

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, May 2 2024, at 7:30 P.M.
Meeting Held at: 10 Mansfield Drive, Byram Township NJ

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **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.
4. **FLAG SALUTE**
5. **MEETING MINUTES-** April 18, 2024
6. **RESOLUTIONS**
 - SP8-2023 Byram Car Wash, 56 Route 206, Block 365 Lot 1.01, VC Zone
Application for replacement of vacuums and monument sign

 - Z02-2024 Catherine Trader, 55 North Shore Road, Block 157 Lot 272, R-5 Zone
Approval for concrete pad and propane tanks in the side setback
7. **SUBCOMMITTEE**
 - SP6-2023 Tomahawk Lake, 155 Tomahawk Trail, Block 343 Lots 1, 2, and 3, CR Zone
Application for amended site plan and use variance approval to use Lot 3 for additional parking, reconfigure the overflow parking area and employee parking area, construct a slide and merry-go-round, and modify a ticket office for larger square footage
8. **NEW BUSINESS**
 - Z06-2024 Brian Kearns, 3 Bank Street, Block 227 Lot 370, R-5
Application for reconstruction and construction of a second story addition to a single-family home

 - Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone
Application for shed in the front yard
9. **OLD BUSINESS**
 - SP1-2024 Byram Waterloo LLC (Starbucks of Byram), 33 Route 206, Block 36 Lot 40, VB Zone
Application for preliminary and final site plan for development of Starbucks coffeehouse with drive-through
10. **REPORTS FROM COMMITTEES**
 - Architectural Review Committee
 - Environmental Commission
 - Open Space
 - Township Council
11. **OPEN TO THE PUBLIC**
12. **ADJOURNMENT**

The Board Engineer and Planner are sworn in at the beginning of each year and are deemed to be under oath on a continuing basis.

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

ROLL CALL: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas
Members Absent: Mr. Serrilli

Also Present: Engineer Cory Stoner, Attorney Alyse Hubbard, 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

MINUTES: April 04, 2024. Mr. Proctor motioned to approve the minutes, seconded by Mr. Smith.

Ayes: Mayor Rubenstein, Messrs. Proctor, McElroy, Morytko, Smith, and Chairman Shivas

Abstaining: Ms. Raffay, Mr. Walsh

Absent: Mr. Serrilli

None opposed. Motion carried.

RESOLUTIONS

SP8-2023 Byram Car Wash, 56 Route 206, Block 365 Lot 1.01, VC Zone

Application for replacement of vacuums and monument sign

Chairman Shivas said this resolution is going to be reviewed at the next meeting.

SUBCOMMITTEE MEETING

SP2-2024 Raimo of Stanhope, 43 Route 206, Block 35 Lot 36, VB Zone

Application for amendment to accessory structure and principle building

Mr. Walsh said this is an amendment to their approval from 2021. The changes are minor, including an accessory building's roof pitch and style, and changing the four bay doors to open bays. The Committee recommends it be deemed complete; they noted the architectural have the height listed higher than previously approved, so that will either need a variance or need corrected plans. Mr. Stoner said it was an error and they are not seeking a variance, so they will correct the plans. Mr. Walsh motioned to deem the application complete and schedule it for a hearing on 05/16, seconded by Mr. McElroy.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh and Chairman Shivas

Absent: Mr. Serrilli

None opposed. Motion carried.

OLD BUSINESS

Z02-2024 Catherine Trader, 55 North Shore Road, Block 157 Lot 272, R-5 Zone

Approval for concrete pad and propane tanks in the side setback

Mr. Walsh recused from this application. Mr. Haggerty from Dolan and Dolan represented the applicant. He reviewed the previous minutes which he noted were thorough and well-drafted. He noted a deck and stairs were constructed, and are on plans provided to the Construction Office. He reiterated the need for the proposed location of the propane tanks from the previous hearing. The foundation was constructed but was reduced in size from the proposed because of the wetlands. There is no immediate ability to construct on that foundation; there will be an application for this when proposed. He noted the new survey has been provided. Chairman Shivas confirmed if the application is approved, the deck will be removed when the other building is built. Ms. Trader explained that the plans were submitted to the Construction Office; Ms. Hubbard said the plan copies they're referring to were not submitted to the Board for review. Mr. Haggerty submitted **Exhibit A1**, a copy of the previous plans. The applicant relied on the contractor and an architect; the plans were submitted and construction proceeded. Ms. Hubbard asked if permits were issued; Ms. Trader said one was in November of 2022. Mayor Rubenstein reviewed the permits online. Ms. Hubbard noted the deck and stairs are not on a site plan; it's on the survey now, but the approval and plans she is relying on don't reflect that. Mr. Haggerty noted the applicant proceeded with the approval and then stopped, not building the structure on top of the foundation. The foundation is not illegal—it's consistent with the approval, it's just that the construction stopped for a significant period of time. Ms. Raffay asked why they'd need to come back to the Board if they're making the foundation smaller. Ms. Trader noted the plans prepared by Mr. Benghis are not what she's planning to do. The exhibit that was submitted it what's accurate. Mr. Haggerty submitted **Exhibit A2**, the previous plans prepared by Mr. Benghis. Mayor Rubenstein noted having the deck on the foundation indicates the addition is not planned soon; Ms. Trader concurred, saying it's more like years from now. Mayor Rubenstein said they should just review what's being asked for now, and then the addition will need to come back to the Board. Ms. Hubbard noted the permits Mayor Rubenstein reviewed were for interior renovations. Mr. Stoner said they should get an updated zoning permit for the deck, stairs, and propane tanks. The permits reviewed were **Exhibit B2**, permit 22-587 from 11/2022, and **Exhibit B3**, permit 16-467 from 10/2016, both open. Mayor Rubenstein noted the applicant should get the permits closed out, and there should be a new permit for the deck. He confirmed the concrete pad is for the propane tanks. He reviewed what variances are needed.

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

Mr. Proctor said the survey doesn't show the distances, and asked for the setbacks. Mr. Stoner said the pad has about a 6-foot setback. Mayor Rubenstein confirmed with Mr. Stoner that's a good size for the tanks. Mr. Stoner noted the tanks are vertical. Ms. Raffay said she doesn't have any concerns with the proposed; she doesn't see another location for the tanks, and it's a logical location since there's windows in other areas. The stairs are minimal.

Mayor Rubenstein said as a condition they want the applicant to close out existing permits, and that the applicant understands and agrees that they've conceded their approval for the addition that was previously approved, and will need to come back to the Board for any work on the foundation. Ms. Hubbard added they need to update their zoning permits. Mr. Proctor motioned to approve the application with those conditions, seconded by Mayor Rubenstein.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Chairman Shivas

Abstaining: Mr. Walsh

Absent: Mr. Serrilli

None opposed. Motion carried. Ms. Hubbard explained the appeal period. Mr. Walsh re-entered the meeting.

NEW BUSINESS

Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone

Application for shed in the front yard

Chairman Shivas said this application needs to be carried because it was not noticed properly.

Mr. Walsh motioned to carry the application to 05/02 with corrected notice, seconded by Mr. Proctor.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Absent: Mr. Serrilli

None opposed. Motion carried.

Z07-2024 Dana Taylor, 16 Weaver House Cove Road, Block 109 Lot 2, R-5

Application for a deck in the side yard

Dana and Michael Taylor were sworn in. Ms. Taylor said she's proposing a deck off the side of her house. The side is very small, so they want an outdoor space. The deck would go off the second floor since the septic is also on that side of the house. Chairman Shivas confirmed it needs to be at least 6 feet over the septic; Mr. Taylor said it won't be over the septic—it will be behind it. It needs to be 6 feet above, which it will be, and it needs to be 5 feet away from the edge of the septic. Initially it was further up but because of the footings, they pushed it back. Chairman Shivas confirmed they're proposing to go to the property line for the deck. Mr. Walsh noted on the plans it shows the deck going to a row of stones; the survey suggests the stones are 1-2 feet in the property line. Mr. Taylor said there's a stone wall their neighbor put up. The septic has a wall around it as well, and there's about a foot between their wall and the neighbor's wall that's crushed stone. Ms. Hubbard noted the wall is completely on the applicant's property. Ms. Taylor said they put it there before they bought the house. Mr. Walsh noted if the survey is accurate, they are about 1-2 feet off the property line, which may help. The Board confirmed they are reviewing the markup with the deck further back. Mr. McElroy asked if the primary entrance for the neighbor is on that side. Ms. Taylor said they have a front door. Mr. Proctor confirmed on the survey the three "s's" with the circles are the septic tank. Ms. Taylor said the footings will be five feet behind that. Mr. Stoner doesn't think the house is parallel to the property line. Mr. Smith is concerned about finding out where the edge of the property is. She should make sure she knows where the property line is. Mr. Stoner noted part of Weaver House was vacated to put the septic there.

Mr. McElroy has an issue having the deck that close to the property line. It's right on top of the other house. It's elevated, at window-level. The lot was this way when it was purchased. Chairman Shivas noted 2 feet makes it hard to maintain. He suggested shortening the length of the deck. Ms. Taylor said the neighbor also has a deck on the front and side. Chairman Shivas said they should get this surveyed to make sure everything is on their property. Mr. Stoner said they've had people stake the property. Mayor Rubenstein asked if they considered having the deck on the other side in the back. Mr. Taylor said it doesn't provide lake view, which is the whole purpose of the deck. Ms. Raffay asked if they're doing any modifications related to the deck; Ms. Taylor said they're thinking of putting in a sliding glass door. Mr. Stoner said any proposed stairs would need to be part of a variance. Ms. Taylor said they'd need to go out the back. Mr. Walsh noted they should look at what the distance from the property line should be, rather than the size of the deck. Ms. Taylor said she would love to have a space to be outside. Mr. Taylor noted the neighbor doesn't do anything on that side. Ms. Hubbard said once the structure is there, it stays there for whoever the new owners are. Mr. McElroy said he has an issue when a proposed project has an impact on the other properties. Mr. Proctor asked what's the smallest the applicant wants to go; Ms. Taylor is hoping at least 10 feet wide. She spoke with the neighbor and she was fine with this.

She doesn't use that door; she uses the front. Mr. Proctor confirmed the neighbor was not at this meeting in protest of the application.

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

Ms. Raffay asked if there's a point they wouldn't get lake view if they moved the deck back further. Ms. Taylor said not on that side. Mr. Taylor said the neighbor's steps also don't go the way they're shown anymore, they point to Weaver House; they were just redone. Mr. Walsh noted the neighbor's house has a large deck on the front, which is where their main entrance is. Their outdoor area is not on that side. Ms. Raffay noted the concern of pushing the deck further back, and being too close to the neighbor's windows. The neighboring house seems to be about 10 feet away; a deck is an entertaining area. Mayor Rubenstein noted they're not here objecting. Mr. McElroy said this is to protect the applicant too; if the neighbor moves out, a new neighbor may have issues with the sound. Ms. Taylor noted the deck is further back, so it's not right next to each other. Mr. McElroy asked Mr. Walsh, since he knows this area well, if this is a common thing. Mr. Walsh said there are many places that, because of the topography, someone can't have a deck on the front of their house, so they have it on the side. It's not ideal, but it's not uncommon. He would have more of a concern if there were two decks facing each other. He noted knowing the property line location is a responsible idea; the survey is recent so it may just be putting down stakes. Having it right on the property line is a problem because of maintenance. Chairman Shivas noted the deck is on the second floor, so you'd need a ladder to maintain it. Mr. McElroy said they could go to 9 feet for the deck, giving a three-foot setback. Ms. Hubbard said Ms. Taylor will need to amend the application; they want to add stairs, move the deck back and in, the drawings don't show what's being proposed, and there's no representation the Board can rely on. Chairman Shivas noted in the resolution, they would state it as being three feet from the property line, rather than saying the deck is 9 feet. She will only be able to go as close to the property line as stated, so parts of the deck may be shorter than 9 feet. Mayor Rubenstein said they should say 2.5 feet, to give her room for a 9-foot deck. He added there are now three modifications to the plan, and there's not an accurate representation of what's going on. The Board may be okay in concept with the changes, but since there's nothing showing it, it's hard to approve it. Ms. Hubbard noted with the retaining wall, the applicant may not be able to place the deck where it's proposed. Mayor Rubenstein said the applicant should get an updated survey to make sure everything is where she thinks it is. Ms. Hubbard said the surveyor can dimension it. Chairman Shivas noted a pipe that goes down into a block. Ms. Taylor said the large cinder block was an old chimney. The two vents are a dryer and filtration vent. Mr. Walsh said they should make sure the Board is okay with all of this; they don't want the applicant to go through all of this, only for the Board to say no. Mr. Proctor and Mr. McElroy are ok with how it is now, better than originally. Mr. Smith feels good about it if they can see everything cleanly laid out. Ms. Raffay understands, but doesn't like the location. Mr. Smith said it would be helpful to have more photos. Chairman Shivas added there should be a photo of the steps. Mr. Walsh noted the Board seems comfortable with the 2.5 setback, a precise location of the deck and stairs, to scale. Chairman Shivas added the setback should be shown. Mr. Morytko noted it would be good to know the slope going back, to confirm the height.

Mr. McElroy motioned to carry the application to 05/16 without further notice, seconded by Mr. Proctor.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Absent: Mr. Serrilli

None opposed. Motion carried. Mr. Proctor exited the meeting at this time.

Zo8-2024 Diane and William Carkhuff, 82 South Shore Road, Block 189 Lot 1, R-5 Zone

Application for construction of a new single-family dwelling

Ms. Raffay recused from this application. Diane and William Carkhuff were sworn in. Mr. Cohen from Lavery, Selvaggi, and Cohen represented the applicants. He noted this application was previously approved for reconstruction and addition to the house. They started getting permits, and had the footings staked out and approved by the Building Department, and received a stop work notice from the Zoning Officer. He believes this is a misunderstanding, and in a way they are appealing the Zoning Officer's decision. Ms. Hubbard noted there's no appeal application, so they're not considering an appeal. Chairman Shivas said when they tear a building down completely, it's considered a vacant lot and they start from scratch, so this is a new application. Mr. Cohen said that's what's indicated in the resolution—the applicant understood it that way and that's what they're intending to show. Mayor Rubenstein said he was at the previous hearing and that's not what was presented to the Board. Chairman Shivas said they were told they were putting an addition on an existing house, and at no point did they say they'd take it completely down. Mr. Cohen said it was going to be an addition, the house was going to be modernized, and it was going to be put on a slab. The house existed on piers. The plans submitted are the exact plans that were submitted to the Building Department; they're referred to in the resolution. Mr. Stoner noted these are then the same plans where they show in the plot plan that this is an addition. He doesn't think this is a misunderstanding; they are the same plans, and the front sheet, resolution, and meeting all say addition. The Board may have the same determination, but this is an opportunity to review the setbacks. Mr. Cohen said they had a Planner testify at the last application for this property, and they'd like to incorporate her testimony into

this. The building is currently under construction, but has been stopped. They had the footing approved by Construction. There was a portion of the house that has been saved because that's what he was told he had to do; one of the walls has been saved and will become part of the new structure, exactly as existed as before. Mr. McElroy confirmed when a house is torn down, things that were pre-existing non-conforming are no longer that way. The house being re-built where the house was is irrelevant, because they removed the pre-existing non-conformities. Mr. Cohen said if the house had a foundation, they could have argued that's existing. Mayor Rubenstein said he doesn't know why they keep referring to the resolution; it's irrelevant because this is a new application for new construction. Mr. Cohen said the plans indicate there will be a slab; there is no foundation, and it was always intended by the owner that this would be re-built. Mr. McElroy said that was not what was in the resolution or testified to.

Mr. Carkhuff said the application started with them needing a septic. The only location was the back of the house, lakeside, and that needed to come up four feet, as it's above-ground. That is two feet higher than the existing structure; they discussed that the house needed to rise two feet for the septic. They also discussed how they were going to raise the house. They weren't sure how this would be done; during the bidding process and the demo and construction teams, they found the house was not salvageable. After this, they called the Building Inspector, Mr. Karcher, to see how they should proceed. They explained the footings were falling down, the street side was below-grade, and that side of the house wasn't structurally safe or salvageable. Mr. Carkhuff said they had Mr. Karcher on the site in November and he said to save a wall. Before they did the demo in December, they took down the fire lane side of the structure, a portion of the wall down. They couldn't leave it safely on piers that didn't exist. They laid the wall down in the front lawn, and it's there now. After the Zoning Officer was involved, Mr. Stoner's office sent a representative who took a street photo, but there was no conversation of what was done. In November they took the wall down, and they demoed the property on 12/20. They asked Mr. Karcher to come back and inspect the demo. They cleared the lot and dug the footings, and they received approval from the Building Inspector. Mr. Carkhuff said they received a document stating they provided false information. On March 14th they received an email saying they're good, and on the 15th, the Zoning Officer reached out to stop the work. Chairman Shivas noted the Zoning Officer reviews the resolution and discusses with the Building Inspector. Once the building is torn down, the property reverts to a vacant lot. Ms. Carkhuff confirmed that's even with the wall being there. Chairman Shivas noted the wall would need to be standing at all times. He remembers the discussion from the previous application where they said they'd need to raise the house, but they didn't say they would tear the house down and rebuild it. Mr. Carkhuff said it was upon discovery that they couldn't get the house up. Mr. Walsh noted there are instances of walls being preserved for instance by temporary two-by-fours, or using a tree. He asked what point makes it a full demolition. Chairman Shivas said the Building Department and State rules noted there needs to be a certain percentage of the house standing. Mr. Cohen believes if the house had a foundation, and they kept the same setbacks, it would not be tearing it down. He submitted **Exhibit A1**, the approval of the demolition from the Construction Office, and **Exhibit A2**, the approval of the footings from the Construction Office. Ms. Hubbard reviewed case law from Cox that speaks to maintaining a wall, which stated that it's a demolition excepting footings and foundations; they didn't have footings or foundation, those were created.

Mr. Cohen said this is the same plan as last time, and Board accepted those proofs last time. Chairman Shivas said this is not the same because it's a new lot. Mr. McElroy said there needs to be testimony based on the fact that this wasn't there. There needs to be proofs to show why the Board should approve them rebuilding that close to the property line. Mr. Cohen asked that the Board accept the proofs submitted before, because they don't have a Planner tonight, and his partner who originally was handling this has a conflict. The Planning testimony and variances would be the same. Chairman Shivas said the variances for the setback are new. Mr. Walsh asked if this being a demo is why they can't consider this an amendment. Ms. Hubbard said these are the same plans, but not relying on pre-existing non-conformities. It's the same house, but if the justification to allow the addition was that the front yard setback was already there, then it's not relevant. Mr. Stoner said the variances the Board gave were for the renovations and the intensification. If the Board knew it was new construction, they may have asked to move the house back. Mr. Morytko reiterated—all the consideration at the last application was based on the fact that there was a house there and they couldn't move it. Their questions and deliberations were part of that understanding. Once that's gone, the proofs are not the same. He would have had different questions. Mr. Stoner said the proofs should be stating why they think this is still a satisfactory plan.

Mayor Rubenstein confirmed they are relying on the front page of the architectural plans for the survey. Mr. Cohen asked Mr. Carkhuff what would happen if they moved the setback to 45 feet. Mr. Carkhuff said this is the only location the septic could be approved; he noted there was a septic in the front. Chairman Shivas noted the front of the house is where the road is, and the back is where the lake is. Mr. Cohen confirmed the deck is proposed to be removed because that's the only location for the new septic. The approved septic in a raised bed system, which is 4 feet from grade. Mr. Cohen confirmed a retaining wall is needed for the septic, along the

lakeside, fire lane, and across the front of the structure. The house had to be raised and put on a slab; they will put foundations under it. Chairman Shivas asked how they get underneath the slab. Mr. Carkhuff said it will be filled with 4 feet of three-quarter crushed stone. The old house was supported by a two-foot pier, which had no footings. He said Mr. Karcher told them this is clean fill that can be backfilled on the filled side. Mr. Cohen confirmed they had to put that on a slab as part of the septic approval. He asked how old the house was. Mr. Carkhuff believes it was from about 1930. His family owned it since the 1960s, and it was originally a summer home. They intend to live there year-round. The house needed work; the roof had leaks through the first floor. Mr. Carkhuff said this goes back to their first meeting; they didn't know until the bidding process that the structure wasn't going to work the way it sat, and that's why they called Mr. Karcher, to see what to do. They didn't do anything against the blueprint. Mr. Cohen asked if the house could support the addition. Mr. Carkhuff said no; he asserted that was also the opinion of the builders and Mr. Karcher. Mr. Cohen went through Ms. Caldwell's previous Planning testimony; he reiterated this is the same proofs as last time. Mr. Carkhuff said the current state of the property is that footings are formed, and the site hasn't been touched in a month. They have to make sure they keep water out of the footings. Mayor Rubenstein confirmed the footings were formed but not poured. Mr. Carkhuff confirmed the new septic is not there. Mr. Stoner noted the septic location was approved at the County. Whatever the Board decides to do, the applicant should get a letter from the County stating they're ok with the system for a new house. He believes they'll consider that an alteration.

Mr. Morytko asked about the setbacks. Mr. Stoner said the table on the front sheet should be updated. He noted Mr. Karcher was probably the one who brought the issue to the Zoning Officer's attention that this is a full demo. The permit doesn't say "new dwelling." Mayor Rubenstein said it reads addition/alteration for major home renovation. He asked how the footings could be approved if they're not there. Mr. Cohen referenced the plan. Mayor Rubenstein said they should be talking about what they want. Mr. Cohen said they want what's been proposed. Mr. Stoner noted Mr. Cohen's reference to Ms. Caldwell's testimony. It included discussing hardships, and he's not sure if all those items are still a constraint. Mr. Cohen pulled from Ms. Caldwell's testimony, that this is similar to other houses in the area. Mr. Walsh asked Mr. Cohen, now that the pre-existing non-conforming hardship isn't there and doesn't support the variance request, what's the hardship that justifies the variance for the front yard setback. Mr. Cohen said the fact that the house had that setback previously. Ms. Hubbard said there's law that says when a lot is demo, you try to bring lots into conformance. Mr. Walsh asked if it's because of the County-approved location for the septic that they don't want to move the house. Mr. Cohen added it's also because of the size and constraints of the lot. Mayor Rubenstein said the house may then be too big for the lot. Mr. McElroy referred to the resolution, noting Board members questioned the design of the home, and considered some variances self-created, and that the house was too big. He noted how much of the design of the home was based on the previously existing portion, and how much of the addition was driven by what was going on with the home. Mr. Stoner noted the constraints, and that it comes down to the size of the house; why is it appropriate, and why can't it be modified? Mayor Rubenstein said it's a quarter-acre lake-front lot, and it's a gigantic house. Mr. Cohen said there was discussion about it, but the Board granted the variances. Mayor Rubenstein said that was based on an existing structure; those conditions don't exist anymore. Mr. Smith said the plan last time was presented as the best design. Now, there is a blank lot—why is this design still the best? Mr. Carkhuff said they stayed true to the original design. The footprint and internal plans stayed the same. They have footings ready. Mr. Cohen asked if they would change the proposal. Mr. Carkhuff said he hasn't thought about that—they're where they're at now with what was proposed. Mr. Cohen confirmed 2800 square feet is how they would design a house to meet their needs. He noted the fire lane and septic are still constraints if they were asking for a different house.

Mr. McElroy noted the loft was marked as a bedroom previously, so they're not the same plans. Mr. Cohen affirmed they will not exceed two bedrooms. The Board reviewed plan copies. Mr. McElroy noted the point is that it's a new house; it needs to be treated like a new application in the sense that they would come in with an architect and proofs. Mr. Stoner noted the plans Mr. McElroy reviewed are not the final plans. Mr. Carkhuff said they made a hang-out area a bedroom and his office would be in the loft. Mr. Cohen noted the setback is consistent with what has been there. Mr. McElroy said the Board now has the opportunity to review this in a way to make the lot conforming. Ms. Hubbard said they may not be able to make the lot conforming, but they can bring it closer to conformance. Mr. Cohen asked how much they would carve off the house to make it livable; Mayor Rubenstein said it's not their application to answer that. Mr. Carkhuff confirmed the septic couldn't be moved forward. Mayor Rubenstein would like to hear testimony from the engineer about the necessity of placing the septic where it's proposed.

Mr. Carkhuff asked what they could have done differently. Mayor Rubenstein said they came to the meeting with an intent for an addition. There is no house now; the Board didn't make that happen. The applicant started the construction process and found out new information. They should have come back after that. Mr. Carkhuff noted

they continued with meetings with the Township. Mayor Rubenstein confirmed this did not include zoning. Now they're being asked to overlook that some of these things happened. Mr. Cohen asked to carry the meeting.

Chairman Shivas opened to the public. Veronica Varisco was sworn in. She asked if the side variance will be the same; it's going from 15' to 8' on her side. Chairman Shivas said they're not proposing changes, but he recommends coming when the professionals are here to ask questions. Mr. Cohen said they're proposing the same side setback. Ms. Varisco said she's to the north.

Mr. McElroy motioned to carry the application to 05/16, seconded by Mayor Rubenstein.

Ayes: Mayor Rubenstein, Messrs. McElroy, Morytko, Smith, Walsh, Chairman Shivas

Abstaining: Ms. Raffay

Absent: Messrs. Serrilli and Proctor

None opposed. Motion carried. Ms. Raffay re-entered the meeting.

DISCUSSION ITEM: Architectural Review Committee

Mayor Rubenstein said they should look into if they need an ARC. In the code book, the ARC is invoked for VC areas. The guidelines for the ARC should be considered for businesses in the VB zone. Chairman Shivas said when they made the town center, the ARC was formed. Anything that deals with commercial properties should be sent to them. They have had some really good input; they recommend a lot of things the Board doesn't heavily consider. Ms. Raffay said some of the bigger applications they've had, when they've gone through the ARC, it was a cleaner version presented to the Board. Mr. Morytko noted a lot of things the ARC looked at would be touched on at the Board, but not in the same level of detail. Sometimes the ARC would review the applications and send comments, and other times there's more of a back and forth of edits. Mr. Walsh added it's a lot of time to get those edits and questions answered, so it streamlines the process. Mr. McElroy is conflicted about the ARC; he worries about it being an overreach, and wonders if other towns do this. Does it make the town more difficult to do business in? He wondered if there could be a subcommittee where this is handled. Ms. Raffay asked about a technical review committee. Chairman Shivas said there are Board members and outside people on the ARC; you want other perspectives. It's beneficial, particularly in the town center. Mr. Morytko said when they have a good stretch of applications, it works well, but if there's nothing coming in, they don't want to make meetings that aren't necessary. Having an ARC is not uncommon in other towns. Mr. McElroy said there was a design guide put together about 20 years ago. He suggested looking at this guide, to fill time for the committee between applications. There's a benefit to having outside expertise. Mayor Rubenstein asked about the process. Mr. McElroy said an application was found complete and then sent to the ARC. If there was an application, they'd advertise to meet. Sometimes the architect would review with them.

BILLS

Harold Pellow (6): \$1,808. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Morytko. All were in favor. Motion carried.

Maraziti and Falcon (11): \$4,742.50. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Morytko. All were in favor. Motion carried.

REPORTS FROM COMMITTEES

Environmental Commission: Mr. McElroy said they have a meeting next week.

Open Space: Mr. Morytko said they discussed goals for the year, and working with the EC on a grant.

Township Council: Mayor Rubenstein said they introduced the tree ordinance. With Mr. Stoner's help, they have a more reasonable ordinance for the town. Mr. Stoner said the previously proposed required replacing trees that were cut down, which is difficult to enforce. Mayor Rubenstein said it's not compatible with the town. Mr. Stoner said they met with DEP representatives, and found there was no requirements to adopt the ordinance as-is. Their ordinance incorporates it into actions like zoning permits and the Planning Board. It clears up the questions about tree removal. He noted the need to restore a property if they receive a denial from the Board. Ms. Raffay confirmed the requirement to replace trees was removed. The DEP instructed them to come up with their own standards.

Zoning Report

OPEN TO THE PUBLIC

Chairman Shivas opened and closed to the public.

ADJOURNMENT

A motion to adjourn the meeting was made at 11:00pm by Mr. McElroy, seconded by Mr. Smith. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips