

MEETING MINUTES
THE BYRAM TOWNSHIP PLANNING BOARD
SEPTEMBER 7, 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
ABSENT										
EXCUSED	EA			EA		EA				
LATE			L							

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

Mr. Chozick arrived at 8:05 p.m.

MINUTES

Approval of the August 9, 2017 Meeting Minutes

A motion was made by Mr. Morytko to approve the minutes. The motion was seconded by Mr. Walsh. 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.

Approval of the August 17, 2017 Meeting Minutes

A motion was made by Mr. Morytko to approve the minutes. The motion was seconded by Mr. Chozick. 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

SP1-2017, Aqua NJ Inc., Block 337.01 Lot 82, Lynn Drive, R-3 Zone

A conditional use variance for a 242 sq. ft. addition to an existing well house, to update related equipment, the construction of a 4,000 gallon equalization tank, the reconstruction of the access drive, and associated landscaping, lighting and other improvements.

There was no Board discussion. A motion was made by Mr. Morytko, the motion was seconded by Mr. Walsh to approve the resolution as presented. 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.

SP3-2016, Alex Rubenstein, Block 234 Lots 1.04, (3 Partridge Road) and Lot 1.05 (1 Partridge Road) and Block 364 Lot 8 (14 Reis Avenue), R-2 Zone.

A variance to erect a 2,400 sq. ft. garage, proposal of a lot line adjustment, and a request to relocate conservation easements.

There was no Board discussion. A motion was made by Mr. Kaufhold, the motion was seconded by Mr. Morytko to approve the resolution as presented. 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.

SP2-2017, Lake Mohawk Country Club, Block 293 Lot 6.01, and Block 291 Lot 1.01, West Shore Trail, R-3 Zone
 The replacement of the West Shore Trail South Gate monument sign.

There was no Board discussion. A motion was made by Mr. Kaufhold, the motion was seconded by Mr. Morytko to approve the resolution as presented. 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

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.

Mr. William Dimin, Esq., representing the owner and applicant, introduced Allyson Botto and she was sworn in. Mrs. Botto said three years ago her mother became ill and they wish to move her into their home and the 460 sq. ft. addition would accommodate additional living space for her.

Mr. Dimin introduced Mr. Thomas Graham, P.E., from Dykstra Walker Engineering who was sworn in. Mr. Graham provided the Board with his education and experience and the Board accepted him as an expert in his field.

Mr. Graham gave an overview of the Botto property as it exists today, and said the proposed addition requires variances for:

- Lot area
- Rear yard setback
- Lot disturbance
- Critical lot disturbance

Mr. Graham said that as a matter of record there are two structures on the property that were there when the Botto's purchased the home, which are non-conforming, and are included as part of this application for approval, specifically a shed on the right side which requires a side yard setback, and a minimum setback from a principal structure. The deck which is also pre-existing, and is not attached to the principal structure requires a rear yard setback. Mr. Graham presented Exhibit A1 dated 9/7/17 which is a colored rendering of the property. Mr. Graham talked about whether a variance for a front yard setback was necessary because stairs in the front yard are not considered when calculating a front yard setback, however since the stairs have an overhang, it was determined that a variance is required, and since that was not depicted on the plan, Mr. Graham said a revised plan will be submitted.

Mr. Graham said that a retaining wall, less than four feet in height will be constructed which will disturb approximately 107 sq. ft. of critical area. Chairman Shivas advised Mr. Graham that if the wall is over four feet, it would require an engineer's inspection. Chairman Shivas recommended that as a condition of approval the wall will not exceed four feet in height. The applicant agreed. Ms. Shimamoto said the Environmental Commission expressed concerns about the water runoff in the rear gravel area and she asked if the applicant consider a rain garden. Mr. Graham said the gravel in the rear will be removed and replaced with grass. Ms. Shimamoto was satisfied with the planting of grass. Mr. Graham will also depict the gravel being removed and grass added on the revised plan. Chairman Shivas asked if the house will remain three bedrooms. Mr. Graham said yes, they are re-locating bedrooms, none will be added.

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

Mr. Demin introduced Mr. David Novak, P.P., from Burgis Associates and he was sworn in. He provided the Board with his education and experience and the Board accepted him as an expert in his field.

Mr. Novak said this application requires a C1 variance which relates to the physical aspects of the property and provided the Board with Exhibit A2 – aerial photos of the neighborhood, the subject property, and surrounding homes showing that this proposal is in character with the neighborhood. He said the lot is small and non-conforming, and there is not an opportunity to purchase adjoining land. He added that because of the property depth and topography he believes the variances should be granted. He said the property offers natural buffers, there will be less water run-off, there will be minimal disturbance, and that there is no determinant to the public good.

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 approve the application with the conditions that a revised plan be submitted, and that the Board engineer verify the proposed retaining wall is not more than four feet. The motion was seconded by Ms. Shimamoto. 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.

OLD BUSINESS

Ms. Shimamoto 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 gave a brief re-cap of the July 6 meeting and said that in July the traffic engineer for Quick Chek, Matt Seckler provided testimony and that Mr. Scott Carlson Esq., representing the objector, Heller Property Partners, L.P., had their traffic engineer, Mr. Hal Simoff to rebut Mr. Seckler's testimony. Mr. Wyciskala added that since only six members were available this evening to vote, they wish to carry the application when more members will be present.

Mr. Carlson said that they had brief testimony tonight and introduced Mr. Simoff. Mr. Simoff said he reviewed the transcript and Mr. Seckler's prior testimony. Mr. Simoff said he looked at the capacity analysis comparison that was prepared by Stonefield Engineering and said that even though the applicant provided an analysis that doubled and tripled the trips to the site, they did not conduct a study during peak p.m. hours.

Mr. Simoff said the issue he wants to point out is that the Stonefield's analysis talked about variable signal timing. He said the signal timing is fixed at a 110 seconds cycle, which is about 33 times per hour, and there is about 71 seconds of green time in the 110 seconds, the remaining time is yellow and red lights. He said if you increase signal timing at one section of the intersection, it has to decrease at another section of the intersection, and said the

information that was presented by Stonefield shows the sections that were increased, but not sections that were decreased, which would affect the level of service. Mr. Simoff believes they did not present a complete analysis.

Mr. Simoff added that the application submitted to the D.O.T. was not accurate saying that if you generate more than 200 trips on a State highway, a higher level of permitting is required. The number of trips submitted to the D.O.T. by the applicant was 138 trips and Mr. Simoff believes that number is understated as well as the percentage of traffic using the Brookwood Road driveway.

In summary Mr. Simoff believes that the applicant understated the trip generations when submitting their application to the D.O.T., the presentation of the signal timing was not accurate, and Mr. Simoff believes that the traffic volume will be higher than stated by the applicant.

Chairman Shivas opened to the public.

Georgette Schroeder, 9 Briar Lane asked if the traffic study included people that travel to get cheaper gas prices because she believes that trips to this site may be greater because of this. Ms. Schroeder also believes that the Mt. Arlington Quick Chek has fewer trips because entering and exiting the site is difficult.

Bob Ramella, 12 Brookwood Road believes the traffic studies are dubious. He had questions about truck turning problems. Mr. Wyciskala objected to this questioning saying that those issues were already addressed and that questions tonight should be directed at Mr. Simoff's testimony. Mr. Senesky agreed.

Paul Erb, 16 Brookwood Drive asked if the only exit would be Brookwood Road. Chairman Shivas said no, the site will have a curb cut to exit and travel north on Rt. 206.

Jack Moran, 7 East Waterloo Road asked if Stonefield's study took into account slower moving vehicles. Mr. Simoff said yes, 2% of the study included truck traffic. Mr. Moran asked other questions that Mr. Wyciskala objected to since they are not testimony of Mr. Simoff or Mr. Seckler's.

Russell Wark, 9 Brookwood Road asked if 2% is the normal when considering truck traffic, and if they take into account surrounding zone and uses. Mr. Simoff said 2% is usually the default.

Trish Eyrich, 24 Stony Brook Road asked if the signal timing on the light will change if this site is developed. Mr. Simoff said there is prescribed signal timing, and if seconds are taken from one section, it will affect another section.

Darren Boucher, 69 Brookwood Road had questions about the D.O.T. access permitting process and if the trips are over 200 trips, would the permit be denied. Mr. Simoff said no, a more intensive review is required.

Sean Temple, 6 Woods Edge Road asked about the different traffic studies submitted and since there is conflicting information can the Board request a more intense review.

Georgette Schroeder, 9 Briar Lane asked if D.O.T. can object to this application if it poses a safety threat regarding the truck turning radius. Mr. Simoff said that the Township Clerk receives a copy of the D.O.T. access permit and the town has a limited time to react if they have questions or any objections to the application.

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

At 9:55 p.m. a short break was taken.

At 10:05 the meeting was called back to order.

Chairman Shivas reminded the Board that the next step of the meeting is for public comment only. Chairman Shivas opened to the public.

Keith Salmon, 4 Briar Lane was sworn in and said since conflicting traffic studies were provided he would hope that the Board would look at what is suitable for this site and he believes a different use would be better. He believes it is the worse use for this site, and if it is approved Quick Chek should provide funding for a second access to East Brookwood.

Theresa Retkwa, 44 Brookwood Drive was sworn in and because of the inconsistent traffic studies believes the Board should commission a traffic study independent of the applicant or objector.

Evmorfia Kapsas, 14 Woods Edge Road was sworn in and wants another access out of the East Brookwood neighborhood in the event this proposed development causes a back-up and emergency services are not able to respond.

Bob Ramella, 12 Brookwood Road was sworn in and reiterated his concerns for the environment, safety, light and noise pollution, traffic problems, inconvenience and the negative impact this development will have on the quality of life for the East Brookwood neighborhood. He believes the well head protection area is compromised and he hopes the Board will consider the residents' concerns.

Marilyn Parrish, 5 Ross Road was sworn in expressed her concerns about the TCE contamination in the Oakcrest section of East Brookwood, she expressed concerns about fuel spill contamination, and the proximity of this site to Lubber's Run. She made statements regarding other gas stations in Byram losing business and that home values in the area will diminish.

Georgette Schroeder, 9 Briar Lane was sworn in and expressed her concerns because of the single access neighborhood, and traffic backups. She believes that Quick Chek should offer the neighborhood another access point if they want this approved. She believes this location is not a good use for this site. She also believes that the secondary access should be constructed before any development is considered.

Jack Moran, 7 East Waterloo Road was sworn in believes the relationship between the well head protection area and this development have not been addressed. He also believes that this site will become a u-turn for lost travelers.

Joe Dolce, 65 Brookwood Road was sworn in believes an emergency action plan should be in place in the event of an emergency in the neighborhood and traffic presents a problem. Mr. Senesky said the Board relies on testimony, and that there are no guarantees.

Chairman Shivas expressed to the residents of East Brookwood that a second access is in Byram Township's Master Plan and that in the past residents of East Brookwood opposed the second access when it was proposed years ago. Chairman Shivas recommended the residents take their concerns to the Governing Body.

Mr. Walsh reiterated that that the Board considers traffic, safety, accident spills, and all of the concerns expressed by the residents.

Mr. Stoner said it is possible to petition the D.O.T. to re-evaluate the intersection if this development presents a problem.

A motion was made by Mr. Kaufhold to carry this application to September 21, 2017, without further notice. 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.

REPORTS FROM COMMITTEES

Township Council – No representative present at the meeting

Environmental Commission – Ms. Shimamoto reminded the Board that Byram Day is Sept. 9 and the Environmental Commission will have a booth about bees and butterflies.

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

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

Board of Health – No representative present at the meeting.

SITE PLAN WAIVERS

Chairman Shivas told the Board about new business, approved by the zoning officer via site plan waivers:

- WOSP2-17, Owner, Tony Reis, APEP, Inc., - 13 Route 206 Block 27, Lot 381.02, V-B Zone
Change of tenant - approved by the Zoning Officer - New tenant - Byram Day Spa, (formally Byram Medical),
- WOSP4-17, Owner - Heller Property Partners, 27 Routes 206, Block 27 Lot 380.01, V-B Zone
Change of tenant approved by the Zoning Officer – New tenant - Rising Fist Martial Arts, LLC, (formally Byram Pizza)
- WOSP6-2017, Owner – Barry Feldman, 206 Acorn Street Development Corp., 8 Route 206, Block 42 Lot 13, V-B Zone
Change of tenant – approved by the Zoning Officer – New tenant – Ross Mixed Martial Arts, Inc. (Formally Hair Salon)

BILLS

Schenck, Price, Smith & King, LLP (5 bills) \$1,380.00

A motion to approve Mr. Senesky’s bills was made by Mr. Walsh, the motion was seconded by Mr. Chozick. All were in favor. Motion carried.

Harold Pellow & Associates, Inc. (8 bills) \$2,239.00

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

OPEN TO THE PUBLIC

Chairman Shivas opened to the public.

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*