

**MEETING MINUTES
BYRAM TOWNSHIP PLANNING BOARD
MARCH 21, 2019**

CALL TO ORDER

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

ROLL CALL

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Mr. Kaufhold	Mr. Morytko	Mr. Olson	Ms. Raffay	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
HERE	H	H		H		H			H	H	H
ABSENT											
EXCUSED			EA		EA		EA				
LATE								L			

Also present: Attorney, Kurt Senesky
 Engineer, Cory Stoner
 Secretary, Cheryl White

STATEMENT BY CLERK

Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meetings Act.

FLAG SALUTE led by Chairman Shivas

MINUTES

Approval of the March 7, 2019 Meeting Minutes were not available.

COMPLETENESS

Dave Hergert, d/b/a Elite Automotive, 254 Route 206, Block 216 Lot 3.04 N-C Zone

Amended site plan approval to relocate main entrance, to change the height of the building and facade improvements, and to change on-site parking.

The site plan subcommittee met and reviewed the material submitted. Mr. Walsh said this site has some environmental constraints; such as the proximity to wetlands and a stream, the recommendation of the subcommittee is that the application be deemed incomplete and an Environmental Impact Statement (EIS) which should include information about the operations performed on site, proposed changes to the site, and previous improvements made to the site since the 1999 application be provided with this application.

A motion to deem this application incomplete was made by Mr. Walsh. The motion was seconded by Mr. Kaufhold. The following vote was taken:

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

The motion was seconded by

NEW BUSINESS

Z02-2019, Thomas Falleni, 145 Lake Drive, Block 250 Lot 129, R-5 Zone

To add 762 sq. ft. over an existing garage, and to add a 12' X 16' shed, both requiring variances.

Mr. Falleni, owner and applicant, and Mr. Skot Koenig, Landscape Architect, were sworn in. Mr. Koenig provided his education and experience to the Board and the Board accepted him as an expert in his field.

Mr. Falleni said his current garage has a 12 pitch, A-Frame roof with two parking stalls and is accessed by double doors in the front. He said currently the second-floor storage space is accessed by stairs located inside the garage making it difficult to maneuver vehicles. He wishes to move the stairs to the outside rear of the garage, raise the second story walls to 8 ft. and flatten the roof so it matches the house. He said the expansion will add 248 sq. ft. of useable storage space to the existing garage and relocating the stairs will allow for more room for his vehicles. Chairman Shivas asked if the garage has water, Mr. Falleni said no. Mr. Falleni said this application also includes approval for a shed. Chairman Shivas asked Mr. Falleni what kind of shed he is proposing. Mr. Falleni said he is going to purchase a 12' X 16' shed.

Mr. Stoner reviewed his report identifying the variances required for the detached garage and shed.

Garage:

- Front yard setback – 38.5 ft. required, 20.7' proposed.
- Rear yard setback 20 ft. is required, 18.2 ft. proposed.
- Setback to lake, 50 ft. required, 23.4 ft to proposed porch off rear of garage.
- Exceeds maximum building height allowed.

Shed:

- Side yard setback, 10 ft. required, 1 ft. proposed.
- Accessory structure to accessory structure, 6 ft. is required, 5 ft. is proposed.
- Setback to lake, 50 ft. required, 10.3 ft. proposed.

Total footprint of all accessory structures shall not exceed 50% of the principal structure and based on Mr. Stoner's calculation Mr. Falleni's proposed accessory structures exceeds the principal structure by 65%, requiring a variance.

Mr. Falleni stated the garage would be used for storage only, not living space, and it will match the color and trim of the house. Mr. Falleni said the septic is in the front yard and partially under the driveway, and the well is located to the right side of the home and accessed by a trap door located on the covered porch.

Because of the closeness to the water, and the amount of building coverage on the lot, several Board members had concerns and asked Mr. Falleni to consider other options such as removing the shed from the application or proposing a smaller shed. Other alternative offered was moving the shed closer to the home or putting it under the deck. Mr. Falleni agreed to a smaller shed and making minor adjustments to the location, but variances would still require. Mr. Senesky asked Mr. Falleni why he needed the shed for storage since his home has an attic and basement, and he is expanding his garage for more storage. Mr. Falleni said the shed would be used to store lawn and lake equipment.

Ms. Shimamoto addressed the Environmental Commission comments about the lake front buffer requirement and Ms. Shimamoto believed 10% of the lot width seems excessive for this lot. She also said the EC had concerns about the run off from the shed. Mr. Falleni said house and garage have leaders that lead to the bulkhead which is 6 ft. deep with 3ft. of stone. Mr. Stoner said roof run off is considered clean water and he doesn't believe run off would be a problem. Mr. Falleni added that the rear of the garage has no gutter and he has never had a problem with puddling or run off. Ms. Shimamoto asked if Mr. Falleni would consider removing some impervious coverage. Mr. Falleni said he did have a shed, but it was in poor condition, so he removed it, saying it never caused an issue in the past. Mr. Kaufhold said seven variances are needed for this proposal and the lot already has an excessive amount of impervious areas and he foresees future run off problems. Mr. Walsh asked Mr. Falleni if his issue with moving the shed forward would eliminate the space his uses for his wave runner, trailer, and boat. Mr. Falleni said yes.

Mr. Skot Koenig, Landscape Architect, provided his education and experience to the Board. The Board accepts him as an expert in his field. Mr. Koenig presented Exhibit A1, from the Lapatka Associates, Inc., a document providing compliance impacts of a lake front buffer for this property. Mr. Koenig said with a natural lake edge a buffer would help stabilize water runoff however it is Mr. Koenig's experience that Mr. Falleni's bulkhead is enough to contain run-off. Mr. Koenig provided different scenarios where a buffer would help, Mr. Falleni's property not being one of them. He said Lake Lackawanna is a man-made lake and the community's biggest concern to deal with is the introduction of organic debris, or litter into the lake. He said currently Mr. Falleni has a well-maintained lawn with bagged clippings with no organic matter entering the lake. He said to introduce a plant buffer of material that would have foliage and other organic matter would be another source of debris entering the lake which this community is trying to avoid. Mr. Koenig believes a variance for a lake front buffer is appropriate and a reasonable request. Ms. Shimamoto agreed that the necessity for a lake front buffer on this property was not warranted. She will report that back to the Environmental Commission.

Mr. Olson reiterated that Mr. Falleni is seeking seven variances and asked if Mr. Falleni if he would consider making a reduction in the size of the shed or change the location. Mr. Falleni agreed to move the shed another 1ft. in from the property line and 2 ft. further from the water and reduce the shed to 10' X 14'.

There was Board discussion about the environmental impacts of the shed and the proximity to the water. Mr. Senesky said he hasn't heard any testimony from Mr. Falleni providing a burden of proof with regards to the positive and negative criteria and how his shed enhances the purpose of zoning.

Mr. Olson asked if Mr. Falleni's garage is consistent with other homes and garages in the neighborhood. Mr. Falleni said he has lived here his entire life; the neighbors believe the change to the garage will be an improvement to his property and the neighborhood.

The Board determined at this time to bifurcate the application and treat the shed and garage separately.

A motion to bifurcate the application and approve the garage with the conditions the garage shall have no water or be used as living space was made by Ms. Shimamoto. The motion was seconded by Mr. Olson. The following vote was taken:

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

Motion carried.

Mr. Walsh confirmed that Mr. Falleni would reduce the size of the shed to 10' X 14' and make minor adjustment to the shed location. This change would negate the need for a variance for the distance from an accessory structure to an accessory structure but still requires variances.

A motion to approve the shed was made by Mr. Walsh. The motion was seconded by Mr. Dixon. The following vote was taken:

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

Motion carried.

The approval for the shed was denied.

Mr. Dixon stepped down for this application.

Z03-2019, Gerardo Pacillo and Mark McManus, 16 Rosemarie Lane, Block 360 Lot 11.01. R-4 Zone

To re-build a single-family dwelling and garage, both requiring variances.

Mr. Mark McManus and Mr. Gerardo Pacillo, applicants were sworn in. Mr. James Glasson, the applicant's engineer was also sworn in. Mr. Glasson has testified before the Board previously and the Board accepts him as an expert in his field.

Mr. Pacillo began by saying their original intent was to renovate the interior of the home and add new windows and siding but during the construction phase it was realized that the structure was in poor condition, the foundation was compromised, requiring further repair than when the original construction permit was obtained. Mr. Pacillo said he called the construction department several times for guidance and no one returned his calls. He said in November 2018 a Stop Work Order was issued and they were told to apply for a variance with the Planning Board.

Mr. Glasson said he was retained after the renovation had begun and he reviewed a color version of the submitted plan, sheet 3 of 4 which was labeled Exhibit A1. Mr. Glasson spoke about the required and proposed setbacks saying that the living space of the home is 1,202 sq. ft with a 252 sq. ft. screen porch in the front of the home. The total footprint will be 1,454 sq. ft. He added that the height meets the requirements of the ordinance and the house will be served by an infiltrated septic system which was approved in 2018 and water is provided by a private cased well which is to the west, front portion of the property.

The applicant also proposes the renovation of an existing garage, with a room and an existing rear deck. Mr. Stoner asked what the room in the garage is to be used for and Mr. Pacillo said it is pre-existing and they will use it as a work shop or craft area. Mr. Glasson stated that the garage cannot have water due to the limits of the septic system. Mr. Pacillo said it will have electric.

There was Board discussion about the home renovation and the applicant said the first floor will have two bedrooms, with a kitchen/living/dining area with a screened porch in front. The second floor is open to the first floor, like a loft, and will provide access to an attic by way of pull-down stairs. The applicant testified that the attic is to be used for storage only, and the second floor will not be used as living space.

Chairman Shivas opened to the public.

Mr. William Lavigne, Esq. representing Ms. Betty Ann Crawford, who resides at 14 Rosemarie Lane, said his client objects to this application and he believes this expansion on a small lot exceeds building coverage is not consistent with Byram's ordinance.

Chairman Shivas said after the applicants complete their testimony, Mr. Lavigne can question the applicants. No one else from the public came forward. Chairman Shivas closed to the public.

Mr. Stoner continued saying the building coverage meets code as it relates to the lot size but added that the applicants disturbed areas towards the lake and a lake front buffer should be required. Mr. Stone asked about grading and run off from the garage and Mr. Pacillo said the run off is forced towards the lake. Mr. Stoner asked about the fill on the lot, saying that the material had bricks and other debris, and he requests that there is a condition in the resolution that the fill be tested and the results to be provided to the Board engineer. Lastly, Mr. Stoner said this application was eligible for a Highlands Exemption #5 and that a soil erosion and sediment plan was received and approved.

Mayor Rubenstein asked if there was adequate room for a lake buffer. Mr. Stoner said it can be planted at the top of the bank or the water's edge. The applicant's concluded their testimony.

Mr. Lavigne introduced Ms. Betty Ann Crawford and she was sworn in. Mr. Lavigne introduced Exhibit O1 and O2, which were various photos of the home and garage before, and during the renovation process. She said the home does not fit with the character of the neighborhood, her lake view has been obstructed, trees were removed unnecessarily, and the applicants have no consideration for her property. She added they leave the property with debris everywhere and during construction her phone an electric service was interrupted with no concern shown by the applicant. She is concerned that the applicants will do further work than allowed by permit and has concerns about their construction practices and safety. Mayor Rubenstein said it appears that Ms. Crawford's grievance that her lake view is obstructed is minor because it appears that Ms. Crawford has lake views from two other sides of her house.

Ms. Shimamoto understood Ms. Crawford's concerns and explained the Board's role. She asked Ms. Crawford if she felt more at ease since the applicants have complied with the rules and have applied for approval of this development. Mr. Olson said the finished product will most likely add value to the neighborhood and the new home will be safer than the older home.

Mr. Darrell McManus, brother to the applicant was sworn in and said they care about the environment saying that the rear of the lot is wooded and the trees that were removed because they were dead, and some were removed to provide a better view of the lake.

Mr. Pacillo concluded by saying they are trying to improve the neighborhood, they propose new landscaping and believe overall that the new home will be consistent with other homes in the area and will be an improvement to the neighborhood.

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

A motion was made by Mr. Kaufhold to approve this application with the conditions that a lake front buffer be installed, no water or bedroom allowed in the garage. The attic in the house is to be used for storage only, the house shall not have a finished basement, the silt fence must be maintained, and a manifest of the fill must be provided to the Board engineer. The motion was seconded by Mr. Olson. The following vote was taken:

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

ABSTAIN										
ABSENT				√		√				

Motion carried.

REPORTS FROM COMMITTEES

Township Council – Mayor Rubenstein said that he recently attended Planning Board Member training given by Rutgers and one of the instructors was Lou Rago, Esq. who said his was instrumental in Byram’s decision in merging the Board of Adjustment and the Planning Board, making one Land Use Board.

Mayor Rubenstein added that he recently he attended an event at the Mohawk House and the discussion was about marijuana and said legalization of marijuana is fast approaching.

Lastly, he said that a Building Committee meeting was held and using the open space at the school is not feasible. He said the minutes are available on-line on Byram’s website. He said now the committee is looking at a small addition to the current Municipal Complex and phasing the construction so that work activity is not interrupted.

Mr. Olson said there was a meeting with the EPA about the superfund site and in April they hope to have a design done for the OU1 (Potable Water) water system and that could take 2-3 years before completion. He added that in April a Feasibility Study for OU2 (Site Remediation). In May there will be a public hearing. The Record of Decision (ROD) for OU2 will be in September.

Environmental Commission – Ms. Shimamoto underlined Mr. Olson’s report.

Architectural Review Committee – The meeting is next month.

Open Space – Mr. Olson said the next Open Space Meeting is April 8th.

WOSP1-2019, Byram Spa, 13 Route 206, Block 27 Lot 381.02, V-B Zone

Change of Tenant, Byram Medical to Byram Spa, approved by the Zoning Officer

BILLS

Schenck, Price, Smith and King, LLP (2 bills) \$1,149.00

A motion was made by Mr. Walsh to approve Mr. Senesky’s bills. The motion was seconded by Mr. Chozick. 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 10:35 p.m. by Mr. Kaufhold. The motion was seconded by Mr. Chozick. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted, *Cheryl White*