

**MEETING MINUTES
BYRAM TOWNSHIP PLANNING BOARD
JUNE 6, 2019**

CALL TO ORDER

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

ROLL CALL

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
HERE	H	H		H	H	H	H	H	H		H
ABSENT											
EXCUSED			EA								
LATE										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 May 16, 2019 Meeting Minutes.

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

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION				√							
SECONDED					√						
AYE		√		√	√	√		√			√
NAY											
ABSTAIN	√						√		√		
ABSENT			√							√	

Motion carried.

Chairman Shivas changed the order of the Agenda

NEW BUSINESS

Mr. Kaufhold stepped down for this application.

207-2019, Dan Sullivan, 84 Lynn Drive, Block 337.01 Lot 71, R-3 ZONE

Variance relief for rear and side yard setbacks to erect a shed in the rear yard and keep pre-existing stairs off the side deck of the home.

Mr. Sullivan was sworn in and said he met with the zoning officer for shed regulations and while reviewing his survey it noted that the stairs off the side deck, in the rear of the home encroach on the side yard setback and were never permitted. Mr. Sullivan said the stairs were there when he purchased the home two years ago. It was determined that since Mr. Sullivan needed a variance for the shed to be located next to his principal structure, it was recommended that he include the stairs in his variance application.

Chairman Shivas asked about the stairs on his plan off the easterly side deck and Mr. Sullivan said the request for those stairs was removed because the Sussex County Division of Health determined that the steps encroached on the septic, and that request was denied. Chairman Shivas said that should be noted in the resolution that the easterly side stairs are not permitted.

Ms. Raffay asked Mr. Sullivan if he considered a different location for the shed. Mr. Sullivan said anywhere on the property would require a variance and he believes this is the best location for curb appeal since the shed is hidden from the street. He said a rock wall prevents him from locating the shed at the end of his driveway, where it may be more convenient. Mayor Rubenstein asked how close the home to the left of Mr. Sullivan's lot is, Mr. Sullivan said about 15 to 20 feet. The Board had no further questions.

Chairman Shivas said a condition in the resolution should state that the proposed steps to the deck on the easterly side of the home which were shown on the plan are not permitted by order of the County Division of Health.

A motion was made by Mr. Rubenstein to approve this application with the condition stated above. The motion was seconded by Mr. Morytko. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION								√			
SECONDED					√						
AYE	√	√			√	√	√	√	√		√
NAY											
ABSTAIN											
ABSENT			√							√	

Motion carried.

Z05-2019, Matthew Ackerman, 34 US Highway 206, Block 40 Lot 15, R-5 Zone

Variance relief to keep a pre-existing above ground pool that does not meet the setback to a principal structure and to keep an already erected shed in the front yard.

Mr. Akerman failed to notify the required utilities ten days prior to the public hearing. A motion to carry this application to August 1, 2019 without further notice was made by Mayor Rubenstein. The motion was seconded by Mr. Olson. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION								√			
SECONDED						√					
AYE	√			√	√	√	√	√	√		√
NAY											
ABSTAIN											
ABSENT			√							√	

Motion carried.

Mr. Dixon stepped down for this application.

Z06-2019, Kevin & Thomas Dean, 13 Laurel, Block 172 Lot 27, R-5 Zone

Variance relief for insufficient setbacks for an addition to the first floor and to add a level to a pre-existing, single-family dwelling.

Kevin and Thomas Dean, owner and applicants were sworn in. Kevin said they propose to add a 538 sq. ft. first floor addition to the right side of the home, and a 1,227 sq. ft. second story, noting that only 700 sq. ft. of the second story will be usable living space, and to add a front porch and shed. He said this proposal requires variances for a front yard setback and a side yard setback. Kevin said the lot is irregularly shaped, narrow and has two front yards which creates a hardship and that their proposal will be an improvement to the house and the neighborhood.

Kevin presented Exhibit A1 thru A4, which are existing photos of the home saying that the home has been abandoned for about four years and is in disrepair. He said he and his father purchased the home in 2017 for his parent's permanent residence. He said they have an approved septic designed by Civil Engineering and water for the home is served by a well on the property which has an advanced water treatment system. Chairman Shivas noted that the County Division of Health requires that the house must remain two bedrooms.

Kevin said the parcel is mostly gravel and they would like to create a walkway and paved parking area and restore the rest of the area to lawn saying this will reduce impervious coverage. Mr. Stoner asked about the rear deck and Kevin said they plan on replacing the deck floor and railings, but the deck footings are fine and since the rear of the property is steeply sloped, that area will not be disturbed.

Mr. Senesky asked Mr. Stoner if he believes the foundation will support a second story. Kevin said the left and rear portions of the foundation will remain and if necessary he will pin or use beams to support the proposed addition. Mr. Stoner said the stability of the foundation is under the purview of the construction official.

Some members of the Board were concerned about the closeness of the side yard setback because when measuring from the soffit it only leaves 2.7 ft. from the property line. Mr. Kaufhold said that maintenance to the house may be difficult without going on the neighboring property. Kevin said only one corner of the house will be that close, and he can access that corner of the home from other areas of the home if maintenance is needed.

Chairman Shivas opened to the public for this application.

Robert Carkhuff, 7 Laurel Trail has concerns about water runoff, property maintenance, the height of the proposed house, adding that he believes it will not fit in with the character of the neighborhood. Mr. Carkhuff said the property is littered with debris and the applicants put debris on his property. Mr. Senesky said property maintenance issues are not under the purview of the Planning Board and should be reported to the zoning official. As far as the height of the home, Mr. Senesky said the applicant complies with the height requirement and Mr. Stoner added that the addition of the lawn area to the property should reduce water run-off. Chairman Shivas did say that the property should be free from debris during construction. Kevin agreed.

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

Mr. Stoner recommended that Kevin stake the corner that is closest to the property line and Mr. Stoner verify the setback during construction. Kevin agreed.

A motion was made by Mr. Olson to approve this application with the condition stated above. The motion was seconded by Mr. Chozick. The following vote was taken.

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED	√										
AYE	√			√	√	√	√	√	√		√
NAY											
ABSTAIN											
ABSENT			√							√	

Motion carried.

Mr. Dixon returned to the dais.

SP1-2019, Chinab Corp. (Exxon), Block 18.02 Lot 388, 1 Route 206, V-B Zone (carried from May 2, 2019)

Amended site plan for new signage for gas pumps and an LED price sign which is prohibited.

The Mayor and Mr. Olson stepped down for this application.

Mr. Ronald Heymann, Esq., representing the applicant's and owners, Sheila and Gil Dalip said he initially identified this application as requiring a D2 variance however based on the Planning Board Engineer and Planner's report, and the minimal impact the signs will have on the site Mr. Heymann believes this application requires a C2 variance. There was Board discussion and Mr. Senesky believes that the addition of these structures/signs increases the footprint, creating an intensification of the use, therefore requiring a D2 variance. Mr. Heymann said either way he is prepared to continue and will provide planning testimony.

Mr. Heymann introduced the applicants, and the project engineer, Mr. John Hanson, P.E., P.P., and they were sworn in. Mr. Heymann said the Gil's purchased the property and the business in 2012 and the site consists of a

canopy with two islands and four fueling stations; 3 regular gas pumps and one diesel gas pump. He said also on the property is a 900 sq. ft. convenient store where they sell cigarettes, lottery, coffee and other convenient items. He said the store operates from 4:00 a.m. to 12:00 a.m., but they may resume 24-hour service in the future.

Mr. Heymann presented Exhibit A1, dated 6/3/19, a photo of the existing price sign saying that the franchisor, Exxon Corp. is modernizing their sites with a new marketing tool and LED price signs. He said the current price sign is changed manually and the new price sign is safer and easier to operate. Mr. Heymann presented Exhibit A2, dated 6/3/19, a photo of the proposed branding sign which promotes Exxon’s new gas which will be located next to the pumps. Mr. Heymann said in addition there is one pole sign made of laminated corrugated cardboard, changed four times per year and is required by Exxon and he presented Exhibit A3, a photo of the pole sign. Mr. Heymann talked about the window signs which advertises products sold in the store and are not visible from the street and the applicants are seeking approval to keep the window signs and other signs on the property not previously approved.

Mr. Heymann introduced Mr. John Hansen, engineer, and planner, previously sworn in. He provided his education and experience to the Board and the Board accepted him as an expert in this field.

Mr. Hansen presented Exhibit A4, dated 6/3/19, a colorized version of the submitted plan and he reviewed the exhibit and site details saying this site requires more signage because it is corner lot on a divided highway, which discourages north bound travelers, and is adjacent to a heavily wooded lot. Mr. Hansen talked about the existing and proposed price sign reiterating that the proposed sign is safer and more visible from the road. He said that the request for an LED sign falls under the C2 variance category and that the new, modernized sign offers safety enhancements and is not a deterrent to the public good. Mr Hansen said most service stations are modernizing their sites and these signs are accepted in the gas industry. Mr. Hansen said the only portion of the signs that are illuminated is the price, which is dimmable and if the Board please can be turned off when the station is closed. Mr. Kaufhold would like the Board Engineer to ensure the signs are not too bright and will not distract motorist. Mr. Heymann agreed.

Mr. Hansen reviewed the two proposed “wave” branding signs to be located at each fueling island saying that the signs are three sided with advertisements on each side, and the total square footage of each sign, not including the top of the sign, is 55.6 sq. ft, and the total of the two signs would be 111.2 sq. ft., adding that the signs are not lit. He said the aesthetic improvement the sign offers meets the standards for a D2 variance and there is no substantial deterrent to the public.

There was further discussion about all the signs on the property and Mr. Heymann presented Exhibit A5, dated 6/3/19, a colorized photo of signage around the pumps and on the site and he reviewed those signs. Mr. Hansen presented Exhibit A6, dated 6/3/19, photos of the Tiger Mart sign on the store front, and one facing Acorn street, and the canopy Exxon sign. Mr. Hansen began discussing all signs on the site and had a listing of the site signs, their location and dimensions. The Board Secretary, Engineer and Attorney requested that Mr. Hansen provide a for reference. A copy of this document is available for review in the Planning Board Secretary’s office and the applicant’s permanent file.

Ms. Raffay said normally sign clutter is unattractive however she believes that gas stations are unique with regards to signage and she considers the canopy part of the footprint of the store and the signage is a part of the products they are selling.

Mr. Heymann added that winter salt and wood are stored outside, under the canopy on pallets which the Gil’s would like to remain. Ms. Gil added that because the store is small they are unable to keep these products inside. Chairman Shivas said the only products permitted to be displayed outside the store are automotive related products and the wood and salt must be removed. Ms. Gil said it is a large property, far from the roadway and that they use the salt in the winter for the property. Chairman Shivas said since they are not related to automobile supplies they must be removed. Mr. Kaufhold said over time more products have appeared outside the store and he reiterated that products sold outside the store that are not allowed, unless discussed and approved tonight. Mr. Heymann said he will remove that request from the application.

Mr. Stoner asked why on the plan the recycle container are outside the enclosure. Ms. Gil said they cannot fit into the trash enclosure and are often used by customers, so they would like to keep them to the south of the enclosure and outside. She said there are three containers, two for mingled recycling and one for cardboard. Mr. Stoner said a revised site plan must be submitted showing their location. Ms. Gil added that the donation bin has been removed.

Mr. Hansen presented Exhibit A7, dated 6/3/19, photos of the trash enclosure, the propane tank cage, the ADA parking space and site landscaping. Mr. Hansen said the applicant will add mulch to the landscaped areas and overall the site is kept clean and in good condition. Ms. Shimamoto talked about the Environmental Commission comments and that landscaping was removed with the widening of Route 206 and to add landscaping underneath the freestanding sign. The applicant agreed.

Mr. Stoner listed of items to be address:

- Site plan should be revised to show all signage on the property with their size and location.
- The location of the propane cage and the recycles bins.
- The Synergy flag in the rear of the property be removed.
- Only the sale of automobile related products only can be displayed outside the store.
- The “wave” signs will not be illuminated
- The applicant will landscape under the freestanding sign.
- The intensity and brightness of the LED sign be approved by the Board engineer.
- The LED sign turned off at the close of business.

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

A motion to approve the application was made by Mr. Chozick. The motion was seconded by Ms. Shimamoto.

The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
MOTION	√								√		
SECONDED											
AYE	√	√		√	√		√		√		√
NAY											
ABSTAIN											
ABSENT			√								

Motion carried.

Mr. Walsh arrived at the meeting at 8:45 p.m.

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

REPORTS FROM COMMITTEES

Township Council – No representative available.

Environmental Commission – No report.

Architectural Review Committee – No meeting held.

Open Space – Mr. Morytko said the meeting is on June 10th.

Zoning Office Report for May 2019

- 11 permits issued
- 0 permits denied
- 1 Site Plan Waiver
- 17 Notice of Violations
- 9 Cases cleared
- 0 summons issued
- 8 signs removed from the roadway

BILLS

Latini & Gleitz (2 bills) \$780.00

A motion was made by Mr. Walsh, the motion was seconded by Mr. Kaufhold to approve Mr. Gleitz's bills. All were in favor. Motion carried.

Schenck, Price, Smith & King, LLP (2 bills) \$187.50

A motion was made by Mr. Walsh, the motion was seconded by Mr. Chozick to approve Mr. Senesky's bills. All were in favor. Motion carried.

PUBLIC COMMENT

Chairman Shivas opened to the public.

Chris Olivo, 3 Sandybrook Road is looking for guidance from the Board. He said three years ago his son purchased this property with the intentions of rebuilding the home. He said the structure has since demolished and he is now being told he cannot rebuild the home. Chairman Shivas said once a house is demolished it's like a vacant lot and standards for a new structure must be met. Mr. Olivo said he's being told the property will not support a septic and there may be issues with the DEP. Chairman Shivas said if there is a properly functioning septic, a new one should not be required but that is under the purview of the County Division of Health. The Board advised him to start with the County with regards to the septic and go from there. He may have to come to the Planning Board for relief, but Mr. Olivo should start with the County and the DEP to determine if any, what those issues are.

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

ADJOURNMENT

A motion to adjourn the meeting was made at 10:05p.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*