

**MEETING MINUTES
BYRAM TOWNSHIP PLANNING BOARD
MARCH 05, 2020**

CALL TO ORDER

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

ROLL CALL

| | Mr. Chozick | Mr. Gallagher | 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 | H |
| ABSENT | | | | | | | | | | | |
| EXCUSED | | EA | | | | | | | | | |
| LATE | | | | | | | | | | | |

Also present: Attorney Alyse Landano Hubbard, Esq.
 Engineer Cory Stoner, P.E., C.M.E
 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

MEETING MINUTES

A motion to approve the February 20, 2020 meeting minutes as written was made by Mr. Kaufhold. The motion was seconded by Mr. Chozick. The following vote was taken:

| | Mr. Chozick | Mr. Gallagher | 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.

Z1-2020, Fabian Olivera, 58 Mt. Heights Drive, Block 342.03 Lot 49, R-3 Zone (carried from February 20, 2020).

Variance to exceed building coverage and to exceed the size of an accessory structure permitted for the installation of ground mounted solar panels.

Mr. Daniel Dunzik, LEED-AP, and Ms. Beatrice Olivera, homeowner was reminded they are still under oath. Mr. Lucas Olivera, Ms. Olivera's son, was also present and was sworn in.

At the February 20, 2020 meeting it was discovered that the outdoor kitchen approved in 2008 was built larger than what was approved, and the Board wanted to know what was submitted/considered for this approval. Under the Board's direction the Board secretary was to gather the zoning and construction permits issued, and construction plans that were submitted.

Chairman Shivas asked the applicant how it happened that the structure was built larger than what was approved. Mr. Olivera said the contractor managed the complete project and she said originally, they applied for a 19' X 33' structure but was denied by the zoning officer because it did not meet the side yard setback. A new plan was submitted for a 14' X 29' structure, which was approved, and they believe that the contractor used the original (19'X33') plan in error. Ms. Olivera said they were not aware the structure was larger and that Byram's building department preformed a final inspection and issued a certificate of approval.

Because of the existing impervious coverage on the lot, coupled with this request for a 685 sq.ft. solar array structure the Board has concerns about drainage on the property. It was noted that several trees have been removed from the property. Ms. Olivera said that PSE&G removed eight trees and Mr. Olivera added that when the outdoor kitchen and pool was installed, they had to remove trees. Mr. Dunzik reiterated that solar panels are considered pervious and drainage should not be a problem. Mr. Stoner asked the applicant what was going to be underneath the panels. Mr. Dunzik said grass. Mr. Dunzik said the direction of the water will flow towards the wooded area that boundaries the property and should not cause an issue. Mr. Stoner said the ground directly underneath the panels may be concentrated with water but in his opinion, drainage should not be a problem.

Ms. Raffay wanted to confirm that the roof was not an option for the panels. Mr. Dunzik said the roof has a chimney, and sky lights adding that the roof would be the preferred location but there isn't enough space to support the structure. Mr. Dunzik reiterated that the uniqueness of this lot, the fact that the roof cannot support the structure, and the other structures on the lot create a hardship for the applicant. Ms. Hubbard disagreed with Mr. Dunzik saying she believes this application should be considered a C2 variance vs. a C1. She said a C1 variance is based on a hardship, usually caused by the topography of the lot, or physical features on the property, and the impervious coverage on the lot was created by the owner and cannot be considered a hardship. She said the Board should consider if this variance is granted it will not cause a substantial detriment to the public good and will not impair the intent and purpose of the zone, adding that the benefit would be renewable energy.

Mr. Olson asked Mr. Dunzik if the panels will cause glare to surrounding neighbors. Mr. Dunzik said no, the glare will go straight up, regardless of the angle of the panels. Mr. Olson wanted to know if the shed located in the PSE&G easement presents a problem for the Board. Ms. Hubbard said the Board is to consider the variance to exceed building coverage, which includes the shed, however the Board is not approving the location of the shed. The Board would like language in the resolution stating that.

Mr. Morytko said seeing this property in its entirety, the size, the location, the fact that the panels will not be visible from the road, the PSE&G easement and power lines, he does not have a problem with this request. Ms. Raffay 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 Mr. Olson. The motion was seconded by Mayor Rubenstein. The following vote was taken.

| | Mr. Chozick | Mr. Gallagher | 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.

OTHER BUSINESS

Draft Ordinance creating Chapter 210 of the Municipal Code of the Township of Byram Entitled “Soil Fill Placement” and Amending Chapter A287 of the code to include Soil Fill Permit Fees and Escrow.

Mayor Rubenstein said the Council asked that the Board review the draft ordinance for comment saying that the numbers for the maximum volume of fill for minor and major permits is still under discussion by the Council and is subject to change. He asked Mr. Stoner to provide the Board with an overview of the ordinance. Mr. Stoner said the Township has been working on a soil importation ordinance for some time however as a result of an incident in Vernon NJ whereas contaminated soil was dumped on private property, the Council directed Mr. Stoner, with the assistance of Byram’s zoning officer, Tom Dixon to provide a draft ordinance. Mr. Stoner said the intent of the ordinance is to regulate and control soil fill within the Township and require that the receiver of the fill be able to certify that the fill is clean. Mr. Stoner added that another benefit would be that the township would be on notice of the fill location and can ensure that the fill will not create any drainage issues. Mr. Stoner said permits for soil fill will be issued by himself for the zoning officer.

After reviewing the document and Board discussion the Board offered the following comments for Council consideration:

- The exception for not requiring a minor fill permit if the cumulative volume is 25 cubic yards or less should have a time period added. It was recommended that the time period be limited to one year.
- An exemption for replenishment of lake community beach areas should be added to the ordinance. The sand material, however, must still be in conformance with the clean fill requirements and material test certifications should be provided if requested by the Township.
- An exemption for driveway construction materials (quarried crushed stone, asphalt and concrete) should be added to the ordinance.
- Additional language regarding the final soil stabilization (top soiling, seeding, and mulching) should be added to the ordinance.
- The Zoning Officer should have the right to waive the need for the posting of an escrow for Minor Soil Permit if he/she does not require the review by the Township Engineer.
- Twenty (20) days seems excessive for a minor permit to be issued.

Overall the Board liked the ordinance and commended the Council, Cory, and Tom Dixon on a job well done.

REPORTS FROM COMMITTEES

Architectural Review Committee – Ms. Shimamoto said at the March 11 meeting they will review the building details proposed in the Raimo of Stanhope application.

Board of Health – Mr. Olson said the next meeting is March 24, 2020.

Building Committee – Mr. Morytko said no decisions have been made with regards to a creating a condo unit at the Shop Rite Plaza for the municipal complex. He said the discussion is on-going and will resume at the next meeting which has not yet been scheduled.

Environmental Commission – Ms. Shimamoto said the EC met last week and reviewed the Raimo application and will continue to review the plan at the March 26th meeting. Comments will be provided to the Board secretary for distribution.

Open Space – Mr. Olson said the next meeting is on March 9, 2020. He added that the Open Space and Recreation Plan, which is an element of Byram’s Master Plan, will come to the PB for a consistency review sometime in June 2020.

Township Council – Mayor Rubenstein said he had nothing to report.

Zoning Report February 2020 – Chairman Shivas said a copy of the zoning report was deiminated for Board review.

BILLS

Harold Pellow & Associates (6 bills) \$1,332.50

A motion to approve Mr. Stoner’s bills was made by Mr. Olson. The motion was seconded by Mr. Morytko. All were in favor. Motion carried.

CP Engineers (1 bill) \$1,551.52

A motion to approve CP Engineer’s bills was made by Mr. Walsh. The motion was seconded by Mr. Olson. All were in favor. Motion carried.

PUBLIC COMMENT

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

ADJOURNMENT

A motion to adjourn the meeting was made at 9:30 p.m. by Mr. Kaufhold. The motion was seconded by Mr. Olson. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Cheryl White