

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, November 16 2023, 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-** November 2, 2023
6. **RESOLUTIONS**
Z20-2023 Sal and Catherine Volonnino, 65 Lake Drive, Block 249 Lot 53, R-5 Zone
Approval for garage in the front yard
7. **SUBCOMMITTEE**
SP7-2023 Panther Lake RV, LLC, 6 Panther Lake Campground, Block 360 Lots 23, 24, 31, 31.10, and 31.11, CR Zone
Approval for changes to pool and patio area, including bathrooms, a pavilion, cabana facilities, expansion of patio, and enhancements to lighting and landscaping
8. **NEW BUSINESS**
Z22-2023 John Brennan, 135 Lake Drive, Block 250 lot 120, R-5 Zone
Approval for addition to single-family home, and memorialization of existing shed and fence
9. **BILLS**
Harold Pellow and Associates (9): \$1,177.00
10. **REPORTS FROM COMMITTEES**
Architectural Review Committee
Building Committee
Environmental Commission
Open Space
Township Council
11. **OPEN TO THE PUBLIC**
12. **ADJOURNMENT**

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

MEETING MINTUES OF THE BYRAM TOWNSHIP PLANNING BOARD: November 2, 2023

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

ROLL CALL:

Members Present: Mayor Alex Rubenstein, Mr. McElroy, Mr. Morytko, Mr. Serrilli, Mr. Proctor, Mr. Walsh,
Chairman Shivas

Members Absent: Ms. Franco, Ms. Raffay, Mr. Smith

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: September 21 2023. Mayor Rubenstein motioned to approve the minutes, seconded by Chairman Shivas.

Ayes: Mayor Rubenstein, Chairman Shivas

Abstaining: Mr. McElroy, Mr. Morytko, Mr. Serrilli, Mr. Walsh

Absent: Ms. Franco, Ms. Raffay, Mr. Smith, Mr. Proctor

None opposed. Motion carried.

RESOLUTUIONS

Z05-2021 Alissa Macmillan, 6 Fox Trail, Block 116 Lot 19, R-5 Zone

Amendment to resolution for enclosure of porch

Ms. Hubbard said the language in the original resolution didn't allow them to enclose the porch; there is no expansion. Mr. Proctor entered the meeting at this time. Mayor Rubenstein motioned to approve the resolution, seconded by Mr. Morytko.

Ayes: Mayor Rubenstein, Mr. McElroy, Mr. Morytko, Mr. Serrilli, Mr. Walsh, Chairman Shivas

Abstaining: Mr. Proctor

Absent: Ms. Franco, Ms. Raffay, Mr. Smith

None opposed. Motion carried.

NEW BUSINESS

Z20-2023 Sal and Catherine Volonnino, 65 Lake Drive, Block 249 Lot 53, R-5 Zone

Approval for garage in the front yard

Severino Volonnino was sworn in. They moved in about four years ago, and would like to put up a one-car garage. They also have a fence and a propane line existing, as well as a shed. The Board noted they need a permit for the fence. Mr. Stoner noted the image of the garage is a rendering. Ms. Hubbard said the only relief needed is being in the front yard. Mr. Stoner asked about the driveway; Mr. Volonnino said it's paved. Between the driveway and the garage will be stone. Mayor Rubenstein noted they should comment on the two driveways. Mr. Stoner said the driveway is existing; Mr. Volonnino said it was just re-surfaced, but it's always been in use. The fence is 4 feet and will be on the right side and in front, and is even with the house in the front. They are not taking any trees down. Mayor Rubenstein noted they should memorialize the shed. Mr. McElroy said the Environmental Commission had comments about the coverage and landscaping, and how water is diverted. Mr. Volonnino said there will be a gravel pad that will catch the water and drain off. There's a pitch to the back of the house. Chairman Shivas noted the lakefront buffer; Mr. Volonnino said they have a bulkhead. Chairman Shivas said it's not a requirement, but it would be nice if they could plant some native species since they're close to water. Mr. Volonnino said they plan to plant around the fence and garage. The Board noted they'll need a zoning permit and should talk to the Construction Department to see if any permits are needed from them.

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

Mayor Rubenstein motioned to approve the application, seconded by Mr. Walsh:

Ayes: Mayor Rubenstein, Mr. McElroy, Mr. Morytko, Mr. Serrilli, Mr. Proctor, Mr. Walsh, Chairman Shivas

Absent: Ms. Franco, Ms. Raffay, Mr. Smith

None opposed. Motion carried. Ms. Hubbard explained the appeal period.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said there's been no meeting.

Building Committee: Mr. Morytko said there's been no meeting.

Environmental Commission: Mr. McElroy said they cleaned up a trail in Cranberry Ledge, and had about 20 people. They're researching to name some of the trails to help with marketing, and are planning a hike at Cranberry Overlook in January. They're looking at conservation easements to better understand where they are and how to enforce them.

Open Space: Mr. Morytko said they didn't have a quorum so there was no meeting.

Township Council: Mayor Rubenstein said they authorized engineering work for Field 8 at C.O Johnson, for irrigation, play surface, lighting, bleachers, and a press box. They're aiming to have the engineering done in spring, and are using ARP funds. They bought a calcium container—to keep materials contained and away from environmentally sensitive areas. Mayor Rubenstein noted Chief Burke is retiring next year. He reminded everyone to vote.

Zoning Report: Everyone had a copy.

BILLS

Harold Pellow and Associates (14): \$3,982.25. A motion to approve the bills was made by Mayor Rubenstein, seconded by Mr. Morytko. All were in favor. Motion carried.

Maraziti and Falcon (11): \$3,290.00. A motion to approve the bills was made by Mr. Walsh, seconded by Mr. Serrilli. All were in favor. Motion carried.

OPEN TO THE PUBLIC

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

Mr. Stoner said there are two ordinances that may be brought to the Council and then to the Board for consistency review. One item was about salt containment, and the other is for a tree ordinance through the state. Towns would need to monitor how many trees are cut down and limit removal. This is for living trees. Mr. Stoner noted the state has other Tier A requirements for the town; he is working on grant applications for the Highlands. He noted there are gas companies going around town; they're getting ready to move over to East Brookwood. Elizabethtown Gas is working in the north and will bring it through Tamarack over to Forest Lakes.

Mr. Stoner also noted the construction around town. Wawa has started their drainage and are aiming to have the pad site ready by the end of the month. Skylands is close to getting their C.O. Raimo is working on Netcong Avenue. Jefferson Lake started on some items including the dance studio and demolition. Tamarack Villa is being used; they have a TCO. Rudy and Vania are through to the Construction Office and moving forward.

Mayor Rubenstein said there are open seats on the Planning Board, Open Space, Recreation, Trails, and the Environmental Commission. Anyone interested can be referred to Mayor Rubenstein.

ADJOURNMENT

A motion to adjourn the meeting was made at 8:03pm by Mr. McElroy, seconded by Mr. Morytko. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Alissa C. Macmillan and Scott M. Macmillan, Jr.
Case No. Z 05-2021

BYRAM TOWNSHIP

PLANNING BOARD

AMENDED

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Front yard setback for an accessory structure**
 Side yard setback for an accessory structure
 Separation between principal and accessory
 structure
 Accessory structure located within front yard
 Width of driveway
 Footprint of accessory structures

WHEREAS, Alissa C. Macmillan & Scott M. Macmillan, Jr. have applied to the Planning Board, Township of Byram for permission to construct a front porch and *ex post facto* approval of existing improvements for premises located at 6 Fox Trail and known as Block 116, Lot 19 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

{363610.DOC.1}1

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

1. The Applicants are the owners and occupants of the subject premises.
2. The Applicants received a Notice of Violation from Thomas Dixon, Township Zoning Officer, dated November 19, 2020 for a number of violations.
3. The Applicants submitted a zoning application which was denied, and it was recommended the Applicants come to the Planning Board in a subsequent letter from the Zoning Officer dated January 15, 2021.
4. The Applicants are seeking relief for the improvements which have already been constructed. The Applicants are also seeking a variance from the front yard setback for the construction of 14' x 10' enclosed porch.
 - a. Proposed addition on principal structures;
 - i. Section 240-55C(2) - Front yard setback, 35 required, 32.7 feet existing, 22.5 feet proposed
 - ii. Section 240-50.1(9) - Maximum building coverage, 1399 sf permitted, 1456 sf existing; 1596 sf proposed
 - b. 8'x10' shed:
 - i. Section 240-16B(2) – front yard setback of accessory structure from Side Hill Trail; 35' required, 18.6' existing
 - ii. Section 240-16B(4) – side yard setback of accessory structure; 10' required, less than 10' existing
 - c. 10'x10' gazebo on 16'x20.5' patio:

{363610.DOC.1}2

- i. Section 240-16B(1) – setback between a principal structure and an accessory structure; 10’ required, less than 10’ existing
 - ii. Section 240-16B(4) – side yard setback of accessory structure; 10’ required, less than 10’ existing from two side yards
- d. 10’x10’ gazebo and 7’x7’ hot tub on 14.25’x21.5’ patio:
 - i. Section 240-16B(1) – setback between a principal structure and an accessory structure; 10’ required, less than 10’ existing
 - ii. Section 240-16B(4) – side yard setback of accessory structure; 10’ required, less than 10’ existing from two side yards
- e. 10’x10’ shed:
 - i. Section 240-16B(1) – setback between a principal structure and an accessory structure; 10’ required, less than 10’ existing
 - ii. Section 240-16B(2) – front yard setback of accessory structure from Fox Trail; 35’ required, less than 25’ existing
 - iii. Section 240-16B(4) – side yard setback of accessory structure; 10’ required, less than 10’ existing from two side yards
- f. Paved driveway:
 - i. Section 240-40.2E – driveway width; 13’ permitted, 48.75’ existing
- g. Newly paved driveway:
 - i. Section 240-40.2E – driveway width; 13’ permitted, 40’ existing

- ii. Section 240-40.2E – for installation of second driveway on less than 200’ of road frontage
 - h. Section 240-16A(5) – total footprint of all accessory structures; 728 sf permitted, 842 sf existing
- 5. The Applicants submitted a plan entitled, “Survey of Property, tax Lot 19 – Block 116, 6 Fox Trail, Township of Byram, Sussex County, New Jersey”, prepared by Lakeland Surveying, consisting of one (1) sheet and dated February 1, 2021.
- 6. The Board received memorandums from Cory L. Stoner, Planning Board Engineer, dated June 15, 2021 and Donna Fett, Environmental Commission Secretary, dated June 25, 2021.
- 7. A duly noticed public hearing occurred on July 1, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.
- 8. Scott and Alissa Macmillan presented sworn testimony in support of the application. The subject property is a corner lot with frontage on Fox Trail and Side Hill Trail, creating a hardship for the Applicants. The dwelling is

{363610.DOC.1}4

situated facing Fox Trail and is shallow in depth. The northeastern corner of the property is developed with an attached second story wood deck, two wood patios with covered gazebos and a stone area. There is a wooden shed located in the driveway, in the front yard outside the existing fence. There is a wooden shed with a ramp and block wall landscape bed. The Applicants are proposed to construct an addition on the front of the home that would enlarge and enclose the existing porch to create a mudroom.

9. The Applicants testified that they did not know that permits were required for the existing improvements. The patios were constructed on 2'x12' board frame, without the use of footings. The existing garage is undersized and both sheds are used for storage. The existing driveway can park 6 vehicles and the newly paved driveway was for additional parking, but is within the municipal right-of-way. The area behind the house is grass and contains the septic system, so the accessory structures cannot be relocated behind the home.
10. In order to reduce the total footprint of accessory structures, the Applicants agreed to remove the shed and adjacent rock walled landscaping within the front yard setback of Side Hill Trail.
11. It is noted that the newly paved driveway encroaches into the municipal right-of-way and the Board cannot approve the encroachment.
12. A motion was made to approve the application as proposed, with the removal of the shed, which was not approved (vote was 4 and 4).

13. A motion was then made to approval the existing conditions, with the removal of the shed, and an enclosure of the existing front porch without the proposed addition, which was approved by a vote of 5 to 3.

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. 10'x10' gazebo on 16'x20.5' patio:

- i. Section 240-16B(1) – setback between a principal structure and an accessory structure; 10' required, less than 10' approved
- ii. Section 240-16B(4) – side yard setback of accessory structure; 10' required, less than 10' approved from two side yards

b. 10'x10' gazebo and 7'x7' hot tub on 14.25'x21.5' patio:

- i. Section 240-16B(1) – setback between a principal structure and an accessory structure; 10' required, less than 10' approved
- ii. Section 240-16B(4) – side yard setback of accessory structure; 10' required, less than 10' approved from two side yards

c. 10'x10' shed:

- i. Section 240-16B(1) – setback between a principal structure and an accessory structure; 10' required, less than 10' approved

- ii. Section 240-16B(2) – front yard setback of accessory structure from Fox Trail; 35’ required, less than 25’ approved
 - iii. Section 240-16B(4) – side yard setback of accessory structure; 10’ required, less than 10’ approved from two side yards
 - d. Paved driveway:
 - i. Section 240-40.2E – driveway width; 13’ permitted, 48.75’ approved
 - e. Section 240-16A(5) – total footprint of all accessory structures; 600 sf permitted, 830 sf existing
- 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. The subject property is a corner lot, and the septic system is located in the backyard, which creates a hardship for the homeowner. The existing improvements were located in the only logical area of the yard for passive recreation. The Applicant mitigated the impact by agreeing to remove one of the

{363610.DOC.1}7

existing sheds, eliminating 2 of the variances and reducing the building coverage on the property.

4. The benefits of permitted the improvements to remain outweigh the detriments that may result from denying the requested relief. It was determined that there would be little impact to the surrounding area as the improvements are screened by fencing. 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 15th day of July 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances.
2. The shed closest to Side Hill Trail shall be removed.
3. The Applicants may enclose the front porch within the existing footprint, as indicated on the survey; no expansion is allowed without variance relief.
4. The Applicants shall obtain construction permits for the patios and front porch.
5. The Board has taken no action with regard to the second driveway.



George Shivas

On motion of: Mayor Rubenstein

Seconded by: Mr. Morytko

{363610.DOC.1}8

The vote on the Resolution was as follows:

AYES: Six (6): Mayor Rubenstein, Mr. McElroy, Mr. Morytko, Mr. Serrilli, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Mr. Proctor

ABSENT: Three (3): Ms. Franco, Ms. Raffay, Mr. Smith

I certify that the above AMENDED Resolution is a true copy of a Resolution adopted by the Planning Board on November 2nd, 2023 and is in effect for one year.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 11/03/2023

Prepared by: Alyse Landano Hubbard, Esq.

Byram Township Planning Board
Bills for November 16, 2023

<u>Harold Pellow</u>	DATE	AMOUNT
Inv. 78446 Panther Lake review	10.31.2023	\$112.00
Inv. 78433 Krassner review	10.31.2023	\$84.00
Inv. 78432 Diliberto meeting and review	10.31.2023	\$138.00
Inv. 78431 Brembt review	10.31.2023	\$84.00
Inv. 78430 Farrell resolution	10.31.2023	\$34.50
Inv. 78429 Sullivan/Salvesen resolution	10.31.2023	\$34.50
Inv. 78428 Tomahawk Lake meeting, review	10.31.2023	\$414.00
Inv. 78427 Rudy and Vania resolution	10.31.2023	\$138.00
Inv. 78426 Moberg review and resolution	10.31.2023	\$138.00
HP Total		\$1,177.00

<u>GRAND TOTAL</u>		<u>\$1,177.00</u>
--------------------	--	-------------------