

MEETING MINUTES
THE BYRAM TOWNSHIP PLANNING BOARD
SEPTEMBER 21, 2017

CALL TO ORDER

Chairman Shivas called the meeting to order at 8:00 p.m.

ROLL CALL

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
HERE	H	H	H	H	H	H	H	H	H	H
ABSENT										
EXCUSED										
LATE										

Also present: Attorney Kurt Senesky
 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 September 7, 2017 Meeting Minutes

A motion was made by Mr. Kaufhold to approve the minutes as written. The motion was seconded by Mr. Morytko. There was no discussion. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion					√					
Seconded		√					√			
Aye		√	√		√		√	√	√	√
Nay										
Abstain	√			√		√				
Absent										

Motion carried.

RESOLUTIONS

Z12-2017, Paul and Allyson Botto, 13 Ash Street, Block 28 Lot 320.02, R-4 Zone

Variances to construct 473 sq.ft. addition to a single family dwelling, and for other pre-existing, non-conforming structures on the property.

A motion was made by Mr. Walsh to approve the resolution as presented. The motion was seconded by Mr. Morytko. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion							√			
Seconded		√							√	
Aye		√	√		√		√	√	√	√
Nay										
Abstain										
Absent										

Motion carried.

SITE PLAN WAIVER

WOSP5-17, APEP Inc., Block 27 Lot 381.02, V-B Zone

Change to the building façade

Mr. Walsh said that the site plan subcommittee met with the applicant and reviewed the materials submitted. The applicant wishes to replace the roof on his existing building and add three aesthetic dormers which will be consistent with the proposed development on the adjacent site that is owned by this applicant. No living space will be added and this request meets all the criteria to be considered as a site plan waiver.

A motion was made by Mr. Walsh to approve this waiver. The motion was seconded by Ms. Segal. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion							√			
Seconded						√				
Aye	√	√	√	√	√	√	√	√	√	√
Nay										
Abstain										
Absent										

Motion carried.

NEW BUSINESS

Z14-2017, Raymond Bonker, 29 Strawberry Point Drive, Block 323 Lot 46 R-5 Zone

Permission to keep an already constructed deck in the front yard which requires a front yard variance and to exceed principal building coverage allowed.

Ray Bonker, applicant, was sworn in and said he purchased the property recently and because the deck in the rear of the home was in disrepair, and believing he met the rear yard setback, he replace the 8' X 8' deck and stairs. Mr. Bonker later learned that since Strawberry Point Drive goes around his home, that by Township Ordinance that this property has two front yards. Mr. Bonker did not meet the setback on what he thought was the rear yard, but actually a front which requires a 45 ft. setback. The deck is setback 30.8 ft., from the property line requiring a variance of 14.2 ft.

Mr. Bonker met with the zoning officer and it was determined that Mr. Bonker also needed a variance to exceed building coverage.

Ms. Shimamoto asked Mr. Bonker about the septic and leach field location to ensure there was no encroachment. Mr. Bonker said no, the stairs do not encroach on the septic or leach field, and that he did receive approval from the County Division of Health stating this.

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. Riley to approve the application. The motion was seconded by Mr. Walsh. The following vote was taken.

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion	√									
Seconded							√			
Aye	√	√	√	√	√	√	√	√	√	√
Nay										
Abstain										
Absent										

Motion carried.

Z15-2017, Gerard Finegan, 26 Stony Brook Road, Block 54 Lot 14, R-4 Zone

Variance relief required to construct a 541 sq. ft. addition to the rear and right side of a single family dwelling.

Mr. Jason Dunn, P.P., Dykstra Engineering was sworn in and provided his education and experience to the Board, and the Board accepted him as expert in his field.

Mr. Dunn said that Mr. Finegan came before the Board in April 2017 for an addition to the rear of the dwelling, and to enlarge his deck on the north side of his home, and to keep a shed in the rear of the property. At that time it was Mr. Finegan's intention to replace a failing septic however when he applied to the County Division of Health he was advised he had to replace the septic system and the best location was in the front yard. This change allowed Mr. Finegan space in the rear for expansion. Mr. Finegan now proposes changes to the previously approved application whereas he will not construct a deck but a paver or concrete patio at grade and remove the shed in the rear. Mr. Dunn said Mr. Finegan received approval from the NJDEP for a GP25 for the malfunction septic and approval for a GP8 which is for disturbance to freshwater wetlands and/or freshwater wetland transition areas.

Mr. Dunn reviewed the proposed building coverage and required setbacks with this proposal. Ms. Shimamoto pointed out that some of the calculations on the plan were incorrect and during Board discussion it was discovered that measurements were taken from the structure, not the gutters so the setbacks presented are incorrect. There was Board discussion about the setback requested of 3.6' and the Board explained that typically the Board prefers a setback of 10' will consider a setback of 5' because sufficient room must be left for maintenance to the structure. Mr. Finegan was sworn in and said since the house has no basement, limited storage, and limited parking, this addition would allow more storage space and parking. After a lengthy Board discussion it was determined that Mr. Finegan will reconfigure the construction, remove 10 feet of the back, rear overhang leaving a setback of no less than 4.5'. He said aesthetically from the front the house will look the same but "notching" the overhang will allow for the 4.5' setback.

Ms. Shimamoto had concerns about water run-off and Mr. Stoner recommended a stone trench or infiltration drain to guide water runoff. The applicant agreed.

The Board said a revised plan must be submitted showing the correct setbacks, building coverage, and the shed in the rear removed. Mr. Dunn will work with the Board engineer with regards to how the water run-off will be handled. Chairman Shivas opened to the public.

Georgette Schroeder, 9 Briar Lane was sworn in and wondered why the Board had issues with Mr. Finegan's request. Mr. Walsh explained that the Board frowns upon setbacks closer than 5' because if maintenance is required, it does not leave sufficient room maintenance, and the Board wants to avoid the necessity of a homeowner having to use the neighboring property to perform maintenance. Ms. Schroeder understood.

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

A motion to approve the application was made by Mr. Chozick with the conditions that the setback is not less than 4.5 ft., a revised plan be submitted with the correct setbacks and calculations, the shed on the plan shown to be removed and that the Board engineer review and approve the drainage plan. The motion was seconded by Ms. Segal. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion			√							
Seconded						√				
Aye			√			√	√	√	√	√
Nay	√	√		√	√					
Abstain										
Absent										

Motion carried.

Chairman Shivas told the Board that Fred Milens, who served on the Planning Board for 47 years passed away and said that his service and dedication was outstanding, and appreciated.

OLD BUSINESS

Ms. Shimamoto, Ms. Raffay and Mr. Riley stepped down for his application.

Rt. 206 Byram GW LLC (Quick Chek Corporation) Rt. 206 & Brookwood Road, Block 41 Lots 88.01,88.02 & 89,V-B Zone [carried from July 6, 2017]

Use variance and associated site improvements for a retail store with gas pumps.

Mr. John Wyciskala, attorney representing the applicant said that the objectors, Heller Property Partners, and PMG will provide there summation first and he will follow. Below is a summary of their statement.

Mr. Ronald S Gasiorowski, representing PMG, an objector to this application said that in 2003 the Board denied an application for a gas station on the same site. He said since then the Governing Body had many opportunities to amend the ordinance, and still prohibited gas stations, he since the proposal does not benefit the general welfare of the community he believes this application should be denied.

Mr. Scott Carlson Esq., from Carlson Siedsma Warner LLP began by saying that in 2003 when a proposal for a gas station on this site, which was more intense, was denied he believes this application should be denied. He reiterated that the Governing Body still prohibits this use, and that the applicant's positive criteria that this application provides 24 hour convenience and that proposal is desirable on the property, can be acquired by any development. He added that the applicant's testimony did not provide positive criteria and this use does not comply with the goals and vision of the Township and Master Plan, and will not provide an enhanced quality of life. He said this use is a traffic generator, and that the traffic studies provide were inconsistent and not valid. He said the applicant did not provide information the Board requested such as similar sites, in similar locations (backing up to a one access, neighborhood) and fuel sales projections. He said that this applicant has left the Board with unanswered questions, and he believes that cheap gas will impact traffic and the neighboring residents and this application should be denied.

Mr. John Wyciskala thanked the Board, professionals and secretary for their assistance during the course of this application. He said in August 2016, when this process started the owner of the property for many years, Mr. Tsilios, once had a vibrant, 24 hour operation has since decided to sell and retire. He said the property is old, the buildings are old and the entire area is in need of redevelopment. He said this site sits on a four (4) lane State Highway; the proposed use will benefit emergency services, police and the community. The site layout is a good design, they propose a generous landscaping and buffers to adjoining properties, and it is not a "typical" Quick Chek design, the applicant agreed to connectivity to the adjacent, vacant lot. The applicant, based on Board and public comment changed the sidewalk

layout, signage, they banked parking spaces, restricted fuel deliveries, and garbage pick-up times. They were responsive to the Board, public and professionals. Traffic studies were done a various times of the day and evening, they reviewed training requirements, safety measures, number of employees, property maintenance requirements, and they address any lighting concerns. Mr. Wyciskala talked about the objectors and their motive is financial, not having genuine concern for Byram Township.

In short Mr. Wyciskala said Quick Chek takes pride in their facility, it is a family owned business, and they support local sport teams. He said the site is suited for this use; the site layout can handle the use. He added that the public deserves alternative business, it provides job growth, and it offers convenience and cohesiveness with surrounding neighbors and hopes that the Board will approve this application.

Mr. Senesky advised the Board of their duties and what should be considered when a “d” variance is before them.

Chairman Shivas opened comment to Board members.

- Mr. Morytko didn't believe that the applicant has not satisfied the positive criteria and that it will not enhance the zone or Master Plan.
- Mr. Walsh believed the applicant did a good job satisfied the positive and negative criteria of this application.
- Mr. Chozick agreed with Mr. Walsh.
- Mr. Kaufhold thanks the residents of East Brookwood for their comments and concerns.
- Ms. Segal thanked the public for their input and concerns.
- Mr. Gonzalez believes the Quick Chek will serve the community well and hopes this will spur development.
- Chairman Shivas thanked the public for their input and appreciates their assistance and information. They were respectful and provided the Board with good information.
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Chairman Shivas said he would like one condition added that Quick Chek return in one year and perform a traffic study to determine if the development negatively impacted traffic and if that is the case, they petition the D.O.T. to consider signal timing changes.

A motion was made by Mr. Walsh to approve this application with all conditions discussed and noted during the hearing. The motion was seconded by Mr. Chozick. The following vote was taken:

	Mr. Riley	Mr. Morytko	Mr. Chozick	Ms. Raffay	Mr. Kaufhold	Ms. Segal	Mr. Walsh	Mr. Gonzalez	Ms. Shimamoto	Chairman Shivas
Motion							√			
Seconded			√							
Aye			√		√	√	√	√	√	√
Nay		√								
Abstain										
Absent										

Motion carried.

REPORTS FROM COMMITTEES

Township Council – No representative present at the meeting

Environmental Commission – Meeting on September 28.

Open Space – Mr. Morytko said the next meeting is in October.

Architectural Review Committee – Mr. Morytko said no meeting was held.

Board of Health – Meeting on September 26, 2017.

BILLS

No bills were submitted.

OPEN TO THE PUBLIC

Chairman Shivas opened to the public.

Skip Danielson, 18 Hunters Lane thank the Board Chair for the kind words of remembrance for Fred Milesn. He thanked the residents of East Brookwood and the Board for their input and hard work with regards to the Quick Chek application.

Georgette Schroeder, 9 Briar Lane asked the Board asked for direction with regards to a second access from the East Brookwood neighborhood. Chairman Shivas said the Township Council. Mr. Gleitz said it is in the Master Plan and she should visit the township and review the document and the circulation plan for Byram.

Randy Carl, 77 Brookwood Drive asked if traffic issues arise with the PNC Bank and Brookwood Road how can they be addressed. Chairman Shivas recommended he visit the Council with suggestions/comments.

Kevin Keller, 46 Acorn Street

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

ADJOURNMENT

A motion to adjourn the meeting was made at 11:15 p.m. by Ms. Kaufhold, and seconded by Mr. Morytko. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted: *Cheryl White*