

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, February 20 2025, 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 of the Byram Township Planning Board was given as required by the Open Public Meeting Act. A resolution indicating the time, date, and location of regular Board meetings for the year 2025 was forwarded to the Board's designated newspaper, and posted on the bulletin boards and main doors of the Municipal Building.
4. **FLAG SALUTE**
5. **MEETING MINUTES-** February 6, 2025
6. **RESOLUTIONS**
Z20-2024 William Grabler, 39 Meteor Trail, Block 162 Lot 44, R5 Zone
Application for construction of a home addition and site improvements
7. **SUBCOMMITTEE**
SP5-2024 Gary Niec, 18, 22, and 24 Route 206, Block 41 Lots 90.01, 90.02, 94, VB Zone
Application for mixed use retail and residential development including a three-story building with up to seven retail spaces and 72 apartments

SP2-2025 Salt Gastropub, 109 Route 206, Block 364 Lot 8, R2 Zone
Application for kitchen extension and outdoor dining
8. **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 06/19/2025****
9. **PRESENTATION:** Musconetcong Watershed Association Presentation with Craig Fleming
10. **DISCUSSION ITEM-** Affordable Housing Subcommittee
11. **REPORTS FROM COMMITTEES**
Environmental Commission
Open Space
Township Council
Zoning Report
12. **OPEN TO THE PUBLIC**
13. **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.

MEETING MINTUES OF THE BYRAM TOWNSHIP PLANNING BOARD: February 6 2025

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

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

Members Absent: Messrs. Rubenstein, Serrilli

Also Present: Engineer Tom Knutelsky, Attorney Alyse Hubbard, Secretary Caitlin Phillips

OPENING STATEMENT: Adequate notice of this meeting of the Byram Township Planning Board was given as required by the Open Public Meeting Act. A resolution indicating the time, date, and location of regular Board meetings for the year 2025 was forwarded to the Board's designated newspaper, and posted on the bulletin boards and main doors of the Municipal Building.

FLAG SALUTE: led by Chairman Shivas

OATH OF OFFICE:

Board Members: Jeanine Colligan took her oath of office.

COMMITTEE APPOINTMENTS

Chairman Shivas appointed Mr. Walsh to lead the Site Plan Subcommittee, and the other members include Mr. McElroy and Mss. Raffay and DeMagistris.

MINUTES: January 16, 2025. Motion of Mr. Proctor to approve the minutes, second by Mr. McElroy.

Ayes: Mss. Raffay and DeMagistris; Messrs. Proctor, McElroy, Smith, Walsh, and Chairman Shivas

Abstaining: Ms. Colligan

Absent: Mayor Rubenstein, Mr. Morytko, Mr. Serrilli

None opposed. Motion carried.

RESOLUTIONS

Z22-2024 Prestige Country Homes, 10 Newton Avenue, Block 36 Lot 50.02, R4 Zone

Application for construction of a second floor addition

Motion of Mr. Proctor to approve the resolution, second by Ms. Raffay.

Ayes: Mss. Raffay; Messrs. Proctor, McElroy, Smith, and Chairman Shivas

Abstaining: Ms. Colligan, Ms. DeMagistris, Mr. Walsh

Absent: Mayor Rubenstein, Mr. Morytko, Mr. Serrilli

None opposed. Motion carried.

NEW BUSINESS

Z20-2024 William Grabler, 39 Meteor Trail, Block 162 Lot 44, R5 Zone

Application for construction of a home addition and site improvements

William Grabler was sworn in as the applicant, and Ken Fox of Fox Architectural Design was sworn in, and his licenses are in good standing. Mr. Fox was deemed an expert. Mr. Grabler said the home is small, and he doesn't want a big place, just more room. He wants a master bathroom, a bigger kitchen, and 2.5 bathrooms. Chairman Shivas asked if he talked to the Board of Health. Mr. Grabler said he's staying at two bedrooms. Chairman Shivas said the Board of Health still needs to look at this. Mr. Grabler said he will work with them.

Mr. Fox reviewed his plans for the addition. He noted technically this is a three-story building by code. There is an "L-shaped" section that makes the third story, but part of it is a crawl space. Chairman Shivas confirmed the basement has an exit to the outside. Mr. Fox submitted **Exhibit A1**, a site layout. Chairman Shivas asked what goes across the property at the lake. Mr. Fox said it's a stone seawall. Chairman Shivas noted the

Environmental Commission's request to have a buffer at the lakefront. Mr. Fox submitted **Exhibit A2**, photo board 2. This shows a stone bulkhead. Mr. Smith confirmed Mr. Grabler has a dock. Mr. Walsh asked if the area is level or if water flows into the lake. Mr. Fox said that area is flat; water percolates into the ground. They're proposing 132 square feet of additional impervious coverage. Mr. Grabler said he doesn't have an issue with collecting water on this lawn. Ms. Raffay noted that means the water is running from the lawn into the lake. Mr. Grabler said he planted everything around the area. He doesn't get a lot of water off the roof. Mr. Fox submitted **Exhibit A3**, photo board 1 of eleven photos. This shows plantings and a garden. Ms. Hubbard confirmed the addition is in the front of the house. Mr. Knutelsky noted the roofline changes, and asked what happens to those roof liters. Mr. Fox explained the roof design. Any new runoff is coming through opposite the lake and runs down into the lower part of the property. Mr. Grabler said on both sides of the house there are bushes and beds, and he terraced an area. Chairman Shivas thinks there's a bulkhead, but asked if they could put in bushes. Mr. McElroy asked if other people have decks and patios out to the lake, and less of a yard, in this area. Mr. Grabler said there's nothing unusual about his house, other people have similar layouts. Mr. Fox reviewed the variances. Mr. Knutelsky noted this is an existing non-conformity of the property. Mr. Fox noted the third story is a hardship along with the existing grades of the property. Chairman Shivas mentioned a note on the plans. Mr. Fox said this will be updated to measure from the overhangs.

Mr. Knutelsky asked about materials and colors. Mr. Fox said the roof will likely be asphalt shingles. The siding will likely be clapboard and shakes. Mr. Grabler said the house is currently blue. Mr. Knutelsky noted because there's a bulkhead, a permit by rule is likely allowable. Chairman Shivas asked if any encroachments are increased. Mr. Fox said they're not exacerbating the front or side setbacks, and are not coming any closer to the property lines. Ms. Raffay likes that they designed it into the hillside. They could have put three stories up to the front, but it'll be stepped back, and they used the hill and built it to the land.

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

Motion of Mr. McElroy to approve the application, second by Mr. Proctor.

Ayes: Mss. DeMagistris, Colligan, and Raffay; Messrs. Proctor, McElroy, Smith, Walsh, and Chairman Shivas

Absent: Mayor Rubenstein, Mr. Morytko, Mr. Serrilli

None opposed. Motion carried. Mr. Morytko entered the meeting at this time.

BILLS:

Harold Pellow and Associates (13): \$3,910.51. A motion to approve the bills was made by Mr. Walsh, seconded by Mr. Proctor. All were in favor. Motion carried.

Maraziti Falcon (6): \$5,127.50. A motion to approve the bills was made by Mr. Walsh, seconded by Ms. Raffay. All were in favor. Motion carried.

ANNOUNCEMENT

Chairman Shivas announced that Mr. Serrilli has resigned, so there is a vacancy. Someone has sent a resume in, and the Council needs to approve them.

REPORTS FROM COMMITTEES

Environmental Commission- Mr. McElroy said they will work with the forester on invasive species. They'll work on plans for Earth Day and Arbor Day. Dana Flynn stepped down as Chair and Peter Dlugos is now the Chair. Ms. Flynn reviewed the planting plan, and said most of them are either not available or hard to find. She will make some recommendations to update the list.

Open Space- Mr. Morytko said there's a meeting Monday.

Township Council- Mr. Proctor said they discussed the quarry license. They will do a moth spraying again. They discussed Affordable Housing. The Council is putting together a joint subcommittee including Mr.

Proctor, another Council member, and two or three people from the Board. They may need to have virtual meetings with a Planner. If anyone wants to join, they should let Mr. Proctor or Mayor Rubenstein know. Ms. Hubbard noted Mr. Bloch will be drafting the housing element and the group can help.

OPEN TO THE PUBLIC

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

ADJOURNMENT

A motion to adjourn the meeting was made at 8:05 pm by Mr. McElroy, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Prestige Country Homes Co., Inc.
Case No. Z22-2024
MF#5000.124

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

**RELIEF GRANTED: Side Yard Setback
 Number of Stories**

WHEREAS, Prestige Country Homes Co., Inc. has applied to the Planning Board of Township of Byram seeking approval to construct a second story addition for premises located at 10 Newton Avenue, and known as Block 36, Lot 50.02 on the Tax Map of the Township of Byram which premises are in the “R-4” 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 was represented by Jason Rittie, Esq, of Einhorn, Barbarito, Frost & Botwinick, PC.
2. The Applicant is the owner and occupant of the subject property. The Applicant is proposing to construct a second story addition on the existing home, requiring the

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following relief, pursuant to N.J.S.A. 40:55D-70c, from the Township's Zoning Ordinance:

- a. Section 240 -54C(3) – Minimum side yard setback: 15 feet is required, 12.2 feet proposed.
 - b. Section 240-54C(7) – Maximum number of stories; 2 ½ permitted, 3 stories proposed.
3. The Applicant submitted the following documents with the Application for Variance and Rider:
- a. Addition/Renovation Architectural Plans, prepared by John J. Haeberle AIA, LLC, dated September 27, 2024, consisting of 2 sheets, A-2 revised through July 12, 2024.
 - b. Survey, prepared Jaman Engineering Associates; dated October 20, 2023.
 - c. Photos of the property, five (5) photos total, undated.
 - d. Zoning Permit Denials, submitted April 25, 2024.
 - e. Deed of Transfer from Robert and Cynthia Underwood to Prestige Country Homes, Co, Inc. dated December 15, 2023, recorded on December 27, 2023, in Deed Book 10288, Page 1292.
 - f. Tax Map, prepared by Harold E. Pellow, dated June 2006, Sheet 5.02.
 - g. Certification of Taxes for Property and Sewer.
 - h. Ownership Disclosure.
4. The Board received a memorandum from Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated December 12, 2024.

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5. A duly noticed public hearing was conducted on January 13, 2025, at which time William Reed, the President of Prestige Country Homes Co, Inc., the Applicant, and Dave Ewald, from Haeberle Architecture, presented sworn testimony in support of the application. The subject property is a 21,710 square foot lot, with frontage on Newton Avenue, with the rear of the property along Lubber's Run. The lot is nonconforming as to lot width, with 75 feet existing where 100 feet is required. The lot is developed with a single-family frame dwelling, with a side yard setback of 12.2 feet where 15 feet is required. The existing home is a three (3) bedroom, 680 square foot ranch, serviced with well water, natural gas, and a three (3) bedroom septic.
6. The home has been vacant for approximately four (4) years. The Applicant is proposing to construct a second story addition, with the same setbacks as the foundation of the home, which requires a side yard setback variance for a vertical expansion of the existing nonconforming condition. The property slopes from front to rear, with an existing walk out basement. The second story addition will result in a third story, requiring relief as 2 ½ stories are permitted. The basement is below grade in the rear yard, with a few steps down, and contains storage and a furnace. Pursuant to the Township Code, 5 feet above average grade equates to a story. The proposed addition complies with the building height, as 25 feet is permitted and 20.645 feet is proposed. Additionally, all facades comply with the Township's Code.

7. The Applicant submitted three (3) pictures of the adjacent homes, which were marked as A-1 for identification. All three (3) homes have full walkout basements, resulting in (3) stories.
8. Mr. Ewald, who prepared the architectural drawings, testified that the existing home has everything on one small floor, with a substandard basement. The proposal will relocate two (2) bedrooms to the second floor, with a central hallway, bathroom and sitting area. The first floor will be reconfigured to create a kitchen, breakfast area, family room, bedroom, office, bathroom and foyer. The first floor is cantilevered in the front and back of the home two (2) feet over the foundation. The second story will be set back two (2) feet from the first floor in the front and back, consistent with the foundation. A gabled roof is proposed to create an aesthetic appeal, with the gabled roof and large window flush with the first floor.
9. The existing deck on the first floor will remain as is, with possible replacement in kind. The deck in the rear yard will be replaced with a new deck and the steps will be reconfigured, but will maintain the same setbacks as the current deck. The area under the deck will be cleaned up and the ground will be replaced with stone. The man-door to the basement is under the rear deck.
10. The Applicant's attorney explained that the variance relief can be granted under N.J.S.A. 40:55D-70c, noting that the lot is narrow and nonconforming as to lot width, creating a hardship for the Applicant to construct an addition without requiring side yard setback relief. The proposed addition is compliant with regard to height of the structure, but relief is needed for the number of stories, due to the

slope of the property. The house will be consistent with the surrounding homes with three (3) stories and walk-out basements.

11. The property is within the Riparian Buffer and subject to a Permit-by-Rule, as the improvements are not within 25 feet of the river. The rear of the property is within the Flood Plain, but the improvements are outside the Flood Plain.
12. The property is located within the Highlands Preservation Area and the proposed improvements can be accomplished under Highlands Exemption #5, which permits the construction of various improvements to a single-family dwelling, including an addition.
13. Based on a review of the Sussex County Health Department records, a permit was approved on February 15, 2024 for the alteration of the existing septic system for a three (3) bedroom dwelling. The approval is consistent with the architectural plans that have been provided to the Board. Final approval by the Sussex County Health Department is required.
14. No one from the public was in attendance at 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 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:

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- a. Section 240 -54C(3) – Minimum side yard setback: 15 feet is required, 12.2 feet approved.
 - b. Section 240-54C(7) – Maximum number of stories; 2 ½ permitted, 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. 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 a deep, narrow lot, with substandard lot width. The current home is within the side yard setback and the proposed addition is a vertical expansion of the existing setback. Due to the slope of the property, and the Township’s calculation of a story, the walkout basement results in a third (3rd) story for the Applicant, which is only visible from the rear yard. The lot conditions create a hardship for the Applicant to comply with the required setback and number of stories for the proposed addition.
4. The Board determined that permitting the proposed addition would not result in a substantial detriment to the surrounding area, as the addition conforms with the existing side yard setback and the proposal is consistent with the neighborhood. The addition is not inconsistent with the Master Plan and the Zoning Scheme, as

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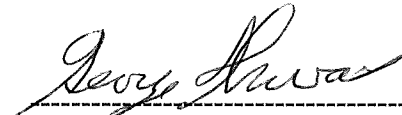
the proposed addition is similar to the surrounding homes in the neighborhood and will modernize the existing structure for the homeowners. The Board further determined that the addition was sensible and not overbearing and would not impact the surrounding area.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 16th day of January 2025 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicants shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicants 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 Applicants shall be bound to comply with the representations made before this Board by the Applicants, 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. Applicants 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. Applicants shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
5. Applicants shall obtain permits and approvals from the Township's Construction and Zoning Department prior to the commencement of work.

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6. 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.
7. Applicants 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. Outside agency approvals include, but are not limited to the Sussex County Health Department.
8. Applicants shall submit an As-Built survey of the property, subject to the approval of the Board Engineer, prior to the issuance of a Certificate of Occupancy.
9. The rear deck shall have the same setbacks as the current deck, and remain uncovered.
10. Stormwater runoff shall be maintained on the property, continuing the current drainage pattern, and not flow onto an adjacent lot.



George Shivas

On motion of: Mr. Proctor

Seconded by: Mr. McElroy

The vote on the Resolution was as follows:

AYES: Five (5): Messrs. Proctor, McElroy, Smith, Chairman Shivas, Ms. Raffay

NAYS: Zero (0)

ABSTAINING: Three (3): Mr. Walsh, Mss. DeMagistris and Colligan

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ABSENT: Three (3): Mayor Rubenstein, Messrs. Morytko and Serrilli

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on February 6, 2025.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 02/07/2025

Prepared by: Alyse Landano Hubbard, Esq.

ZONING REPORT

(February 2025 for activity during January 2025)

Zoning Activity	January
ZP Approved	16
ZP Denied	2
ZP Not Required	0
ZP Var/Site Plan Waiver Compl.	0
ZP Change of Tenant Waiver	0

Investigation of Complaints	January
Property Maint./Zoning Complaints	
Complaints Received	4
Open Cases	25
Cases Cleared	1
Summonses Issued	1

	January
Signs removed from roadside	18



Nick Cutrone, Zoning and Code Enforcement Officer