

**NOVEMBER 19, 2020
MEETING MINUTES
BYRAM TOWNSHIP
PLANNING BOARD MEETING**

CALL TO ORDER

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

ROLL CALL

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

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

STATEMENT BY THE SECRETARY - both the Federal and State governments have declared a state of emergency in response to the outbreak of the Covid-19 Virus that prohibits all gatherings of more than twenty-five people and requires social distancing. To continue Planning Board business, the regularly scheduled meeting for November 19, 2020 is being held by remote video or audio connection only. This service allows the Board, it's professionals, applicants, and members of the public to participate. Access information was posted on the Township's Website under Planning and Zoning, Meeting Agendas. 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 has also been electronically sent to the newspapers and uploaded to Byram's website, at not less than 48 hours in advance of the meeting. In addition, a copy of this notice is on file in the office of the Planning Board Secretary.

FLAG SALUTE led by Chairman Shivas

MEETING MINUTES

A motion to approve the minutes for October 29, 2020 was made by Mr. Olson. The motion was seconded by Kaufhold. The following vote was taken:

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

Motion carried.

A motion to approve the November 05, 2020 minutes was made by Mr. Olson. The motion was seconded by Mr. Kaufhold. The following vote was taken:

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

Motion carried.

COMPLETENESS REVIEW

SP5-2020, Mountainside Country Store and Garden Center, 198 Route 206, Block 226 Lot 3, N-C Zone

Conversion of a restaurant to a retail store and garden center and associated site improvements.

Mr. Walsh said they reviewed the material submitted and Mr. Stoner’s report and the application lacked fire protection details and stormwater/drainage calculations. Mr. Walsh said other items the Board would like to see, which are not checklist items but will be discussed during the public hearing include details on grading information for the boulder walls, fence details, a signage plan, site circulation details, including truck turning movements, the location and details on the trash enclosure and details on the storage bins shown on the site plan.

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

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

Motion carried.

RESOLUTIONS

SP6-2020, Cranberry Lake Fire Department, 225 Route 206, Block 212 Lot 7, N-C Zone

To add an LED freestanding sign

A motion to approve the resolution as written was made by Mr. Kaufhold. The motion was seconded by Mr. Morytko. The following vote was taken:

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

Motion carried.

SP4-2020, On Time Sign and Design, 10 Route 206, Block 42 Lot 112, V-B Zone

Preliminary and Final Plan for the rehabilitation of an existing building commercial building which includes three separate tenants, signage, parking improvements, and façade changes.

Mr. Olson said on Page 6, Number 14 language should include “The entire portion of the 300 ft. buffer that was previously removed, must be re-vegetated”.

Chairman Shivas would like to add a condition that the applicant can continue to operate the sign business however no additional tenants can occupy the building until additional sewer gallonage is obtained.

A motion to approve the resolution was made by Mr. Olson. The motion was seconded by Mr. Morytko. Mr. Olson accepts the Chairman's' amendment to the resolution, as does Mr. Morytko. The following vote was taken:

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

Motion carried.

NEW 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. John Petersen, owner and applicant, and Mr. Justin Hellhake, Contractor with PosiGen Co. were sworn in. Mr. Petersen said with the rising cost of electricity and to offset those costs he would like to install Solar power. After an assessment of his home it was determined his roof does not provide adequate space for the panels that is required to sufficiently provide enough power for his home needs, so the solar panels must be mounted on the ground.

The plan submitted indicates that a small portion of the structure would be located within a township easement, which is prohibited. This prompted a lengthy Board discussion. The Board also has concerns about the removal of trees and the visual impact this would have on neighboring properties and views from Stanhope Road. The Board reviewed Exhibit B1 – Highlands Council Map which is an aerial view of the location of the easement and trees on the property. Mr. Petersen asked about permission to construct on a portion of the easement and Mayor Rubenstein said that is under the preview of the Township Council, not this Board.

There was also discussion about the slope of the property and because of the slope at one point the structure will be 17.5 ft. in height, which exceeds the height permitted, possibly making the structure appear even larger. The Board had concerns because this structure is so large, and tall it will be visible from Stanhope Road and with the removal of trees it would accentuate the structure. Exhibit B2, was submitted, "Google Street View of the property", and Exhibit B3, Google Earth View of the property, which shows the vegetation and trees that exist on the property today, and the location of the proposed structure in relation to Stanhope Road. Most Board members believed the structure would be unsightly and a buffer of trees and vegetation would have to be planted which may impact the efficiency of the system. Mr. Petersen said he planned on planting bushes to conceal the structure.

There was a lengthy discussion about moving the structure out of the easement, the removal of trees and the visual impact this will have on the landscape. It was the determination of the Board that the applicant revise the plan to move the structure entirely out of the easement, provide a profile of the solar array panels, and details on the location and number of the trees to be removed, demonstrating that no trees or vegetation removal occurs within the easement.

Chairman Shivas opened to the public.

John Ortiz, 522 Stanhope Road was sworn in and said he objects to this application saying the structure is large and does not belong in a residential neighborhood and even with a buffer it will be hard to conceal. He agreed with the Board that the easement should remain intact and he feels this proposal will impact his property value. He also has concerns that this could be a health risk.

Cecelia Ortiz, 522 Stanhope Road was sworn in and said she shares the same opinion of her husband and that her home value will be impacted negatively. She also said the easement must remain accessible; she said the neighbors blocked the easement access with a fence. Chairman Shivas told her that those issues need to be brought to the attention of the Mayor and Council, since it is a Township Easement.

Katie Parrish, 5 Ross Road was sworn in and said she supports this application and the replanting of vegetation. She said if the panels are not maintained or leak, that could present a health risk but EMF (electromagnetic fields) are not dangerous.

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

A motion to carry this meeting to December 03, 2020 was made by Mayor Rubenstein. It was noted that revised plans, the solar profile and the planting details must be provided at least ten days prior to Dec. 3rd meeting date. The motion was seconded by Mr. Olson. The following vote was taken:

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

Motion carried.

OLD BUSINESS

SP2-2020, Byram Route 206 Developers, LLC., 75-77 Route 206, Block 34 Lots 14 & 15, V-B Zone (carried from October 29, 2020)

To construct a 5,585 sq. ft. food market with fueling stations, and associated site improvements; parking, lighting, landscaping and utilities.

The record should reflect that Mayor Rubenstein, Mr. Gallagher, Ms. Raffay and Ms. Shimamoto stepped down for this application.

Mr. Michael Selvaggi, Esq., representing the applicant introduced Mr. Matt Sharo, P.E. who is still under oath. Mr. Sharo said based on comments from the Board, professionals, and the public changes were made to the plan to include:

- Two charging stations were added to the west of the air stalls.
- They reduced the sign size over the rear door and removed the spanner sign on the canopy but would like to keep the proposed 20 ft. freestanding sign.
- Infrastructure for solar panels will be added to the plan, conduit will be installed for future use.

There was further discussion about the size of the freestanding sign, and it was the consensus of the Board that the sign is too high. Mr. Sharo compared the Quick Chek sign to the proposed Wawa sign and Mr. Walsh said each site is unique and he didn't agree with comparing signs to justify the variance. Mr. Selvaggi said it is just to illustrate to the Board the differences of conditions that occur.

Mr. Olson asked if they considered a sidewalk on the southbound exit. Mr. Sharo said they agreed with that recommendation, however because of the grade of the site, it will be located on the north side of that exit.

Chairman Shivas asked if any progress was made with the owners of Block 34 Lot 14, CVS lot, saying if they could reach an agreement maybe the sign could be located there, which would be closer to the roadway. Mr. Selvaggi said he will check into that but so far, no progress has been made with the adjacent property owner. Mr. Gleitz said the reduction in signs will reduce the number of variances required and asked if the goose above the rear door will be enlarged. Mr. Sharo said yes but did not know the dimensions at this time, however he will provide them at the next meeting.

Chairman Shivas opened to the public.

James Braun, 51 Lackawanna Drive was sworn in agreed with the Chairman that since this site is in the heart of Byram the property needs to be maintained. Mr. Selvaggi said the applicant will maintain the entire Wawa property and it is advantageous for Wawa, and Wawa has agreed to maintain this section and they

agree that language stating this can be included as a condition within the resolution if this application is approved. Mr. Stoner said when the access easement is updated, that language should be included. No one else from the public came forward. Chairman Shivas closed to the public.

Mr. Michael Redel, Real Estate Project Engineer for Wawa was sworn in. Mr. Redel said he is familiar with the site and said Wawa specializes in fuel and convenience, so they hire a third-party contractor to install charging stations and are in the stage of trying to find a vendor to install the stations. Mr. Redel said regarding solar, it will most likely take two years for the store to open and as with the charging stations Wawa uses a third-party contractor for the installation of solar. He said today, many locations have solar energy, and this site is ideal for solar, but said not knowing the economic conditions in two years, he cannot commit to solar tonight. Mr. Selvaggi said Wawa will commit that the canopy constructed will support solar and they will run the conduit. Mr. Redel said they also need to confirm that the utility grid can handle it.

Mr. Redel spoke about the sign and the safety reasons for the sign saying that this sign is standard for Wawa stores and reiterated the obstacles associated with the adjacent properties and sign visibility traveling south. He said they did a study with twelve different signs and a 12 ft. sign would not be adequate for this site. Mr. Redel agreed that a joint sign with CVS would be ideal and they are hoping to work with the owner of the property. Joseph Mizrahi, Developer said they have reached out to the owner however he would want the sign to be the same height or even higher than proposed. Chairman Shivas said while speaking with the owner include in the discussion the portion of land owned by the CVS property owner to the south of the drive. Mr. Mizrahi said they have asked the owner if they can purchase that portion, but the owner wants an exorbitant amount of money.

Mr. Morytko asked why the need for diesel on every pump. Mr. Redel said it is standard with Wawa sites and learned from previous experience that offering diesel on every pump is less confusing to customers, is more convenient, and adds flexibility to the site.

Mr. Morytko asked about the sign in Hackettstown as an alternative, or reducing the height, not necessarily to 12 ft. but something the Board can be happy with. He said he would have liked to see the alternatives they did the study on. Mr. Redel said he thought the Board wanted a lower sign and did not know the Board would consider other variations. Mr. Redel said Wawa will look at alternatives for when they return.

Mr. Gleitz asked Mr. Redel to prove to the Board, since this use is prohibited, why this is a great site and a need for Byram with four other gas stations in the general area. Mr. Redel said Wawa is looking to increase its footprint in Northern New Jersey and they want to be in Byram. The site is at a signalized intersection and the traffic and demographics support the need. He said Wawa is unique with the quality of food they offer, and gas pricing, saying competition is good for customers. He said in most situations other gas stations will follow in pricing and competition benefits the community.

Mr. Olson said solar energy will offset electric costs for the store since it is heated by electric. Mr. Redel agreed but said if a third-party solar installer is interested to install solar, Wawa will install it. The Board had no more questions at this time. Chairman Shivas opened to the public.

Katie Parrish, 5 Ross Road, still under oath asked if he took into consideration how pollutants caused from fossil fuel benefit the community. Mr. Selvaggi objected to that question since Mr. Redel is not an expert in fossil fuel. Ms. Parrish asked if Wawa would consider a store and eliminating the fuel. Mr. Selvaggi said no. Ms. Parrish said if other businesses close because of competition how is that beneficial to the community. Mr. Redel said most business that fail is because of poor business practice, however other businesses compete with our prices and remain.

Donna Griff, 71 Brookwood Road, still under oath agrees with Ms. Parrish opinions and asked if Wawa would consider a store without fuel. Mr. Redel said in 1996 Wawa started selling fuel it was to compete with trends in the industry and only in unique situations like urban areas, a college campus, is fuel not offered. Ms. Griff said Byram is known for the lakes and streams and the proposed use is not good for the

environment and will be closely related to a C1 stream and has concerns about pollutants. She would like a Wawa store, but without fuel.

No one else from the public came forward.

Chairman Shivas noted it was time to close the meeting.

A motion to carry the meeting without further notice to January 21, 2021 was made by Mr. Walsh. The motion was seconded by Mr. Morytko. The following vote was taken:

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

Motion carried.

EXTENSIONS OF APPROVAL

SP3-2018, Weber Brothers Properties, LLC, 35 Route 206, Block 36 Lot 39, V-B Zone

Request for a one-year extension of approval for a previously approved site plan, approved December 20, 2018.

Chairman Shivas asked the reason for the extension. The Board secretary said they are in the process of obtaining extra sewer gallons needed for the 3rd floor apartment.

A motion to grant the extension for one year was made by Mr. Olson. The motion was seconded by Mr. Walsh. The following vote was taken:

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

Motion carried.

SP2-2019, Anty Trucking Inc., 9 Lackawanna Drive, Block 226 Lot 16, IRP Zone

A request for a one-year extension of approval for a previously approved site plan, approved May 2, 2019.

Mr. Morytko asked if they have made progress on the site. Chairman Shivas said there are violations occurring on the site and with financial issues and COVID Mr. Antonucci completion of the site is slow. Mr. Stoner said Phase 1 outlined in the approved resolution is complete. Phase 2 is mostly compliant, however Area 3 which is to remain clean, until the buildings are constructed, have equipment and vehicles located in that area and that is what the violation notice was related to. Mr. Olson asked if they still plan on constructing the buildings. Mr. Stoner was not sure, that seems to be in question, but he will check into it. Mr. Olson believes extending the approval to June 30, 2021 would not allow enough time to complete the remaining items approved on the plan. Chairman Shivas agreed, as did other Board members. It was the consensus of the Board to extend the approval to November 19, 2021,

A motion to grant the extension of approval to November 19, 2021 was made by Mr. Walsh. The motion was seconded by Mr. Olson. The following vote was taken:

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

Motion carried.

SITE PLAN WAIVER

WOSP8-2020, Steffens & Steffens LLC, 276 Route 206, Block 225 Lot 15.01, N-C Zone
To paint the exterior of an existing commercial building. Approved by the Zoning Officer.
The Board has no questions.

REPORTS FROM COMMITTEES

Architectural Review Committee – No meeting occurred.
Board of Health – Mr. Olson reported that the meeting is next week.
Building Committee -No meeting was held.
Environmental Commission – No representative was available for a report.
Open Space – Mr. Morytko said the meeting is next month.
Township Council – Mayor Rubenstein a repeal of the chicken ordinance is on the December 1st. Council Agenda as a result of a Petition for a Repeal.
Zoning Report – October 2020 – The Board had no comments.

BOARD DISCUSSION

Mayor Rubenstein there is a push to go digital and asked the Board how they felt about receiving applications digitally verses a paper copy.
Mr. Olson said for commercial properties he prefers large paper plans but supporting documents or applications for residential applications, a digital format is fine.
Chairman Shivas agrees with Scott, as did Ken, and Mike. Mr. Stoner prefers both as does Mr. Gleitz.

BILLS

Harold Pellow & Associates, Inc. (9 bills) \$4,218.90
A motion to approve Mr. Stoner's bills was made by Mr. Walsh. The motion was seconded by Mr. Olson.
All were in favor. Motion carried.

Larry Wiener (1 bill) \$495.00

A motion to approve Ms. Hubbard's bills was made by Mr. Olson. The motion was seconded by Mr. Kaufhold. All were in favor. Motion carried.

L & G Planning (7 bills) \$5,040.00

A motion to approve Mr. Gleitz's bills was made by Mr. Walsh. The motion was seconded by Mr. Kaufhold. All were in favor. Motion carried.

OPEN TO THE PUBLIC

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

ADJOURNMENT

At 10:45 pm. a motion to adjourn the meeting was made by Mr. Walsh. The motion was seconded by Mr. Olson. All were in favor. Meeting was adjourned.

Respectfully submitted,
Cheryl White