

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, September 16th, 2021 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. **MINUTES**

Approval of the September 2nd, 2021 Meeting Minutes

6. **RESOLUTIONS**

Z09-2021-Colleen Table and Mark Rooney, 10 Ka Ton Nah Trail, Block 144, Lots 130.01, R-5 Zone
Proposed second story to a single-family dwelling.

Z10-2021 Peter Smith, 9 Weasug Trail, Block 187 Lot 1, R5 Zone
Approval for an existing shed's repairs and maintenance.

7. **NEW BUSINESS**

Z06-2021 Dennis Fornarucci, 3 Opa Pass, Block 142 Lot 102, R-5 Zone
Construction of an accessory structure for a workshop.

<https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/EpnIgJekQIVBpEkkDj0y6A0BPqdUpHw88ETgbITl3GbgEQ?e=AqYGyH>

Z12-2021 Dustin Lovenberg, 151 Lake Drive, Block 250 Lot 135, R-5 Zone
Addition to a single-family dwelling and proposed garage.

<https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/EoQ6lbQVTfVCIKcqyZH3nzUBWBoyhnbnQQ3jHw1hey6WiA?e=344ylE>

8. **OLD BUSINESS**

Z02-2021 Eric Schuffenhauer, 271 Lackawanna Drive, Block 344 Lot 2.03, R-2 Zone
Addition of a pole barn, attached garage, front porch, and pool deck.

<https://byrampdtwp.sharepoint.com/:f/s/PlanningBoard/Eh3H-On99hBEujDTowU0XskBW0yxdYoHMhNWcEM1GUsRRQ?e=AFYHNe>

9. **REPORTS FROM COMMITTEES**

Architectural Review Committee
Building Committee
Environmental Commission

Open Space
Township Council
Zoning Report

10. **DISCUSSION ITEM:** Potential for Hybrid Meetings

11. **BILLS**

Harold Pellow and Associates (9)- \$2,372.07

12. **OPEN TO THE PUBLIC**

13. **ADJOURNMENT**

Next Meetings: 10/07—Tomahawk Lake

10/21—Center for Humanistic Change

11/04—George Bukos, Matthew Akerman

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

**MEETING MINTUES
BYRAM TOWNSHIP PLANNING BOARD
MEETING, September 2, 2021**

CALL TO ORDER

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

ROLL CALL

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
HERE	H	H	H	H	H	H	H	H	H	H	H
ABSENT											
EXCUSED											
LATE											

Also present: Attorney Alyse Hubbard, Esq.
 Engineer Cory Stoner, P.E. C.M.E.
 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

Approval of the 08/19 meeting minutes.

Mr. Smith motioned to approve the 08/19 minutes, seconded by Mr. Morytko. The following vote was taken:

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION									√		
SECONDED				√							
AYE	√	√	√	√	√	√	√	√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

NEW BUSINESS

Z11-2021-George Bukos, 5 Brookwood Drive, Block 54, Lots 20, R-5 Zone

To keep an existing shed that doesn't meet right and rear yard setbacks.

George Bukos of 5 Brookwood Drive was sworn in. Mr. Bukos explained he wanted to fix his shed that's been there since 1999 when he bought the house. He repaired the roof and added siding to where there used to be chicken fencing. He'd like to leave the shed where it is; he doesn't have a lot of space. Chairman Shivas asked if he made the shed any bigger than it was; Mr. Bukos said he added to what was there before, meaning the chicken wire turned into siding. Ms. Hubbard confirmed that where the chicken wire was, he enclosed the bottom. Chairman Shivas confirmed the peak on the shed was already there, and that the shed is used for tools and bike storage. Chairman Shivas noted that the shed is too close to the rear and side yards; Mr. Bukos noted the shed is in the original location. There was discussion regarding the required setbacks for differently sized sheds. The Board looked at Mr. Stoner's report to confirm the details. Mr. Stoner noted Mr. Bukos doesn't meet the requirements either way.

Chairman Shivas asked if the shed uses electricity; Mr. Bukos said yes, he's an electrician and ran electricity from the house to the shed; there is no water used in the shed. Ms. Raffay asked about the shed shown on the survey, confirming it's the original structure. Mr. Bukos discussed the submitted photos, helping to show the orientation of the shed. Ms. Hubbard confirmed the door is facing west. Mr. Stoner confirmed the peak was the original part of the shed. Mr. Morytko confirmed this work was done in early 2000; he added the roof the same time as the shingles. Mr. Smith confirmed no work has been done to the shed since then. Chairman Shivas asked if it was a chicken coop originally. Mr. Bukos said the coop was there but no chickens. Mr. Smith asked about the fenced in area. He confirmed that fence is gone now so it's an open backyard. Ms. Hubbard asked about the existing fence, confirming it's on the eastern property line.

Ms. Shimamoto reviewed the submitted survey and said the shed in the survey and in the pictures look different; the coop switched to the other side. She also asked about the coop, confirming it didn't

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have a roof, just wire. Mr. Chozick said the survey doesn't reflect what's there now, so that's what they need to know. Chairman Shivas said because he made the shed bigger, he needs a permit. Mayor Rubenstein asked how Mr. Bukos knew where the property line is. Mr. Bukos measured off the fence. Mr. Stoner's concern is where the actual property lines are, to make sure the shed is on his property.

Chairman Shivas opened to the public. Catherine Freericks of 6 Brookwood Drive was sworn in. She bought her house 30 years ago and at that time there was a shed and wire chicken coop to the side. Mr. Bukos moved in in 1999 and fixed the shed, putting siding and a roof on. She doesn't object to the shed. Emirjon Mankollari of 7 Brookwood Drive was sworn in. The shed doesn't bother him, but he's received complaints from the applicant on his own property. Ms. Hubbard confirmed this is a neighbor complaint, and stated the Board is here to address the shed. Chairman Shivas closed to the public.

Mr. Walsh said he's okay with Ms. Raffay's earlier suggestion of using the survey and providing a hand-drawn indication that's been scaled, to give the Board a better idea of what would be approved. Chairman Shivas said he'd recommend getting an updated survey to make sure everything is correct. Ms. Raffay said she's ok with the shed where it is now, but wants to have the measurements memorialized. There was a discussion about the measurements for surveys. Mayor Rubenstein confirmed the fences near the property line haven't moved. Mr. Stoner noted the measurements are on the provided sketch; these were done off the fence line. Mr. Bukos said that is his fence. Ms. Raffay said in one of the photos there is a gutter on the back of the shed, and measurements are done from the overhang, calling the provided measurements into question. Mr. Chozick said under the circumstances the best option is getting a survey. Mr. Stoner said it'd take about a month or two to get this done.

Mayor Rubenstein motioned to carry this application to 11/04, seconded by Mr. Walsh. Chairman Shivas said he needs to submit the survey at least 5 days prior to the meeting. Mayor Rubenstein noted he doesn't need further noticing. The following vote was taken:

	Mr. Chozick	Ms. Franco	Mr. McElroy	Mr. Morytko	Ms. Raffay	Mayor Rubenstein	Mr. Serrilli	Ms. Shimamoto	Mr. Smith	Mr. Walsh	Chairman Shivas
MOTION						√					
SECONDED										√	
AYE	√	√	√	√	√	√	√	√	√	√	√
NAY											
ABSTAIN											
ABSENT											

Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said there was no meeting.

Building Committee: Mr. Morytko said there was no meeting.

Environmental Commission: Ms. Shimamoto said they reviewed applications and made comments. There will be an invasive species day in October; invasive plants and bugs will be discussed.

Open Space: Mr. Morytko said there is a meeting on October 11th.

Township Council: Mayor Rubenstein said they have a meeting next week.

BILLS

Law Offices of Larry Weiner (5)- \$915.00

A motion to approve the bills was made by Mayor Rubenstein, seconded by Mr. Walsh. All were in favor. Motion carried.

OPEN TO THE PUBLIC

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

ADJOURNMENT

A motion to adjourn the meeting was made at 8:22 by Mr. McElroy, seconded by Mr. Chozick. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted,
Caitlin Phillips

- a. Section 240-55C(2) – front yard setback, 42.5 feet required, 14.4 feet existing and 14.4 feet proposed.
 - b. Section 240-55C(3) – side yard setback, 15 feet required, 0.3 feet existing and 11.6 feet proposed.
 - c. Section 240-55C(7) – maximum number of stories, 2 ½ stories permitted and 3 stories proposed.
2. The Applicants submitted the following:
- a. Survey entitled, “Boundary & Partial Topographic Survey, Colleen Table & Mark L. Rooney, Lot 130.01 Block 144, 10 Ka-Ton-Nah Trail, Township of Byram, Sussex County, New Jersey”, prepared by Careaga Engineering Inc., consisting of one (1) sheet and dated March 23, 2021.
 - b. Site plan set entitled, “Variance - Site Grading Plan, 10 Ka-Ton-nah Trail, Lot 130.01 Block 144 Situated in Byram Township, Sussex County, New Jersey”, prepared by Careaga Engineering Inc., consisting of three (3) sheets and dated June 23, 2021.
 - c. Architectural Elevations and Plans entitled, “Mark & Colleen Rooney Renovation of Existing Residence”, prepared by Elizabeth Reeves Architect & Planner, consisting of five (5) sheets and dated June 8, 2021, and Construction Drawings updated July 21, 2020 and Zoning Drawings updated July 1, 2021,.
 - d. A plan entitled, “Septic System Alteration, Block 144 Lot 130.01 Byram Twp.,” prepared by Wendell R. Inhoffer, consisting of one (1) sheet and dated June 24, 2007.

- e. Application and other supporting documentation.
3. The Board received the following memorandum:
 - a. Corey Stoner, Planning Board Engineer, dated August 13, 2021.
 - b. Donna Fett, Environmental Commission, dated August 11, 2021.
4. The project consists of the renovation of the existing one-story, single-family home. The architectural plans submitted in support of this application illustrate the project will consist of adding an additional floor to the dwelling and maintaining it as a two-bedroom dwelling.
5. Mark and Colleen Rooney, the Applicants and Jeffrey J. Careaga, who was accepted as a Professional Engineer, presented sworn testimony in support of the application. The subject property is an undersized lot, developed with a single family, one story dwelling, a paver patio and driveway, a wood deck, rock walls and walkways. The rear of the home has a walkout door from the basement to the back yard, which extends out to the eastern side of the property. The western side yard contains an elevated septic field surrounding by rock walls and fencing.
6. The Applicants are proposing to construct a second story addition above the first floor, consisting of two bedrooms, which includes the relocation of the two existing bedrooms to the 2nd story addition and repurposing the bedrooms into additional living space. The proposed addition will result in a 3rd story, requiring relief for the number of stories permitted, although the height of the structure is conforming. The addition will be a lateral expansion of the existing structure, requiring relief from the front yard setback requirement of 42.5 feet

where 14.4 feet is proposed and the side yard setback requirement of 15 feet where 11.6 feet is proposed. It was noted that the existing side yard setback of the basement is 0.3 feet and the proposed addition is above the first floor only, resulting in a 11.6-foot setback. The property is pre-existing, non-conforming as to minimum lot area, minimum lot width, maximum lot disturbance, and maximum principal building coverage.

7. The Applicants testified that the driveway drains toward the roadway and the roof leaders drain toward the rear of the property. There are no drywells proposed (the details and note shall be removed from the plans), but additional landscaping will be added in the rear.
8. The topography and layout of the property create a hardship for the Applicants, as the only location for an addition is a lateral addition. The structural walls will remain the same, but the roof will be replaced, and the eastern side of the dwelling will have a stucco finish. The addition will improve the living conditions of the homeowner and aesthetic appearance of the home.
9. There was no one in attendance at the public hearing for this 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 impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:

- a. Section 240-55C(2) – front yard setback, 42.5 feet required, 14.4 feet existing and 14.4 feet approved for the second story addition.
 - b. Section 240-55C(3) – side yard setback, 15 feet required, 0.3 feet existing and 11.6 feet approved for the second story addition.
 - c. Section 240-55C(7) – maximum number of stories, 2 ½ stories permitted and 3 stories approved.
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. The existing topography, layout and conditions on the property create a hardship for the Applicants. The only possible location for an addition is to add a story, which expands the existing, non-conforming conditions. Additionally, the slope of the property results in the addition being a 3rd story in the rear yard, although only 2-stories at the front of the home and it is conforming as to height of the structure.
 3. Accordingly, the benefits of granting the deviations for front and side yard setback, as well as maximum number of stories, outweigh the detriments that may result from denying the requested relief. The property is undersized, and the conditions are existing without issues. It was determined that there would be little impact to the surrounding area and the relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 16th day of September 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances.
2. Applicants shall obtain all necessary building and zoning permits prior to the start of construction.
3. The Engineering Plans shall be revised to remove the details and note indicating that a drywell will be installed.
4. The current drainage patterns shall be maintained, and the addition shall not result in stormwater runoff onto the adjacent properties.
5. The dwelling shall not exceed two-bedrooms, as indicated in the septic system approval.

George Shivas

On motion of:

Seconded by:

The vote on the Resolution was as follows:

AYES:

NAYS:

ABSTAINING:

ABSENT:

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on September 16th, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:

Prepared by: Alyse Landano Hubbard, Esq.

In the matter of Peter Smith
Case No. Z10-2021

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

**RELIEF GRANTED: SIDE YARD SETBACK
 SETBACK FROM A WATER SOURCE
 VEGETATED BUFFER AREA**

WHEREAS, Peter Smith has applied to the Planning Board, Township of Byram for *ex post facto* relief for variance relief for the expansion of a shed for premises located at 9 Weasug Trail and known as Block 187, Lot 1 on the Tax Map of the Township of Byram which premises are in a “R-5” Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

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 B. McBriar, Esquire represented the Applicant.

2. The Applicant is the owner and occupant of the single-family home located on-site. Applicant is seeking *ex post facto* relief from the Township's Zoning Ordinance:
 - a. Section 240-16B-4 - side yard setback of an accessory structure shall be 10 feet and 1 foot is proposed.
 - b. Section 240-55C-9 - setback of a building from the lake shall be 50 feet and include a ten-foot wide vegetative buffer along at least 80% of the water's edge
 - i. Proposed setback from the lake is 8 feet
 - ii. Existing vegetative buffer is proposed (approximately 90-95% of the lake front is vegetated, but not a 10' wide strip.)
3. The Board received the following memorandum:
 - a. Cory Stoner, Planning Board Engineer, dated August 13, 2021.
 - b. Donna Fett, Environmental Commission, dated August 12, 2021.
4. The Applicant submitted the following documents:
 - a. A hand mark-up survey of the subject property prepared by Robert J. Wesp, L.S., dated May 18, 1996, with a revision date of July 14, 1997.
 - b. Hand drawn elevations of the proposed shed.
 - c. Pictures of the property.
 - d. Application and other supporting documentation.
5. The Applicant received a Notice of Violation from the Township Zoning Officer for the construction of a shed in the rear of the property requiring variance relief.

6. Peter Smith presented sworn testimony in support of the application. The subject property is unique, irregularly shaped lot that surrounds the end of Weasaug Trail, in the Cranberry Lake Section of the Township. The rear of the lot has frontage on Cranberry Lake and the front yard is comprised of three sections of Weasaug Trail.
7. When the Applicant purchased the property in 2019, there was an 8' x 12' shed in need of replacement. The shed was improperly constructed and in danger of collapsing. Utilizing the existing floor and joists, the Applicant reconstructed the shed and added a covered porch area, resulting in a 12' x 16' accessory structure. The Applicant is limited by the shape of the property, the location of the existing structures, including the septic system, as to where he could construct a conforming accessory structure.
8. There is dirt and stone under the wooden framed, accessory structure. There were no trees nor vegetation removed. The shoreline is currently 90-95% vegetated, but based on existing conditions, there is no room for additional plantings, resulting in a need for a variance from the 10 foot side buffer area.
9. The shed is located in the riparian zone of Cranberry Lake. Construction of the shed can be approved pursuant to Permit-by-Rule #13 which permits the construction of a shed in this area as long as there is a wall or revetment along the shore.
10. The property is located within the Highlands Preservation Act pursuant to the Highlands Water Protection and Planning Act, the construction activities

related to a single-family home, including a shed, are excluded from the provisions of the Highland's regulations.

11. John Seekemp, 10 Weasang Trail, and Cathy Brown 3 Weasang Trail, both testified in support of the application, noting that Mr. Smith is a good neighbor who has improved the property since taking title.
12. The survey that was submitted with the application did not accurately reflect the current conditions on the property, namely the setback dimensions and the various accessory structures on site. During a discussion with the Applicant, the Board agreed to permit a setback of no less than 6 feet from the lake. Additionally, the Applicant agree to provide an As-Built survey for review by the Township's Engineer.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:
 - a. Section 240-16B-4 - side yard setback of an accessory structure shall be 10 feet and 1 foot is approved.
 - b. Section 240-55C-9 - setback of a building from the lake shall be 50 feet and include a ten-foot wide vegetative buffer along at least 80% of the water's edge

- i. Setback of accessory structure from the lake shall not be less than 6 feet.
 - ii. Existing vegetative buffer shall remain and not be reduced.
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. The subject property is irregularly shaped and fully developed, creating a hardship for the Applicant to construct a conforming accessory structure
3. The benefits of permitting the structure to remain as constructed outweigh the detriments that may result from denying the requested relief, as the prior shed was in disrepair and a dangerous eye sore. It was determined that there would be little impact to the surrounding area, as the neighbors were in favor of the shed remaining on the property, as well as the other improvements that the Applicant has made. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 16th day of September 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township’s Ordinances.

2. Applicant shall obtain the required construction permits for the accessory structure.
3. An As-Built survey shall be submitted for review and approval by the Township's Engineer.
4. The setback of the accessory structure from the lake shall not be less than 6 feet.
5. The Applicant shall not reduce the current lake front buffer area.

George Shivas

On motion of:

Seconded by:

The vote on the Resolution was as follows:

AYES:

NAYS:

ABSTAINING:

ABSENT:

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on September 16th, 2021 and is in effect for one year.

**Caitlin Phillips, Planning Board
Secretary**

Dated:
Prepared by: Alyse Landano Hubbard, Esq.

Zoning Report
Sept 2021 (for activity during Aug 2021)

Permitting

Zoning permits approved	29 Total
- Typical, variance not required	29
- post-resolution to begin work	
- for C.O. or C.A.	
Zoning permits denied	2
Site plan waivers/change of tenant	1
Highlands determinations	0
COVID-19 Special Permits	0
<u>Investigation of Violations (zoning only)</u>	
- Initial contact letter	1
- notices of violation (NOVs)	0
- zoning cases cleared	3 (1 still pending with court)
- summonses issued	0
- signs removed from roadway	0

**BYRAM TOWNSHIP PLANNING BOARD
BILL LIST FOR September 16, 2021**

<u>HAROLD PELLOW & ASSOCIATES, INC</u>	DATE	AMOUNT
Inv. 73323 Tomahawk Lake- application review	8/20/2021	\$32.50
Inv. 73324 Anty Trucking- review resolution	8/20/2021	\$65.00
Inv. 73325 Wawa- application review	8/20/2021	\$65.00
Inv. 73326 Schuffenhauer- attendance at meetings	8/20/2021	\$325.00
Inv. 73328 Stefanelli- prepare reports, application review	8/20/2021	\$349.13
Inv. 73329 Vicuna- prepare reports, application review	8/20/2021	\$773.75
Inv. 73331 Nissan- application review	8/20/2021	\$256.88
Inv. 73330 DeRosa- application review	8/20/2021	\$374.81
Inv. 73327 Planning Board- attend 07.15 meeting	8/20/2021	\$130.00
Harold Pellow total		\$2,372.07

<u>LAW OFFICE OF LARRY WIENER</u>	DATE	AMOUNT
Larry Wiener Total		\$0.00

<u>LATINI & GLEITZ, PLANNING</u>	DATE	AMOUNT
Paul Gleitz total		\$0.00

<u>CP Engineers</u>	DATE	AMOUNT
No bills submitted		
Total for CP Engineers		\$0.00

<u>GRAND TOTAL</u>	\$2,372.07
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