

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, July 18 2024, 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. **MEETING MINUTES-** June 20, 2024
6. **RESOLUTIONS**
 - Z10-2024 Edward Baumgarten, 387 Springbrook Trail, Block 315 Lot 2143, R-5 Zone
Application for addition to existing home
 - SP5-2023 Rudy & Vania LLC, 2 Tamarack Road, Block 216 Lots 3 and 3.07, NC Zone
Amended application for change in outdoor dining location
7. **SUBCOMMITTEE**
 - SP6-2023 Tomahawk Lake, 155 Tomahawk Trail, Block 343 Lots 1, 2, and 3, CR Zone
Application for amended site plan and use variance approval to use Lot 3 for additional parking, reconfigure the overflow parking area and employee parking area, construct a slide and merry-go-round, and modify a ticket office for larger square footage
8. **NEW BUSINESS**
 - Z11-2024, Michael Menduni, 40 Lynn Drive, Block 337.01 Lot 22, R-3 Zone
Application for 6-foot fence in the front yard
 - Z03-2024 Charles Cirella 10 Hawthorne Trail, Block 210 Lot 17, R-5 Zone
Application for carport in the front yard
 - SP3-2024 Veolia, 8 Mountain Avenue, Block 43 Lot 206.02, R-5 Zone
Application for tank painting and temporary tank set-up
 - SP4-2024 Cartridge Actuated Devices (CAD), 40 Old Indian Spring Road, Block 362 Lot 4, Block 226 Lot 8.01, R1 Zone
Application for bringing site into conformance including trailer removal, addition of a new two-story building, and replacement of a building
9. **OLD BUSINESS**
 - Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone
Application for shed in the front yard
10. **REPORTS FROM COMMITTEES**
 - Architectural Review Committee
 - Environmental Commission
 - Open Space
 - Township Council
 - Zoning Report

11. OPEN TO THE PUBLIC

12. 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: June 20, 2024

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

ROLL CALL: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, Serrilli, Smith, Chairman Shivas

Members Absent: Messrs. McElroy, Morytko, and Walsh

Also Present: Engineer Cory Stoner, Attorney Alyse Hubbard, 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: June 6, 2024. Mayor Rubenstein motioned to approve the minutes, seconded by Ms. Raffay.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Smith and Chairman Shivas

Abstaining: Messrs. Proctor and Serrilli

Absent: Messrs. McElroy, Morytko, and Walsh

None opposed. Motion carried.

RESOLUTIONS

SP1-2024 Byram Waterloo LLC (Starbucks of Byram), 33 Route 206, Block 36 Lot 40, VB Zone

Application for preliminary and final site plan for development of Starbucks coffeehouse with drive-through

Mr. Proctor motioned to approve the resolution, seconded by Mr. Serrilli.

Ayes: Messrs. Proctor, Serrilli, Smith, Chairman Shivas

Abstaining: Mayor Rubenstein, Ms. Raffay

Absent: Messrs. McElroy, Morytko, and Walsh

None opposed. Motion carried.

Z25-2023 Ryan Tiernan, 11 Ranger Trail, Block 300 Lot 2345, R5 Zone

Resolution for dismissal without prejudice of application

Mr. Smith motioned to approve the resolution, seconded by Ms. Raffay.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Smith and Chairman Shivas

Abstaining: Messrs. Proctor and Serrilli

Absent: Messrs. McElroy, Morytko, and Walsh

None opposed. Motion carried.

Z07-2024 Dana Taylor, 16 Weaver House Cove Road, Block 109 Lot 2, R-5

Correction to Lot listed in resolution

Ms. Phillips said this needed to be amended because the lot number was incorrect. Ms. Raffay motioned to approve the resolution, seconded by Mr. Proctor.

Ayes: Ms. Raffay, Mayor Rubenstein, Messrs. Proctor, Smith, Chairman Shivas

Abstaining: Mr. Serrilli

Absent: Messrs. McElroy, Morytko, and Walsh

None opposed. Motion carried.

SUBCOMMITTEE MEETING

SP6-2023 Tomahawk Lake, 155 Tomahawk Trail, Block 343 Lots 1, 2, and 3, CR Zone

Application for amended site plan and use variance approval to use Lot 3 for additional parking, reconfigure the overflow parking area and employee parking area, construct a slide and merry-go-round, and modify a ticket office for larger square footage

Chairman Shivas said they requested to move their meeting, so it will be on 07/18.

SP6-2024 Highland Avenue Properties, Block 212 Lot 1, NC Zone

Application for proposed use of a landscape and irrigation contractor business

Ms. Raffay said the application is sufficient to schedule for a hearing. There are a few things they want, including a steep slope analysis; construction details including drainage, structures, curbs, guiderails and lighting; an update to the plan to add a co-applicant of the Fire Department since some of the improvements are on their property; and the notice needs to include the firehouse property. Mr. Stoner noted they also need details for the fence and their salt storage building. Ms. Raffay motioned to deem the application complete and schedule it for a hearing on 08/15, seconded by Mr. Serrilli.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, Serrilli, Smith, and Chairman Shivas

Absent: Messrs. McElroy, Morytko, and Walsh

None opposed. Motion carried.

NEW BUSINESS

Z09-2024, Daniel Scully, 33 Allamuchy Trail, Block 144 Lot 135 and 136, R-5 Zone

Application to construct 3-bedroom dwelling on a property with three front yards

Ms. Phillips noted their engineer was not available so they requested to carry this meeting. Mr. Proctor motioned to carry the application 08/01, seconded by Mr. Serrilli.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, Serrilli, Smith, Chairman Shivas

Absent: Messrs. McElroy, Morytko, and Walsh

Motion carried.

Z10-2024 Edward Baumgarten, 387 Springbrook Trail, Block 315 Lot 2143, R-5 Zone

Application for addition to existing home

Edward Baumgarten was sworn in. He would like to expand the attic and raise the current head space 4 feet to make the room usable. Mayor Rubenstein said a portion of the property is in Sparta, and asked how that works. Ms. Hubbard said they have a letter from Sparta saying they have no interest, and they noticed both lots. Chairman Shivas confirmed they have two bedrooms and it will remain two bedrooms. He asked if there's a letter from the Health Department. Mr. Stoner said they need verification from the County Health Department that they're okay with the addition. Making the attic a livable space turned it into a third story. Chairman Shivas noted they have an approval from Lake Mohawk. Mr. Stoner said the variance is for the height in stories. Mr. Baumgarten said the attic is finished, but there's no headroom for a usable office. It's used as a quasi-office space now. Mayor Rubenstein confirmed they're adding a bathroom and shower. He confirmed the stairs are remaining. Mr. Baumgarten said everything is existing except they're extending the roofline over the entry for an awning. Chairman Shivas confirmed this is not bringing them closer to any property lines. Mr. Baumgarten said it's all within existing setbacks. Mr. Proctor confirmed they do not intend to convert this into a bedroom. Mayor Rubenstein confirmed they're ok if the resolution stipulates that it cannot be a bedroom.

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

Mr. Proctor motioned to approve the application as presented, seconded by Mayor Rubenstein.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, Serrilli, Smith, Chairman Shivas

Absent: Messrs. McElroy, Morytko, and Walsh

Motion carried. Ms. Hubbard explained the appeal period.

SP5-2023 Rudy & Vania LLC, 2 Tamarack Road, Block 216 Lots 3 and 3.07, NC Zone

Amended application for change in outdoor dining location

Paul Mitchell from Lavery Selvaggi and Cohen represented the applicant. This project was approved about a year ago and the outdoor dining was in the back of the building. The applicant is proposing to move the outdoor dining to the front. Rudy Carrera, the owner and applicant, was sworn in. He said the building is all finished, and he decided that it would be better to have the dining in the front. In the back, they'd only be seeing a house on the side street, and it may be annoying to the neighbors to have dining out there. Having it in the front would give the restaurant a better look, and be more inviting. On 2 Tamarack there's more traffic than on Little Paint Way, so it'd be better for business to see people dining outside. Mr. Mitchell confirmed this would not change the number of seats. Mr. Carrera said the resolution set the number of seats. Mr. Mitchell confirmed the parking will also not be impacted. Mayor Rubenstein confirmed this is in the area under the roof; he asked where it was. Mr. Stoner said it was in the back; there was a patio on Little Paint Way. Mr. Carrera said that patio will stay open, but there won't be seating. This site was approved around 2004-2005, and they had this space in the back as outside dining.

Chairman Shivas said the plans show 56 seats inside and 18 seats outside. Mr. Carrera said the total is 78.

Chairman Shivas said he is counting 10 outside. Ms. Raffay asked about the patio in the back. Mr. Carrera said it was built as a deck, but is just a place outside. They can open the door for fresh air. There is no roof or walls; it has patio pavers. It's a step above the ground floor, and level with the main floor of the dining room. It's meant to be for people out to dinner who want fresh air; there will be no seating or storage. Ms. Raffay asked if there's enough parking to make that a seating area as well. She likes the idea of the seating in the front. Mr. Carrera said later on it could be a place for a fire pit, which he'll get approval from the Board for.

Chairman Shivas asked about the placement of the coolers. Ms. Hubbard noted that's the bar. He asked about fitting in 18 seats for outdoor dining—there not a lot of room, and the doors may be open. Mr. Carrera said the porch is 10 feet wide. Chairman Shivas said there are three openings to the porch area; he doesn't see how there's room to fit four more tables for 8 extra people. Mr. Stoner confirmed there should be 78 seats total. Mr. Carrera said the outdoor dining will be part of those 78 seats, it's not additional. Mr. Stoner said the architectural plan should show 78 seats. Chairman Shivas confirmed with Mr. Carrera he agrees he will not exceed the 78 seats. Mr. Stoner asked what the maximum is for outside. Mr. Carrera said realistically it's twelve. Ms. Raffay asked about the porch, saying there is a wall. Mr. Carrera said it has a retaining wall. Ms. Raffay said there's a stucco wall around it. Mr. Carrera said this has been changed, so it's just a deck with pavers.

Chairman Shivas confirmed there's one apartment upstairs. Mr. Carrera said there's an office space. Chairman Shivas said there's also storage. He asked if there is a wall there. Ms. Hubbard asked if they have to go through the apartment to get to the office. Mr. Carrera said there is a wall between the office and apartment. Chairman Shivas confirmed there are two bathrooms, and there is apartment storage. Mayor Rubenstein confirmed the resident will need to go through the restaurant storage area to get to their storage area. Chairman Shivas asked who is living in the apartment. Mr. Carrera said it could be anyone, but preferably an employee. Ms. Hubbard confirmed this has already been built. Mr. Stoner said he issued a memo a few days ago allowing for a Temporary CO, and the only item left is landscaping. They are in the process of having the deed filed with the County. He confirmed they got the TCO. Mayor Rubenstein confirmed they plan to open next week. Mr. Stoner said they should make sure the numbers discussed are updated on the plans.

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

Mayor Rubenstein motioned to approve the application with the stipulation that the total remains 78 seats for the entire restaurant, seconded by Mr. Proctor.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, Serrilli, Smith, Chairman Shivas

Absent: Messrs. McElroy, Morytko, and Walsh

Motion carried. Chairman Shivas said the work looks very nice.

BILLS

Harold Pellow (11): \$3,175. A motion to approve the bill was made by Mayor Rubenstein, seconded by Mr. Serrilli. All were in favor. Motion carried.

Maraziti and Falcon (13): \$8,185. A motion to approve the bill was made by Ms. Raffay, seconded by Mayor Rubenstein. All were in favor. Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee: No one was there to represent this.

Environmental Commission: No one was there to represent this.

Open Space: Ms. Phillips said they did the deer hunting parcel allocation, and discussed forest management.

Township Council: Mayor Rubenstein said liquor licenses were renewed. They will now allow for residents to pay their property taxes with credit card. There is a 2.95% fee for this. They passed the resolution for deer hunting. They accepted the grant for the Completely Inclusive Playground (CIP) at CO Johnson Park, which was for \$464,000. For the 25% that was not granted they will use American Rescue Plan (ARP) funds. They are reconstructing the tennis courts at the municipal building. There was a local recreation improvement grant for this of \$65,000, and the balance will be paid using ARP funds. They passed the bond ordinance for the fire truck. They signed paperwork for a deed. They issued an ordinance to allow title 39, which is for police activity for traffic control at the Wawa lot. They decided to proceed with the CO Johnson Field 8 improvements, including stripping the dirt layer off and putting drainage in. Miss Byram attended the meeting.

Zoning Report: Everyone has a copy.

OPEN TO THE PUBLIC

Chairman Shivas opened to the public. Patricia Moschella said she lives along Woods Edge. The medical buildings were put in, and she is surprised they were not required to put a tree line buffer between her development and the back of their building. She and her neighbors have more traffic noise and lights from 206, which shines directly in to the backs of the houses along Woods Edge. Mr. Stoner said there's no landscaping proposed in the back; they had a wooded buffer there. Chairman Shivas asked if they tore the buffer down. Ms. Moschella said they did, and you can see out to 206. Mr. Stoner said they did work in that area; there's a tank there and they did some grading. It was inside the limit of disturbance on the application. He doesn't think additional landscaping was discussed. Ms. Moschella asked why; most other applications seem to be required, including QuickChek. Mr. Stoner said that was required because the public came out and asked for it. Ms. Moschella said they would be there 3-5 in the morning. Chairman Shivas said those are existing buildings, so the back area had trees, and thought that was going to stay that way. Mayor Rubenstein said they can look through the minutes and see what was discussed. Mr. Stoner said they probably cleared out underbrush and that's likely how they're seeing through. Robert Moschella said it looks nice because they cleared a lot of stuff out, but unfortunately there's no buffer. He noted some neighbors don't think coming here would help. Mayor Rubenstein said when the QuickChek application was here, there were hundreds of people with a huge amount of input, and it made a large impact on how that site was developed. Ms. Moschella said they did work on weekends, and asked who you're supposed to call. Mayor Rubenstein said the Zoning Officer when they're in on Monday, or the police department. Mr. Stoner said the town ordinances says they can't start before 7am. Ms. Moschella said they did deliveries in the middle of the night. Mayor Rubenstein said they'll look at the minutes to make sure they did what they were supposed to. He noted the site next to QuickChek is likely coming in the next couple months. Chairman Shivas

said they were found complete but don't have a date yet because they need other items submitted first. He reviewed the completeness process.

Chairman Shivas closed to the public.

ADJOURNMENT

A motion to adjourn the meeting was made at 8:30pm by Mr. Serrilli, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Byram Waterloo, LLC
Case No. SP1-2024
MF#5000.086

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED:	Maximum Number of Signs More than One Type of Sign per Use Maximum Size of Directional Sign Maximum Number of Directional Signs Maximum Number of Wall Signs Maximum Total Area of Digital Display Menu Board Minimum Front Yard Setback Minimum Setback between Building and Parking Area Minimum Number of Loading Spaces
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WHEREAS, Byram Waterloo, LLC has applied to the Planning Board of the Township of Byram seeking Preliminary and Final Site Plan Approval to demolish the existing structure and construct a new building for a Starbucks Drive Through Coffee House, with related bulk variances and design waivers for premises located at 33 Route 206, and known as Block 36, Lot 40 on the Tax Map of the Township of Byram which premises are in a “V-B” Village Business Zone; and

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

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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 Alexis Lazzara, Esquire, Assistant General Counsel for Ronetco Supermarkets, Inc. Byram Waterloo, LLC, the Applicant, is a subsidiary of Ronetco Supermarkets, Inc.
2. The Applicant is the owner of the subject property and is proposing to demolish the existing vacant bank structure and construct a new structure to be leased to Starbucks to operate a coffee house with a drive through lane, requiring Preliminary and Final Site Plan Approval, along with the following relief, pursuant to N.J.S.A. 40:55D-70c, from the Township's Zoning Ordinance:
 - a. Section 240-46.3.C - A freestanding signs shall be integrated with the landscaping on site and no landscaping is proposed around the freestanding sign. *(Eliminated during the hearing)*
 - b. Section 240-47.1.A – Maximum number of signs: three (3) signs are permitted and five (5) are proposed. (One (1) freestanding sign and four (4) wall signs are proposed.)
 - c. Section 240-47.1.B – Only one of each type of permitted sign, per permitted use: one (1) wall sign is permitted, four (4) wall signs are proposed.

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- d. Section 240-47.2.C.4 - Directional Signs shall have a maximum area of a sign of two (2) square feet, and a maximum height of a sign of three (3) feet: three (3) directory signs have been proposed with a sign area of 6.13 square feet and three (3) directory signs have been proposed with a sign height of 3 feet 8 inches. *(As submitted, 3 directory signs were proposed with a sign area of 12.26 square feet, reduced during the hearing).*
- e. Section 240-47.2.E.2 – Maximum size of a freestanding sign: 32 square feet is permitted, 99 square feet is proposed. Freestanding signs are limited to the business name and/or logo and street address. The proposed sign advertises the drive through lane.
- f. Section 240-47.2.E.3 – Maximum height of a freestanding sign: 12 feet is permitted, 23 feet 1 inch is proposed.
- g. Section 240-47.2.E.4 – Minimum setback of a freestanding sign from the property line: 15 feet is permitted, 11 feet 4 inches is proposed.
- h. Section 240-47.2.E.6 – Maximum size of a 2-sided freestanding sign: 64 square feet, 198 square feet is proposed.
- i. Section 240-47.2.H.3 – Maximum number of wall signs per business: one (1) wall sign is permitted, four (4) wall signs are proposed. The wall sign must occur on the same side of the building as the main entrance and 3 signs occur on other sides of the building.
- j. Section 240-47.2.L.12.C – Maximum total area of digital display menu boards: 30 square feet permitted, 46.74 square feet is proposed.

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- k. Section 240-56.E.3 - Minimum front yard setback: 45 feet is required, 41 feet is proposed to the canopy over the drive-through pick-up window.
 - l. Section 240-56.E.6 - Minimum rear yard buffer: four (4) feet is required, no buffer is provided along the western rear yard. *(Eliminated during the hearing).*
 - m. Section 240-56.E.11.D - Minimum setback between a building and any parking area: 10 feet is required, five (5) feet is proposed.
 - n. Section 240-56.E.11.E - Minimum number of loading spaces: one (1) is required, none are proposed.
3. Additionally, the following Design Waivers were sought:
- a. Section 215-29.B.3 – landscaping for commercial uses should define entrances to buildings and parking lots, define the edges of various land uses, provide transition (buffering) between neighboring properties and provide screening for loading and equipment areas. The landscape design does not define building entrances, parking lot entrances, or provide screening for loading areas or the walk-in freezer. *(Site plan was amended during the hearing to add landscaping for parking lot entrances, and provide screening for loading areas or the walk-in freezer).*
 - b. Section 215-29.B.5 - trees should be located throughout the parking lot and not simply at the ends of parking aisles: one (1) tree is proposed

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at the end of a parking aisle, no other trees are present in the parking areas.

- c. Section 215-29.E.1 - No more than 15 parking stalls shall exist in a continuous row without a landscaped break: 17 parking spaces are proposed in a continuous row without a landscaped break.
- d. Section 215-29.F - All loading areas shall be landscaped in a manner that sufficiently screens the view of the loading area and vehicles from any public right-of-way and residential property. There is no screening for the proposed after-hours loading area.
- e. Section 215-29.J.4 – Minimum width of landscaped buffers between parking and on abutting property line: 10 feet required, 8.7 feet proposed on the north, no buffering proposed on the west and buffer is not dimensioned on the east property lines.
- f. Section 215-29.J.7 - Landscaped buffers shall consist of evergreen ground cover and shrubs mixed with a variety of flowering and deciduous plant species of trees and shrubs. None of the landscape buffers comply. *(Eliminated during the hearing.)*
- g. Section 215-30.B.6 - A human scale should be achieved at ground level and along street frontages and entryways through the use of scale elements such as windows, doors, columns, plazas, awnings and canopies. The south elevation faces Waterloo Road and is automobile oriented. Any façade facing a street frontage should be designed as a front façade. *(Eliminated during the hearing.)*

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- h. Section 215-30.1.A.1 – A loading areas shall be placed to the rear of buildings, a minimum of five feet from adjoining properties. The proposed after-hours loading area is in the front yard (Route 206 Frontage).
- i. Section 215-30.1.A.3 – A loading area and its driveway shall be screened to minimize direct view and the effect of spillover lighting, noise and exhaust fumes on adjacent properties. The proposed after-hours loading area is not screened.
- j. Section 215-30.2.A.1 - Driveways and parking spaces shall be set back at least five (5) feet from all building units to provide room for a landscaped area. No foundation plantings are proposed.
- k. Section 215-30.2.C.4.c – The required dimension for driveways is a minimum width of 12 feet and the drive-through bypass lane is proposed with a width of 10.5 feet. *(Eliminated during the hearing.)*
- l. Section 215-30.2.C.5.d - Parking areas shall be illuminated if used after sunset, and such illumination shall provide for a minimum of half (.5) a footcandle per square foot and a maximum of four (4) footcandles per square foot throughout the area and shall be shielded from motorists using the streets and screened from adjoining residential properties. Parking area illumination exceeds four (4) footcandles in several areas.

- m. Section 215-34.B.1 - Maximum height of lights shall be 15 feet measured from the surrounding grade. Five (5) pole mounted lights are mounted at 25 feet.
- n. Section 215-34.B.2 – Parking areas shall have a minimum of half (0.5) footcandle and a maximum of five (5.0) footcandles. Parking area illumination exceeds five (5) footcandles in certain areas.
- o. Section 215-34.B.2.a – Parking areas for medium activity uses, such as fast-food facilities and shopping centers shall have a minimum of one (1.0) footcandles and a maximum of two (2.0) footcandles measured at the center line of the access aisle serving the parking lot. Parking area illumination exceeds two (2.0) footcandles at the centerline of certain access aisles.
- p. Section 215-34.B.2.b - Sidewalks for medium activity uses, such as fast-food facilities and shopping centers shall have a minimum of 0.6 footcandles and a maximum of 1.2 footcandles. Sidewalk illumination exceeds 1.2 footcandles around the building.
- q. Section 215-34.B.4 - Lighting at the property boundary shall not exceed 0 footcandle, except those areas adjacent to a public street where public streetlights provide illumination. Lighting levels at the property line exceed 0 footcandles.

- 4. The Applicant submitted the following documents, along with an Application for a Variance and Appropriate Checklists:

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- a. Site Plan for Starbucks of Byram, prepared by Langan Engineering and Environmental Services, Inc., dated February 7, 2024, consisting of 22 Sheets, revised through April 19, 2024, Sheet 22, no revisions.
- b. Color Rendering of Site Plan, prepared by Langan Engineering and Environmental Services, Inc., dated April 19, 2024
- c. ALTA/NSPS Land Title Survey, prepared by Langan Engineering and Environmental Services, Inc., dated October 21, 2022.
- d. Architectural Plans, prepared by Joseph G. Marra, Architect/Planner, as follows:
 - i. Sheet SK1 – Preliminary Floor Plan, dated January 26, 2024
 - ii. Sheet SK2 – Preliminary Elevations, dated January 26, 2024
 - iii. Sheet SK3 – Future Walk-In Cooler, dated March 6, 2024
 - iv. Sheet SK4 – Exterior Renderings, dated March 14, 2024, labeled “Working Copy”.
 - v. Sheet SK16 – Alternate Waterloo Road Elevations, dated April 22, 2024.
 - vi. Sheet S3 – Roof Plan, undated, labeled “Working Copy”.
 - vii. Sheet S4 – Typical Wall Section, undated, labeled “Working Copy”.
 - viii. Sheet SG1 – Signs, dated January 26, 2024, revised through April 17, 2024.
- e. Letter from Byram Waterloo, LLC, enclosing Replies to Review Letters, submitted by Alexis Lazzara, Esq., dated April 19, 2024.

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- f. Letter from Byram Waterloo, LLC, enclosing Reply to Completeness Letter, submitted by Alexis Lazzara, Esq., dated March 21, 2024.
- g. Major Access Permit Application, filed by Langan Engineering & Environmental Services, Inc. with the New Jersey Department of Transportation, Bureau of Major Access Permits, dated February 13, 2024.
- h. Memorandum from Byram Waterloo, LLC, Cover Letter to Site Plan Application and List of Applicant's Requested Variance and Designs Waivers, submitted by Alexis Lazzara, Esq., dated February 9, 2024.
- i. Application for Soil Erosion and Sediment Control Plan Certification, dated January 31, 2024.
- j. Technical Memorandum from Jason Engelhardt, P.E., Langan Engineering & Environmental Services, Inc., dated January 26, 2024.
- k. Driveway Access Permit Application, prepared by Byram Waterloo, LLC/Ronetco Supermarkets, Inc., dated January 12, 2024.
- l. Traffic Study, prepare by Langan Engineering and Environmental Service, Inc., dated January 10, 2024, consisting of 47 pages.
- m. Tax Map, prepared by Harold E. Pellow, PE, PLS, dated June 2006, Sheet 5.02, with Lot Conformance Analysis, Block 36, Lot 40.
- n. Sewer Use Permit Application, Township of Byram, submitted October 16, 2023, approved December 27, 2023.
- o. Owner's Policy of Title Insurance, issued by First American Title Insurance Company.

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- p. Deed from Santander Bank NA to Byram Waterloo, LLC, dated October 25, 2022, recorded on November 10, 2022, in the Sussex County Clerks Office, Deed Book 3655, Page 846.

5. The Board received a memorandum from

- a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated February 29, 2024, and March 28, 2024.
- b. Paul Gleitz, P.P. AICP, the Planning Board Planner, dated March 27, 2024, and updated April 30, 2024.
- c. County of Sussex, Division of Engineering, Site Plan Review, prepared by Richard Vander Ploeg, Senior Inspector, Road Openings, dated April 11, 2024.
- d. County of Sussex, prepared by Autumn Sylvester, PP, Director, dated April 17, 2024.
- e. Sussex County, Division of Engineering, Waiver Request Report, reviewed by Richard Vander Ploeg, Senior Inspector, Road Openings and Matthew R. Sinke, PE, Assistant County Engineer, dated April 30, 2024.
- f. Michael A. Pellek, Byram Fire Department, dated March 28, 2024.
- g. Environmental Commission, undated.

6. The following were marked for identification:

- a. A-1 – Color Rendering of Site Plan, prepared by Langan Engineering and Environmental Services, Inc., dated March 6, 2024.

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- b. A-2 – Color Rendering of Site Plan, prepared by Langan Engineering and Environmental Services, Inc., dated April 4, 2024.
- c. A-3 – Exterior Renderings, prepared by Joseph G. Marra, Architect/Planner, dated April 2, 2024, Sheet SK5, labeled “Working Copy”.
- d. A-4 – Planning Exhibits for Byram Waterloo, LLC, prepared by John McDonough Associates, dated April 4, 2024, consisting of six (6) sheets.
- e. A-5 – Color Rendering of Site Plan, prepared by Langan Engineering and Environmental Services, Inc., dated April 19, 2024.
- f. A-5 of May 2, 2024 – Architectural LED Area Luminaires, AR13 and AR18, the Areita N-Series, by Leotek (Actual fixture displayed at public hearing, photo depiction submitted to Board Secretary.)
- g. A-6 – Outdoor Photometric Report for Leotek Electronics USA LLC fixture, prepared by Acuity Brands, consisting of two (2) sheets, along with hand drawn diagram of illumination rays.
- h. A-7 – Outdoor Photometric Report for Wave Lighting LLC fixture, prepared by Acuity Brands, consisting of two (2) sheets, along with hand drawn diagram of illumination rays.
- i. A-8 – Comparison between Wave L 60 C fixture and Leotek AR1896n-150 fixture

7. Duly noticed public hearings were conducted on April 4, 2024 and May 2, 2024, during which David Romano, the Co-Manager for Byram Waterloo, {376614.DOC.3}11

LLC; Lizanne Kile, the Senior Store Development Manager for Starbucks; Kerry Pehnke, P.E., William Schaeffer, P.E., and Jason Engelhardt, P.E. of Langan Engineering and Environmental Services, LLC; Joseph G. Marra, Architect, John McDonough, P.P., AICP, LA and Matthew Flynn, P.P., from John McDonough Associates, and Daniel Fitzpatrick and Gary Bender from Spectro Lume, who were accepted as experts in their respective fields, presented sworn testimony in support of the application.

8. The subject property is an irregularly shaped lot at the intersection of Route 206 and Waterloo Road. The site is currently developed with a vacant bank building with three (3) drive through lanes, parking and signage. On the south side of the intersection is a Shell gasoline service station, to the west is an office building, a garden center is adjacent to the north and on the eastern side of Route 206 is a PNC Bank and QuickChek.
9. The Applicant is proposing to raze the building and most of the site improvements and construct a 2,485 square foot Starbucks restaurant with a drive-through lane that wraps around three (3) sides of the building. The drive-through includes a digital display order board and canopy and a drive-through menu board and a cantilevered canopy over the drive-through service window. The use is permitted in the Village Business District as proposed.
10. The Applicant's engineers testified that there are two (2) entrances to the site; a right turn only in and right turn only out access to Route 206 and a full-service access driveway on Waterloo Road. Twenty-five (25) spaces are proposed on site, 17 along the northern side of the building and 8 spaces along

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the Route 206 frontage. There is a 20-foot-wide municipal sewer easement that runs from Route 206 west across the site and then south to Waterloo Road.

11. The front yard setback from Waterloo Road, as measured to the awning on the drive-through canopy, is 41 feet, where 45 feet is required. Parking is set five (5) feet from the building on the north side, where 10 feet is required to provide enough space on the site to have compliant parking stalls and sufficient drive aisles. The drive-through lane is proposed with a 12-foot width and the bypass lane was originally proposed with 10.5 feet in width and later changed to comply with a 12-foot width. The result of widening the bypass lane is a reduction in the width of the drive aisle in the parking area from 24 feet to 22.5 feet.
12. Approximately 18 vehicles can stack in the queue of the drive-through, with seven (7) vehicles between the order menu and the pick-up window. There are two employees only stalls near the dumpster enclosure on the western side of the building. There are landscape islands proposed on both sides of the drive-through lane.
13. There is additional landscaping along the northern buffer, landscaping between the bypass lane and the sewer easement on the western side of the property, as well as along the Route 206 frontage. Street trees are proposed along the both frontages, with additional plantings around the existing sign, the pedestrian walkway and the outdoor seating area. However, the landscaping requirements in the parking area cannot be met, nor are

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foundation plantings proposed along the northern side of the building, which require relief from the Board.

14. A designated loading space is not proposed, rather deliveries will take place after hours from the driveway, along the frontage of Route 206. Typically, 30-foot box trucks, with one delivery per day, will come to the site. Due to the overhead wires and location of the loading area, landscaped screening of the loading area is difficult, requiring relief.
15. Snow removal will take place on site, in the northwest corner of the grass area, where there are no trees or shrubs.
16. There is a change in grade from the northern property line to the adjacent landscaping company, as well as a fence along that property line that provides a buffer between the lots.
17. A New Jersey Department of Transportation (“NJDOT”) Permit is required for modifications to the Route 206 driveway. Left hand turns have been prohibited onto Route 206 since the roadway expansion in 2013. After a traffic study, it was determined that Starbucks would not alter the traffic flow, as many customers are from passerby traffic; 65% of the customers from the Route 206 entrance and 50% of the customers from Waterloo entrance are passerby motorists. The entrance on Waterloo Road will be shifted west to create a further distance from the intersection with Route 206. The Applicant requires approval from the Sussex County Planning Board with regard to the relocation and design of the access driveway.

18. Based on Institute of Traffic Engineers, the peak traffic on the site occurs between 7:00-9:00 am, with 60-70% of the customers using the drive-through. The queue accommodates 18 vehicles, which is sufficient for operations and allows for overflow to be contained on site.
19. The hours of operation will be 5:30 am to 10:00 pm, Monday through Saturday and 6:00 am to 9:00 pm on Sundays. Deliveries will occur between after business hours.
20. Mr. Romano testified that the design of the site was carefully considered, and the proposed layout is ideal for proposed use, considering the site constraints and the sewer easement. The witness explained that the bypass lane was 10.5 feet to create an appropriate buffer for arborvitae along the northern border, along with fence. The width of the bypass lane was later increased to 12 feet with the parking area lane width being reduced by 1.5 feet to maintain the same width for the landscaping buffer. There is a grading easement between the two (2) lots, as the property slopes toward the landscaping site.
21. The Applicant represented that the lease with Starbucks will limit deliveries on site to after hours. Ronetco Supermarkets will be responsible for the maintenance of the site, including snow removal.
22. The Architect testified that Starbucks has specific branding requirements that were considered when designing the site. Referring to A-3, the main entrance to the building is on the north side, with a canopy cover. The exterior of the structure is comprised of brick walls below horizontal siding. A stone façade is proposed around the entrances and scalloped siding above the entrances in

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the gabled roof. There will be a black metal standard seam roof, with canopies in various locations and accent lighting and brick columns. The use of dark and light facia will accent the Siren logo and canopy. An 8-foot-high metal roof will screen the mechanical equipment.

23. Approximately 50-60% of the interior layout of the building consists of seating for 23 customers. The balance of the interior layout is comprised of restrooms, a service counter, drive-through service counter, office, staff lounge and work room. There will be no cooking on site, the food is heated, and the coffee and other drinks are prepared and served.

24. An 8 foot by 10 foot by 8 foot walk in cooler is proposed as a future possibility.

25. Originally, the Applicant proposed six (6) Starbucks directional ground signs. Additionally, there were four (4) one-way signs proposed on the site. The final proposal eliminated the one-way signs and eliminated three (3) double sided “Thank you”/ “Exit Only” signs. Variances are needed for the height of the directional ground signs and sign areas. Variances are also required for the proposed four (4) signs on the building, where one (1) is permitted, and the five (5) total signs proposed, where a total of (3) signs are permitted. Relief is required for the size of the digital display sign, which exceeds the permitted sign area.

26. John McDonough provided the planning justification for the relief that was required. The witness opined that the location is a prominent corner in Byram, and the proposed signage is better alternative than conforming

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signage, as it provides notice to passing vehicles and is consistent with the signage on Route 206. It was noted that the site has been vacant for three (3) years and the proposed Starbucks will bring a premium name brand to Byram.

27. The witness further opined that the current site is poorly laid out, with awkward movements. The site plan is designed to improve circulation and flow and will operate safely and efficiently. The decorative lighting will reduce the impact of lighting in the surrounding area. The landscaping is tastefully designed.

28. It was further testified that the front yard setback is measured to the canopy, which will provide protection from the elements. Relief is needed for the buffer area, which is the result of the utility easement that limits the use of the western side of the lot. The parking setback is reduced to provide sufficient room for the drive aisle and bypass lane. Foundation plantings are limited due to the outdoor dining area and parking. The relief needed for the lack of dedicated loading space is justified because the deliveries will take place during off hours, for short periods of time.

29. Mr. McDonough testified that the following purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-2, are advanced by the proposed development:

- a. 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; the use is permitted in the zone and will add a brand name identification to the corridor to fill a void and a vacant site.

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- b. 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 in order to meet the needs of all New Jersey citizens; the use will add vitality to the corridor and replace a vacant bank building, as banks are no longer viable uses.
- c. Purpose I – To promote a desirable visual environment through creative development techniques and good civic design and arrangement; the redesign of the site will improve the visual environment and revitalize the site.
- d. Purpose M – To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more; the proposal will redevelop a vacant commercial site.

30. The Applicant returned to the Board on May 2, 2024, with revised plans in response to the comments from the Board. Seven (7) signs were removed from the site, including four (4) one-way signs and three (3) “Welcome”/ “Thank you” directional signs. Additionally, the bypass lane was widened to 12 feet, and the drive aisle was reduced from 24’ to 22.5’, which requires a waiver. The engineer testified that 22.5’ can accommodate the circulation of vehicles in the parking area.

31. The Applicant introduced CS101, which is a colorized version of the site plan with additional landscaping. Bollards were added around the seating area and

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the front of the building. A drop curb was added to the western side of the parking lot to accommodate snow collection and the location of the manhole was indicated in the easement. Additionally, landscaping was proposed around the freestanding sign.

32. Sheet LP101 of the landscape plan depicts changes in the landscaping, with additional plantings in the buffer on the west side of the lot, in front of the existing utility easement, with an area designated for snow removal. The buffer to the north will be modified in response to comments from the Board's Planner. On the east side of the property, ornamental trees were added, and shrubs were added to the southern side of the property, along the sidewalk, to highlight the entrance.

33. Sheet LT101 of the lighting plan depicts three (3) Acorn Post Top light fixtures around the perimeter of the site, near each driveway and the crosswalk. Sheet SK16 includes renderings of the southern view and the south-eastern view of the site, with the Acorn Post Top fixtures, as well as faux windows and vertical board siding, broken up with wall mounted light fixtures to enhance the view of the building as you approach the site from Waterloo Road and northbound on Route 206.

34. The Applicant submitted a stormwater report reflecting the lot disturbance of just under an acre, whereby it is not a major development according to the Township's Stormwater Control Ordinance and a stormwater management system is not required. The Applicant will need to connect the on-site drainage system to the existing NJDOT drainage system, requiring approval

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from the NJDOT, which will likely require some means of water quantity and quality control measures. The Applicant will mark out the area of disturbance and work with the NJDOT to address any drainage concerns on site. In order to maintain less than one acre of disturbance, the Applicant must seek waivers for minimum setbacks and landscaping requirements. A silt fence will be utilized during construction, tree planting is permitted prior to construction, but the Applicant can not regrade the site without input from the Board Engineer.

35. Lizanne Kile testified to the research and development that Starbucks has conducted to design their coffee houses in an efficient manner, including tracking the timing of all aspects of the operation and the layout of each location to increase the timing of service from the ordering process to delivery of the products. The drive-through is designed for seven (7) vehicles to stack in the queue between the order menu board and the pick-up window to allow for sufficient time to prepare an order. Customers can save time by ordering on the mobile application and picking up at the location, rather than utilizing the drive-through. Studies have revealed that once 10 cars are stacked in the queue, customers tend to park and go inside to place an order. Approximately 40-45% of customers order online and spend one (1) minute at the pick-up window.

36. The witness testified that there is not enough room on this site for dual order aisles for the drive-through. The hours of operation were confirmed to be

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5:30 am through 10:00 pm, Monday through Saturday and 6:00 am to 9:00 pm.

37. Mr. Fitzpatrick and Mr. Bender provided testimony as to the site lighting, noting that they utilize the Dark Skies model, which requires that 100 percent of the lighting on site to be less than 90 degrees, and includes the use of full cutoff fixtures and low color temperatures, among other techniques. The revised lighting plan includes the Acorn Post Top fixtures mixed in with other LED fixtures, which are more efficient and below 90%. There was a comparison between the cut-off luminaires fixture and the Acorn Post Top fixtures, noting that the Acorn fixtures create a sky glow and are less efficient than the cut-off luminaires that create an even, smooth pavement illumination. Although the proposed lights exceed the maximum height permitted in the zone, the height results in fewer poles throughout the property, which is limited in space for additional light fixtures. The goal is to have the light overlap on the pavement and reduce the ability to see the light fixture. Back light shields are proposed for forward light distribution, with one fixture per light pole. There are hot spots in the parking lot, where the light exceeds 4.0-foot candles, which is created by the bollards. After hours, the building lights will remain on, but all other lights will be shut off, utilizing a photocell timer.
38. Mr. Flynn provided additional planning testimony in connection with the revisions to the plans, noting that the use is permitted in the zone and is less intense than other permitted uses would be on the site. The variances required for the proposed development are related to the signage package, which has

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been reduced since the original proposal, eliminating seven (7) signs from the site. The witness opined that the sign variances were not excessive, and the signs were modest. Additionally, the front yard setback to the awning is a de minimis increase and the lack of designated loading area is common for Starbucks and there will be an area along Route 206 used for loading for a limited duration during off hours. Although relief is needed for the landscaping plan, there is landscaping throughout the site that works with the layout.

39. It was noted by the Planner that Starbucks is a nationally recognized land use, which adds to the familiarity of the experience. The witness was challenged by the Board's Planner with regard to the testimony that the use serves the public good. The proposed development will revitalize a vacant site in the commercial corridor of Route 206. The waivers required for landscaping and lighting are reasonable and meet the intent of zoning.

40. Mr. Gleitz further challenged the Planner with regard to whether the justification for the waivers should be granted, questioning whether compliance with the Township's Site Plan Ordinance, Section 215 of the Code, was impossible or impracticable. The witness noted that the waivers meet the standard of reasonableness, although compliance with the lighting and landscaping is possible, the waivers are reasonable for the site and strict compliance would not be beneficial for the overall project. Finally, Mr. Flynn testified that the site is pedestrian oriented, as noted in the VB Zoning requirements. Board members commented that the focus of the site is the

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drive-through and much of the site is comprised of driveways and parking. The witness explained that there is pedestrian access to and from vehicles and it is walkable from the surrounding area, with cross walks and sidewalks.

41. Lisa Shimamoto, a member of the public, testified that she lives nearby and sees pedestrians walking to other business, so there will be pedestrian traffic to Starbucks. Additionally, she thinks the building is beautiful and prefers the additional space for cars queueing on the site so there are no vehicles stacked on Route 206.

42. During the hearing, a discussion ensued regarding the freestanding sign and whether the sign was a pre-existing, nonconforming structure or had been approved previously in any capacity. The Applicant chose not to address the freestanding sign during this hearing, but it was noted that the freestanding sign would be included in the total number of signs, as relief is required for exceeding the permitted total sign count. The Chairman made a motion to bifurcate the review of the freestanding sign, requiring the Applicant to come back to the Board for consideration of the sign, whereby the Board retained jurisdiction of the sign.

43. The Board deliberated about the balance of the application and a motion was made for approval of the site plan, without the freestanding sign details, subject to the conditions discussed and set forth herein.

WHEREAS, the Board has determined that the consideration and review of the existing freestanding sign has been bifurcated from the subject application and approval and the Board retains jurisdiction of the review of the existing freestanding sign,

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however, if there is substantial proof that the sign is lawfully existing, the Applicant retains the rights to the size and location of the sign as it currently exists; and

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 witnesses testimony to be competent and credible. The Board determined that the application substantially conforms with the zoning ordinance and the provisions of the site plan ordinance of the Township of Byram, as set forth in Section 240 and Section 215, respectively. The Board further determined that, based on the testimony of the Applicant's professionals, relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance.
 - a. Section 240-47.1.A – Maximum number of signs: three (3) signs are permitted and five (5) are approved. (One (1) freestanding sign and four (4) wall signs are approved.)
 - b. Section 240-47.1.B – Only one of each type of permitted sign, per permitted use: one (1) wall sign is permitted, four (4) wall signs are approved.
 - c. Section 240-47.2.C.4 - Directional Signs shall have a maximum area of a sign of 2 square feet, and a maximum height of a sign of three (3) feet: three (3) directory signs are approved with a sign area of 6.13

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square feet and three (3) directory signs are approved with a sign height of 3 feet 8 inches.

- d. Section 240-47.2.E.2 – Maximum size of a freestanding sign: 32 square feet is permitted, 99 square feet is proposed. Freestanding signs are limited to the business name and/or logo and street address. The proposed sign advertises the drive through lane. *This sign was bifurcated during the course of the hearing, the Board retains jurisdiction of the review of this sign.*
- e. Section 240-47.2.E.3 – Maximum height of a freestanding sign: 12 feet is permitted. *This sign was bifurcated during the course of the hearing, the Board retains jurisdiction of the review of this sign.*
- f. Section 240-47.2.E.4 – Minimum setback of a freestanding sign from the property line: 15 feet is permitted. *This sign was bifurcated during the course of the hearing, the Board retains jurisdiction of the review of this sign.*
- g. Section 240-47.2.E.6 – Maximum size of a 2-sided freestanding sign: 64 square feet. *This sign was bifurcated during the course of the hearing, the Board retains jurisdiction of the review of this sign.*
- h. Section 240-47.2.H.3 – Maximum number of wall signs per business: one (1) wall sign is permitted, four (4) wall signs are approved. The wall sign must occur on the same side of the building as the main entrance and 3 signs are approved on other sides of the building.

- i. Section 240-47.2.L.12.C – Maximum total area of digital display menu boards: 30 square feet permitted, 46.74 square feet is approved.
 - j. Section 240-56.E.3 - Minimum front yard setback: 45 feet is required, 41 feet is approved to the awning above the drive-through window.
 - k. Section 240-56.E.11.D - Minimum setback between a building and any parking area: 10 feet is required, five (5) feet is approved.
 - l. Section 240-56.E.11.E - Minimum number of loading spaces: one (1) is required, approved without a designated loading space.
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 an irregularly shaped lot at the intersection for Route 206 and Waterloo Road, creating two front yards. The site is conforming in all dimensional requirements, but for the proposed front yard setback from Waterloo Road to the canopy over the drive-through pick-up window. The remainder of the variances are triggered by the proposed signage and parking, including the lack of a loading zone. The Board determined that based on the

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site constraints, including the easement and two frontages, as well as the branding that is consistent with other Starbucks locations, the variances could be granted.

4. The proposed use furthers the following purposes of the Municipal Land Use Law:

- a. 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; the use is permitted in the zone and will add a brand name identification to the corridor to fill a void and a vacant site.
- b. 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 in order to meet the needs of all New Jersey citizens; the use will add vitality to the corridor and replace a vacant bank building, as banks are no longer viable uses.
- c. Purpose I – To promote a desirable visual environment through creative development techniques and good civic design and arrangement; the redesign of the site will improve the visual environment and revitalize the site.
- d. Purpose M – To encourage coordination of the various public and private procedures and activities shaping land development with a

view of lessening the cost of such development and to the more; the proposal will redevelop a vacant commercial site.

5. The benefits of permitting the development with the necessary variances outweigh the detriments that may result from denying the requested relief. The subject property is a vacant lot in a prominent location on Route 206. Starbucks will bring a name brand land use to the site, which will result in an improved visual environment within the commercial corridor.
6. Relief can be granted without substantially impairing the zoning scheme or Master Plan. The proposed site has pedestrian access, to a permitted use, that will revitalize a vacant property.
7. Waivers are granted from the following Sections of the Township's Site Plan ordinance:
 - a. Section 215-29.B.3 – landscaping for commercial uses should define entrances to buildings and parking lots, define the edges of various land uses, provide transition (buffering) between neighboring properties and provide screening for loading and equipment areas. The application is approved with the proposed landscaping.
 - b. Section 215-29.B.5 - trees should be located throughout the parking lot and not simply at the ends of parking aisles: the application is approved with one (1) tree at the end of a parking aisle and no other trees proposed in the parking areas.
 - c. Section 215-29.E.1 - No more than 15 parking stalls shall exist in a continuous row without a landscaped break: the application is

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approved with 17 parking spaces in a continuous row without a landscaped break.

- d. Section 215-29.F - All loading areas shall be landscaped in a manner that sufficiently screens the view of the loading area and vehicles from any public right-of-way and residential property. The application is approved without screening for the proposed after-hours loading area.
- e. Section 215-29.J.4 – Minimum width of landscaped buffers between parking and on abutting property line: the application is approved with 8.7 foot buffer on the north and no buffering proposed on the west at the property line and no buffer dimensioned on the east property lines.
- f. Section 215-30.1.A.1 – A loading area shall be placed to the rear of buildings a minimum of five feet from adjoining properties. The application is approved with an after-hours loading area in the front yard (Route 206 Frontage).
- g. Section 215-30.1.A.3 – A loading area and its driveway shall be screened to minimize direct view and the effect of spillover lighting, noise and exhaust fumes on adjacent properties. The application is approved with an after-hours loading area without screening.
- h. Section 215-30.2.A.1 - Driveways and parking spaces shall be set back at least five (5) feet from all building units to provide room for a landscaped area. The application is approved without foundation plantings.

- i. Section 215-30.2.C.5.d - Parking areas shall be illuminated if used after sunset, and such illumination shall provide for a minimum of 1/2 footcandle per square foot and a maximum of 4 footcandles per square foot throughout the area and shall be shielded from motorists using the streets and screened from adjoining residential properties. The application is approved with parking area with illumination in excess of 4 footcandles in several areas.
- j. Section 215-34.B.1 - Maximum height of lights shall be 15 feet measured from the surrounding grade. The application is approved with five (5) pole mounted lights at 25 feet.
- k. Section 215-34.B.2 – Parking areas shall have a minimum of 0.5 footcandle and a maximum of 5.0 footcandles. The application is approved with parking area illumination that exceeds 5 footcandles in certain areas.
- l. Section 215-34.B.2.a – Parking areas for medium activity uses, such as fast-food facilities and shopping centers shall have a minimum of 1.0 footcandles and a maximum of 2.0 footcandles measured at the center line of the access aisle serving the parking lot. The application is approved with parking area illumination that exceeds 2.0 footcandles at the centerline of certain access aisles.
- m. Section 215-34.B.2.b - Sidewalks for medium activity uses, such as fast-food facilities and shopping centers shall have a minimum of 0.6 footcandles and a maximum of 1.2 footcandles. The application is

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approved with sidewalk illumination that exceeds 1.2 footcandles around the building.

- n. Section 215-34.B.4 - Lighting at the property boundary shall not exceed 0 footcandle, except those areas adjacent to a public street where public streetlights provide illumination. Lighting levels at the property line exceed 0 footcandles.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 6th day of June 2024 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. The Applicant 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 Applicant shall be bound to comply with the representations made before this Board by the Applicant, 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. The Applicant shall comply with the reports submitted by the Board's Professionals and Commissions.
4. Payment of 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.

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5. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
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. The Applicant 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:

- a. The Applicant shall obtain an Access Permit for the driveway on Route 206 from the New Jersey Department of Transportation (“NJDOT”).
- b. The Applicant shall obtain approval to connect the site into the NJDOT drainage system.
- c. The Applicant shall comply with the requirements of the NJDOT with regard to stormwater quantity and quality control measures.
- d. The Applicant shall coordinate with the utility company with regard to the relocation of the existing utility pole and overhead wires 50 feet west of their current location.
- e. The Applicant shall obtain approval from the Township to connect to the existing sewer service system; subject to the Township’s sewer connection ordinance.

- f. The Applicant shall obtain approval from the Sussex County Health Department for the connection and use of the existing well for the intended use.
 - g. All necessary approvals from the New Jersey Department of Environmental Protection.
 - h. The Applicant shall coordinate with the utility company with regard to the relocation of the existing utility pole and overhead wires 50 feet west of their current location.
 - i. The Applicant shall obtain approval from the Sussex County Planning Board for the relocation of the Waterloo Road Access Driveway.
 - j. Prior to occupancy, the owner/tenant shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.
 - k. All necessary approvals from the Byram Township Fire Subcode Department.
 - l. All necessary approvals from the Upper Delaware Soil Conservation District.
8. Prior to the issuance of any construction permit, the Applicant shall file with the Board Secretary and the Board Engineer an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the development and shall supply a copy of any approvals received.
9. All terms and conditions set forth by the Planning Board shall be shown on the Preliminary and Final Major Site Plans within 30 days of the adoption date

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of this resolution. Any changes requested by outside agencies shall be incorporated into the plans prior to a preconstruction meeting that shall be held with the Board's Engineer.

10. Prior to construction, including site work activity, a preconstruction meeting shall be required to include the Board's representatives, the Applicant and its engineers and contractors. Prior to said meeting, the Applicant shall have posted inspections fees in the amount of five (5) percent of the estimated cost of improvements, as prepared by the Developer's Engineer and approved by the Township Engineer and in accordance with N.J.S.A. 40: 55D-53.4.
11. Applicant shall pay a fee of 2.5% of the equalized assessed value of the land and new nonresidential improvements, as determined by the Township's Tax Assessor, pursuant to Chapter 215, Article XIII of the Township's Ordinances.
12. The Applicant shall comply with Chapter 201 of the Township's Ordinances with regard to submitting the appropriate information and paying the necessary fees, to obtain approval for sewer allocation and connection, if necessary.
13. The hours of operation shall be 5:30 am to 10:00 pm, Monday through Saturday and 6:00 am to 9:00 pm on Sunday.
14. All deliveries shall take place after operating hours, to be scheduled after normal business hours, in the loading area as indicated on the site plan.
15. The Applicant shall include the limited hours for deliveries in the lease agreement with Starbucks.

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16. A photocell timer shall be used to turn site lighting on a half an hour before the store opens and turn it off a half an hour after it closes; building lighting shall remain on after hours.
17. The Applicant shall be responsible for the maintenance of the site, including snow removal.
18. Accumulated snow shall be removed and relocated to the designated area on the western side of the property, clear of the manhole.
19. The manhole on the western side of the property, which has been delineated on the plans, shall remain undisturbed, clear of snow, brush, growth and debris.
20. The Applicant shall delineate the area of disturbance to confirm that site disturbance does not exceed one (1) acre.
21. The trench drain detail shall be removed from the plans as no trench drain is proposed.
22. The Applicant shall return to the Board for the review and consideration of the existing freestanding sign, however, the Applicant is entitled to maintain the sign, with its current size and location, if substantial proof is submitted to the Board that the sign is legally existing on the site.
23. In connection with the Applicant's planned demolition of the vacant bank building on the property, the Board confirms the demolition will not affect the Applicant's right to use the existing freestanding pylon sign as a preexisting nonconforming structure. The Board formally recognizes that the bank building and freestanding pylon sign are two (2) separate and distinct

{376614.DOC.3}35

structures as the term "Structure" is defined under N.J.S.A. 40:55D-7. Therefore, the Applicant's demolition of the bank building shall not extinguish or otherwise compromise the Applicant's legal rights to utilize the freestanding pylon sign as protected by relevant provisions of the Municipal Land use Law.


George Shivas

On motion of: Mr. Proctor

Seconded by: Mr. Serrilli

The vote on the Resolution was as follows:

AYES: Four (4): Mr. Proctor, Mr. Serrilli, Mr. Smith, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mayor Rubenstein, Ms. Raffay

ABSENT: Three (3): Mr. McElroy, Mr. Morytko, Mr. Walsh

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on June 20th, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 06/21/2024

Prepared by: Alyse Landano Hubbard, Esq.

{376614.DOC.3}36

In the matter of Ryan Tiernan
Case No. Z25-2023
MF#5000.092

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
DISMISSAL WITHOUT PREJUDICE

WHEREAS, Ryan Tiernan applied to the Planning Board of the Township of Byram seeking *ex post facto* approval for the extension of the driveway of the premises located at 11 Ranger Trail, and known as Block 2345, Lot 300 on the Tax Map of the Township of Byram which premises are in a “R-5” 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 Planning Board of the Township of Byram, at a regularly scheduled public hearing, has made the following factual findings:

1. The Applicant is the owner and occupant of the subject property.
2. The Applicant was seeking *ex post facto* approval for the extension of the driveway, creating a second driveway opening on a lot less than 200 feet in width, requiring the following relief from the Township’s Zoning Ordinance:

{377948.DOCX.1}1

- a. Section 240-40A-1 – Driveway exits cannot be closer than 50 feet from the intersection.
 - b. Section 240-40A-2 – 200 feet of frontage is required for two driveway openings.
 - c. Section 240-40B-2 – Driveway grade shall not exceed 15%.
 - d. Section 240-40B4 – No driveway shall exceed 2% grade within 20 feet of the right-of-way.
3. The Application was deemed complete in December 4, 2023, and scheduled for a public hearing on January 4, 2024.
 4. Said meeting was carried to February 15, 2024, March 21, 2024, and June 6, 2024, with the Applicant failing to properly notice the hearing.
 5. At the June 6, 2024 meeting, a motion was made to Dismiss the Application Without Prejudice due to the lack of prosecution; said motion was seconded and approved unanimously.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 18th day of June 2024 as follows:

1. The Application of Ryan Tiernan for bulk variance relief, executed August 26, 2023, in connection with the premises located at 11 Ranger Trail, and known as Block 2345, Lot 300 on the official Tax Map of the Township of Byram be and is hereby **DISMISSED WITHOUT PREJUDICE** for failure of the Applicant to properly notice the application and pursue an approval.
2. In order to proceed before the Board with the Application in the future, the Applicant shall be required to submit a new application with the associated fees.

{377948.DOCX.1}2

 6/20/2024
George Shivas

On motion of: Mr. Smith

Seconded by: Ms. Raffay

The vote on the Resolution was as follows:

AYES: Four (4): Mayor Rubenstein, Ms. Raffay, Mr. Smith, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mr. Proctor, Mr. Serrilli

ABSENT: Three (3): Mr. McElroy, Mr. Morytko, Mr. Walsh

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on June 18, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 06/21/2024

Prepared by: Alyse Landano Hubbard, Esq.

{377948.DOCX.1}3

In the matter of Dana Taylor
Case No. Z07-2024
MF#5000.105

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: Side Yard Setback

AMENDED 06/20/2024

WHEREAS, Dana Taylor has applied to the Planning Board of the Township of Byram seeking approval to construct a deck in the side yard of the premises located at 16 Weaver House Cove Road, and known as Block 109, Lot 2 on the Tax Map of the Township of Byram which premises are in a “R-5” 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 is the owner and occupant of the subject property. The Applicant is proposing to construct a deck in the side yard of the subject property, requiring the following relief from Section 240-50.1 of the {377103.DOC.1}{377103.DOC.1}1

Township's Zoning Ordinance, for minimum side yard setback, where 15 feet is required and 2.5-3.0 feet is proposed.

2. The Applicant submitted the following documents:
 - a. Boundary and Location Survey, prepared by Control Point Associates, Inc, dated September 25, 2023.
 - b. Boundary and Location Survey, prepared by Control Point Associates, Inc, dated September 25, 2023, revised on May 3, 2024 to add proposed deck, set property corners.
 - c. Boundary and Location Survey, prepared by Control Point Associates, Inc, dated September 25, 2023, deck hand drawn by Dana Taylor, March 20, 2024.
 - d. Portion of Survey with location of septic system, preparer unknown and updated.
 - e. Pictures of different view of the side yard where the deck is proposed, three (3) total
 - f. Elevations of the Deck, prepared by Dana Taylor, dated March 20, 2024, consisting of two (2) sheets.
 - g. System Review of Individual Subsurface Sewage Disposal, submitted to the Sussex County Department of Health and Human Services, granted on March 8, 2024.
 - h. Email from Candice Morgan, REHS, County of Sussex, Division of Health, undated.
 - i. Zoning Permit Application, undated, not acted on.

{377103.DOC.1}{377103.DOC.1}2

3. The Board received a memorandum from Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated March 13, 2024, updated May 10, 2024.
4. Duly noticed public hearing was conducted on April 18, 2024 and May 16, 2024, at which time Dana Taylor, the Applicant, Michael Taylor, her father, and Mark Flemming, who resides in the home, presented sworn testimony in support of the application. The subject property is a trapezoid shaped lot, with a view of Cranberry Lake. The one-story frame dwelling is situated in the center of the lot, with irregular setbacks. The subject side yard setback narrows toward the rear of the property and subject lot slopes from the rear to the front.
5. The Applicant is proposing to construct a 10'x20' second story deck on the side of the home. The septic system is located on the same side of the property. The Applicant received comments from Sussex County that the footings must be 5 feet from the septic system. The Applicant testified that a portion of the right-of-way was vacated to install the septic system. The Applicant submitted a revised plan, prior to the April 18, 2024 hearing, that shifted the deck further back than originally proposed.
6. There are several stone walls in the subject side yard, and it was unclear if they were located on the subject property or the adjacent lot. The adjacent lot has a side door located in the vicinity of the proposed deck location. The Applicant testified that the neighbor does not object to the application, but the Board was concerned about the proximity of the deck to the adjacent home.

{377103.DOC.1}{377103.DOC.1}3

7. The Applicant testified that the location was chosen due to the constraints on the property and the desire to have a lake view and a sliding door to have another access to the home, where only one currently exists. The only usable outdoor area is in the front of the home. The deck was originally proposed without steps to access the yard.
8. The Board directed the Applicant to stake the property line to determine where the retaining walls were. Additionally, the Board requested revised plans, with setbacks and the deck dimensioned, as well as additional pictures of the subject property.
9. The Applicant returned to the Board on May 16, 2024 with revised plans, that relocated a 9'x20' deck further back from the front property line. The revised plans included steps into the rear of the property. The side yard setback variances requested are 2.5' in the rear and 3.0' in the front of the deck.
10. No one from the public was in attendance for 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 relief can be granted pursuant to N.J.S.A. 40:55D-70c from Section 240-50.1 of the Township's Zoning Ordinance, for minimum side yard setback, where 15 feet is required and 2.5-3.0 feet is approved.

{377103.DOC.1}{377103.DOC.1}4

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 an irregularly shaped lot, that slopes from rear to front, with an existing one-story dwelling. The only location for the deck, with a lake view, considering the topography of the property and the existing conditions, is the subject side yard.
4. The benefits of permitting the development with the necessary variances outweigh the detriments that may result from denying the requested relief. The Applicant shifted the deck further back to limit the impact on the adjacent lot. The deck will provide an additional access door for the homeowner, as well as passive recreational area with a view of Cranberry Lake.
5. Accordingly, relief can be granted without substantially impairing the zoning scheme or Master Plan, as the lot is uniquely shaped and situated.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 15th day of May 2024 that the approval of the within application be granted subject, however, to the following conditions:

{377103.DOC.1}{377103.DOC.1}5

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant 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 Applicant shall be bound to comply with the representations made before this Board by the Applicant, and her witnesses, 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. The Applicant shall comply with the reports submitted by the Board's Engineer.
4. Payment of 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.
5. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
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.



George Shivas

On motion of: Ms. Raffay

{377103.DOC.1}{377103.DOC.1}6

Seconded by: Mr. Proctor

The vote on the Resolution was as follows:

AYES: Five (5): Mayor Rubenstein, Mr. Proctor, Ms. Raffay, Mr. Smith, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Mr. Serrilli

ABSENT: Three (3): Mr. McElroy, Mr. Morytko, Mr. Walsh

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on June 6, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 06/21/2024

Prepared by: Alyse Landano Hubbard, Esq.

{377103.DOC.1}{377103.DOC.1}7

ZONING REPORT

(July 2024 for activity during June 2024)

Zoning Activity

	June
ZP Approved	29 (2 post resolution)
ZP Denied	1
ZP Not Required	0
ZP Var/Site Plan Waiver Compl.	0
ZP Change of Tenant Waiver	1

Investigation of Complaints

Property Maint./Zoning Complaints

	May
Complaints Received	6
Open Cases	13
Cases Cleared	2
Summonses Issued	3

	May
Signs removed from roadside	17



Nick Cutrone, Zoning and Code Enforcement Officer