MEETING MINTUES OF THE BYRAM TOWNSHIP PLANNING BOARD: November 5 2026

This meeting was called to order at 7:30pm by Chairman Shivas.

ROLL CALL: Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, Chairman Shivas
Members Absent: Messrs. Proctor, Smith
Also Present: Engineer Cory Stoner, Attorney Andrew Brewer, Secretary Caitlin Phillips

OPENING STATEMENT: Adequate notice of this meeting of the Byram Township Planning Board was given as required by the Open Public Meeting Act. A resolution indicating the time, date, and location of regular Board meetings for the year 2026 was forwarded to the Board's designated newspaper, and posted on the bulletin boards and main doors of the Municipal Building. Starting on March 1, 2026, all legal notices of the Planning Board shall be posted on the website of the Township of Byram. A link to the website location was forwarded to the Secretary of State of the State of New Jersey. All applicant notices shall be published on an online publication that meets the statutory requirements of NJSA 35:1-1.

FLAG SALUTE: led by Chairman Shivas.

MINUTES: October 15, 2026.
Motion of Mr. McElroy to approve the minutes, second by Ms. Raffay.
Ayes: Mss. Raffay, Colligan, DeMagistris, Lewandowski; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, and Chairman Shivas
Members Absent: Messrs. Proctor, Smith
None opposed. Motion carried.

RESOLUTIONS
Z10-2026 Rita Martino, 8 Newton Avenue, Block 36 Lot 50.01, R4 Zone
Application for shed in the front and side yard
Motion of Ms. Raffay to approve the resolution, second by Mr. Morytko.
Ayes: Mss. Raffay, DeMagistris, Colligan; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, and Chairman Shivas
Members Abstaining: Ms. Lewandowski
Members Absent: Messrs. Proctor, Smith
None opposed. Motion carried.

Z12-2026 Lisa and Frank Maturi, 21 Tote Road, Block 137 Lot 29, R5 Zone
Application for addition to a single-family home
Motion of Mr. Morytko to approve the resolution, second by Ms. DeMagistris.
Ayes: Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, and Chairman Shivas
Members Abstaining: Ms. Lewandowski
Members Absent: Messrs. Proctor, Smith
None opposed. Motion carried.

SUBCOMMITTEE
SP4-2026 Jefferson Lake Day Camp, 38 Jefferson Lake Road, Block 366 Lot 3.01 and Block 370 Lot 7.01, CR Zone
Application for amended site plan

Mr. Walsh noted there's not much change in impervious coverage. The requested waivers are appropriate.
Motion of Mr. Walsh to deem the application complete and schedule it for 12/03, second by Ms. DeMagistris.
Ayes: Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, and Chairman Shivas
Members Absent: Messrs. Proctor, Smith
None opposed. Motion carried.

OLD BUSINESS

Z04-2026 Maria Lacatena, 71 Brookwood Drive, Block 58 Lot 76, R3 Zone
Application for a deck, pool, and shed
Ms. Phillips said they requested to be carried to the second meeting of April in 2027, but the Board doesn't approve 2027 dates until the 01/07/2027 meeting. They said they'd consider withdrawing the application if that's easier, but if they can keep it open, they'd rather do that so they don't need to repay the fees. Ms. Raffay said she's concerned this gets carried to April, and then it gets carried again, and it keeps going. Mr. McElroy asked what the harm is to the Board to keep it on the agenda, rather than make the applicant pay the fees again. Ms. Raffay noted they're looking to change their application. Chairman Shivas said they could carry it to January, and have them come in at that time to give an idea what their plan is. Mr. Walsh asked if coming in January is instead of April. Chairman Shivas noted they need to come in to give a good reason to carry to April. Mr. Walsh said if they're not planning to allow them to carry to April anyway, he doesn't see a point carrying it to January. Ms. Phillips noted the applicant considered both options in carrying the application or withdrawing, and they'd like to carry it if it's not going to cost more. Mr. McElroy confirmed there's no additional work involved for professionals if they carry it, until revised plans are submitted.
Motion of Mr. McElroy to carry the application to 01/07/2027, second by Mr. Walsh.
Ayes: Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, and Chairman Shivas
Members Absent: Messrs. Proctor, Smith
None opposed. Motion carried.

NEW BUSINESS

Z11-2026 Thomas Mulligan, 61 Birch Parkway, Block 307 Lot 1864, R5 Zone
Application for enclosing existing porch
Chairman Shivas announced this application needs to be carried to 11/19. Ms. Phillips said the noticing wasn't sufficient.
Motion of Rubenstein to carry the application to 11/19, second by Mr. Morytko.
Ayes: Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, and Chairman Shivas
Members Absent: Messrs. Proctor, Smith
None opposed. Motion carried.

Z09-2026 Emily and Evan Smith, 26 and 28 Hemlock, Block 286 Lots 111 and 112.01, R5 Zone
Application for a minor subdivision
Chairman Shivas announced this application needs to be carried to 11/19. Ms. Phillips said the noticing wasn't complete.
Motion of Mr. Morytko to carry the application to 11/19, second by Ms. Lewandowski.
Ayes: Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, and Chairman Shivas
Members Absent: Messrs. Proctor, Smith

None opposed. Motion carried.

OLD BUSINESS

Z12-2025 Marcelo Lopez, Jans Way, Block 360 Lot 6, R2 Zone

Application for new home construction on an unimproved roadway

Eugenio Genise represented the applicant. Chairman Shivas confirmed the professionals are still in good standing and are under oath. Mr. Genise said the issue is the property being on an unimproved road. He found that the road is owned by P. Lake Association. He tried to reach out to the registered agent, Arthur Bergen at an address in Somerset. He wrote a letter in April and it came back as an unknown address. The corporation itself isn't in good standing with the state. The private road accesses where they're proposing a home, and also is the access for other existing homes. A portion of the road is paved, and Mr. Genise's client is willing to pave the other portion for access to his property. His understanding is that the town maintains it to a certain point. Mr. Brewer said the Board can't give approval to do anything on a property where the owner hasn't agreed to it. They can make it a condition and direct them to pave that portion, but they can't give permission. Mr. McElroy noted his concern is that things are paved now, but there's no guarantee the maintenance will occur in the future. Mr. Genise said there are other houses already there that access the area. Mr. Brewer said they have to demonstrate the ability to access the property on the day the approval was granted, but any application could have the same risk in the future. Mr. Genise said they think they're lessening the risk because they're paving the portion of the road. The Board discussed the town's responsibility for maintenance. Chairman Shivas asked about putting this in the deed. Mr. Brewer said it wouldn't be a legitimate condition in a deed to make a buyer responsible for the road maintenance. He doesn't think anyone would insure that. The resolution is different because they'd be agreeing to the condition. Mr. Walsh noted it's not just maintenance but if a tree falls, who cleans it up? Mr. Genise acknowledge the condition to maintain that portion of the road.

Chairman Shivas noted the memo from the Fire Department, about their concern for the width of the driveway entrance. Adnan Khan from AWZ Engineering remains under oath from the previous hearing. He reviewed the engineering plans, including the driveway and the steep slope analysis. Ms. Raffay noted the calculations are not on the submitted plans. Mr. Stoner noted the hard copy plans submitted don't match the updated digital copy provided today. He reviewed the calculations. Mr. Brewer marked this as **Exhibit A1**. Ms. Raffay asked about lot disturbance. Mr. Khan said they are two square feet below the limit. Ms. Raffay said the grading feels forced to meet those requirements, and asked what they're proposing to not exceed the 40,000 square feet of disturbance. Mr. Khan said a soil erosion permit is required, and they'll need silt fencing. They can also put snow fencing so the contractor knows the limit. If they exceed the disturbance, the Highland Exemption goes away. Ms. Raffay said the west side near the driveway has the most concern in terms of making the grading work so they don't go two feet over. Mr. Khan noted if they exceed the limits they'd need to come to the Board again. Ms. Raffay asked how they'll prevent runoff and erosion from the driveway. Mr. Khan said they'll sod it, and they need to have the soil erosion measures 80% in place before a C.O can be issued. Ms. Raffay confirmed the drywells haven't changed. Mr. Khan said they're capturing roof runoff and anything sloping toward the driveway. Mr. Stoner discussed the previous disturbance on the property. He noted that for this application, they should allow anything that was disturbed to re-grow, and that the disturbance should be limited to what's on the plan. He noted years ago, there was a violation issue for disturbance.

Chairman Shivas opened to the public. Brian O'Connell was sworn in at 12 Jans Way. He's concerned about the disturbance for this project. He brought pictures of the ponding occurring on his property and the corporation's property. He said the area where they said the driveway is going to run off to isn't their property. He submitted **Exhibits OC 1-5**, photos of the water in the area. The previous owner did this to the property, and the new disturbance will fill up the ponds. **Exhibit OC 1** is the pond on Mr. O'Connell's

property. **Exhibits OC 3, 4, and 5** are the water collecting near the road. He noted he's been a resident at that address for 22 years, and has been a Byram resident for 60 years. He and his neighbor share a driveway. He noted there's been a lot of involvement with the Highlands on this property, and they were told they can't disturb ledge. The previous owner picked up the property 20 feet with dirt from Newark that was red and orange, and never got tested or got permits for it. The Highlands said Mr. O'Connell would need to go to the DEP for this issue, and he doesn't feel that's his responsibility. He's worried about the value for his property. Mr. Walsh confirmed his property is downhill from the subject property. He confirmed the existing conditions result in water pooling on his property, and that Mr. O'Connell feels this project will make that worse. Mr. O'Connell said that at the last meeting, the applicant stated they tried to contact him, but they haven't. Mr. Walsh asked what he'd like to see done. Mr. O'Connell said basins and curbing. Mayor Rubenstein confirmed the seepage pit on the plan collects the roof runoff. Mr. Stoner asked what they can do to make sure they're not adding more water to the low spots. Mr. Khan said they can add a French drain and another drywell. He noted they'd be taking care of all the other impervious surface on the property, so this will make things better than they are now. Mr. Stoner noted a portion of this property has a bit of a saddle-like topography, where water collects into a lower spot. Mr. Khan said he doesn't know that they can do much because of the DEP and Highlands regulations. They can't change the natural slope of the area, because that would change the hydrology. Mr. Stoner said they could reduce the size of the project or add a rain garden. Mr. O'Connell said they don't have any natural drainage. Mr. Stoner noted they have rights to develop their property, and it was subdivided to make this lot. Mr. O'Connell noted he has a right to be heard about these issues. New applicants have to follow rules and regulations. Chairman Shivas said the main thing they need to do is make sure they're not increasing the flow with the house. Mr. Walsh said they've seen engineered plans and heard testimony about capturing the water. That water today isn't captured. There are stormwater controls proposed that don't exist today. Mr. McElroy said if they can't do it, they'll need to come back to the Board. Mr. Brewer noted to Mr. O'Connell that what the applicant's engineering is proposing will need to be verified by the Board Engineer. Mr. Stoner noted that if they have issues with the rock, they may need to do a flood test. Mayor Rubenstein asked about the soil stockpile on the plans. He noted if they did a berm or swale that may help. Mr. O'Connell said he doesn't need any more water, and he already has issues with mosquitos. Mayor Rubenstein noted when applicants come to the Board, the Board can impose some items to make the development less intrusive to neighbors, and the applicant seems willing to put measures in place to keep water on the property. With some of the proposed items, the water goes into drywells, which should decrease water onto other properties. Chairman Shivas closed to the public.

Ms. Raffay summarized what the applicant's stormwater controls are proposed to be in the revised plans. Mayor Rubenstein noted they should comply with 240:11 in the code, and they have to show how they're satisfying that section of the code.

Mr. Cardenas of Palermo Edwards Architecture reminded the Board that he is the project manager, and isn't a licensed architect. He noted the house is basically the same, but they coordinated with the engineer to go with the grading. They are proposing a two-story home. In the back of the house there is a basement. They also have a first and second floor. The bathroom in the basement has an egress window. There are two laundry rooms. Ms. Phillips asked if they have hard copies to share, because none were provided ahead of the meeting. Ms. Raffay confirmed the revision date is 10/20/2026. Mayor Rubenstein confirmed it's a five-bedroom house. Chairman Shivas confirmed they haven't received County approval yet. Mr. Cardenas said the septic has been designed for five bedrooms, and they haven't done a perc test yet. Ms. Raffay confirmed there's no kitchen in the basement, and the basement will not be used as a bedroom. Chairman Shivas noted there's a lot of rock involved, so is surprised there's a basement. Mr. Cardenas said it's important to the owner to have a basement. He noted if the basement can't be built, they need to come back. Ms. Raffay

reiterated that they need to come back if the grading needs to be changed, or the plans needs revisions. She asked how they are handling rocks. Mr. Cardenas so they're not blasting, they'll use machinery.

Chairman Shivas opened to the public. No one came forward so he closed to the public.

Mr. McElroy said he has an issue with the road. Since there's time to research this, they have a defunct corporation that owns the road, and they're asking the applicant to pave a portion of a road they don't own. He's concerned about future access to the road. He'd like the Board attorney to research case law about the road access in the future. Mayor Rubenstein asked Mr. Genise to send the documents he discussed to Ms. Phillips. Mr. Khan said they may be able to get soil testing done this month. Chairman Shivas said they can carry them to January 7th, and then at that meeting they approve the dates for 2027.

Motion of Mr. Walsh to carry the application to 01/07/2027, second by Mr. McElroy.
Ayes: Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. Mayor Rubenstein, McElroy, Morytko, Walsh, and Chairman Shivas
Members Absent: Messrs. Proctor, Smith
None opposed. Motion carried.

REPORTS FROM COMMITTEES
Environmental Commission- Mr. Smith wasn't present.
Open Space- Mr. Morytko said there's no meeting; the next one is December.
Township Council- Mayor Rubenstein said they adopted an ordinance to buy a new air compressor and fill station for the Fire Department. They modified Chapter 182, because it omitted riding motorcycles on Township trails. The DOT discussed the Andover tunnel project, which won't begin before 2031. Preliminary engineering just started. It seems that they have listened to Byram and will look at the nine options to see if there's a way the tunnel doesn't need to close for so long. Peter Dlugos asked for modifications to three trails. Whippoorwill is a driveway, not a street, so the trail is now a lollipop loop. On Lee Hill the trailhead was modified so it's not on private property, and they're abandoning a small piece of the trail the goes off of Mansfield to the TLC property because it's overrun with ATV and motorcycle use. Chairman Shivas noted the reassessment is occurring next year.

OPEN TO THE PUBLIC
Chairman Shivas opened to the public. No one was present, so he closed to the public.

ADJOURNMENT
A motion to adjourn the meeting was made at 9:22 pm by Mr. McElroy, second by Ms. Lewandowski. All were in favor. Motion carried. The meeting was adjourned.

Submitted by Caitlin Phillips