APPROVED
2/1/04 MB

TOWN OF PATTERSON

PLANNING BOARD MEETING
January 8, 2004

AGENDA & MINUTES

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1)	**Burdick Site Plan – Public Hearing**	1	Board re-scheduled public hearing for 2/5/04
2)	**Ant Rock Wetlands/Watercourse Permit**	2	Board waived the wetland application
3)	**Hudson Valley Trust Wetlands Permit**	2	Board waived the wetland application
4)	**Schoen Site Plan – Sign Application**	3	Discussed later in the meeting
5)	**South Patterson Business Park**	3	Applicant did not appear, Board took no action
6)	**Macal Site Plan – Extension request**	3	Board granted a 120 day extension
7)	**D.E.W Site Plan – Extension request**	4	Board granted a 120 day extension
8)	**Ryder Route 311 Site Plan**	4 – 9	Discussion of stormwater management
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	a. **Burdick Farms Curtain Drains**	9 – 10	Discussion on monitoring the drains
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	e. **Dunkin Donuts Dumpster**	21 – 25	Board recommended to the ZBA to approve the 8' fence
	f. **Appoint Vice Chairman**	25	Board Member Montesano appointed to Vice Chairman

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Shawn Rogan
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TOWN OF PATTERSON
PLANNING & ZONING OFFICE

APPROVED
4/1/04 MB

January 8, 2004 Meeting Minutes

Held at the Patterson Town Hall
1142 Route 311
Patterson, NY 12563

Present were: Chairman Herb Schech, Board Member Mike Montesano, Board Member Dave Pierro, Board Member Shawn Rogan, Board Member Maria Di Salvo, Rich Williams, Town Planner, Gene Richards, Town Engineer and Craig Bumgarner, Town Attorney.

Meeting called to order at 7:33 p.m.

Chairman Schech led the salute to the flag

Chairman Schech welcomed the newest Planning Board Member, Maria Di Salvo

Rich Williams took the seat of the Secretary in her absence.

1) BURDICK SITE PLAN – Public Hearing

Chairman Schech stated the first item on the agenda is off the agenda, Burdick Site Plan public hearing right.

Rich Williams advised the Board that Harry Nichols had called him tonight and he forgot to send out notices so he has requested that you reschedule the public hearing for the next meeting.

Board Member Pierro made a motion in the matter of Burdick Site Plan that the Planning Board reschedules the public hearing for February 5, 2004. Board Member Rogan seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Board Member Di Salvo	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

2) ANT ROCK WETLANDS/WATERCOURSE APPLICATION

Rich Williams stated that was an issue with Ted that was a wetlands watercourse application over in Putnam Lake for an addition on to a house and he is within a hundred feet of a stream. Ted went over and reviewed it and I believe he was recommending that the application be waived.

Chairman Schech stated I believe if I am right he said that the house was going up and it wasn't going any closer to the stream so there was no impact on the stream.

Chairman Schech asked for a motion.

Board Member Pierro made a motion in the matter of Ant Rock Wetlands/Watercourse Application that the Planning Board waives the application based on the recommendation of Ted Kozlowski, ECI. Board Member Rogan seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Board Member Di Salvo	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

3) HUDSON VALLEY TRUST WETLANDS/WATERCOURSE APPLICATION

Rich Williams stated this is a wetlands/watercourse application that was submitted for the site of the former Patterson Town Hall. The new owners are seeking to add an exterior door on the east side of the building which is also on the side that the stream is. It would require the installation of a small retaining wall and some grading on the stream side so they did submit a wetlands/watercourse application. Again, I believe that Ted Kozlowski, the Town of Patterson's ECI had recommended that the application be waved.

Chairman Schech asked for a motion.

Board Member Rogan made a motion in the matter of Hudson Valley Trust Wetlands/Watercourse Application that the Planning Board waives the need for a wetlands/watercourse permit. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Board Member Di Salvo	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

4) SCHOEN SITE PLAN – Sign Application

Chairman Schech asked Schoen, is there anyone here.

Rich Williams replied I did talk to Mr. Suozzi today he did indicate that he would be at the meeting.

Chairman Schech stated we will come back to it.

5) SOUTH PATTERSON BUSINESS PARK SUBDIVISION

Chairman Schech asked is anyone here for South Patterson.

Rich Williams stated they didn't tell me they were not coming.

Chairman Schech stated we will come back.

6) MACAL SITE PLAN

Chairman Schech asked Macal site plan how many days are we going to give these guys because we have the weather.

Board Member Montesano replied do a 120.

Board Member Montesano made a motion in the matter of Macal Site Plan that the Planning Board grants a 120 day extension. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Board Member Di Salvo	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

7) D.E.W. SITE PLAN

Chairman Schech stated D.E.W. the same thing.

Board Member Pierro made a motion in the matter of D.E.W. Site Plan that the Planning Board grants a 120 day extension. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Board Member Di Salvo	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

8) RYDER ROUTE 311 SITE PLAN

Ms. Theresa Ryan, Insite Engineering representing the Applicant.

Ms. Ryan stated I was here at the last meeting and we submitted an application for a wetlands permit and an application for a site plan approval and based on our discussions with Ted at the last meeting he was okay with us working out the wetland application directly with him. He went out and flagged the wetlands and we are still waiting for the surveyor to put those on and give us the rest of the topography and existing features of the site because we didn't have a complete survey at that time. So, we had discussed the possibility of getting a site plan waiver because the lower level is not being used now, it hasn't been used in awhile and he does not have a user yet but what he would like to do is make some improvements to the parking lot in the back.

Chairman Schech asked what about the front.

Ms. Ryan replied the front he is not proposing anything.

Board Member Pierro stated I was there two Saturdays ago, we had a good amount of rain, and there were three or four large spots with two to three inches of standing water. It was not moving anywhere in the front. I would really like to see something done there. I don't think it has to be terribly expensive but I think some stormwater could be handled by being drained into the swale on the left side of the building from the front.

Chairman Schech stated facing the building on the left hand side if it was re-graded slightly, re-paved and a grass swale made to go into the wetlands would save a lot of headaches for everybody.

Ms. Ryan stated I will talk to the Applicant about that.

Board Member Pierro stated as long as I have been living in the Town there has not been any improvements to this building and I am hearing from other Members who are here triple that time and since it has been built there has not been any upgrades. Since this has been on the agenda we have spoken about doing the repairs to the gutters not only in the rear but in the front as well.

Ms. Ryan replied right and that would be part of the wetland application the work that we are proposing because those roof drains would have to be re-directed and that would end up being in the buffer and partly in the wetlands.

Chairman Schech asked if we grant a waiver of site plan, how do we make sure that these things that we are requesting will be done.

Ms. Ryan asked is that something that Ted can do conditions.

Rich Williams stated you are talking about improvements outside of the wetlands so it is not a wetlands issue.

Board Member Pierro asked could we require a bond.

Rich Williams replied no.

Board Member Pierro stated well then before we grant the waiver then we are going to have to see some action there, correct Rich.

Rich Williams stated yes but they couldn't take an action unless they had, Board Member Pierro asked in the front. Rich Williams replied yes, approvals from somebody. I mean when you are talking about changing significant features of the site plan like that.

Chairman Schech stated we are not really talking what we are talking about is the maintenance because there is a lot of depressions from settlement and what not.

Rich Williams stated if you are talking about just resurfacing the parking lot in the front you are right that is a maintenance issue.

Chairman Schech stated and directing the water into grassy swales.

Rich Williams stated but when you talk about installing grass swales on the site now you are talking about changing how the surface water is flowing across that site and that could be significant.

Chairman Schech stated it might be significant but it certainly is an improvement.

Ms. Ryan stated it could be significant too if there are certain areas within that pavement that is not along the edges that is collecting two, or three inches of water that is a big difference in elevation.

Board Member Pierro stated to the point where people were not parking in those areas.

Ms. Ryan stated that would be a significant amount of work.

Board Member Pierro stated there is a lot of water there.

Rich Williams stated my recommendation to the Board at this point being as this isn't going to be resolved anyway because it is still pending a whole wetlands application that you are working on is perhaps if you could give us some sort of preliminary design if you have one or talk to your client and see what they are willing to commit to and we could review that and perhaps base a waiver on that or even maybe even approve a minor site plan.

Chairman Schech stated as far as I am concerned basically they are maintenance items. It is nothing really atrocious.

Board Member Rogan stated and it should not take all this to fix gutters. I think the point that Dave was making is that we have been talking about this in the minutes and in the public record for I don't know it seems like a year now and you would think a building owner would say, hey maybe I should go out and fix the gutters maybe we don't have them draining the right way but they are draining in one area as opposed to just being dilapidated.

Ms. Ryan stated right but in order to really drain those properly they would have to go into the wetlands and without a permit and Ted has asked us not to do anything other than what he has already approved previously.

Board Member Montesano asked that is to restore the gutters that are hanging off the building.

Ms. Ryan replied yes because they are not discharging at any point right now.

Rich Williams stated it is Mike,

Ms. Ryan stated the only low point would be right in the wetland itself.

Rich Williams stated she is right they will have to discharge and what they are proposing is to discharge them to the wetlands. Now, if they weren't discharging them to the wetlands it might not be an issue.

Ms. Ryan stated there is no other place to go.

Chairman Schech stated the backside has to discharge to the wetlands that is where they always discharged.

Board Member Pierro asked is there enough room in the front on that grass swale in the front to put some sort of,

Chairman Schech stated you can't get it around there. How are you going to get it there.

Ms. Ryan stated you can't get the ones from the back of the building.

Board Member Pierro stated no but the ones that are in the front and the standing water in the parking lot.

Rich Williams stated I would have to go out and take a look at that. I have never gone out and looked at the front parking lot.

Board Member Pierro stated it appears to me to be a good thirty feet.

Rich Williams stated it may be a little bit difficult in the next few weeks you know if it does rain or melt I will go take a look at it and see which way it is draining.

Chairman Schech stated I think it is fairly simply I don't know to me it is anyway.

Ms. Ryan stated we hope to have the topography too to see what is going on there.

Board Member Pierro stated I think the grass swales if they were just higher than the parking lot areas.

Chairman Schech stated with the grass swales at least you treat the water a bit before it gets into the wetlands.

Board Member Pierro stated I am speaking of the grass swale on the front of the building.

Ms. Ryan asked on the west side.

Board Member Pierro replied in the front of the building the very long and linear on the southerly side in the front of the building there is a large grassy area.

Rich Williams stated I just thought of a way that we can tie this into the wetlands application even though it is outside the wetland boundaries and that is if we are somehow mitigating the flows of discharge into that wetland. So, it is possible because the stormwater is running into the wetlands that we require improvements outside of the wetland buffer for mitigation so we could pick it up all in the wetlands permit.

Chairman Schech stated it sounds good to me.

Board Member Pierro stated I think there is ample room if we had to take four or five feet of the front of the parking lot there to enlarge the grass swale in the front and drain that off into the left hand side if you are looking at the front of the building. I think something could be accomplished there.

Ms. Ryan asked is that where it is pooling.

Board Member Pierro replied it is actually pooling in front, Chairman Schech stated it is actually just pooling in the parking area and a lot of is backing up and going out back.

Ms. Ryan asked is it more towards 311 or more towards the building.

Board Member Pierro replied it is more towards 311.

Chairman Schech stated and then it sort of over flows into the driveway that goes around back.

Board Member Pierro stated right once it fills up in the front it goes out towards the back so if we were to enlarge that grass swale in the front and maybe put a detention basin that treats the stormwater and have that spill off on to the left side of the building into that wetlands as Rich spoke on that it could be done.

Chairman Schech stated I don't think you can get a detention basin there but you could certainly can get a half way decent swale in there to treat the water.

Chairman Schech asked how do we make this part of the wetlands permit.

Rich Williams stated they are actually going to have to amend the permit and plans to do that it may get you over one hump at least the Board is now in a position to grant a site plan waiver for any sort of maintenance to the rear parking area.

Board Member Pierro stated I think the Board is inclined, the part of the Board that was involved with this is inclined do the site plan waiver but let's correct some of these problems. We are not going to do it unless we see something done. I don't think it has to be terribly expensive.

Ms. Ryan stated we can show something on the plan but like I said without the permit itself we really can't complete the roof drainage improvements.

Chairman Schech asked do we grant the wetlands permit and see how the plan looks or we can't.

Board Member Montesano stated no we can't.

Rich Williams stated if you are so inclined you may be able to grant a waiver of site plan so that regulatory issue is set aside but we need more detail on the wetlands permit.

Ms. Ryan stated and I see more detail on the survey so I probably should get more spot shots in the front there to see what is going on.

Chairman Schech stated all right so we will entertain a motion on a waiver of site plan.

Board Member Montesano asked you want to do that now.

Chairman Schech replied yes because we are not giving them the wetlands permit.

Board Member Rogan asked can we put the wetlands permit process in front of the waiver of site plan in other words can we go through the wetlands permit process and waive the site plan at the tail end.

Rich Williams replied you can.

Board Member Rogan stated let's do it that way.

Board Member Pierro stated yes I would rather wait.

Board Member Rogan stated so we work through the process. It is procedural then at least provided everything goes smooth,

Chairman Schech stated I am just trying to encourage them to go ahead with something, anything.

Board Member Rogan stated the encouragement would be if they don't do the proper job on the wetlands permit than they have to do a site plan at the end, sorry. That is the way that I would do it.

Board Member Pierro stated she knows which direction we are heading and she has to communicate that to her client, Board Member Rogan stated the ball is in your court. Board Member Pierro stated the ball is in Ted's court now.

Ted Kozlowski, ECI arrived at this time.

9) OTHER BUSINESS

a. Burdick Farms Curtain Drains

Chairman Schech Burdick Farms is just a discussion on the curtain drains. We are going to see what the long term output is on this thing.

Board Member Pierro asked right so we are going to have to do some monitoring or are we going to discuss that at this moment.

Chairman Schech replied I don't think we have to discuss it now we will wait until Burdick Farms comes in.

Rich Williams stated I think what Dave was referring to is a discussion we had at the work session where I said I would e-mail Ron and get a response back about seeing those curtain drains discharging. It raised a curious question to me as to whether it was the portion of runoff that is directly below the surface and it is intercepting that or it is actually intercepting the ground water and by doing some long term monitoring we will get a better idea of where the water is coming from and whether this is going to be you know the curtain drains that are flowing whether they are going to be flowing on a regularly continuous basis or whether they are just going to be flowing after a storm event.

Chairman Schech stated I think this is something that we should discuss with the Burdick Farm Engineers.

Rich Williams stated yes but I think it is also something that we can talk about with them outside of the meeting so we can get going on if we are going to monitor them if the Board is interested in doing it and it sounds like they are.

Board Member Pierro stated if we don't start monitoring now or if we start monitoring now and there is a reduction in the amount of water that is in the test pits that are up there if we start to dry up if we have a reasonably dry winter and the water stops flowing then that answers a lot of our questions that it is working. It is long term that I am concerned about as well for those swales because if they get blocked up,

Rich Williams stated from an engineering point of view I mean they will work, eventually they will dry the water up in that area but,

Board Member Pierro asked but do we also need to mitigate the water that is being drained off. Do we need an additional swale to pull that water into other stormwater basins. Do we need to collect that water that is draining and run it down further into the site.

Rich Williams stated it would be my recommendation that we come up as part of the overall design of the subdivision with a long term solution on where that water is going to go and how it is going to be managed.

Board Member Pierro stated as was spoken to in the impact statements correct.

Rich Williams stated yes.

b. Noblet Subdivision

Chairman Schech asked Craig Bumgarner do you have something to say about the twenty-five foot from the center line.

Rich Williams stated before we do that Mr. Noblet is here and I have given him the comments and I don't know if he has anything to say to the comments.

Mr. Noblet stated I want to thank you first for taking the time to do the walk. (Very hard to hear his statement) I hope you enjoyed the property and seen the historic and my interest in preserving this place like it is now. My only concern is and I spoke with my Attorney and I am mortgaging the house and he mentioned the fact that in order to do this I need the authorization of the people holding the mortgage so I have been in touch with them and they were not sure that they will allow this so that is my only concern.

Chairman Schech stated they will have a problem with the subdivision also.

Mr. Noblet replied no because it is (unable to hear the rest of his statement).

Chairman Schech asked what bank is this.

Mr. Noblet replied the former owner of the house.

Board Member Pierro stated there are some banks that would do this as well. It is not unheard of .

Board Member Rogan asked if you were to wait to subdivide the property officially until the date of the sale couldn't you also wait for the twenty-five feet until the time of the sale. In other words, at that point you would not have a mortgage on the property.

Mr. Noblet replied yes but I cannot even put the place on the market (unable to hear).

Board Member Rogan stated you just said before you can't actually split the properties until they have sold you just said.

Mr. Noblet replied no I cannot, Chairman Schech stated he can subdivide it but he can't sell it.

Board Member Montesano stated the mortgagee would like to have his cake and eat it too.

Chairman Schech stated it presents a problem not for me it doesn't but for Mr. Noblet it certainly does.

Craig Bumgarner stated actually Mr. Noblet raises an interesting issue which I am surprise hasn't been raised by an intuitional lending service as well (unable to hear his statement – no microphone).

Craig Bumgarner stated on the strip you could technically need the banks approval on that as well.

Board Member Montesano asked then that means theoretically, Mr. Noblet does not have a right to come in and ask for a subdivision the owner would have to come in. He is making the comment that he, Board Member Pierro stated he is the titled owner there just happens to be a mortgage on it.
(Too many speaking at once unable to transcribe).

Craig Bumgarner stated there is no problem is this, the bottom line is this he is the owner, somebody else is holding the lien. He has the authority to subdivide it and whether this mortgage holder agrees to permit this strip to be given or not is a consideration for the Board but I don't think it is an overriding consideration. You have to decide if it is something that you require. If it is something that you desire to have then you require it and he will have to go get it done. Again, I can appreciate his argument it is something for the Board to take into consideration, the ultimate decision maker here if you want it then you require it then he has to go get it. If you don't feel strongly about it either way then don't.

Chairman Schech stated that is what we have been requiring with the all subdivisions.

Gene Richards asked Craig Bumgarner, my understanding historically is that the Town has been requiring these on subdivisions so that ends up going on the plat. It shows that reservation strip with metes and bounds I guess there is probably some deed offering to the Town but until the Town formally accepts that reservation strip doesn't that stay in the position of the owner or is it in limbo. I mean what I am wondering is could he still show it, he would still own that land until such time in the future when the Town physically took it.

Craig Bumgarner stated he could show it on the plat and I mean if this whole partial release this was an issue what we could do is show it on the plat when the subdivision is granted, he could give the Town a date to hold in escrow until such time the mortgage is paid off and then the Town could go record the deed.

Chairman Schech asked could you repeat that in English please.

Craig Bumgarner stated what I am saying is, Gene raised a good point, in the past we have always had the road widening strips delineated on the subdivision plat which we would do here. What we could do is as the map is approved have Mr. Noblet tender a deed to the Town for the road widening strip and then once he pays off the mortgage and conveys that lot then we could go record the deed over at the County Clerk's office.

Chairman Schech asked Mr. Noblet would that be all right with you.

Mr. Noblet replied if it has to be so yes but I still have to speak with my Attorney and this would be for the, Board Member Pierro stated the subdivided lot. Mr. Noblet asked not for both of them.

Board Member Montesano stated well it is a subdivision we have to accept one or the other. We have just been told it is part of the requirement for subdivision I don't know if we can divide the two lots the subdivision is two lots.

Rich Williams stated it is within the Board's purview, Chairman Schech stated discretion, Rich stated discretion to somewhat vary where you are going to take that twenty-five feet and where you are not.

Chairman Schech stated we are trying to keep the large wall in front of the building.

Board Member Rogan stated I think if these were two vacant lots it would be a no brainer, we would say we want the twenty-five feet the entire way. Considering the current condition and the house's proximity to the road I think the Board absolutely wants the twenty-five feet for the created lot, Board Member Montesano interjected excuse me, I don't mean to interrupt but we are going to create a precedent then where we are going to pick and choose what we want rather than have a standard procedure.

Rich Williams stated that precedence has already been done on Shkreli Subdivision and I believe we were going to do it on Armour but definitely for Shkreli because we had the issue with the house and the property line was right on the edge of the house.

Board Member Rogan asked Mr. Noblet in the site walk comments there was also a mention of possibly the Town gaining a little extra property on the sharp turn in the wetland.

Mr. Noblet stated this is wetlands I thought you cannot really do anything with this.

Board Member Rogan stated Ted, I don't know if you know what we are talking about the sharp turn on McManus, the property he owns that adjoins that I had brought up the idea that maybe we could gain a little bit of extra right of way there because that is a terrible turn on that road in case the Town ever wanted in the future to try to make that a safer corner that they could and the twenty-five foot from the centerline nearly does not help the situation out as much as it could if maybe that corner was taken out of the property. It is truly a wetland there is no doubt about it.

Ted Kozlowski stated it depends on how far you want to go with it.

Board Member Rogan asked to change over the property or to actually do something with it.

Ted Kozlowski replied to do something with it.

Board Member Rogan asked does the Town have to go to Army Corp if it is Town owned property.

Ted Kozlowski replied no but I would at least check with Army Corp.

Rich Williams stated we are not exempt from Army Corp.

Board Member Rogan stated all right you are not exempt but I guess the idea being at least you would have the ability to go after that or to be able to pursue it. Anyway, just a thought for the Board.

Chairman Schech stated I think for now I would be very happy with just the twenty-five feet.

Rich Williams asked can I just ask Craig one question on this twenty-five feet in front of this one lot. Your opinion wouldn't it be easier to get a release from the mortgage company considering that the actual value of the twenty-five foot reservation strip is minimal because the Town owns a prescriptive easement over it anyway which basically gives us the right to use it anyway we want as long as it is for road widening purposes and basically, Mr. Noblet just owns the underlying title.

Mr. Noblet stated I think we may have a problem because the road has been less than three rods for more than ten years.

Rich Williams stated State Highway Law gives us the right to make improvements within three rods from the center line.

Gene Richards stated three rods the total width.

Mr. Noblet stated if you want to do so then you have to ask the owners along the,

Gene Richards replied under Highway Law no. If there is a need, if the Highway Superintendent found some need to make drainage improvements along the side of that road he can just go in and do it up to three rod width.

Board Member Pierro asked and do the property owners have to get paid for that.

Gene Richards and Rich Williams replied no.

Craig Bumgarner stated we have you give deeds in this situation because it makes easier for us. It is not something that we needed to do for either parcel. If we needed to and if the Highway Superintendent had to go in there he would go in there and he would have the authority under Highway Law. Somebody could argue make a claim for takings and seek compensation but it depends on what you are looking at in terms of property. I am not aware of any case where anybody has been compensated in that situation.

Board Member Pierro stated there is no argument that we should take it now because if we take it later we have to pay for it. It is just that it is easier to take it now by deed.

Craig Bumgarner stated it is cleaner because we know and we have a metes and bounds description there is not going to be any haggling over where the boundaries are and so forth. Let's step back for a second to Rich's question with the partial release. It really depends quite a bit on who is holding your mortgage like if you had a mortgage with Wells Fargo and you asked them for a partial release they would want probably an appraisal performed with the property, a comparative with the property that is being proposed to be given stuff like that. There is nothing really I think that unfortunately there is nothing you can force a

mortgage holder to do to give you a partial release. It is going to be discretionary and if he happens to have a private lender who just says I am not giving it that is the way it goes. It is not like you can force them to do it or anything else.

Chairman Schech stated if the private lender deems it a very valuable piece which basically its value is didley a couple feet in the front is valueless basically.

Board Member Pierro stated if we have no plans to widen the road or extend the road and we are not going beyond the stonewall and the road is three rods wide now and State Highway Law says if we need to do it we can do it why are we doing it.

Board Member Rogan stated the road is not three rods wide right now.

Rich Williams stated to start with it is not three rods. Why we do it, Dave, Chairman Schech stated is to make it cleaner the man just said it. Rich Williams stated it stops friction so that in the future if the Highway Superintendent deems it necessary be it the Town, the County or the State that you know it stops the friction between the property owner. They don't seek to fight for any rights perceived or otherwise they may have.

Board Member Rogan stated let's face it that road was just paved a few years ago. There is no drainage on the road or improvements other than throwing a coat of tar on it. There is trees that stick out into the roadway. One in particular on your property that I can think of that they just went around it because at the time it wasn't worth taking down but it is a thirty inch plus tree that sticks out that they practically paved around. These are improvements that are going to happen in the next so many years so I think we are better off getting some of this now. I would never want to see anyone take down your rock wall and I don't think that would ever happen. I don't think that the need would ever require that but I do want to get some of these right of ways taken care of now.

Mr. Noblet stated I am going to try to get the approval,

Rich Williams stated we are not talking about the first lot anymore just the new lot.

Mr. Noblet asked what is the next step for me, I will try to get the approval for the mortgage what should I do. Should I send it directly to you then we move forward.

Rich Williams replied yes you are going to want to give us a copy but you are going to want to give Steve Miller a copy, he is going to want to adjust the plat accordingly, resubmit it, come back in next meeting assuming you can get it all taken care of, we will schedule a public hearing, the following meeting we can have a public hearing and wrap it up.

Board Member Pierro stated and as we spoke before about the curve that portion of the sharp corner can we also address that issue. Is that part of the same lot.

Chairman Schech stated when we go over the site plan when he comes in we can go over that.

Rich Williams stated it is part of the same lot as I told Mr. Noblet earlier I got that comment from Shawn I have not had a chance to look at the plan nor has his engineer or our engineer.

Rich Williams asked that you allow the eight foot fence.

Board Member Pierro stated I make a recommendation to the Zoning Board they approve the eight foot fence.

Board Member Rogan stated before we vote on this I want some discussion.

Rich Williams stated okay get a second.

Board Member Rogan stated I want some discussion.

Chairman Schech asked for a second.

Board Member Rogan stated since we have a new member.

Rich Williams asked who is the second.

Board Member Pierro stated Mike.

Board Member Montesano stated I am going to be the second.

Rich Williams asked who made the motion.

Chairman Schech stated Dave did.

Board Member Rogan stated the idea here is that we have a fence that was installed at eight feet. The Code says six feet.

Board Member Di Salvo stated right I go there every day.

Board Member Rogan stated my feeling is that when you have a fence that is eight feet for a dumpster which happened at the time that everyone checked this out they hide things, they throw garbage on top, they over fill things, it allows them to conceal it which can be considered a good thing but it also can be a bad thing because it hides a problem. There is a reason the six foot fence condition exists and for a dumpster I think we are creating problems and not only a public health hazard and I am going to call everyone of you when we get a complaint on this but I think we are setting a bad precedent here. We have the ruling for the fence for a reason, to make a recommendation to Zoning that they approve something that does not meet zoning when I think that it is going to have a negative impact in the long run I think is being remiss.

Chairman Schech stated basically the six foot fence was for residential fences around.

Board Member Rogan stated then I believe we should change the fencing enclosures for dumpster for commercial change the Code requirement if that is the feeling.

Gene Richards stated I personally noticed driving by the site on 22 you are elevated above that site so if you stuck with a six foot height that the Code required or permits really from

22 you are not truly hiding that dumpster and that is probably your biggest exposure to it. So, I think in that regards the eight foot in this one instance does help.

Board Member Pierro stated and it may again come up when we have a situation where we have an elevated roadway and you are looking down on to a dumpster.

Gene Richards stated there are two reasons for having an enclosure; one is to try to contain garbage with in the enclosure so it does not blow all over,

Chairman Schech stated and to hide the dumpster. I spent more time at Dunkin Donuts looking at this dumpster because I don't dare go into Dunkin Donuts and every time I go there it should be an eight foot fence.

Board Member Pierro stated I agree with Shawn's mindset.

Board Member Montesano stated I agree well we have the discretion to recommend that eight foot fence so to change the law may or may not work rather than have those empowered to changed these rules to go through this process which shouldn't take more than five minutes. A simple statement such as commercial property would be allowed and eight foot fence it would still give us the option of keeping it six feet, Chairman Schech stated it gives us the discretion of changing six feet or eight feet. Board Member Montesano stated Rich does not like that idea.

Board Member Rogan stated I don't either. I think you just want to be careful.

Rich Williams stated if you go to an eight foot fence for commercial properties then you are basically saying that is the standard you don't then get to pick and choose which ones have a lower fence it is eight feet.

Board Member Montesano stated I said up to.

Craig Bumgarner stated I think Mike was saying, Board Member Montesano stated in other words we would have the option it would be there rather than keep going to the ZBA every time we decide that you need a taller fence.

Chairman Schech stated ZBA wants an opinion from us and we are giving ZBA an opinion because they won't move.

Board Member Rogan stated remember the reason ZBA is asking for a recommendation is because this is a newly built facility that we planned for and we find for a six foot fence and they put up something that was not approved which they did all across the board on this project and that I think also is a point of contention here. There are still things that I think before they even look at this application there are still a lot of things that we required out on that site that has not been done.

Board Member Pierro stated there was painting, Board Member Rogan stated painting, the canopy.

Board Member Montesano stated let's put it this way theoretically we should be in there because of what we signed, theoretically we can just walk in and demand that he be shut down for a violation of his plan.

Craig Bumgarner stated why don't you condition your recommendation. You could say we could support the eight foot fence if some of the other things on the site plan were taken care of.

Board Member Rogan stated the Applicant promised in front of the entire Board that the changes would be made within a week if I remember right and here we are, Chairman Schech stated he did some painting changes didn't he. Board Member Rogan stated not the ones that you requested.

Board Member Montesano stated he never changed the color of the building, he put the awning up without permission to begin with because it was never on the plan if I recall.

Board Member Pierro stated the last time I checked about a month or so ago the garage doors are still there.

Chairman Schech stated all right let's grant the eight foot fence on condition that at least he changes the garage door painting scheme.

Board Member Montesano stated why let him do what we put on his plans.

Rich Williams stated you are making a recommendation to the ZBA that you permit the erection of an eight foot fence but the eight foot fence should not be done prior to the other issues being remedied.

Board Member Rogan asked does that require a change in the site plan or is that so minimal.

Rich Williams stated no we show the fence the eight foot isn't an issue.

Chairman Schech asked Rich say that again.

Rich Williams stated you are basically making a recommendation to the Zoning Board of Appeals for them to approve allowing the erection of an eight foot fence but you are recommending that the Zoning Board of Appeals condition that approval on them remedying the outstanding issues on the site plan that were identified by the Planning Board.

Board Member Rogan stated which is one Board trying to enforce another Board's.

Craig Bumgarner stated yes but this is the way that you might be able, look it is not the way to go but I would say maybe we should make sure this record reflects that there is one non-conforming thing out there that they are asking you to approve in light of all the other non-conforming issues that you can't seem to get yourself to agree to do that maybe if the site was more conforming you wouldn't see this as just another one of their so I mean it is a stretch but.

Chairman Schech stated let's have a motion according to,

Board Member Montesano stated we had a motion and we had it seconded.

Board Member Pierro stated I make a motion that we amend the motion and in addition to the Zoning Board to allow the eight foot fence to be done on condition that the other site walk comments and the other corrections that were to be done be completed as well prior to granting the variance. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	no
Board Member Di Salvo	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 4 to 1

f. APPOINT VICE CHAIRMAN

Chairman Schech stated I would like to appoint Mike Montesano as Vice Chairman.

Chairman Schech stated so the only one that did not show is South Patterson Business Park

Board Member Rogan made a motion to adjourn. Board Member Montesano seconded the motion. All in favor and meeting adjourned at 8:45 p.m.