

**BYRAM TOWNSHIP
PLANNING BOARD AGENDA
FOR THURSDAY
May 20, 2021**

When: May 20, 2021 07:30 PM Eastern Time (US and Canada)
Topic: Planning Board Meeting

Please click the link below to join the webinar:
<https://us02web.zoom.us/j/82080972015>

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 646 518 9805 or +1 267 831 0333

Webinar ID: 820 8097 2015

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 May 20, 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

and has been forwarded to those persons requesting notice.

4. FLAG SALUTE

5. MINUTES

Approval of the May 6, 2021 Meeting Minutes.

6. SCHEDULE UPDATE: Barbara Bolen's application (Z09-2020), scheduled to be heard on 05/20, has been carried to the 06/17 Planning Board meeting

7. RESOLUTION

Z03-2021 Linda Burke, 12 Meadowbrook Terrace, Block 297 Lot 14, R-5 Zone

Expansion of family room, master closet, coverage entry and storage for property near water edge and rock cliff.

8. NEW BUSINESS

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/Eg4JIPYwjtIEoBzK_u2igBiz4zMH1aeIU28LzuvUNWzQ?e=QKWKQf

9. REPORTS FROM COMMITTEES

Architectural Review Committee

Building Committee

Environmental Commission

Open Space

Township Council

Zoning Report

10. BILLS

Harold Pellow and Associates- (8) \$5,043.88

Law Office of Larry Weiner- (5) \$2,385.00

11. OPEN TO THE PUBLIC

12. ADJOURNMENT

Next Meetings:

- June 3rd- Anty Trucking, Robert Lovenberg, Kevin Lukich
- June 17th- Barbara Bolen, 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, May 6th, 2021**

CALL TO ORDER

Vice Chairman Walsh called the meeting to order at 7:35 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	
ABSENT	A										
EXCUSED											
LATE											L

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

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, this regularly scheduled meeting for May 6, 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 in the Municipal Building, and on the Township website at: https://www.byramtwp.org/index.php/meetings/committees/planning_board and has been forwarded to those persons requesting notice.

FLAG SALUTE led by Vice Chairman Walsh

MINUTES

Approval of the April 15, 2021 Meeting Minutes

Mr. Serrilli motioned to approve the minutes from April 15, 2021, seconded by Ms. Raffay. The following vote was taken:

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

Motion carried.

Approval of the April 22, 2021 Meeting Minutes

Ms. Raffay motioned to approve the minutes from April 22, 2021, seconded by Mr. Smith. The following vote was taken:

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

Motion carried.

Chairman Shivas joined the meeting at this time.

OLD BUSINESS

Z11-2020, John Petersen, 6 Ascot Lane, Block 337.11 Lot 32.15, R-3 Zone

To install 1,204 sq. ft. of ground mounted solar array panels.

Mr. McElroy recused himself from this application. Walter Kaminskas, an electrical supervisor from Posigen Solar, at business address 1600 N. Olden Avenue in Ewing, joined the call with applicant John Petersen, and was sworn in.

Mr. Petersen explained that he looked at other options when it came to the placement of the solar panel but decided on this because he wanted to consider his neighbors. The array is mostly hidden by the mountains and trees in the area. The only way to see the structure is to pass it on Sparta Stanhope Road or if you were at two of his neighbors' houses, from an angle. On Sparta Road, someone would only be able to see it if they were looking for it and slowed down. He doesn't think it's blocking anyone's view; the array will be replacing part of the natural tree border that's there. He also emphasized the importance of green initiatives; he likes the environment of Byram, and solar power is renewable energy that will protect Byram. He noted that safety is more important than aesthetics; solar panels are safe and won't harm the environment or the people around it.

Mr. Kaminskas stated they were able to change the height from 17 feet following the slope to 9 foot 6 inches, keeping the aesthetics intact. Mr. Petersen noted that all the other specifications of the project have stayed the same. Mr. Kaminskas stated that they moved the ground mount out of the easement area, and Posigen will maintain the environment the best they can and add any trees necessary.

Mr. Walsh asked them to clarify that Mr. Petersen said the height was 8 feet, but Mr. Kaminskas said 9.6 feet. Mr. Petersen said his was an estimate, and Mr. Kaminskas is correct. Mr. Kaminskas said the engineers will try to maintain 8 feet, but will get a better idea from the site survey. Mayor Rubenstein asked how this change is being accomplished. Mr. Kaminskas said it's a lesser angle over the slope; it'll be 17 feet high down at the slope-end. They'll follow the slope so they can reduce the height and make it more appealing. The low-end will be around 2 feet. Mayor Rubenstein asked if they're stepping the array down towards the back of the property. Mr. Petersen said east to west is sloping and north to south there is a pitch to catch the sun, so there is still a slope. Mr. Serrilli confirmed it's sloped in two directions. Mr. Stoner agreed with the concept, noting they're sloping it on two axes. He asked that there is a step in the middle; there's a level area for the septic and then it steps down, so it's not a straight slope. Mr. Petersen agreed, saying there will be supports on this. Mr. Stoner said his concern is that this cannot be over 9.6 at any point, and Mr. Petersen assured them it won't be.

Ms. Hubbard asked if there were revised plans, and Mr. Stoner said they were revised but they're the same drawing for the most part. Mr. Petersen said the plan is the same, but the height is different. Ms. Raffay looked at one of the submissions that referenced the trench and the utility meter location; on this it says the maximum height is 17 feet. Mr. Kaminskas said that was the original plan, and Mr. Petersen added that it won't be over 15 feet so they're not looking for that variance anymore. Mr. Morytko said it's important to understand the scale of the structure. Mayor Rubenstein asked where it's 15 feet high; Mr. Petersen said it's where it steps down in the middle, and there is a little step down; the high side on the north end will be about 9.2. He showed a quick sketch he drew to demonstrate this, marked as **Exhibit A1**. Mr. Kaminskas said either way the highest point is in the slope area, concealed by the surrounding trees and brush.

Chairman Shivas asked if he was looking at this from the road, what would be the highest point. Mr. Petersen said he'd see the panel, and tilted his sketch to show the angle of the panel. At the low end Mr. Petersen is planning on planting azaleas, and around the area are trees. Chairman Shivas said he thinks one of the neighbors that had an issue was on the left-hand side. Mr. Petersen said if they were in their house looking down at an angle they could see it, but their view of the road is already blocked by trees, and no trees are being removed from their yard, so they'd need to look through the tree line. Chairman Shivas noted that on one of the new drawings provided it has red and green dots on it. Mr. Petersen explained those are the tree clusters; the red will be cut down and the green is staying. He can't put trees near the panel because it needs sun to work.

Mayor Rubenstein emphasized that the visibility from the road was less a concern to him than the impact to the neighbors. This seems less high, but the square footage is the same. Mr. Petersen agreed it is large, but it's hidden by his house. Mr. Kaminskas said he took the neighbors into consideration, since one large structure would be better than another plan he had to have 3 panels. Mr. Morytko said he's trying to get an idea of the scale of this project. He asked if the trees around the west and south of the spruce nearby would be removed. Mr. Petersen said the south ones need a clearing and the north side will still block things. The high end will be blocked by evergreens. Mr. Kaminskas noted that around the array on the slope facing Stanhope Road, they can plant trees to hide the array but don't exceed the array height. Ms. Raffay said in the last meeting the southern neighbor had concerns. Mr. Petersen said they'd have to go to the very back of their property to see it. Chairman Shivas

asked if the spruce trees are on the easement. Mr. Petersen said yes and he can't control that. Chairman Shivas said he can't add trees to the easement but can add to his side of it.

Mr. Morytko said in the revised plan package on page 19, it shows a view from the road in the set of photos that may help provide reference for where the array fits. They used a photo of Mr. Petersen in his yard and of the photo of a trampoline as a frame of reference for the distances and placement. Mr. Morytko confirmed the trampoline is in a fixed spot, so the Board knows where things will be in relation to it. Mr. Smith confirmed that the person taking the photo is in the catch basin, not the neighbor's yard, which is out of view in the photo.

Mayor Rubenstein shared a sketch, **Exhibit B5**, prepared by Mr. Stoner a few minutes earlier. It shows the view of the solar panel at the high edge. Mr. Petersen added that the ground from the upper area has covered the boulders, so it slopes rather than steps down. Mr. Stoner said at the left and right of the sketches will be 9.6 feet. His concern is, looking from the north they'd see the high, back side frame while at the south they'd see panels.

Ms. Raffay said the packet that was received had plans dated 06/23/2020, and asked if it's still valid since there's no revision date. Mr. Petersen said they should've put a new date on it. Ms. Raffay said it's more than that; they need to have plans in place that agree with the testimony that's been given. Mr. Walsh agreed, saying the Board is not approving Cory's sketch, but the plans. The plans submitted don't reflect the most current situation, so he wants to know what they're confirming. Mr. Kaminskas said the letter states 9.5 feet. Mr. Walsh said he sees that, but they're not approving a letter, they need a plan. Mr. Stoner confirmed that they're saying the plans don't match what the letter states. Ms. Raffay said she'd like to see more details like the elevations of the corners that would give a better idea of everything, and Mr. Walsh added they need to formalize it with an official submission. Mr. Petersen said he hasn't seen the recent packet that was submitted, so they may have missed information. He asked if they could get a conditional approval and in the next meeting have revised plans. Mr. Walsh said the importance of this formal submission is the neighbors; they need an opportunity to see the updates. Chairman Shivas said he'd like to see 3D drawings of what the overall structure will look like. Mayor Rubenstein said it would be helpful to go around the panel and mark places where it's above grade; a 3D sketch may be too costly. He asked if Chairman Shivas would like to do a straw poll to see where everyone is at with this application before the applicant goes back and revises a lot of information.

Chairman Shivas opened to the public.

Christopher Swiencki, 4 Ascot Lane, joined the call and was sworn in. They are to the south of the applicant's property. Mr. Swiencki said Mr. Petersen is a great neighbor, but doesn't like the project. It's big and industrial; he thinks of solar panels on a roof. He will see if from his patio and a lot of trees are coming down, and doesn't think this fits in a residential area. Mr. Smith shared a Google aerial map image, **Exhibit B6**, of the houses. He asked Mr. Swiencki what his view is of the property now, using the trampoline as a reference point. Mr. Swiencki said he sees the right side of the trampoline. Mr. Smith confirmed that the array will not be as high as the trampoline. Mr. Walsh asked that if Mr. Swiencki can only see the right portion of the trampoline, he wouldn't really see the structure. Mr. Swiencki said he saw the array going to the right near the basin. Mr. Walsh said it's following the slope down the hill and Mr. Swiencki said he can see that slope, especially with the trees being cut down. Mr. Petersen noted only the trees east of his backyard and east of the trampoline are coming down, near the spruce line. Mr. Walsh asked if any trees between Mr. Swiencki and the proposed structure are coming down. Mr. Petersen said yes, only the ones on his property, to the south of the structure and up to the end of the property line on the south. They don't think he'd be able to see the structure from the patio; Mr. Swiencki disagrees because he sits on the patio every day and sees the trampoline, and the patio isn't the only part of his property he uses. Mr. Serrilli asked if there's a way to break up the site line with a buffer or screen. Mr. Petersen said he could plant an evergreen there.

Mr. Swiencki added if this was any other kind of structure, like a shed, it wouldn't be approved at this size. Mr. Walsh agreed that the size of the array is still an issue. Based on the renderings, the array is larger than the deck area. Mr. Petersen said it's about half of the pool and deck area. Mr. Walsh confirmed this isn't drawn to scale then, emphasizing the need for correct plans. He noted it doesn't need to be a large expense, just placing on some of the already submitted renderings a scaled outline of the array would be helpful. Mr. Smith added that it might be helpful to take a photo from the neighbor's yard to give perspective, or coordinate a planting, if possible. Mr. Petersen said he thinks Mr. Swiencki's concern is that it's too big. Mayor Rubenstein noted the Board seems to be focused on the location of the array and less on the size. It's a giant structure next to neighbors, so he recommends a straw poll.

Kelly Swiencki of 4 Ascot Lane joined the call and was sworn in. She noted that the concern is the size of the array. She thinks solar is great but it's industrial and in a neighborhood, and isn't a

welcome idea. Mr. Petersen said he’s tried to do the best he can to work with this.

In the straw poll, the general feeling of the application was that the Board is concerned about the size. Ms. Franco said she understands that this is environmentally friendly, but feels for the neighbors and what their view would be. Mr. Morytko recognized that reducing the height has gone a long way, but needs more information to assess the project. Ms. Raffay said she’s concerned about the industrial feel of this and doesn’t think it fits into the topography in the area. Mr. Serrilli said he’d like this better if there was a way to block the view from the neighbors. Ms. Shimamoto doesn’t mind the industrial aspect since she likes solar, but agrees that the size is too large. Mr. Smith recognizes that Mr. Petersen worked with the Board in lowering the array and taking their suggestions, but agreed about the size. Mr. Walsh said a one-size-fits-all approach shouldn’t work, in that the affect on neighboring properties is more important than the size, since if it could be hidden it wouldn’t be as big of a problem. He also noted the need for more details to make a decision. Chairman Shivas agreed, saying in a residential area this does look commercial, so doesn’t think it fits on the property. He emphasized that most people are interested in going green, just not fitting something of this size into a residential community.

Mr. Petersen agreed, saying it’s important to think about it first before going forward. At this point he doesn’t think he’d come back because this is as good as he thinks it can be. Chairman Shivas said he did the best he could with what he had, and that perhaps in the future things can become smaller. He noted they could leave the application pending and let him decide. Ms. Hubbard and Mr. Walsh noted that they should give him a new date so that he doesn’t need to re-notice, and if he’s not ready by that point they can carry to a new date.

Mr. Walsh motioned to carry this application to July 1st with no further notice, seconded by Mr. Serrilli. The following vote was taken:

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

Motion carried.

NEW BUSINESS

Z03-2021 Linda Burke, 12 Meadowbrook Terrace, Block 297 Lot 14, R-5 Zone

Expansion of family room, master closet, coverage entry and storage for property near water edge and rock cliff.

Applicants Linda and Richard Burke, 12 Meadowbrook Terrace, were joined on the call by the architect Matthew Smetana, at 64 Sunset Lake Road, Sparta, and were sworn in. Mr. Smetana is a licensed architect in New Jersey, and has been practicing on his own since 2000. He’s presented before Boards including this one and Sparta, Hopatcong, Roxbury, Jefferson, etc., and his license is in good standing, so he was deemed an expert.

Mr. Smetana provided an overview of the project. The house sits on a property surrounded on two sides by Lake Mohawk. On the south side is an electrical easement. They’re looking to widen the deck by 6 feet to provide more space to move. They also want to extend the house near the lakeside. Mr. Walsh asked about a dashed line running south-north; Mayor Rubenstein confirmed that’s the metes and bounds of the property. Mr. Stoner added that the property lines run north to a point and south to a point and put a cord distance between. The dashed line is not the rear line; the rear line is the shoreline. Mayor Rubenstein asked if the variance should be to the shoreline or to the cord. Mr. Stoner said he’d go to the shoreline because that’s what the deed says.

Chairman Shivas asked who owns the little piece of property nearby that area. Mrs. Burke said there’s nothing really there other than the water and the neighbor’s boathouse. Mr. Burke noted there are a lot of rocks in the water so it’s not usable land that you could walk on. Mr. Stoner said on the survey map it’s another block and lot, so the sliver of land is on another lot that includes part of the lake. Mayor Rubenstein showed **Exhibit B1**, a Highlands Council Interactive Map of the area. On that map it doesn’t show an owner of that property, so it might be an extension of the right-of-way or fire lane, and probably owned by the town or the lake. Mr. Stoner said for the purpose of this application they should go by the property line shown with the setbacks. He went through the measurements with Mr. Smetana for the variances. They need variances for the minimum side and rear yard setbacks, minimum setback to the lake for the deck and the house, and maximum building coverage.

Chairman Shivas said there is an electrical easement, and asked how wide it is. Mr. Smetana said the closest point is around 15 feet and the widest part near the water is around 47 feet. Chairman Shivas asked about the spot for the house getting close to the easement, and what the electric company uses it for? Mayor Rubenstein said these are the high-tension wires that go across Lake Mohawk. Mr. Stoner said a couple years ago there was a project where they put the new towers in. Chairman Shivas said the power company doesn't usually want houses near the easement line. Mr. Smetana reviewed the easement measurements, and Mr. Burke emphasized that the house is further down from the tower. Mr. Stoner noted that no part of the house should be within the easement.

Mr. Smetana provided further overview of the house. They want to keep the same material pallet of vertical siding and stone veneer. He showed the main level plan of the house and the proposed changes, as well as some photos of the property. He showed the view near the lake, emphasizing that the house sits on a rock ledge, which surrounds the house. Mr. Stoner confirmed that the extension will be set right into the rock. They may need a permit for being near the water, but they're not distributing natural vegetation. Mr. Stoner confirmed that they got approval from Lake Mohawk. Mr. Smetana added that one of the conditions was to plant a rain garden, which they proposed in the front yard around the addition so the downspout feeds into that space. Because of the rock, its hard to find spots to do plantings that would survive.

Mr. Stoner confirmed that the applicant is planning on doing this in phases. Mr. Smetana said they'd like to do the deck and the generator this year, and the addition would likely be done in the next year or two because of the cost. Mr. Stoner asked about the generator, and Mr. Smetana said it would be off to the side of the deck. Chairman Shivas asked what it would be fueled with. Mrs. Burke said presently propane, but they got a notice today that Elizabethtown Gas is going to run the gas line starting tomorrow, which they want to use. Ms. Hubbard asked if this triggers another variance for the generator and if they have a permit for it yet, and Mrs. Burke said they were waiting to hear back about the gas line. Mayor Rubenstein asked Mr. Stoner if Elizabethtown Gas got a road opening permit on Meadowbrook. Mr. Stoner said Meadowbrook is not a township roadway. Mayor Rubenstein said they'd need a zoning permit for the generator, and Mr. Stoner said they're more than 10 feet from the side yard so they should be fine.

Ms. Shimamoto said that on the north side yard setback, the measurement should be going to the overhang. She then asked if any trees need to be cut down for the addition or deck, and Mrs. Burke said no, they try to preserve the trees. Chairman Shivas said usually they require plantings, but he doesn't think anything will grow on the rock. He noted they'll need to put a barricade up during construction to make sure nothing goes into the lake. Mrs. Burke said they're conscious of the lake and want to preserve it. Mr. Smetana said the rain garden in the front is the best opportunity to collect extra water, and Mr. Morytko agreed, saying it'd be better than a vegetative buffer in this case. Mrs. Burke asked if the rain garden would need to be done only when the changes to the house are being done. Ms. Hubbard said they have the rain garden in phase 2, and Mr. Stoner said it was a requirement of Lake Mohawk, not Byram, so they can't speak for them unless the Board has a preference. Ms. Raffay asked that if the rain garden is part of the application but Lake Mohawk required it, who has jurisdiction on the final approval of if its maintained and done properly. Mr. Stoner said they'd defer to Lake Mohawk, and if the Board feels strongly about it they could require it as well. He would have it as part of the addition, and any certificate of occupancy would be subject to the rain garden being properly installed and approved by the Board engineer and attorney. Chairman Shivas said since it's part of the plan the Board would need to incorporate it and say they need the rain garden, and it should be inspected. Mrs. Burke said the property is built on rock, and she tries to plant things but a lot she can't. She'd think someone would need to come over and tell her what to do with the rain garden for guidance. Chairman Shivas said Lake Mohawk would need to be the ones to let them be released from the rain garden since they required it.

Chairman Shivas opened to the public. No one spoke. Chairman Shivas closed to the public.

Ms. Shimamoto motioned to approve this application as they requested in phases, seconded by Mr. Morytko. Ms. Hubbard will put in the resolution that the rain garden is attached to Lake Mohawk. The following vote was taken:

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

Motion carried.

Mr. Burke thanked them for their time, and asked them about the Cruiser Club. He heard they might put docks in the water and store boats, and that it's up to Byram to approve that. Chairman Shivas said the Board doesn't have an application for this, and they'd need to go to Lake Mohawk first and then come to the Board with an application for improvements. Anyone within 200 feet of the property will be notified.

Chairman Shivas added that their approval is good for one year and they may need to apply for an extension if they don't build within the year. Mayor Rubenstein confirmed that they must at least start the construction by that point, not necessarily end it.

Z02-2021 Eric Schuffenhauer, 271 Lackawanna Drive, Block 344 lot 2.03, R-2 Zone

Addition of a pole barn, attached garage, front porch, and pool deck on property with critical lot disturbance.

Mr. Morytko recused himself from this application. Eric and Jennifer Schuffenhauer joined the call and were sworn in.

Mr. Schuffenhauer said they'd like the garage to store their children's toys and other items, a porch to enhance the aesthetics, a side deck to watch their kids in the pool, and storage in the rear yard in the pole barn. Ms. Hubbard asked what would be stored in the pole barn. Mr. Schuffenhauer said they have a lot of toys, some boats, snowmobiles, etc. that they don't want left outside. Chairman Shivas confirmed they don't have any commercial equipment on the property, except an excavator for the work that will go somewhere else after. He also confirmed he doesn't have a dump truck.

Mr. Schuffenhauer listed the variances needed for this work. Chairman Shivas asked what the "fill area" is. Mr. Schuffenhauer said they brought in fill around November or December of 2019; they had a rocky area, so they wanted to fill it in for their kids to be able to play. Chairman Shivas confirmed there's a mulch area, including wood chips. He also asked that the existing driveway is not on the property. Mr. Schuffenhauer said in order to bring the fill to the back, they needed to make a path, which they got approval for. Chairman Shivas confirmed after this is done they'd only have a driveway on his property. Ms. Hubbard confirmed they are bringing the path into their property line during construction. Mr. Schuffenhauer said they'll remove it when it's done, and would keep the second driveway if the barn is permitted, but move it onto their property. Mr. Schuffenhauer said it all depends on the garage, because they'd back-fill against it, making its own pathway, eliminating what was used previously. Chairman Shivas said where the mulch is looks to be over the property line, so they'd need to bring it onto their property. Mr. Schuffenhauer said it's the neighbor's mulch, and he can get letters that the neighbors are okay with this if needed.

Mayor Rubenstein said he can't figure out where the pole barn is going. Ms. Hubbard said it's behind the fill area. Mayor Rubenstein noted that this property has been subject to zoning violations. He's driven past for awhile and has seen a lot of materials and construction equipment outside. He thinks they'll put up this barn to store those items. Mr. Schuffenhauer said he agrees, and doesn't want the property to look this way, so wants the barn to store the items. Mayor Rubenstein confirmed that the purpose of the barn is to bring up the appearance and remove the outdoor storage. Mr. Schuffenhauer said they have children so there are a lot of toys and materials. Mayor Rubenstein asked Ms. Hubbard if there's a way to tie a final approval to making sure the zoning violations are cleared, if everything is addressed in those violations and they comply with the resolution. Mr. Stoner added the point of this application is to address the violations.

Mayor Rubenstein confirmed the neighbor knows the driveway is on their property. Mr. Schuffenhauer said the shed will probably go away or be repositioned within the zoning codes. Mayor Rubenstein said it's best to tell the Board tonight so it's part of the approvals. Ms. Hubbard agreed, saying they need to know what he's doing with the shed in order to have an approval. Mr. Schuffenhauer first said he'd remove the shed to make the property look better; Mayor Rubenstein said if he needs it later and it can be moved to a decent spot it would be fine. Mr. Schuffenhauer said he'd move it beyond the garage so its not visible. Mr. Stoner noted that it'd add to the total footprint variance. Mr. Stoner went over the variances needed for the application. The porch will need a front yard setback, the deck needs a side yard setback, the porch would have its own requirements, and with the garage being added, the front yard setback would be measured off the garage. The pole barn has a height variance, and for an accessory structure. They also have a variance for the disturbance of steep slopes. He noted there's a wood fence that's taller than allowed in the front. Mr. Schuffenhauer said he cut the one in the front down so it's 4 feet, and the one near the proposed garage is 6 feet. Mr. Stoner said if that's the case no variance is needed for that.

Mr. Schuffenhauer said the garage is the most important. If they don't have the garage they don't want the porch because it would look weird alone. They're putting the porch there to make the garage less intrusive-looking and blend more. Mr. Stoner said they should resolve the zoning violations first. He went over the architectural and some questions from his report.

Ms. Raffay said she's having a hard time knowing what she's looking at and wants more information. Mr. McElroy agreed, saying he wants to hear more about the intended use for the pole barn. Mr. Schuffenhauer said he put the 13-foot doors because they have a boat they want to store inside, and an RV, and he wants the doors to be symmetrical. Mr. Stoner asked if the rendering of the pole barn is what it will look like and if these are stock photos. Mr. Schuffenhauer said it will be similar to what's depicted. Ms. Raffay confirmed that he could get all that equipment up the steep slopes. She also asked what will be on the second floor; Mr. Schuffenhauer said a workshop, storage, etc. He'd likely store sleds, bikes, wagons, etc. Mr. Stoner confirmed there would be no living space, Mayor Rubenstein confirmed there will be no plumbing, and Mr. Schuffenhauer said he'd probably run an electric line to it. Ms. Raffay asked why he would be storing his kids' stuff so far away. Mr. Schuffenhauer said in the picture of the yard, the fill area is where they made the kids' area, so the barn is next to that. Mr. Stoner said there's a room in the drawings for the barn, and asked if that will be there or if it's part of the stock photo. Mr. Schuffenhauer said that was on the stock photo, and was a utility room. He doesn't see a need for it, so it will be an open garage with stairs to the loft area. Ms. Raffay asked where he will level off the property; she sees a 10-foot drop from the back to the front on the topography map. Mr. Schuffenhauer said in the picture he sent, there a lot of boulders, so if some of the boulders were pulled out it would level it off more. Mr. Stoner confirmed there will be no retaining wall. Mr. Schuffenhauer said he'd probably need to take down 3 trees and pull out boulders, and will dig into the grade a bit on the one corner. He picked that spot because it was the least steep on the property. Ms. Raffay said she thinks this is a pretty steep area, and the pole barn could be put in the fill area.

Mayor Rubenstein said they don't have detailed civil drawings, so they don't know the proposed conditions. They discussed the slopes and topography, and Ms. Raffay said they have no scalable drawings to understand all of this. Mr. Stoner noted there was a violation about stormwater. Mr. Schuffenhauer said there was an issue, but it has been controlled for at least a year, and thinks the Zoning Officer would agree. Mr. Stoner said Mayor Rubenstein is right that this is less information than the Board normally gets.

Mr. McElroy said he understands the intent of the application but thinks the zoning violations are for things more like unregistered cars parked in the yard, construction equipment, tires, etc. He's against tying together the violations since 2018 to what is being discussed now. One of the things that was discussed was solving the zoning violations, and he doesn't understand how this variance deals with the violations. Mr. Schuffenhauer said everything he mentioned has been taken care of, and that he's received one actual violation. Mr. McElroy asked if they could have the Zoning Officer provide the current list of violations to show what's been resolved. Chairman Shivas agreed and said they need better drawings and to explain what they'll do first, to show the general plan to get this done. It would be easier to lay everything out, rather than do it in stages, which would be more expensive.

Mr. Schuffenhauer asked if they took other parts of the application off, could they do anything now with the garage, deck, or porch. Mayor Rubenstein asked if he wants to amend the application to just consider these. Mr. Schuffenhauer understands he was asking a lot for the barn, and wants to focus on the garage, deck, and porch. Mr. Stoner reminded the Board he still has the steep slopes; behind the garage and the fill areas were disturbed. His grading plan done in June 2020 was after the fill was brought in. Mr. Schuffenhauer said in the notes of that plan, it says no steep slopes were encroached on. Mayor Rubenstein asked Mr. Stoner what the options were as the Board when it comes to steep slopes; they can either grant the approval and say it's ok or have it restored? Chairman Shivas and Mr. Stoner agreed those are the options. Mayor Rubenstein asked if Mr. Stoner inspected that area. Mr. Stoner said he didn't go up to the top of the hill or see the back area of the property. Mayor Rubenstein said for him to determine if the disturbance is acceptable or should be restored, he defers to Mr. Stoner. Mr. Stoner said he knows he would say; a lot of the area is disturbed and it doesn't make sense to take it out, but he wants it vegetated. He's more concerned about the driveway because that's very steep, but any disturbed area needs to be vegetated.

Chairman Shivas said he needs to amend his site plan and take out anything he's not going to do, and tell the Board what he's going to do and how he's going to fix any issues. Mr. Schuffenhauer said the Zoning Officer pointed out the steep slopes, and they have been fixed and vegetated. Chairman Shivas emphasized that they need a clear, concise plan of what they're going to do. Mr. McElroy said it's important then if some of these issues are resolved to get a current site condition. Chairman Shivas said they should get the Zoning Officer to review the property again to know the current status. Mr. Stoner said he'll do another inspection to see what has been restored.

Chairman Shivas opened to the public.

Robert Tierney, 274 Lackawanna Drive, appeared and was sworn in. He had concerns about the amount of fill that was brought to the property within the last year. He saw 4-5 dump trucks waiting to dump things up there. He's worried about where the dirt came from, and what's in it (i.e. petroleum hydrocarbons, volatile organic compounds, PCBs) and if it's certified clean soil, etc. He's on the lower

side of the fill so is concerned about the ground and well water. He stated that there were at least 40 loads brought in. Mr. Stoner noted the town doesn't have a soil fill ordinance, and that they could have it as part of the resolution that Mr. Schuffenhauer provides records of where he got the soil. Mr. Schuffenhauer said before he brought anything in, he had 2-3 conversations with Mr. Dixon (the Zoning Officer) as to whether its allowed, and he was told to check with Sussex County about the amount. He checked with them and didn't exceed the amount. He has a document that details where the soil is from and what's in it, and has tried to do everything as legally as possible. They're trying to make a backyard for the kids so they don't need to be by the road. Mr. Tierney asked if they will have the chance to review the document about the soil. Mr. Schuffenhauer said he has the documentation to prove the legality and can provide it.

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

Mr. McElory motioned to carry this application to July 1st with no further notice, seconded by Mr. Walsh. Mayor Rubenstein said the applicant should use the time to come up with some civil drawings and have Mr. Stoner or the Zoning Officer look at the property again. The following vote was taken:

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

Motion carried.

Mr. Schuffenhauer asked if he will know when the people will come to look at the property. Chairman Shivas said they will call first.

BILLS

Law Office of Larry Wiener- (7) \$4,950.00

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

Latini & Gleitz, Planning- (6) \$3,687.50

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

OPEN TO THE PUBLIC

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

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said there was no meeting.

Building Committee: Mr. Morytko said there was no meeting.

Environmental Commission: Ms. Shimamoto said they have an invasive species event on Saturday at Tamarack Trail from 9-12. They're meeting at CO Johnson and will teach people the invasive species in the area and how to dispose of them.

Open Space: Mr. Morytko said there was no meeting.

Township Council: Mayor Rubenstein said at the council meeting two days ago they introduced an ordinance to ban cannabis at all classes in all zones. The second reading and public hearing will be on June 15th. The information was circulated to the Board. Chairman Shivas asked if they need a recommendation from the Board. Mayor Rubenstein said he doesn't know, and asked Ms. Hubbard if that needs a Master Plan review. She hadn't reviewed it yet. Mayor Rubenstein said they have time to look at it.

ADJOURNMENT

A motion to adjourn the meeting was made at 11:30 pm by Mr. Serrilli. The motion was seconded by Ms. Walsh. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Caitlin Phillips

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

WHEREAS, Linda & Richard Burke have applied to the Planning Board, Township of Byram for permission to construct an addition requiring variance relief for premises located at 12 Meadowbrook Terrace and known as Block 297, Lot 14 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 Applicants are the owners and occupants of the single-family home located on-site.
2. The Applicants are proposed to construct an expansion of their family room, master closet, coverage entry and storage for their property near water edge and rock cliff.

3. The Applicants submitted the following documents:
 - a. Survey prepared by Benchmark Land Surveyors, consisting of one (1) sheet and dated January 4, 2002.
 - b. Architectural Plans prepared by Matthew Smetana R.A., Architect, consisting of two (2) sheets and last updated February 9, 2021.
 - c. Approval from the Sussex County Department of Health and Human Services for an Individual Subsurface Sewage Disposal System dated April 22, 2021.
 - d. Approval to Construct and Construct or Alter an Individual Sewage Disposal System from the Sussex County, Division of Health, dated April 13, 2021.
 - e. Approval to Construct and Construct or Alter an Individual Sewage Disposal System from the Sussex County Health Department, dated July 15, 1989 (unclear).
 - f. Permit to Locate and Construct or Alter an Individual Sewage Disposal System from the Township of Byram, Board of Health, dated July 17, 1980.
 - g. Waiver Approvals from the Lake Mohawk Country Club, by letter dated January 26, 2021, signed by Sabine Watson, P.E.
 - h. Seven (7) pictures depicting various views of the property
4. The Board received the following memorandums:
 - a. Cory Stoner, Planning Board Engineer, dated April 28, 2021.
 - b. Environmental Commission, dated April 26, 2021.

5. Per Mr. Stoner’s report the following relief from the Byram Township Code is required:
 - a. Section 240-50.1 – Minimum Side Yard Setback – 15 feet minimum, 12.36 feet existing, 10.75 feet setback from the deck proposed.
 - b. Section 240-50.1 – Minimum Rear Yard Setback – 20 feet minimum, 21.05 feet from the building existing, 18.58 feet proposed.
 - c. Section 240-50.1 – Maximum Building coverage, 1,808 square feet maximum, 1,717 square feet existing, 2,192.5 square feet proposed.
 - d. Section 240-55 – Minimum Setback from the lake, 50 feet required, 17.26 feet from the deck existing, 15.94 feet proposed.
6. A duly noticed public hearing occurred on May 6, 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. Richard and Linda Burke, the Applicants, and Matthew Smetana, AIA, who was accepted as a licensed architect, presented sworn testimony in support of the application. The subject property has two frontages on Lake Mohawk, which create irregular lot lines. To the east side of the property is

Meadowbrook Terrace, and an easement and an adjoining neighbor are to the south.

8. An interactive Highlands map was screen shared to view the shore and lot lines for clarification purposes and marked B-1 for identification.
9. The Applicant is proposing to widen the deck, which will decrease the side yard setback and the setback from the lake. There are several additions that will result in an increase in building coverage requiring a variance. The addition of a living room along the eastern side of the home follows the sideline of the dwelling and will result in a reduced rear yard setback, as well as the setback from the lake. The required 50-foot setback from the lake must also include a ten-foot-wide vegetated buffer along at least 80% of the water's edge. It was noted that the topography, rock ledge and natural vegetation would make meeting the buffer requirement challenging.
10. There is a utility easement for high tension wires that runs through the southern portion of the property. The home is unique in its shape and design, and there is a corner of an overhang that is within close proximity to the outer line of the easement. An addition for a family room is proposed in that corner of the home and will bring the home closer to the easement line. The Applicants agreed to stake the easement line to avoid an encroachment of the easement with the construction of the addition.
11. The addition will include a walk-in closet for the master suite, a new covered entrance way, a small office, an enlarged family room and walkout storage

area in the basement. Due to the rock ledge on which the home is built, the foundation and posts will be pinned to the rock during construction.

12. The exterior of the home will be wood vertical siding, with a stone veneer foundation and contemporary roof line that is consistent with the current exterior of the home.
13. The property is located in the Highlands Preservation Area and is subject Exemption #5 for improvements to a lawfully existing single-family dwelling. The Applicant must apply to the New Jersey Department of Environmental Protection (NJDEP) for either a permit or Permit by Rule for construction within a flood hazard area.
14. The Board of Trustees of the Lake Mohawk Country Club (LMCC) granted waivers from Sections One and Three of the Club Plan Agreement, with a condition that a rain garden be installed in the front yard to promote infiltration and treatment of the increase stormwater runoff. During an in-depth discussion, with the Board, the Applicant explained that additional plantings would be difficult due to the nature of the soil. It was noted that the Applicant would have to seek relief from the LMCC for the installation of the rain garden.
15. It was noted that the property is challenging, as there are two sides that are lake front, it is a rock ledge, there is an easement on one side and the septic is located on the other side of the home. The Board determined that the 80% buffer was not required. The Applicant testified that no tree removal was

required, and they would install a silt fence during construction. Gutters would be installed to address the runoff from the proposed additions.

16. Due to the current cost of material, the Applicant is proposing that the deck and a generator, for which permits are required, would be done upon approval. The home additions would be done when feasible.

17. There was no one from the public present to object 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 the following Sections of the municipal zoning ordinance:
 - a. Section 240-50.1 – Minimum Side Yard Setback – 15 feet minimum, 12.36 feet existing, 10.75 feet setback from the deck approved.
 - b. Section 240-50.1 – Minimum Rear Yard Setback – 20 feet minimum, 21.05 feet from the building existing, 18.58 feet approved.
 - c. Section 240-50.1 – Maximum Building coverage, 1,808 square feet maximum, 1,717 square feet existing, 2,192.5 square feet approved.
 - d. Section 240-55 – Minimum Setback from the lake, 50 feet required, 17.26 feet from the deck existing, 15.94 feet approved.

- e. Section 240-55 - The required 50-foot setback from the lake must also include a ten-foot-wide vegetated buffer along at least 80% of the water's edge, no buffer 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 home is a unique shape and design, located on a property that is a lake front, rock ledge, encumbered by an easement and an existing septic system. The Applicant proposes several additions to provide additional storage and living space that work with the unique characteristics of the home.
3. Accordingly, variance relief can be granted to permit the construction of the deck and proposed addition to provide recreation and living space for the homeowners, as the proposal will have a minimal impact. The addition follows the existing sideline of the home, along the irregular lot line created by the lakefront and is *de minimus* in nature. The property has natural vegetation and a rock ledge, which create a challenge for planting the required buffer.
4. It was determined that there would be little impact to the surrounding area, with only one neighbor to the south on the opposite side of the utility easement. The additions are consistent with residential homes and relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 20th day of May 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. All proposed site work shall be indicated on the plans.
3. If deemed necessary, the Applicant shall obtain a Flood Hazard Area Permit for the disturbance of land that will occur within 25 feet of Lake Mohawk. A copy of the permit or NJDEP exemption shall be submitted to the Board.
4. If determined necessary, by the Lake Mohawk Country Club Engineer, as indicated in his letter dated January 26, 2021, the Applicant shall install a rain garden and same shall be indicated on the plans.
5. The Applicants shall stake the easement line to avoid an encroachment of the easement with the construction of the addition.
6. For consistency, all setbacks shall be indicated on the plans from the overhangs on the dwelling and not the exterior walls.
7. There shall be no tree removal during construction.
8. A silt fence shall be installed during construction.
9. Gutters shall be installed and tied into the existing drainage system to address runoff.
10. The construction shall be done in phases; phase 1- the deck and generator and phase 2 – the home additions.
11. Applicant shall obtain the necessary permits for the installation of the generator.

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 May 20th, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

Zoning Report
April 2021

Permitting

zoning permits approved	13
<i>typical, variance not req'd</i>	13
<i>post-resolution to begin work</i>	0
<i>none</i>	
<i>for C.O. or C.A</i>	0
<i>none</i>	
zoning permits denied	1
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	3
summons issued	14
signs removed from roadway	2

**BYRAM TOWNSHIP PLANNING BOARD
REVISED BILL LIST FOR May 20, 2021**

<u>HAROLD PELLOW & ASSOCIATES, INC</u>	DATE	AMOUNT
Inv. 72601 Lovenberg attendance at meeting (04/01); reports and review	4/23/2021	\$1,756.13
Inv. 72600- Craig Humphrey attendance at meeting (04/01)	4/23/2021	\$130.00
Inv. 72598- Skylands prepare for and attend meeting (03/18)	4/23/2021	\$195.00
Inv. 72597- 263 Route 206 prepare for and attend meeting (03/25); prepare report and review application	4/23/2021	\$975.00
Inv. 72596- Route 206 Developers review resolution	4/23/2021	\$130.00
Inv. 72595 Raimo prepare for and attend meeting (03/18); prepare reports and review application	4/23/2021	\$1,175.25
Inv. 72594- Tomahawk Lake attendance at meeting (03/18) and application review	4/23/2021	\$487.50
Inv. 72599- Planning Board reports and review applications	4/23/2021	\$195.00
Harold Pellow total		\$5,043.88

<u>LAW OFFICE OF LARRY WIENER</u>	DATE	AMOUNT
Inv. 2021-30 Planning Board attendance at 05/06 meeting	5/11/2021	\$600.00
Inv. 2021-31 Anty Trucking emails, calls, review plans, and attendance at 04/22 meeting	5/11/2021	\$855.00
Inv. 2021-32 Mountainside Country Store phone calls and review of application	5/11/2021	\$300.00
Inv. 2021-33 Schuffenhauer emails, review, and zoom and call with Cory	5/11/2021	\$390.00
Inv. 2021-35 Linda Burke phone calls, emails, reviews, and zoom with Cory	5/11/2021	\$240.00
Larry Wiener Total		\$2,385.00

<u>LATINI & GLEITZ, PLANNING</u>	DATE	AMOUNT
Paul Gleitz total		\$0.00

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

GRAND TOTAL **\$7,428.88**