

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, June 6 2024, 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. **MEETING MINUTES-** May 16, 2024
6. **RESOLUTIONS**
 - SP1-2024 Byram Waterloo LLC (Starbucks of Byram), 33 Route 206, Block 36 Lot 40, VB Zone
Application for preliminary and final site plan for development of Starbucks coffeehouse with drive-through

 - Z07-2024 Dana Taylor, 16 Weaver House Cove Road, Block 109 Lot 2, R-5
Application for a deck in the side yard

 - SP2-2024 Raimo of Stanhope, 43 Route 206, Block 35 Lot 36, VB Zone
Application for amendment to accessory structure and principle building

 - WOSP-5-2024 Vito Lombardo, 10 Route 206, Block 42 Lot 112, VB Zone
Application to change uses in retail space and add a garage door to existing building
7. **ANNOUNCEMENT**
 - SP6-2023 Tomahawk Lake, 155 Tomahawk Trail, Block 343 Lots 1, 2, and 3, CR Zone
Application for amended site plan and use variance approval to use Lot 3 for additional parking, reconfigure the overflow parking area and employee parking area, construct a slide and merry-go-round, and modify a ticket office for larger square footage
****SCHEDULED FOR 06/20 SUBCOMMITTEE MEETING, ONCE DEEMED COMPLETE, HEARING DATE WILL BE PROVIDED****
8. **SUBCOMMITTEE**
 - SP4-2024 Cartridge Actuated Devices (CAD), 40 Old Indian Spring Road, Block 362 Lot 4, Block 226 Lot 8.01, R1 Zone
Application for bringing site into conformance including trailer removal, addition of a new two-story building, and replacement of a building

 - SP5-2024 Gary Niec, 18, 22, and 24 Route 206, Block 41 Lots 90.01, 90.02, 94, VB Zone
Application for mixed use retail and residential development including a three-story building with up to seven retail spaces and 72 apartments
9. **OLD BUSINESS**
 - Z08-2024 Diane and William Carkhuff, 82 South Shore Road, Block 189 Lot 1, R-5 Zone
Application for construction of a new single-family dwelling
****CARRIED TO 09/05****
10. **NEW BUSINESS**
 - Z25-2023 Ryan Tiernan, 11 Ranger Trail, Block 300 Lot 2345, R5 Zone
Application for ex post facto work on driveway

11. OLD BUSINESS

Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone

Application for shed in the front yard

12. REPORTS FROM COMMITTEES

Architectural Review Committee

Environmental Commission

Open Space

Township Council

13. OPEN TO THE PUBLIC

14. ADJOURNMENT

The Board Engineer and Planner are sworn in at the beginning of each year and are deemed to be under oath on a continuing basis.

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

ROLL CALL: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas
Members Absent: Mr. Serrilli

Also Present: Engineer Cory Stoner, Attorney Alyse Hubbard, 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

MINUTES: May 2, 2024. Mr. Proctor motioned to approve the minutes, seconded by Mr. McElroy.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh and Chairman Shivas

Abstaining: Mayor Rubenstein

Absent: Mr. Serrilli

None opposed. Motion carried.

RESOLUTIONS

Zo6-2024 Brian Kearns, 3 Bank Street, Block 227 Lot 370, R-5

Application for reconstruction and construction of a second story addition to a single-family home

Mr. Proctor motioned to approve the resolution, seconded by Mr. Morytko.

Ayes: Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Abstaining: Mayor Rubenstein

Absent: Mr. Serrilli

None opposed. Motion carried.

SUBCOMMITTEE MEETING

SP3-2024 Veolia Water New Jersey Inc., 8 Mountain Avenue, Block 43 Lot 206.02, R-5 Zone

Application for installation of temporary water storage tanks and painting of existing water storage tank

Ms. Raffay said they're putting in two temporary tanks on the site, to house the water while they paint the main tank. They requested a few waivers, such as fire, an Environmental Impact Statement, landscaping and lighting, drainage, and deeds, which the Subcommittee didn't think was applicable for this application. She motioned to deem the application complete and schedule it for a hearing on 07/18, seconded by Mr. McElroy.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh and Chairman Shivas

Absent: Mr. Serrilli

None opposed. Motion carried.

WOSP-5-2024 Vito Lombardo, 10 Route 206, Block 42 Lot 112, VB Zone

Application to change uses in retail space and add a garage door to existing building

Ms. Raffay said there are items needed when a waiver of site plan is issued, but this doesn't meet some of the criteria. There are changes to circulation because there was a structure added in the back. The exterior change is an issue for a site plan waiver. They're proposing a garage door which is another exterior change, which can change some of the circulation. Some of the interior changes are changing the parking counts, and they will need testimony on the use. The Subcommittee recommended a waiver of site plan not be granted, and that this goes for a hearing. Mayor Rubenstein asked if there would be a use variance. Ms. Hubbard said based on Mr. Gleitz's report, testimony is needed to show if it requires use variances. If there is manufacturing on site it may not be permitted, but if the Custom Glass company is installing and servicing, then it could be a retail service. It would be helpful to have this in advance. Ms. Raffay motioned to recommend an amended site plan rather than a waiver of site plan, seconded by Mr. McElroy.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh and Chairman Shivas

Absent: Mr. Serrilli

None opposed. Motion carried.

OLD BUSINESS

Zo8-2024 Diane and William Carkhuff, 82 South Shore Road, Block 189 Lot 1, R-5 Zone

Application for construction of a new single-family dwelling

Mr. McElroy motioned to carry the application to 06/06 without further notice, seconded by Mr. Proctor.

Ayes: Mayor Rubenstein, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Abstaining: Ms. Raffay

Absent: Mr. Serrilli

None opposed. Motion carried.

Z07-2024 Dana Taylor, 16 Weaver House Cove Road, Block 109 Lot 2, R-5

Application for a deck in the side yard

Ms. Taylor acknowledged she is under oath. Mark Fleming was sworn in at 16 Weaver House Cove Road. Ms. Taylor said they had the surveyor draw up the proposed deck, showing the setbacks. There is also grading and the proposed stairs shown. Ms. Raffay confirmed the existing steps are on the neighbor's property. Mayor Rubenstein confirmed the proposed work is 5 feet from the septic. Ms. Taylor said it won't be over the septic at all. Mr. Stoner confirmed that's the field. Mr. Fleming said there's a photo of where the stake is for the septic, and another stake 5 feet from that. The deck is offset so that it'll be even, so it's 3 feet in the front and 2 feet in the back. Ms. Taylor said it will be 9x20 feet. Mr. Stoner said the side setback is 2.5 feet at the closest point. Ms. Raffay confirmed there are steps off the deck, and a second-floor door.

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

Mayor Rubenstein motioned to approve the application, seconded by Mr. Proctor.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Absent: Mr. Serrilli

None opposed. Motion carried. Ms. Hubbard explained the appeal period.

NEW BUSINESS

SP2-2024 Raimo of Stanhope, 43 Route 206, Block 35 Lot 36, VB Zone

Application for amendment to accessory structure and principle building

Mr. Sarlo represented Raimo of Stanhope. Frank Nemeth was sworn in. Mr. Sarlo said they were in front of the Board in 2021 to clean up the property. They signed a developer's agreement which has timeframes; Mr. Nemeth is on or ahead of schedule. Building 3 had to be completed in 3-5 years, which would be 2025. Building 2 was 3-5 years to be completed, which would be 2027. Nothing is changing in the use, size, or location of these buildings. They are looking to change the door openings and slope of the roof—there are no variances required. In the set of plans provided, sheet 7 is the only one to be adjusted, and they coincide with the architectural plans.

Mr. Sarlo confirmed Mr. Nemeth is a shareholder of Raimo. Mr. Nemeth said they have two buildings on the north side already, and they started getting TCOs, so they can bring a lot of the work inside the building. Most of the items on that side are nonferrous materials, mainly copper and aluminum. They needed to get the buildings up for security reasons, to be able to lock up materials. All the drainage is in on both sides of the road. As soon as this application is approved he can order the buildings so he can get those done before the winter. Mr. Sarlo confirmed Mr. Nemeth wants to change the door openings on both buildings. On building 3, he's looking to change from garage doors to three bay openings. Mr. Nemeth said this is for accessibility for running the machines in and out, and they worry less about posts; this is for safety. On building 2 there will be openings on the east and north sides. Mr. Stoner said this originally had bay doors open towards 206, now this is opening towards 206 and Netcong Avenue. Mr. Nemeth said this is also for storage and accessibility. When cars are flattened they'll be stored under cover there while they're waiting to be shipped out. Mr. Stoner said it was proposed to be a ridge-style roof and now it'll be a shed-style. Mr. Sarlo said this is for both buildings. Mr. Nemeth said the change to the roofs is to give more height to get in and out of the building. Ms. Hubbard confirmed the roof will be higher above the door so it's sloped towards the back. On the other building, the side facing 206 would be higher. Mr. Stoner noted for building 3, the high end is away from 206, so drivers on 206 will see the short side. This used to have four closed garage doors and now it'll be three open bays. This is where the car crusher is located. Ms. Hubbard confirmed it's in the building, and the car storage is in the other building.

Mr. Stoner didn't think this could be done as a field change, and that it needed to come to the Board for an amended site plan. He noted garage doors would cut down on the noise. Mr. Nemeth said it wouldn't really cut down on noise—doors would be open during operations. There is a car-flattening and dismantling operation on one side. It depends on how far they'll break the car down, but when it's finished, it will be flattened in the same building. Dismantling operations are minimal—it's like working in a mechanic shop. The baler has an electric motor so it keeps the noise down. Flattening a car is about a three-minute process, and they don't do more than 5 a day now, but are aiming to do around 20 a day. Even at 20 a day, it'd be about an hour of noise, sporadically. Mr. Stoner confirmed the only open side is to the west, away from 206. Mr. Sarlo said building 2 is also closeby to act as a buffer. Ms. Hubbard asked if weather is an issue, if it snows or rains; Mr. Nemeth confirmed they can continue to operate. Mr. Morytko asked if car-crushing is a new operation. Mr. Nemeth noted the previous owner flattened them differently. Mr. Morytko confirmed this was done outside. Ms. Raffay asked about drainage. Mr. Nemeth said it goes to the south side, and there's a drain at Netcong Avenue. When the building is up, the water coming off the 206 side will go into the existing drain. Mr. Nemeth doesn't think gutters are proposed. Mr. Stoner said the drainage on that side still catches it. He noted the site's been challenging, and Mr. Nemeth has been moving things from one side to the other, trying to keep the business going. Mr. Walsh noted Mr. Nemeth said car-crushing is better done inside, and is assuming it's a better environment for employees. He asked if there are

any other reasons. Mr. Nemeth said they're not challenged by the weather, and they're draining fluids, so it can be contained. Ms. Raffay said on the site plan for building 2, there is a door shown, but it's meant to be open. Mayor Rubenstein confirmed the architectural plans are accurate to what's being proposed. Chairman Shivas asked how many cars are stored in building 2. Mr. Nemeth said he doesn't intend to store them; once there's a truckload he will ship it out. Mr. Walsh confirmed with Mr. Stoner the change in roof doesn't trigger any new variances. Mr. Proctor confirmed with Mr. Stoner he's not worried about stormwater.

Chairman Shivas opened to the public. Joe Blevins confirmed there is no change to the existing building that was put up last year. Chairman Shivas closed to the public.

Mayor Rubenstein motioned to approve the application, seconded by Mr. Walsh.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Absent: Mr. Serrilli

Motion carried. Mayor Rubenstein said it's nice what they've done to the property.

BILLS

Harold Pellow (10): \$4,868.01. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Morytko. All were in favor. Motion carried.

Maraziti and Falcon (15): \$6,090. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Morytko. All were in favor. Motion carried.

REPORTS FROM COMMITTEES

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

Environmental Commission: Mr. McElroy said there's a meeting next week.

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

Township Council: Mr. Proctor said yesterday was Peace Officers' Memorial Day, proclaimed by the Council. Last week was Municipal Clerk's week. They introduced the tree ordinance. Mr. Stoner said there is gas and paving work going on in town. Elizabethtown Gas is moving up Whitehall Hill Road, and heading to Forest Lakes in the next couple weeks.

Zoning Report: Everyone had a copy.

OPEN TO THE PUBLIC

Chairman Shivas opened and closed to the public.

ADJOURNMENT

A motion to adjourn the meeting was made at 8:12pm by Mr. McElory, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Brian Kearns
Case No. Z06-2024
MF#5000.1000

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

**RELIEF GRANTED: Minimum Front Yard Setback
 Minimum Side Yard Setback**

WHEREAS, Brian Kearns has applied to the Planning Board of the Township of Byram seeking approval to reconstruct the damaged structure and add an addition on the home located at 3 Bank Street, and known as Block 227, Lot 370 on the Tax Map of the Township of Byram which premises are in a “R-5” Residential 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. 40:55D-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 Applicants are the owners and occupants of the subject property. The Applicants are proposing to reconstruct the dwelling that was partially

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destroyed in a fire, as well as constructing a second-story addition on the home requiring the following relief from the Township's Zoning Ordinance:

- a. Section 240-55C(2) – Minimum Front Yard Setback: 38.5 feet required, 36 feet existing and 36 feet for the proposed addition.
- b. Section 240-55C(3) – Minimum Side Yard Setback: 15 feet required, 11.3 feet existing and 11.3 feet for the proposed addition.

2. The Applicant submitted the following documents:

- a. Architectural Floor Plan and Elevations, undated, preparer unknown, revised March 14, 2024, consisting of eleven (11) sheets.
- b. Boundary Survey/Partial Topographic Survey, prepared by Careaga Engineering, Inc, dated June 19, 2018.
- c. Boundary Survey/Partial Topographic Survey, prepared by Careaga Engineering, Inc, dated June 19, 2018, addition hand drawn.
- d. Sussex County Department of Health and Human Services, System Review of Individual Subsurface Sewage Disposal, approved January 25, 2024.
- e. Hand Sketched Architectural Plans, last revised February 6, 2024, preparer unknown, consisting of eight (8) sheets.
- f. Pictures of the home damaged by fire, consisting of eleven (11) photos.
- g. Wall Construction Code, consisting of five (5) sheets.
- h. Zoning Permit Application, dated January 2, 2024.

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3. The Board received a memorandum from
 - a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated April 10, 2024.
4. A duly noticed public hearing was conducted on May 2, 2024, at which time Brian and Linda Kearns, the Applicants, along with Donald Rick, a contractor, presented sworn testimony in support of the application. The subject property is a rectangularly shaped lot, with a nonconforming lot width of 75 feet on Bank Street, and 100 feet of width in the rear of the property. The lot depth is approximately 115-120 feet. The house is situated in the center of the property with a macadam driveway on the western side of the lot, a walkway to the front door and a deck in the rear of the lot.
5. The house was partially destroyed in a fire that began in the horizontal soffit, which started by a malfunction of the emergency generator. The Applicants testified that although the home was severely damaged, the house does not need to be demolished, the interior can be renovated while the exterior walls remain.
6. The proposal includes the construction of a second story addition to relocate the bedrooms to the second-floor and repurpose the first-floor space. One of the existing bedrooms is undersized and contains French doors to the rear deck, which will be converted to the laundry room and bathroom. Another bedroom will be converted into an office, with the removal of the closet doors, and the third bedroom will become the kitchen. The existing kitchen and bathroom will be converted into a living room with an open floor plan. The

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second story will contain all three bedrooms and the second bathroom. The existing ceiling joists will become floor joists to support the addition. Both the deck and the balcony will remain.

7. The renovations and second story addition will result in a vertical expansion of the front and side yard nonconforming setbacks, requiring variance relief.
8. The Applicants received approval from the Sussex County Health Department for a 3-bedroom house.
9. The property is located within the Highlands Preservation Area, per the Highlands Water Protection and Planning Act and the proposed construction activities are related to the construction of improvements to a single-family dwelling, including the construction of an addition and therefore excluded from the provisions of the Act.
10. No one from the public was 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 240-55C(2) – Minimum Front Yard Setback: 38.5 feet required, 36 feet existing and approved for the proposed addition.

- b. Section 240-55C(3) – Minimum Side Yard Setback: 15 feet required, 11.3 feet existing and approved for the proposed addition.
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 property is developed with a single-family structure that was damaged in a house fire. The house is in a non-conforming location on the property, with regard to front and side yard setbacks, creating a hardship for the Applicants. The Applicants testified that the house will remain on the property, with the proposed renovations and addition. The variances are for a vertical expansion of the non-conforming setbacks.
 4. The Board determined that the benefits of permitting the Applicants to construct an addition on the home in a non-conforming location outweighed the detriments. The re-constructed home will be a modernized structure, with proper bedrooms and a better layout.
 5. The Board further determined that the proposed addition would not be a detriment to the surrounding area, as it will improve the aesthetic appearance

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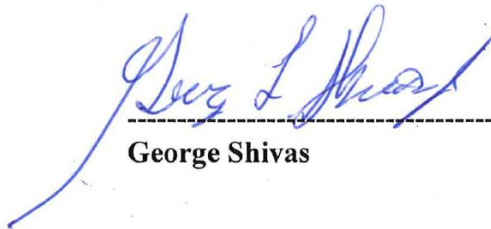
of the home and the neighborhood. Accordingly, the Board determined that relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 2ND day of May, 2024 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. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
3. The Applicant shall comply with the reports submitted by the Board's Professionals and Commissions.
4. Applicant shall pay all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
5. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.

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6. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
7. Prior to occupancy, the owner shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.
8. The Applicant shall secure any and all approvals required from any other public agency or governmental body that may have jurisdiction, as determined necessary, whether specified herein or not, prior to seeking construction or zoning permits.
9. The current septic system supports a three-bedroom home, and shall remain a three-bedroom home. The closets shall be removed from the first-floor bedroom that is to be converted into an office.

 5/16/2024

George Shivas

On motion of: Mr. Proctor

Seconded by: Mr. Morytko

The vote on the Resolution was as follows:

AYES: Seven (7): Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Mayor Rubenstein

ABSENT: One (1): Mr. Serrilli

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I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on May 16, 2023.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 05/16/2024

Prepared by: Alyse Landano Hubbard, Esq.

{376135.DOC.1}8