

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

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **OPENING STATEMENT:** Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meetings Act.
4. **FLAG SALUTE**
5. **MEETING MINUTES-** October 17, 2024
6. **RESOLUTIONS**
Z16-2024 Oluwasijibomi Oluwalanke, 5 Crescent Drive North, Block 283 Lot 242, R5 Zone
Application for retaining wall in front yard
7. **OLD BUSINESS**
Z08-2024 Diane and William Carkhuff, 82 South Shore Road, Block 189 Lot 1, R-5 Zone
Application for construction of a new single-family dwelling
****CARRIED TO 01/16/2025****
8. **NEW BUSINESS**
Z17-2024 David Del Franco, 175 Lake Drive, Block 255 Lot 1, R5 Zone
Application for 6-foot fence, a chicken coop, and above-ground pool
****CARRIED TO 11/21/2024****

Z18-2024 Michael Koval, 2 Jones Lane, Block 360 Lot 28, R-3 Zone
Application for detached garage
9. **DISCUSSION ITEM:** Architectural Review Committee status
10. **DISCUSSION ITEM:** Revised Planning Board Checklist and Application
11. **REPORTS FROM COMMITTEES**
Architectural Review Committee
Environmental Commission
Open Space
Township Council
12. **OPEN TO THE PUBLIC**
13. **CLOSED SESSION:** Professionals Discussion
14. **ADJOURNMENT**

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

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

OATH OF OFFICE: Anneliese DeMagistris was sworn in as a new Board member.

ROLL CALL: Mss. DeMagistris and Colligan, Messrs. Proctor, McElroy, Morytko, Serrilli, Smith, Walsh, Chairman Shivas

Members Absent: Mayor Rubenstein, Ms. Raffay

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: October 3, 2024. Mr. Proctor motioned to approve the minutes, seconded by Mr. McElroy.

Ayes: Messrs. Proctor, McElroy, Morytko, Serrilli, Smith, Walsh, Colligan, Chairman Shivas

Abstaining: Ms. DeMagistris

Absent: Ms. Raffay, Mayor Rubenstein

None opposed. Motion carried.

RESOLUTIONS

Z01-2024 Tom Chamberlin, 2 Briar Lane, Block 365.02 Lot 1, R-3 Zone

Application for driveway expansion for a second driveway

Mr. Proctor motioned to approve the resolution, seconded by Mr. Serrilli.

Ayes: Mss. DeMagistris and Colligan, Messrs. Proctor, Morytko, Serrilli, Smith, Walsh, Chairman Shivas

Abstaining: Messrs. McElroy, DeMagistris, Ms. Colligan

Absent: Ms. Raffay, Mayor Rubenstein

None opposed. Motion carried.

SP1-2024 Byram Waterloo LLC (Starbucks of Byram), 33 Route 206, Block 36 Lot 40, VB Zone

Application for pylon sign, related to site improvements

Mr. Proctor motioned to approve the resolution, seconded by Mr. Morytko.

Ayes: Ms. Colligan, Messrs. Proctor, McElroy, Morytko, Serrilli, Smith, Walsh, Chairman Shivas

Abstaining: Ms. DeMagistris

Absent: Ms. Raffay, Mayor Rubenstein

None opposed. Motion carried.

SP9-2024 Byram Auto, 242 US 206 North, Block 219 Lot 10, NC Zone

Application for certification of pre-existing non-conforming use

Mr. McElroy motioned to approve the resolution, seconded by Mr. Proctor.

Ayes: Ms. Colligan, Messrs. Proctor, McElroy, Morytko, Serrilli, Smith, Walsh, Chairman Shivas

Abstaining: Ms. DeMagistris

Absent: Ms. Raffay, Mayor Rubenstein

None opposed. Motion carried.

Z31-2024 Kathy Dobrich, 560 East Shore Trail, Block 293 Lot 5, R3 Zone

Application for accessory structures, addition to a single family home, and disturbance of critical areas

Mr. Proctor motioned to approve the resolution, seconded by Mr. Serrilli.

Ayes: Ms. Colligan, Messrs. Proctor, McElroy, Serrilli, Smith, Walsh, Chairman Shivas

Abstaining: Messrs. Morytko, DeMagistris

Absent: Ms. Raffay, Mayor Rubenstein
None opposed. Motion carried.

NEW BUSINESS

Z16-2024 Oluwasijibomi Oluwalanke, 5 Crescent Drive North, Block 283 Lot 242, R5 Zone

Application for retaining wall in front yard

Mr. Smith recused from this application. Oluwasijibomi Oluwalanke was sworn in. He purchased the property in 2023, and it was left in bad shape. The previous retaining wall was torn down. The erosion from the top of the driveway would wash into the street, and he wanted to retain the soil against the driveway along with the septic tank. According to the contractor the wall is between 4 and 6 feet. He was told the contractor would handle the wall and file the permits, which wasn't done. Chairman Shivas said if a wall is over 4 feet high it needs engineering. He noted the height of the wall is measured incorporating the grade. He confirmed Mr. Oluwalanke was issued a Notice of Violation, and a review memo from Mr. Stoner.

Mr. Stoner reviewed his memo. The violation was issued for the height of the wall and disturbance of steep slopes. Mr. Oluwalanke noted there was a rock wall there before, which this new wall replaces. Mr. Stoner said the height of the wall needs a construction permit. There are engineering plans for the wall. The aggregate height is 5.5 feet high, which needs a variance. Mr. Stoner asked if he did a septic repair. Mr. Oluwalanke said the previous owner did it. Mr. Stoner said before they get permits, Mr. Oluwalanke should get an approval from the County Health Department to show that the wall didn't impact the septic system.

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

Ms. Hubbard confirmed the wall is constructed. Mr. Oluwalanke said not completely—the caps were not installed. Mr. Stoner confirmed he stopped when he got the violation notice. Mr. Walsh motioned to approve the application, seconded by Mr. Proctor.

Ayes: Mss. DeMagistris, Colligan, Messrs. Proctor, McElroy, Morytko, Serrilli, Walsh, Chairman Shivas
Abstaining: Mr. Smith

Absent: Ms. Raffay, Mayor Rubenstein

Motion carried. Chairman Shivas reminded the applicant to get zoning and construction permits. Ms. Hubbard discussed the appeal period. Mr. Smith re-entered the meeting.

OLD BUSINESS

Z14-2024 Rupesh Patel (Kyosis LLC), 1 Catalina Drive, Block 337 Lot 9.14, R2 Zone

Application for new home construction

Justin Carloni and Rupesh Patel remain under oath from the last hearing. Mr. Carloni reviewed architectural changes. He submitted **Exhibit A1**, two architectural drawings. They added a detached garage. The concept is the same for a French chateau. He discussed the stories, which includes the basement. There is a house elevator proposed. He reviewed the floor plan. Mansard roofs are proposed. There are retaining walls around the property, one near the garage. There were sun studies because of neighbor concerns about blocking light from the proposed house. Ms. Hubbard asked if the detached garage is functional with the doors. Mr. Carloni said they're thinking of double-swing doors instead of overhead. You can still pull vehicles in there. The garage attached to the house is a one-car garage. Mr. Morytko asked about the height and floor plan. Mr. Carloni said the detached garage is one story. If it were higher it would impose on the owner's view of the yard. It's for storage space and for cars. Ms. Hubbard asked how many cars can be parked. Mr. Carloni didn't calculate this, but about 6 cars. Mr. McElroy asked if the previous plan had a garage. Mr. Carloni said there wasn't a detached one before.

They compressed the floor plan. Chairman Shivas asked about the elevator, confirming this is for the ability to add it. Ms. Hubbard asked about the steps. Mr. Carloni reviewed elevations. Mr. Patel said there's steps to the rear yard and then a walkway. The green area is the courtyard. There's a landscape area. Chairman Shivas said when plans are approved they aren't preliminary. Mr. Carloni said architecturally they're set but the courtyard is landscaping. Mr. McElroy said they have to review that because it's disturbance. Ms. Hubbard noted it's also coverage. Mr. McElroy asked about the variances now and what they were before. Chairman Shivas confirmed it is a three-story building. Mr. Stoner explained the code for height and stories. The height is a bit different because of the type of roof being used. Mr. Patel noted if the garage is brought closer it's on a slope. The steps are on the side of the garage to go to the level of the yard. Ms. Hubbard confirmed the landscaping area is at the same grade as the house.

Ms. Hubbard asked how the pool is accessed. Mr. Carloni said no fence is planned, and then it's grass to a concrete curb. Chairman Shivas said the state law requires a fence around the pool. Mr. Carloni said from the site-boring tests they found the pool can be in-ground. Mr. Stoner said this is included in the disturbance. Mr. Walsh asked about the pavers. Mr. Carloni said they're possibly 6 feet in width by 15 feet. Mr. Walsh confirmed they have a 15 foot walkway. Mr. Carloni said that's probably excessive.

Mr. Stoner said the architectural drawing and Mr. Kolody's drawings don't agree. The grades and placements are different. Michael Kolody of 105 Via Capri in Florida was sworn in. His license is in good standing in New Jersey. He reviewed his plan. Due to site constraints, a number of the items on the plan don't work based on the topography. He took the architectural plans and turned it into one that they can use to build on the site. All the architectural items would remain. He proposed an exit from the garage to the side, and then stairs that go up to grade. There is an elevation change of about 6 feet. The back yard is virtually level. Mr. Stoner reviewed the grading with Mr. Kolody. He suggested a landscaped stairway near the wall. Chairman Shivas asked about the retaining walls. Mr. Kolody said at the road the driveway basically meets the existing grade. There's a wall on the right side of the driveway. There are no walls on the plan greater than 4 feet. Mr. Kolody prepared the major subdivision plan around 2000. He's familiar with the site, and did all the grading, stormwater, plot plans for the lots, drilled the wells, and soil logs. The lots were cleared with building areas, and this lot was cleared at that time. There has been no intrusion into the conservation easement. The soil logs in the back are 9 feet deep to rock. Mr. Kolody said there should be no need for blasting. They brought an excavator and at four locations around the house, they did test excavations. They reached depths of about 7 feet. There's not much soil—it's rock but can be removed. They can use the rock from this to build the walls. A new septic permit will be needed. The septic is for six bedrooms. Mr. Stoner noted there are four bedrooms. Mr. Kolody said they have the option to convert some.

Chairman Shivas asked about the double wall on the plans. Mr. Kolody said there's six feet between the walls. Mr. Proctor asked about the wall and the septic system. Mr. Stoner said the Health Department needs to review this. Mr. Smith confirmed the "x" for the stairs is the top of the stairs. Mr. Stoner reviewed his report. They reduced the size of the structure. The calculations are different because of the covered porch in the front. Mr. Kolody noted the area doesn't have native vegetation because the area was cleared. The area is disturbed already. Mr. Stoner asked the purpose of the conservation easement. Mr. Kolody said it was because of the slope, to preserve it. Mr. Stoner said a condition should have an updated plan that shows anything about the 50%. Mr. Kolody said it should also be marked in the field. Mr. Carloni said the trees are likely higher than the building, so they would cause more shade and obstruction than the residence itself. Mr. Patel said the other homes have trees there. The hill is steep. If you put even a shack on the property it would cast a shadow.

Mr. Kolody discussed site lines. Neighbors would see it but it wouldn't be out of the ordinary. Mr. Stoner noted they need a variance for the height from the roof of the garage. He discussed stormwater management. There are two seepage pits on the plans. With the terrain, he wants to see the backup calculations. The runoff needs to be clean, not anything touched by cars. The driveway is steep, and he doesn't want any runoff into the neighboring areas. Mr. Kolody said the preliminary plat was based on soil logs. Near the road a test pit was done that shows a dry well could be put there. He would change the grade of the driveway, pitching it to the north, curve the driveway, and curve the water into a stilling basin to help the velocity. The rest would go into a gutter. Chairman Shivas confirmed they'll slant the driveway to the north. Mr. Stoner suggested a scour hole or ponded area. Mr. Kolody suggested a pull-out area for cars on the driveway. Mr. Patel confirmed the easement wouldn't be interfered with. He asked if that would look odd. They discussed allowing for better access along the driveway. Mr. Kolody said a sediment basin was constructed adjacent to Lake Mohawk, paid for by Lake Mohawk, the County, and the development. He will amend the plan to straighten out the limits of disturbance. The driveway is about 230 feet to the level area for parking.

Chairman Shivas asked about the pool area. Something needs to go around it for a side, and a fence is needed. Mr. Kolody will add that. He noted there are narrow sides and a wider side which is about 5 feet. Ms. Hubbard noted it doesn't fit together, and there are no steps. Chairman Shivas noted there's no spot for equipment or filters. Mr. Carloni said that can be added. Mr. Walsh said there's been a lot of questions and proposed solutions. He wants to see those solutions on both plans. Mr. McElroy asked about the reasoning for the detached garage to be 2.5 times the allowable size. Before asking for revisions, he wants to see where the Board is at with the garage. Mr. Patel said after doing the test pits, they found they could have a small basement. They need storage space, so the garage functions that way. Mr. McElroy confirmed the house is 4,900 square feet; he asked if there's anywhere in that space for storage. Mr. Patel asked about big items. He said it makes the most sense the way it is. Where would storage go if it's heavy like tables and chairs? The slope of the driveway doesn't go up to the first floor. Mr. Morytko said he's asking for a structure that's more than twice what's allowed. The Board needs testimony for why it's needed and why there are hardships. Mr. Carloni said it's also for cars. Mr. Patel said a house of this size usually has an entertainment center which they don't have. They're compromising in some places, so they need spaces somewhere else. He noted the conservation easement and asked if the Board is going to remove that for him. Chairman Shivas said he knew about the easement when he bought the property. Mr. McElroy said he's asking for a big house on a property with an easement, and the Board's job is to ask the rationale. Mr. Patel said in a house this size there's usually 3-4 car garages. The garage is there for cars, but they can use it for storage space too. Mr. McElroy asked Mr. Stoner if this is a customary size for a garage. Mr. Stoner confirmed it's 30x30. He said 30 feet wide is reasonable but 30 deep is a bit much. Mr. Carloni said they can condense it to something like 22 feet. Mr. McElroy asked about the height. Mr. Carloni said it's 10 feet to the eave, and they want at least 8-foot clearance. Chairman Shivas said the roof part is not being used and that's adding another six feet. Mr. Morytko said they're also considering the impact of neighboring properties. The garage is 20 feet off the property line. They need know how it's being used to justify approving it. Mr. McElroy said it lessens the impact if they can get it within the ordinance. Mr. Smith said there's a 900 square foot building, that doesn't have garage doors, it's 19 feet from the pool, and they're storing things in there. This looks like a pool house, guest house, or mixed-use building. He'd feel better with a floor plan for storage and cars. Mr. Proctor confirmed it won't be heated, but there is electrical. Mr. Smith confirmed there's no plumbing. Mr. Walsh noted a 3-4 car garage is not typical for Byram. Chairman Shivas said a lot of houses have those underneath. Mr. Walsh noted he means detached garages. Mr. Proctor asked why the basement is only about a third of the house size. Mr. Carloni said because of the topography. Mr. Kolody said stopping the foundation halfway is a good idea because they don't want to run into more excavation.

Chairman Shivas opened to the public. Andrew Hattendorf of 9 Catalina Drive remains under oath from the last hearing. He noted discussion of the border between his property and that there's a seven-foot drop-off. There is a rock wall in that area, and that area is no more than three feet high. As it grades up, it's level. Mr. Kolody said it will be dug down seven feet at the proposed house location. Chairman Shivas said there's two floors above-ground and one below. Mr. Hattendorf is concerned about seeing a tall property on top of a rock, and having it stand out. Mr. Kolody said no earth moving will go on in the area of the house below him or along the common lot line. Mr. Hattendorf noted there are no large trees in that property; he asked for the trees to be left alone. He noted the neighbors are concerned about this project. He asked when the Board decides on the application. Chairman Shivas said they vote when the applicant has answered all their questions. He explained the Board process. Mr. Hattendorf asked the Board to review the architectural design on the house and how it fits in to the neighborhood. The look is a personal choice; he noted this house will be front and center. Chairman Shivas noted the applicant is pursuing what they want to do. Mr. Hattendorf said the neighbors are not happy with the architectural design. He asked about the number of bedrooms and the purpose of the garage. Mr. Carloni noted they are in the Board process so they don't have the final documents that the Construction Office permitting would need. He disagrees with the idea the home would be front and center; this is the only property set far back because of the conservation easement. People may see it in the drawings but on site you may barely see it. People may be upset because it's a new thing. Chairman Shivas said they are in view of the neighborhood. Mr. Hattendorf said they could maybe show a view up from the street. He noted he didn't realize the house would be so far back.

Dan Adams of 103 Stonehedge remains under oath from the last hearing. His concern is about blasting. He wanted to make sure that won't be needed because of the disruptions and asked about advanced notice. Chairman Shivas said it is required to give advanced notice before blasting. Mr. Adams asked about time restrictions. Ms. Hubbard noted the ordinance explains hours of operation. Chairman Shivas said they need to let people know ahead, in case there's any concerns for their property or wells, and take photos if desired. Chairman Shivas closed to the public.

Mr. McElroy noted commercial properties have architectural standards, but there aren't any for residential properties. As long as the proposed work conforms or receives a variance, the Board can't regulate the architectural standards like design or color. Mr. Stoner noted subdivisions have requirements. Mr. McElroy noted those are usually in the documents of an HOA. Ms. Hubbard noted for the height of the garage, they could look at if that's driven by the doors and the arch. Mr. Walsh said they'd be talking about the height, not the arches themselves. Ms. DeMagistris said she drove up to the neighborhood today and thinks that every house looks unique. Mr. Smith recommended looking at various points from the street. There are some other structures nearby; they could do a structure comparison. Mr. McElroy reminded them to make sure the drawings all agree.

Mr. Kolody will make changes including reducing the driveway width and adding a pull-over spot, straightening disturbance lines, adding a pool walkway and fence, and redirecting the stormwater to the other side of the driveway and a method to take care of that. Mr. Stoner asked to have them show the roof drains to the drywells, the utilities and how they're brought up to the property, well connections, grading of the walls, and change the proposed to four bedrooms instead of 6. Mr. Kolody said it's designed for 6. Mr. Stoner said according to the architectural plans there are four bedrooms. He said to make a note that the septic is for 6 bedrooms. Mr. Walsh noted on the dwelling itself it says 6 bedrooms. Mr. Proctor confirmed no healthy trees will be removed for this project. Mr. Kolody said the lot was cleared at the top already, and there's nothing up the driveway. Mr. Proctor noted New Jersey adopted a tree preservation ordinance, and healthy trees can't be removed, and he reviewed an exemption. He asked if the trees that need to be removed are delineated, does that exempt him from a tree permit. Mr.

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Stoner thinks so because it's at the Board level. He recommended showing any tree removal on the plans being reviewed by the Board. They should show approximate locations and sizes of the trees. Ms. Phillips asked for a timeframe to make these changes to the plans. They requested to carry the meeting to 11/21. Mr. Proctor asked about the applicant's family size.

Mr. Walsh motioned to carry the application to 11/21 with no further noticing, seconded by Mr. McElroy.

Ayes: Mss. DeMagistris, Colligan, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Abstaining: Mr. Serrilli

Absent: Ms. Raffay, Mayor Rubenstein

Motion carried. The Board took a brief recess.

DISCUSSION ITEM: Basic Accessory Structures / AC Condenser Units

Chairman Shivas said his opinion is that the AC condenser is a part of the functioning of the house. He's not opposed to it being in the front yard if that's where it has to go, but would want them to come to the Board for that. Ms. Phillips asked about looking at those who have more than one front yard, or more like a primary entrance front yard. Mr. Walsh said they could talk about the hardship at the Board. Mr. McElroy asked if the condenser would ever be away from the house. Some houses are right near the property line. The Board reviewed Mr. Gleitz's recommendations. Mr. Morytko asked about the problem with the existing process. He asked how many applications the Board gets for this. Chairman Shivas said it's not just for the Board, the Zoning Officer receives a lot of permits for condensers. Mr. McElroy said the biggest concern is noise, but thinks they're part of the house. Mr. Serrilli noted there's no regulations for window air conditioning. Ms. Phillips noted the condensers also need to meet construction codes. Mr. Proctor noted people go to the construction officer for condenser permits and then get directed to zoning, so they're looking to alleviate some of the backlog that way. He noted this is a land use discussion and changes how the Board looks at applications, so they're looking for Board input. Chairman Shivas noted condensers usually are close because then there's less pipes. Ms. Hubbard noted electrical paneling as well. Mr. Proctor noted most of the applications for this at the Board are because the house itself is too close. He asked how they can regulate not putting the condenser in the front yard without needing a zoning permit. Mr. Stoner said if they aren't permitted in the front yard, they would still need a zoning permit, so they would need to be exempt in any location. Chairman Shivas noted if they're trying to solve the problem that way, then that's the best way to do it. Mr. Stoner confirmed the variance application fee for this is usually \$160 with about \$500 in escrow. He noted it also takes about a month to get onto the agenda. Chairman Shivas noted it's a necessary item to have with the summer temperatures. Ms. Phillips reiterated the time it takes to file an application; coming to the Board may take a few months, and if you need to heat your house in the winter or keep it cool in the summer, it takes a while to get through the process. Mr. McElroy said he doesn't remember any noise complaints for a condenser. Mr. Proctor reiterated that they're still regulated through the construction office. Mr. McElroy said he's okay exempting them. The Board took a straw poll to eliminate air conditioners from the definition of basic accessory structures; Mr. Stoner noted to make them exempt specifically. The Board agreed unanimously. Mr. Stoner noted to take the septic and wells out of it. Mr. Smith asked about looking at other structures. What convinced him is needing to wait a few months for the condenser. Oil tanks are used for heat too. Chairman Shivas noted oil tanks are sometimes in the ground. Mr. Stoner noted oil tanks, propane tanks, and generators should stay in the definition.

DISCUSSION ITEM: Hampton Township Resolution Regarding Home-Based Businesses

Chairman Shivas said more people work from home now, and agrees with Paul's memo. Mr. McElroy noted this covers for more than just working from home with no customers; there needs to be regulations for parking. Ms. Hubbard noted this states that anyone who has a home occupation now will be permitted and they'll be considered a pre-existing non-conforming use. Going forward it can be regulated, but

anything existing is allowed to stay. Mr. McElroy said he doesn't think they should be blanketly allowed. Mr. Proctor said if they haven't already tried to come here and had complaints, they're not bothering anyone. Mr. Morytko confirmed these are approved even without having a home occupation granted. He noted businesses will need to put up signs. Mr. Walsh noted it talks about any increase in traffic that would impact the neighborhood. Mr. Stoner noted it makes sense to put information in the code so you have a place to look for it. Mr. Smith confirmed they will monitor this to see if it passes, and make a decision then.

BILLS:

Harold Pellow (4): \$1,093.50. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Morytko. All were in favor. Motion carried.

Maraziti and Falcon (11): \$4,812.50. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Serrilli. All were in favor. Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said the Council discussed this.

Township Council: Mr. Proctor said they discussed the ARC. The Council said it's a subcommittee of the Board, so it's up to the Board. They noted if it's going to remain active, it needs to be comprised of only Board members. They can either leave it as it is, make it active, or adjust design standards in the code so that a variance is needed if an applicant doesn't adhere to the code. They're looking for a response by the second November Council meeting. Mr. Morytko said the ARC work is important and the work they do can't be done as in-depth at the Board meetings. Mr. McElroy explained the history of the ARC for the Village Center, which was then applied to other properties. He noted not a lot of other towns have an ARC and worries about how it affects businesses wanting to operate here. It's also hard to get public members because they don't meet that often, so it makes sense for it to be Board members. They could work on design guide standards. Mr. Walsh agreed the ARC could save a lot of time at the Board meeting, and that it makes sense as a Board subcommittee.

Environmental Commission: Mr. McElroy said there's a meeting next week.

Open Space: Mr. Morytko said they met earlier this month and discussed forestry management and stand improvements.

Township Council: Mr. Proctor said they did a proclamation for members of the Lakeland Emergency Squad, Mike Orgera and Frank Diliberto, for a life save at Shoprite. They did a resolution acknowledging the final restoration of streets in West Brookwood. They adopted two ordinances for flood damage prevention and a street vacation. The CO Johnson Highlands grant was discussed; they're working with Highlands to see what can be used in the plan.

Zoning Report: Everyone had a copy.

OPEN TO THE PUBLIC

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

ADJOURNMENT

A motion to adjourn the meeting was made at 10:41pm by Mr. McElroy, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Tom Chamberlin
Case No. Z01-2024
MF#5000.109

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Maximum Total Square Footage of
Accessory Structures
Maximum Lot Disturbance
Nonconforming Driveway Material
Driveway Grade Exceeding 15%**

WHEREAS, Tom Chamberlin has applied to the Planning Board of Township of Byram seeking *ex post facto* approval for existing driveways and accessory structures for premises located at 2 Briar Lane, and known as Block 365.02, Lot 1 on the Tax Map of the Township of Byram which premises are in a “R-3” Residential 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. 40:55D-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 and occupant of the subject property. The Applicant is seeking *ex post facto* approval for existing driveways and accessory structures,
{384290.DOC.4} 1

- requiring relief, pursuant to N.J.S.A. 40:55D-70c from the following Sections of the Township's Zoning Ordinance:
- a. Section 240-53C.(6) – Maximum lot disturbance: 50% permitted, 65% existing and approximately 70% proposed.
 - b. Section 240-16A.(5) - Maximum square footage of accessory structures: no more than 50% of the principal structure, approximately 90% is existing and proposed.
 - c. Section 240-40B.(1) – All off-street parking shall be constructed of 6 inches of quarry compacted stone, dense graded aggregate or other acceptable material over a compacted subgrade, the existing driveway is gravel.
 - d. Section 240-40B.(1) – Driveway grade shall not exceed 15%: existing driveway exceeds 15% grade.
2. The Applicant submitted the following documents along with the Application for a Variance:
- a. Survey of Property, prepared by Lakeland Surveying, dated August 27, 2024.
 - b. Survey of Property, prepared by Lakeland Surveying, dated August 27, 2024, with proposed and existing conditions hand drawn.
 - c. Sketch of the house, existing driveway, and proposed driveway, preparer unknown, date unknown.
 - d. Survey, prepared by Jame P. Deady, N.S.P.L.S., dated June 30, 2005, with hand drawn existing conditions labeled, four (4) different versions of the same survey with varying improvements.

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- e. Notice of Violation, issued by Joseph Sabatini, Acting Byram Twp. Zoning Officer, dated December 4, 2023.
 - f. Photos of the property, ten (10) total.
3. The Board received the following memorandum:
- a. Cory L. Stoner, P.E., P.P., of Harrold E. Pellow & Associates, Inc., the Planning Board Engineer, dated January 29, 2024, May 8, 2024, August 30, 2024, and September 26, 2024.
 - b. Environmental Commission, date unknown.
4. Duly noticed public hearings were conducted on August 1, 2024 and October 3, 2024, at which time Thomas Chamberlin, the Applicant, presented sworn testimony in support of the application. The subject property is an oddly shaped, corner lot, with primary frontage on Briar Lane and a second frontage on Brookwood Road. The property is conforming to all bulk requirements of the R-3 zone, except for maximum lot disturbance, as 50% is permitted and the subject property is at 65%. The property is improved with a bilevel frame dwelling, with attached deck, related driveway with access from Briar Lane and a walkway to a separate area with accessory structures to the south of the dwelling. There are five (5) accessory structures, mostly within a gravel area and a retaining wall, that are accessed from the walkway, as well as a second driveway from Briar Lane (the “southern” driveway). There is a third driveway entrance from Briar Lane, near the intersection of Brookwood Road, that is primarily dirt and grass, that provides access to a parking area in the rear of the property for the storage of trailers (the “northern” driveway).

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5. The Applicant received a Notice of Violation (“NOV”), dated December 4, 2024, which includes the following violations of the Township’s Code:
- a. Section 240-11 – Failure to obtain zoning and construction permits for accessory structures and driveways.
 - b. Section 240-16 – Required setback between accessory structures of six (6) feet is not provided.
 - c. Section 240-40A(2) – Exceeding two (2) driveway openings for a frontage of over 200 feet.
 - d. Section 240-40C – Failure to obtain a zoning permit for the driveway.
 - e. Section 240-53 – Exceeding maximum lot coverage.
 - f. Section 240-37A – Two off-street parking stalls are required for residential use, parking vehicles on the grass is prohibited.
6. The Applicant explained that the “middle” driveway is the primary driveway used for personal vehicles. The southern driveway has an asphalt portion adjacent to Briar Lane used to park personal vehicles, and then a gravel portion that continues down the hill toward the accessory structures. The Applicant stores recreational vehicles in the accessory structures, among other things. The northern driveway is a third road opening, with a driveway to the rear of the property that was created by travelling over the grass and consists of dirt and grass. The area in the rear of the third driveway is used to store trailers that are taken out periodically to transport the recreational vehicles to other locations. The Applicant testified that the portion of his lot closest to the intersection of Briar Lane and Brookwood

{384290.DOC.4}4

Road was disturbed during the installation of utilities, not solely by the vehicular traffic.

7. The Applicant testified that the parking area in the rear is accessed infrequently, only when the recreational vehicles are being transported. The trailer is backed into the storage area, whereby the northern driveway is the most direct means of accessing the trailers. Although the recreational vehicles are stored in the structures on the southern side of the property, the southern driveway is too steep for truck access, so the trailers cannot be parked in that location. The rear of the property is wooded, and the storage area is within the tree line, providing screening for the trailers.
8. In response to the NOV, the Applicant testified that he will confirm that there is 6 feet between accessory structures or relocate the structures to provide the required setback. Additionally, the Board expressed concern about the proximity of the northern driveway to the intersection of Brookwood Road, as the vehicle towing the trailer would be in the roadway near Brookwood Road, creating a dangerous condition for motorists. The Applicant offered to remove the northern driveway opening and utilize the middle driveway for the curb cut, and the maneuver the trailers, at an angle, toward the pathway to the rear, and counter-turn the trailer west toward the storage area. The Board was concerned about the additional lot disturbance, the ability to maneuver the trailer as testified to, and the future use of the driveway opening. The Applicant was advised that the driveway opening would have to be blocked and the area restored to its natural vegetation.

{384290.DOC.4}5

9. An in-depth discussion took place regarding the feasibility of the use of the middle driveway to access the rear of the property. It was noted that the Applicant recently constructed a retaining wall that was not indicated on the plan, that could impact the ability to access the storage area from the driveway. Additionally, the Board noted the increase in lot disturbance and the number and location of the accessory structures. The Board requested a revised survey indicating the location of the driveway turn-off, the dimensions and location of the accessory structures, the retaining wall, and existing shrubbery and trees.
10. An updated survey, prepared by Lakeland Surveying, dated August 27, 2024, was submitted to the Board, and then resubmitted with additional information sketched in by the Applicant at the request of the Board Engineer. At the October 3, 2024 meeting, the Board continued the hearing and the Applicant explained the updated survey. Mr. Chamberlin offered to place boulders along the road opening to block access to the rear of the property directly from Briar Lane. Additionally, he offered to plant grass in the disturbed pathway area, opining that gravel, as suggested by the Board's Engineer, was not necessary, as the storage area is rarely accessed.
11. The Board noted that the existing tree line and shrubbery are not indicated on the survey, but the Applicant confirmed that the landscaping would remain. The Chairman requested that the driveway turnoff and pathway to the storage area be delineated with Low Profile Survey Stakes or similar means. The Applicant agreed that vehicles shall not travel across the back of the property.

{384290.DOC.4}6

12. During the public hearings, Jack Moran, an adjacent property owner, questioned the Applicant regarding whether there would be an increase in the number of vehicles on site, whether there would be additional screening for the storage area, and whether there would be any changes to the storage area, to which the Applicant responded in the negative to all questions.

13. The subject property is located in the Highlands Preservation Area and, per the Highlands Water Protection and Planning Act, the construction activities related to improvements to single-family dwellings, including sheds and driveways, is excluded from the provision of the Highlands Regulations.

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. The Board determined that the relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance:

- a. Section 240-53C.(6) – Maximum lot disturbance: 50% permitted, 65% existing and approximately 70% approved.
- b. Section 240-16A.(5) - Maximum square footage of accessory structures: no more than 50% of the principal structure, approximately 90% is existing approved.
- c. Section 240-40B.(1) – All off-street parking shall be constructed of six (6) inches of quarry compacted stone, dense graded aggregate or other

{384290.DOC.4}7

acceptable material over a compacted subgrade, the existing driveway permitted to remain gravel.

- d. Section 240-40B.(1) – Driveway grade shall not exceed 15%: existing driveway permitted at 15% grade.
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 Board determined that due to the topography and conditions on the property, the proposed storage area is the only location to store the Applicant’s trailers. Accordingly, the Board determined that the relief could be granted to permit the substandard conditions to allow access to the storage area through the existing driveways. The Applicant was able to establish that the southern driveway is not utilized by motor vehicles, so although relief is needed for grading and driveway construction, the minimal use of the driveway by recreational vehicles is permissible. The Applicant agreed to relocate accessory structures as needed to establish the required setback, although the square footage exceeds to the

permitted total area, the Board determined that the structures are being utilized by the Applicant, have existed without complaint, and could remain on the property.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 17th day of October, 2024 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. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval.
3. The Applicant shall pay all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
5. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the closure of zoning or construction permits.
6. The driveway turnoff and access to the rear storage area shall be delineated on property, subject to the review and approval of the Board's Engineer.

{384290.DOC.4}9

7. The southern driveway shall only be utilized by motorized vehicles not considered passenger vehicles, with different operational and licensing requirements: ie: Mopeds, snowmobiles, dirt bikes, ATVs, etc., as set forth in the New Jersey Motor Vehicle Commission Regulations. All passenger vehicles subject to New Jersey Licensing requirements shall not be permitted to utilize the southern driveway.
8. The Applicant shall restore the northern driveway to a grass area and properly maintain the lawn.
9. The Applicant shall block the northern driveway opening with landscaping or hardscaping to eliminate access from Briar Lane, subject to the review and approval of the Board's Engineer.
10. An updated survey shall be submitted to indicate the revised conditions, subject to the review and approval of the Board Engineer.
11. All accessory structures shall have a minimum setback of six (6) feet to any other accessory structure. Any structures within six (6) feet of each other shall be relocated to establish a conforming setback distance.
12. The Applicant shall resolve all issues stated in the Notice of Violations within 90 days of the within Resolution of Approval, to the satisfaction of the Zoning Officer and the Board Engineer.



George Shivas 10/17/2024

{384290.DOC.4}10

On motion of: Mr. Proctor

Seconded by: Mr. Serrilli

The vote on the Resolution was as follows:

AYES: Six (6): Mr. Proctor, Mr. Morytko, Mr. Serrilli, Mr. Smith, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Three (3): Mr. McElroy, Ms. DeMagistris, Ms. Colligan

ABSENT: Two (2): Mayor Rubenstein, Ms. Raffay

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on October 17, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 10/18/2024

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Byram Waterloo, LLC (Sign)
Case No. SP1-2024
MF#5000.086

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Certification of Pre-Existing Nonconforming
Structure (Freestanding Sign)
Content of Freestanding Sign**

WHEREAS, Byram Waterloo, LLC has applied to the Planning Board of the Township of Byram seeking a Certification of Pre-Existing Nonconforming Structure for a Starbucks Restaurant Freestanding Sign, along with variance for the content of the sign, for premises located at 33 Route 206, and known as Block 36, Lot 40 on the Tax Map of the Township of Byram which premises are in a “V-B” Village Business Zone; and

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. 40:55D-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 in accordance with the Open Public Meetings Act, N.J.S.A. 10-4.6, has made the following factual findings:

1. The Applicant was represented by Alexis Lazzara, Esquire, Assistant General Counsel for Ronetco Supermarkets, Inc. and Steven Polhamus, Esquire,
{384103.DOC.1} 1

Associate General Counsel for Ronetco Supermarkets. Byram Waterloo, LLC, the Applicant, is a subsidiary of Ronetco Supermarkets, Inc.

2. The Applicant is the owner of the subject property and received Planning Board Approval on May 2, 2024, to demolish the existing vacant bank structure and construct a new structure to be leased to Starbucks to operate a coffee house with a drive through lane, via a bifurcated Application, which did not include the existing freestanding sign on the site. As set forth in Conditions 22 and 23 of the Memorializing Resolution, which was adopted by the Board on June 20, 2024, the Applicant shall return to the Board for the review and consideration of the existing freestanding sign.
3. During the initial hearing, a discussion ensued regarding the freestanding sign and whether the sign was a pre-existing, nonconforming structure or had been approved previously in any capacity. The Applicant chose not to address the freestanding sign during this hearing, but it was noted that the freestanding sign would be included in the total number of signs, as relief is required for exceeding the permitted total sign count. The Chairman made a motion to bifurcate the review of the freestanding sign, requiring the Applicant to come back to the Board for consideration of the sign, whereby the Board retained jurisdiction of the sign. However, if there is substantial proof that the sign is lawfully existing, the Applicant retains the rights to the size and location of the sign as it currently exists.
4. By letter dated July 3, 2024, the Applicant requested that the Board review and consider the existing freestanding sign pursuant to N.J.S.A. 40:55D-68, {384103.DOC.1}2

for a certification of a pre-existing, nonconforming structure, along with relief pursuant to N.J.S.A. 40:55D-70c, from Section 240-47.2.E.2 of the Township's Zoning Ordinance, which limits the content of freestanding signs to business name and/or logo and street address. The proposed sign will contain the Siren Logo for Starbucks and the words "Drive Thru."

5. The Applicant submitted the Site Plan for Starbucks of Byram, prepared by Langan Engineering and Environmental Services, Inc., dated February 7, 2024, consisting of 22 Sheets, revised through July 12, 2024, along with the July 3, 2024 Letter from Alexis Lazzara, Esq.
6. The Board noted the following documents from the original application:
 - a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated February 29, 2024, and March 28, 2024.
 - b. Paul Gleitz, P.P. AICP, the Planning Board Planner, dated March 27, 2024, and updated April 30, 2024.
 - c. Alyse Hubbard, Esq., Memorandum to the Board regarding the Freestanding Sign Approval, dated June 5, 2024.
 - d. Resolution for SP1-2024, Memorialized on June 20, 2024.
7. The following were marked for identification:
 - a. A-1 – Packet of Exhibits, dated September 19, 2024, including an index of the fifteen (15) Exhibits.
 - b. A-2 – Planning Exhibits for Byram Waterloo, LLC, prepared by John McDonough Associates, dated April 4, 2024, consisting of two (2) sheets.

{384103.DOC.1}3

8. A duly noticed public hearing was conducted on October 3, 2024, during which time, Steven Polhamus, Esq. reviewed the contents of the Exhibits, marked as A-1, to establish that the existing free-standing sign was a pre-existing nonconforming structure and entitled to protection pursuant to N.J.S.A. 40:55D-68. The Exhibits included prior site plan approval and related information that was provided to the Applicant by the Board Attorney, as well as information provided by the Applicant, including aerial photographs and photos of neighboring sites.
9. Of specific reference to A-1, the Board was directed to Exhibit 1, which was an historic aerial from 1979 that appears to have a sign on the property, but the exact location, height, and size are unclear. Exhibit 2 was a Site Plan approved by the Board in 1993 with the same dimensions as the existing sign. Mr. Polhamus noted that the sign was branded from Charter Bank, to Santander Bank, to Sovereign Bank between 1997 and 2013, without any indication that a variance was needed for the sign.
10. In 2008, as indicated in Exhibit 7, there was a road widening of the intersection of Route 206 and Waterloo Road by the Department of Transportation, which included the relocation of the sign, with the same setback from the new property line as was previously existed. The 2008 approval was granted via Waiver of Site Plan Application and is consistent with the current location.
11. It was noted by Mr. Gleitz that the Zone Change for the signage in the Village Business Zone occurred on April 21, 2015, via Ordinance 320-15. Chairman

{384103.DOC.1}4

Shivas, a long-time resident of Byram, noted that he recalls the same sign in the current location for many years.

12. It was noted that there is a slight discrepancy with regard to the actual dimensions of the sign on the records provided to the Applicant. The current sign dimensions are 14' by 7'1", the 1993 approval was 14' by 7' and 2008 approval was 15' by 6'. While the Mr. Polhamus acknowledged the discrepancy, he offered that there was no indication that the actual sign had ever changed and that it may have been an engineering error.
13. Pursuant to Section 240-49(b), the illumination of the sign will be in compliance with the current regulations, although that method of illumination has changed since the sign was first approved.
14. Michael Pessalano, P.P., from John McDonough Associates, who was accepted as an expert Professional Planner, presented sworn testimony in support of the application and bulk variance relief for the content of the sign. He noted that the sign has never been severed from the principal permitted structures on the site, there has been continuity of the sign since it was originally approved. Referring to A-2, Mr. Pessalano indicated that the recently approved signs for both Dunkin' and CVS had additional content for their drive through services that did not have a substantial impact on the area.
15. The proposed sign face will include 2 separate elements related to Starbucks' specific use of the property, the Siren Logo and "Drive Thru". The witness opined that the proposed sign will further the following purposes of the Municipal Land Use Law as set forth in N.J.S.A. 40:55D-2, namely:

{384103.DOC.1}5

- a. Purpose A- to encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals and general welfare; the sign is clear and unambiguous and allows motorists the ability to recognize the use and move safely onto the site.
- b. Purpose H – to encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight; the sign is a clear indication to motorists of the use on the property and allows them to freely access the site.
- c. Purpose I – to promote a desirable visual environment through creative development techniques and good civic design and arrangement; the images are clear, with just the logo and “Drive Thru” without additional information or clutter.

16. The Planner opined that there would be no substantial detriment to the public good, as the sign is similar to other signs in the area and other locations. The sign is an indicator of the proposed use, without excess clutter. The sign has been a long-standing part of the neighborhood, with the content changing as the tenant changed, allowing motorists to safely identify the site. The sign is located in successful and vital commercial corridor in the Township, and will not impair the Master Plan or the Zone Scheme. Accordingly, the benefits of the additional content on the sign outweigh any detriments that might result from the inclusion of “Drive Thru” on the sign.

{384103.DOC.1}6

17. A discussion occurred regarding the size of the sign, the size of the lettering and the comparison has to how “Drive Thru” on other signs in the area and is generally smaller than the brand name, referring to Exhibit #15. Mr. Polhamus justified the size and scale of the letters, noting that the Siren is more recognizable than “Starbucks” and is that “Drive Thru” is proportionate to the size of the sign. While Members of the Board compared aesthetics and functionality, it was generally thought that the proposed sign was acceptable, and the Applicant should be permitted to market themselves as they deem appropriate.

18. During the public portion of the meeting, Patricia Moschello opined that the sign was not out of the ordinary and that Starbucks is maintaining the brand. No one else from the public was in attendance for this 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 witnesses testimony to be competent and credible. The Board determined that the Applicant was able to establish that the current sign on site was a pre-existing, nonconforming structure. The Board reviewed the prior approvals from 1993, 2008, and 2013, noting that the sign had been approved by the Board via site plan and waiver of site plan applications. Although there are slight deviations in the plans submitted with the approvals, the Board determined that the sign had not changed since the initial approval.

{384103.DOC.1}7

The Chairman took judicial notice of the fact that the sign had been there for many years and it was noted that the Zone Change took place in 2015.

2. The Board further determined that, based on the testimony of the Applicant's professionals, relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance:

a. Section 240-47.2.E.2 – Maximum size of a freestanding sign: 32 square feet is permitted, 99 square feet is proposed. Freestanding signs are limited to the business name and/or logo and street address. The proposed sign advertises the drive through lane. *This sign was bifurcated during the course of the initial hearing, the Board retained jurisdiction of the review of this sign and now determined that it was a pre-existing, nonconforming structure and entitled to remain nonconforming as to size. The Board approved the content of the sign to include the Siren Logo and the words "Drive Thru" on both sides of the sign.*

b. Section 240-47.2.E.3 – Maximum height of a freestanding sign: 12 feet is permitted. *This sign was bifurcated during the course of the initial hearing, the Board retained jurisdiction of the review of this sign and now determined that it is a pre-existing, nonconforming structure.*

c. Section 240-47.2.E.4 – Minimum setback of a freestanding sign from the property line: 15 feet is permitted. *This sign was bifurcated during the course of the initial hearing, the Board retained jurisdiction of the*

{384103.DOC.1}8

review of this sign and determined that it is a pre-existing, nonconforming structure.

d. Section 240-47.2.E.6 – Maximum size of a 2-sided freestanding sign: 64 square feet. *This sign was bifurcated during the course of the initial hearing, the Board retained jurisdiction of the review of this sign and determined that it is a pre-existing, nonconforming structure.*

3. 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.
4. The benefits of permitting the development with the necessary variances outweigh the detriments that may result from denying the requested relief. The subject property is a lot in a prominent location on Route 206. Starbucks will bring a name brand land use to the site, which will result in an improved visual environment within the commercial corridor. The existing sign, with the familiar logo and inclusion of the words “Drive Thru” will allow motorists to locate the property and safely access the site. As noted above, the sign will promote the free flow of traffic and a desirable visual environment, as well as

{384103.DOC.1}9

the safety and general welfare of the surrounding area, furthering the goals of the Municipal Land Use Law.


5. Relief can be granted without substantially impairing the zoning scheme or Master Plan. There are other prominent signs in the area with similar content, namely Dunkin' and CVS, that have not had a negative impact on the area, nor the Zone Scheme or Master Plan. The sign has existed on this site for many years, at times with additional content, without incident.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 17th day of October 2024 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. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.

{384103.DOC.1}10

5. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
6. The Applicant shall secure any and all approvals required from any other public agency or governmental body that may have jurisdiction, whether specified herein or not, prior to seeking construction or zoning permits.
19. The Applicant shall comply with all Conditions of Approval, not inconsistent with the within approval, as set forth in Resolution SP1-2024, as Memorialized on June 20, 2024, which are incorporated herein and made a part hereof.

 10/17/2024

George Shivas

On motion of: Mr. Proctor

Seconded by: Mr. Morytko

The vote on the Resolution was as follows:

AYES: Eight (8): Mr. Proctor, Mr. McElroy, Mr. Morytko, Mr. Serrilli, Mr. Smith, Mr. Walsh, Ms. Colligan, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Ms. DeMagistris

ABSENT: Two (2): Mayor Rubenstein, Ms. Raffay

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on October 17, 2024.

{384103.DOC.1}11

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 10/17/2024

Prepared by: Alyse Landano Hubbard, Esq.

{384103.DOC.1}12

In the matter of 242 US 206 North LLC/Byram Auto
Case No. SP9-2024
MF#5000.115

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: Certification of Preexisting Nonconforming Use

WHEREAS, 242 US 206 North LLC has applied to the Planning Board of Township of Byram seeking a Certification of a Preexisting Nonconforming Use of an automobile service station for premises located at 242 Route 206, and known as Block 219, Lot 10 on the Tax Map of the Township of Byram which premises are in a “NC” Neighborhood Commercial 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. 40:55D-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. Robert LaRusso is the sole proprietor of 242 US 206 North, LLC, the Applicant and owner of the property. Mr. LaRusso is also the owner of Byram Transmission, who operates a transmission repair shop on the subject property. The Applicant is seeking

{384244.DOCX.1}1

a Certification of a Preexisting, Nonconforming Use of an automobile repair shop pursuant to N.J.S.A. 40:55D-68.

2. The Applicant submitted the following documents along with the Application for Variance:

- a. Site Plan prepared by Pittenger & Keith, Inc, dated March 26, 1997, revised through May 4, 1997, consisting of one (1) sheet (unsigned by Township Officials).
- b. Survey prepared by Robert Campbell Associates, dated April 1976.
- c. Floor plan of the building, preparer unknown, undated, with Property Report attached.
- d. Resolution for Application Z32-97, for Site Plan and variance approval for Byram Transmission, dated October 2, 1997.
- e. No Further Action Letter and Covenant Not to Sue from Donald Cramer, Acting Section Chief, of the New Jersey Department of Environmental Protection, date stamped December 1, 2009.
- f. Historic and Current Photos of the property, total of eight (8) photos on three (3) sheets.
- g. Deed from Byram Holdings, LLC to 242 Route 206 North, LLC, dated May 30, 2017, recorded in the Office of the Sussex County Clerk on June 12, 2017, in Deed Book 3431, Page 549.

3. The Board received the following memorandum:

- a. Cory L. Stoner, P.E., P.P., of Harold E. Pellow & Associates, Inc., the Planning Board Engineer, dated September 5, 2024.

{384244.DOCX.1}2

- b. Fran Frederick, Secretary of the Environmental Commission, dated August 29, 2024.
4. The Board marked Construction Permit for the Sign, 2023 as A-1 for identification.
5. A duly noticed public hearing was conducted on October 3, 2024, at which time Robert LaRusso, on behalf of the Applicant, presented sworn testimony in support of the application. Mr. LaRusso testified that he has owned Byram Transmission since 1986 and is planning on selling the business and the property. The Applicant last received approval in 1997 for a transmission repair shop when the property was located in the B-1 Neighborhood Business Zone, which permitted retail and service businesses. In 2006, the property was rezoned to the NC, Neighborhood Commercial District, which permits auto repair shops as conditional uses, but the site does not meet the conditions listed in Section 240-64A of the Township Code:

A. Automobile repair shop.

- (1) Tract size: a minimum of one acre.
- (2) Side yards: not less than 30 feet when abutting a right-of-way or residential use.
- (3) Lot coverage: a maximum of 70% of the property.
- (4) No part of any automobile repair shop operation shall be conducted within 50 feet of a residential zone boundary or use. A six-foot-high board-on-board or similar fence shall be installed along any residential zone boundary or use 10 feet from the property line.
- (5) Any outdoor storage of supplies, materials or automobile parts, whether for sale, storage or waste, shall be within the rear or side yard of the site and enclosed within a six-foot-high board-on-board or similar fence 10 feet from the property line.
- (6) Repair work, other than incidental minor repair, shall take place within the building, and all repair or service apparatus shall be located within the building.
- (7) The use and parking of tow trucks shall be limited to three per automobile repair shop.

{384244.DOCX.1}3

- (8) The sale or rental of cars, trucks, trailers, boats or any other vehicles on the premises of an automobile repair shop shall be limited to no more than six.
- (9) Floor drains shall not be connected to any sanitary sewer system, and they may be connected to the storm sewer system only if an oil separator has been installed prior to the location of the connector.
- (10) All storage tanks shall be installed per Department of Environmental Protection regulations.

Accordingly, the Applicant is requesting that the Board granted a Certification of Preexisting Nonconforming Use.

- 6. The Applicant submitted historic photos of the property that indicate that in 1947, the site was an Esso Service Station. In the 1970s, Esso became Exxon. In 1986, Mr. LaRusso purchased the property and has operated an automobile service station since then. In 1992, gasoline sales ceased on the property, but the automobile service use continued. In 1997, the Planning Board approved the Site Plan and variances, which permitted overnight parking in relation to the service use. Said Resolution notes a 1976 variance for transition repair with additional parking and includes several Conditions of Approval, including striping of the parking lot and the painting of “No Parking” lettering on the pavement.
- 7. In 1997, the Applicant installed a 6-foot fence behind the building, along with landscaping for screening, which eliminated access to the storage and parking in the rear, as indicated on the Site Plan. Additional undocumented changes were made throughout the years that are inconsistent with the Site Plan, as noted in Mr. Stoner’s September 5, 2024 report. Mr. Stoner advised that the Board that the current conditions may be preferable to the site plan, but are inconsistent with what was approved by the

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Board. It should be noted that the Site Plan submitted to the Board was not signed by the Municipal Officials.

8. During the public portion of the hearing, Douglas Krentz, the Applicant's Realtor and Anthony LaRusso, the Applicant's Brother, urged the Board to direct the Applicant regarding the inconsistencies of the Site Plan compared to the current conditions on the property. The Board did not review the Site Plan for compliance and takes no formal position amount the property's conformance with the 1997 Site Plan that was submitted to the Board with the subject application.


WHEREAS, the Board has determined that the Applicant has presented the necessary proofs to be granted a Certification of Preexisting, Nonconforming Use pursuant to N.J.S.A. 40:55D-68, for the following reasons:

1. The Board found the witness testimony to be competent and credible with regard to the use of the property as service station as early as 1947. The Board reviewed the historical pictures and prior Resolution and determined that the service station was in existence prior to the 2006 Zoning Ordinance, which established that automobile repair shops were conditional uses in the Neighborhood Commercial Zone and created the required conditions.
2. With the advice of the Board Professionals, the subject property does not meet the conditions for the Neighborhood Commercial Zone, as set forth in Section 240-64(a) of the Township's Zoning Ordinance. However, the Applicant was able to establish that the Applicant received approval for an automobile repair shop in 1997, the site has continued to operate as an automobile repair shop and the Board can grant the Certification requested herein.

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NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 17th day of October, 2024 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. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
3. The subject property can continue to operate as an automobile repair shop, no gasoline sales are permitted on the property.
4. The Board makes no determination about the consistency or conformance with the 1997 Site Plan that was submitted to the Board with the subject application.

 10/17/2024

George Shivas

On motion of: Mr. McElroy

Seconded by: Mr. Proctor

The vote on the Resolution was as follows:

Eight (8): Mr. Proctor, Mr. McElroy, Mr. Morytko, Mr. Serrilli, Mr. Smith, Mr. Walsh, Ms. AYES: Colligan, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Ms. DeMagistris

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ABSENT: Two (2): Mayor Rubenstein, Ms. Raffay

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on October 17, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 10/17/2024

Prepared by: Alyse Landano Hubbard, Esq.

{384244.DOCX.1}7

In the matter of Kathy Dobrich
Case No. Z31-2024
MF#5000.113

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Accessory Structure Located in the Front Yard
Minimum Front Yard Setback of Accessory
Structure**

WHEREAS, Kathy Dobrich has applied to the Planning Board of the Township of Byram seeking *ex post facto* approval for an accessory structure in the front yard of the premises located at 560 East Shore Lane, and known as Block 293, Lot 5 on the Tax Map of the Township of Byram which premises are in a “R-3” 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. 40:55D-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, Kathy Dobrich, is the owner and occupant of the subject property, along with Dejan Dobrich (the “Applicants”). The Applicants are seeking approval

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for an accessory structure, located in the front yard of the subject property, requiring the following relief from the Township's Zoning Ordinance:

- a. Section 240-16.B.(2) – No accessory structure shall be located in the front yard; the existing shed is located in the front yard.
 - b. Section 240-16.B.(4) – Minimum Front Yard Setback; 249 feet required, 16 feet proposed.
 - c. Section 240-16.B.(4) - Minimum Side Yard Setback; 10 feet required, 6 feet proposed. *Addressed during the hearing.*
 - d. Section 240-25B – No construction in a riparian buffer without approval from New Jersey Department of Environmental Protection (“NJDEP”): vegetation was cleared within the riparian buffer with proper approval. *Addressed during the hearing.*
 - e. Section 240-29.2D – Tract disturbance shall not include critical areas (including surface water bodies and all wetlands); 21,500 square feet of critical are was disturbed when dredging the pond. *Addressed during the hearing.*
2. The Applicant submitted the following documents along with the Application for a Variance:
- a. Surveys, marked up, three (3) versions, electronically dated July 8, 2024.
 - b. Permit #1904-12-0001.2 LUP230001- issued by NJDEP, dated April 16, 2024.
 - c. NJDEP Permitting Plan, prepared by Robert J. Weissman, dated March 10, 2022, revised through December 4, 2023.

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- d. Letter to Property Owners or Interested Party, re: Applications for Freshwater Wetlands General Permit 1, issued by David C. Kruger, President of Environmental Technology Inc. dated December 18, 2023.
 - e. Highlands Applicability Determination, issued by NJDEP Supervisor, Christopher Squazzo, dated August 10, 2023.
 - f. Highlands Exemption Map, prepared by Robert J. Weissman, dated March 10, 2022, revised through May 8, 2023.
 - g. Map of Critical Areas and Riparian Zone Disturbance, prepared by Robert J. Weissman, dated March 10, 2022, revised through December 4, 2023.
 - h. Single Family Home Lot Approval Letter, Sylvia Kovacs, Chairwoman, Upper Delaware Soil Conservation District, approval granted May 11, 2022.
 - i. Report of Compliance, Upper Delaware Soil Conservation District (“UDSCD”), dated June 20, 2023.
 - j. Proposed Kitchen Addition, preparer unknown, date illegible.
 - k. Notice of Violation, issued by Nick Cutrone, Byram Twp. Zoning Officer, dated December 20, 2021.
 - l. Notice of Violation, issued by Joseph Sabatini, Acting Byram Twp. Zoning Officer, dated December 7, 2023.
 - m. Reports from Sabine Watson, Engineer for the Lake Mohawk Country Club, dated March 5, 2024, May 29, 2024, and July 24, 2024.
 - n. Pictures of the accessory structures, seven (7) total.
3. The Board received a memorandum from:

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- a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated January 26, 2024 and July 2, 2024.
 - b. Fran Frederick, Secretary of the Environmental Commission, dated August 29, 2024.
4. A duly noticed public hearing was conducted on October 3, 2024, at which time Kathy and Dejan Dobrich, the Applicants, presented sworn testimony in support of the application. The subject property is an irregularly shaped, oversized lot, with 184,259 square feet, where 40,000 square feet is required. The adjacent property (Block 293, Lot 2197) which is owned by Mr. Dobrich was part of the NJDEP regulatory oversight and permitting. The Applicants testified that when they purchased the property, it had been neglected and in disrepair and they have been fixing up both the home and the property since they purchased it.
5. The Applicants were issued a Notice of Violation (“NOV”) in 2021 for tract disturbance, grading, and construction activities in close proximity to waterways by the Township. Another NOV was issued in 2023 for construction without a permit and accessory structures in the front yard. The Applicants obtained the proper approvals with regard to construction and dredging from the NJDEP on April 16, 2024.
6. The Applicants applied to the Lake Mohawk Country Club (“LMCC”) for approval of the accessory structures located on the property and most recently received comments on July 24, 2024. LMCC advised that the Firewood Storage/Honeycomb Shelving was to be removed, as no more than one accessory structure is allowed on property in the Lake Mohawk Community. Additionally, the Wood Curing Shed must be moved

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to be more than 30 feet from the right-of-way and must comply with Byram Township Ordinances; specifically, the shed should not be located in the front yard and evergreen screening should be planted between the shed and East Shore Trail.

7. At the public hearing, the Applicants advised that the Firewood Storage/Honeycomb Shelving was removed, per the comments from LMCC. However, the Applicants were before the Planning Board for relief related to the Wood Curing Shed located within the front yard. The Applicants explained that the shed was partially constructed, but the exterior had not been finished due to the NOV and an application pending before the LMCC. The shed is constructed with plexiglass roof facing south for maximum sunlight and is used to dry wood. Originally, the Applicants were proposing to construct a kitchen addition and were drying the wood to use during construction. The addition is no longer part of the application, leaving only the wood curing shed for consideration by the board.
8. The 16' by 10' shed is within the front and side yard setbacks of the subject property, requiring variance relief. The LMCC requires that the shed be relocated outside of the setbacks, which would be 30 feet from the front lot line and 10 feet from the side lot line, and properly screened. The Applicants testified that the location was chosen for access to sunlight and the topography of the property, which, in their opinion, screened the structure from the roadway. The rear of the property is sloped and rocky and not usable by the Applicants. The shed will be used to dry wood for firewood or plank wood, but the Applicants have no intention of selling the wood for profit. Some of the wood will be utilized as live edge siding on the accessory structure.

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9. The Board considered both the testimony of the Applicants and the Board Members' knowledge of the property and the area. Several suggestions were made with regard to the relocation of the shed that would be less visible from the roadway, but the Applicants' only proposal was to comply with the Township Ordinance and the LMCC and relocate the shed a minimum of 30 feet from the right-of-way and 10 feet from the side yard, subject to the approval of LMCC.
10. With regard to the tract disturbance and construction within the riparian buffer, Mr. Stoner, the Board's Engineer, opined that both issues had been mitigated and addressed by the approval from the NJDEP and the UDSCD, requiring no further relief from the Planning Board.
11. The application was reviewed by the Environmental Commission and a report was issued on August 29, 2024. It is noted that a NJDEP Freshwater Wetlands Permit was received, which required that the dredged material deposited on the site be stabilized, and the Applicants are not proposing to construct the addition as originally requested.
12. The subject property is located within the Highlands Preservation Area and received a Highlands Applicability Determined from the NJDEP on August 10, 2023, stating that the proposed project was not a major project and deemed exempt from the Highlands Act.
13. During the public portion of the hearing, Robert Moschello testified in support of the application.

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

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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. The Board determined that relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance:
 - a. Section 240-16.B.(2) – No accessory structure shall be located in the front yard; the existing shed is located in the front yard.
 - b. Section 240-16.B.(4) – Minimum Front Yard Setback; 249 feet required, 30 feet proposed.
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 an oversized, irregularly shaped lot, that is naturally wooded and vegetated, with steep slopes. The Applicants received the necessary approvals from NJDEP and UDSCD to mitigate the construction and tract disturbance issues before coming to the Board. The application was reviewed by LMCC and the Applicants complied with the requirements set forth in their

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review letters. One of the existing accessory structures was removed prior to coming to the Board. The shed will be relocated to eliminate the need for a side yard variance, but based on the location of the home and the conditions of the property, variances are still required for the location in the front yard of the property.

4. The Board further determined that permitting the accessory structure in the front yard and within the front yard setback would not result in a substantial detriment to the surrounding area, as the structure was moved away from the front and side lot lines. The structure will be completed with live edge siding and be attractive to the neighborhood. The location of the structure is not inconsistent with the Master Plan and the Zoning Scheme, as this property is unique due to size and configuration of the lot.

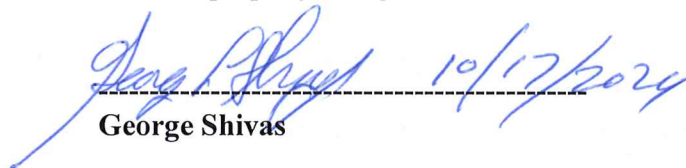
NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 3rd day of October, 2024 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in

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granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval

3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. The Applicant shall obtain zoning and construction permits, as needed, for the existing shed.
5. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the closure of zoning or construction permits.
6. There shall be no commercial sales of the dried wood.
7. The exterior of the shed shall be finished, as represented to the Board.
8. The Applicants shall comply with the requirements of the New Jersey Department of Environmental Protection, the Lake Mohawk Country Club and the Upper Delaware Soil Conservation District.
9. The Applicants shall provide landscape screening of the shed, as required by the Lake Mohawk Country Club, subject to the review and approval of the Board's Planner. The landscaping shall not block the roof of the shed and the sunlight needed for the shed to function properly as a greenhouse.

 10/17/2024

George Shivas

On motion of: Mr. Proctor

Seconded by: Mr. Serrilli

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The vote on the Resolution was as follows:

Seven (7): Mr. Proctor, Mr. McElroy, Mr. Serrilli, Mr. Smith, Mr. Walsh, Ms. Colligan,
AYES: Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mr. Morytko, Ms. DeMagistris

ABSENT: Two (2): Mayor Rubenstein, Ms. Raffay

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on October 17, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 10/17/2024

Prepared by: Alyse Landano Hubbard, Esq.

{384189.DOC.1}10



Byram Township Land Use Application

10 Mansfield Drive, Stanhope, NJ 07874
973-347-2500

Property Address: _____ Block(s): _____ Lot(s): _____ Zone: _____

Applicant's Name: _____ Home address: _____

Phone Number: _____ Email Address: _____

Applicant's Professionals

Name of Company: _____ Name of Professional: _____

Profession: _____ Business address: _____

Phone Number: _____ Email Address: _____



Name of Company: _____ Name of Professional: _____

Profession: _____ Business address: _____

Phone Number: _____ Email Address: _____



Name of Company: _____ Name of Professional: _____

Profession: _____ Business address: _____

Phone Number: _____ Email Address: _____



Name of Company: _____ Name of Professional: _____

Profession: _____ Business address: _____

Phone Number: _____ Email Address: _____

Type of Application (check all that apply):

<input type="checkbox"/> Informal Concept Review	<input type="checkbox"/> NJSA 40:55D-70(d)(1): “D1” Variance: To permit a use or principal structure not otherwise permitted in the district	<input type="checkbox"/> Minor Site Plan
<input type="checkbox"/> Conditional Use	<input type="checkbox"/> NJSA 40:55D-70(d)(2): “D2” Variance: To permit expansion of a non-conforming use	<input type="checkbox"/> Preliminary Major Site Plan
<input type="checkbox"/> NJSA 40:55D-70(a): Appeal of Zoning or Administrative Officer’s decision	<input type="checkbox"/> NJSA 40:55D-70(d)(3): “D3” Variance: To permit deviation from conditional use standards	<input type="checkbox"/> Final Major Site Plan
<input type="checkbox"/> NJSA 40:55D-70(b): Interpretation of zoning map or ordinance	<input type="checkbox"/> NJSA 40:55D-70(d)(4): “D4” Variance: To increase the floor-area-ratio (FAR) beyond permitted	<input type="checkbox"/> Minor Subdivision total lots =__
<input type="checkbox"/> NJSA 40:55D-70(c)(1): “C1” Variance: for a bulk requirement that cannot be met due to narrowness, shallowness, shape, topography, or specific situation that uniquely impacts the of lot	<input type="checkbox"/> NJSA 40:55D-70(d)(5): “D5” Variance: To increase the permitted density beyond permitted	<input type="checkbox"/> Preliminary Major Subdivision total lots =_____
<input type="checkbox"/> NJSA 40:55D-70(c)(2): “C2” Variance*: for a bulk requirement that cannot be met when the purposes of zoning would be advanced by a deviation from the Zoning requirements and the benefits outweigh the detriments.	<input type="checkbox"/> NJSA 40:55D-70(d)(6): “D6” Variance: To increase the height of a principal structure 10’ or 10% beyond permitted	<input type="checkbox"/> Final Major Subdivision total lots =_____
<input type="checkbox"/> NJSA 40:55D-36: To permit a structure without frontage on an improved roadway	<input type="checkbox"/> Amended Preliminary Site Plan	
<input type="checkbox"/> NJSA 40:55D-68: Certification of Pre-Existing Non-Conforming Use	<input type="checkbox"/> Amended Final Site Plan	

Important Notes When Gathering Application Documents

It is recommended that you read this document fully:

Township Code for the Planning Board: [Township of Byram \(ecode360.com\)](http://ecode360.com)

Found on Byram Township webpage, under Government tab

The Board is a quasi-judicial entity, operating similar to a court, pursuant to the Municipal Land Use Law. The Board upholds the Master Plan of the Township and its policies through zoning, site plan, and subdivision ordinances listed in the Township's code. These ordinances determine the guidelines that need to be met by an applicant of the Board. **An applicant is not entitled to a variance for their proposed or *ex post facto* (after the fact) improvement —the applicant must satisfy certain legal proofs, explaining the benefits and hardships that should qualify them for a variance.**

Waiver Requests: All applications have required checklists to determine that an application is complete. When completing a variance application, a request can be submitted to waive a necessary checklist item. This is done in writing, indicating each item not being provided, information explaining why the item(s) are not being provided, and why the waiver should be granted. The Board may still require pertinent data as it arises during a hearing.

Submitted Plans: A signed and sealed copy of all plans prepared by a professional must be submitted to the Board Secretary. Once final plans are approved, additional sets of signed and sealed plans will be needed for the Construction Department and the final records retention of the application. The professional preparing the plans must be licensed to practice in the State of New Jersey. Plans must be based on an accurate boundary survey prepared by a land surveyor licensed in New Jersey. A property owner can draw an improvement on a survey prepared by a licensed surveyor, but this is not acceptable for a commercial application, for which an accurate survey from a licensed surveyor is required.

Application Fee: Every Board applicant must pay the application fee set forth in the Township's Ordinance, which is non-refundable, even if the application is withdrawn.

Escrow: Every Board applicant must maintain an escrow account in an amount sufficient to cover the costs of processing the application. The escrow covers the Board professionals' work on an application. The professionals' main invoicing charges include the review of the application materials, review of sufficiency of noticing as needed, attendance at the applicant's hearing, drafting and review of the resolution, and final plan review and site inspections for resolution compliance. Any funds remaining at the end of the process, when all permits in the Construction Office have been obtained and closed, can be returned. **If the invoicing for the work on the application exceeds the escrow funds initially provided, additional money is required to keep the account replenished. The Board will not hear an application or approve a resolution if the escrow account is deficient.** Please note: the Board Engineer may need to continue to inspect the site periodically as construction proceeds, so there may be ongoing escrow charges until the work is completed. These inspections are part of resolution compliance.

Burden of Proof: The burden of proof is on the applicant to demonstrate, to the Board's satisfaction, that the applicant is entitled to the requested approval. Expert testimony may be necessary concerning engineering, architectural, environmental, or the planning impacts of the proposed development on the neighborhood or town. Proceeding before the Board without such experts is done at the applicant's own risk; applicants are recommended to seek the advice of competent counsel and professionals of their own, especially on applications involving complex issues. The Board professionals represent the Planning Board itself—they are not and cannot be representatives for the applicant. Corporations and LLCs must be represented by an attorney. A resident may elect to be represented by an attorney if they do not understand the documents or the nature of the testimony that must be provided.

Everyone testifying before the Board must swear or affirm that they will tell the truth. The applicant shall present their case, with all witnesses being subject to cross examination by any interested party and questioned by the Board and its professionals. Board meetings and hearings are open to the public for review, questions, or comments. The applicant and/or representatives of the application must be present at a hearing for their application to be considered. If an applicant can't satisfy the concerns of the Board, and more testimony or additional information is needed, the hearing may be carried to the next available hearing.

Public Notice of Resolution: The Board Secretary will publish notice of the Board's decision regarding an application in the Township's designated newspaper once the resolution is signed. **The Board's decision can be appealed within forty-five (45) days from the date this notice is first published.** Any questions concerning the possibility of an appeal should be directed to an attorney. Any work done for the project prior to the 45-day appeal period ending is done at the applicant's risk.

Approved Plan Submission: The applicant is responsible for revising their plans in accordance with all the conditions in the memorialized resolution. Two hard copies and a digital copy must be provided to the Board Secretary and Engineer for review. Once the revised plans are approved, five (5) full-size copies are required for signature. Two copies of these signed plans must be provided to the Construction Department when applying for permits.

Application Instructions:

The below instructions are for informational purposes. If you are unsure how to proceed, you should consult a Land Use Professional.

1. Submission:

- a. All applications, fees, and supporting documents shall be filed with the Planning Board Secretary at the Byram Township Municipal Building, 10 Mansfield Drive, Stanhope NJ 07874. A digital copy and two hard copies of the plans, application, and supporting documents shall be provided for the Secretary and professionals' completeness review. All checklist materials must be supplied, unless a waiver has been requested, in order for an application to be deemed complete. A list of items needed for a complete application is included in this packet.
- b. The Board has 45 days from the date of submission of the entire application to deem the application complete or incomplete. The applicant will be notified of any additional materials needed. An incomplete application cannot be processed and will not be considered by the Board.
- c. Once deemed complete, eight (8) copies of the application materials will be requested, and the application will be scheduled for the next available Board hearing date accounting for sufficient time to properly notice for the hearing date.
 - i. The Board meets the first and third Thursday each month, unless otherwise specified. Their meetings begin at 7:30pm, in the courtroom of the Municipal Building, 10 Mansfield Drive, Stanhope NJ 07874. **The applicant or a representative must be present for their hearing**, and their testimony is referenced in their resolution

2. Public Notice:

- a. Public notice of the hearing must be provided in the official newspaper of the Board, The New Jersey Herald, as well as to property owners within 200 feet of the subject parcel. The list of property owners is obtained through the Tax Assessor or Board Secretary. Additional noticing instructions are included in this packet.
 - i. **Do not provide notice until you have been formally provided a hearing date.**
 - ii. Notice must be published and provided **a minimum** of ten (10) days prior to the hearing, not including the date of the meeting, or the application will be rescheduled to a later date. Incorrect or incomplete noticing will result in new notice being required.
 1. Contact the NJ Herald for their submission deadlines; they do not publish legal notice on Mondays, and typically need two days' notice to publish in the paper. They also have a self-publishing option available.
- b. A legal notice template is included in this packet, to address the property's variances, the work being proposed, and the hearing date, which are required for notice to be sufficient.
 - i. Copies of the legal notice must be distributed to all persons/entities listed on the 200' list either by certified mail or hand delivery with signature. The notice should be mailed to the property owner exactly how the address appears on the certified list.

1. In certain situations, another municipality or other entities may be entitled to notice. Applicants are directed to refer to the provisions in the Municipal Land Use Law if unsure.
- c. The Affidavit of Service must be submitted to the Planning Board Secretary no later than three (3) days prior to the hearing date. This includes the following:
 - i. The notarized affidavit of service
 - ii. A copy of the Notice of Hearing
 - iii. Original certified mail receipts and/or copy of the signature page, completed by the Applicant or representative.
 - iv. The affidavit of proof of publication

3. **Prepare for the Hearing**

- a. The presentation to the Planning Board should be concise but present all relevant facts and address the requested variances. Photographs, sketches, witnesses, and/or any other pertinent information may be presented as exhibits. Any retained professionals and experts for the applicant will be certified that they possess the appropriate New Jersey licenses prior to any testimony at the hearing. The lack of a New Jersey license does not prohibit an individual from testifying, but will preclude their ability to be certified as an expert witness by the Board and their testimony will be weighed by the Board accordingly.

4. **Attend the Hearing**

- a. The Board meets on the first and third Thursdays of every month, except holidays, in the Township Municipal Building, 10 Mansfield Drive, Stanhope NJ 07874 at 7:30pm. Board meetings are recorded via audio and written minutes, and a copy of the recording and its approved minutes are posted on the Planning Board page of the Township's website.
 - i. *If the application is approved:* the Board Attorney will draft the resolution of approval, which will be reviewed and voted on at a subsequent meeting for the Chair's signature. This serves as a legal document showing the application has been approved
 - ii. *If the application is denied:* you will receive a resolution documenting the decision. You may submit a new application with revised information, but you are not entitled to resubmit an application for the same improvements.
 - iii. *If the application is carried:* The Board may carry an application if further information is needed, the presentation has not be completed, or if they recommend you amend the proposed project. If there are environmental, design, neighborhood concerns or the like, the Board may ask for amended plans in order to consider approving the project. The application can be carried to provide time to gather the requested information.
 1. If the Board is not receiving the requested information after multiple attempts, or the application remains stagnant for six months, the Board may *dismiss the application without prejudice*, requiring a new application to be submitted.

- iv. You may also *withdraw* the application at any time, and must do so by submitting the request in writing.

5. After the Hearing:

- a. The resolution will be reviewed and memorialized by the Planning Board within 45 days of decision. A copy of the resolution will be sent to the applicant or the applicant's attorney.
- b. Notice of the decision will be submitted to the newspaper by the Secretary within ten (10) days of the memorialization of the resolution.
 - i. Any party interested in appealing the decision of the Planning Board must do so within forty-five (45) days of the publication of the notice of decision. Any work started before the appeal period ends is at the applicant's own risk. After 45 days from publication, the Applicant has an unappealable determination.
- c. All conditions of approval must be satisfied and provided to the Board Secretary. Certain items will be reviewed by the Board professionals and may need to be revised as deemed necessary.
 - i. Five sets of final, signed and sealed plans must be provided to the Secretary.
- d. Outstanding escrow and/or bond payments must be submitted prior to the issuance of any permits.
 - i. If there is a positive balance after the project is complete and all bills are submitted and paid, a written request for the refund of the remaining escrow must be submitted to the Secretary.
- e. A zoning permit must be submitted once the above items have been completed. Building permits can be applied for with the Construction Department after all other requirements have been satisfied.

Byram Township Planning Board: Land Development Application

To submit a complete application, you must provide the Board Secretary the following documentation:

- Application filled out completely
- Application Fee and Escrow
 - Completed W9 (no P.O box addresses allowed) / Tax Certification
- JCP&L utilities letter acknowledgement: _____
- Accurate Property Survey or Septic Plan. Must include depiction of existing and proposed conditions, drawn to scale, including:
 - Existing and proposed structures, driveways, wells and septic locations, and setback dimensions of all structures
 - Distance of dwellings / structures on adjoining lots from subject property line
 - Road locations, width of right-of-way, curbs, sidewalks, catch basins, parking/loading areas, drainage easements, swales, berms, guide rails, and existing and proposed grading
 - Topography for proposed work affecting slopes
- Survey Affidavit of No Change for any survey more than 10 years old
- Elevations and Floor Plans of existing and proposed construction (plans must be folded, not rolled) OR Not Applicable
- Tax Map of the property (maps found under “Government” tab of Town website, under [“Maps”](#))
- Photographs of the property, depicting the topography, area where the work will/has taken place, visual representation of the property setbacks, and materials being used
- For lot line adjustment / minor subdivisions applications: an approval, exemption, or a copy of the application from the Sussex County Division of Planning OR Not Applicable
- Signed acknowledgement of agency approvals
- Highlands Council Consistency Determination OR Not Applicable (exempt, excluded, or eligible for a waiver)
- One original and two hard copies of application materials (8 additional copies will be requested closer to hearing once plan information is finalized)
- A copy of any Notices of Violation related to the variance application
- A copy of any prior approvals or issued permits for the property related to the proposed work
- A digital copy of all documents, emailed to the Secretary

Property Information

- Does the property have a well or public water? _____
- Does the property have a septic system or public sewers? _____
- Does the property have frontage on a lake, pond, or stream? _____
- Board Members and/or staff may visit the property. Is there a dog on the property? _____
- Has there been any previous appeal or application to this or any other Board, Court, Zoning

Official, or Construction Official involving these premises? If yes, state the nature, date and disposition of said matter:

- Has an application been made for this property previously? If yes, when? _____

Please describe decision made: _____

Please describe in detail the proposed improvements and why a variance is needed. Describe the current condition of the property and any features that affect the property (e.g. septic/well location, rock outcrop or boulders, wetlands, mature trees, lake, steep slopes, flood plains, etc.) and reasons why the proposed improvement cannot comply with the Township code. The applicant must provide the board with the legal justification for the requested relief (i.e.: hardship affecting the property). Use additional sheets if needed:

Indicate if appropriate applications have been made to any of the following:

- () Sussex County Planning Board
- () Sussex County Health Department
- () Upper Delaware Soil Conservation District
- () New Jersey Department of Transportation (DOT)
- () New Jersey Department of Environmental Protection (DEP)
- () Lake Community Committee
- () Adjoining Municipalities: _____
- () Other _____

Zoning Table (use schedule of dimension regulations for guidance, included in this packet)

*When measuring structures and distances, you must measure from the closest point of the structure, including roofs, eaves, gutters, etc.

Standard	Zoning Requirement (dimension regulations)	Existing Measurement	Proposed Measurement
Lot Area			
Front Setback			
Side Yard Setback			
Side Yard Setback			
Rear Setback			
Additional Setback:			
Additional Setback:			
Maximum % of Principle Building Coverage			
Maximum % of Lot Disturbance			
Height of Structure in Feet			
Height of Structure in Stories			
Setback to Body of Water			

Additional Variances Needed: _____

FOR SUBDIVISION AND SITE PLAN USE:

A. **Subdivision:** Number of New Lots (including remainder): _____

Sizes: _____

Setbacks for new lots:

Front: _____ Side: _____ Side: _____ Rear: _____

Front: _____ Side: _____ Side: _____ Rear: _____

Front: _____ Side: _____ Side: _____ Rear: _____

Front: _____ Side: _____ Side: _____ Rear: _____

B. **Site Plan:** Proposed Use: _____

() New Construction () Addition () Parking Area () Other

Description: _____

SITE PLAN AND CONDITIONAL USE CHECK LIST

	Provided	Waiver	Not Applicable
North arrow and scale not less than 1 inch = 50 feet			
Title block including name of development			
Names, addresses, and certifications of licensed preparers			
Owner and Applicant			
Site block and lot numbers and tax sheet number			
Date of preparation and each revision			

Key Map including the following:

	Provided	Waiver	Not Applicable
North arrow and scale not less than 1 inch = 200 feet			
Entire site, its area, and its relationship to surrounding areas			
Zone districts and boundaries within 500 feet			
Adjoining properties			
Area, frontage, and Metes and Bounds of lot(s)			
Existing and proposed contours at 5-foot intervals for slopes 10% or greater, 2- inch intervals for lesser slopes			

Property lines to the nearest hundredth			
Lot acreage to the nearest tenth			
Plan & profile, road locations, type, size, width of R.O.W., paving materials, curbs, sidewalks, catch basins, numbered parking spaces and loading areas, buildings, structures, all utilities, drainage, R.O.W.'s, and easements. Profile shall be at a scale 1 foot = 5 feet vertical and 1 inch= 50 feet horizontal.			
Natural features including existing vegetation, water bodies, etc.			
Open space, buffer zones, recreation areas, municipal and public areas and lands to be conveyed to the Township.			
Building floor plan, elevation views and first floor elevation			
Cut and fill limits			
Earthwork summary			
Existing and proposed contours, curb return and spot elevations, location of proposed drainage structures, curbs, swales, berms, guide rails, edge of pavement, sidewalks, parking and loading areas, and handicap accommodations			
Construction details for drainage structures, curb, guide rail, lighting, pavement design, sidewalks, septic system			
Soil erosion and sediment control plan			
Fire protection details including building occupancy, total structure size by volume, height of structure from basement to attic, available water supply, water main size, flow, hydrant location, distance proposed fire protection plan, fire lanes, type of occupancy and process			
Environmental Impact Statement (EIS)			
Landscape and Lighting Plan			
Drainage plan including runoff calculations and map showing drainage areas			
Copies of stream encroachment permit applications, if applicable.			
One (1) soil log and one (1) perc test for each lot			
Copies of protection covenants, deed restrictions, or homeowner association documents, existing and proposed			
Disclosure Statement			
List of variances, if required.			
Highlands Council Consistency Determination unless the project is exempt, excluded, or eligible for a waiver, each as provided pursuant to § 240 - 11.1 of the Township Code			

SIGNATURES AND CONSENT FORMS

ACKNOWLEDGEMENT OF AGENCY APPROVALS

I acknowledge that there may be other outside agency approvals needed in relation to this Board application, and will take action to pursue them. Outside agency approvals may include, but are not limited to, the Sussex County Planning Board, the Sussex County Health Department, the Upper Delaware Soil Conservation District, the New Jersey Department of Transportation (DOT), the New Jersey Department of Environmental Protection (DEP), Lake Community Committee including Lake Mohawk, and adjoining municipalities.

Property Owner's Signature

Date

CERTIFICATION TO FILE APPLICATION

STATE OF NEW JERSEY, COUNTY OF _____: _____ being of full age and being duly sworn according to law on oath deposes and says, that the deponent resides at _____ in the Municipality of _____ in the County of _____ and the State of New Jersey; that _____ is the owner in fee of all that certain lot, piece, or parcel of land situated, lying and being in the Township of Byram, I am the applicant named in, and who signed the annexed application for variance to the Township of Byram, in the County of Sussex, State of New Jersey.

I have completely familiarized myself with the requirements of this application and the Zoning Ordinance of the Township of Byram. The foregoing application and each statement made therein, or by marginal checkmark, and all the information supplied in supporting data furnished in the sheets thereto, is true except as to data compiled for the applicant by licensed engineers, land surveyors, architects, and attorneys, which applicant believes to be true. I certify that the information presented in this application is true and accurate. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to penalty. I understand that my application fees will not be refundable, under any circumstances, including withdrawal of this application.

I hereby consent to the making of this application and the approval of the plans submitted herewith. I further consent to the inspection of this property in connection with this application as deemed necessary by the Planning Board and its professionals. I further consent that all fees must be paid in accordance with the Planning Board application.

I hereby grant permission to representatives of the Township of Byram to enter and inspect my property in connection with a development application being processed by the Land Use Board.

Property Owner's Signature

Date

Notarization: Sworn and Subscribed before me:

This _____ day of _____ 20_____

(Notary Public)

Affidavit of Ownership: (If anyone other than above owner is making this application, the following authorization must be executed):

Name: _____ Phone: _____ Email : _____

Address: _____

I hereby certify that I have reviewed the application and I consent to the applicant filing the attached application to the Byram Township Planning Board. As Owner, I hereby authorize representatives of the Township to enter the premises in order to inspect same.

Property Owner's Signature Date

Notarization: Sworn and Subscribed before me:

This _____ day of _____ 20_____

(Notary Public)

SURVEY WAIVER CERTIFICATION

As of the date of this application, I hereby certify that the survey submitted with this application, under the date of _____, 20_____ shows and discloses the premises in its entirety, described as Block(s)_____ Lot(s)_____; and I further certify that no buildings, fences, or other facilities have been constructed, installed, or otherwise located on the premises after the date of the survey with the exception of the structures shown.

Signature: _____ Date: _____

Sworn & Subscribed to before me this _____ day of _____,20_____(year)

_____ (notary)

CORPORATE INFORMATION:

If the applicant is a corporation or partnership, list of names and addresses of all corporate shareholders and / or partnerships interests of 10% or more:

Escrow Agreement

As the Owner and/or Applicant, I understand that the sum of \$ _____ has been deposited in an escrow account, and that the escrow is set up in accordance with the Township Code (§ A287-2 and § 45-37). I further understand that the escrow account is established to cover the cost of professional services including engineering, planning, legal and other expenses associated with the submitted materials, including communications with the Professionals. Sums not utilized in the review process shall be returned within three (3) months of the completion of the project. If additional sums are deemed necessary, I understand that I will be notified of the additional amount and shall add that sum to the escrow account within thirty (30) days. Additionally, until such funds are fully replenished, no further review or inspection shall be permitted. Unless otherwise shown, receipt shall be presumed to have occurred three (3) days after mailing. The failure to pay the funds may also result in a voiding of any approvals upon due notice to the applicant by the Board.

Applicant agrees and understands that responsibility to pay all escrow charges is the applicant's even if applicant sells or conveys said property cited above to another party.

Applicant's Name (Printed)

Date

Applicant's Signature

Date

Administrative Officer

Date

Notarization: Sworn and Subscribed before me:

This _____ day of _____ 20_____

(Notary Public)



Certification of Taxes and Sewer

This form is to be signed by the Tax Collectors Office.

Date: _____

Name: _____

Address: _____

Block: _____ Lot: _____

Taxes are Paid in full through the _____ quarter for the year _____.

(If applicable) Sewer paid in full through the _____ quarter for the year _____.

(Collector's Office)



To Whom It May Concern:

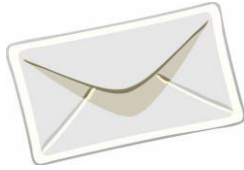
With the respect to the above-referenced subject matter, be advised if there are any existing overhead or underground electric facilities within proximity of the project, the property owners must contact 1-800-662-3115. Please advise the Contact Center Representative of the project plan and request a notification/work order for a field representative to visit the proposed site.

Please note, with any construction project, adequate clearance must be maintained to adhere to the established safety regulations. Construction can in no way interfere, impede, encroach or inhibit the use, maintenance, operation of or access to any JCP&L facilities, equipment or easement. Please be advised relocation of our facilities is billable.

The applicable NESC guidelines adhere to.

Sincerely,

Jersey Central Power & Light



Noticing Instructions

When your application is deemed complete, you will be notified of the hearing date. Per the Municipal Land Use Law, Board hearings are open to the public for comments and questions and notice for each application must be published in the newspaper and sent to property owners within 200 feet of subject property. The Board cannot hear applications unless completed and correct notice has been provided to all required parties. Below are the noticing instructions:

1. The applicant is responsible for providing official written notice of their hearing. The Applicant shall rely on the 200' list provided by the Tax Assessor or Board Secretary and the accompanying utilities list to notify all property owners. These lists are most often provided when the Board Secretary notifies you of your hearing date. The list you use for noticing must be no more than 90 days old at the time you send your notice. Notify the Board Secretary if your list needs to be renewed—this is most typical when an application needs to be carried from one hearing to a later date.
2. Noticing property owners on the list can be done via hand delivery with signature and date and/or via certified mail, **at least ten days in advance of the hearing**. Notice can be served with a combination of both signatures and certified mail. If you choose to serve notice personally, you must physically hand the notice to the **property owner** and have them sign and date the signature page provided in this packet. It is not sufficient to leave the legal notice in their mailbox. Notice is provided via the Legal Notice Template provided by the Secretary, in which the applicant fills in the property information, variances, and hearing date. **Notice should not be given until the application is deemed complete and a hearing date is assigned.**
 - a. The first step is to fill out the Legal Notice provided in this packet. If you are having trouble providing the details of the variances and nature of the application in the notice, it is recommended that you consult a Land Use Attorney, who can guide you through the process.
 - b. Once the notice is completed and you are certain it completely and accurately represents your application, it should be sent to the New Jersey Herald, the newspaper designated by the Board, to be published at least 10 days prior to the hearing. Please contact the newspaper for publication deadlines, especially around federal holidays. The Board Secretary will provide you with the contact information for the newspaper. Make sure to have the notice published in the Newton/local version of the Herald. Completing the legal notice and sending it to the paper well before the statutory 10-day mark is highly recommended, to make sure the publication deadlines are met. **Please be sure to plan ahead for proper publication in the newspaper.**
 - c. You can utilize the same legal notice for publication to be mailed to property owners on the 200' list and list of utilities. **Notices must match exactly what it shows on the list provided**

(e.g., “attention to,” “care of,” full name of business, etc.). Due to privacy laws, residents will most typically be marked as “Current Owner.”

- i. NOTE: Even if you know a neighbor or would write a different town than the one represented on the 200’ list (e.g. Byram Township rather than Andover), write EXACTLY what it shows on the 200’ list. This is generated off of the Tax Assessor’s database, so you as the applicant should rely on this list.
- d. For signature pages, write out the names and the address that match on the 200’ list, and confirm the person signing is the property owner.
- e. NOTE: Noticing utilities is only required for site plans and subdivision applications. If your property abuts a County Road or State Highway, or is located in Cranberry Lake or Lake Mohawk, additional notice, listed on the utilities list, **is required**. If your property abuts a neighboring town, you are required to obtain a 200’ list from that municipality and serve notice upon residents in that municipality, along with the municipal clerk of the neighboring Municipality.
- f. Once the noticing is complete, you will need to prepare and sign the affidavit of service included in this packet. Once you receive the certified mail receipts or a copy of the signature page, please submit it to the Secretary for review. If you want the Board Secretary to check the completeness/correctness of the noticing ahead of the deadline, you should provide the certified receipts and/or signature page in advance of the deadline. This provides the Secretary time to review the noticing and provide feedback, and will give you more time to correct any noticing that needs to be updated.

Contact Information for the New Jersey Herald:

Phone: 833-790-0905 / Email: legals@njherald.com

Self-Publish Option: [Adportal Self Service Advertising \(gannettclassifieds.com\)](http://Adportal Self Service Advertising (gannettclassifieds.com))

EXAMPLE OF
CERTIFIED
RECIPT:



Request for Certified List of Property Owners



Date: _____

Property Owner: _____

Property Address: _____

Block(s): _____ Lot(s): _____

Please furnish the list of property owners in the vicinity of the above parcel needed to meet requirements for an appearance before the Planning Board.

Check one box below to indicate disposition of the completed list of property owners.

Shall be mailed to: _____

Will be picked up from Board Secretary:

Phone Number: _____

A fee of \$10.00 is required before preparation of list.

Fee Paid: _____

List Prepared by: _____

BYRAM TOWNSHIP PLANNING BOARD

LEGAL NOTICE

PLEASE TAKE NOTICE that the undersigned, _____, has made application to the Byram Township Planning Board regarding property know and referenced to as Block(s) _____, Lot(s) _____, located at _____. The subject property is located in the _____ zone. The applicant is seeking approval to (construct/erect/use)

The applicant requires variances for _____

as well as any and all other variances, waivers, permits, approvals or licenses that are deemed necessary and appropriate by the Township Planning Board.

A hearing before the Planning Board has been scheduled for _____ 20____, at 7:30 PM in the Municipal Building, 10 Mansfield Drive, Byram, NJ. At the time of the hearing, or any adjourned date thereafter, you may appear in person or by attorney to present any comments you may have regarding this application. The application, maps, and related information are available for inspection at the Municipal Building, Monday through Friday, 8:30 AM - 4:30 PM.

Applicant

Record of Hand Delivered Public Notices



<i>Name</i>	<i>Address</i>	<i>Date</i>	<i>Signature</i>

Affidavit of Proof of Service

State of New Jersey

County of Sussex

I, _____ of full age, being duly sworn according to law, deposes and says, that I reside at _____ in the municipality of _____, County of _____, and State of _____:

that I am an applicant in a proceeding before the Planning Board of Byram Township, New Jersey, being an application for _____ which relates to the premises known as Block _____ Lot _____ as shown on the tax maps of the Township of Byram; that on _____ I gave written notice of the hearing of this application to each and all of the persons upon whom service must be had on the required form and according to the utilities and 200 foot lists attached as Exhibit A, and in the matter indicated hereon; that I caused notice to be published in the New Jersey Herald on _____, a copy of which is attached as Exhibit B; service of legal notice was completed at least 10 days prior to the scheduled public hearing. The Green Slips, attached as Exhibit C and/or the Signature Page, attached as Exhibit D, are proof of the property mailing.

(Signature)

Sworn to and Subscribed before me

This _____ day of _____ 20_____

Notary Public

*Byram Township Planning Board Application Resolution
Compliance Flowchart*

Congratulations on your Board approval! Below is a flowchart to guide you through the remaining steps of the process through the zoning and construction office:



Question: Was the approval of your project subject to any conditions in the resolution? Some examples of conditions of approval include:

- Payment of outstanding and accrued escrow
- Revised plans (e.g. architectural, survey, floor plans, engineering plans, stormwater information, landscaping plan, etc.)
- Deed restrictions, easements, or maintenance agreements
- Outside Agency approval such as:
 - County Health Department approval
 - Upper Delaware Soil Conservation District, Department of Environmental Protection, NJ Dept. of Transportation approvals

If YES:

- All conditions of approval need to be met before the zoning and construction offices can accept permit applications, unless the condition states that it must be completed prior to the Certificate of Occupancy being issued.
- You must submit all required information (e.g. revised plans, draft deeds or easements, proof of outside agency approvals, etc.) in ONE package to the Board Secretary in hardcopy and pdf. Partial submissions will not be accepted.
 - If you are represented by a professional with regard to this the application, consult with them regarding the resubmission, as it is likely they will need to be involved. Based on the quality of the re-submission, additional submissions may be required. The Township Officials typically require two weeks to review of the items and respond.
 - Once approved by the Board Professionals, deeds and easements must also be recorded with the County Clerk. Submit proof of recording to the Board Secretary.
 - If performance or maintenance guarantees were required as part of your approval, submit an Engineer's estimate for approval. Please submit the guarantees to the Township Finance Office upon receipt of the approval and verification of the dollar amount.

Once all compliance conditions are approved, or if none were required:

- Submit your zoning permit for review and approval
- Once the zoning permit is approved, you can submit permit applications to the Construction office. You must provide the project information as ONE submission to the Construction Department, otherwise it cannot be accepted
 - PLEASE NOTE THE CONSTRUCTION OFFICE HAS PART TIME HOURS, AND ARE OFTEN HANDLING A HIGH VOLUME OF APPLICATIONS. PLEASE CHECK THE TIMES THEIR WINDOW IS OPEN IF YOU NEED TO SPEAK TO SOMEONE DIRECTLY.
 - As a reminder—once the application is approved, notice of the approval is published in the newspaper by the Secretary. From the date of publication in the paper, there is a 45-day appeal

period, where anyone can appeal the Board's approval. Any work started before the appeal period ends is at the applicants own risk.

- Work with the Construction Office to schedule inspections as work progresses. If inspections fail, you must amend the work and reschedule an inspection of the improvements.
- Once all inspections pass, ask the Construction Office to close out the project and issue a Certificate of Approval (CA) or Certificate of Occupancy (CO)
 - The escrow established for the Board professionals can only be returned if the CA or CO has been issued for the project
- If your resolution has any maintenance conditions (e.g. landscape buffering, annual inspections, cleaning, etc.), you must follow those conditions of approval. Failure to abide by the conditions in the resolution, may result in the issuance of a notice of violation stating you must bring the work/your property into compliance.

Checklist of Requirements After Board Approval:

1. Five copies of resolution-compliant plans
 - Signatures from Chairman and Secretary, and engineer if needed, on final plan copies
2. Resolutions Conditions met, submitted as one package
3. Zoning Permit approval
4. Construction Permits as needed for the work
5. Final Inspection of work from Construction and/or Township Engineer to receive Certificate of Occupancy or Approval

Thank you for the time and work put into your application.