

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, June 20 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 6, 2024
6. **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
 - Z25-2023 Ryan Tiernan, 11 Ranger Trail, Block 300 Lot 2345, R5 Zone
Resolution for dismissal without prejudice of application
 - Z07-2024 Dana Taylor, 16 Weaver House Cove Road, Block 109 Lot 2, R-5
Correction to Lot listed in resolution
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
****CARRIED TO 07/18 FOR SUBCOMMITTEE REVIEW. A HEARING DATE WILL BE PROVIDED WHEN APPLICATION IS DEEMED COMPLETE****
 - SP6-2024 Highland Avenue Properties, Block 212 Lot 1, NC Zone
Application for proposed use of a landscape and irrigation contractor business
8. **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
****CARRIED TO 08/01*****
 - 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
9. **BILLS:** Harold Pellow and Associates (11): \$3,175 / Maraziti & Falcon (13): \$8,185
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.

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

ROLL CALL: Mayor Rubenstein, Ms. Raffay, Messrs. Morytko, Smith, Walsh, Chairman Shivas

Members Absent: Messrs. Proctor, McElroy, and Serrilli

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: May 16, 2024. Ms. Raffay motioned to approve the minutes, seconded by Mr. Morytko.

Ayes: Ms. Raffay, Messrs. Morytko, Smith, Walsh and Chairman Shivas

Abstaining: Mayor Rubenstein

Absent: Messrs. Proctor, McElroy, and Serrilli

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

Ms. Hubbard said during the last hearing there was an issue with the freestanding sign. She distributed a memo that explains what was discovered between the hearing and when the resolution was drafted. Records were included that shows previous banks at that location. There were various approvals for that sign, mainly for the face of it, and for the relocation during the road-widening. At the last hearing, the sign was bifurcated from the application. The applicant's attorney asked the Board to consider if they need to come back to the Board for the sign. If they include the word "Drive Through," it is a content variance. Looking through the minutes, there were comments about the size of the sign. Ms. Hubbard noted the Board has the right to bring them back to the Board because the sign is part of the overall site plan which was bifurcated; the applicant is asking if they change the face of the sign, if they can go through the zoning process.

Chairman Shivas said once they agreed to bifurcate the application, they now need to come back to the Board. Ms. Raffay feels the intent of the conversation was that in order to not hold up an approval, they would take the sign off the application because they heard the Board having issues with it. Ms. Hubbard noted they also said they'd work with the town, which was unclear. The other part of this is they didn't have this information that was part of the research documents, so weren't sure about previous approvals. Mr. Smith said part of the discussion was if the Board could determine if it was pre-existing. He asked if the sign is still pre-existing if they remove the building. Ms. Hubbard said the sign is a separate structure. The decision is if in bifurcating the application, the intent was to come back to the Board. The sign would typically be part of the conversation, but it wasn't because the applicant asked to remove the sign from the discussion. Knowing the sign has prior approvals, could they just go through zoning? Mr. Walsh said the request was made to bifurcate the application—he asked if they could undo that decision. Ms. Hubbard noted they retain jurisdiction of the sign. Mayor Rubenstein asked what bifurcating something does to that component. Ms. Hubbard said the most common type of bifurcating is a use variance and site plan, but for this application, the site plan was approved, and the sign hasn't gone away. Mayor Rubenstein asked Chairman Shivas if the applicant said they're not coming back for the sign, what is the status of the sign—would they need to take it down? Chairman Shivas agreed, and said the application had a sign on it. They wanted the application approved that night, and they didn't have any proofs for the sign. They decided to remove the sign from the application and talk about it later. Since they have all the new information, they could come back and ask for the sign to be re-added. Right now, the sign is not approved as part of the application. To him, they need to come back and ask for approval. Mayor Rubenstein confirmed with Chairman Shivas that in bifurcating the sign, they waived their legal right to the sign. Ms. Hubbard noted they have pre-existing rights to the sign. Mr. Walsh asked if it's pre-existing and there legally, and don't need any variances, what is the Board approving? Ms. Hubbard noted how would Mr. Stoner sign off on resolution compliance. Mr. Morytko said they set it aside specifically, and it wasn't addressed, and they should come back and talk about it. Mr. Stoner noted testimony wasn't provided for the Board to make the determination. He confirmed with Ms. Hubbard that they need to present their proofs to the Board, rather than the Board making a legal decision for them. Ms. Hubbard said the applicants added proposed changes to the resolution draft, about the pre-existing non-conforming sign; she didn't want to make the legal decision because that's the role of the Board. Mayor Rubenstein said the sign received approvals multiple times. Ms. Raffay said during the hearing the Board wanted more information. Mayor Rubenstein said the sign has been there for 30 years and received approvals, and doesn't like that if they don't come back they have to tear it down. Ms. Raffay said they should have had a sign ready for the meeting for the Board to look at. Mr. Smith said they didn't know the information that have now. Mr. Morytko said this could have been part of the original application, and they could have chosen not to bifurcate. Mr. Walsh said had they done this work prior to the meeting, and had the background documentation and presented it, they could have allowed the Board to make the determination. They weren't prepared to do that, and since then, documents were researched on their behalf, and now they can come in and demonstrate that the contents of the memo are accurate. Mr. Smith said they made a specific request—can they vote on that request. Ms. Raffay noted the public has a right to know about the sign—it's more than the Board talking about it. Ms. Hubbard said if they had the information at the time of the hearing, it could be on the site plan, and the public could have heard about the sign. Mr. Walsh noted they're

not imposing something; the applicant requested to go through this process. Mayor Rubenstein noted the records were available to the Board as well; they have looked at prior approvals for applications. Ms. Raffay said that's when they're asked about those records; the applicant came unprepared to address the sign. Mayor Rubenstein said the public knew about the sign, it was on the application. Ms. Hubbard said there was no testimony. Chairman Shivas said they didn't vote on it. Mr. Morytko said it could have been carried and kept open but it's what the applicant chose.

Ms. Hubbard noted in the first hearing, they talked about delivery times, and in the second hearing it was adjusted. They asked for the language to be changed to "after hours" in the resolution. Mr. Smith agreed. Mr. Walsh confirmed they're not contradicting anything.

Mr. Walsh asked if they could hear from the applicant. David Romano and Steve Polhamus were present; they acknowledged they remain under oath. Mr. Polhamus said when the applicant came in front of the Board, they weren't sure if it was a legally pre-existing structure. In an effort to move forward with the application, they asked for the application to be bifurcated, and they could then collect more information, and address it with the Board if it turned out the structure was not legally conforming. They determined, based on the records provided to them, that the sign has been approved. They agree with the memo from the Board attorney. Chairman Shivas confirmed with Mr. Polhamus that they asked for the application to be bifurcated. They're at the point now where they need to come back and explain what they found and that they want the sign active on the application. Right now the approved application doesn't include that sign. Mr. Romano said they asked to bifurcate because they knew they needed to do some research. They appreciate the research that was done, because they were focused on getting the application approved because they have a deadline with Starbucks, and didn't want them to walk away. If they need to come back for the sign, they will. He is concerned that if they demolish the existing building, do they legally lose rights to the sign. They believe the sign is a separate structure; they don't want that to slow down the project. Mr. Stoner said for resolution compliance they're going through the conditions; the resolution bifurcated the sign. They can say when they meet all the conditions, and then can get zoning permits. He's okay with getting zoning permits to start the demo and construction. Ms. Hubbard noted the case law leads to it being two separate structures; they have a right to the sign. Mr. Stoner said they can start resolution compliance, but a zoning permit can't be approved for the sign until the issue is addressed. Mr. Romano said he doesn't want to lose the rights to the sign if they demo the building. Ms. Hubbard said they already submitted everything to the Board—it was part of the original application, so they would revisit that. Chairman Shivas said the sign runs with the property not the building. Mayor Rubenstein asked what happens if they don't come back. Ms. Hubbard said then it would remain as it is. Mr. Walsh and Ms. Raffay agreed that the sign is separate from the building. Mr. Polhamus said the applicant is okay moving forward under that assumption. He asked that something to this effect be listed in the resolution. Mr. Stoner said they could say the sign can stay in the present location until a decision is made with the Board. Mr. Romano said the sign has its rights and the demo of the building does not force the demo of the sign. Ms. Hubbard said they can carry the resolution and make the change. She will share the packet of information with the applicant's attorney.

Mr. Stoner said they are working through conditions of approval. Mr. Romano said they have everything ready to pull a demo permit. They have all the utilities, and they've done the pest control and asbestos. They just need the resolution to be able to hand everything in.

Mr. Walsh motioned to carry the resolution to 06/20, seconded by Mr. Morytko.

Ayes: Messrs. Morytko, Smith, Walsh, Chairman Shivas

Abstaining: Mayor Rubenstein, Ms. Raffay

Absent: Messrs. Proctor, McElroy, and Serrilli

None opposed. Motion carried.

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

Application for a deck in the side yard

Mr. Morytko motioned to approve the resolution, seconded by Mr. Walsh.

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

Absent: Messrs. Proctor, McElroy, and Serrilli

None opposed. Motion carried.

SP2-2024 Raimo of Stanhope, 43 Route 206, Block 35 Lot 36, VB Zone

Application for amendment to accessory structure and principle building

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

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

Absent: Messrs. Proctor, McElroy, and Serrilli

None opposed. Motion carried.

WOSP-5-2024 Vito Lombardo, 10 Route 206, Block 42 Lot 112, VB Zone

Application to change uses in retail space and add a garage door to existing building

Chairman Shivas said this application was denied. Ms. Raffay motioned to approve the resolution, seconded by Mr. Morytko.

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

Absent: Messrs. Proctor, McElroy, and Serrilli
None opposed. Motion carried.

ANNOUNCEMENT

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

Ms. Phillips said they were scheduled for a Subcommittee meeting in April. They noticed for one of the meetings, and the Board carried it to tonight, provided it was deemed complete, to preserve the noticing. Because it wasn't deemed complete, this is a notification for anyone who is interested in the application, so they're aware the Subcommittee meeting is on June 20th. Ms. Hubbard added no hearing date has been set.

SUBCOMMITTEE MEETING

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

Mr. Walsh said there were seven waivers requested, and all of them are either easy to waive or not needed. They need fire protection details in order to hear the application. Significant detail was provided, so they could deem it complete. He motioned to deem the application complete and schedule it for a hearing on 07/18, subject to the fire protection details being submitted at least ten days prior to the hearing date, seconded by Mayor Rubenstein.

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

Absent: Messrs. Proctor, McElroy, and Serrilli

None opposed. Motion carried.

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

Mr. Walsh said this is a bifurcated application. They reviewed the preliminary site plan. They can deem it complete but they're not setting a date because there are three items needed for the professionals to review. They need an Environmental Impact Statement, a traffic impact statement, and line of sight information, particularly for people in the apartments and what they would be looking at, with a residential area to the east. Mr. Stoner said this should be subject to those three items being provided and approved by the Board professionals prior to it being scheduled. They don't want to come back for a completeness hearing. Ms. Phillips asked about the scheduling timeframe. Mr. Stoner said it's deemed complete but the hearing date is pending. Ms. Hubbard said this is a D variance. They need a conditional use, and there's a density variance. Another item is if they consider a gym and meeting room for residents on the second and third floors to be retail, as that could be another conditional use. They would come back for a full site plan. Chairman Shivas asked what happens when this is finished and they come in for a site plan—do they need to come back for completeness? Ms. Hubbard and Mr. Stoner confirmed they'd need to come back. Ms. Hubbard noted they wouldn't come back for site plan if the use variance is denied. Mr. Walsh motioned to deem the application complete, seconded by Ms. Raffay.

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

Absent: Messrs. Proctor, McElroy, and Serrilli

None opposed. Motion carried.

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

Ms. Hubbard said they provided significantly different architectural drawings. This triggered a review by the County Health Department for their septic system—they want to get that approval first. Mr. Morytko motioned to carry the application to 09/05, seconded by Mayor Rubenstein.

Ayes: Mayor Rubenstein, Messrs. Morytko, Smith, Walsh, Chairman Shivas

Abstaining: Ms. Raffay

Absent: Messrs. Proctor, McElroy, and Serrilli

None opposed. Motion carried.

NEW BUSINESS

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

Application for ex post facto work on driveway

Ms. Phillips said this application was deemed complete near the end of December, but has been carried multiple times without any noticing being done. She asked about any action that should be taken, in terms of providing a deadline to notice by or dismissing the application. Mr. Stoner noted there are violations for this property. Chairman Shivas said if it were to get moved it'd need a hearing date. Ms. Phillips said it was originally scheduled for January and has been carried since then. Ms. Raffay said the issue with carrying applications, is there are multiple applications and that takes up a spot on the agenda, and that impacts other people. Mr. Smith

confirmed if they dismiss the application, this applicant can submit a new application when/if he is ready. Mayor Rubenstein said this also allows the Zoning Officer to continue with violations. Mayor Rubenstein motioned to dismiss the application without prejudice, seconded by Mr. Smith.
Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Morytko, Smith, Walsh, Chairman Shivas
Absent: Messrs. Proctor, McElroy, and Serrilli
None opposed. Motion carried.

OLD BUSINESS

Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone

Application for shed in the front yard

Ms. Phillips said this was heard at a hearing in May, and there was discussion of the applicant coming back with a new proposed location for the shed, because the Board decided they were not okay approving it in the proposed location near the street. A revised survey mark-up from the applicant was not received until the day of the meeting. He was told he could come to this meeting to show what he is proposing, to get some feedback, since the Board can't vote on it when it's past the deadline. In a review of the submitted document, it looks as though it's in the same proposed location but with some shrubbery. This mark-up could not be distributed because it's past the submission deadline. If present, he would submit it as an exhibit. Mayor Rubenstein confirmed they have everything for him to have a hearing. Ms. Raffay said he could have been here to present it. Mr. Walsh asked the detriment of carrying the application; Ms. Raffay said it takes up another slot on the agenda. Mr. Smith noted he made an effort by submitting something. Ms. Raffay said he was told multiple times what was needed, and this pushes people back who can't be heard because this takes a spot. Ms. Phillips noted it could be carried, and he be told they can't guarantee it will be heard that night because it'll be at the end of the agenda. Chairman Shivas said they can carry him to the 18th; but he must show up because If he doesn't they'll end up denying the application. Ms. Phillips noted the Board also asked for photos to be submitted, which were not provided. Ms. Raffay said if he decides to show up and not provide the information, they can react to what's provided. Chairman Shivas noted this application was also submitted because of violations with the Zoning Office, so if he doesn't show up and gets denied, he will receive fines.

Mr. Smith motioned to carry the application to 07/18, and noted a letter should be sent indicating very clearly that is the deadline, seconded by Mayor Rubenstein. Ms. Hubbard asked if deadlines are imposed with violations; Ms. Phillips said the violations are usually stayed while in front of the Board. As this becomes more of an issue, they've discussed telling applicants they need to be heard by a certain date, coordinating with the Board schedule, so that it's not indefinite.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Morytko, Smith, Walsh, Chairman Shivas
Absent: Messrs. Proctor, McElroy, and Serrilli
None opposed. Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said there's been no meeting. Ms. Phillips asked if the Council talked about this yet. Mayor Rubenstein said no.

Environmental Commission: Mr. McElroy was not there.

Open Space: Mr. Morytko said there's a meeting Monday. Ms. Phillips said they need to do the deer parcel allocation and discuss what they want to do for forest management.

Township Council: Mayor Rubenstein said the Tax Assessor came in with the County Tax Board to explain a reassessment, as they've received an order to do one. They will file for an extension because it's too late to do it this year—they get a one-year extension, so the reassessment is likely to happen in the spring of next year. It'll be due to be completed by November 2025. They discussed how they would do the reassessment; there's a new concept of rolling assessments, where they do 25% of the town continuously on a four-year cycle. There's an equalization process to determine how far off the assessments are, and Byram's dropped to 70% this year, so they are at least 30% off on valuations. This is one of fifteen criteria used by the Tax Board to make an order, and they felt there were several other criteria they were off on. They have to decide if they want to do a rolling assessment. Ms. Raffay confirmed with a rolling assessment you can still use a special budget. She noted maybe the optics are better because it's not once every ten years.

Mayor Rubenstein said two ordinances were passed for Carpenter Road. They introduced a bond ordinance for a fire truck. Chairman Shivas asked about Johnson's fieldhouse, and being able to use a cellphone. Mayor Rubenstein said that is an ongoing conversation with Verizon. There is wifi there now. There is a conversation about doing improvements to the fieldhouse. Chairman Shivas asked if there is still a proposal to move the building. Mayor Rubenstein said the Council doesn't want to—the structure is sound, it just needs renovations.

OPEN TO THE PUBLIC

Chairman Shivas opened and closed to the public.

ADJOURNMENT

A motion to adjourn the meeting was made at 8:50pm by Ms. Raffay, seconded by Mr. Morytko. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

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

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 3 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

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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.

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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.

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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.

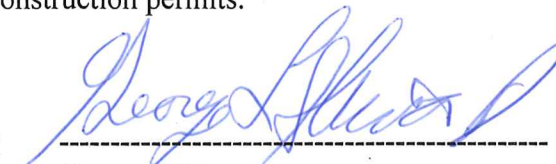
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2. N.J.S.A. 40:55D-70c(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the 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:

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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: Mr. Morytko

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Seconded by: Mr. Walsh

The vote on the Resolution was as follows:

AYES: Six (6): Mayor Rubenstein, Ms. Raffay, Mr. Morytko, Mr. Smith, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Zero (0)

ABSENT: Three (3): Mr. Proctor, Mr. McElroy, Mr. Serrilli

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: 06/07/2024

Prepared by: Alyse Landano Hubbard, Esq.

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In the matter of Raimo of Stanhope, Inc.
Case No. SP2-2024
MF#5000.016

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: AMENDED SITE PLAN APPROVAL

WHEREAS, Raimo of Stanhope, Inc. has applied to the Planning Board of the Township of Byram seeking approval for Amended Site Plan for premises located at 43 Route 206 South, and known as Block 35, Lot 36 on the Tax Map of the Township of Byram which premises are in a “V-B” Village Business 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 Charles H. Sarlo, Esquire.
2. The Applicant is the owner of the subject property and operates a junk yard on site. The Applicant received Preliminary and Final Site Plan and Use

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Variance Approval from the Byram Township Planning Board, for Case No. SP5-2018, by Resolution dated April 19, 2021.

3. The Applicant is now proposing to modify two (2) of the buildings that were approved as part of the Site Plan application, whereby amending the prior approval. No variance approval is required for the proposed changes.
4. The Applicant submitted the following documents, along with the Land Development Application:
 - a. Sheet A-3 of the Architectural Plans, prepared by Daniel Dressell, Architect, dated November 16, 2018, revised through April 19, 2024.
 - b. Sheet A-5 of the Architectural Plans, prepared by Daniel Dressell, Architect, dated November 16, 2018, revised through March 10, 2024.
 - c. Sheet 7 of the Site Plan, prepared by Boswell Engineering, dated June 8, 2018, revised through February 2, 2024.
5. The Board received a memorandum from
 - a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated May 10, 2024.
6. A duly noticed public hearing was conducted on May 15, 2024, at which time Frank Nemeth, a principal of Raimo of Stanhope, Inc., presented sworn testimony in support of the application. The project received approval in 2021 for an expansion of a non-conforming use, along with site plan approval to construct four (4) industrial buildings on the site, which is comprised of two (2) lots that are bisected by Netcong Avenue. The Approval set forth, among other things, the Phasing for the construction of the site improvements. Phase {377169.DOC.1}{377169.DOC.1}{377169.DOC.1}2

1 of Construction included the construction of principal buildings #1 and #2, along with the demolition of two existing structures, the removal of an existing scale and the construction of roadway improvements. Phase 2 included the construction of principal building #3 (within 42 months of final approval) and accessory building #2 (within 42-60 months of final approval).

7. The Applicant testified that the completion of the improvements is on or ahead of schedule. The two structures on the north side of Netcong Avenue have been constructed. The drainage improvements to the site are complete and the next step is to pour the concrete.
8. Prior to the construction of principal building #3 and accessory building #2, the Applicant determined that there is a need to reconfigure the access doors to the structures, as well as the roof pitch. Principal building #3 was approved with four (4) overhead garage doors, the current proposal requests three (3) open bays on the western elevation of the building, which have wider openings, less posts, and will allow for easier accessibility of the machines. Accessory building #2 was approved with 3 open bays facing Route 206, the current proposal requests three (3) open bays on eastern elevation and two (2) open bays on the northern elevation. The structures were approved with a ridge roof, the current proposal requests a shed roof that is sloped from the front of the building to the back. The maximum height of 26 feet, the size and the location of the structures are to remain as originally proposed.
9. The Applicant testified that the car crushing operations will occur in principal building #3, as originally proposed. The cars are dismantled, drained of

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fluids, and flattened. The flattening process take approximately three (3) minutes and about five (5) vehicles are currently crushed per day (with the hope of increasing the quantity in the future). The structure contains an environmental rack that is used for the drainage of fluids for the containment of the oils, etc.

10. The proposed structural changes for the subject buildings will no have impact on the drainage on site. Operations will continue during construction.
11. There was some confusion with regard to the height of the structures, and the Applicant testified that the plans would be updated to reflect accurate dimensions of the buildings.
12. During the public portion of the hearing, Joseph Blevins, from 1 Bell Court, confirmed that there would be no changes to the existing buildings. No one else 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 the proposed architectural changes were appropriate and that no additional variances were required based on the proposed changes.
2. The Board approved principal building #3 with three (3) open bays on the western elevation of the building.

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3. The Board approved accessory building #2 with (3) open bays on eastern elevation and two (2) open bays on the northern elevation.
4. Both structures are approved with a sloped shed roof from the front of the building (26-foot elevation) to the back (19-foot, 9 inches in elevation for principal building #3 and 21-foot, 10-inch elevation for accessory building #2). The size and location of the structures shall to remain an originally proposed.
5. The Board determined that the professional testimony from the 2021 approval was still valid and supports the amended application herein.

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:

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 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.

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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.
7. Prior to occupancy, the owner shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.
8. The Fact Finding, Legal Analysis and Conditions of Approval of the April 19, 2021 Resolution (SP5-2018), that are not inconsistent with the within approval, shall remain in effect and be incorporated herein.


George Shivas

On motion of: Mr. Morytko

Seconded by: Ms. Raffay

The vote on the Resolution was as follows:

AYES: Six (6): Mayor Rubenstein, Ms. Raffay, Mr. Morytko, Mr. Smith, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Zero (0)

ABSENT: Three (3): Mr. Proctor, Mr. McElroy, Mr. Serrilli

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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: 06/06/2024

Prepared by: Alyse Landano Hubbard, Esq.

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In the matter of Custom Glass and Design LLC

Case No. WOSP5-2025

MF#5000-056

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

WHEREAS, Custom Glass and Design, LLC has applied to the Planning Board of the Township of Byram for Waiver of Site Plan Approval to operate a custom glass business on the premises located at 10 Route 206 and known as Block 42, Lot 112 on the Tax Map of the Township of Byram, which premises are in the “VB” Village Business Zone;

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

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. Pursuant to Section 215-55.B(2), the Site Plan Subcommittee of the Planning Board shall review an application for Waiver of Site Plan and shall thereupon recommend to the Planning Board that a site plan waiver be either approved or

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denied. The Planning Board, at the next regular meeting following its receipt of the recommendation of the Site Plan Subcommittee, shall act on such application.

2. Applicant is Custom Glass and Design, LLC (“Custom Glass”), the proposed tenant of the subject property, which is owned by 10 Route 206, LLC, who consents to the application. The Applicant did not participate in the Site Plan Subcommittee or Planning Board.
3. Applicants are proposing to operate a custom glass business in one of the units on the premises. The Applicant is seeking a waiver of site plan pursuant to Section 215-55.B(1) of the Byram Township Ordinances. A site plan waiver can be granted if the following conditions have been met:
 - a. Applicant’s occupancy of the premises will not require or involve any structural alteration to the exterior of the building.
 - b. There is no increase to the number of parking spaces, the parking demand for the use can be accommodated on site.
 - c. No storm drainage installation will take place as a result of Applicant’s occupancy of the premises and there is not a need for same in connection with Applicant’s use.
 - d. There will be no increase in stormwater runoff which cannot be dealt with by existing stormwater drainage facilities.
 - e. There will be no redirection of stormwater runoff.
 - f. No change in vehicular traffic circulation pattern will take place as a result of Applicant’s occupancy.

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- g. There will be no elimination or change in landscaping, buffering, or lighting.

4. The Board received the following:

- a. A complete application for Waiver of Site Plan Approval signed on April 25, 2024.
- b. Building Data, Code Info, Plans & Notes, preparer unknown, dated May 5, 2024, noted Custom Glass Works Final.
- c. Building Data, Code Info, Plans & Notes, preparer unknown, dated May 5, 2024, noted Custom Glass Works Temporary Fit.
- d. Site Plans prepared by Civil Engineering, Inc., dated February 7, 2020, revised through November 13, 2020, consisting of seven (7) sheets.
- e. Prior Resolution for On Time Sign and Design., for SP4-2020, memorialized on November 19, 2020, granting Preliminary and Final Site Plan Approval.
- f. Prior Resolution for On Time Sign and Design., for SP4-2020, memorialized on November 19, 2020, Amended on January 29, 2021, granting Preliminary and Final Site Plan Approval.
- g. Prior Resolution for On Time Sign and Design., for SP4-2020, memorialized on February 2, 2023, granting Extension of Site Plan Approval.
- h. Memorandum prepared by Cory L. Stoner, P.E., C.M.E., Planning Board Engineer, dated April 15, 2024 and May 10, 2024.

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- i. Memorandum prepared by Paul Gleitz, P.P., AICP, Planning Board Planner, dated May 14, 2024.
 - j. Inspection Report from Harold E. Pellow & Associates, Inc, dated April 15, 2024, with seven (7) pictures attached.
- 5. A subcommittee hearing occurred on May 15, 2024, at which time the propose use and changes to the site and interior of the buildings were reviewed. The property owner has begun the site improvements that were approved in 2020, as noted in the Inspection Report and the Engineer's Report. However, the original approval included two (2) walk in coolers in the rear of the building and the property owner constructed a garage that is larger than the original proposed structure. The subject application includes a new garage door on the southern side of the building. These improvements will impact the parking and vehicular circulation on the site.
- 6. The original approval included three (3) units; On Time Sign and Design, an embroidery business and a delicatessen. The current proposal eliminates the delicatessen, which will be replaced by Custom Glass. There is also a temporary fit out for the building, and a final, based on the transition of these uses. There was nothing submitted from the Applicant that explained how the business would operate on the site and how that would impact the parking requirements and site circulation.
- 7. The Waiver of Site Plan Subcommittee determined that the proposed use not consistent with the prior use, the site changes require review of the full Board and

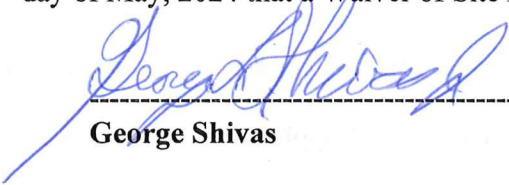
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that a site plan application would be needed to determine how the Applicant would operate on the site and approve amended site plan.

8. The Subcommittee made a recommendation to the Planning Board to deny the Waiver of Site Plan application.

WHEREAS, the Board has determined that the relief requested the Applicant does not meet the required conditions, in accordance with the Ordinances of the Township of Byram, relative to site plan waivers.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 15th day of May, 2024 that a Waiver of Site Plan is denied.



George Shivas

On motion of: Ms. Raffay

Seconded by: Mr. Morytko

The vote on the Resolution was as follows:

AYES: Six (6): Mayor Rubenstein, Ms. Raffay, Mr. Morytko, Mr. Smith, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Zero (0)

ABSENT: Three (3): Mr. Proctor, Mr. McElroy, Mr. Serrilli

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on June 6, 2024 and is in effect for one year.

Caitlin Phillips

Caitlin Phillips, Planning Board Secretary

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Dated: 06/07/2024
Prepared by: Alyse Landano Hubbard, Esq.

Byram Township Planning Board
Bills for June 20 2024

Harold Pellow	DATE	AMOUNT
Inv. 80159 Brancaccio: site inspection	2024.06.10	\$37.50
Inv. 80161 Chamberlin: site inspection, review	2024.06.10	\$213.00
Inv. 80148 Taylor: meeting attendance	2024.06.10	\$142.00
Inv. 80150 Veolia: site inspection	2024.06.10	\$75.00
Inv. 80146 Kearns: memos, review	2024.06.10	\$274.00
Inv. 80145 Trader: meeting attendance	2024.06.10	\$71.00
Inv. 80147 Starbucks: meeting preparation and attendance, review	2024.06.10	\$1,207.00
Inv. 80141 Rudy and Vania: site inspection	2024.06.10	\$187.50
Inv. 80142 Tomahawk Lake: meeting attendance, memo	2024.06.10	\$213.00
Inv. 80139 Carkhuff: meeting attendance	2024.06.10	\$213.00
Inv. 80149 Scully: review and report	2024.06.10	\$542.00
HP Total		\$3,175.00

Maraziti and Falcon	DATE	AMOUNT
Inv. 57118 Highland Avenue Properties: review letter	6/7/2024	\$30.00
Inv. 57120 Carkhuff: communications, review plans	6/7/2024	\$315.00
Inv. 57122 Veolia: Communications, review, Subcommittee	6/7/2024	\$385.00
Inv. 57123 Niec: review, communications	6/7/2024	\$402.50
Inv. 57124 Tomahawk Lake: communications, review, memos	6/7/2024	\$1,260.00
Inv. 57127 Starbucks: communications, analysis of sign, resolution, review	6/7/2024	\$4,357.50
Inv. 57129 Tiernan: communications	6/7/2024	\$105.00
Inv. 57130 Kearns: attendance, resoltion, review, revise	6/7/2024	\$402.50
Inv. 57131 Cirella: review	6/7/2024	\$87.50
Inv. 57132 Brancaccio: attendance at meeting, communications	6/7/2024	\$175.00
Inv. 57133 Taylor: review, meeting attendance, resolution, revise	6/7/2024	\$297.50
Inv. 57136 Chamberlin: review, communications	6/7/2024	\$105.00
Inv. 57246 Planning Board: communications, affordable housing review, meeting attendance, review upcoming agenda	6/7/2024	\$262.50
Maraziti Falcon total		\$8,185.00

GRAND TOTAL		\$11,360.00
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ZONING REPORT

(June 2024 for activity during May 2024)

Zoning Activity	May
ZP Approved	32
ZP Denied	3
ZP Not Required	1
ZP Var/Site Plan Waiver Compl.	2
ZP Change of Tenant Waiver	1

Investigation of Complaints	May
Property Maint./Zoning Complaints	
Complaints Received	13
Open Cases	11
Cases Cleared	4
Summonses Issued	0

	May
Signs removed from roadside	37



Nick Cutrone, Zoning and Code Enforcement Officer