

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

OATH OF OFFICE: Anneliese DeMagistris was sworn in as a new Board member.

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

Members Absent: Mayor Rubenstein, Ms. Raffay

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: October 3, 2024. Mr. Proctor motioned to approve the minutes, seconded by Mr. McElroy.

Ayes: Messrs. Proctor, McElroy, Morytko, Serrilli, Smith, Walsh, Colligan, Chairman Shivas

Abstaining: Ms. DeMagistris

Absent: Ms. Raffay, Mayor Rubenstein

None opposed. Motion carried.

RESOLUTIONS

Z01-2024 Tom Chamberlin, 2 Briar Lane, Block 365.02 Lot 1, R-3 Zone

Application for driveway expansion for a second driveway

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

Ayes: Mss. DeMagistris and Colligan, Messrs. Proctor, Morytko, Serrilli, Smith, Walsh, Chairman Shivas

Abstaining: Messrs. McElroy, DeMagistris, Ms. Colligan

Absent: Ms. Raffay, Mayor Rubenstein

None opposed. Motion carried.

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

Application for pylon sign, related to site improvements

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

Ayes: Ms. Colligan, Messrs. Proctor, McElroy, Morytko, Serrilli, Smith, Walsh, Chairman Shivas

Abstaining: Ms. DeMagistris

Absent: Ms. Raffay, Mayor Rubenstein

None opposed. Motion carried.

SP9-2024 Byram Auto, 242 US 206 North, Block 219 Lot 10, NC Zone

Application for certification of pre-existing non-conforming use

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

Ayes: Ms. Colligan, Messrs. Proctor, McElroy, Morytko, Serrilli, Smith, Walsh, Chairman Shivas

Abstaining: Ms. DeMagistris

Absent: Ms. Raffay, Mayor Rubenstein

None opposed. Motion carried.

Z31-2024 Kathy Dobrich, 560 East Shore Trail, Block 293 Lot 5, R3 Zone

Application for accessory structures, addition to a single family home, and disturbance of critical areas

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

Ayes: Ms. Colligan, Messrs. Proctor, McElroy, Serrilli, Smith, Walsh, Chairman Shivas

Abstaining: Messrs. Morytko, DeMagistris

Absent: Ms. Raffay, Mayor Rubenstein
None opposed. Motion carried.

NEW BUSINESS

Z16-2024 Oluwasijibomi Oluwalanke, 5 Crescent Drive North, Block 283 Lot 242, R5 Zone

Application for retaining wall in front yard

Mr. Smith recused from this application. Oluwasijibomi Oluwalanke was sworn in. He purchased the property in 2023, and it was left in bad shape. The previous retaining wall was torn down. The erosion from the top of the driveway would wash into the street, and he wanted to retain the soil against the driveway along with the septic tank. According to the contractor the wall is between 4 and 6 feet. He was told the contractor would handle the wall and file the permits, which wasn't done. Chairman Shivas said if a wall is over 4 feet high it needs engineering. He noted the height of the wall is measured incorporating the grade. He confirmed Mr. Oluwalanke was issued a Notice of Violation, and a review memo from Mr. Stoner.

Mr. Stoner reviewed his memo. The violation was issued for the height of the wall and disturbance of steep slopes. Mr. Oluwalanke noted there was a rock wall there before, which this new wall replaces. Mr. Stoner said the height of the wall needs a construction permit. There are engineering plans for the wall. The aggregate height is 5.5 feet high, which needs a variance. Mr. Stoner asked if he did a septic repair. Mr. Oluwalanke said the previous owner did it. Mr. Stoner said before they get permits, Mr. Oluwalanke should get an approval from the County Health Department to show that the wall didn't impact the septic system.

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

Ms. Hubbard confirmed the wall is constructed. Mr. Oluwalanke said not completely—the caps were not installed. Mr. Stoner confirmed he stopped when he got the violation notice. Mr. Walsh motioned to approve the application, seconded by Mr. Proctor.

Ayes: Mss. DeMagistris, Colligan, Messrs. Proctor, McElroy, Morytko, Serrilli, Walsh, Chairman Shivas

Abstaining: Mr. Smith

Absent: Ms. Raffay, Mayor Rubenstein

Motion carried. Chairman Shivas reminded the applicant to get zoning and construction permits. Ms. Hubbard discussed the appeal period. Mr. Smith re-entered the meeting.

OLD BUSINESS

Z14-2024 Rupesh Patel (Kyosis LLC), 1 Catalina Drive, Block 337 Lot 9.14, R2 Zone

Application for new home construction

Justin Carloni and Rupesh Patel remain under oath from the last hearing. Mr. Carloni reviewed architectural changes. He submitted **Exhibit A1**, two architectural drawings. They added a detached garage. The concept is the same for a French chateau. He discussed the stories, which includes the basement. There is a house elevator proposed. He reviewed the floor plan. Mansard roofs are proposed. There are retaining walls around the property, one near the garage. There were sun studies because of neighbor concerns about blocking light from the proposed house. Ms. Hubbard asked if the detached garage is functional with the doors. Mr. Carloni said they're thinking of double-swing doors instead of overhead. You can still pull vehicles in there. The garage attached to the house is a one-car garage. Mr. Morytko asked about the height and floor plan. Mr. Carloni said the detached garage is one story. If it were higher it would impose on the owner's view of the yard. It's for storage space and for cars. Ms. Hubbard asked how many cars can be parked. Mr. Carloni didn't calculate this, but about 6 cars. Mr. McElroy asked if the previous plan had a garage. Mr. Carloni said there wasn't a detached one before.

They compressed the floor plan. Chairman Shivas asked about the elevator, confirming this is for the ability to add it. Ms. Hubbard asked about the steps. Mr. Carloni reviewed elevations. Mr. Patel said there's steps to the rear yard and then a walkway. The green area is the courtyard. There's a landscape area. Chairman Shivas said when plans are approved they aren't preliminary. Mr. Carloni said architecturally they're set but the courtyard is landscaping. Mr. McElroy said they have to review that because it's disturbance. Ms. Hubbard noted it's also coverage. Mr. McElroy asked about the variances now and what they were before. Chairman Shivas confirmed it is a three-story building. Mr. Stoner explained the code for height and stories. The height is a bit different because of the type of roof being used. Mr. Patel noted if the garage is brought closer it's on a slope. The steps are on the side of the garage to go to the level of the yard. Ms. Hubbard confirmed the landscaping area is at the same grade as the house.

Ms. Hubbard asked how the pool is accessed. Mr. Carloni said no fence is planned, and then it's grass to a concrete curb. Chairman Shivas said the state law requires a fence around the pool. Mr. Carloni said from the site-boring tests they found the pool can be in-ground. Mr. Stoner said this is included in the disturbance. Mr. Walsh asked about the pavers. Mr. Carloni said they're possibly 6 feet in width by 15 feet. Mr. Walsh confirmed they have a 15 foot walkway. Mr. Carloni said that's probably excessive.

Mr. Stoner said the architectural drawing and Mr. Kolody's drawings don't agree. The grades and placements are different. Michael Kolody of 105 Via Capri in Florida was sworn in. His license is in good standing in New Jersey. He reviewed his plan. Due to site constraints, a number of the items on the plan don't work based on the topography. He took the architectural plans and turned it into one that they can use to build on the site. All the architectural items would remain. He proposed an exit from the garage to the side, and then stairs that go up to grade. There is an elevation change of about 6 feet. The back yard is virtually level. Mr. Stoner reviewed the grading with Mr. Kolody. He suggested a landscaped stairway near the wall. Chairman Shivas asked about the retaining walls. Mr. Kolody said at the road the driveway basically meets the existing grade. There's a wall on the right side of the driveway. There are no walls on the plan greater than 4 feet. Mr. Kolody prepared the major subdivision plan around 2000. He's familiar with the site, and did all the grading, stormwater, plot plans for the lots, drilled the wells, and soil logs. The lots were cleared with building areas, and this lot was cleared at that time. There has been no intrusion into the conservation easement. The soil logs in the back are 9 feet deep to rock. Mr. Kolody said there should be no need for blasting. They brought an excavator and at four locations around the house, they did test excavations. They reached depths of about 7 feet. There's not much soil—it's rock but can be removed. They can use the rock from this to build the walls. A new septic permit will be needed. The septic is for six bedrooms. Mr. Stoner noted there are four bedrooms. Mr. Kolody said they have the option to convert some.

Chairman Shivas asked about the double wall on the plans. Mr. Kolody said there's six feet between the walls. Mr. Proctor asked about the wall and the septic system. Mr. Stoner said the Health Department needs to review this. Mr. Smith confirmed the "x" for the stairs is the top of the stairs. Mr. Stoner reviewed his report. They reduced the size of the structure. The calculations are different because of the covered porch in the front. Mr. Kolody noted the area doesn't have native vegetation because the area was cleared. The area is disturbed already. Mr. Stoner asked the purpose of the conservation easement. Mr. Kolody said it was because of the slope, to preserve it. Mr. Stoner said a condition should have an updated plan that shows anything about the 50%. Mr. Kolody said it should also be marked in the field. Mr. Carloni said the trees are likely higher than the building, so they would cause more shade and obstruction than the residence itself. Mr. Patel said the other homes have trees there. The hill is steep. If you put even a shack on the property it would cast a shadow.

Mr. Kolody discussed site lines. Neighbors would see it but it wouldn't be out of the ordinary. Mr. Stoner noted they need a variance for the height from the roof of the garage. He discussed stormwater management. There are two seepage pits on the plans. With the terrain, he wants to see the backup calculations. The runoff needs to be clean, not anything touched by cars. The driveway is steep, and he doesn't want any runoff into the neighboring areas. Mr. Kolody said the preliminary plat was based on soil logs. Near the road a test pit was done that shows a dry well could be put there. He would change the grade of the driveway, pitching it to the north, curve the driveway, and curve the water into a stilling basin to help the velocity. The rest would go into a gutter. Chairman Shivas confirmed they'll slant the driveway to the north. Mr. Stoner suggested a scour hole or ponded area. Mr. Kolody suggested a pull-out area for cars on the driveway. Mr. Patel confirmed the easement wouldn't be interfered with. He asked if that would look odd. They discussed allowing for better access along the driveway. Mr. Kolody said a sediment basin was constructed adjacent to Lake Mohawk, paid for by Lake Mohawk, the County, and the development. He will amend the plan to straighten out the limits of disturbance. The driveway is about 230 feet to the level area for parking.

Chairman Shivas asked about the pool area. Something needs to go around it for a side, and a fence is needed. Mr. Kolody will add that. He noted there are narrow sides and a wider side which is about 5 feet. Ms. Hubbard noted it doesn't fit together, and there are no steps. Chairman Shivas noted there's no spot for equipment or filters. Mr. Carloni said that can be added. Mr. Walsh said there's been a lot of questions and proposed solutions. He wants to see those solutions on both plans. Mr. McElroy asked about the reasoning for the detached garage to be 2.5 times the allowable size. Before asking for revisions, he wants to see where the Board is at with the garage. Mr. Patel said after doing the test pits, they found they could have a small basement. They need storage space, so the garage functions that way. Mr. McElroy confirmed the house is 4,900 square feet; he asked if there's anywhere in that space for storage. Mr. Patel asked about big items. He said it makes the most sense the way it is. Where would storage go if it's heavy like tables and chairs? The slope of the driveway doesn't go up to the first floor. Mr. Morytko said he's asking for a structure that's more than twice what's allowed. The Board needs testimony for why it's needed and why there are hardships. Mr. Carloni said it's also for cars. Mr. Patel said a house of this size usually has an entertainment center which they don't have. They're compromising in some places, so they need spaces somewhere else. He noted the conservation easement and asked if the Board is going to remove that for him. Chairman Shivas said he knew about the easement when he bought the property. Mr. McElroy said he's asking for a big house on a property with an easement, and the Board's job is to ask the rationale. Mr. Patel said in a house this size there's usually 3-4 car garages. The garage is there for cars, but they can use it for storage space too. Mr. McElroy asked Mr. Stoner if this is a customary size for a garage. Mr. Stoner confirmed it's 30x30. He said 30 feet wide is reasonable but 30 deep is a bit much. Mr. Carloni said they can condense it to something like 22 feet. Mr. McElroy asked about the height. Mr. Carloni said it's 10 feet to the eave, and they want at least 8-foot clearance. Chairman Shivas said the roof part is not being used and that's adding another six feet. Mr. Morytko said they're also considering the impact of neighboring properties. The garage is 20 feet off the property line. They need know how it's being used to justify approving it. Mr. McElroy said it lessens the impact if they can get it within the ordinance. Mr. Smith said there's a 900 square foot building, that doesn't have garage doors, it's 19 feet from the pool, and they're storing things in there. This looks like a pool house, guest house, or mixed-use building. He'd feel better with a floor plan for storage and cars. Mr. Proctor confirmed it won't be heated, but there is electrical. Mr. Smith confirmed there's no plumbing. Mr. Walsh noted a 3-4 car garage is not typical for Byram. Chairman Shivas said a lot of houses have those underneath. Mr. Walsh noted he means detached garages. Mr. Proctor asked why the basement is only about a third of the house size. Mr. Carloni said because of the topography. Mr. Kolody said stopping the foundation halfway is a good idea because they don't want to run into more excavation.

Chairman Shivas opened to the public. Andrew Hattendorf of 9 Catalina Drive remains under oath from the last hearing. He noted discussion of the border between his property and that there's a seven-foot drop-off. There is a rock wall in that area, and that area is no more than three feet high. As it grades up, it's level. Mr. Kolody said it will be dug down seven feet at the proposed house location. Chairman Shivas said there's two floors above-ground and one below. Mr. Hattendorf is concerned about seeing a tall property on top of a rock, and having it stand out. Mr. Kolody said no earth moving will go on in the area of the house below him or along the common lot line. Mr. Hattendorf noted there are no large trees in that property; he asked for the trees to be left alone. He noted the neighbors are concerned about this project. He asked when the Board decides on the application. Chairman Shivas said they vote when the applicant has answered all their questions. He explained the Board process. Mr. Hattendorf asked the Board to review the architectural design on the house and how it fits in to the neighborhood. The look is a personal choice; he noted this house will be front and center. Chairman Shivas noted the applicant is pursuing what they want to do. Mr. Hattendorf said the neighbors are not happy with the architectural design. He asked about the number of bedrooms and the purpose of the garage. Mr. Carloni noted they are in the Board process so they don't have the final documents that the Construction Office permitting would need. He disagrees with the idea the home would be front and center; this is the only property set far back because of the conservation easement. People may see it in the drawings but on site you may barely see it. People may be upset because it's a new thing. Chairman Shivas said they are in view of the neighborhood. Mr. Hattendorf said they could maybe show a view up from the street. He noted he didn't realize the house would be so far back.

Dan Adams of 103 Stonehedge remains under oath from the last hearing. His concern is about blasting. He wanted to make sure that won't be needed because of the disruptions and asked about advanced notice. Chairman Shivas said it is required to give advanced notice before blasting. Mr. Adams asked about time restrictions. Ms. Hubbard noted the ordinance explains hours of operation. Chairman Shivas said they need to let people know ahead, in case there's any concerns for their property or wells, and take photos if desired. Chairman Shivas closed to the public.

Mr. McElroy noted commercial properties have architectural standards, but there aren't any for residential properties. As long as the proposed work conforms or receives a variance, the Board can't regulate the architectural standards like design or color. Mr. Stoner noted subdivisions have requirements. Mr. McElroy noted those are usually in the documents of an HOA. Ms. Hubbard noted for the height of the garage, they could look at if that's driven by the doors and the arch. Mr. Walsh said they'd be talking about the height, not the arches themselves. Ms. DeMagistris said she drove up to the neighborhood today and thinks that every house looks unique. Mr. Smith recommended looking at various points from the street. There are some other structures nearby; they could do a structure comparison. Mr. McElroy reminded them to make sure the drawings all agree.

Mr. Kolody will make changes including reducing the driveway width and adding a pull-over spot, straightening disturbance lines, adding a pool walkway and fence, and redirecting the stormwater to the other side of the driveway and a method to take care of that. Mr. Stoner asked to have them show the roof drains to the drywells, the utilities and how they're brought up to the property, well connections, grading of the walls, and change the proposed to four bedrooms instead of 6. Mr. Kolody said it's designed for 6. Mr. Stoner said according to the architectural plans there are four bedrooms. He said to make a note that the septic is for 6 bedrooms. Mr. Walsh noted on the dwelling itself it says 6 bedrooms. Mr. Proctor confirmed no healthy trees will be removed for this project. Mr. Kolody said the lot was cleared at the top already, and there's nothing up the driveway. Mr. Proctor noted New Jersey adopted a tree preservation ordinance, and healthy trees can't be removed, and he reviewed an exemption. He asked if the trees that need to be removed are delineated, does that exempt him from a tree permit. Mr.

Stoner thinks so because it's at the Board level. He recommended showing any tree removal on the plans being reviewed by the Board. They should show approximate locations and sizes of the trees. Ms. Phillips asked for a timeframe to make these changes to the plans. They requested to carry the meeting to 11/21. Mr. Proctor asked about the applicant's family size.

Mr. Walsh motioned to carry the application to 11/21 with no further noticing, seconded by Mr. McElroy.

Ayes: Mss. DeMagistris, Colligan, Messrs. Proctor, McElroy, Morytko, Smith, Walsh, Chairman Shivas

Abstaining: Mr. Serrilli

Absent: Ms. Raffay, Mayor Rubenstein

Motion carried. The Board took a brief recess.

DISCUSSION ITEM: Basic Accessory Structures / AC Condenser Units

Chairman Shivas said his opinion is that the AC condenser is a part of the functioning of the house. He's not opposed to it being in the front yard if that's where it has to go, but would want them to come to the Board for that. Ms. Phillips asked about looking at those who have more than one front yard, or more like a primary entrance front yard. Mr. Walsh said they could talk about the hardship at the Board. Mr. McElroy asked if the condenser would ever be away from the house. Some houses are right near the property line. The Board reviewed Mr. Gleitz's recommendations. Mr. Morytko asked about the problem with the existing process. He asked how many applications the Board gets for this. Chairman Shivas said it's not just for the Board, the Zoning Officer receives a lot of permits for condensers. Mr. McElroy said the biggest concern is noise, but thinks they're part of the house. Mr. Serrilli noted there's no regulations for window air conditioning. Ms. Phillips noted the condensers also need to meet construction codes. Mr. Proctor noted people go to the construction officer for condenser permits and then get directed to zoning, so they're looking to alleviate some of the backlog that way. He noted this is a land use discussion and changes how the Board looks at applications, so they're looking for Board input. Chairman Shivas noted condensers usually are close because then there's less pipes. Ms. Hubbard noted electrical paneling as well. Mr. Proctor noted most of the applications for this at the Board are because the house itself is too close. He asked how they can regulate not putting the condenser in the front yard without needing a zoning permit. Mr. Stoner said if they aren't permitted in the front yard, they would still need a zoning permit, so they would need to be exempt in any location. Chairman Shivas noted if they're trying to solve the problem that way, then that's the best way to do it. Mr. Stoner confirmed the variance application fee for this is usually \$160 with about \$500 in escrow. He noted it also takes about a month to get onto the agenda. Chairman Shivas noted it's a necessary item to have with the summer temperatures. Ms. Phillips reiterated the time it takes to file an application; coming to the Board may take a few months, and if you need to heat your house in the winter or keep it cool in the summer, it takes a while to get through the process. Mr. McElroy said he doesn't remember any noise complaints for a condenser. Mr. Proctor reiterated that they're still regulated through the construction office. Mr. McElroy said he's okay exempting them. The Board took a straw poll to eliminate air conditioners from the definition of basic accessory structures; Mr. Stoner noted to make them exempt specifically. The Board agreed unanimously. Mr. Stoner noted to take the septic and wells out of it. Mr. Smith asked about looking at other structures. What convinced him is needing to wait a few months for the condenser. Oil tanks are used for heat too. Chairman Shivas noted oil tanks are sometimes in the ground. Mr. Stoner noted oil tanks, propane tanks, and generators should stay in the definition.

DISCUSSION ITEM: Hampton Township Resolution Regarding Home-Based Businesses

Chairman Shivas said more people work from home now, and agrees with Paul's memo. Mr. McElroy noted this covers for more than just working from home with no customers; there needs to be regulations for parking. Ms. Hubbard noted this states that anyone who has a home occupation now will be permitted and they'll be considered a pre-existing non-conforming use. Going forward it can be regulated, but

anything existing is allowed to stay. Mr. McElroy said he doesn't think they should be blanketly allowed. Mr. Proctor said if they haven't already tried to come here and had complaints, they're not bothering anyone. Mr. Morytko confirmed these are approved even without having a home occupation granted. He noted businesses will need to put up signs. Mr. Walsh noted it talks about any increase in traffic that would impact the neighborhood. Mr. Stoner noted it makes sense to put information in the code so you have a place to look for it. Mr. Smith confirmed they will monitor this to see if it passes, and make a decision then.

BILLS:

Harold Pellow (4): \$1,093.50. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Morytko. All were in favor. Motion carried.

Maraziti and Falcon (11): \$4,812.50. A motion to approve the bill was made by Mr. Walsh, seconded by Mr. Serrilli. All were in favor. Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko said the Council discussed this.

Township Council: Mr. Proctor said they discussed the ARC. The Council said it's a subcommittee of the Board, so it's up to the Board. They noted if it's going to remain active, it needs to be comprised of only Board members. They can either leave it as it is, make it active, or adjust design standards in the code so that a variance is needed if an applicant doesn't adhere to the code. They're looking for a response by the second November Council meeting. Mr. Morytko said the ARC work is important and the work they do can't be done as in-depth at the Board meetings. Mr. McElroy explained the history of the ARC for the Village Center, which was then applied to other properties. He noted not a lot of other towns have an ARC and worries about how it affects businesses wanting to operate here. It's also hard to get public members because they don't meet that often, so it makes sense for it to be Board members. They could work on design guide standards. Mr. Walsh agreed the ARC could save a lot of time at the Board meeting, and that it makes sense as a Board subcommittee.

Environmental Commission: Mr. McElroy said there's a meeting next week.

Open Space: Mr. Morytko said they met earlier this month and discussed forestry management and stand improvements.

Township Council: Mr. Proctor said they did a proclamation for members of the Lakeland Emergency Squad, Mike Orgera and Frank Diliberto, for a life save at Shoprite. They did a resolution acknowledging the final restoration of streets in West Brookwood. They adopted two ordinances for flood damage prevention and a street vacation. The CO Johnson Highlands grant was discussed; they're working with Highlands to see what can be used in the plan.

Zoning Report: Everyone had a copy.

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 10:41pm by Mr. McElroy, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips