

MEETING MINUTES
BYRAM TOWNSHIP PLANNING BOARD MEETING
MAY 3, 2018

CALL TO ORDER

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

ROLL CALL

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez	Ms. Raffay	Ms. Kash	Mr. Kaufhold	Mr. Morytko	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
HERE	H	H	H	H	EA	H	H	EA	EA	H	H
ABSENT											
EXCUSED											
LATE											

Also, present: Attorney Larry Wiener
 Engineer Cory Stoner
 Planner Paul Gleitz
 Secretary Cheryl White

STATEMENT BY CLERK

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

Approval of the April 19, 2018 Meeting Minutes

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

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez Alt. 1	Ms. Raffay Alt. 2	Ms. Kash	Mr. Kaufhold	Mr. Morytko	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
Motion						√					
Seconded							√				
Aye		√	√	√		√	√				√
Nay											
Abstain	√									√	
Absent					√			√	√		

Motion carried

OLD BUSINESS

SP2-2018, Anty Trucking Inc., Block 226 Lot 16, 9 Lackawanna Drive, IPR Zone, (carried

Preliminary and final site plan approval with a D1 use variance for three outdoor storage areas, to construct a 20' X 40' addition and loading dock to an existing building, and to construct two 12,800 sq. ft. equipment storage buildings, along with associated site improvements for the operations of a trucking and rigging company.

Mr. Michael Lavigne Esq., from Fox Rothschild LLP representing the applicant said the applicant's engineer is not in attendance this evening and is working on revising the plan to delineate the areas of outdoor storage, the location of the propane tanks, the banked parking spaces, the withdrawal of the outdoor storage to the right of the property, and the soil and seeding on the property. He said the applicant's Architect and Planner will provide testimony this evening.

Chairman Shivas asked Mr. Stoner if he received a response from the Highlands Council with regards to the applicant's concern that if he restores the site to its natural state would his future development rights be lost. Mr. Stoner said he has not received an answer.

Mr. Lavigne introduced Mr. Johnathan Booth, Architect, 33 Bullion Road, Basking Ridge, and he was sworn in. Mr. Booth provided his education and experience to the Board, and the Board accepted him as an expert in his field.

Mr. Booth presented Exhibit A15, dated Feb. 26, 2018 titled "Architectural and Elevation drawings of the Proposed Addition," and reviewed the drawing with the Board. He said the existing building is 16,000-sq. ft. and is classified as S1 Occupancy moderate-hazard storage building. He said the applicant is proposing a 20' X 40' (800 sq. ft.) addition with a loading dock and that this addition meets all district requirements and does not require a variance. He said the addition will consist of office space and a unisex bathroom and will provide a comfortable, clean environment for the six to eight employees. He said to soften the appearance of the exterior of the building the entire building will be painted and it will be green on top and basswood on the bottom, (Exhibits of the colors were presented at the April 19 Meeting), and it will to blend with the proposed accessory structures. Mr. Chozick asked about the roof and Mr. Booth said it will match the exiting building which has a galvanized steel roof.

Mr. Booth presented Exhibit A16 & A17, dated May 3, 2018 "Sign Exhibit" which depicts the 3' X 5' sign panel, part of the proposed freestanding sign, and noted that it will not exceed the height limit allowed. He said since this site already has a freestanding sign for the quarry use on the upper tract, a variance is required for a second freestanding sign. Exhibit A17, is a colored rendering of the sign which depicts the gold leaf lettering with a maroon background. Mr. Stoner asked where the sign will be located and Mr. Booth said at the entry gate. Mr. Stoner asked if signage is proposed on Lackawanna Drive. Mr. Booth said no. Mr. Stoner said that previous testimony was that FedEx and UPS trucks visit the site frequently and Mr. Stoner wanted to know how will this site be identified from road. Mr. Stoner believed there should be a sign on Lackawanna Drive. Mr. Lavigne agreed and said he would talk to the applicant to find a better location. Mr. Gleitz recommended incorporating their sign into the existing Tilcon sign. Mr. Lavigne didn't know if that would be permitted by Tilcon but they will investigate that possibility and will finalize the location of the sign at the next meeting.

Chairman Shivas asked if a sewer user permit was obtained to confirm that the current sewer allocation is adequate for the that the proposed use. Mr. Lavigne said he is aware and agreed to this requirement as a condition of approval.

There was Board discussion about the lack of signage and lighting on the site and it was the consensus of the Board that a façade sign and a light be mounted over entrance door of the proposed addition. Mr. Gleitz asked if they looked at the design guidelines for commercial structures. Mr. Booth said no. Mr. Gleitz said he understands this is an existing structure but this is a good opportunity to enhance the site with proper signage, painting, landscaping, and lighting. Mr. Lavigne said that the applicant has been receptive to foundation plantings around the existing building as well as the proposed structures. Chairman Shivas said for safety there should be a light over the door entrance. Mr. Booth said all the Board's and professional's recommendations are well taken and will be included in the final plan submission. Mr. Gleitz said regulations allow for three signs, each having different requirements. Mr. Lavigne confirmed that Mr. Gleitz is suggesting a freestanding sign on Lackawanna, a sign with foundation planting at entry gate, and a façade sign on the building. Mr. Gleitz said yes, because of the unique nature of this site, and access from Lackawanna Drive it makes sense to include these signs. The Board had no further questions.

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

Mr. Lavigne introduced Mr. Robert Michaels, P.P., 7 Outlook Road, Randolph, N.J., and he was sworn in. Mr. Michaels presented his education and experience to the Board, and the Board accepted him as an expert in his field.

Mr. Michaels said he visited the property, read the transcript from the April 19 meeting, and is familiar with Byram's Master Plan. He reviewed the existing conditions of the site with the Board and the permitted uses in the IPR zone saying that the proposed use is much like uses permitted in the zone as and some conditional uses that have comparable aspects of this proposal. He reviewed the surrounding properties and their zone districts and added that in 2011 this property was the subject of a previous application, much like this proposal, for outdoor storage, flex space, and warehousing which was approved and received three extensions of that approval, however construction never commenced.

Mr. Michaels said this proposal is preliminary and final site plan approval, with a D1 use variance, some bulk variances, and some design waivers. Mr. Michaels reviewed Byram's ordinances that require relief.

Mr. Michaels said when granting a D1 use variance the Board should determine that special reasons exist for the variance, the positive criteria, and that the variance can be granted without substantial detriment to the public good and that the granting of the variance advances the purposes of planning. He said this site is suited for the proposed use because of the size of the site and it can provide adequate buffering to the neighboring properties. He said the buildings are a substantial distance from the roadway, the property is already extensively disturbed, and the site is located near State Highways, Route 206 and Route 80. He said the upper tract remains a quarry so the proposed use is a good balance for this property. Mr. Michaels reiterated that the Board found that in 2011, with the approval of the JTK application, that this site was suitable for this type of use.

Mr. Michaels this development promotes the purposes of planning, *purpose i. "To promote a desirable visual environment through creative development techniques and good civic design and arrangement"*, and *purpose g. "To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements to meet the needs of all New Jersey citizens"*. Mr. Michaels said that if this application is approved the existing outdoor storage and dilapidated equipment will be removed and the site will be cleaned. He said the outdoor storage being proposed will be contained and controlled and screened by landscaping and the entire site will be ascetically improved.

Mr. Michaels said another purpose of planning being advance by this development is *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"*. Mr. Michaels said this development supports these purposes because the property is appropriate for the proposed use and for all reason stated above; it's location, proximity to highways, and the size of the property all advance the purposes of planning.

Mr. Michaels reviewed the C2 variance criteria saying that the benefits of granting this relief substantially outweigh the detriment. He said this use requires the indoor storage of large equipment and vehicles, requiring the need for large accessory structures and the size of this site accommodates large structures. He said the structures will sit back from the road, be screened by landscaping and this use will not generate noise or traffic, nor will it have a negative impact to the public. Mr. Michaels added that with regards to the variance for the signs, he said based on the Board comments it makes sense to have a sign on the roadway, it identifies the site which provides for safety. He said the sign will be unobtrusive and will have landscaping.

In summary Mr. Michaels said this proposal has no negative impact on the surrounding properties, the site will be cleaned, it will have substantial landscaping and the proposed use will be less intensive than the current use and appearance of the site will be improved. He added that this use will not invite traffic, the zone allows for commercial operations and this use meets the intent of the zone and overall it will be an improvement to the community and neighborhood.

Mr. Michaels said Byram's 2012 Master Plan Re-examination report which states the objectives of Byram's zoning ordinance and Byram's Master Plan talks about the subject property and states it is to encourage a use that is compatible with both existing and permitted uses on the property and being compatible with the neighboring uses envisioned for the Village Center zoned property. Mr. Michaels believes what is proposed meets that objective and is compatible with existing and permitted uses. Mr. Michaels restated about the 2011 approved JTK application and its similarity to this proposed development saying that at that time the Board found that this type use was appropriate for this site. He added that this property is unique and suited for the proposed use and granting the variances and the proposed development of this site is compatible with the neighboring uses. Lastly, Mr. Michaels said granting the waivers requested is warranted because this is not a site visited by the public and paving of the site can alter drain patterns. Mr. Michaels concluded his testimony.

Chairman Shivas said his original thought was to delineate the outdoor storage with landscaping but after further study he believes landscaping is not sufficient and would prefer if the applicant fenced the outdoor storage areas. He said the applicant is proposing to store heavy equipment and for safety purposes fencing provides more control. Mr. Michaels believes that this request can be accommodated.

Mr. Gleitz said in terms of the “special reasons” that Mr. Michaels is pointing out, he said without the Board being able to see a revised plan it is difficult for the Board to weigh the benefits of a clean site, and the extent of the proposed buffering and landscaping, so it will be hard for the Board to consider Mr. Michael’s testimony in terms of the visual impact. Mr. Michaels agrees and said that at the next hearing when the revised plans are ready the Board will be able to see the impact. Mr. Michaels reiterated the applicant’s willingness to work with the Board.

Mr. Gleitz said because of the testimony Mr. Michaels is providing and the link to “purpose i”, which is the primary driver for the relief sought, he believes it puts extra onus on the site whereas the site plan and the proposed use are linked so the Board may ask for extra landscaping in areas the applicant does not feel are necessary. This way the Board can ensure the town has this improved visual impact that the applicant is offering. Mr. Gleitz added that in terms of purpose “a”, and promoting the public safety and welfare, he said for a private commercial enterprise he does not agree that because the site will be cleaned does not rise to the level of “public welfare”. Mr. Michaels said improving the site advances the general welfare and added in terms of purpose “g” this site is generally suited for the proposed use. Mr. Michaels said he agrees with Mr. Gleitz that purpose “a” is not as strong but he believes there are some general welfare benefits, however purpose “i” and “g” are stronger reasons.

Mr. Morytko asked Mr. Michaels if he is considering the trailer parking area as outdoor storage because it is not labeled as outdoor storage on the plan and it is in plain view on the site. Mr. Michaels said he agrees it is outdoor storage but when he referred to outdoor storage areas he was not referring to the parking area. Mr. Lavigne said the trailer parking area proposed will be fenced with a double row of proposed landscaping. Mr. Lavigne reviewed that portion of the site. Mr. Stoner asked how will the trucks enter the accessory structures area. Mr. Michaels did not know the answer. Mr. Stoner has concerns that if the existing trees are removed it would eliminate some of the accessory structure screening and if they are not removed, it will create difficulty accessing the structures. Mr. Lavigne said that will be clarified at the next meeting.

The was Board discussion about the responsibility of the restoration of the site. Chairman Shivas noted that the applicant agreed to withdraw the outdoor storage to the right of the access drive and soil and seed this area if his development rights are not revoked. Mr. Lavigne said he believes the revised plans include top soil and seeding. Mr. Lavigne asked if the applicant received confirmation from the Highlands that his development rights would not be compromised, and if the area was soil, seeded and landscaped would that satisfy the Board’s opinion about the positive criteria in enhancing the visual environment. Mr. Michaels said yes, it would further advance purpose “i” whereas it improves the ascetics of the site.

Mr. Morytko asked Mr. Michaels if his proof for the negative criteria was the intensity of the use and the compatibility with the surrounding zones and asked if Mr. Michaels if it’s the use proposed, plus the scale of that use as being compatible. Mr. Michaels said yes.

Chairman Shivas asked Mr. Lavigne if the applicant agreed to add signage to the proposed accessory structures that the structures are “trussed” construction. Mr. Lavigne said the applicant agreed.

Mr. Lavigne said that since Mr. Michaels drew parallels between the proposed use and the approved JTK application he presented Exhibit A18, 2011 JTK Approved Resolution dated May 3, 2018 and three subsequent resolution of extension of approval and he wanted them entered as part of the record.

Mr. Michaels concluded his testimony. The Board had no further questions.

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

A motion was made by Mr. Walsh to carry this application to June 7, 2018 without further notice. The motion was seconded by Mr. Kaufhold. The following vote was taken:

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez Alt. 1	Ms. Raffay Alt. 2	Ms. Kash	Mr. Kaufhold	Mr. Morytko	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
Motion										✓	
Seconded						✓					
Aye	✓	✓	✓	✓		✓	✓				✓
Nay											
Abstain											
Absent											

Motion carried.

NEW BUSINESS

Z21-2017, Harry Bouquet, 18 Fieldstone Trail, Block 337.08 Lot 38.45, R-3 Zone (carried from Feb. 1, 2018)

Variance for a front yard setback and critical lot disturbance to construct a two-story single-family dwelling.

The applicant reported that he is waiting for a report from an environmental specialist with regards to the wetlands on the property and requested that his application be carried to June 7, 2018 without further notice.

A motion was made by Mr. Walsh to carry this application without further notice to June 7, 2018. The motion was seconded by Mr. Morytko. The following vote was taken.

	Mr. Chozick	Mr. Dixon	Mr. Gonzalez Alt. 1	Ms. Raffay Alt. 2	Ms. Kash	Mr. Kaufhold	Mr. Morytko	Mayor Rubenstein	Ms. Shimamoto	Mr. Walsh	Chairman Shivas
Motion										✓	
Seconded							✓				
Aye	✓	✓	✓	✓		✓	✓			✓	✓
Nay											
Abstain											
Absent					✓			✓	✓		

Motion carried.

OTHER BUSINESS THE BOARD NEEDS NECESSARY

Zoning Map Update –

Mr. Gleitz presented the updated zoning map and supporting documents for the Board to review prior to discussion at the May 17 meeting. Mr. Gleitz restated that these properties with Split zones were either identified in the Master Plan Re-exam report, or a result of mapping errors, and he has worked with the Highlands Council to determine the correct zone. Mr. Gleitz asked the Board to review the material prior to the meeting to ensure that they agree with the recommendations made. He added that at the May 17 meeting the Board can determine who should receive a courtesy notice. He said it will then go to the Council on June 5, 2018.

REPORTS FROM COMMITTEES

Township Council – No representative was present.

Environmental Commission – No representative was present.

Open Space – No meeting held.

Architectural Review Committee – No meeting held.

Zoning Office – Mr. Dixon, Byram’s zoning official gave the following report.

- 10 zoning permits were issued (no denials).
- 1 Site Plan Waiver granted.
- 4 notices of violations issued.
- 7 violations cleared (either the resident complied or there no findings to support the complaint).
- 0 summons were issued.

Chairman Shivas asked Mr. Dixon to include in his report the number of zoning permit issued that were a result of Planning Board approval. Mr. Dixon said yes.

PUBLIC COMMENT

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

BILLS

Harold Pellow and Associates, Inc.

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

ADJOURNMENT

A motion to adjourn the meeting was made at 9:08 p.m. by Mr. Kaufhold, and seconded by Mr. Morytko. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted: *Cheryl White*