

**MEETING MINTUES  
BYRAM TOWNSHIP PLANNING BOARD  
MEETING, MARCH 3, 2022**

**CALL TO ORDER**

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

**ROLL CALL**

	Mayor Rubenstein	Chris Franco	Andrew McElroy	Lisa Shimamoto	Marie Raffay	John Morytko	Robert Chozick	Eric Serrilli	Greg Smith	Michael Walsh	George Shivas
Present		√	√	√	√		√	√		√	√
Absent	√										
Excused						√			√		
Late											

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

**OPENING STATEMENT**

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

**FLAG SALUTE** led by Chairman Shivas

**MEETING MINUTES**

Approval of February 17, 2022 Meeting Minutes

Mr. McElroy motioned to approve the minutes, seconded by Mr. Chozick. The below vote was taken:

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion			√								
Second							√				
Aye			√	√	√		√	√			√
Nay											
Abstain		√								√	
Absent	√					√			√		

Motion carried.

**RESOLUTIONS**

SP9-2021 Byram 206 Developers, LLC, 77 NJSH Route 206, Block 34 Lots 14 and 15, VB Zone  
 Amended site plan application

Mr. Chozick motioned to approve the resolution, seconded by Mr. McElroy. See the below vote:

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion							√				
Second			√								
Aye			√				√				√
Nay											
Abstain		√		√	√			√		√	
Absent	√					√			√		

Motion carried.

**OLD BUSINESS**

SP2-2021 Matthew Akerman, 34 Route 206, Block 40 Lot 15, VB Zone

Variations for outdoor storage, conducting wood sales, and using land for a non-permitted use.

Ms. Franco recused from this application. Mr. Benkendorf confirmed there’s enough voting members. He noted it was made clear the applicant needed a more detailed plan, including limiting the size and location of the operation and the intake and output of wood. Mr. Gimigliano remains under oath and his licenses are in good standing. The new plans are based on the survey of the property and Mr. Gimigliano’s inspection of the site. They located freshwater wetlands to the north of

the property; most of the property is within the 300' buffer of Lubbers Run, but outside the wetlands buffer. All the improvements are outside the floodplain. The wood storage area was moved to the back, side yard; they've condensed the wood area to about 40 feet wide. The unsplit logs will be on the left side, and the split wood will be on the right. The depth varies; on the unsplit side it will be 30 feet deep, and on the split side it will be 45 feet deep, because there's a small retaining wall near the woods, which changes the depth so as not to disturb the earth. They're proposing four 4x4 wood posts to be installed to delineate the area. They've also proposed a silt fence area between the wood operation and the stream, to protect from any runoff. The home is about 220 feet off the property line; the wood storage area is proposed to be 265 feet from the property line and 42 feet off the side property line. Mr. Gleitz noted regarding the use variance that other standards, including water setbacks, are outside the subsumed use, so they should maintain that the 200' setback is a separate bulk variance. Ms. Hubbard confirmed the house is about 150 feet from Lubbers Run. Mr. Gimigliano indicated they will go to the DEP to confirm if any permits are required.

Mr. Gimigliano discussed the truck turning plans, which shows a single-axel dump truck that delivers wood to the site; they can enter the driveway and back up to the log area and unload, and then exit the site onto Route 206. The size of the truck is limited to 30 feet; Mr. Stoner confirmed there's no log trucks coming in. He noted the operation is within the tree line, and confirmed 3 trees will be removed. Mr. Akerman noted one has a diameter of about 4 inches, another has 6, and another has 7. Mr. Gimigliano said they'll add that to the plan and tell the DEP. Mr. Stoner said they may need a general permit for the vegetation work. He thinks a condition of approval should be obtaining permission from the DEP. Mr. Stoner asked what happens if a car is parked in the driveway. Mr. Akerman said all deliveries are scheduled, so he'll make sure no vehicles are in the way. Another spots to park is a paved area leading to the back yard that can fit two vehicles. Mr. Akerman remains under oath from the last hearing. Chairman Shivas said if three trees are removed, he expects 3 trees to be replanted. Mr. Akerman assented, saying he's planning on evergreens. Mr. Stoner said he'd like to see added to the plans the existing disturbed areas and the areas being restored. Ms. Shimamoto said the applicant was also supposed to show where the machinery goes. Her other concern is the driveway width, and asked if there's a bypass area in case two cars go in opposite directions. Mr. Gimigliano said there's no bypass area but there's a gravel area on the side. They intend to restore that area, as it was used for the original operation. Ms. Shimamoto said if there's an area to pass, it should be depicted. She wants to ensure there are no waiting cars on 206. She noted there's likely more business when it's snowy, so the driveway should always be accessible to the delivery truck. She noted there's no restoration plan depicted.

Ms. Shimamoto stated the concerns of the Environmental Commission, namely where the wood comes from. She was made aware there is a quarantine in Sussex and Morris Counties for lanternflies, with a 50 mile radius. Mr. Akerman said he spoke with the tree service and said he doesn't want anything not from Sussex County; he doesn't get deliveries from more than 50 miles away because it would be inefficient. Ms. Shimamoto said there should be a paper trail for the wood so it can be checked in the event of an outbreak. She also asked what is done with the wood byproduct. Mr. Akerman said if there's excess bark or smaller logs, anything that can be put in his pickup truck is brought to a mulching facility in Ledgewood. Anything too large, like a stump, goes into his woods. Mr. Akerman explained the wood-splitting process; he starts with a stack of wood on pallets, and uses a log splitter in the middle and works his way out. There's nothing happening outside the four-post area; the storage area is also where he splits the wood. Mr. McElroy asked if deliveries occur on the same days or are staggered; Mr. Akerman said typically they're separate. The pick up and delivery of wood is scheduled. There is no current or proposed signage or street sales.

Mr. Gleitz confirmed there's a reluctance for permanent fencing because of the cost. His concern is silt fence is typically temporary. Mr. Akerman said he will maintain it. Ms. Raffay confirmed with Mr. Gleitz that there are two nonconforming uses happening on this property. He said this is a residential use in a commercial zone. They're adding a second use to the site, but it's commercial, so it keeps with the nature of the zone. This would be adding some business, lessening the inconsistency of the use in the zone, or it can be viewed as inconsistent with the use of the zone. He recommends looking at the impact on the neighbors and surrounding area. He noted a landscape operator or tree service business would likely be able to do what they're proposing in this application.

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

Mr. Aaron Kardon of 145 Spring Street, NJ was sworn in; he's a licensed planner and has provided testimony before Boards in Morris, Sussex, and Hunterdon County. He was deemed an expert. Mr. Kardon's opinion is this use tries to match the intent of the zone and fits the conditional use requirements.

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

Ms. Raffay asked about the amount of wood stored on site. Mr. Akerman said it's less square footage than what was previously used. Mr. Benkendorf noted that measuring the amount in cords may be difficult depending on if they're split or round, and the spacing they take up when stacked. Ms. Raffay asked how many cords are sold in a week, including deliveries. Mr. Akerman said typically 2.5-3 cords. On average it's mostly 2 cords. The stock is rotating—the more seasoned wood is sold first. The area will be empty for parts of the year, like March and April. He confirmed he will never exceed the space delineated. Mr. Stoner noted that a cord of wood by definition is 8ft wide by 4ft deep by 4ft high; he noted that the dimensions will vary in this area outlined. Mr. Walsh asked about the height of stacks of wood; Mr. Akerman said it's about 6 feet in height; Mr. Stoner said with those dimensions if everything was stacked he could fit 45 cords in that area. Mr. Stoner noted the wood isn't really stacked, but more in a pile. Mr. Akerman said it may be less than that in cords, since it's not compact. Mr. Akerman said he makes walls of wood along the perimeter of the area, and in the middle the wood will be tossed in. Chairman Shivas noted he has to do something to make sure the wood doesn't leave that area. Mr. Walsh noted a lot of log piles are not typically neatly stacked because they're quickly going somewhere else. Mr. Akerman confirmed the wood is rotated out within a year, and the majority is ash, and also oak and maple. Ms. Shimamoto confirmed Mr. Akerman will restore the area where the initial wood operation was. He noted he'll hire a landscaper in the summer.

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

Mr. McElroy noted regarding the Fire Department's memo they have requirements about keeping the driveway clear. Mr. Benkendorf confirmed their amenable to that. Ms. Hubbard went through the conditions of approval, including: only one vehicle on the property at a time for pickup, no crane trucks for delivery, apply to the DEP for jurisdiction determination, installation of a silt fence to protect the stream and define the limits, revised plans per the Engineer's approval that shows the disturbed areas and restoration, a note under the silt fence to be replaced no later than 5 years and/or as needed and maintain it, limit the hours of operation to 3-7 on weekdays and 10-7 on weekends, not backing into the property, no large trucks or tractor trailers on site other than the delivery dump truck, trees must be replaced and this be added to the plans, clearing the driveway of snow, logs coming from within a 50 miles radius and with a paper trail of all deliveries, all activities remaining in the storage area, no street sales or signage on Route 206, and complying with Fire Department requirements. Mr. Walsh added having a timeframe for restoration. There was discussion on the appropriate amount of time, considering how long it takes vegetation to grow. Mr. Gleitz confirmed October 1<sup>st</sup>.

Mr. Chozick motioned to approve the application, seconded by Mr. Walsh. The below vote was taken

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion							√				
Second										√	
Aye			√	√	√		√	√		√	√
Nay											
Abstain		√									
Absent	√					√			√		

Motion carried.

**DISCUSSION ITEM- Byram Rules of the Planning Board**

Ms. Hubbard compiled rules for the Board to adopt. Mr. Walsh said this looks consistent with other towns' rules. Ms. Hubbard took out the section on work sessions, as this Board doesn't use them. She noted these were drafted to set up the annual adoption for reorganization. Chairman Shivas said everyone on the Board votes; if there's a situation where only the Boards count, then the alternates' votes don't count. The Board considers their votes regardless, because everyone has input and deserves to be heard. Mr. Walsh asked where the rules go once this is approved; Ms. Hubbard said it's on file—it's not part of the Master Plan. Ms. Shimamoto asked about the committee list, which needs the ARC and Environmental Commission. Mr. McElroy said those groups are appointed by the Council. There was further discussion about committees. Mr. Walsh confirmed that if one isn't listed it doesn't stop them from meeting. Ms. Raffay asked about the site visit section, wondering if those visits are part of the record. Mr. Gleitz noted that if you see something and don't say anything about it, and it affects your vote, it could be an issue. If there's personal knowledge that's pertinent, it should be on record. Ms. Shimamoto asked about photographs and testimony; Ms. Hubbard said there's a difference between knowledge of the site and what's considered outside research or testimony. You have to be careful not to testify against an application. Mr. Gleitz said they can use personal knowledge because they all live in town and know how things operate, and can draw on those experiences. Testifying would be best handled through recusing or asking the Board if one

should step down. Mr. Gleitz noted that a motion to deny that doesn't carry is a non-action, whereas a motion to approve that doesn't carry is a denial.

Mr. Chozick motioned to accept this with the changes made, seconded by Mr. Walsh. See the below vote:

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion							√				
Second										√	
Aye		√	√	√	√		√	√		√	√
Nay											
Abstain											
Absent	√					√			√		

Motion carried.

**DISCUSSION ITEM-** Master Plan re-examination's needs and scope of work

Mr. Gleitz said they're determining the budget for the Re-Exam, and he's received feedback from the Council and the Highlands, and is looking for input from the Board to get a better idea of the scope of work and timeframe. Mr. Stoner noted that they should look at things that may need to be revised or updated. Mr. Gleitz said the recommendations can be general or specific, using one sentence to suggest an item that should be considered, or spending time on what approvals worked and didn't and explore options. The Re-Exam is about determining what elements are still valid. There was further discussion on Master Plan approaches. Chairman Shivas said that the Board owns the Master Plan, so it's their responsibility to make this work and provide relief. He said the next opportunity is likely ten years from now—they can change things every six months, but because of the budget, they should do this right and then not revisit it for at least another 5 years. Mr. Gleitz said they can get lists of items from the committees and Boards sent to him, and have workshops to categorize needs and then move to the public for feedback. Ms. Raffay asked if any of this work triggers new updates to plans, like stormwater information. Mr. Stoner said they'd reassess the stormwater management plan for every re-exam, including amendments. Ms. Shimamoto asked about the Natural Resource Inventory, and what the Environmental Commission should do with it. Mr. Gleitz said he's not sure how that would relate—they wouldn't need to do a lot of work for the NRI.

Chairman Shivas reviewed his report to the Council, showing the variances throughout the year. One of the main items is accessory structures, as it relates to AC units and generators. He also listed Cottage Food Operators, electric cars, impervious coverage, and soil importation. Mr. Stoner asked about the height suggestion; Chairman Shivas said it's about the calculations and helping people do this right without being an engineer. There was further discussion about the height of structures.

Mr. Chozick motioned to approve this report to the Council, seconded by Mr. Walsh. See the below vote:

	Mayor Rubenstein	Ms. Franco	Mr. McElroy	Ms. Shimamoto	Ms. Raffay	Mr. Morytko	Mr. Chozick	Mr. Serrilli	Mr. Smith	Mr. Walsh	Chairman Shivas
Motion							√				
Second										√	
Aye		√	√	√	√		√	√		√	√
Nay											
Abstain											
Absent	√					√			√		

Motion carried.

**REPORTS FROM COMMITTEES**

*Architectural Review Committee:* No one was there to represent this.

*Building Committee:* No one was there to represent this.

*Environmental Commission:* Ms. Shimamoto said there's a meeting at the end of the month.

*Open Space:* Ms. Phillips said there's a meeting March 14<sup>th</sup>.

*Township Council:* Ms. Franco said they discussed gas in town. The gas companies will put the pipeline down Sparts-Stanhope Road. Mr. Stoner said he met with Elizabethtown Gas and looked at the areas in town. Ms. Franco said they're due to pave the roads in the spring. They also discussed the lake management plan for the three major lakes in town.

## **BILLS**

Law Offices of Larry Wiener (7)- \$1,680

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

Harold Pellow (6)- \$2,021.01

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

## **OPEN TO THE PUBLIC**

Chairman Shivas opened to the public. Mr. William Collins appeared to speak about the Cranberry Lake Foot Bridge. He understood Mr. Gleitz's comments about the Master Plan to mean the historic designation would be reviewed on its own. Mr. Gleitz corrected him, saying the Re-exam is one process, and in that Master Plan, they could say the historical element should be updated to include additional sites like the Cranberry Lake Bridge. This doesn't put the bridge in the historic preservation element; they'd have to have a separate process/hearing to rewrite that element. Mr. Collins asked about just adding the bridge to the list, noting that a lot of the other locations don't exist anymore. Mr. Gleitz said in 2004 the Historic Preservation Committee provided a list about whether sites were extant or not. He doesn't think adding it to the list will help Mr. Collins, because this won't give him a SHIPO designation, which helps with funding. Mr. Gleitz suggested a historical expert, to add language about the significant periods of history in town. Mr. Collins doesn't think that's necessary—the Byram Historical Society has done that research. Mr. Gleitz noted the element of the Master Plan needs additional information about the significant periods of history, and then those periods are linked to the structures they're looking to preserve. Mr. Collins said he's just looking to have it added to the list. Mr. Gleitz said it'd still be a separate process but take less time. He noted that a nonprofit can approach SHIPO themselves for funding, but they need that extra detail. Mr. Collins asked where the preservation elements are for the other historical assets. Mr. Gleitz said the historical aspect is just a list at the moment. Ms. Hubbard noted that the Board should consider if they think it deserves historical status based on Mr. Gleitz's information. Last time this was discussed, the Board agreed to get input from their Planner about the risks and benefits. Mr. Gleitz said they should be given a list of recommendations from the Historic Society, and they can update that list in the Master Plan. Mr. Collins asked where the historical context is for the other locations. Mr. McElroy said the other sites aren't asking for funding, so there's no context for them. Mr. Gleitz said this is the first structure in town with a nonprofit asking for funding. To add an element to the Master Plan, they need a historical specialist—the society can gather the bulk of the information, but a specialist can help them get funding. The Historic Preservation Element is a history of the town, not just the site. Mr. Gleitz said the next step should be a list of the extant and non-extant historic sites, separated into columns.

## **ADJOURNMENT**

A motion to adjourn the meeting was made at 10:05 by Mr. McElroy. The motion was seconded by Mr. Walsh. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,  
*Caitlin Phillips*