

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, November 20 2025, at 7:30 P.M.
Meeting Held at: 10 Mansfield Drive, Byram Township NJ

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **OPENING STATEMENT:** Adequate notice of this meeting of the Byram Township Planning Board was given as required by the Open Public Meeting Act. A resolution indicating the time, date, and location of regular Board meetings for the year 2025 was forwarded to the Board's designated newspaper, and posted on the bulletin boards and main doors of the Municipal Building.
4. **FLAG SALUTE**
5. **MEETING MINUTES-** November 6, 2025
6. **RESOLUTIONS**
SD1-2025 Angela Prestia, 127 North Shore Road, Block 125 Lot 33, R5 Zone
Application for subdivision of lots
7. **NEW BUSINESS**
Z10-2025 Jeffrey Miller, 568 Waterloo Road, Block 384 Lot 8, R1 Zone
Application for use variance and interpretation of use, to rent out home for weddings
8. **BILLS:** Maraziti and Falcon (6): \$3,871.71 / Harold Pellow (2): \$577.50
9. **REPORTS FROM COMMITTEES**
Environmental Commission
Open Space
Township Council
10. **OPEN TO THE PUBLIC**
11. **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: November 6 2025

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

ROLL CALL:

Members Present: Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. Mayor Rubenstein, Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Also Present: Engineer Cory Stoner, Attorney Alyse Hubbard, Secretary Caitlin Phillips

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

FLAG SALUTE: led by Chairman Shivas.

MINUTES: October 16, 2025

Motion of Mr. McElroy to approve the minutes, second of Ms. DeMagistris.

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

Abstaining: Messrs. Mayor Rubenstein, Proctor, Morytko

None opposed. Motion carried.

RESOLUTIONS

Z05-2025 Joshua Guerra, 3 Camelot Drive, Block 336 Lot 3.16, R2 Zone

Application for use variance for ATV track and landscaping

Mayor Rubenstein asked Ms. Hubbard or Mr. Stoner to outline the obligations in the resolution, in terms of restoration. Ms. Hubbard said Mr. Stoner and the administration discussed that this application stemmed from the homeowner disturbing the property and starting the trail. He made a second driveway, did a lot of work on the property, and was asked to stop and come to the Board. There's language in the resolution that says he needs to restore the disturbed areas. Ms. Hubbard noted she's never done a resolution of denial with conditions in it. Mr. Stoner doesn't think violations have been issued. He was denied for the zoning permit, and started work that disturbed the property. Chairman Shivas noted the applicant said he'd remove dead and dying trees. Mr. McElroy noted he's not running into an issue because of the denial, it's because the zoning office would determine the work is not in compliance with the law. The Board is not the enforcement body. Mr. Stoner noted if he doesn't restore the areas, the next step is to issue a notice of violation. Mr. Smith said it might be helpful having this wording in there. Years from now, new members could use it as a reference for the discussion that occurred. It can show the intent that goes with the denial. Ms. Hubbard noted this is not listed as a condition. Mr. Walsh doesn't like anything that's not enforceable, but doesn't see the harm, especially for future reference.

Motion of Mr. Smith to approve the resolution, second of Ms. Colligan.

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

Abstaining: Messrs. Mayor Rubenstein, Proctor, Morytko

None opposed. Motion carried.

NEW BUSINESS

SD1-2025 Angela Prestia, 127 North Shore Road, Block 125 Lot 33, R5 Zone

Application for subdivision of lots

Michael Mullen of Schenck, Price, Smith, and King represented the applicant. He is filling in for Mr. McBriar, who has handled the application. The applicant owns two smaller lots, one for parking and one for the septic, which were part of the noticing. They received conditional approval from the County Board. Under the road in this area there was meant to be a septic line. There is a small bridge on the property, which the County would like more documentation on for their responsibility. Chairman Shivas asked where the bridge is. Mr. Mullen noted the Board gave approval for a second story addition. There were discussions about purchasing a piece of town property, and merging the parcels. He noted they need to extend the approval. Mr. Stoner noted the approval for the addition was from 2023. He asked if they're looking to extend that approval. Mayor Rubenstein noted they're considering the subdivision. Mr. Stoner confirmed they haven't filed for an extension. Ms. Hubbard confirmed they can request the extension now. She noted the extension and the subdivision are two separate requests.

Fred Stewart was sworn in at 459 US 206 Kenvil. He has been in front of this Board before. His credentials are in good standing. He has worked in Denville, Roxbury, Wantage, and Jefferson. He was deemed an expert. Mr. Stewart submitted Exhibit A1, a highlighted map of the property. He reviewed the variance changes. Chairman Shivas asked about the bridge. Mr. Stewart reviewed the location, and noted the County would like an easement onto the property for construction purposes in the future and for servicing purposes. Mr. Walsh confirmed no work is proposed for lot 37. Mr. Stoner confirmed the easement is being formalized. He confirmed a deed will be filed once merged. Mr. Walsh confirmed on the 1968 survey the concrete wall was there.

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

Ms. Hubbard asked for testimony on the extension request. Mr. Mullen confirmed he'd like to request the extension. Mr. McElroy confirmed the extension is necessitated by the conditions from the resolution, and the process of getting outside agency approvals. He confirmed they intend to move forward with the work once approved. Mr. Smith asked if the original resolution needs to be amended since the lot lines are being adjusted. Ms. Hubbard said they'll be cross-referenced. Mr. Mullen said as a result of the merger, there will be a new deed. Ms. Hubbard said they should speak with the Tax Assessor to determine the new block and lots. Mayor Rubenstein noted they'll need to file the easement information. Ms. Hubbard noted the extension will need to be at least for two years. Mr. Proctor asked if they can give them three, that way they don't need come back for another request.

Ms. Hubbard said they'll need to perfect their subdivision deeds with approval through her and Mr. Stoner. They will need to perfect the easement for the septic line. All prior conditions from the last approval are still valid. They need to confirm the blocks and lots. They need outside agency approvals, like the County. Motion of Mr. Walsh to approve the application for minor subdivision subject to the conditions that were discussed, second of Mr. Proctor.

Ayes: Mss. Raffay, Colligan, DeMagistris, Lewandowski; Messrs. Mayor Rubenstein, Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

None opposed. Motion carried.

Motion of Mr. McElroy to extend the variances for three years, second of Mr. Proctor.

Ayes: Mss. Raffay, Colligan, DeMagistris, Lewandowski; Messrs. Mayor Rubenstein, Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

None opposed. Motion carried.

BILLS: Maraziti and Falcon (7): \$2,705.63. A motion to approve the bills was made by Mr. Morytko, seconded by Mr. Walsh. All were in favor. Motion carried.

REPORTS FROM COMMITTEES

Environmental Commission- Mr. McElroy said the E.C has a Facebook page which has been updated, and is under the name Friends of Byram Environmental Commission. On 11/09 they will have a volunteer day for trails at Cranberry Overlook. On 11/22 at the E Louise Childs library branch, they will have a presentation on sustainable living, and a zero waste refillery. Ms. Phillips reminded the group that they'll need an E.C replacement next year.

Open Space- Mr. Morytko said they discussed the forest stewardship plan, and will meet Monday.

Township Council- Mayor Rubenstein said they passed an ordinance for Veolia to expand its franchise area to the Brookwoods, relating to putting in new waterlines for the contaminated wells as it relates to the superfund site. The Police Department asked for new rifles, and the Council agreed. Mayor Rubenstein noted they do over one thousand rounds of testing per year per gun, which wears them out. Mr. Proctor said they awarded the Halloween decorating contest winners.

OPEN TO THE PUBLIC

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

ADJOURNMENT

A motion to adjourn the meeting was made at 8:20 pm by Mr. McElroy, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Joshua A. Guerra
Case No. Z05-2025
MF#5000.140

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
USE VARIANCE DENIAL

WHEREAS, Joshua A. Guerra has applied to the Planning Board of Township of Byram seeking use variance approval to construct a track for all terrain vehicles (“ATV”) in the rear yard of the premises located at 3 Camelot Drive, and known as Block 336, Lot 3.16 on the Tax Map of the Township of Byram which premises are in the “R-2” 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 track for all terrain vehicles (“ATV”) in his rear yard,

requiring relief from Section 240-52 the Township's Zoning Ordinance, as the use is not permitted in the R-2 Residential Zone.

2. The Applicant submitted the following documents:

- a. Rear Yard Path Variance Plan, prepared by Jensen Design Group, dated July 25, 2025, consisting of one (1) sheet.
- b. Plan of Survey, prepared by Leeper Land Group, LLC, dated January 9, 2023.
- c. Plan of Survey, prepared by Leeper Land Group, LLC, dated January 9, 2023, marked up by the client indicated propose directions and additional structures.
- d. Tax Map, prepared by Harold E. Pelow, dated June 2006, revised through December, 2015.
- e. Pictures of the existing track, consisting of eleven (11) total photos.
- f. Appendix A – Form SI-1, Acceptable Soil/Fill Material Certification Form, dated May 8, 2025, completed by Tri-State Bulk Garden Supply, consisting of twelve (12) sheets.
- g. Letter to Neighbors, undated

3. The Board received the following memorandum:

- a. Cory L. Stoner, P.E., P.P., of Harold E. Pellow & Associates, Inc., the Planning Board Engineer, dated May 20, 2024, September 2, 2025 and September 16, 2025.
- b. Daniel N. Bloch, PP, AICP, EADA, of Colliers Engineering and Design, dated October 9, 2025.

- c. Elaine Evers, Environmental Commission Secretary, dated May 1, 2025.
4. A duly noticed public hearing was conducted on October 16, 2025, at which time Joshua Guerra, the Applicant, presented sworn testimony in support of the application. The lot is irregularly shaped, developed with a two-story, frame dwelling, which is set back 153 feet from Camelot Drive. There is a paved driveway on the south side of the property and a deck, a patio and a pool in the rear yard. The property is serviced by an existing well and septic system. The property is located in the R-2 Residential Zone, where single-family residential and agricultural uses are permitted, as well as accessory uses that are customarily incidental to the permitted uses.
5. The Applicant has owned the property for more than three (3) years, which has a large, wooded portion in the rear. The Applicant is proposing to construct an eight-foot (8') wide track in the rear yard, which is surrounded by an eight-foot (8') wide perimeter track that is set back 50 feet from the lot line. The Applicant has been clearing rocks and vegetation in the path of the track, utilizing an excavator as needed, to create a safe course for his family to ride ATVs on the property. The track is proposed for use by family and friends, and is not for commercial purposes.
6. The Applicant testified that the track is no visible from the roadway, will not be heavily traveled, and is separated from the adjacent neighbors. He and his family will comply with the Township's noise ordinance (Sections 171-9A and 172), noting that the vehicles that will be driven on the property are quieter than the average ATV and have not been modified. Additionally, landscape lighting and

reflectors will be used to illuminate the path, in compliance with the Township's lighting ordinance (Section 215-34).

7. The driveway is long, and there is sufficient parking in the driveway and on the side of the house for trailers to park when family and friends visit to use the track. The Applicant anticipates 3-4 vehicles utilizing the track at one time.
8. The proposed construction includes the clearing of rocks, trees, and vegetation and will be organic in nature. The proposed track is not an obstacle course, but a cleared path for safe maneuvering of ATVs through the property. The proposed path, which is indicated on the Rear Yard Path Variance Plan, is a "depiction of the aspiration" and not the exact path, as adjustments may be made during construction to avoid large obstacles. Haybales will be used to define the trail and increase the safety conditions. Woodchips will be utilized to limit soil erosion.
9. During an extensive discussion with the Board, numerous concerns were raised and questions were asked. The plans submitted to the Board did not include the topography of the property nor was a tree inventory conducted. The track was created by walking the property, but the actual constructed track may differ to make adjustments during construction. An in-depth discussion ensued regarding access to the rear of the property and how the ATVs would be brought to the property, noting that access from the driveway on the southern side of the lot was limited. A second access point was created on the northern side of the property, without any municipal approval, that was used to bring equipment to rear yard for the clearing of the land. The Board was concerned about the limited buffer between the subject property and the adjacent lots and asked if additional

landscaping could be installed to limit the sound and visibility of the proposed track. It was noted that the septic was in the front yard and the well is adjacent to the southern driveway.

10. The Board professionals explained the heightened criteria needed to grant a use variance, as set forth in Medici v. BPR Co, 107, N.J. 1 (1987), questioning the Applicant on how the use would further the goals of the Municipal Land Use Law (N.J.S.A. 40:55D-2), how the site was suitable for the use, and would there be a substantial detriment to the public good, the Zone Scheme or the Master Plan. The Applicant was advised that if approved, the use would run with the land. The Applicant was unable to establish the criteria for a variance, pursuant to N.J.S.A. 40:55D-70d(1).

11. During the public portion of the hearing, several members testified against the application:

- a. Samuel Palumbo testified that the subject property is old growth, with no canopy, and therefore limited screening from the neighbors. The subject area of the property is a plateau that sits higher than the adjacent lot, and the clearing of vegetation would increase the puddling that already occurs in their backyards. He noted that driving ATVs is prohibited on Township property and opined that the use is not appropriate on this lot.
- b. Kevin Wills testified that he was concerned about the noise that would result from the use of ATVs on the lot, which is very rocky. There is an insufficient buffer between the subject property and the adjacent lots, and

the wells are close to the property line. He was concerned about potential impact to the wells.

- c. Robert Geiss testified that he was concerned about the environmental impact from the use of oil and gas on the property, as well as fumes from the exhaust. He noted that when he spoke to the Applicant, the use was a trail for biking, hiking and walking, not an ATV track.
- d. Andrew Schwartz testified that there is an insufficient buffer between the subject property and adjacent lots. He played a recording, marked as O-1, which alleged to be the sound of construction on the property, but was unsubstantiated. He was further concerned about the potential of property damage and the impact on air quality.

12. After being given an opportunity to carry the application to a future date and retain legal or planning consultants, the Applicant requested that the Board vote on the application; the Board voted to deny the application 7-0.

WHEREAS, the Board has determined that the relief requested by the Applicant cannot be granted without substantial detriment to the public good not 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 determined that the Applicant failed to establish the criteria necessary to grant a variance pursuant to N.J.S.A. 40:55D-70d(1). Specifically, the proposed use of the property as an ATV track was not permitted in the zone, nor was it customarily incidental to the principal use of a residential home. The Board reviewed the proposed use through the analysis set forth in Medici v. BPR Co.

- 107, N.J. 1 (1987). There was no testimony to establish that the use furthers one of the intents or purposes set forth on the Municipal Land Use Law. Additionally, the proposed ATV track was to be constructed in the rear yard in a residential zone. There was testimony that there was an insufficient buffer between the subject property and the adjacent residential homes. There was no testimony to refute the concerns of what noise or environmental impacts may result from the use of ATVs on the property.
2. With regard to the negative criteria, the Applicant was unable to satisfy the Board that there would not be a substantial detriment to the public good. Although the Applicant testified that the ATVs that would be used on the property were not modified and would be quieter than other vehicles, the Board was concerned that the use would run with the land and that future homeowners would ride other vehicles that would create noise issues on the property. Additionally, several neighbors attended the meeting and testified that the current construction of the track was loud and disruptive.
 3. Finally, the use is not contemplated in zoning. There was no testimony that the construction of an ATV track in the R2 Zone was consistent with the Township's Zoning Ordinance or Master Plan. In Medici, the Court made it clear that municipalities should make decisions regarding zoning through the creation of ordinances, and not through the granting of variances. The Board determined that the necessary proofs were not provided to grant the relief requested by the Applicant.

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NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 16th day of October, 2025 that the within application be DENIED. All areas already disturbed for the purpose of constructing the proposed ATV track shall be returned to grass (along Camelot Road) or covered wood chips (within wooded areas) to avoid soil erosion from occurring from the property.



George Shivas

On motion of: Mr. Smith

Seconded by: Ms. Colligan

The vote on the Resolution was as follows:

AYES: Eight(8): Mss. Raffay, DeMagistris, Colligan, Lewandowski; Messrs. McElroy, Smith, Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Three (3): Messrs. Mayor Rubenstein, Proctor, Morytko

ABSENT: Zero (0)

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

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 11/07/2025

Prepared by: Alyse Landano Hubbard, Esq.

Byram Township Planning Board Bills		
November 20 2025		
Harold Pellow	Date	Amount
Inv. 84404 Shrensel: meeting attendance, review	10.31.2025	\$ 432.50
Inv. 84402 Guerra: review	10.31.2025	\$ 145.00
Harold Pellow Total		\$577.50
Maraziti and Falcon	Date	Amount
Inv. 59545 General: attendance, communications	05.15.2025	\$ 211.05
Inv. 60705 General: communication, meeting attendance	11.10.2025	\$ 1,296.05
Inv. 60706 Schuffenhauer: Communications, review	11.10.2025	\$ 105.00
Inv. 60709 JAM: reseach, review	11.10.2025	\$ 1,104.61
Inv. 60708 Guerra: review, communications, resolution	11.10.2025	\$ 1,120.00
Inv. 60707 Prestia: review	11.10.2025	\$ 35.00
Maraziti and Falcon Total		\$3,871.71
Colliers	Date	Amount
Colliers Total		\$ -
Grant Total		\$4,449.21