

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, May 5, 2022, 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. **REORGANIZATION:** Nomination of Attorney

6. **MEETING MINUTES-** April 21, 2022

7. **RESOLUTIONS**

Z05-2022 Edward King, 16 Chestnut Street, Block 26 Lot 370.02, R-4 Zone
Approval for an AC unit and generator in the front yard.

Z06-2022 Scott Pietschker, 28 Meteor Trail, Block 174 Lot 69, R-5 Zone
Approval for a deck replacement with variances in the front and left yards.

Z01-2021 Karen McDonald, 4 Roger Drive, Block 223 Lot 3, R-4 Zone
Approval for a covered front porch with a variance for the front yard setback

8. **NEW BUSINESS**

SP7-2021 Princeton Property Management, 86 Tamarack Road, Block 360 Lot 40, R3 Zone
Conversion of a prior bed and breakfast to dormitory use.
[SP7-2021- 09.10.20 Princeton Property Management](#)

SP8-2021 Goksun Goksu, 12 Ghost Pony Road, Block 361 Lot 2.03, R-3 Zone
Expansion a 4-family dwelling to 6 family
[SP8-2021- 10.22.2021 Goksun Goksu](#)

9. **REPORTS FROM COMMITTEES**

Architectural Review Committee
Building Committee
Environmental Commission
Open Space
Township Council

10. **OPEN TO THE PUBLIC**

11. ADJOURNMENT

Upcoming Meetings—05/19: Kevin Prokup, Jose Quinones

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, APRIL 21, 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 April 7, 2022 Meeting Minutes

Mayor Rubenstein motioned to approve the minutes, seconded by Mr. Chozick:

	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

Z02-2022 Chris Gratto, 55 Lake Drive, Block 249 Lot 42.02, R5 Zone

Approval for setback to the water, and other structures existing and proposed on property

Ms. Raffay motioned to approve the resolution, seconded by Mr. Chozick:

	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.

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.

Ms. Raffay motioned to approve the resolution, seconded by Mr. Chozick:

	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.

SUBCOMMITTEE

SP1-2022 Highland Avenue Properties, 227 Route 206, Block 212 Lot 1, NC Zone

Preliminary and Final Site Plan approval for an irrigation company

Mr. McElroy said they reviewed the additional submissions from the applicant and found it enough to be deemed complete and hear it tonight.

Mr. McElroy motioned to deem this application complete and hear it tonight, seconded by Ms. Shimamoto:

	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.

WOSP2-2022 APEP Inc., 13 Route 206, Block 27 Lot 391.02, VB Zone

Approval for a restaurant, and determination if it needs full Board approval

Mr. McElroy said they're looking to put in a Tex-Mex restaurant with 60 seats, which requires 30 parking spaces. There are other uses in the building, and there are 32 parking spaces in the entire lot, so the Subcommittee determined that the applicant has to come to the Board with a variance application. Chairman Shivas said no vote is needed, the determination gets sent to the applicant.

NEW BUSINESS

Z05-2022 Edward King, 16 Chestnut Street, Block 26 Lot 370.02, R-4 Zone

Approval for an AC unit and generator in the front yard.

Edward King of 16 Chestnut was sworn in. They purchased the home in 2020 and were in front of the Board then for a fence. They are a corner lot, so they have two front yards. Chairman Shivas confirmed the units have been there since the purchase of the home; the permits were not closed out. He's looking to close out permits but can't until this has approval. Mr. Stoner said perhaps no zoning permit was provided previously. Chairman Shivas confirmed the units are newer, in the past couple of years. Ms. Raffay confirmed these items are in place and he doesn't plan to move them. It's still his plan to build the fence, but he had issues with getting the materials. Ms. Shimamoto asked about the extent of the fence; Mr. King said it ties into the corner of the house. Mr. Stoner said there is a fence around the generator so it buffers the sound. There was a brief discussion about accessory structures.

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

Mr. McElroy motioned to approve the application, seconded by Mr. Smith:

	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. Mr. Stoner noted they have to wait for the signed resolution to close out permits.

Z06-2022 Scott Pietschker, 28 Meteor Trail, Block 174 Lot 69, R-5 Zone

Approval for a deck replacement with variances in the front and left yards.

Scott and Susan Pietschker of 28 Meteor Trail were sworn in. Ms. Pietschker said the property is on boulders, so when they bought the home it had a two-tier deck, and they had to take off the deck to finish concrete work, and they want the deck back up. It's 10x22 and within the size of the original, and is a bit smaller. Mr. Pietschker said it's a different elevation because it's just a single tier now. Ms. Hubbard confirmed they need relief for the front and side yard setbacks. Ms. Pietschker said they own the lot next to them, and it's all ledge. Mayor Rubenstein asked why they haven't merged the lots. Mr. Stoner said the survey shows it as one lot. Ms. Shimamoto said the second lot is 73. Mr. Gleitz said if they're undersized they have to be merged. Ms. Hubbard noted the survey is wrong because it shows the wrong lot number. Mr. Stoner confirmed the lots are both undersized. Mr. Gleitz said the lot with the home is around 6600 square feet and the undeveloped lot is 6300 square feet; they're both beneath the requirement, so they have to be merged. Ms. Hubbard said they have to file a merger deed. Ms. Shimamoto said in the front yard, the architect's measurements say 21 feet, and recommends they asked for a little more for leeway. Mayor Rubenstein said they'll amend it to 20

feet. Mr. Stoner said they should merge the lots as a condition of approval. Ms. Hubbard confirmed their hardship is the lack of space, topography, and narrowness of the lot.

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

Mayor Rubenstein motioned to approve the application based on the front yard setback being 20 feet, and the condition of approval being the merging of Block 174 Lots 69 and 73, seconded by Mr. Serrilli:

	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. Ms. Hubbard said they have to do the lot merging before building.

SP1-2022 Highland Avenue Properties, 227 Route 206, Block 212 Lot 1, NC Zone

Preliminary and Final Site Plan approval for an irrigation company

Johnathan Eigner of 7 Morris-Sussex Turnpike, Andover was sworn in as the principal owner and contract purchaser. Jason Dunn of Dykstra Associates, at 11 Lawrence Road in Newton, was sworn in as a professional planner. Mr. Haggerty said the applicant is seeking preliminary and final major site plan approval to operate an irrigation and home improvement contractor business. He noted the Fire Department memo is alright with the dumpster location, which is one of the variances sought. Ms. Hubbard said this is a joint Board, so they should determine the conditions first to see if the Council members can remain. Mr. Eigner said his business services and installs lawn sprinklers, and they want to run their business out of this site, with 7-8 service trucks, 2 install trucks, and mason dumps and trailers. They have a yard or two of gravel and the same for soil; there should be no issue with runoff with the stones, and the soil has a tarp. Mr. Haggerty went through the compliance conditions. Mr. Dunn said for outdoor storage is about 6% of the area and there will be screening; there is sufficient wooded area, and they're adding evergreen trees. Mr. Haggerty confirmed the repairs will take place in the building. Mr. Eigner said they have plow and trenchers, a mini excavator, 4 310 John Deers, and another four backup. They're not selling anything on the site—everything there is for their own use, and there won't be any large stockpiles. People come in around 6:45 and leave for the day; secretaries come in around 8 or 9, and people come back around 5 or 6. Mr. Gleitz confirmed operations are on the customer site. Storage is inside. The trailers are used for equipment—they go out during the day and there's no storage in there. Mr. Gleitz said the site is large and has good screening and thinks the Board could support that they comply. The only issue is that they're relying on the size of the site and natural vegetation to screen outdoor storage rather than a formal fence. Ms. Hubbard said if they think the conditions are met, then it's a site plan with bulk variances. The Board was polled to determine if they think the applicant met the conditions:

	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						√				√	

The applicant can now proceed with their application for preliminary and final site plan approval with bulk variances. Mr. Gleitz said the resolution will reflect that they were deemed as conditional.

Mr. Eigner said they have ten employees that go out every day and two office staff. Their hours are 6:45-6:00pm. There are no customers that come to the site. Operations will be similar to what's being conducted now. Site improvements include painting the building, gutter work, and general cleanup, but the site would be used as-is.

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

Mr. Dunn is licensed and has testified previously, and is considered an expert. Mr. Dunn said there is plenty of parking for equipment, employees, and company trucks. Mr. Dunn submitted **Exhibit A1**, a colorized version of sheet 2 of the existing conditions. He discussed the wetlands and brook, the existing entrance, lawn areas, and buildings. Nothing is going into the wetlands or encroaching into the brook, and there will be no further disturbance. The protruding area on the map is a rock

outcropping, so it can't be developed. The site has been there since the late 80s and predates Highlands, so there was new disturbance. There's an existing wood fence between them and Stonewood Tavern; the survey indicates it's on the restaurant's property.

Mr. Dunn submitted **Exhibit A2**, a colorized sheet 3. No pavement is being expanded, nor the buildings. He confirmed that the soil/stones won't exceed the area shown on the plans. They have to restripe the area for ADA compliance and put up signs, as well as plant evergreens and 3 spruce trees on the left of the driveway to screen from Route 206. There's an existing sign, 3.5 x 16, they want to refurbish, and it will be internally lit. There's an existing sunken loading dock with an overhead door, and an at-grade dock. The proposed dumpsters will be bear-proof; they want them there because it has a concrete pad there already, is screened, and allows for trucks to access it easily. Chairman Shivas confirmed it's 15 feet from the building. The rear yard area is on the west, and there's no pavement and no way to get a truck back there; they don't want to disturb the land because it's close to the swamp and it's in a riparian buffer. There's no negative impact to having the dumpsters where they're proposed. Mr. Gleitz said they should memorialize the existing building in the resolution.

Mr. Dunn said there are existing light poles and one existing building-mounted light. In the back area, where the trucks park overnight, there's no lighting. If they have to refurbish the lights, they don't want to light the back area because the hours of operation are during the day and no customers come on site. Mr. Gleitz asked about winter operations, since sundown is earlier. Mr. Eigner said there's an existing meter that works, but there's no light on top. Mr. Gleitz said they could put in the resolution that they can add a light if desired but it's not required. Mr. Stoner confirmed it's an aerial line.

Chairman Shivas asked if the parking will be delineated. Mr. Eigner said the ones in front will be. Chairman Shivas said for gravel parking people typically put rubber stoppers rather than paint, to keep track of the space requirements. He asked if there would be storage for the dirt and stone to avoid runoff. Mr. Eigner said he uses concrete block, and currently he uses a cover that's over 20 feet high. There was discussion about variances for structure height. Ms. Hubbard said the plans should be updated to show it's not a structure, but rather equipment and material. Mr. McElroy said he likes the proposed better because it helps with the environmental issues. Mr. Gleitz said they should request a variance for 22 feet high; it would be tucked in near parking stall 24 and is around 18 by 16.

Mr. Dunn submitted **exhibit A4** of the wetlands and riparian buffers. The previously discussed for the stockpiles helps solve the issue with the buffers. There is an overlap of the riparian and wetlands area onto the developed area, but they're not proposing to expand anything. Mr. Eigner has no plans for the open stockpile area. Mr. Smith noted the area is close to the front yard.

Ms. Shimamoto asked about the electric vehicle charging stations. They're not changing the site but they can't waive the requirement. Ms. Hubbard said it's triggered by preliminary and final site plan. Mr. McElroy said it's not customer parking, more storage for the use. There was further discussion on what could be done, and space requirements. Ms. Hubbard noted the need for a "make-ready" spot. Mayor Rubenstein said if the meter works, they can have it set up for the potential for charging. Ms. Hubbard said a condition should be they test the meter, and make spot 21 the make-ready spot.

Ms. Shimamoto asked about the interior regarding the loft. Mr. Eigner said there's a concrete pad over the office, and extends about 6 feet, made of wood, to the backside of the property. There's another loft made out of steel on the backside. The metal shelves will be used for storage of sprinkler heads and pallets; the other area won't be able to have much. There is a railing, and no offices. Nothing there is permanent, and he doesn't know if there are permits. Ms. Shimamoto said for the building code, there are requirements for mezzanines. Ms. Shimamoto asked what they do in the winter since the business is for sprinkler systems. Mr. Eigner said they plow residential driveways. They put salt inside on pallets, and the plows stay in the building. In terms of deliveries, at the beginning of the season, they get a tractor trailer of pipe in the loading dock. About 1-3 times a week, they get a rack truck with fittings and plumbing supplies. They'll paint the building something similar to what's there. Ms. Shimamoto asked about signage; **Exhibit A5**, a sign design, was submitted.

Mr. Stoner asked about repaving. Mr. Eigner doesn't want to pave the gravel area. Mr. Stoner said the paved areas should be delineated and the non-paved areas need a design waiver. He noted with the dumpsters, that's technically the front of the building. He noted the trailer on the concrete pad; Mr. Eigner said he'll remove the trailer.

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

Mr. Gleitz noted the variances include preliminary and final site plan approval, compliant and conditional use, the trash collection area, height of the accessory structure, waiver for the gravel parking area, and waiver for insufficient light. Mr. Eigner said two years for repaving should be okay. Ms. Shimamoto confirmed the rubber stops aren't needed because the storage will help delineate this. Ms. Hubbard listed the conditions as the stockpile can't go over 20 feet, a waiver for

lighting, the utility pole, light installation if desired, striped parking in front, to change notes to reflect the conditions of the conditional use approval, the accessory structure height, have a make-ready spot or make one designated on the site, remove the paved area, repave within two years, a design waiver for paving, removing the trailer off the concrete pad, a conforming sign or to come back to the Board, and site improvements before paving.

Mr. Chozick motioned to approve the application, seconded by Mr. McElroy:

	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	√	√	√	√	√		√	√	√		v
Nay											
Abstain											
Absent						√				√	

Motion carried.

EXTENSION OF APPROVAL

Z01-2021 Karen McDonald, 4 Roger Drive, Block 223 Lot 3, R-4 Zone

Approval for a covered front porch with a variance for the front yard setback

Mr. Chozick motioned to grant a one-year extension, seconded by Ms. Shimamoto. 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.

REVIEW ITEM- Cottage Food Ordinance

Mayor Rubenstein said the Council reviewed this ordinance. Ms. Hubbard said it’s for home bakers; during COVID they petitioned state legislature to allow home baking because prior to that you needed a commercial kitchen. The state law was changed to add health code regulations for home bakers, including labeling for allergens. Regulations are up to the health departments; they’re allowing home occupation.

Mr. Chozick motioned to find this not inconsistent with the Master Plan, seconded by Ms. Raffay:

	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 it.

Building Committee: Mayor Rubenstein said May 6th is when the final draft of the building plans will be dropped off, and if all is good, May 24th there will be a joint Council subcommittee meeting to review the plans with the architect and estimator.

Environmental Commission: Ms. Shimamoto said this Saturday between 9-12, they will be at the baseball opening day giving out free tree seedlings. Last year they had 500 seedlings.

Open Space: Mayor Rubenstein said they discussed the dog park, priorities of CO Johnson Park, and Riverside Park playground improvements with ADA compliance.

Township Council: Ms. Franco said they approved some ordinances and the capital expenditure for Riverside Park passed, along with new equipment for the DPW including a truck, and \$600,000 in road improvements. Ms. Shimamoto said the Mansfield Trail Community Advisory Group met last week about the superfund site. In two years they expect the houses with contaminated water to have clean

water. Mayor Rubenstein said the EPA signed an agreement with Suez that there will be a waterline installed with substantial upgrades and a pump house, with the waterline going from Brookwood Drive to Brookwood Road. An easement will be needed to loop the line.

Zoning Report: Everyone had a copy.

OPEN TO THE PUBLIC

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

BILLS

Law Offices of Larry Weiner (13): \$5,550.00

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

ADJOURNMENT

Ms. Hubbard said that she will soon be working with Maraziti and Falcon. It won't change her position here.

A motion to adjourn the meeting was made at 9:45 by Mr. McElroy. The motion was seconded by Ms. Shimamoto. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Christopher Gratto
Case No. Z02-2022

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Side Yard Setback of Principal Structure**
 Setback to a waterway
 Accessory Structure in the front yard
 Height of fence in front yard
 Side yard setback of accessory structures

WHEREAS, Christopher Gratto has applied to the Planning Board, Township of Byram for permission to construct a new deck, and various accessory structures for premises located at 55 Lake Drive and known as Block 249, Lot 42.02 on the Tax Map of the Township of Byram which premises are in a “R-5” Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. The Applicant is the owner of the subject property, which contains a single-family home with related improvements, including a deck, shed and other

accessory structures. Applicant is proposing to replace the existing deck, construct storage sheds, and seek approval for an existing shed and fence in the front yard.

2. The Applicant received a letter from Nick Cutrone, Zoning Officer, dated February 17, 2022, which noted the following non-conforming conditions:

Item#1: Deck

Principal structures require the following minimum setbacks in an R-5 Zone:

3. 35' from the front property, deck is in rear of home (not applicable)
4. 15' from the side property line (left), whereas 12' is proposed (requires variance)
5. 50' from the lake whereas approximately 29' is proposed (requires variance)

§ 240-55C (3&4) c-variances are required for side yard and lake front setbacks

Item #10 Shed (front yard)

There is a pre-existing shed located in the front yard. § 240-16B 2 states that no accessory building or structure shall be located in the front yard. Applicant is seeking relief to keep shed in current location.

Item #9 Fence

There is a pre-existing 5' fence that includes an area in the front yard. § 240-24 states that fence height should be up to 4' in a front yard and up to 6' inside or rear yards. Applicant would be seeking relief to keep fence in place.

Items #5 & 6 (toy shed and garden boxes)

Side yard setback requirement in code is 10'. Both structures proposed would require a side yard variance and must also be at least 10' from principal structure.

Item #4 Sandbox (5'X5')

Proposed distance is 8' from side yard setback. Ordinance requires 10' from side lot line. Variance needed

Item #3 Garden boxes near lake

Applicant is proposing to place this garden box adjacent to water's edge.

Item #2 Dock Landing

There are no records of any approval for this dock landing.

3. The Applicant submitted the following documents:

- a. Boundary and Topographic Survey, prepared by DPK Consulting, dated December 17, 2021.
- b. Photographs of the various improvements on the property and proposed structures, consisting of thirteen (13) sheets.
- c. Supplemental Information regarding location of each improvement, consisting of twenty (20) sheets.

4. A duly noticed public hearing was held on March 17, 2022, at which time Christopher Gratto presented sworn testimony in support of the application. The Board reviewed the Letter of Denial from the Zoning Officer and determined that relief was not required for the following:

- a. Dock Landing is a paver patio, not a structure
- b. Relief for the Lake Buffer is not required, and planters are not permanent structures
- c. Sandbox is not a permanent structure
- d. Gardening Shed is not a permanent structure
- e. Dog Fence does not require a variance
- f. Playground is not a structure

5. The Applicant testified that the current deck was not constructed pursuant to the applicable building code and was dangerous. The proposal includes replacing the current deck to create a safe, outdoor area for passive recreation, which requires relief for the setback to the lake. There is an existing shed in the front yard, which requires variance relief for an accessory structure in the front yard. The proposal also includes the construction of three (3) accessory structures in the side yard; one to enclose the oil tank to protect it from inclement weather, one to store gardening tools and one to store toys. The shed required relief for side yard setback, where 10 feet is required. Finally, there is an 8-foot-high fence in the front yard, where only 4 foot high fences are permitted in the front yard.
6. The sheds in the side yard will be enclosed by a fence, which will have a gate to allow for access to the oil tank.
7. There was no one from the public in attendance at the hearing.

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 240-55C(3) – The side yard setback shall be 15 feet, 12 feet is approved to the proposed deck

- b. Section 240-55C(9) – The setback to the lake shall be 50 feet, 29’ feet is approved
 - c. Section 240-16B-2 – No accessory structure shall be located in the front yard, the existing shed in the front yard is approved
 - d. Section 240-16C-2 – Accessory structures shall meet the side yard setbacks, 10 feet is required and 2 feet is approved for the oil tank enclosure
 - e. Section 240-16C-2 – Accessory structures shall meet the side yard setbacks, 10 feet is required and 4 feet is approved for the toy shed
 - f. Section 240-16C-2 – Accessory structures shall meet the side yard setbacks, 10 feet is required and 4 feet is approved for the gardening shed
 - g. Section 240-24A – The height of a fence in the front yard shall be limited to 4 feet in height, the existing fence in the front yard is approved at 8 feet in height
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. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.

3. Accordingly, the subject property is a fully developed lot, with existing conditions that prohibit the Applicant from complying with the required setbacks. The proposed rear deck will provide a safer condition on the property and the sheds within the side yard will protect the oil tank and create a means for the Applicant to maintain the property.
4. The benefits of permitting the application outweigh the detriments that may result from denying the requested relief. It was determined that there would be little impact to the surrounding area and the proposal is a better option for the subject property. Accordingly, the 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 21st day of April 2022 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. The Applicant shall submit an As-Built Survey to confirm the location and setbacks of the various structures.
3. The Applicant shall construct and install the proposed improvements consistent with the plans submitted to the Board and the representations made at the public hearing.
4. Deck shall remain open and uncovered.



George Shivas

On motion of: Ms. Raffay

Seconded by: Mr. Chozick

The vote on the Resolution was as follows:

AYES: Eight (8): Mayor Rubenstein, Ms. Franco, Ms. Shimamoto, Ms. Raffay, Mr. Chozick, Mr. Serrilli, Mr. Smith, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Mr. McElroy

ABSENT: Two (2): Mr. Morytko, Mr. Walsh

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on April 21st, 2022 and is in effect for one year.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 04/21/2022

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Eric Schuffenhauer
Case No. Z 02-2021

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

WHEREAS, Eric Schuffenhauer has applied to the Planning Board, Township of Byram for permissions to construct several additions requiring variance relief for premises located at 271 Lackawanna Drive and known as Block 344, Lot 2.03 on the Tax Map of the Township of Byram which premises are in a “R-2” Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. The Applicant is proposing a number of improvements on the site:
 - a. The construction of a 1,200 square foot pole barn in the rear of the property along with realignment of the access road to this location.
 - b. The construction of a porch along the entire front of the dwelling.

- c. The construction of a 384 square foot deck on the western side of the dwelling.
 - d. The construction of a 1,365 square foot garage that will be attached to the east side of the dwelling.
2. The Applicant submitted the following documents:
- a. Plan entitled “Survey & Partial Topography” prepared by Minisink Surveying, consisting of one (1) sheet dated June 27, 2020.
 - b. A hand mark-up of the above-mentioned plan showing proposed improvements.
 - c. Plan entitled “Septic System As-Built” prepared by Lyon engineering, consisting of one (1) sheet and dated April 15, 2018.
 - d. Plan entitled “Grading Plan” prepared by Lyon Engineering, consisting of one (1) sheet and dated June 30, 2020.
 - e. A hand mark-up of the above-mentioned plan showing existing conditions as of December 8, 2020.
 - f. An elevation view and plan of the proposed barn.
 - g. An elevation view of the proposed front porch.
 - h. A plan and elevation view of the proposed attached garage.
 - i. An elevation view of the proposed deck.
 - j. Photographs and other supporting documentation.
3. The Board received the following memorandums:
- a. Cory L. Stoner, Planning Board Engineer, dated April 28, 2021, June 25, 2021, September 7, 2021, and February 17, 2022

b. Environmental Commission dated March 31, 2021

4. The Applicant appeared at public hearings on May 6, 2021, October 21, 2021, and February 17, 2022. During the course of the application, the plans were revised on multiple occasions, by the Applicant, with hand drawn renderings and notes. The Applicant eliminated proposed structures and revised the design while the application was pending, without submitting an amended application.
5. At the public hearing on February 17, 2022, the Board requested that the Applicant provide additional information for review, including, but not limited to the calculations for building height of the proposed garage, design of the retaining wall and a timeline for construction. Additionally, the Applicant was advised that notice was required for the height of the garage, if needed, and the slope of the driveway, that was in excess of the permitted 15%. The Applicant failed to submit the requested information or notice the April 7, 2022 public hearing.
6. On April 7, 2022, the Board heard from the Applicant regarding proposed changes that would eliminate the need for additional notice. Additionally, the Board was advised that the plans were further revised, and the Applicant submitted an application for a zoning permit that was inconsistent with the pending application.
7. After an in-depth conversation, a motion was made to dismiss the application, without prejudice, to allow the Applicant to seek a zoning permit, if possible,

for sheds in the rear of the property and submit a new application, with the appropriate supporting plans, for the necessary relief.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 21st day of April 2022 that the approval of the within application be *dismissed, without prejudice*; no findings are made as to the merits of the within application.



George Shivas

On motion of: Ms. Raffay

Seconded by: Mr. Chozick

The vote on the Resolution was as follows:

AYES: Seven (7): Ms. Franco, Ms. Shimamoto, Ms. Raffay, Mr. Chozick, Mr. Serrilli, Mr. Smith, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mayor Rubenstein, Mr. McElroy

ABSENT: Two (2): Mr. Morytko, Mr. Walsh

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on April 21st, 2022 and is in effect for one year.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 04/21/2022

Prepared by: Alyse Landano Hubbard, Esq.