

**BYRAM TOWNSHIP  
PLANNING BOARD AGENDA  
FOR THURSDAY  
MARCH 18, 2021**

When: Mar 18, 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: 825 6225 5333

**COMPLETENESS REVIEW 7 pm**

**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 March 18, 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.byramtwp.org/index.php/meetings/committees/planning\\_board](https://www.byramtwp.org/index.php/meetings/committees/planning_board)

and has been forwarded to those persons requesting notice.

**4. FLAG SALUTE**

**5. REORGANIZATION**

Nomination of Secretary/Administrative Officer

**6. MINUTES**

Approval of the February 18, 2021 Meeting Minutes.

**7. TOMAHAWK LAKE**

Tomahawk Lake's 03/04 meeting was carried to a later date, and Tomahawk Lake will re-notice.

**8. COMPLETENESS REVIEW**

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.

[https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/Eg4JIPYwjtIElEoBzK\\_u2igBiz4zMH1aelU28LzuvUNWzQ?e=5PFptB](https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/Eg4JIPYwjtIElEoBzK_u2igBiz4zMH1aelU28LzuvUNWzQ?e=5PFptB)

**9. RESOLUTIONS**

Z17-2020, Lukich Kevin, 27 Deer Run, Block 284 Lot 211, R-5 Zone

Application to expand to a two-car garage and master bedroom expansion on the second story.

Z01-2021, Warden Trevor, 115 Lake Drive, Block 249 Lot 101, R-5 Zone

Setback to a body of water to keep an already erected shed.

SP2-2020, Byram Route 206 Developers, LLC., (Wawa) 75-77 Route 206, Block 34 Lots 14 & 15, V-B Zone

To construct a 5,585 sq. ft. food market with fueling stations, and associated site improvements; parking, lighting, landscaping, and utilities

**10. OLD BUSINESS**

Raimo of Stanhope, Inc., 49 Route 206, Block 35 Lot 36 & Block 37 Lot 26, V-B Zone

Preliminary & Final site plan to add new structures and make site improvements.

<https://byrampdtwp.sharepoint.com/:f:/s/PlanningBoard/EmhIxT49-t5Ar2XNGtS9kk4BMiyQBUBKaLA65qCAQJFVaA?e=tb9YLe>

**11. REPORTS FROM COMMITTEES**

Architectural Review Committee

Building Committee

Environmental Commission

Open Space

Township Council

Zoning Report

**12. BILLS**

Harold Pellow & Associates, Inc. (6)- \$2,481.19

Law Office of Larry Wiener (10)- \$5,820.00

**13. OPEN TO THE PUBLIC**

**14. ADJOURNMENT**

Next Meetings:

- March 25, 2021- Special Meeting for 263 Route 206
- April 1, 2021- Safa LLC, Craig Humphrey, Karen McDonald
- April 15, 2021- Mountainside Country Store

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, FEBRUARY 18, 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	H
ABSENT											
EXCUSED											
LATE											

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

**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, the regularly scheduled meeting for February 18, 2021 is being held by remote video or audio connection only. This service allows the Board, it's professionals, applicants, and members of the public to participate.

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**FLAG SALUTE** led by Chairman Shivas

**MINUTES**

Approval of the January 28, 2021 Meeting Minutes.

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

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION				√							
SECONDED					√						
AYE	√	√	√	√	√	√	√		√	√	√
NAY											
ABSTAIN								√			
ABSENT											

Motion carried.

A motion to approve the February 4, 2021 minutes as written was made by Mr. Smith. The motion was seconded by Mayor Rubenstein. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION									√		
SECONDED						√					
AYE	√	√	√	√	√	√	√	√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

**RESOLUTIONS**

Z15-2020, Toedter Uwe, 135 Lackawanna Drive, Block 271 Lot 788, R-5 Zone

Relief sought for a setback to a body of water to keep an already installed outdoor kitchen.

A motion to approve the resolution was made by Mr. Morytko. The motion was seconded by Mayor Rubenstein. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION					√						
SECONDED						√					
AYE	√	√	√	√	√	√		√		√	√
NAY											
ABSTAIN											
ABSENT											

The motion carried

Z16-2020, Hassenfeld James, 92 Birch Parkway, Block 308 Lot 1847, R-5 Zone

Relief sought for a side yard setback to install hot tub.

A motion to approve the resolution was made by Mr. Morytko. The motion was seconded by Ms. Shimamoto. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION				√							
SECONDED								√			
AYE	√	√	√	√	√	√		√		√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

Resolution of Recognition and Appreciation, Cheryl White

For Cheryl White, who served the Board from June 2010 to January 2021, and who interfaces with the Board and the public.

A motion to approve the resolution was made by Mr. Walsh. The motion was seconded by Ms. Raffay. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION										√	
SECONDED			√								
AYE	√	√	√	√	√	√	√	√	√	√	√
NAY											
ABSTAIN											
ABSENT											

The motion carried.

**OLD BUSINESS**

SP1-2020, Tomahawk Lake, Tomahawk Trail, Block 343, Lots 1 & 2, C-R Zone (Applicant requested this application be carried to March 04, 2021).

Amended site plan to add two new water slides, to permit parking on Lots 1 & 2, to install a 10' X 20' ticket booth, and to construct a 36' X 40' building for retail sales.

The applicant requested to carry this application to March 4, 2021. The Board asked if this would need further notice, and Alyse noted since it's a date certain no notice is needed. A motion to approve this date was made by Mr. Walsh. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION										√	
SECONDED	√										
AYE	√	√	√	√	√	√	√	√		√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

Z09-2020, Barbara Bolen, 89 Glenside Trail, Block 312 Lot 2050, R-5 Zone (Applicant requested this application be carried to April 01, 2021).

The applicant requested to carry this application to April 1, 2021. A motion to approve this date with no further notice was made by Mr. Walsh. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION										√	
SECONDED	√										
AYE	√	√	√	√	√	√	√	√		√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

**NEW BUSINESS**

Z17-2020, Lukich Kevin, 27 Deer Run, Block 284 Lot 211, R-5 Zone

To build a two-car garage and extend the master bedroom on the second floor. Mr. Smith recused himself from this application.

Kevin Lukich was sworn in. The applicant would like to build an attached two-car garage with a master suite above. It requires two variances. One variance goes against the neighbor's yard; currently the setback is 28.1 feet and the proposed changes would bring the setback down to 5.625 feet. The second variance involves the detached garage used as a workshop, for a setback from an existing structure at 5.5 feet rather than the 11 feet from the house currently. Lukich explained that he can't use the existing detached structure for the garage because he uses it as a woodworking area, and you can only fit one car in there.

Chairman Shivas asked about fitting the two cars in the proposed garage with the sidewalk that is currently there. Lukich said he would likely take that sidewalk out and move the driveway over to the proposed structure. Chairman Shivas reminded Lukich that if a retaining wall for a new sidewalk is over 4 feet, he'd need a variance for that as well.

Ms. Raffay and Mayor Rubenstein asked about the proposed and current master bedroom and bathrooms. Lukich noted he is looking to extend rather than add any bathrooms and bedrooms, and give his daughter a walk-in closet. Ms. Raffay asked Lukich to justify the size of the proposed changes. Lukich said originally he was looking to make the extension 24 x 24 for the two-car garage, and moved it down to 22 feet, which is the minimum to fit both cars.

Ms. Shimamoto asked how Lukich plans on taking care of the additional runoff from the building. She also noted that there is a wooded area at the back of his property, and based on the Highlands mapping, that area could be part of the riparian buffer, and recommended he look into that with a surveyor. Lukich said the area in the back is not being touched, and in terms of runoff, rainwater runs into a PVC pipe and then out to the street, which he'd use for the proposed extension as well.

Chairman Shivas opened to the public.

*Suzanne Menta of 46 Winding Way* noted that she has an issue with how close the proposed structure would be to her property. It would invade in her privacy, as the side of Lukich's house looks into her dining area. She also noted there is an issue with the runoff, as the drain gets clogged easily and has caused flooding on the street. Menta said that part of the property line where the trees are is hers, and she was not asked about tearing them down. Lukich noted that the larger tree that needs to go down may not be on her property, and that he was going to discuss the trees when he was able to get the variance. Menta also noted that the previous neighbor had a light on that side that shined into her windows, and with the extension it would make it even brighter. Lukich noted he had no intention of putting a light on that side.

There was further discussion about the placement of the trees. Chairman Shivas said that tree looks to be too close and would need to be removed for the extension to be built. Mayor Rubenstein pulled up a Google image of the houses, **Exhibit B1**, to see the distances. Menta noted that if the fence were removed, with trees being cut down there wouldn't be a buffer between the houses.

Chairman Shivas closed to the public.

Chairman Shivas noted that there needs to be a determination about whose tree it is that needs to be cut down for there to be an approval. Board members offered different options for the garage and master bedroom to help with the concerns of the size and placement. Lukich noted that the two-car garage is important because they've needed to replace windshields from storms knocking branches onto the cars. Board members' suggestions included a one-car garage to minimize the size, moving the structure to the back of the property to fit setback requirements, cutting the proposed second story back further, connecting the workshop to the main structure, adding a carport instead of a garage, and adding a buffer between the neighbor's yard. Lukich noted that the size of the bedroom is important because the storage and movement in the house is cramped. He likes the uniformity he proposed for re-sale value, and he didn't want to attach the workshop because he was worried about the increase in taxes. Lukich said he spent a year trying to make these plans and doesn't see another way to do this.

A motion to deny this application was made by Mayor Rubenstein. The motion was seconded by Mr. Walsh. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED										√	
AYE	√	√	√	√	√	√	√	√		√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

Z01-2021, Warden Trevor, 115 Lake Drive, Block 249 Lot 101, R-5 Zone

Setback to a body of water to keep an already erected shed. Mayor Rubenstein recused himself from this application.

Trevor Warden was sworn in and explained that there was a shed on the property that was broken by a tree after he moved there in November 2017. He installed a smaller shed on the location of the old one, and because of the shape of his property there isn't a better location.

The Board asked about the time between the old shed being demolished and the new shed replacing it. Warden said it was roughly two weeks. The Board asked Alyse if it's accurate to say when the old shed was demolished the grandfathering in of its placement no longer applied to the new shed, so that the current zoning applies. Alyse said yes, only if parts of the shed such as two walls remained would the old provisions apply. She also noted it's the setback to the lake not the size of the structure that's in question. Ms. Shimamoto reminded the board of the 80% vegetative buffer needed. Warden noted that he received a report from Scott Koenig addressing the environmental concerns, but wasn't able to submit it because he received it early that day. Chairman Shivas allowed him to read the report, which stated with Warden's bulkhead the vegetative buffer would not provide any further stabilization. Mr. Stoner responded that he has no objections to what is being proposed.

Chairman Shivas asked about the vegetative buffer in relation to the bulkhead. Paul noted that the vegetative buffer is a basic requirement of the lakefront buffer, and there is nothing mentioned about a bulkhead exception. There was some debate between Warden and the Board about the necessity of the buffer. Warden stated that the buffer shouldn't be needed and thinks that it would be detrimental to the lake, and the shed has been there for a while. Chairman Shivas noted that they could lessen the amount of the buffer, but it is still a requirement. Mr. Serrilli asked what constitutes a vegetative buffer, and Paul responded that the town provides a list of species to plant, and the 80% requirement is to ensure a limit to fertilizer runoff into the lake. Ms. Raffay noted that the discussion is meant not to address so much the shed but the fact that Warden has a lakefront property, which requires a buffer. Warden said the Board would need to tell him the percentage of buffer he needs; the Board said they don't have an exact number to give him. Mr. McElroy noted that the shed has been there and should be fine as it is.

Chairman Shivas opened to the public. No one expressed an interest. Chairman Shivas close to the public.

A motion to approve this application as requested with a 100% waiver on the buffer requirement was made by Mr. Walsh. The motion was seconded by Mr. Serrilli. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION										√	
SECONDED							√				
AYE	√	√		√	√		√	√	√	√	
NAY			√								√
ABSTAIN											
ABSENT											

Motion carried.

SP3-2019, 263 Route 206 Real Estate LLC, 251 Route 206, N-C Zone

Preliminary Major Site Plan with Variances to demolish an existing structure and construct a 7,500 sq. ft. retail/office building and a restaurant with a drive thru. Mr. Walsh recused himself from this application.

*John Ursin, 15 Roseview Road* was sworn in along with *Michael Marotte, 3 Lakeview Trail* and *Jason Dunn, 11 Lawrence Road*. Mr. Dunn's credentials were put on record and he was deemed an expert for the environmental planning portion of the application. Ursin and Marotte are long-term residents of Byram who want to find a use for the property that is good for the town. They noted that they found that lower-profile buildings are better visually and would allow for more light and visibility to Cranberry Lake. Their proposed buildings are a restaurant/drive-thru and a commercial strip-building. They said that during the pandemic, drive-throughs seem to be more in demand. They consider their proposed site to be a neighborhood shopping center, but in the town ordinance a neighborhood shopping center can only be one building, so they're looking for a use variance for the two buildings and to keep the storage units. They don't want to demolish the buildings until there is some level of approval for their work, and they don't believe they'll have any interest in the building from buyers until they have a concept-level approval. For parking, they're looking to have two separate islands that would be an opportunity for landscaping. They noted they would need to come back for an amended preliminary site plan with further details.

Mr. Dunn showed images of the site plan, and pointed out the 3 access points from the highway, which they're trying to preserve. Dunn noted that he believes it's appropriate to approve this because it promotes goals A (general welfare), C (allows for appropriate light, air, and open space), and I (promotes a desirable visual environment) of the Land Use law. It promotes the general welfare by encouraging the economic growth of the area—the site has been vacant. It promotes light, air, and open space by separating the buildings, giving a better view to Cranberry Lake. It promotes a desirable visual environment by improving the architecture of the area, removing a dilapidated building.

Chairman Shivas asked about the entrance ways and how to navigate between the buildings, and about the garages. Ursin said he would fix the navigation for their next meeting, and that the garages would remain a storage facility for residents, but that whatever architectural standard applies to the other buildings would then apply to the garages as well. Chairman Shivas noted that they would need another use variance for the garages.

Ms. Shimamoto expressed concern about the restaurant's proximity to the road and asked if they would

consider just the retail area. Mr. Ursin said they'd be giving up square footage, and the visual interest would be impacted. Mr. Stoner asked about the parking, and how people would get from one building to the other. Chairman Shivas said he was looking at this like a conceptual drawing because the Board is not sure what it will really look like yet. Alyse noted to grant a preliminary approval, they'd need to deem a waiver acceptable. Signage, lighting, vegetative buffers, etc. would need a waiver at this point until the preliminary proposal is approved, when they would then come back and amend their plan. Alyse also said that they have the option to bifurcate the plan.

Chairman Shivas said they need better circulation details, for cars and people to navigate through the site. Paul noted that if approval is granted now, he thinks it would make sense to flip the building uses to put the drive-thru in the wider area. Mr. Ursin said they'd revise their plans.

A motion to carry this application to a special meeting on March 25<sup>th</sup> at 7:30 pm with no further notice was made by Mr. Chozick. The motion was seconded by Mr. McElory. The following vote was taken:

	Mr. Chozick	Ms. Franco	Ms. Raffay	Mr. McElroy	Mr. Morytko	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 they submitted a memo on Skylands Surgery, and they reviewed the Mountainside property; the Board will receive information on both.

Building Committee – Mr. Morytko said they met with the Council to review design documents and estimates for the proposed building.

Environmental Commission – Ms. Shimamoto said there's no meeting this month.

Open Space – Mr. Morytko said they met and reviewed the preliminary plans for CO Johnson and made recommendations for the Council for Forester and for the Open Space consultant.

Township Council – Mayor Rubenstein said after the Building meeting, the Council approved a resolution this past Tuesday to continue the site plans and development for the municipal building complex, authorizing permitting work to be done with the DEP in relation to stormwater. The NJDOT decided that the tunnel/bridge that goes under the Lackawanna cut-off in Andover needs to be fixed, meaning Route 206 could be closed for a year when construction starts.

Zoning Report- Everyone received a copy of the report.

**BILLS**

Harold Pellow & Associates, Inc. (10 bills) \$3,312.50

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

Law Office of Larry Wiener, Esq. (2 bills) \$855.00

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

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 11:15 by Mr. Chozick. The motion was seconded by Mr. McElory. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,  
Caitlin Phillips

In the matter of Kevin Lukich  
Case No. Z 17-2020

**BYRAM TOWNSHIP**

**PLANNING BOARD**

**RESOLUTION OF MEMORIALIZATION**

**RELIEF SOUGHT:**                      **Side yard setback**  
**(Application denied)**                **Setback between principal & accessory structure**

**WHEREAS**, Kevin Lukich has applied to the Planning Board, Township of Byram for permission to construct an addition requiring variance relief for premises located at 27 Deer Run and known as Block 284, Lot 211 on the Tax Map of the Township of Byram, which premises are in a “R-5” 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. 40:55B-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 Applicant is the owner and occupant of the single-family home located on-site.
2. The Applicant proposes to add an attached 2 car garage with a master bedroom suite above and miscellaneous interior renovations, requiring relief



from Section 240-55C(3) for minimum side yard setback and 240-16B(1) for minimum setback between principal and accessory structures.

3. The Board received a memorandum from Thomas Dixon, Zoning Officer, dated February 8, 2021. As noted by Mr. Dixon, the Applicant needs the following relief:

Principal structures require the following minimum setbacks:

35' from the front property line, whereas 99.74' is proposed (complies)

15' from the side property line, whereas 5.625' is proposed (variance required)

20' from rear property line, whereas 127' is proposed (complies)

10' to an accessory structure (detached garage), whereas 5.5' is proposed (variance required)

Principal structures must also meet the following height maximums:

Building: 2.5 stories, whereas 2.0 stories are proposed (complies)

Building: 25', whereas 20'-5" is proposed (complies)

Façade: 35', whereas approximately 25' is proposed (complies)

4. The Board received a memorandum from the Environmental Commission dated February 5, 2021.
5. Applicant submitted the following documents in support of the Application:
  - a. Map of the Property, prepared by DMC Associates, Inc., Land Surveyors, dated July 11, 2013, 2 sheets marked up by Applicant with setbacks

- b. Architectural Plans, unknown who prepared the plan, undated, consisting of 4 sheets
  - c. Sussex County Department of Health and Human Services, Approval for Individual Subsurface Sewage Disposal, dated January 26, 2021
6. A duly noticed public hearing occurred on February 8, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey" issued by the Department of Community Affairs, Division of Local Government Services.
  7. Kevin Lukich presented sworn testimony in support of the application. The current property is a raised ranch with a walkout basement. There is a 1 car garage in the rear of the property used for storage and a workshop. The property is angled to Deer Run, but the house is set square to the street.
  8. Applicant is proposing an addition to create a two-car attached garage, with a second story, which would be approximately 5.6' from the adjacent property. The proposal includes interior renovations to the property that would provide additional living space, relocate the laundry room and master suite, as well as add closet space. The proposal will not increase the number of bedrooms or bathrooms. The proposed addition would require a redesign and

reconstruction of the front steps and retaining walls. Additionally, two mature trees would need to be removed that are along the property lines of the adjoining property owner.

9. The Applicant testified that he originally wanted a bigger addition but reduced the two-car garage to 22 feet wide, so that he could park their SUVs inside. Due to the impact the weather has had on their vehicles, they would like to utilize the proposed attached garage for parking and maintain the detached garage for storage and a workshop.
10. The Environmental Committee requested testimony regarding how additional runoff would be handled. The Applicant testified that the roof leaders would tap into the existing drainage system, which flows into PVC pipes, that run into a drainage ditch that ends in the woods.
11. Suzanne Menta, the adjacent property owner, objected to the application, noting the close proximity of the subject house and her yard. She opined that a two-story structure would invade her privacy, as her dining room faces the side yard of the subject house. Ms. Menta is concerned about runoff, explaining that the existing drain in the rear of the property has been clogged and flooded Winding Way.
12. A Google Earth image of the subject property from February 2020 was screen shared and marked as B-1 for identification.
13. An in-depth look took place regarding whether the trees were located on the subject property or Ms. Menta's yard. It was noted that the trees would either

be removed, or the roots would be damaged during construction and they would no longer be viable.

14. During discussion, the Board made several suggestions to the Applicant on other options to construct a similar addition, including to relocate to the other side of the property, push the addition back toward the rear of the property, or step in the second floor to lessen the impact the addition would have on the neighboring lot.

15. The Applicant testified that the southern side of the property is rocky and would be difficult to construct the addition. Any other configuration would not “flow” with the current layout of the home.

16. The Board emphasized their concerns regarding the close proximity to the adjacent lot and the tree removal, but the Applicant sought the requested relief.

**WHEREAS**, the Board has determined that the relief requested by the Applicant **cannot** 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 determined that the Applicant failed to establish that relief could be granted pursuant to N.J.S.A. 40:55D-70C. 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.

2. The Board noted that neither the shape of the property, nor other existing conditions created a hardship that would justify approving a two-story addition 5.6 feet from the adjacent property. During deliberation, the Board offered several options that would not require the requested relief. The Applicant opined that there were no other options that would work on site.
3. There was not enough testimony to establish that one or more of the purposes of the Municipal Land Use Law would be advanced by permitting the construction of the proposed addition in violation of the side yard setback and the setback between principal and accessory structure. It was further determined that there would be substantial impact to the surrounding area. The adjacent property owner appeared at the hearing and expressed legitimate concerns about runoff and drainage, as well as the impacts the addition would have on her property. Additionally, although a survey was submitted, the ownership of the two trees to be removed could not be determined.
4. The Board voted unanimously to deny the Application based on the facts stated herein.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Byram on the 18<sup>th</sup> day of March 2021 that the within application shall be denied.

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**George Shivas**

**On motion of:**

**Seconded by:**

**The vote on the Resolution was as follows:**

**AYES:**

**NAYS:**

**ABSTAINING:**

**ABSENT:**

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on March 18, 2021 and is in effect for one year.

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**Caitlin Phillips, Planning Board  
Secretary**

**Dated:**

**Prepared by: Alyse Landano Hubbard, Esq.**

**BYRAM TOWNSHIP**

**PLANNING BOARD**

**RESOLUTION OF MEMORIALIZATION**

**RELIEF GRANTED:**        **Setback to a lake, accessory structure**

**WHEREAS**, Trevor Warden has applied to the Planning Board, Township of Byram seeking *ex post facto* relief for the construction of a shed for premises located at 115 Lake Drive and known as Block 249, Lot 101 on the Tax Map of the Township of Byram which premises are in a “R-5” 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. 40:55B-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 Applicant is the owner and occupant of the subject premises.
2. Applicant is seeking *ex post facto* approval for a previously installed prefabricated shed, 12’x16’ (192 sq. ft.) in size, requiring relief from Section 240-55C(9) for an accessory structure 39’ from the lake, whereas 50’ is

required. The remainder of the site, including the existing dwelling, will remain unchanged. The lot is irregularly shaped located on Lake Lackawanna.

3. The Applicant submitted the following:
  - a. A mark-up survey entitled, “Survey of Property tax Lot 1.10 – Block 249, 115 Lake Drive, Township of Byram, Sussex County New Jersey”, prepared by Lakeland Surveying, consisting of one (1) sheet dated August 22, 2017.
  - b. An approval from Sussex County Department of Health and Human Services for an Individual Subsurface Sewage Disposal System dated November 24, 2020.
4. The Board received a memorandum from Cory Stoner, Planning Board Engineer, dated February 12, 2021, noting the following:
  - a. The installation of the shed falls under Permit-By-Rule #10, which permits the construction inside a riparian zone outside of a flood hazard area as long as the new disturbance does not occur within 25 feet of any top of bank or edge of water. The subject shed is set back 39 feet from the edge of the lake.
  - b. The property in question is located within the Highlands Preservation Area. Per the Highlands Water Protection and Planning Act, the construction activities related to the construction of improvements to a single-family dwelling would be excluded from the Highlands Regulations.



5. The Board received a memorandum from Environmental Commission dated February 5, 2021, noting the following:
  - a. It appears that the driveway on the updated survey was enlarged and paved, as compared to the gravel driveway on the original survey.
  - b. Chapter 24 of the Township's Zoning Ordinance requires a vegetated buffer, 10' wide, covering at least 80% of the shoreline, with specific plantings.
6. A duly noticed public hearing occurred on February 18, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey" issued by the Department of Community Affairs, Division of Local Government Services.
7. The Applicant presented sworn testimony in support of the application. The subject property is a lake front, triangular lot. There had been a shed in the rear yard for approximately 30 years when the Applicant purchased the property. The shed was destroyed, beyond repair, during a storm in January of 2018 when a large branch fell on the roof. The Applicant purchased a new shed within 2 weeks of removing the damaged shed. It was his understanding that no permit was needed if the shed was less than 200 square feet. Applicant

was unaware that a variance was needed to construct the shed within 50' of the lake.

8. The current shed is 12' x 16', constructed on a gravel and concrete slab foundation in the same location as the prior shed. The previous shed was 14' x 16'. The shed is constructed at the edge of the existing driveway. The Applicant testified that most of the driveway is located in an easement on the adjacent property, with only a small paved turnaround area on the property.
9. An in-depth discussion ensued regarding the need to comply with the Township's Ordinance regarding a 10' wide buffer along the shoreline. The Applicant was strongly opposed to the buffer, explaining that he is involved in an organization that maintains Lake Lackawanna and that plantings along the shoreline contribute to eutrophication. There is a gentle slope to the lake and a bulkhead that enables drainage.
10. Mr. Gleitz, the Board's Planner, explained that a mix various vegetation would stop the degradation of the lakefront. It was the position of several Board members that the plantings would slow runoff and stabilize the shoreline, noting the intent of the ordinance is to protect the lakes.
11. In reviewing the survey, there is no conforming location on the subject property to construct the shed. Ultimately, a majority of the Board agreed that the buffer requirement could be waived.
12. No one from the public attended the meeting in opposition to the application.

**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 Section 240-55C(9) of the municipal zoning ordinance approving the construction of the shed with a 39 foot setback, whereas 50 feet is required.
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. The subject property is triangular shaped, lakefront lot. The Applicant replaced a damaged shed with a new, smaller shed in the same location. The previously shed had been on the property for approximately 30 years. The Applicant established that, based on the shape and existing conditions on site, there was no other location to construct the shed in a conforming manner.
3. It was determined that there would be little impact to the surrounding area and there had been a shed on the property for over 30 years without issue. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan, as a shed is common amenity on residential properties.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Byram on the 18<sup>th</sup> day of March 2021 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.
2. Applicant shall obtain any necessary permits and pay any required fees with the Township's Zoning and Construction Departments.

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**George Shivas**

**On motion of:**

**Seconded by:**

**The vote on the Resolution was as follows:**

**AYES:**

**NAYS:**

**ABSTAINING:**

**ABSENT:**

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on March 18, 2021 and is in effect for one year.

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**Caitlin Phillips, Planning Board Secretary**

**Dated:**

**Prepared by: Alyse Landano Hubbard, Esq.**

**BYRAM TOWNSHIP**

**PLANNING BOARD**

**RESOLUTION OF MEMORIALIZATION**

<b>Relief Granted:</b>	<b>Use Variances:</b>	<b>Auto fueling station</b>
		<b>Two principal buildings on one site</b>
	<b>Bulk Variances:</b>	<b>Insufficient side yard setback</b>
		<b>Number of permitted signs</b>
		<b>Size of freestanding sign</b>
		<b>Height of freestanding sign</b>
		<b>Number of wall signs</b>
		<b>Front yard setback</b>
		<b>Maximum parking in front yard</b>
		<b>Minimum side yard</b>
		<b>Parking in side yard</b>
		<b>Rear yard buffer</b>
		<b>Steep Slopes Disturbance</b>

**WHEREAS**, Byram 206 Developers LLC (on behalf of Wawa) has applied to the Planning Board, Township of Byram for Use Variance, Preliminary and Final Site Plan, along with related bulk variances and design waivers to construct a Wawa Food Market and Fueling Station for premises located at 75-77 U.S. Route 206 and known as Block 34, Lots 14 & 15 on the Tax Map of the Township of Byram which premises are in a “V-B” Village Business 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. 40:55B-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. Michael Selvaggi, Esquire represented the Applicant.
2. The Applicant is the contract purchaser and proposed developer of the site.

The owner of the subject property is Markis Enterprises, LLC, who consents to the Application. Wawa is the proposed operator of a fueling station and convenience store on site.

3. The Applicant submitted the following documents:
  - a. Plans entitled “Preliminary & Final Site Plan for Byram 206 Developers LLC Proposed Wawa Food Market & Fueling Station, Block 34, Lots 14 & 15...” prepared by Dynamic Engineering consisting revised sheets 6, 8, 9 & 10 of 20 dated 12/30/19 revised 10/12/20.
  - b. Plans entitled “Overall Site Plan Overlay, Byram 206 Developers LLC Proposed Wawa Food Market & Fueling Station, Block 34, Lots 14 & 15 ...” prepared by Dynamic Engineering, dated 9/30/20 and 10/29/20.
  - c. Plan entitled “Site Plan Rendering, Byram 206 Developers LLC Proposed Wawa Food Market & Fueling Station, Block 34, Lots 14 & 15 ...” prepared by Dynamic Engineering, based on Site Plan Set Dated 12/30/19, revised through 9/3/20.

- d. Plan entitled “Site Plan Rendering for Byram 206 Developers LLC Proposed Wawa Food Market & Fueling Station, Block 24, Lots 14 & 15,” prepared by Dynamic Engineering, based on Site Plan Set dated 12/30/19 dated 10/12/20, revised 10/29/20.
- e. NJDOT Survey for Byram 206 Developers LLC Proposed Wawa Food Market & Fueling Station, Block 34, Lots 14 & 15, prepared by Dynamic Survey, consisting of two (2) sheets and dated 9/28/18 revised 6/9/20.
- f. Traffic Study for Major Access Application with Planning for Proposed Wawa Food Market and Fueling Station, prepared by Dynamic Traffic, dated January 23, 2020, revised July 10, 2020
- g. Phase I Environmental Site Assessment Report, prepared by Sovereign Consulting Inc, dated October 5, 2017
- h. Phase II Environmental Site Assessment Report and Geotechnical Investigation Report, prepared by Sovereign Consulting Inc, dated October 19, 2017
- i. ALTA/NSPS Land Title Survey, prepared by Dynamic Survey, LLC, dated October 26, 2017
- j. Boundary and Topographic Survey, prepared by Dynamic Survey, LLC, dated September 28, 2018
- k. Stormwater Management, Groundwater Recharge, and Water Quality Analysis, prepared by Dynamic Engineering, LLC dated January 2020

- l. Environmental Impact Statement, prepared by Dynamic Engineering, LLC dated February 2020
  - m. Wawa Gas Canopy, prepared by Richard W. Luke, AIA, CP Architects, dated 10/2/19
  - n. Wawa W50 FB, prepared by Richard W. Luke, AIA, CP Architects, dated 1/3/20
  - o. Cut/Fill Report dated October 14, 2020.
  - p. Resolutions for SP1-10, First Hartford Realty Corp. for the CVS Development, dated July 5, 2015 and May 7, 2015
  - q. Videos of the proposed signage, 4 total
4. The Board received the following memorandums:
- a. Paul Gleitz, Township Planner, dated 7/20/20, 7/27/20 & 10/27/20
  - b. Cory L. Stoner, Planning Board Engineer, dated 2/27/20, 3/12/20, 4/9/2020, 7/24/20 & 10/27/20
  - c. Michael A. Pellek, Assistant Fire Department Chief, dated 7/8/20
  - d. Chief Kenneth Burke, Byram Police Department, dated 6/29/20
  - e. Sussex County, Department of Engineering and Planning, dated 7/20/20
  - f. CP Engineers, Township's Engineering Consultants, dated 5/5/20 & 8/19/20
  - g. Comments from the Environmental Commission, undated
5. The Applicant requested and noticed for the following relief:



- a. Use Variance from Ordinance 240-56.D to permit the development of an auto fueling station which is prohibited in the VB zone.
- b. Use Variance from Ordinance 240-15.A to allow for two (2) principal buildings on the site.
- c. Bulk variance from Ordinance 240-15.B for a principal building having an insufficient side yard as required in the VB zone.
- d. Bulk variance from Ordinance 240-47.1.A to allow for 6 signs whereas only 3 are permitted.
- e. Bulk variance from Ordinance 240-47.2.E.2 to permit a 59.8 square foot sign whereas the maximum size permitted is 32 square feet.
- f. Bulk variance from Ordinance 240-47.2.E.3 to permit a twenty (20) foot high freestanding sign, whereas only twelve (12) feet is permitted.
- g. Bulk variance from Ordinance 240-47.2.H.3 for the number of wall signs, whereas one (1) wall sign is permitted and three (3) wall signs are proposed.
- h. Bulk variance from Ordinance 240-47.2 to allow for 2 canopy spanner signs where none are permitted.
- i. Bulk variance from Ordinance 240-56.E.3 which limits the maximum front yard setback to 55 feet and 61.5 feet is proposed.
- j. Bulk variance from Ordinance 240-56.E.3 which limits one (1) row of parking in the front yard and two rows of parking are proposed.
- k. Bulk variance from Ordinance 240-56.E.4 which requires a minimum side yard setback of 10 feet and 5.5 feet is proposed.

- l. Bulk variance from Ordinance 240-56.E.4 which requires a four (4) foot landscape buffer in the side yard and the proposed buffer is incomplete/insufficient.
  - m. Bulk variance from Ordinance 240-56.E.4 which requires a six (6) foot wide sidewalk in the side yard and none is proposed.
  - n. Bulk variance from Ordinance 240-56.E.11.B to allow 17 parking spaces in the side yard whereas none are permitted.
  - o. Bulk variance from Ordinance 240-56.E.11.B to allow two rows of parking in the Front Yard where none are permitted.
  - p. Bulk variance from Ordinance 240-56.E.11.D which requires a ten (10) foot buffer in the rear yard and the proposed buffer is insufficient.
  - q. Bulk variance from Ordinance 240-56.E.13 for the provision of a ten (10) foot buffer in the rear yard and the proposed buffer is insufficient.
  - r. Bulk variance from Ordinance 240-29.2 for disturbance of slopes in excess of 25%, which was determined during the course of the hearing and not noticed by the Applicant.
6. Applicant seeks numerous design waivers, as set forth in the Memorandum from L&G Planning, dated July 27, 2020.
  7. Duly noticed public hearing occurred on September 10, 2020, October 29, 2020 (Special Meeting), November 19, 2020, January 21, 2021 and January 28, 2021 (Special Meeting) via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal

Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.

8. Public access was also made available to members of the public via live-stream at the Byram Township Municipal Building.
9. The Board heard sworn testimony, in their respective fields, from:
  - a. Matthew Sharo, P.E., Dynamic Engineering Consultants, PC, accepted as a professional engineer
  - b. Nick Verderese, P.E., Dynamic Traffic Consultants, PC, accepted as a professional traffic engineer
  - c. John McDonough, P.P. accepted as a professional planner
  - d. Michael Redel, representative of Wawa
  - e. Joseph Mizrahi, representative of the Applicant
  - f. Lawrence Galiano, SRP, CHMM, Environmental Consultant
10. The following documents were marked for identification:
  - a. A-1 – Aerial Overlay of the property
  - b. A-2 – Site Plan Rendering dated September 9, 2020
  - c. A-3 – Intersection Exhibit, dated September 3, 2020
  - d. A-4 - MISSING**
  - e. A-5 – Rendering of Building
  - f. A-6 – Rendering of the canopy

- g. A-7 – Site Plan Rendering dated October 29, 2020
- h. A-8 – Overall Site Plan Overlay, dated October 29, 2020
- i. A-9 – Photo of the site from Route 206 looking south
- j. A-10 – Photo of the site from Route 206 looking south, with the proposed canopy
- k. A-11 – Photo of the midway point to the CVS driveway
- l. A-12 – Planning Exhibit, consisting of 11 pages of maps and photographs
- m. A-13 – List of Variance Relief Required
- n. A-14 – Video of monument sign at 16’ in height
- o. A-25 – Steep slopes exhibit

11. Mr. Sharo provided the overall site conditions and engineering testimony.

The subject property consists of two lots, Block 34, Lots 14 and 15, on the west side of Route 206 in the Village Business Zone. Lot 14 is developed with CVS Pharmacy. Lot 15 is a 2.55-acre vacant parcel to be developed as a Wawa convenience store with fuel sales. The 5,585 square foot convenience store will be set back in the rear of the property. The store will contain a sales area, merchandise area, freezers and coolers, food preparation area, an office, restrooms, and utility areas. Wawa locations operate 24/7, with 40-50 total employees; 12-13 employees per shift between the convenience store and fueling station. The fueling canopy covers 5,280 square feet in the front of the property, with six (6) fueling stations and three (3) kiosks. There will be three (3) underground storage tanks. The site is buffered to the residential

zone to the rear of the property. Air pumps are located in the parking area near the canopy.

12. During the course of the hearing, the Applicant agreed to install 2 electric automobile charging stations on the western side of the property, near the air pumps. The infrastructure for the solar panels will be added to the plans and the conduit will be installed for potential future use.
13. The subject property is located along the commercial corridor of Route 206, at a signalized intersection with Lackawanna Drive. The site will be accessed through a two-way shared driveway through Lot 14 and a single egress driveway onto Route 206. The Applicant met with the New Jersey Department of Transportation (NJDOT) for approval to (A-3) to widen and re-stripe the intersection to mimic Lackawanna Drive.
14. The shared driveway requires an access easement with the owner of Lot 14. Applicant will request that the access easement be extended to incorporate the driveway extension.
15. There are 49 proposed parking stalls, located in front, side and rear yards of the property, as well as around the convenience store, with two-way drive aisles circulating the site. There will be ADA compliant parking stalls. The proposed stalls are 9' x 18' along the perimeter of the property, requiring a Waiver from Section 215-30.2.C.5.b of the Township's Ordinances.
16. The proposed lighting on site is for safety and security. There are 15' poles with LED high efficiency lighting in the parking area, which is the maximum height permitted. The lighting intensity is greater under the fueling canopy,

with 16-18' lights recessed into an A-frame, requiring Waivers from Section 215-34.B.1 for height of lights measured from grade and Sections 215-34.B.3 & 4 for light intensity in excess of 4 footcandles. The witness testified that reducing the lighting under the canopy was not an option; it was designed for the safety of the employees and customers exchanging money related to fuel sales. Waivers are also required from Sections 215-34.B2, 2a & 2b, as well as Sections 215-30.2.C.5.b & d of the Township's Ordinance for lighting intensity in excess of 4 footcandles.

17. All deliveries to the site will utilize the shared access driveway. If travelling north, the delivery trucks would exit the site through the same driveway. If travelling south, the delivery trucks can exit the site through either egress driveway. Fuel deliveries are on demand, as needed, through a low fuel alarm system. Every pump can accommodate regular and diesel gas through low-flow nozzles, which are not utilized by tractor trailers.
18. Tractor trailers will access the site and travel to the loading area on the south side of the building for food deliveries. The frequency of food deliveries varies from the daily delivery of baked goods to dairy products being delivered about 3 times a week. Other deliveries are as needed. Applicant is requesting a waiver from Section 215-30.1.A.1, as the loading area should be in the rear of the parking lot but it is located on the side of the building. An additional waiver is sought from Section 215-30.1.A.3, as the loading area is not screened as required.

19. The garbage and recycling enclosure is in the southwest corner of the subject property. The enclosure has two (2) self-closing gates for truck access and one (1) man gate for employee access. Pick up is early morning, during off peak hours, 3 times per week for garage and twice a week for recycling. There is a masonry wall around the high efficiency compactor, which produces 60-62 decibels of noise when standing approximately 3 feet away. Applicant will comply with the Township's Noise Ordinance and pick up with not be earlier than 7 a.m.
20. There is an ice chest in the rear of the building, that is locked and only accessible by employees. An enclosure for the exchange of propane tank will be protected by two bollards.
21. The Applicant will provide a system of 6' wide sidewalks and crosswalks around the entire site that are ADA compliant, which will connect around the building, the trash enclosure, loading zones, canopy, along the southern drive way to the existing sidewalk, as well as to the existing sidewalk near the intersection and across to the adjoining CVS property. A No Parking Fire Zone area will be indicated along the southern side of the site.
22. The Applicant's original proposal had minimal landscaping on site. In response to the input from the Board Engineer and Planner, the Applicant proposed additional landscaping, including a variety of evergreens and deciduous trees throughout the site. Shade trees, 3-3.5 inches in diameter, were added to the plan, as well as landscape islands to break up the parking stalls and perimeter trees throughout the site. Landscaping was added in the

front yard along the access sidewalk, buffering the parking areas and as foundation plantings around the freestanding sign. Landscaping was added in the rear of the site to enhance the buffer to the adjacent residential homes. Wildflowers and grass were also added in the rear of the site.

23. Applicant shall coordinate the proposed landscaping with the Board's Planner, Paul Gleitz. However, foundation plantings and screening of the loading zone are difficult to maintain. Applicant seeks the following Waivers for landscaping:

- a. Section 215-29.B.3 – screening/buffer of building entrance not provided
- b. Section 215-29.B.3 – trees shall be located throughout the parking not, not fully compliant
- c. Section 215-29.F – loading area is not landscaped
- d. Section 215-29.J.4 – landscape buffers between parking and abutting property line not provided
- e. Section 215-30.2.A.1. – driveways and parking spaces should be setback 5 feet from the building to provide for landscaping, no foundation plantings provided

24. The site currently drains into the southeast corner of the site. An underground detention system is proposed to address the additional stormwater discharge, which will be controlled by a manufactured treatment device through which the water will flow prior to reaching the detention basin. The system is impermeable with liners that prevents percolation. All gutters run into the



underground system. The device removes 80% of the TSS prior to discharge in the system, in compliance with State standards. Hydrocarbon filters and hoods were added to the inlets.

25. The gasoline storage tanks are installed in accordance with the New Jersey Department of Environmental Protection (NJDEP) and Federal Guidelines, as well as standards set forth in the Township's Ordinance. The fuel tanks are double-walled fiberglass tanks with an interstitial space that is used to monitor the tanks for leaks. Periodic inspections are conducted throughout the life of the tanks. PVC conduit piping will be utilized throughout the fueling system.
26. The site will be served by underground sewer and electric utilities and a new well for water supply.
27. The proposed building was reviewed by the Architectural Review Committee and will be enhanced for the site (A-5). There will be clapboard siding, with a stone veneer below. A metal seam roof with a tower element is proposed with a parapet to screen the rooftop mechanical equipment. There will be floor to ceiling windows along the front, with additional windows along the northern side of the building. Gooseneck sconces are proposed with stone wrapped columns, trim and cornices. The doors will be darkened to blend with the exterior and the rear has similar design elements. The building is 22.5 feet to the top of the parapet and 33 feet to the top of the tower. The footprint of the building will be 83' x 69'.
28. The canopy will be an A-frame structure, with a peak in the front that will limit the glare. The columns will be stone veneer to mimic the building, with

similar color and materials. The structure will be a maximum of 20.8' in height and 14' at the low end.

29. The freestanding Wawa Identification sign will be 55.4 square feet, and will be internally back lit. Mr. Sharo testified that the size and height of the sign is required to be visible to traffic traveling south on Route 206. It was proposed at 20 feet in height and later reduced to 16 feet during the course of the hearing. State law requires that gas prices must be advertised; the gas pricing element of the freestanding sign will have LED numbers that are changed remotely. The Applicant originally proposed two 9' spanner signs on the canopy with the Wawa Goose, which were eliminated during the course of the hearings. Additionally the original proposal was to have a Wawa signs with the Wawa Goose logo and "Wawa" lettering above the front and rear doors, the rear sign was reduced in size and will be the Wawa Goose logo only in response to comments from the Board. A landscape bed will be added around the foundation of the freestanding identification sign. A Wawa Goose logo will be included on the fuel canopy.
30. The building will not be constructed with fire suppression system, per State code. There will a fire safety pack containing a fire extinguisher and cleaning kits for spills, near the pumps.
31. The NJDEP has a conservation easement on the southern side of the property that follows of the wetlands delineation based on the Natural Heritage Database. There is a transition area between the wetlands and the buffer area. The easement must be modified to protect Lubber's Run, which is a C1 stream

and tributary that runs along the southern corner of the site. If the NJDEP does not agree to modify the easement area for the current site plan, the Applicant must return to the Board with an amended site plan that NJDEP will permit. Applicant must also obtain a Letter of Interpretation for Freshwater Wetlands, NJDEP Freshwater Wetlands Permit, Flood Hazard Permit, along with a full stormwater review. An NJDOT access permit shall be required which will incorporate the approval of the proposed stormwater management system.

32. Mr. Verderese provided the traffic impact testimony. The driveways and intersection were modified to accommodate tractor trailer access and circulation. All proposed changes to the intersection of Route 206 and Lackwanna Drive have been reviewed and approved by NJDOT. Traffic counts were conducted, 24 hours per day for a one-week period. A study was conducted for traffic during peak hours, with a “no-build” and “post-build” analysis. The study revealed that there would be no diminishment to the level of service at the intersection; currently a level of service of D, developed would be an E. The traffic study indicated that 76% of the traffic during peak hours is already travelling on the roadway. There should be no operational impact on the adjacent road system.

33. NJDOT approval is required for the overall site plan. The proposed site layout, parking and circulation are common for Wawa locations. The signalized intersection provides safe, efficient access to the site.

34. The proposed freestanding signage on Route 206 and the canopy sign are required for safe access to the site. The convenience store/gas station use is an impulsive use of pass-by traffic, requiring adequate signage for traffic on Route 206. Wawa only has one ingress access drive from Route 206. It is recommended that the sign be visible from 300-400 feet away when the traffic is travelling at 35 m.p.h. Although most of Route 206 is relatively straight, the subject site is located on a curve of the roadway that limits site views. (A-9 and A-10). Mr. Verderese opined that the area was cluttered with signage and street trees on the CVS property and that a 20' sign was needed for visibility (A-11). The Board requested that the sign height be reduced.

35. In support of the need for the freestanding sign, the Applicant presented a series of 4 videos presented to the Board by Mr. Verderese.

- a. Video #1 – 20' monument sign – sign becomes visible at 350-375' away
- b. Video #2 – 12' monument sign – sign becomes visible when the car approaches the CVS sign
- c. Video #3 – 20' freestanding sign - sign becomes visible at 350-375' away
- d. Video #4 – 12' freestanding sign - sign becomes visible when the car approaches the CVS sign

36. The canopy and building are set back from the roadway, leaving the signage as the only identification of the site from Route 206. Applicant presented an 18' hybrid of a freestanding and monument sign. The bottom of the sign is 10

feet from grade. The price points were reduced from 24” to 18”. A video of the monument sign of 16 feet was shared (A-14) at the request of a Board member.

37. Mr. McDonough provided the Board with a planning analysis. The site is an existing, oversized vacant lot that was previously disturbed but undeveloped in the heart of the community and the Route 206 corridor. The area is mixed in character, with residential to the east, CVS immediately north and a wooded area to the south. With the CVS development, the property feels unfinished. The Applicant worked with CVS to create a complementary site.
38. Although Route 206 is a multi-lane highway, the surrounding area has been developed with a “village feel.” While the zone permits a variety of uses, including the convenience store, the proposed mixed use is a viable, sustainable use on a site in need of development to contribute to economic growth.
39. The property is unique in that it sits inside the curve of Route 206, where the speed limit drops from 50 m.p.h. to 35 m.p.h., at the bottom of the southbound hill requiring the signage to be visible from the roadway.
40. Use Variances are required for both the fueling station and two principal buildings on site. As set forth in *Medici v BPR Co.*, 107 N.J. 1 (1987), there are specific criteria that must be established to grant a use variance. There is a positive public benefit associated with an automobile fueling station. The proposed development will serve to reverse the stagnation of the subject property that is located on the commercial corridor, at a prime intersection

with the adjacent development. There will be a synergy of the site with the surrounding community. Wawa will be providing a service use, along a service corridor providing a basic need to the community. The development will create positive aesthetics to enhance the identification of Byram. The site is particularly suited for this development, which is an oversized lot that could be developed with a building that is 4 times as large as proposed. The site is developed to function safely and efficiently.

41. Several purposes of the Municipal Land Use Law are met with the proposed development:

- a. A – Guide development in a manner which will promote the general welfare
- b. G – Provide sufficient space in appropriate location for a variety of land uses
- c. H – Encourage the design of transportation routes to improve the free flow of traffic
- d. I – Promote a desirable visual environment through creative development and good civic design
- e. M – Encourage the shaping of land development to a more efficient use of land

42. The development will not result in a substantial negative impact to the surrounding area. The signalized intersection will create safe traffic movements and promote public safety. The pollution controls on the site will eliminate any impact on the public health. The Applicant has taken steps to

resolve any impact resulting from light and noise on the adjacent residential development.

43. There will be no impact on the zone scheme or Master Plan, as the site is located in the commercial corridor. The dual use is a recent trend in development, as the uses have morphed together into a modern general store with fuel component. About 80% of fuel sold in the US is sold at similar dual use stores. A goal of the 2012 Master Plan Re-examination report is to establish viable land uses with a quality in the design and to avoid highway strip development. Byram's Sustainable Economic Development Plan encourages development that will attract people and activity, such as the proposed use.
44. Mr. McDonough emphasized that the Board should consider the qualitative nature of the variances, rather than the quantity of variances. In light of the scope of development, the variances are reasonable and practical. While gas stations are prohibited, the prohibition in general stems from environmental concerns. The Applicant has worked with NJDEP and has taken heightened steps toward mitigating environmental impacts.
45. With regard to the density of service station uses along the Route 206 corridor, it was noted that this project is a contemporary, well thought-out plan and that gives the end user another choice in the market. The business model provides an easy "in and out" to customers to purchase something from the convenience store while filling their tank with gas. A recognizable brand will bring people and potential businesses to the community.

46. The issues faced by this developer run with the land; the property is on the curve of Route 206, so visibility would be an issue for any developer. The proposed signage is needed for visibility and is inherent to the site.
47. Mr. McDonough reviewed the bulk standards from which the Applicant is seeking relief and noted that the relief can be granted pursuant to N.J.S.A. 40:55D-70(c)(2), as the benefit outweighs the detriments, creating a better site design. The design waivers are reasonable and practical. The Applicant mitigated the impact of the deviations by adding landscaping, reducing signage and utilizing design techniques for screening and buffering. It was opined that the bulk variances and design waivers are subsumed in the use variance.
48. Mr. Redel is a Real Estate Project Engineer with Wawa, responsible for getting sites approved in New Jersey and Pennsylvania. He testified that Wawa does not install and maintain the electric charging stations; they bring in a 3<sup>rd</sup> party vendor but are committed to providing the charging stations at this location. Similarly, solar panels are installed and maintained by 3<sup>rd</sup> party vendors. Wawa could install south facing panels that would be utilized if determined to be economically feasible. Due to the impulse nature of the use, and the tendency of customers to shop gas prices, the proposed freestanding sign is necessary for safe access to the site. Wawa provides 3 types of gas, including diesel, at all pumps, in response to input from the public frustrated by limited diesel pumps.



49. Wawa is trying to increase its footprint in northern New Jersey and the proposed location, along Route 206 at a signalized intersection, is an ideal location. Wawa offers a high quality of fuel and food that is good for its customers and the competition. They are a socially responsible company, willing to commit to the charging stations and solar panel infrastructure. Wawa gives back to the community through the Wawa Foundation.
50. Joseph Mizrahi, the developer, stated that the property owner has the same concerns about the height of the sign. He approached the owner of Lot 14 about purchasing a sliver of land along the northern side of the site to relocate the sign and it was not a feasible option.
51. Mr. Galiano presented testimony to the Board to address the environmental concerns raised by members of the public. Wawa will utilize a state of the art double-walled tank system, with interstitial continuous monitoring system of both the tank and the pipes. There are no joints in the pipes, it is a continuous run from the tank to the pump. There is also a secondary containment system so that any potential leak will not be released into the environment. This is a fail-safe system that sends messages to the control panel in the store.
52. Pressure testing of tanks and gas lines are done regularly, as well as groundwater monitoring. Wawa works with specific vendors that have trained employees and has a history without prior incidents. Wawa has an environmental team that ensures compliance at all locations, as well as an emergency response team. There has not been a breach in this system in over 20 years.

53. NJDEP has jurisdiction over the protection of the wetlands and has a strict process in place for all businesses. These enhanced protections are proactive measures to protect the stormwater management system. The use of the oil/water separator and the inlet hoods is innovative. Wawa is in full compliance with the NJDEP regulations and industry standards. In New Jersey, where there are only full service gas stations, safety issues associated with gas stations are mitigated because the gas is dispensed by trained employees, not the public.
54. During the course of the hearing it was determined that the Applicant needed relief from disturbance of critical slopes in excess of 25%. Mr. Sharo testified that 5,257 square feet (6%) of slopes that were manmade during the construction of the CVS development would be disturbed during the development of the subject property (A-15). The site improvements will mitigate the stormwater runoff from the steep slopes.
55. Members of the public actively participated in the hearings throughout the process. Questions were asked seeking clarification regarding garbage collection and noises emanating from the site. There was extensive questioning with regard to the safety measures that are in place in the case of a failure in the underground storage tanks or a spill on site. Additionally, questions focused on the involvement of the NJDEP, the permitting that is required, as well as the interplay of the Conservation Easement and Lubber's Run.

56. There were many concerns regarding potential environmental impacts resulting from the underground fuel tanks in close proximity to wetlands. Additional concerns were expressed regarding excessive lighting and signage along Route 206. Several members opined that the Township does not need another gas station and that the Council, through the Master Plan, specifically prohibited gas stations; some suggested that Wawa proceed with the convenience store only. Others raised concerns about the impact Wawa would have on other gas stations in town.

57. During the public portion of the application, requests were made for electric charging stations and solar panels, which the Applicant addressed during the course of the hearing.

58. Members of the public came out in support of the application, noting that it will bring jobs and a ratable to the Township. Additionally, the Wawa brand will be a positive impact on the community and bring more business to the Township. A neighbor noted that the Applicant addressed the concerns of the Board, professionals and the public. Further testimony commended Wawa on exceeding the regulatory requirements to ensure that there are no failures in the fueling system or impacts to the environment.

59. The meeting was closed to the public. Prior to the final vote, the Applicant agreed to reduce the pylon sign to 16' in height and modify the design.

**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 testimony of the Applicant's witnesses to be competent and credible. The Board weighed the Applicant's presentation, the guidance from its professionals and input from the public and determined that relief could be granted from Section 240-56.D, to permit a fueling station in the Village Business Zone, as well as Section 240-15.A, to permit two (2) principal buildings on the same site, pursuant to N.J.S.A 40:55D-70D(1). The within approval of a Use Variance with related Preliminary and Final Site Plan is granted specifically to the Applicant for the development and operation of a Wawa Food Market and Fueling Station based on the testimony of the witnesses and the committed to a state of the art facility.
2. The Applicant's Planner, with the support of the testimony from the site engineer, traffic engineer, environmental consultant, and representatives, was able to establish the positive and negative criteria required and the four elements of proof set forth in *Medici*. First, the site is particularly suited for the use, as it is an oversized lot within the commercial corridor of Route 206, which is an appropriate location for the use. The issues that challenge the site would apply to permitted uses in the zone as well. The lot is currently undeveloped; Wawa will complete the development of the adjacent lot with a compatible use.
3. Additionally, the proposed development will meet several of the special reasons set forth in the Municipal Land Use Law, namely:

- a. A – Guide development in a manner which will promote the general welfare, providing a name brand service establishment that will meet the needs of the community.
  - b. G – Provide sufficient space in appropriate location for a variety of land uses, developing a vacant, undeveloped lot within a visible commercial corridor with the Township with a beneficial use.
  - c. H – Encourage the design of transportation routes to improve the free flow of traffic, by redesigning the intersection of Route 206 and Lackawanna Drive to create a safe access drive to both the subject property and the adjacent CVS use.
  - d. I – Promote a desirable visual environment through creative development and good civic design, with an attractive, well thought out development, with landscaping and lighting that will be aesthetically pleasing.
  - e. M – Encourage the shaping of land development to a more efficient use of land, by utilizing an undeveloped property to provide a convenience store and fueling station for the community.
4. Based on the testimony of the witnesses, the proposed development will be beneficial to the Township, providing a contemporary mix of retail and fueling station by a brand name retailer that provides high quality goods.
  5. Mr. McDonough established that there would be no substantial detriment to the public good. The project is subject to outside agency approvals, including the NJDEP and NJDOT, which will ensure the proper regulations are followed to protect the environmentally sensitive wetlands and the public safety. The

Applicant has the proper protocols in place to prevent any failure in the fueling system and address any incidents that may occur. The Applicant addressed the concerns raised by the Board and revised the plan to make the development more compatible with the residential and commercial uses in the area.

6. Finally, it was demonstrated that there would be no negative impact on the Master Plan or municipal zoning. It was noted that a goal of the Master Plan Re-examination report is to establish viable land uses with a quality in the design and to avoid highway strip development. Wawa will attract customers and other business to the Township, as encourage in Byram's Sustainable Economic Development Plan.
7. Relief can be granted pursuant to N.J.S.A. 40:55D-70(c)(2) from the following Sections of the municipal zoning ordinance:
  - a. Section 240-15.B for a principal building having an insufficient side yard as required in the VB zone.
  - b. Section 240-47.1.A to allow for 4 signs whereas only 3 are permitted.
  - c. Section 240-47.2.E.2 to permit a 55.5 square foot sign whereas the maximum size permitted is 32 square feet.
  - d. Section 240-47.2.E.3 to permit a sixteen (16) foot high freestanding sign, whereas only twelve (12) feet is permitted.
  - e. Section 240-47.2.H.3 to allow three (3) wall signs, whereas one (1) wall sign is permitted.
  - f. Section 240-56.E.3 to allow a 61.5 foot front yard setback, whereas the maximum front yard setback whereas is 55 feet.

- g. Section 240-56.E.3 to permit two (2) rows of parking, whereas only one (1) row of parking in the front yard.
  - h. Section 240-56.E.4 to permit a 5.5 foot side yard setback, whereas a minimum side yard setback of 10 feet is required.
  - i. Section 240-56.E.4 to permit an incomplete/insufficient buffer, where a four (4) foot landscape buffer is required.
  - j. Section 240-56.E.11.B to allow 17 parking spaces in the side yard whereas none are permitted.
  - k. Section 240-56.E.11.B to allow two rows of parking in the Front Yard where none are permitted.
  - l. Section 240-56.E.11.D to allow an insufficient buffer, whereas a ten (10) foot buffer in the rear yard is required.
  - m. Section 240-56.E.13 to allow an insufficient buffer, whereas a ten (10) foot buffer in the rear yard is required.
  - n. Section 240-29.2 for the disturbance of steep slopes in excess of 25%.
8. Pursuant to N.J.S.A. 40:55D-70(c)(2), the benefit of granting the requested relief outweigh the detriments because the result is better site design. The design waivers requested by the Applicant are reasonable and practical. The Applicant mitigated the impact of the deviations by adding landscaping, reducing signage and utilizing design techniques for screening and buffering. It should be noted that the bulk variances and design waivers are subsumed in the use variances that were granted.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Byram on the 18<sup>th</sup> day of March 2021 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.
2. Applicant shall obtain all necessary outside agency approval, whether or not specifically stated within the conditions below, including, but not limited to:
  - a. NJ Department of Transportation
  - b. NJ Department of Environmental Protection
  - c. Sussex County Planning Board
  - d. Sussex County Health Department
  - e. Upper Delaware Conservation District (formerly the Sussex County Soil Conservation District)
  - f. Byram Township Construction Department
  - g. Byram Township Fire Subcode Official
  - h. Byram Township Sewer Connection
  - i. Musconetcong Sewer Authority
3. Applicant shall address the reports submitted by the Engineer, Planner and Consulting Engineer, whether or not specifically stated herein.
4. Approval of the Stormwater Management System shall be obtained from the Board Engineer. The NJDEP and NJDOT shall review the proposed Stormwater Management System as part of their permitting process.



5. The within approval is specifically granted for the development and operation of a Wawa Food Market and Fueling Station and shall not be transferred to another operator without the approval of the Planning Board.
6. Applicant shall obtain approval from the NJDEP for the proposed transition buffer areas and the modified Conservation Easement. If approval from the NJDEP requires changes in the plans that differ from the plans the Applicant presented and the Board approved that impact the determination that the site is suitable for the proposed development, the Applicant shall return to the Board for Amended Site Plan, along with Amended Use Variance.
7. The Stormwater Management Report shall be updated to reflect the changes that were made during the course of the hearing. The report shall address the sizing and details for the stormwater structures and appurtenances and shall be subject to review and approval by the Board Engineer.
8. Applicant shall submit a low impact checklist for the stormwater management system as part of the updated Stormwater Management Report.
9. Applicant shall obtain sewer allocation from the Musconetcong Sewerage Authority.
10. Applicant shall submit a detailed landscaping plan, subject to review and approval of the Board's Engineer and Planner.
11. The cut/fill report illustrates that the site will require over 4,500 cubic yard of fill for construction. Any fill brought onto the site shall be considered "clean" fill and be in compliance with NJDEP Non-Residential Direct Contact Soil Remediation Standards.

12. All sidewalks shall be installed per the construction details and meet all applicable NJDOT and ADA requirements.
13. Any sidewalks along Route 206 that are damaged or replaced during construction shall match the grey patterned sidewalk that exists today along the front of the property.
14. Structural calculations and plan prepared by a licensed engineer shall be required for the construction of the wall before the construction permits are granted.
15. The Applicant shall obtain NJDOT approval of the 48' drainage pipe that discharges from the underground stormwater management basin that is part of the Route 206 drainage system. The plans shall be updated to show the location of all drainage pipes in the vicinity of the property.
16. A note shall be added to the construction details for the proposed type "B" inlet frames and grate curb pieces to be type "N-eco."
17. The construction detail for the underground basin shall be revised to reflect an impermeable liner and not filter fabric.
18. The construction detail and sizing calculations shall be provided for the proposed manufactured treatment device (MTD).
19. The Stormwater Operation and Maintenance Manual shall be updated in accordance with Chapter 8 of the NJDEP Best Practice manual and shall be subject to the review and approval of the Board Engineer. Upon approval, this document shall be deed recorded per NJAC 7:8-5.8(d).

20. The connection to the proposed sewer main and the abandonment of any connection from the existing structures on the property shall be reviewed and approved by the Township Sewer Engineer.
21. Any connections to the existing sewer shall be subject to the Township's Connection Ordinance and the approval of the Musconetcong Sewer Authority.
22. A new well shall be drilled on the property near the southwest corner of the rear parking lot, subject to the approval from the Sussex County Health Department.
23. All electric, telephone and other utilities shall run underground between a utility pole along Route 206 to the proposed food market.
24. Any utilities to be placed on the roof of the food market shall be adequately screened from sight.
25. The form of Access Easement between Lot 14 and Lot 15 shall be subject to the review and approval of the Board Attorney and the Board Engineer. The Easement shall provide for the maintenance of all improvements within the Access area.
26. The Applicant shall include notes and details for conduits for solar panels on the fuel canopy and for installation of electric vehicular charging stations on the plans.
27. The Applicant shall demonstrate in the final design drawings that they can enter the manhole at an acceptable elevation while maintaining the minimum required slope.
28. A new sewer allocation calculation shall be submitted for the review and approval of the Township's Sewer Engineer.

29. The fueling station shall be registered with the Division of Fire Safety as a Life Hazard Use.
30. Bollards shall be installed in front of the proposed propane kiosk to protect against vehicle impact.
31. The appropriate NFPA 704 Placarding System shall be required for the proposed propane kiosk.
32. Fire Zone No Parking sign shall be included in the construction details.
33. Applicant shall apply to the Township Council for Title 39 Enforcement on the property.
34. The Applicant shall comply with the Township's Noise Ordinance.
35. Garbage collection shall not take place before 7:00 am.

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**George Shivas**

**On motion of:**

**Seconded by:**

**The vote on the Resolution was as follows:**

**AYES:**

**NAYS:**

**ABSTAINING:**

**ABSENT:**

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on March 18<sup>th</sup>, 2021 and is in effect for one year.

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**Caitlin Phillips, Planning Board Secretary**

**Dated:**

**Prepared by: Alyse Landano Hubbard, Esq.**

Zoning Report  
February 2021

Permitting

zoning permits approved	10	
<i>typical, variance not req'd</i>		9
<i>post-resolution to begin work</i>		1
<i>Toedter, 135 Lackawanna Drive</i>		
<i>(outdoor kitchen)</i>		
<i>for C.O. or C.A</i>		0
<i>none</i>		
zoning permits denied	0	
site plan waivers / change of tenant	0	
<i>none</i>		
Highlands determinations	0	
<i>none</i>		
COVID-19 Special Permits	0	
<i>none</i>		

Investigation of Violations

notices of violation (NOVs)	5	
zoning cases cleared	1	
summonses issued	0	
signs removed from roadway	0	

**BYRAM TOWNSHIP PLANNING BOARD  
REVISED BILL LIST FOR MARCH 18, 2021**

<b>HAROLD PELLOW &amp; ASSOCIATES, INC</b>	<b>DATE</b>	<b>AMOUNT</b>
Inv. 72304 - Wawa Attendance at Meeting (01/21/2021)	2/11/2021	\$390.00
Inv. 72303 - Wawa Onsite Field Check (01/06/2021) and Attendance at Meeting (01/28/2021)	2/11/2021	\$650.00
Inv. 72305 - Peterson Reports (01/27/2021)	2/11/2021	\$195.00
Inv. 72306 - Landscapes by Lou Reports and Reviews (01/27/2021)	2/11/2021	\$1,039.13
Inv. 72307 - Landscapes by Lou Highlands Exemption Review (01/27/2021)	2/11/2021	\$77.06
Inv. 72302 - Planning Board attendance at meeting (01/07/2021)	2/11/2021	\$130.00
<b>Harold Pellow total</b>		<b>\$2,481.19</b>

<b>LAW OFFICE OF LARRY WIENER</b>	<b>DATE</b>	<b>AMOUNT</b>
Inv. 2021-8 Board business	2/9/21	\$705.00
Inv. 2021-10 Toedter application review and resolution	2/19/21	\$195.00
Inv. 2021-9 Hassenfeld application review and resolution	2/19/21	\$225.00
Inv. 2021-12- Planning Board	3/9/21	\$870.00
Inv. 2021-11- Wawa review and resolutions	3/9/21	\$2,115.00
Inv. 2021-13- Tomahawk Lake	3/9/21	\$315.00
Inv. 2020-14- Raimo	3/10/21	\$330.00
Inv. 2020-15- 263 Route 206	3/10/21	\$735.00
Inv. 2020-16- Lukich	3/10/21	\$180.00
Inv. 2020-17- Safa	3/10/21	\$150.00
<b>Larry Wiener Total</b>		<b>\$5,820.00</b>

<b>LATINI &amp; GLEITZ, PLANNING</b>	<b>DATE</b>	<b>AMOUNT</b>
No bills submitted		<b>\$0.00</b>
<b>Paul Gleitz total</b>		<b>\$0.00</b>

<b>CP Engineers</b>	<b>DATE</b>	<b>AMOUNT</b>
No bills submitted		
<b>Total for CP Engineers</b>		<b>\$0.00</b>

<b>GRAND TOTAL</b>		<b>\$8,301.19</b>
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