars. They propose building mounted lights remain on for residents for security. Chairman Shivas said they'd like an idea of the commercial lighting hours. Mr. Stoner said they'd need to keep the lights on for the access drive and the parking lots behind the buildings. They could turn off some of the lights in the front, but a lot need to remain lit for the residential use. Mr. Gleitz said if residents are assigned parking closest to the building and employees are assigned distant parking, they could probably turn off lights in the back because the residents would have the building-mounted lights. They'd need to keep the residential parking and sidewalks lit. Chairman Shivas they need to do what's best to keep people safe with proper lighting.

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

Mr. Smetana went over the signage, saying they could provide the details once they have the designs. Mr. Askin said one photo shown earlier had the design, and asked what the materials and colors are. Mr. Smetana said for the surgical center they have stones and an arch at the top, so they're mimicking that with the stones and wood trim. He showed **Exhibit A1** of the sign for the color scheme. They're proposing field stone with earth tones, shown on **Exhibit A2**. He showed further colors as **Exhibit A3**, and roofing material which will be tan as **Exhibit A4**. He showed the light fixtures originally proposed, and they're trying to get more of a craftsman style, as **Exhibit A5**. He discussed the entryway, with the cover for lot 95, with laminated beams and wood ceiling as **Exhibit A6**. Mr. Askin asked about the exterior improvements compared to what's there now. Mr. Smetana went through the designs, saying there's horizontal siding with a tower element, with copper roofs and decorative cedar brackets under the roof and entranceway. Chairman Shivas asked if the tower is decorative, and Mr. Smetana said on the second level it's an addition for a dining area and kitchen access. Mr. Smetana said the existing building is a stucco façade with decorative elements and raised trim around the doors and windows. They want to keep a majority of the details and will repaint it. They're proposing adding covered entranceways. Currently there are contemporary light fixtures, and they want to upgrade it to the craftsman style. Under the canopy will be a light fixture, similarly in the main entrance they'll have wall wash lights. All the air conditioning will be removed and replaced with roof-mounted fixtures to improve the aesthetics. The sides and rear have vertical aluminum siding on the top and stucco at the ground level; they're proposing vinyl siding and adding light fixtures as needed for the path of travel from the back. They'll have a cantilevered entrance to protect the wheelchair accessible landing between the parking spaces. At the back is a vestibule for stairwell access to the upper level. On the right side of the upper level are 3 apartments, and on the main level the access comes from the side of the building. The doctor's office is the right third of the building and will remain as is for the most part. Chairman Shivas asked if the section in the middle is two stories high, and Mr. Robine said it's about a story and a half. The surgical room requires a certain height so it made sense to have it there. Chairman Shivas confirmed they have a flat roof, and that the equipment will be on the two sides for the residents and the middle is for the operations. Ms. Hubbard asked them to clarify about the outdoor space. Mr. Smetana showed the roofline for the center section which allows for windows.

Chairman Shivas opened to the public, and no one spoke, so Chairman Shivas closed to the public. Mr. Askin requested they open to the public for questions from the applicant if needed.

Mayor Rubenstein asked if they had any objection to merging all the lots. Mr. Rupani asked what that would mean. Mayor Rubenstein said with the circulation and everything that spans the two lots, they're functioning as one lot. Mr. Askin said if they're all combined, they could never sell them individually. Mayor Rubenstein added that in the future, if the lots fall into different ownership, there could be dispute over with the drainage or anything, meaning the town will enforce the easements. Mr. Askin said having two lots creates more value than combing them. Mr. Rupani said he'd like to hear how this would affect their timeline. Mr. Stoner added this would change the application, since they'd have two principle uses on one lot, making it a use variance. Mr. Askin said they could handle what's proposed on a deed of cross-easement that includes parking, circulation, drainage, and access. It could restrict the value of the property though. Ms. Raffay asked him to clarify that. She wants to make sure each property can operate well without combing them. Mr. Stoner noted that both lots would have that deed, and it would be filed for each, so if someone did a title search, that will come up for each lot. Mayor Rubenstein said it's not just drainage but water supply for the sprinkler system, which could be a life safety issue. Mr. Stoner said it could be done for both properties without combining. Mayor Rubenstein said someone has to comply with these and if not, someone needs to enforce it. Ms. Raffay noted it'd be in their mutual interest to get things to work. Mayor Rubenstein asked what if the residential building falls into foreclosure. Chairman Shivas added he's seen people share driveways and one of them gets stuck taking care of it. Mr. Stoner said the town could get involved with property violations, and then it becomes a legal issue. Mr. Askin said it's a common thing for neighboring areas to share things in this way. Ms. Hubbard said this would be more of a property issue than a town one. The problem is there's so many things connected between the lots, but it is done. If they wanted to combine the lots, this would be an entirely new application.

Mr. Askin noted that they'd need to go forward with the application as presented, since if it's denied they'd need to start over anyway.

Mr. Serrilli asked how these items get covered in the approval. Ms. Hubbard said there will be a resubmission reviewed by professionals involved. This includes lighting, signage, landscaping, easements, loading zones, and conditions Mr. Stoner pointed out. This will be reviewed before permits are issued. Mayor Rubenstein emphasized his concern about not combing the lots. Mr. Morytko said he sees his point but thinks it could work. Mr. Walsh agreed with Mr. Morytko saying he'd prefer them to be combined, but that's not the application before the Board. Mayor Rubenstein asked if these cross easements will be part of the resolution. Ms. Hubbard said they'll be conditions, but they won't be seen before the resolution is passed. They can add language in the resolution if there's something of specific concern. Mayor Rubenstein wants to ensure there's strong language stating the requirements of each property owner.

Mr. Morytko motioned to approve this application with Ms. Hubbard's description of the necessary documentation of responsibility in the resolution, seconded by Mr. McElroy. The following 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.

SCHEDULE UPDATE: Mr. Walsh motioned to carry this application to the 06/17 meeting, seconded by Mr. Chozick. The following 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.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said there was no meeting.

Building Committee: Mr. Morytko said there was no meeting.

Environmental Commission: Ms. Shimamoto said there is a meeting next week.

Open Space: Mr. Morytko said there is a meeting next month.

Township Council: Mayor Rubenstein said the Planning Board needs to review the Marijuana Ordinance from the Council to see if it is consistent with the Master Plan. They'll vote on it at the next meeting.

Zoning Report

BILLS

Harold Pellow and Associates- (8) \$5,043.88

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

Law Office of Larry Weiner- (5) \$2,385.00

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

Ms. Raffay asked if the Board is considering in-person meetings. The Board considered hybrid meetings and maintaining the Zoom component to engage the public. Ms. Hubbard noted that they need to make sure they allow a space for the public to speak, whether virtually or in person. The Board will continue to re-address this as more information becomes clear. Chairman Shivas said they'll plan for the next meeting to be virtual. The Board thinks the public will participate more virtually, but wants the applicants to be in person if possible.

OPEN TO THE PUBLIC

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

ADJOURNMENT

A motion to adjourn the meeting was made at 11:00 pm by Ms. Franco. The motion was seconded by Ms. Shimamoto. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Caitlin Phillips

ORDINANCE NO. 006 – 2021

AN ORDINANCE BY THE TOWNSHIP OF BYRAM IN THE COUNTY OF SUSSEX, STATE OF NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION 240-28 OF THE BYRAM TOWNSHIP CODE ENTITLED “PROHIBITED USES”

PURPOSE STATEMENT: The purpose of this Ordinance is to prohibit all classes of cannabis uses in all zones as authorized by the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchases items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the Mayor and Council of the Township of Byram has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the Township of Byram in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township of Byram's residents and members of the public who visit, travel, or conduct business in the Township of Byram, to amend the Township of Byram's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Township of Byram; and

WHEREAS, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Byram in the County of Sussex, State of New Jersey, as follows:

Section 1. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Township of Byram, except for the delivery of cannabis items and related supplies by a delivery service.

Section 2. Section 240-28 entitled "Prohibited Uses" of the Code of the Township of Byram is hereby amended by adding to the list of prohibited uses, the following new subsection "C. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service."

Section 3. **REPEALER**. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Township of Byram inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

Section 4. **SEVERABILITY**. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

Section 5. This ordinance shall take effect twenty (20) days after its passage and publication, and as otherwise provided for by law.

BYRAM TOWNSHIP COUNCIL

Introduced: May 4, 2021 Adopted:

	Councilman Bonker	Councilwoman Franco	Councilman Gallagher	Councilman Roseff	Mayor Rubenstein
Motion	x				
2nd		x			
Yes	x	x	x	x	
No					x
Abstain					
Absent					

NOTICE OF INTRODUCTION

Notice is hereby given that the foregoing Ordinance No. 006-2021 was submitted in writing at a meeting held by telephone conference call using Zoom of the Mayor and Council of the Township of Byram, in the County of Sussex, New Jersey, held on the 4th of May, 2021. It was introduced and read by title and passed on the first reading and Byram Township Mayor and Council will further consider the Ordinance for second reading and final passage thereof at a special meeting held on an audio conference using Zoom to be held on the 15th day of June, 2021 at 7:30 p.m., using this link: <https://us02web.zoom.us/j/89713285466> and the public may call in at any of the following telephone numbers US: +1 267 831 0333 or +1 646 518 9805, when prompted, enter the Meeting ID Number 897 1328 5466 followed by the # sign, at which time and place a public hearing will be held thereon and all persons and citizens interested shall have an opportunity to be heard concerning same. Copies are available to the public at the Clerks' office between the hours of 8:30 a.m. and 4:30 p.m., on the Township's website at www.byramtwp.org or copies can be mailed upon request by calling the clerk at 973-347-2500 x127.