

TOWN OF PATTERSON
PLANNING BOARD MEETING
January 26, 2012
Work Session



AGENDA & MINUTES

	Page #
1) Raymond Merlotto – Fill Permit	1 – 5
2) Adam Levine – Fill Permit	5 – 18
3) Watchtower Education Center – Amended Site Plan	18 – 19
4) Alpine Restaurant – Site Plan Waiver	19, 23 – 32
5) Thunder Ridge Ski Area – Site Plan Waiver	19 – 23
6) Anthony Boniello/B&V Realty – Lot Line Adjustment	32 – 54
7) Other Business	
a. Dunkin Donuts Discussion	55 – 67
b. Patterson Garden Center – Site Plan	67 – 80
c. Reilly Zoning Change	80 – 84
8) Minutes	

PLANNING DEPARTMENT

P.O. Box 470
1142 Route 311
Patterson, NY 12563

Michelle Lailer
Sarah Mayes
Secretary

Richard Williams
Town Planner

Telephone (845) 878-6500
FAX (845) 878-2019



**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

ZONING BOARD OF APPEALS

Lars Olenius, Chairman
Howard Buzzutto, Vice Chairman
Mary Bodor
Marianne Burdick
Gerald Herbst

PLANNING BOARD

Shawn Rogan, Chairman
Thomas E. McNulty, Vice Chairman
Michael Montesano
Ron Taylor

**Planning Board
January 26, 2012 Work Session Meeting Minutes**

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



Present were: Chairman Rogan, Board Member McNulty, Board Member Montesano, Board Member Taylor, Rich Williams, Town Planner and Ted Kozlowski, Town of Patterson Environmental Conservation Inspector.

The meeting began at 7:05 p.m.

Michelle Lailer was the Secretary and transcribed the following minutes.

Chairman Rogan stated okay...

Board Member McNulty stated how do you know it's working.

Rich Williams stated the light is on.

Chairman Rogan stated we'll know when we read the minutes.

Board Member Montesano stated start banging on that.

Chairman Rogan stated okay, good evening everyone.

Board Member McNulty stated good evening.

1) RAYMOND MERLOTTO – Fill Permit

Chairman Rogan stated first up on the agenda we have Ray Merlotto, a fill permit for 12 Flint Road, I see on the application he's approximating it to be 999 yards, it must be a threshold for the fee, huh.

Rich Williams stated yes.

Board Member Montesano stated question...

Chairman Rogan stated yes.

Board Member Montesano stated is it 17 Flint or 12.

Chairman Rogan stated yes.

The Secretary stated 17.

Chairman Rogan stated I assume its 17 because that's the application that Mr. Merlotto filled out.

Rich Williams stated I think the legal address is 12.

The Secretary stated I thought it was 17.

Board Member Montesano stated well if it is, then he's got an improper piece of paper here.

Board Member Taylor stated yup.

Chairman Rogan stated so Rich, you've been out to the site, obviously, you took some photos...

Board Member Montesano stated unless he's got.

Rich Williams stated I have.

Chairman Rogan stated what is Mr. Merlotto looking to achieve here.

Rich Williams stated I'm not exactly sure what he's looking achieve other than possibly improving the grade of his property, it's bordering on a fairly sharp embankment but with proper stabilization and erosion control I don't view this as a very big issue. I don't know that he wants to bring in that much fill...

Chairman Rogan stated yeah, just covering himself up to that amount.

Rich Williams stated he did get some fill from another project that was out in the Putnam Lake area, it was all clean fill, I did take a look at it, there wasn't a problem what he's put on there so far, you might want to establish some sort of limits like you know, no more than 3 feet of fill without further review by the Planning Board and put some time limits on how long the permit is going to go for.

Board Member McNulty stated we don't know what his intent is though, no one...

Rich Williams stated no.

Board Member Montesano stated all right, can we verify the address because it does say 17 on here...

Rich Williams stated we are verifying...

Chairman Rogan stated doing it right now.

The Secretary stated it is 17 Flint Road.

Board Member Montesano stated thank you.

Rich Williams stated then what's 12 Flint Road.

The Secretary stated a vacant parcel.

Board Member Montesano stated yeah that's what I'm worried about.

Rich Williams stated he's putting it on 12 then.

Chairman Rogan stated oh, he's putting it on the...

The Secretary stated are 12 and 17 next each other.

Chairman Rogan stated so he lives, the applicant's address is 17, he's proposing it on 12, so does the placement...

Board Member Montesano stated okay.

Chairman Rogan stated of the fill affect the use of the vacant parcel it's a residential lot.

Rich Williams stated it's that one you just hit.

The Secretary stated no, it's not.

Rich Williams stated what is the one you just hit.

The Secretary stated that's 17, these are on Haviland...

Rich Williams stated what is the one you just hit.

The Secretary stated that's 25.

Rich Williams stated the one down on the corner.

Chairman Rogan stated you know the easy answer on this is, we're going to go take a look and then we'll know what he's going to do...

The Secretary stated 312 Haviland Drive.

Board Member McNulty stated yeah, it's hard to rule on anything without knowing the intent of what's trying to do.

Chairman Rogan stated no.

The Secretary stated 12 is across the street.

Board Member Taylor stated I mean, looking at the pictures I don't see a dip, it looks like he wants to build up the height of his embankment...

The Secretary stated right here.

Board Member Taylor stated where's the dip.

Rich Williams stated it...

Ted Kozlowski stated Rich, he's not near wetlands is he.

Rich Williams stated no.

Chairman Rogan stated no, he's surrounded by houses.

Rich Williams stated here's the road...

Board Member Taylor stated right.

Rich Williams stated his house is back here...

Board Member Taylor stated yup.

Rich Williams stated it drops down about 4 feet, it levels off and then it drops, right...

Board Member Taylor stated yeah, that's not a dip. So he wants to build up the height of his embankment to make it look, closer to the...

Rich Williams stated well it's a flat level area that's rough.

Board Member Taylor stated yeah, is he proposing coming up to the level of the cars.

Rich Williams stated I hope not because that's quite a bit of fill and that's why I, you know suggested you may want to put limit on the depth of the fill that he puts on the property.

Chairman Rogan stated yeah.

Board Member McNulty stated he is away from his septic system and well, I mean do we know where that is on the property...

Rich Williams stated I did not see the well when I was out there, the pictures don't, I don't recall a well being in that area, I don't know where the septic is.

Board Member Taylor stated well if it's a separate piece of property, he couldn't have the septic and a well on it anyway.

Chairman Rogan stated that's what I'm trying to clarify.

The Secretary stated it's not, 12 is across the street.

Board Member Taylor stated oh okay.

Chairman Rogan stated okay and this fill he's doing on his own property, the residential lot.

Rich Williams stated that's 12.

The Secretary stated that's 12.

Rich Williams stated all right, so I got the wrong one.

Chairman Rogan stated all right, so...

Board Member Taylor stated so 17 is right.

Chairman Rogan stated 17, he is filling around his residential house, it looks like in the drive area, let's go take a look and then we can speak more clearly about any limits...

Board Member Taylor stated get him, yes...

Rich Williams stated are you looking to do that before the regular meeting.

Chairman Rogan stated yeah, depending on everybody, we can...

Board Member McNulty stated I'm available Saturday.

Chairman Rogan stated Saturday morning, yeah, Saturday morning, we can do it, sound good, okay, site walk, I'll let you hold on to these nice color photos.

The Secretary stated those are for you, we have copies.

Chairman Rogan stated okay, thank you, all right.

2) **ADAM LEVINE – Fill Permit**

Chairman Rogan stated okay, Mr. Levine, we have water sample results, preliminary results from samples that were taken.

Board Member Taylor stated since you work for the Health Department can you interpret them for us.

Chairman Rogan stated yeah, page 2 of 12 looks like it interprets it for us...

Board Member Taylor stated is that what it, nothing...

Chairman Rogan stated yeah...

Rich Williams stated just to take Shawn off the hook perhaps...

Chairman Rogan stated thank you.

Rich Williams stated I did contact Anne Bittner...

Board Member Taylor stated yeah.

Rich Williams stated and asked her opinion, now understand these are preliminary, they are not the final and they are not the SOC's...

Chairman Rogan stated right.

Board Member Taylor stated yeah.

Rich Williams stated which are of greatest concern, Anne Bittner thought that these were fine, she was pleasantly surprised, she said she didn't expect that we were going to get the results that we did preliminarily...

Board Member Taylor stated yeah.

Rich Williams stated so she wants to see what the SOC's are going to come in at.

Chairman Rogan stated okay.

Board Member Taylor stated okay.

Board Member McNulty stated when you call them SOC's...

Rich Williams stated SOC's...

Board Member McNulty stated what is that.

Board Member Taylor stated organic compounds.

Rich Williams stated organic yeah...

Board Member Taylor stated soluble organic compounds, soluble...

Board Member McNulty stated verses purgeable...

Chairman Rogan stated that's quite a list of stuff to look for.

Rich Williams stated the purge was the testing in the lab...

Board Member McNulty stated there is one here on page 8, nickel seems to be, I don't know what the limits are, I guess 5.544 and barium at 68 where everything is negatives...

Chairman Rogan stated or less than...

Board Member McNulty stated or less than.

Chairman Rogan stated those are less than's, barium 68...

Rich Williams stated Anne said that the nickel is below the Federal standards, we don't have State standards for nickel.

Chairman Rogan stated barium.

Board Member Taylor stated all right.

Chairman Rogan stated can we, well not the question can, should we have someone at Maser also take a look at these results...

Rich Williams stated well I wanted to, I wanted to ask you that question, you know because of course there is going to be a cost associated with that.

Board Member McNulty stated should we wait to get the final results and do it all at once.

Rich Williams stated yeah, yeah and certainly you're going to wait until final, right.

Chairman Rogan stated right, right, and certainly we're going to value what the Health Department has to say but it would be nice since...

Rich Williams stated yeah we...

Chairman Rogan stated we had some input from our own consultant. Basement taps, they did a well water tap...

Board Member Taylor stated yeah on the survey didn't he say they were starting in the next week at the last meeting, wasn't that what he said.

The Secretary stated I believe that's what he said, he said that they were out but I don't know what happened after that, at least he's attempting to keep us updated...

Board Member McNulty stated the way I read it, it sounded like, well I only read the work session minutes, I didn't see the...

Board Member Taylor stated no, it was the regular session minutes.

Chairman Rogan stated it sounds like this letter they've been on site and they have, it says since my last letter to the Town Board, I have had Terry Bergendorff-Collins surveying on site and they will have information in a couple of days. They came for the preliminary visit to do the survey on January 5th...

Board Member Montesano stated yeah but he's going to do the survey as of Friday.

Board Member Taylor stated but on January 25th's letter, it says they will start to the survey this Friday the 27th.

Chairman Rogan stated preliminary was probably a site visit, right, to give them probably a quote right, so it looks like it is being done tomorrow...

Board Member Taylor stated but I think he said at the last meeting that they were starting the next week so again, whatever excuses are.

Board Member Montesano stated well let's put it this way, I'll give him the benefit of the doubt that he may have tried it and they may have attempted it but depending on the other person's schedule he may have had to change it so.

Chairman Rogan stated yeah.

Board Member Taylor stated well except I think that he said that they give him a schedule for doing it, anyway there is nothing about the weather tomorrow that should prevent him doing it...

Chairman Rogan stated no.

Board Member Taylor stated I've got a few proposals here, between now and the February Board meeting I think that counsel should prepare us the certification that the engineer said that we should get Adam Levine, he's got to certify that he was not paid for that fill, otherwise the exemption for capping is gone and he'll have to take everything out and I've just got a question for counsel, does that cover us, I mean if the guy swears on the bible that he wasn't paid for it, despite the rumors we've heard, are we then covered, that is a question for the lawyer to answer. So that is one thing, whatever, I mean it might be a standard form, I have no idea, I mean it's...

Rich Williams stated it's not going to be a standard form.

Board Member Taylor stated all right, so he'll have to make up something...

Board Member McNulty stated just be an affidavit of some sort where he would swear that he certifies he didn't receive any money.

Board Member Taylor whether he meets this requirement which is minutes, the guy put the number out there...

Ted Kozlowski stated you might want to say money or services.

Board Member Taylor stated yeah however it's worded...

Chairman Rogan stated however it's referenced in the law.

Rich Williams stated enumeration...

Chairman Rogan stated enumeration...

Board Member Montesano stated there's that word.

Board Member Taylor stated and I wonder if, whether we need this now or it just, I was wondering maybe we should say to Mr. or we should have some kind of a resolution that based on this water stuff, it is the

intent of the Board to allow Mr. Levine to cap the fill and remove it from the adjacent property and he must now submit to us within 30 days a professional plan to do so, so we're giving him timing and that would be what we would do, if they could prepare that we could vote on that at the February meeting, then he's got 30 days to come back to us with a plan, he signs the certification at the February meeting, can we require any escrow at that point out of him, I think, Ted thinks and I kind of agree with him that maybe we should be processing stuff with DEC and us at the same time that we would press the Town Supervisor he prepare a letter of concern to DEC and not the regional DEC, I would bypass the regional at this point and go right to head of the DEC, just so that we're following up with the DEC and doing what we can there. That the counsel starts to advise us in ways ensuring the work is completed, whether it be bonds or Mike was saying he had some other idea for some way to get work done, it wasn't escrow but it was something else...

Chairman Rogan stated Mike, that city...

Board Member Taylor stated and the for the March session, he would submit a plan to us and we would send it out to the engineer for review and we'd review it, we'd send it to DEC for review along with a letter from the Supervisor and give them 30 days to act on it and then our counsel and Planner start to prepare a fill permit resolution for the April meeting and then based on our review we have a resolution at the April meeting that we approved the plan for the fill, we then if we haven't done it before, create the escrow account to cover your administrative costs, require a bond from him to cover the, whatever the capping and the digging out the neighbors stuff and require him to formally agree in writing that he will execute the plan as he said he would and he's got 30 days to begin the work or the resolution is invalid and then at the May meeting, either we get a progress report on the work or we start legal action against him and should we discuss, I think we should ask the lawyer about discussing whether, should we join in a joint action with the neighbor against Mr. Levine at that point, is that something we should consider.

Rich Williams stated I don't know that we can because they are really two separate actions, one is a civil action, the other is probably criminal...

Board Member Taylor stated okay.

Rich Williams stated we're going to be going into court here, the neighbor has to take him to supreme court.

Board Member Taylor stated okay, well then that answers that question, I just wanted to know a clarification on that, I'm just, that puts us in May already...

Chairman Rogan stated trying to outline the process, right.

Board Member Taylor stated and we were hoping to get started in April but...

Chairman Rogan stated you're right.

Board Member Taylor stated I don't see any other way to do it.

Chairman Rogan stated and hearing you lay it out like that, thank you for doing that by the way, lets us know how much we really do still have to do on this. So I mean, I think that it is certainly a good idea to get the certification that we were talking about for the next meeting and to, the idea of voting on our process, I don't know that we have to do that because I think we've been pretty clean up front that we're waiting on the results of this water sample, you know if it means putting in the form of a motion that you

know pending clean water sample results that the Board's intention is to move forward with capping this and I think we can, you know certainly do that, it sounds, I mean clearly that's the way we've been heading.

Board Member Taylor stated the reason for doing that is we give him notice we want a plan in 30 days...

Chairman Rogan stated yeah.

Board Member Taylor stated that's all I'm saying, I mean if we can do it in some other way...

Chairman Rogan stated and Rich, it wasn't Terry Collins, Hahn...

The Secretary stated Terri Hahn.

Chairman Rogan stated Terri Hahn, thank you. Who had already a preliminary plan in place, I imagine if she was the person that was going to prepare this plan would need a viable survey which is in the process of being created, right to base the plan on and some time to pull together the elements of the DEC requirements for properly capping, which is pretty straight forward, it sounds like 2 foot of clean top soil and...

Rich Williams stated well.

Board Member Taylor stated a color layer...

Rich Williams stated yeah.

Chairman Rogan stated yeah.

Rich Williams stated a defining layer.

Chairman Rogan stated yeah, so what in your mind, thinking about this process and where we're headed, what do you think about the time frame that Ron laid out some of the ideas, do you want any ideas about any of that.

Rich Williams stated well the only thing, two areas of concern for me one is whether he's actually going to get us the plan in a timely fashion and where you know, he's constantly shown progress and he's constantly been working with us but it's always been very slow, so I don't know about how quick we're going to get the plan and the other thing in there is there is going to be a little bit of time involved in calculating a bond, getting that bond amount set, getting it approved by the Town Board, there is going to be a little bit of time in there that might push it back but you know Ron if you can leave that with us or make us a copy...

Board Member Taylor stated yeah, I can e-mail it to you.

Rich Williams stated you know I can take a harder look at it and you know we can work on getting it done.

Chairman Rogan stated yeah, I mean I think everyone's intent here is that assuming that the water samples come back clean which the initial indication looks favorable, that we're in a position to move forward in this and not waste time, not that we're now into next October and all of a sudden we haven't gotten any

work done because the cold weather is coming and I think that is everyone's concern that this doesn't drag out to this time next year and we're talking about the same issue...

Rich Williams stated right.

Board Member McNulty stated I have a question, in reference to your timeline and notes, is that addressing both properties or can we only go after his property for the plan or does he have to resolve the issue separately...

Board Member Taylor stated I think the other people resolved to work with us...

Rich Williams stated I don't think you can approve a plan that doesn't address how the fill is going to be coming off the other property, where is this going to go...

Chairman Rogan stated right.

Rich Williams stated is he going to pull it off the site, how is he going to get it off the site, you don't want to really cap everything until, if you're going to be running trucks through it, so the plan needs to address everything...

Ted Kozlowski stated do you know how much fill is on the neighbor's property.

Rich Williams stated no.

Board Member McNulty stated I agree, now do we need the neighbor, though to approve that plan, should they be in this process.

Board Member Taylor stated they are in the process, they've been at the meetings.

Board Member Montesano stated do we know where the property line is.

Board Member McNulty stated okay.

Chairman Rogan stated wait.

Board Member Montesano stated the Town...

Rich Williams stated I know the approximate area of the property line, yes.

Board Member Montesano stated all right.

Rich Williams stated and I don't know how much is good fill that can stay or how much is tree logs that have to get hauled someplace else.

Ted Kozlowski stated well the question is what is he going to do with the fill on the other person's property and are you going to allow him to put it back on his property.

Board Member McNulty stated that's part of the plan.

Ted Kozlowski stated which then becomes a higher amount...

Chairman Rogan stated right and that is one of the elements of the...

Ted Kozlowski stated where's it going.

Chairman Rogan stated response we got from Maser was that, if I remember correctly that it seemed to indicate if you're going to allow this material to stay, they didn't see any harm in take the fill from the neighboring property and using it and maybe that was, maybe I'm thinking about...

Rich Williams stated consolidating it all together.

Chairman Rogan stated yeah and keeping it all on his property, I don't know if he has enough, all the fill that he wanted on his property, at this point if you're moving it from one property to the other...

Rich Williams stated he clearly doesn't, if you all recall, I mean he's got this big depression now where his well is...

Chairman Rogan stated right.

Rich Williams stated between his back door and where he was filling, so he really needs to fill that in to level all that out.

Board Member Taylor stated so what we need to do instead of a resolution maybe is give him a set of guidelines for her to prepare the plan, like we're willing to allow the filling in of the well provided of course the...

Chairman Rogan stated sure.

Board Member Taylor stated and so on that the slopes have to be such and such because there was a discussion about that too where those slopes aren't too steep...

Rich Williams stated right.

Board Member Taylor stated and their lawyer, the other properties lawyer was concerned about this slope that went into their property...

Chairman Rogan stated sure, from wherever the property line, they've got to probably start 10 feet or so, maybe more, depending on the depth away from his property.

Board Member Taylor stated now is that all, is that defined in the Code or something, what those slopes or you have to get it to...

Chairman Rogan stated well it's defined in the sense of with building a residential lot, you would look at, if somebody was filling a section what the slope requirement would be and they'd have to finish that slope before they get to their own property line.

Rich Williams stated I took that as there is no specifically defined minimum or maximum slope within our Code, that's what you were asking, right...

Board Member Taylor stated but is there, there is something you can go by.

Rich Williams stated we generally encourage not greater than 3 on 1 slopes, if you're going to go to 2 on 1 slopes...

Board Member Taylor stated 33%.

Rich Williams stated then you may need some sort of additional stabilization on that slope some, sort of geogrid...

Board Member Taylor stated okay.

Rich Williams stated something like that especially in the case of fill material.

Board Member Taylor stated and so how do we feel about those two options.

Chairman Rogan stated well clearly if that neighbor doesn't want any fill on their property obviously, that means we've got to get back to existing grade at the property line, right so based on one of two, I'm sure he's not going to want to do any kind of retaining wall along his property line, you would have to cut back, if he's sitting on four foot of fill, you have to cut back what, 12 feet, right and then taper from there and that's not even including the cap, so you'd maybe have to go 15 feet back and then start tapering down...

Rich Williams stated right.

Chairman Rogan stated to make that the smooth transition that you want, right.

Rich Williams stated right.

Board Member Montesano stated the question I have is where is the Town line on both, on the second piece of property...

Chairman Rogan stated oh yeah.

Board Member Montesano stated and have we interfered with it and if we haven't then we don't have to bother but have we ever contracted Southeast...

Rich Williams stated we have never contacted...

Board Member Montesano stated in writing.

Rich Williams stated we've never contacted Southeast and based on a review of the aerials, we are nowhere near the Southeast property line.

Board Member Montesano stated okay.

Chairman Rogan stated because that's a residential lot in Patterson that has potential buildability.

Rich Williams stated yes.

Board Member Montesano stated yes, what I'm worried about is if there's any repercussions from Southeast because of drainage...

Chairman Rogan stated sure.

Board Member Montesano stated that may end up going into their line and crossing over and are we going to be held responsible...

Rich Williams stated the drainage goes back to [Interstate] 84.

Chairman Rogan stated goes to [Interstate] 84.

Board Member Montesano stated okay.

Chairman Rogan stated towards the guys well.

Board Member Taylor stated so could you put together a list of like conditions, they wouldn't be conditions but, yeah.

Chairman Rogan stated you know what I like I like the combination of what you just laid out, it is just a chronological thought process, have, e-mail it to Rich, have him take a look at it and interlay that with what Rich obviously knows about our process and codes and come up with what seems like a reasonable progression that allows somebody, even if at the next meeting, in recognition that he's not going to get a plan in 30 days, we say 45 days, it doesn't matter, the time is something that would be reasonable to get the work done and you know, have Mr. Levine know that we need to work conscientiously towards this objective you know, nothing is set in stone at this point...

Board Member Taylor stated right.

Chairman Rogan stated you know, it's still certainly, we're going to waiting for the final results on the water and the other part of this, we were talking a little bit about last meeting, he mentioned the cost and you see it in the correspondence, the cost of these water samples is pretty high and initially Maser, I think it was said quarterly sampling for five years and we had, he had, Mr. Levine had said what about us considering something less than that which I don't blame him for and you know, at this point in time, early on and also understanding that these compounds from what Maser said, tend not to be things that travel rapidly through soil, so these things take time to migrate through the soil. I would almost be more inclined to want a longer ranging water sampling time than getting all of our samples in the first five years so by that I mean, I would be more comfortable with one sample a year or one every six months or a longer time, take the same number of samples but expand them out to a 20 year time frame or whatever, to the point where you know there are trigger levels, hey if there's a hit, now maybe you revert back to a finer, you know if all of a sudden five years, three years from now you have a hit on something and you find something that has met the threshold of contamination in his own water, now we start looking more outward and the neighbors wells, or whatever, I don't know if that's even within our purview and I am also concerned about enforcement, all of a sudden we don't get a water sample one year, what does the Town do, do we now pick up the cost of doing it.

Rich Williams stated well I mean we could establish that as condition of the permit then he would be in violation of our code, assuming that they don't eliminate the code.

Chairman Rogan stated right.

Rich Williams stated my greater question, I'm sitting here listening to you and thinking, what if he sells the property.

Chairman Rogan stated well that...

Rich Williams stated how about the new property.

Chairman Rogan stated that's a...

Rich Williams stated so I think we need to talk to Town Attorney about these conditions being bound to the property...

Chairman Rogan stated yeah.

Rich Williams stated and not the owner.

Chairman Rogan stated absolutely.

Ted Kozlowski stated the other issue you're going to have with that sampling scenario is say everything comes out zero right now, okay...

Chairman Rogan stated yeah.

Ted Kozlowski stated and in five years it's all zero's but there are a couple of ones, what is your threshold and then the argument is going to be how do you know it's my fill doing that, okay, it's going to be, we're going to get ourselves into a scenario, situation where it's going to be hard to prove that he, that fill actually is causing it, that's what...

Rich Williams stated I'm not so worried about that...

Chairman Rogan stated not with having all that fill that we've documented right over...

Ted Kozlowski stated you know, you may say that and it looks obvious, that's not always the case.

Rich Williams stated the chemicals in that fill are not naturally occurring chemicals that we have in the area...

Ted Kozlowski stated Rich they'll get somebody that will say, you don't know what's buried over there, you don't know what was used for fill when the house was built, those arguments can be made, and it's not going to be that easy.

Rich Williams stated that doesn't pass the duck test.

Ted Kozlowski stated I'm telling you.

Chairman Rogan stated yeah, but even if that were to happen, forget about them saying well it came from someplace else, what does the Town do in terms of an action at that point, now all of a sudden, let's say five years from now we have a contaminated well, do we now put into this approval process that the Town reserves the right for, to require removal at a later because this is pretty, that's pretty involved to now say five, ten years from now, okay now you've got a contaminated well, now you have to remove, the reality is removing the material at that point doesn't solve the contamination, it's already in the ground...

Rich Williams stated correct.

Chairman Rogan stated it's beyond the limits of the fill and we do have to remember the deed restriction they recommended on this, however it's documented that this property has known contaminated fill just because it's not in the water doesn't mean it's not a concern. For all these reasons everybody just spoke about, it's this, it still stinks this whole, you know what we're caught in the middle of here...

Board Member Montesano stated but we're stuck with it because the State is not doing their job at the present time...

Board Member Taylor stated well that's...

Board Member Montesano stated which is by rights, this is where they should be.

Chairman Rogan stated yeah well and we're...

Ted Kozlowski stated again you're saying you're stuck, order him to take it out.

Chairman Rogan stated well I was just going to say this whole conversation comes down to dollar and cents...

Ted Kozlowski stated take it out, you put it there, take it out.

Chairman Rogan stated it comes down to whether or not it's reasonable and feasible to remove this stuff, if he came in and said well I found out it's going to be a thousand dollars to remove the fill, we would all be saying well then remove the fill but it's clear that this has come down to an economic decision.

Board Member Montesano stated it's an economic decision, what would it be, we don't know the breaking point where he just says okay and one night he walks away.

Board Member Taylor stated but that's why I'm trying to get financials into this so that we establish a breaking point as soon as possible because I think even that, removing half the fill which is what he is going to be doing essentially from his neighbor's and when he sees what it really is and goes to a bank and tries to get a bond I don't think he, is he going to come up with that money, I mean he's complaining about water tests, it's nothing compared to what this stuff is going to cost to be removed.

Board Member Montesano stated well his property right now when you get down to it, basically is useless, who would buy it...

Board Member Taylor stated yeah he's probably...

Chairman Rogan stated that's what the lawyer opined.

Board Member Taylor stated it's also probably worthless.

Chairman Rogan stated that's what the lawyer basically, Mike Liguoria, Liguori.

The Secretary stated Liguori.

Board Member McNulty stated well what we need, you establish a timeline, guidelines, let's put this in place, put them to the timeline and then it's up to the engineers to come up with the plan, we're not experts in this.

Board Member Taylor stated all I'm trying to say is that we need to reach that point where we know he either is going to try to remove it or not try to remove it and if he can't, then I think right away, we validate the process and go back to it's got to come out completely, I don't see any point in anymore if he's not going to do then it's going to be the bank, it's going to be the State, it's going to be whoever we come up with to deal with it, that is also why we should be still after the State on this...

Chairman Rogan stated yeah.

Board Member Taylor stated because if he does back out, what are we left with, the Town's not going to pay for going in there, is it...

Rich Williams stated probably not but you know, the State's not going to pay to go in there either.

Board Member McNulty stated can't we rezone it for a service station with fuel tanks and they can get special discounts to clean it up...

Board Member Taylor stated come up with something.

Board Member Montesano stated we just get a little dot, a little dot on the map...

Board Member Taylor stated do it all the time, you re-zone spot zoning, why not.

Board Member Montesano stated that says superfund possibilities...

Board Member McNulty stated Ron, is that the e-mail that you previously sent because I saw you had one with...

Board Member Taylor stated no, I didn't send this out...

Board Member McNulty stated okay.

Board Member Taylor stated I got so much flack the last time I sent out too many e-mails that I didn't e-mail anything this time.

Board Member McNulty stated no flack from me.

Board Member Taylor stated all right, it seems like we agreed to move ahead in detail on this and I'm not sticking to the timeline, I just started to calculate it out and it was like...

Chairman Rogan stated before you know...

Board Member Taylor stated yeah, before we know it, we're through the summer.

Chairman Rogan stated yup, you're basically saying, if it takes you know a month...

Board Member Taylor stated takes 60 days a step.

Chairman Rogan stated or a month and a half from now to even get a plan, you have to review it, you have to give time for comment and maybe revision and before you know it, we're...

Board Member Montesano stated how much time have we spent...

Chairman Rogan stated yeah.

Board Member Montesano stated hour wise compared to every other...

Board Member McNulty stated a year and a half.

Chairman Rogan stated well...

Board Member Montesano stated thing that we've processed in the last year.

Board Member Taylor stated yeah.

Chairman Rogan stated and I'm glad you said that Mike because the reality on this whole conversation is it's more important for us to get it right then get it quick...

Board Member Montesano stated definitely.

Chairman Rogan stated when all is said and done we want to have this process done where the Town and the residents are protected and the Town isn't left on the hook for these costs and we can, you know we can enforce what we say we want to do because it's tough in this case, this is not an easy one by any stretch...

3) WATCHTOWER EDUCATION CENTER – Amended Site Plan Review

Chairman Rogan stated all right moving on to lighter matters, Watchtower Education Center...

Board Member Montesano stated does the next person coming on here realize what we're up against.

Rich Williams stated I am still working on the Findings Statement...

Board Member Taylor stated I don't really need this, I can send an e-mail...

Chairman Rogan stated you want a photocopy.

Board Member Montesano stated this is Watchtower's...

Rich Williams stated you can send it to me too, you know.

Board Member Taylor stated well I assume if I send it to her, you'd get it.

Chairman Rogan stated oh, Ted, nice inside voice.

The Secretary stated that's very true.

Ted Kozlowski stated what.

Chairman Rogan stated nice inside voice that you used.

Rich Williams stated sometimes.

The Secretary stated that's not true.

Chairman Rogan stated it was nice, whisper tone, very quiet, right, right Michelle.

The Secretary stated I'm sorry, what

Chairman Rogan stated did you appreciate you Ted's inside voice.

The Secretary stated I did appreciate Ted's inside voice, thank you Ted.

Chairman Rogan stated very nice.

Ted Kozlowski stated I didn't realize it.

Board Member Montesano stated we'll have to get a megaphone so we can...

4) ALPINE RESTAURANT – Site Plan Waiver

Rich Williams stated Alpine Restaurant I left on the agenda just because it's an ongoing issue, they haven't resolved anything with the fence. I did talk to Dino Rentoulis and he felt that there was nothing new at this time and that he was going to send a letter in asking it to be tabled.

5) THUNDER RIDGE SKI AREA – Site Plan Waiver

Rich Williams stated Thunder Ridge we still have the open issue with the parking out there that was never resolved at the last meeting due to a lack of a quorum and I've got to reach out to John to see where we are, I have had no contact with anybody since that last meeting and I've been watching, they haven't been using the area for parking but they have been parking everywhere and Nick has actually sent them a letter at this point...

Board Member McNulty stated I actually drove up there today, to take a look at everything and there was no activity at the parking lot, I see the fence is down now on the south side...

Chairman Rogan stated right.

Board Member Montesano stated this morning they were all parked on the road.

Board Member McNulty stated and the cars were pulled straight in against where the fence was, when I came in from the ski slope side, what I find very strange is when you come towards [Route] 22 there is that big one way sign, almost like directing you to make a right, is that the design of that or is the right of way straight out to [Route] 22.

Rich Williams stated there are signs on either end of the road that say you can't turn in against the traffic.

Board Member McNulty stated at the restaurant, the right of way from [Route] 22 to Thunder Ridge Road.

Rich Williams stated oh, oh, oh, the traffic flow in there is supposed to be from that cross area, down past the restaurant and out behind the tattoo parlor.

Board Member McNulty stated so you're not supposed to continue straight out to [Route] 22 and make a right.

Chairman Rogan stated oh, it's supposed to go behind the tattoo parlor, I would have never guessed that.

Board Member McNulty stated the one way sign kind of directs you that way but you have this big open roadway with the sign splitting, dividing the road, it's...

Board Member Taylor stated it's confusing.

Board Member McNulty stated it's very confusing.

Chairman Rogan stated and that's from a Planning professional such as yourself.

Board Member McNulty stated I was going to accidentally back into that sign, just to clear things up.

Board Member Montesano stated just make like you're a senior citizen.

Ted Kozlowski stated people were parking there Monday on that road.

Chairman Rogan stated what's that.

Ted Kozlowski stated Monday night when I drove by, they were all parked where they're not supposed to.

Board Member McNulty stated I just found it, it looks like you're supposed to go but then you turn right and then there are arrows coming at you and then the road runs out and it's gravel, it's just very odd and the purpose of that is not to have people from directly out to the main [Route] 22 intersection, I just wasn't following it.

Rich Williams stated it was to keep the flow on the site going in one direction...

Board Member McNulty stated yeah it just seems like it...

Rich Williams stated it was designed by engineers and we know they're impeccable.

Board Member Montesano stated perfect.

Rich Williams stated infallible.

Board Member McNulty stated okay, it just seemed very strange to be led behind the building when 20 feet is [Route] 22.

Rich Williams stated well it's really set up for when there is actual traffic in that area and parking in that area and it flows in with the parking scheme...

Board Member McNulty stated okay.

Rich Williams stated you know, you've got an empty parking out there, traffic signs never make any sense at all.

Board Member McNulty stated there were a bunch of cars there today, it was all pulled in, I could see reading the notes where it's narrow along the front of the restaurant when those cars are pulled in straight like that.

Board Member Montesano stated it was all the problem of them, what the heck was that, the comic book shop or the game shop that was there that time, they used to meet every Tuesday...

Rich Williams stated bike shop; we did it when there was a bike shop there.

Board Member McNulty stated so we're looking at the next meeting, at the meeting coming up to make the site plan waiver based on the plan, I'm kind of coming into this late and I want to catch up to speed based on this plan here.

Rich Williams stated I'll tell you the way the winter's going, I don't know that you want to waive everything. You just want to tell them there are parking issues out there, you have to deal with them.

Board Member McNulty stated I'm almost with you, it's private property to, parking is your problem, take care of it, that's not a Town road that right of way between the restaurant and [Route] 22, correct.

Rich Williams stated it is not, they have to maintain free access to the restaurant and they can use it any way they see fit that they have a site plan to do that.

Board Member McNulty stated they do.

Rich Williams stated they don't.

Board Member McNulty stated oh they don't.

Rich Williams stated and that was one of the issues...

Board Member Taylor stated that's why they want a waiver.

Board Member McNulty stated well but looking they want a waiver on the 6.8 acre lot, correct...

Rich Williams stated correct.

Board Member Taylor stated both of them want waivers.

Board Member McNulty stated well they have an application for a waiver at the restaurant right of way, as well.

Rich Williams stated no, I think what Ron was referring to was a waiver for the fence.

Board Member Taylor state dyes, Alpine wants a waiver for the fence.

Board Member McNulty stated so Alpine wants a waiver for the fence, Patterson LLC wants a waiver...

Board Member Taylor stated Thunder Ridge wants to be able to park.

Board Member McNulty stated for that 6.8 acres as a parking area.

Board Member Taylor stated yes.

Rich Williams stated but only because it was critical that they have sufficient parking out there this season...

Board Member McNulty stated parking now yes.

Rich Williams stated this season seems to be washed away...

Ted Kozlowski stated I don't think you can even walk in there right now.

Board Member McNulty stated I drove in there today.

Ted Kozlowski stated in that parking lot.

Board Member McNulty stated yeah, I didn't go up the gravel though.

Chairman Rogan stated you wouldn't, you would lose a vehicle I would think.

Board Member McNulty stated I was tempted though to try my four wheel drive.

Chairman Rogan stated it might have been up to your wheel wells, yeah...

Rich Williams stated yeah, not a good place to try it.

Chairman Rogan stated no.

Board Member McNulty stated well I think you have frost in the ground, there's only 4 or 5 inches of mud on top.

Board Member Montesano stated hopefully, so you won't hit too far into your axel and just sit there and spin.

Rich Williams stated if you want to go over there after this, we can go test your theory with your truck...

Board Member McNulty stated let's do it, see if the Ford outruns your Chevy.

Rich Williams stated oh I'm not going up there.

Chairman Rogan stated no, no, he said with your truck.

Board Member McNulty stated Chevy owner's chicken.

Rich Williams stated we're smart.

Board Member Taylor stated did we say something about Watchtower.

Watchtower Education Center Discussion

Chairman Rogan stated we did, Rich is working on the Findings Statement.

Board Member Taylor stated oh okay, I've got some things to say about Watchtower.

Chairman Rogan stated okay, let's...

Ted Kozlowski stated Rich, did you read these comments by DEP, the last comments about the plantings.

Rich Williams stated is this on Watchtower.

Ted Kozlowski stated yes.

Board Member Montesano stated yes.

Rich Williams stated yes.

Ted Kozlowski stated the Norway spruce.

Board Member Montesano stated I was wondering about that.

Rich Williams stated and whose comments were they.

Ted Kozlowski stated your girlfriend, Cynthia Garcia.

Rich Williams stated from DEP.

Ted Kozlowski stated yeah.

Board Member McNulty stated I didn't read these yet.

Rich Williams stated I guess that ends that discussion, doesn't it.

Ted Kozlowski stated just for you guys, what Rich and I are referring to is they are claiming Norway spruce is an invasive that is going to take over a wetland and I have never seen that and I would like to see that proved, so that is a real far shot, I'm a little surprised they...

Rich Williams stated invasive.

Ted Kozlowski stated yeah...

Board Member Montesano stated well they came from Norway right.

Rich Williams stated where did the comments come from.

Chairman Rogan stated back...

Board Member Taylor stated as, first I want to ask have people read this, did they read the first volume of the Watchtower FEIS...

Chairman Rogan stated I couldn't quote it verse and chapter, that's for sure.

Board Member Taylor stated but you read it, I mean for at least the first, what is it, ten pages where they cover the comments...

Board Member Montesano stated couple of pages...

Board Member McNulty stated I did go through it just briefly, made a couple notes...

Board Member Taylor stated okay good.

Board Member McNulty stated but we approved that, didn't we...

Board Member Montesano stated anything to make it lighter.

Board Member Taylor stated we approve it as complete but we haven't made...

Chairman Rogan stated that's what the...

Board Member Taylor stated that is what the Findings Statement is about...

Chairman Rogan stated right.

Board Member Taylor stated we haven't evaluated it in terms of whether it meets SEQRA or not, that's the next step.

Rich Williams stated oh no, that's what finding it complete does.

Board Member McNulty stated yes.

Rich Williams stated the Findings Statement now is a statement by the Planning Board of what the proposed action is going to be and what mitigation is being imposed and also identifying what adverse impacts cannot be avoided but you basically...

Board Member Taylor stated okay so we're past that point.

Board Member McNulty stated so SEQRA is completed when we found, the finding, the final draft document, the final document as complete, basically approves SEQRA, correct.

Rich Williams stated the final environmental impact statement, the environmental impact statement as a whole, both draft and final, once you've found the final complete, that ends it, we're not reviewing the final impact statement anymore.

Board Member Taylor stated right, I understand we're not reviewing it but there were some things, DEP has said some things...

Rich Williams stated yes.

Board Member Taylor stated do they still have review of this, there are some things they said that were needed that were not included.

Rich Williams stated there are always some things that have not been included in anything they look at, including things like you know not using Norway spruce because they are invasive and the question is, you know with a comment like that, is that really a site plan issue or is, does that have to do with the project, it's impacts and how they might be mitigated.

Board Member Taylor stated well but that's then, that's the way I'm viewing it that these are things we've just got to watch as we go through the process.

Rich Williams stated most of what they have in there, we have to watch as we go through the process.

Board Member McNulty stated that's the way I understood it now, we found it complete, now through the final site plan review, we will tweak the plans...

Rich Williams stated true.

Board Member McNulty stated and make adjustments, correct.

Rich Williams stated it's been awhile since I've read DEP's letter but if I recall it, they were essentially raising issues that they felt were deficient within the FEIS that should be addressed, again them not understanding the process.

Board Member Taylor stated anyway, so I've got, I can also send this out as e-mail, I kind of want to discuss a few of the things, somebody called for a blasting study and the response was but there's no nearby neighbors, we don't need a study. Impervious surface mitigation measures, the mountain brook should be studied to determine if it should be updated to a protected stream, Watchtower didn't say, they kind of talked around that one, they said it wasn't a protect stream but the DEC or I think it was DEP was

saying you should do a study to determine whether it still an unprotected stream or should it be upgrade and they didn't address the question...

Rich Williams stated no, they didn't.

Board Member Taylor stated so it's, so I mean, do we care or does that affect the process farther on down the line.

Rich Williams stated well the reality, whether a stream, the rating a stream is done by DEC...

Ted Kozlowski stated right.

Rich Williams stated through a review process.

Ted Kozlowski stated Ron, it is rated by DEC but the thing is, there already is a stream crossing there and we are just asking them you know, what we've asked them to do, what I've asked them to do was cross that stream and put that stuff on the open field which is far less environmentally...

Board Member Taylor stated right...

Ted Kozlowski stated challenging than the previous location and the stream that, that stream crossing right there is not going to matter what it's classified because they already have a crossing there...

Board Member Taylor stated okay.

Ted Kozlowski stated it's not a new crossing, it's not like...

Board Member Taylor stated right, yeah okay.

Ted Kozlowski stated you know, they're clearing an area and going through a pristine stream, it's already there.

Board Member Taylor stated all right, so it's not significant.

Rich Williams stated that's assuming that they are still going to put the soil in that area and we'll get to that after Ron says what he has to say.

Ted Kozlowski stated right, why did they change that.

Rich Williams stated let Ron finish.

Board Member Taylor stated water quality testing in the unnamed stream, for some reason they don't want to test the water in the unnamed stream, do we, again, do we care, I mean it is the one stream most affected...

Rich Williams stated sure.

Board Member Taylor stated by runoff.

Rich Williams stated right but we've got to treat the runoff and we've got to treat it to State standards to make sure that there is no impact, as per the Clean Water Act, so we're, you know the State has established standards by which we have to treat the stormwater runoff to ensure that there's not going to be an impact, we're doing that so why do we need to...

Board Member Taylor stated so we don't need a baseline.

Rich Williams stated I don't think we need a baseline.

Board Member Taylor stated okay, that's fine, New England cotton tail, DEC says they want a study of the New England cotton tail and Watchtower says it doesn't apply to the property, it's like the Norway spruce again, do we care, we don't, okay. The signal, I would like a clarification, I'm curious, if they have to put a traffic signal in, they said they're willing to, they're willing to bear their fair share of installation expense...

Rich Williams stated right.

Board Member Taylor stated what is the fair share of installation expense, is that defined in the Code or is it...

Rich Williams stated no it's not, it's whether or not they put a traffic signal at the intersection is going to be based on the amount of traffic coming off the site and the amount of traffic flowing through on Route 22, essentially DEP establishes those standards called warrants...

Board Member Taylor stated yeah.

Rich Williams stated and if, this is a funny way to say it but if a traffic signal is warranted...

Board Member Taylor stated by warrant...

Rich Williams stated yes, by warrant, DOT is going to require Watchtower to put it in.

Board Member Taylor stated so they're going to have to pay for it.

Rich Williams stated they're going to have to pay for it.

Board Member Taylor stated okay, so it's...

Chairman Rogan stated so they'll pay their fair share.

Rich Williams stated and that's going to be their fair share.

Board Member Taylor stated okay, all right, that's fine, I thought it was very odd the way they put it. All right, again, parking, we're going to deal with that as part of the plan, right...

Rich Williams stated yes.

Board Member Taylor stated yeah, so that's, they went through rig amoral about parking, the rest of it is I don't, this whole discussion, the discussion about alternatives I thought was interesting, evaluating

alternatives, that was really what we missed on Thunder Ridge, it just seemed like they were talking across each other because one of the alternatives was a lower impact site, right...

Rich Williams stated right.

Board Member Taylor stated and so DEC was saying you should consider that because it's lower impact or DEP was saying it and Watchtower said but we're redesigned it and it's going to be lower impact but they never compared it to their lower impact study, so it was like apples and oranges and they weren't, so again, do we care about that in any way, I mean we've decided that visual impacts are not significant right since we've decided that...

Rich Williams stated yeah I would say the Board has come to that conclusion.

Board Member Taylor stated yeah.

Rich Williams stated I don't know that I'd jump in there yet.

Board Member Taylor stated but if we approved the SEQRA...

Rich Williams stated yes.

Board Member Taylor stated then we've approved that right.

Rich Williams stated well no the Findings Statement is the final step where you're going to say the visual impacts are not significant if they are mitigated in such a fashion...

Board Member Taylor stated right.

Rich Williams stated that's what I'm looking at now.

Board Member Taylor stated or we'll say they are significant and they are going to deny the process.

Rich Williams stated and deny it, right.

Board Member Taylor stated all right, so I'm not wrong about this then, that's what a Findings Statement is...

Rich Williams stated that's what a Findings Statement is but all...

Board Member Taylor stated yeah, okay, we're evaluating this stuff.

Rich Williams stated correct...

Board Member Taylor stated yeah.

Rich Williams stated all I was saying is the impact statement is done...

Board Member Taylor stated yes, right.

Rich Williams stated we're not revising that.

Board Member Taylor stated so...

Board Member McNulty stated oh and we haven't finalized it until we get the Findings Statement...

Board Member Taylor stated well even then.

Rich Williams stated the impact statement is done the Findings Statement is a new document, another step.

Board Member McNulty stated but we've agreed that it's done, that's all we've done so far.

Board Member Taylor stated yes, we are not evaluating it.

Board Member McNulty stated yes.

Board Member Taylor stated and deciding whether we're going to, yeah okay, so it's just a list of questions, are we happy with these things, it seems like there were some points that weren't really addressed, does it matter, I mean the engineer looked at it and said they'll deal with that in a site plan but then there are some of these other issues that just...

Board Member McNulty stated there were visual effects because there were some pretty high buildings up there and I saw in the work session notes, Ron you brought up about making a site walk, I've never been up there...

Board Member Taylor stated no, I haven't been up there either.

Chairman Rogan stated yeah.

Board Member McNulty stated can we combine that on this coming Saturday.

Rich Williams stated we had talked about that and we had left that it when the weather turned nice in the spring that I was going to reach out to Watchtower.

Chairman Rogan stated spend a little bit of time because they'll want to show you more than just you want to see in ten minutes.

Board Member Montesano stated they want to show you all the stuff that they've...

Chairman Rogan stated you want to wait until May for that probably, when the blossoms are out.

Board Member McNulty stated yeah but what, I don't know if it would help us with this, looking at the Findings Statement.

Ted Kozlowski stated it shouldn't.

Board Member McNulty stated no.

Rich Williams stated it will help you with the site plan.

Board Member McNulty stated okay.

Board Member Montesano stated just remember sometimes you have to bring a little shopping bag because they dump all the fruit and stuff on you.

Board Member Taylor stated for the view thing, I think you need go up on Cornwall Hill Road, or Couch Road and look across before the trees come out because then you can compare their pictures, their drawings with, but beyond that I don't think it's going to help us any...

Board Member Montesano stated you still get the over, the fly over for pictures.

Board Member Taylor stated because they're not really site issues, they are more theoretical issues, I mean at least what I've got here, so I'll give this to you Rich, I don't know how to proceed with some of this stuff...

Chairman Rogan stated I don't believe pictures anymore anyway.

Board Member McNulty stated you can't, they're all doctored.

Rich Williams stated all right, I'll take a look at it, just to jump back to what I started to say to Ted and I wanted Ron to finish up his thoughts, my biggest concern with DEP's comments is the statement they made in there that any encroachment from a redeveloped site into a wetland or buffer, automatically limits any potential development of the site to 25%.

Board Member McNulty stated 25% of what.

Rich Williams stated a 25% expansion that is going to knock the bejesus out of the project.

Ted Kozlowski stated what are you saying.

Board Member Taylor stated and where did they get that from.

Chairman Rogan stated expansion of existing impervious surfaces, rules and regulations for protection of contamination, it's on the second page...

Board Member Montesano stated yeah.

Chairman Rogan stated it says limits the total expansion of impervious surfaces at an existing facility to 25% should any of the new impervious surfaces be located within 100 feet of a watercourse, the site plan indicates that sidewalks, drop-off areas, a bridge, a haul road are proposed within this limiting distance, therefore total expansion of impervious surfaces on the site will be limited to 25% if any of these elements are impervious. The applicant should note that although pervious pavement is a green infrastructure practice, some types of pavers are considered impervious for the purpose of limiting distances put forth in watershed regs.

Rich Williams stated now I took a look at their plan and they could knock most, there are very little areas of impervious surface within 100 feet of a limiting watercourse...

Chairman Rogan stated right.

Rich Williams stated but what concerned me is they listed the haul road, so...

Ted Kozlowski stated but the haul road is going to be, is that going to be a paved road...

Chairman Rogan stated it's a temporary.

Ted Kozlowski stated or a dirt road.

Rich Williams stated it's probably not going to be paved.

Ted Kozlowski stated then it's not impervious.

Rich Williams stated but they're like everybody else now, if it doesn't have vegetation it's impervious.

Ted Kozlowski stated well the bridge is...

Rich Williams stated so they may have to abandon the concept of the haul road crossing that stream, which means they are back up on top.

Ted Kozlowski stated that ain't good, we won't tell DEP. And the bridge, he's kept the bridge, the bridge is already there, they are replacing the bridge so that counts as additional impervious surface.

Rich Williams stated listen I think that statement and that regulation, I wouldn't agree with when it was put into their regulatory changes that that is the way I would have interpreted that, I would have interpreted it the way I thought it was, was that it limited any new impervious surface within a wetland, stream to a 25% increase...

Chairman Rogan stated right.

Ted Kozlowski stated right.

Rich Williams stated not a 25% limitation on any development impervious surface on the site.

Ted Kozlowski stated what if they rename...

Chairman Rogan stated that's, the two are not correlated.

Ted Kozlowski stated thinking of Mezger's property, what if they rename the whole road a farm road, does that make it an impervious road.

Rich Williams stated all I'm saying is we got that comment, I imagine Watchtower is twisting saying we're not going to fight the fight, we're going to redesign our project to get as much out of the buffer as we can, if not all of it out, which means that haul road is going to be in their crosshairs.

Ted Kozlowski stated let's see what they say...

Rich Williams stated of course we're going to.

Ted Kozlowski stated this memo, whatever...

Board Member McNulty stated right here, covered up.

Chairman Rogan stated that's why we have professionals such as you guys.

Board Member Montesano stated that's why I asked you to look at that because I thought between the two of you, you'd have laughing across the hearing.

Ted Kozlowski stated DEP, consider the alternative which is far more disruptive environmentally, it's amazing but I wouldn't be surprised...

Rich Williams stated all right, moving on.

Chairman Rogan stated all right, moving onward and upward...

6) ANTHONY BONIELLE/B&V REALTY – Lot Line Adjustment

Chairman Rogan stated we have an application for a lot line adjustment from...

Board Member Montesano stated Boniello.

Chairman Rogan stated Mr. Boniello and somewhere, I lost my agenda, here it is, what does it look like Mike.

Board Member Montesano stated I don't want to get it too close to that.

Chairman Rogan stated no. All right, so we're out on [Route] 22 over here, here is the commercial space, here is the residential lot, and here, to be removed, so this line here, this easement, so in essence the existing driveway is not currently on their property, it's via an easement, is that correct...

Rich Williams stated correct.

Chairman Rogan stated and it goes like this, no...

Rich Williams stated so what they're going to do, this is the current property line, this is the boundary of the parcel, they are eliminating this property and moving it this way so they have 200 feet of frontage on to Route 22 and their driveway is on their property.

Chairman Rogan stated is that because this house was part of the commercial, this was all one lot.

Rich Williams stated I don't know how this lot came to be.

Chairman Rogan stated that's crazy, right.

Rich Williams stated yeah.

Chairman Rogan stated so they will have 200 foot of frontage but still not this section here, the 30 feet, just the...

Rich Williams stated yes, no, they'll have that.

Chairman Rogan stated oh 200 so this whole box...

Rich Williams stated 30 feet is the easement, right.

Chairman Rogan stated will now be there, well that cleans that up.

Rich Williams stated yup, at the same time this plan proposes to merge this lot with this lot.

Board Member Montesano stated so you can divide here, so he can just...

Board Member McNulty stated so this line go away.

Rich Williams stated right.

Chairman Rogan stated okay, well that makes sense, so that puts this single story house on the same piece of property as the commercial.

Rich Williams stated right.

Chairman Rogan stated okay.

Board Member McNulty stated so then it all becomes commercial, well I guess it is now.

Rich Williams stated well it's got a pre-existing, non-conforming residential use of the building.

Chairman Rogan stated so does that, what does that gain them, eliminating that line, it gains them setbacks from...

Rich Williams stated frontage.

Chairman Rogan stated frontage.

Rich Williams stated by doing this and taking this, they wouldn't meet the frontage requirements...

Chairman Rogan stated okay.

Rich Williams stated by combining them, now they still meet both frontage requirements.

Chairman Rogan stated okay.

Ted Kozlowski stated now remember he came in and discussed with everybody about putting a driveway between that house and the commercial zone, to the north of the pond to access the back to make another lot...

Chairman Rogan stated yeah.

Ted Kozlowski stated by doing that, doing this now, does he eliminate that possibility.

Rich Williams stated well it's not eliminated.

Ted Kozlowski stated but it makes it another adventure, right.

Rich Williams stated yes.

Ted Kozlowski stated okay, just wanted to know.

Board Member McNulty stated where did he want to put the house, back up in here...

Chairman Rogan stated yeah.

Ted Kozlowski stated nothing surprises me.

Board Member Montesano stated they wanted them up at the top here.

Ted Kozlowski stated yes.

Rich Williams stated I got a good one for you.

Board Member Montesano stated uh-oh.

Chairman Rogan stated all you.

Rich Williams stated no, later.

Chairman Rogan stated oh, all right.

Ted Kozlowski stated but again, you know...

Rich Williams stated so I did take a look at this, you do have a review memo, this cleans up this which I think is a great idea because this with no frontage just doesn't make a lot of sense...

Chairman Rogan stated no.

Rich Williams stated and it reduces the non-conformity of the lot, I did point out some existing areas of non-conforming zoning on the commercial property which are not pre-existing, non-conforming but they are there whether you do this or you don't do this, at some point they have to be addressed. There are some revisions that need to be made to this plan and I'm hoping that's not going to be a real issue for him because this plan was done in 2010.

Chairman Rogan stated okay.

Rich Williams stated so other than that I think it's straightforward and if nobody has a problem with it, I can do a resolution for the next meeting.

Board Member Montesano stated makes it easier on that.

Chairman Rogan stated based on what you're saying, I don't have a problem, I don't know if I have a problem based on what you're not saying.

Rich Williams stated I do want to point one of the things this driveway is shown partially on the adjacent property but again that's, you know...

Chairman Rogan stated still...

Rich Williams stated a condition that's been there a long time and it's really between the two property owners at this point.

Chairman Rogan stated we're not approving the driveway on this plan, we're just approving the lot line, so.

Rich Williams stated right, but I did want to point all these things out in the memo so you know, that at some later date somebody doesn't come back and say why didn't you, why didn't you identify this...

Chairman Rogan stated you approved it that way, right.

Board Member Taylor stated now are there any outstanding violations on this property.

Board Member McNulty stated which property.

Board Member Taylor stated the commercial property.

Chairman Rogan stated we're looking at changes to the lot lines on both.

Board Member McNulty stated lot one, I believe lot one has violations, right.

Chairman Rogan stated I think the commercial site has some issues.

Board Member Taylor stated are they violations.

Rich Williams stated well it's got a trailer on there we haven't seen before that isn't really permitted, they constructed a patio within the front yard setback which he's aware of that they need a zoning variance for...

Chairman Rogan stated seems like we dealt with that a couple of years ago, I thought that was, just hasn't finished...

Board Member McNulty stated that was when I first came on the Board.

Rich Williams stated we identified it a couple of years ago.

Chairman Rogan stated hasn't finished the process, okay.

Rich Williams stated right.

Board Member Taylor stated did we not...

Chairman Rogan stated what we're seeing here on the plan is existing, we're not seeing the proposed site plan for what we were working on which obviously I know you can't look at that on this type of a format would cleanup some of these buildings, you know that was a whole, it would be interesting to see this...

Rich Williams stated all this is, yeah, all this is gone...

Chairman Rogan stated yeah it was all gone, you know but who knows with the economy and...

Board Member McNulty stated his interest was to build a house back in here, correct.

Board Member Montesano stated two houses.

Rich Williams stated well he had expressed at different times, two, four houses, one house...

Board Member McNulty stated and how would he access that, I know there was...

Rich Williams stated that's always been the problem.

Chairman Rogan stated that was the whole question.

Board Member McNulty stated because he's got a steep incline somewhere around here.

Board Member Montesano stated yes.

Chairman Rogan stated about here...

Rich Williams stated and he has to cross through wetlands.

Chairman Rogan stated there is a wetland here...

Board Member Montesano stated they'd need a cable car.

Board Member McNulty stated but where would he come from...

Chairman Rogan stated well that was the whole thing.

Board Member McNulty stated or through this property.

Chairman Rogan stated at one time they proposed coming right through the commercial yard and we told him no way, no how and what we told him 6 months ago, was it a year ago maybe he was in, he would have figure out a way to in through here somehow.

Rich Williams stated I'm not sure it wasn't over the summer, last year.

Chairman Rogan stated yeah, it wasn't that long ago.

Board Member McNulty stated it wasn't long ago, now the property...

Ted Kozlowski stated is that an issue...

Board Member McNulty stated on either side, is that residential or commercial, this is that big commercial lot, that's approved right.

Rich Williams stated yeah, the one to the south is definitely all commercial, the one to the north the front up in this area that definitely commercial and I think it breaks back here and...

Board Member McNulty stated and is this...

Rich Williams stated no, the back is all commercial too because the back is all the racetrack.

Board Member Montesano stated yeah.

Board Member McNulty stated is this Ballyhack [Road] back...

Chairman Rogan stated here take a look at this...

Board Member McNulty stated this is residential...

Chairman Rogan stated that's, we have, yeah, we have a subdivision back there.

Rich Williams stated Thykeson...

The Secretary stated Leonidas.

Rich Williams stated trying to think of the other name.

Chairman Rogan stated so many different names.

The Secretary stated Consortium...

Ted Kozlowski stated doesn't he back Taggart, he backs Taggart.

Chairman Rogan stated yeah, that was the one.

Rich Williams stated that's the one we're talking about.

Board Member Montesano stated we've...

Board Member McNulty stated Taggart, these are commercial.

Chairman Rogan stated at one time we were showing access to this property from the back but that was under the previous subdivision...

Rich Williams stated right.

Chairman Rogan stated and then when it came in under the new one, they erased it...

Board Member Montesano stated eliminated it, because we're trying to get him to acquire a lot.

Board Member McNulty stated but he hasn't talked about that anymore, he's not...

Chairman Rogan stated no, it's not on the table, he doesn't have the ability.

Board Member McNulty stated oh okay...

Ted Kozlowski stated not right now.

Chairman Rogan stated well not right now.

Board Member Montesano stated wait give us a...

Board Member McNulty stated because I'm saying bring the lot line right across here and make this residential...

Chairman Rogan stated oh yeah.

Board Member Taylor stated so the question is, if there are outstanding violations, are we going to operate on this plan or are we, as we discussed before with not getting involved...

Chairman Rogan stated yeah, that's right.

Ted Kozlowski stated oh god.

Board Member Taylor stated with doing anything.

Chairman Rogan stated yeah I didn't realize when we were talking about this that it involved both properties.

Ted Kozlowski stated so...

Board Member McNulty stated so the question is, are there actual violations of, notice of violations to him or is it just issues that are open.

Rich Williams stated they are open issues, nobody has issued a notice of violation.

Board Member McNulty stated so that clears that problem, there is no violation.

Chairman Rogan stated well that...

Board Member Taylor stated well it doesn't clear that problem because we, it's not in the Code that we're allowed to do that anyway, we were trying to use it as a measure of getting people to complete with actions and are we going to use that as a strategy or aren't we, that's what we need to decide and if we're going to use it was strategy then it needs apply universally, we can't pick and choose who we apply it to. We were applying it to somebody recently...

Board Member Montesano stated and they're back again I believe.

Board Member McNulty stated it was Rocchio, wasn't it, the guy with the equipment on his property.

Board Member Montesano stated Patterson Garden Center was one, we will be discussing tonight.

Board Member Taylor stated that was a different one.

Board Member McNulty stated I was out of the loop on that. I think you're thinking about the guy with the chickens, put the culvert in his backyard...

Board Member Montesano stated oh yeah.

Board Member McNulty stated and he had a notice but he had settled his notice but never cleaned up the problem.

Rich Williams stated right, he's still in violation.

Board Member McNulty stated he's still in violation.

Board Member Taylor stated right but we allowed him to go ahead, I think it was somebody, I don't know but anyway...

Ted Kozlowski stated we allowed Denis to fix the wetland violation.

Rich Williams stated I know what Ron's referring to, I just can't, I'm drawing a blank too but...

Board Member Taylor stated yeah.

Board Member McNulty stated yeah, I remember some discussion.

Rich Williams stated it was a recent issue where you said a violation, you're not going to consider it until you clean it up.

Board Member Taylor stated right, Thunder Ridge, it was Thunder Ridge and the sign.

Board Member McNulty stated the sign.

Board Member Taylor stated they wanted to do the shed and we said...

Rich Williams stated yes.

Board Member Taylor stated we made it contingent upon cleaning up the sign violation, though that was a violation but still, I mean we were just discussing this as a strategy...

Chairman Rogan stated right.

Board Member McNulty stated well that's where I'm going, technically if there hasn't been a notice of violation, does that follow our strategy.

Chairman Rogan stated I think the intent Ron is talking about is that if we see something on a plan that we say is a clear violation then we need to kick that over to, we need to have a wholistic approach here to kick it over to our Code Enforcement Officer to say hey you know, we're being asked to make a decision on this but we're noticing something that is so obviously a problem, in this case I don't know what specifically, you said something about a trailer but you know, right now we're looking at a lot line adjustment if there is something so obviously wrong with the site then we need to at least consider that, you know to at least make a statement to Nick [Lamberti] we're reviewing a lot line adjustment but we're noticing this as well and maybe you need to go take a look at this...

Board Member McNulty stated I ask if we do on the lot one, they call it, he's asking for the lot line adjustment to combine, does that help him alleviate the issues.

Rich Williams stated it neither helps, nor hurts, it has to no effect.

Board Member McNulty stated okay.

Chairman Rogan stated has no effect.

Board Member Taylor stated we could make it contingent like we did with Thunder Ridge, you know we'll approve this, if you deal these issues.

Chairman Rogan stated so what specifically are the issues that you saw Rich.

Board Member Taylor stated he said a patio and a trailer and...

Chairman Rogan stated oh you're talking about those issues, okay...

Rich Williams stated yeah.

Board Member Taylor stated and whatever else.

Rich Williams stated go to the section under Zoning.

Chairman Rogan stated no, also do the issues that you were just talking about with the overall commercial development that we were working on the site plan for this, with knocking down the old buildings and putting up one larger building, those issues would also have to be taken care of as part of that process, correct.

Rich Williams stated yes.

Chairman Rogan stated the front...

Rich Williams stated and you know knocking down the building, the trailer would have to go if you are actually going to implement that site plan if it ever got approved, you know so the trailer would not be an issue anymore.

Chairman Rogan stated yeah.

Rich Williams stated the one that I think would be the biggest issue probably is the patio that they constructed for the restaurant which does not comply with the setback requirements...

Chairman Rogan stated right.

Board Member McNulty stated which is a Zoning variance.

Rich Williams stated and he needs a variance for that, you know I can't tell you what the ZBA is going to do to something that has already been constructed.

Chairman Rogan stated yeah.

Rich Williams stated you know, it really is not his...

Chairman Rogan stated why don't we take a look and see whether it impacts on the...

Board Member Montesano stated well we'll be out Saturday morning.

Rich Williams stated yeah it's attractive, it's not obnoxious, it's not a problem in any way shape or form.

Chairman Rogan stated right.

Board Member Montesano stated we could always stop by Saturday morning and see what we see.

Chairman Rogan stated well we've already seen it.

Board Member Montesano stated if we want to.

Chairman Rogan stated we did a site walk on that already because we looked at the...

Board Member McNulty stated you've been up there, right.

Board Member Montesano stated not on the lot line change.

Chairman Rogan stated true.

Rich Williams stated what are you going to look at, there are no lot lines out in the field.

Chairman Rogan stated there's parts...

Board Member Montesano stated that's all right, you want to get a general idea of what's going on.

Board Member McNulty stated this gives us that.

Chairman Rogan stated yeah.

Board Member Montesano stated no...

Rich Williams stated now listen, I'm not going out there with a can of red paint, I'm telling you Michael.

Board Member Montesano stated why not, I'll tell you what, give him little red flags anybody know somebody...

Rich Williams stated no little red flags.

Board Member Montesano stated get little red flags out there.

Chairman Rogan stated at least in this case and maybe this is unique but I feel that we still have a lot of control on this lot because of the, if the site plan never moves forward because of economic times, their plans change or whatever, they drop that whole idea even though I know they haven't been up to date on what they need to do but they decide look, this is a pipe dream and we're never going to pursue it any further, then there are issues out there that have to be addressed, number one is with the ZBA, whether or not they have a variance for something that, that doesn't impact on us, we were concerned with access, those issues were resolved, right...

Board Member McNulty stated there's handicap parking I believe.

Chairman Rogan stated handicap parking with those issues, were resolved...

Board Member McNulty stated enough parking.

Chairman Rogan stated and then we have an issue of maybe a trailer or something and there's fundamental problems with the way that business operates today and you drive in there and nothings really setup very well and they acknowledge that, that's you know, part and parcel of some of their operating problems with that business. I have no problem with tying this approval to you know, also going to ZBA you know but...

Rich Williams stated the only thing that I think...

Chairman Rogan stated the two need to be linked in some way that shows causation and I think it needs to be, as Rich just said, this doesn't create nor take away from the problems on site and I think we need to clear on when one has impact on the other and when they don't I think we just need to be clear why we're linking them.

Rich Williams stated and I don't recall everything that I put in memo because it's been a long day but the one that really jumped was the patio in the front, that is permanent, it's going to be there, it's currently not conforming and that probably is the big issue, I mean the trailer, if they abandon the site, they change the business, you're going to hook something to that trailer and tow it off site, it's not, you know it's not a really big deal, the issue with the driveway is not a big deal, the issue with the house being too close to the side setback is pre-existing, non-conforming, the issue with the house being too close to the garage, goes away if the site plan ever gets approved, so.

Board Member Taylor stated all right and what about the fact that he owes the Town money.

Chairman Rogan stated for the site plan, for that whole site plan process, right.

Rich Williams stated yes.

Board Member Montesano stated that's not our bally that he didn't pay, that's up to the Town Board.

Board Member Taylor stated but is this tied in, in some way, I mean that's, I am just bringing this up, I would like us to have a policy on this kind of stuff so we don't have to go through this over and over again, we know and if it means going to the Town Board to say either change the Code so we have the same Code as down south where they say you can't do anything if there's a violation, give us instructions about what we do if somebody hasn't paid their bills, do we not process their applications if they haven't paid their bills.

Chairman Rogan stated right, because if there is some, if the owner feels like he has a bill that he shouldn't pay then he should take that up in a legal manner with the Town and say hey I either feel like I was overcharged or I agree that I owe this or whatever the case may be, I agree with Ron in the sense that maybe a letter to the Town Board to say can we get a formal opinion on this or a formal policy, we have an application, I didn't realize honestly that this, first time I'm looking at the drawing is tonight as well, that this included the commercial parcel of which the financial, you know the, money is owed on from the site plan review but maybe we should have an opinion from the Town Board to say that if there is money owed the Town, are we supposed to move forward, are we supposed to document it for the record that we're moving forward but there is this amount that is owed the Town, are the connected at all because they are separate applications, maybe we should get some...

Rich Williams stated I wouldn't discourage you from asking the Town Board but I will tell everybody in this room that when this application came in, the first thing I did is I asked the appropriate questions as per our Code to the appropriate individuals and the application is on your agenda, so if you want to send a memo over to the Town Board you know, requesting guidance on what to do, we'll be happy to draft it and send it over.

Chairman Rogan stated I mean I think that's important, don't you.

Board Member Taylor stated I think we need this stuff on the table, instead of happening in another room or under the table.

Chairman Rogan stated well it shouldn't be left to us to decide anyway...

Board Member Taylor stated no, it's not, yeah...

Chairman Rogan stated it's really not, it's a matter of somebody owning money to the Town and you know.

Board Member McNulty stated when applicants, when applications come in, is it always checked to see if the taxes are paid up on them.

Chairman Rogan stated that's a good point.

Rich Williams stated we never check, no.

Board Member McNulty stated because I would be reluctant to act on any application where taxes were owed on a property and now these aren't we're talking about, we're talking about his fee.

Board Member Montesano stated is that our ballywick, can we deny you coming in here...

Board Member McNulty stated what I think is...

Board Member Montesano stated wait, can we deny you coming in here and we stop the process because you owe the Town, you're stepping on very thin ice.

Board Member McNulty stated well I don't understand, we're a function of the Town and we're paid off those tax dollars.

Board Member Montesano stated because we are talking like sensible people and unfortunately the law is not made that way.

Board Member McNulty stated well then let's test the law.

Chairman Rogan stated yeah.

Board Member Taylor stated but that's why we ask the Town.

Chairman Rogan stated that is why you have the attorneys and the Town Board is to...

Board Member Taylor stated let's get the Town [Board] to give us some guidance...

Board Member Montesano stated yes.

Chairman Rogan stated to say what do you guy want to do, you know.

Board Member Taylor stated and not just on this specific one, let's make it a general guidance so we can apply it in the future.

Board Member Montesano stated well have you gotten all the answers you've thought of from the attorney.

Board Member McNulty stated because the money owed on this, if I remember right, is due to Planning fees that were incurred...

Chairman Rogan stated engineering fees, right.

Rich Williams stated yeah, professional plan review fees...

Board Member McNulty stated but from years ago, correct.

Rich Williams stated 2006, 2005...

Board Member McNulty stated well 7 years ago, that's years ago not.

Ted Kozlowski stated he was on a payment schedule, is he making payments Rich, no.

Rich Williams stated no and when this came up, again there was some discussion about that with Mr.

Boniello, Mr. Boniello did say that he was looking for guidance from the attorney, you know to set up a payment schedule and I said just pay and he said well I know Jay, I can call Jay.

Board Member McNulty stated and the fees were incurred due to an application for the lot one here, the commercial lot.

Rich Williams stated yes.

Board Member McNulty stated okay.

Chairman Rogan stated yeah, with a site plan that's not even valid at this point because the process hasn't been followed through with, right...

Rich Williams stated right.

Chairman Rogan stated I mean we do approvals and then time frames aren't met and we did...

Rich Williams stated a series of extensions...

Chairman Rogan stated a series of extensions and we are at point where now...

Board Member McNulty stated and he changed his plan.

Chairman Rogan stated no, he hasn't changed his plan, just hasn't followed through, because of economy and part of...

Board Member McNulty stated sure, I understand that.

Board Member Montesano stated we have a problem in that we have no set time duration, in other words if you come in with a statement that says I'm going to build this particular parcel, if we start the process, even if you go ahead and stop, we have no enforcement procedures to make you either come in and pay the bills that you have because now you've stopped, so you never finish...

Chairman Rogan stated oh.

Rich Williams stated to pay the bill that you have or bills.

Board Member Montesano stated bills that come, included in the original process.

Rich Williams stated we have process where we take money up front, it's placed in an escrow account, we track it when it starts getting low, we send letters out and that account is replenished...

Board Member Montesano stated is it.

Rich Williams stated and if it is not replenished...

Board Member Montesano stated right.

Rich Williams stated and if it falls below, then I have to go to the appropriate individuals to get an application on the agenda before we can consider it.

Board Member Montesano stated all right but...

Chairman Rogan stated so in two thousand and...

Board Member Montesano stated the process can stop, like Mr. Boniello has done without having to pay because it's stopped, he didn't proceed.

Chairman Rogan stated so Rich, in, back in say 2005, is it possible that the engineers continued reviewing, in essence we didn't have an escrow account with any funds in at some point, right.

Rich Williams stated I was essentially directed not to worry about the money; it would be paid up when he got his site plan approval.

Chairman Rogan stated oh okay, so we gave site plan approval and one of the conditions is pay fees of course and in essence the guy gets an approved concept but still can't build until, can't finish until you pay all the...

Rich Williams stated just to be clean, he's never finished...

Chairman Rogan stated right...

Rich Williams stated properly designing the site plan.

Chairman Rogan stated exactly, right, so you know he can no sooner go build this thing tomorrow but the Town still put out money to the previous engineering firm for designing it.

Board Member Montesano stated we have no way of going in, we, there's nothing we as a Board can do to force him to pay his bill...

Chairman Rogan stated except get an opinion of whether or not we should move forward with an approval or as Ron says in a general sense, I think it's a great question.

Board Member McNulty stated or deny future applications...

Board Member Montesano stated well hopefully Mike can give us that.

Board Member McNulty stated you're at a stand still until you square up.

Chairman Rogan stated because to be honest, the question that I specifically thought of on this was, do we hold up an application for someone who owes money on a project and this was a residential lot application, to me the two were two separate lots, so to me the idea is just, it's not the person it's the property, it's two separate lots, you absolutely hear the case, you pull the application, we haven't made a decision on this so we haven't, we've accepted an application but I think you have to, I think you have to accept the application.

Board Member McNulty stated well I agree with you, each tax map number should have its own individuality.

Chairman Rogan stated yeah.

Board Member McNulty stated but now he combined that lot with another, he's combined the lot in question...

Chairman Rogan stated and I think the answer is important, you know.

Rich Williams stated and really it's only specific to this application because going forward again, we should have the escrow account, we replenish it, we make sure, Sarah is very good about monitoring it, we sent out letters today to a couple of applicants to replenish their accounts, it shouldn't happen, it only happens when...

Chairman Rogan stated things go wrong, yeah.

Rich Williams stated yeah well...

Board Member McNulty stated does the Town send a statement to those people and what the costs incurred were.

Rich Williams stated oh yeah, yup.

Chairman Rogan stated maybe the, you know we talk a lot about how if the Town has to take an action, they can always, although not an easy process, they can do through the taxes and at some point in time, when does the Town stop chasing its own tail and say well okay, it's been since whatever, you haven't made a payment in two years, we're going, you know put somebody on notice if there's not a formal plan in place or something that by a certain date we're going to, you know, I mean how do you do that, that's not an easy thing to do to somebody...

Rich Williams stated lien the property.

Chairman Rogan stated I'm sorry.

Rich Williams stated lien the property.

Chairman Rogan stated right, you know and if there's any thought that the bill is in correct, then that is for them to bring to the Town in a legal format I think to say you know for these reasons, not just arbitrarily well we think we were over charged, we think they spent too much time reviewing our plan, it's 2012 now, you know it's 6 years later, so...

Board Member McNulty stated at least then as a Board can say, this is an issue that is being dealt with on a separate level...

Board Member Taylor stated right.

Board Member McNulty stated so we can proceed or not proceed...

Board Member Taylor stated exactly.

Chairman Rogan stated yeah.

Board Member Taylor stated or do we wait until its resolved, like we're waiting for the court to resolve the fence issue, that's the other thing but we need to know how we're going to act, that's all I'm asking.

Chairman Rogan stated I think it's good to have that clarity.

Board Member Montesano stated its gotten very complicated...

Board Member Taylor stated well it's been completed.

Board Member McNulty stated I was saying in the beginning, it's...

Board Member Montesano stated as time goes on, years ago, this was all resolved in a reasonable manner...

Board Member McNulty stated with a handshake.

Board Member Montesano stated now things are so complicated because there are so many avenues for the applicant to take, to go around the block rather than going...

Chairman Rogan stated it would be interesting to know the number of applications that proceed once they get approval, that proceed through to completion without some calamity, I don't mean, there are always minor site plan changes and stuff but it seems like every other one we have some, something that somebody screwed up, they didn't follow the plan, you know...

Board Member Montesano stated it's usually the same people, the same project that keeps coming back...

Chairman Rogan stated and...

Rich Williams stated you mean all the way through from when they started to when they finished construction.

Chairman Rogan stated I mean when the time they got an approval, we say okay, yes this is what we're going to build, to the time they get a C of O and it's completed, that beginning of building process to end of building process, how people deviate from the plans, how they tell you one thing and do another and we end up with making decisions on things that weren't done right.

Board Member McNulty stated well often, what we get is...

Rich Williams stated how many actually didn't do that.

Chairman Rogan stated yeah.

Rich Williams stated well that's easy.

Board Member Montesano stated everybody.

Chairman Rogan stated a lot, right...

Board Member McNulty stated it's going to happen...

Chairman Rogan stated I mean it's difficult.

Rich Williams stated I don't think there's ever been one.

Chairman Rogan stated right.

Board Member Montesano stated there's a classic example on...

Board Member McNulty stated when you put it on paper, it is a concept and it's in theory basically...

Chairman Rogan stated yeah.

Board Member Montesano stated but you see this is...

Board Member McNulty stated things change out in the real world.

Rich Williams stated no, no, no, you get a good engineer, there's always going to be field changes, there's always going to be deviations.

Board Member McNulty stated but when are we going to get that good engineer.

Rich Williams stated we accept that but what I'm talking about are things like Tractor Supply when they get all done and guess what, they've got no place to put their garbage because they forgot to put the pad in.

Chairman Rogan stated right.

Board Member McNulty stated yeah but is that their fault or is that the Building, our Town, Building Department, Zoning, whoever to say you know, you didn't complete the plan and leave it at that.

Board Member Montesano they had the garbage bins in the back of the building.

Rich Williams stated we can have that conversation probably after the meeting about how that all went down...

Chairman Rogan stated yeah.

Rich Williams stated it's been my pet peeve forever, nobody wants to, nobody likes my solution.

Chairman Rogan stated have them rip out whatever they put in the way and move it.

Rich Williams stated no.

Chairman Rogan stated but you know.

Rich Williams stated no, no...

Board Member Montesano stated at any rate.

Board Member McNulty stated leave it there for the coyotes to get.

Board Member Montesano stated our biggest problem right now with anything we approve is known as field changes, the engineer is out there or the Building Inspector goes out there and they can approve a change and the Town is liable for the change.

Rich Williams stated yeah but we set up a policy a long time ago that limits their ability to do field changes, you know they can do minor things that don't materially change the plan...

Chairman Rogan stated right.

Rich Williams stated anything else they have to come back in for, if they are doing their job appropriately.

Chairman Rogan stated so fundamentally...

Board Member Montesano stated (inaudible).

Chairman Rogan stated fundamentally, back on this application...

Board Member Montesano stated that's what they say.

Chairman Rogan stated how does that sound on the...

The Secretary stated lifelike.

Chairman Rogan stated lifelike. The application itself, it sounds like it's no big issue with anybody, the lot line adjustment it's in essence it's improving a situation so in theory we're okay on a resolution and approving this, Rich working a resolution on this. We are really just waiting on how, on guidance from the Town as to how they want us to proceed, basically whether or not we're going to say yes we're approving this with the condition that, it could be any number of things that you resolve the, that you go to the ZBA and resolve the patio issue or that we're not moving forward because you have an outstanding debt to the Town that the Town Board says we have to hold back, something to that effect but...

Board Member McNulty stated let me ask, can we approve the lot line on lot 2, the smaller lot and not allow the second lot line...

Rich Williams stated it's only one lot line.

Board Member McNulty stated I thought there was two lot line adjustments here.

Chairman Rogan stated no, well one is being dissolved you said, right.

Rich Williams stated that's the merger.

Chairman Rogan stated merger so that one is the lot line adjustment...

Board Member McNulty stated can we deny that and approve the other one.

Rich Williams stated you could but why would you.

Chairman Rogan stated well because he's, yeah...

Rich Williams stated well and, no...

Board Member McNulty stated because we're, why stop everything.

Rich Williams stated the answer is no.

Chairman Rogan stated because they're one application.

Rich Williams stated well it's not so much that it's one application, they're doing the merger to give them frontage and if they don't have the frontage, they can't do the lot line adjustment for the residential parcel.

Board Member McNulty stated gotcha.

Chairman Rogan stated so the frontage their gaining for the residential was the frontage for the commercial.

Board Member McNulty stated they need the necessary frontage.

Chairman Rogan stated they're just flip-flopping, so to speak.

Rich Williams stated right.

Chairman Rogan stated okay, all right and you wouldn't want to do one because then you would be cutting off, you would creating a non-conforming situation for the other.

Rich Williams stated right.

Chairman Rogan stated okay, so really it's just a matter of if we're going to approve this we need to know that we're moving forward and protecting the Town the way the Town Board would like us to and get some clarity for the future on applications where monies may be owed. You had a good point though about taxes, I mean, this opens up a whole conversation about you know...

Board Member McNulty stated I feel that if somebody comes to us with an application and we find out that the taxes are behind and there is no legitimate reason why they're behind...

Rich Williams stated it becomes a difficult situation...

Chairman Rogan stated it's horrible...

Board Member McNulty stated what's difficult about it.

Rich Williams stated well here's the thing with subdivisions before they can file the subdivision plat, they have to sign off that the taxes are paid, the County has to sign off the taxes are paid, so it's not an issue with subdivisions, it's only an issue with other permits, wetlands, fill, site plan, fill and wetlands they are usually residential parcels unless there's a site plan going along with it, so you know, really their not as big an issue for a property owner to be using their property. The big issue becomes site plans and in a lot of cases, if they're in arrears with their taxes and they've got problems, they are probably going to wait to get the financing to get the taxes and/or sell the property until they get the site plan approved.

Board Member McNulty stated I recently just filed a building permit in a town and the first thing to have to do is go get the tax collector to sign off, that they are up to date or they don't even move forward on a building permit.

Chairman Rogan stated really, what town.

Board Member McNulty stated Brookfield, Connecticut.

Rich Williams stated that, now that I don't necessarily have as much of a problem with is trying to tie the taxes in with the site plan or something else because you know, you've got the money to go put an addition on but you can't pay your taxes...

Board Member McNulty stated you have the money to engineer a site plan and you can't pay the taxes, you can look at it the same way.

Chairman Rogan stated the flip side is though, well...

Board Member McNulty stated I mean I pay my taxes every year and I expect everyone else to be paying...

Rich Williams stated absolutely.

Board Member McNulty stated and if they want services or approvals or changes from the Town, you should be caught up, I don't see it as other than a black and white issue, and if the law is a problem, let it test the law.

Board Member Taylor stated well I think maybe we should write these things down, let's make a list of recommendations to the Town that would make the process easier or that makes sense to us in the process and that would be one of the suggestions...

Board Member McNulty stated yeah.

Board Member Taylor stated and then we can, it can be part of what we do.

Chairman Rogan stated that's interesting...

Board Member McNulty stated part of the check list...

Board Member Taylor stated yes.

Board Member McNulty stated I mean you just...

Rich Williams stated I mean listen, it's easy enough to check.

Board Member Taylor stated yeah.

Board Member McNulty stated yeah, I mean it's a simple process.

Chairman Rogan stated that's not the same as like someone who like who when you get your tax bill you decide to make it, pay it in payments, rather than paying it a lump sum, some people pay it like over the course of 6 months, that's not even reported as being arrears...

Board Member Taylor stated no, no...

Chairman Rogan stated arrears is like a year or so behind...

Board Member Taylor stated no, it would be arrears.

Chairman Rogan stated it's like you're really on the...

Board Member McNulty stated yeah I mean people that are just...

Board Member Taylor stated and if you have a payment plan, it's not in arrears either, you're on a payment plan.

Chairman Rogan stated right, right.

Board Member McNulty stated and not to say that there's a hardship, maybe there's a hardship and I wouldn't be, I wouldn't object to somebody proving that there is a hardship because they haven't paid their taxes and then proceed but you just have blatant...

Board Member Taylor stated it shouldn't be us making decisions on that though.

Chairman Rogan stated that might be, that could be, I don't want to be making the decision on that.

Board Member Taylor stated no but there should be a process where they can apply to someone.

Board Member McNulty stated sure.

Rich Williams stated you know I'm just thinking, putting it in the Code may be a difficult thing, the Town Board may be really reluctant to do it but if this Board is very concerned with this issue, another way to possibly skin the cat, is you simply can say that as part of the initial review we'd like whoever, me, the Town Planner, to you know, verify the status of the taxes on the property, we put it in a review memo, well it's going to come up at a meeting...

Chairman Rogan stated it's embarrassing.

Board Member McNulty stated well don't even, why should it be your task, give it to the applicant with a little piece of paper saying just come back and state that you're taxes are satisfied and have Sally sign off on it.

Rich Williams stated we can make it part of the application process...

Board Member Montesano stated there you go.

Board Member McNulty stated does it have to be Town Code.

Rich Williams stated I don't think so because...

Board Member McNulty stated I would say, I would avoid putting any more Code in place.

Rich Williams stated the Planning Board has the right to set its own policies and procedures.

Board Member Taylor stated okay.

Board Member McNulty stated so just make a simple...

Rich Williams stated we'll do a form.

Board Member Montesano stated to me...

Board Member McNulty stated and I suggest the Building Department do the same.

Rich Williams stated all right.

Board Member Montesano stated and the Zoning Board of Appeals.

Rich Williams stated we'll give you a form.

Board Member McNulty stated that's easy, Michelle can do that.

Board Member Taylor stated okay.

Chairman Rogan stated whoa.

The Secretary stated whoa, that was real nice Tommy.

Chairman Rogan stated he didn't mean it the way it sounded, I hope.

The Secretary stated I certainly hope nope, yeah.

Rich Williams stated oh, you're done.

Chairman Rogan stated okay, in the interest of Tommy's life we'll move on to Dunkin Donuts...

Board Member Montesano stated I'll put this way, it's safer.

7) OTHER BUSINESS

a. Dunkin Donuts

Rich Williams stated all right.

Chairman Rogan stated Dunkin Donuts.

Rich Williams stated yeah the Town received a complaint...

Board Montesano laughs.

Board Member Taylor stated traffic.

Board Member McNulty stated Rich you sent some paperwork out on this and plan didn't you, I thought I had it and I can't find it.

Rich Williams stated I did get that out to you guys but I do have a couple memos for you...

Board Member Montesano stated I refuse to look.

Rich Williams stated and I do have...

Board Member Taylor stated are you recusing yourself because...

Board Member Montesano stated because I was involved...

Board Member Taylor stated you're one of their favorite customers.

Board Member Montesano stated because I wanted to shoot the person that adjusted this.

Rich Williams stated anybody who wants it, there are memos right there for you.

Board Member McNulty stated I'm going to take one of those.

Rich Williams stated and I do have...

Chairman Rogan stated that was one of my first site walks on the Board...

Board Member Montesano stated I don't know they're individual...

Chairman Rogan stated and I remember they said they basically built the building backwards and there were all these issues and we came up with a laundry list that the owner basically said I'll do whatever you guys want, just let me open, that's kind of the way I remember it.

Rich Williams stated I did two sets figuring you could share here.

Chairman Rogan stated all right.

Board Member Montesano stated and the gentleman from Dunkin Donuts itself and swore they would take care of this.

Rich Williams stated three plans, the first one is what actually got approved...

Chairman Rogan stated okay.

Rich Williams stated out there and you can see they had two way traffic around, it was intended to be a bank, they had drive-thru's you came on to the site, you drove all the way around the building and through the drive-thru so there was plenty of stacking for queuing of vehicles...

Board Member McNulty stated island, that's not there.

Chairman Rogan stated right.

Board Member McNulty stated this island is there.

Rich Williams stated the second one is when they came in to build the Dunkin Donuts, they wanted to redesign the site and they redesigned the site for two way traffic all the way through, they did not have the sandwich board, not the sandwich board but the kiosk that you pull up to and they had plenty of room for parking, two way traffic all the way around. That's what was approved...

Chairman Rogan stated by the Building Department.

Board Member McNulty stated that's this one.

Rich Williams stated by the Planning Board.

Board Member Montesano stated by us.

Chairman Rogan stated oh okay, all right.

Rich Williams stated the third one is what the Building Department let them build out there...

Board Member Montesano stated this is what I think they built.

Chairman Rogan stated ah they really pushed the building this, see how they opened it up...

Board Member McNulty stated yeah I going to say because there's no way two way traffic now around that building.

Board Member Montesano stated that's why so many people have hit that abutment as you go around.

Rich Williams stated and they allowed them to build a mansard style, false mansard style roof which doesn't allow truck parking which is why the bollards came into being, truck parking, truck...

Chairman Rogan stated turning.

Rich Williams stated turning, thank you.

Board Member McNulty stated I'll be honest, that building is why I wanted to get on this Board because that is the ugliest building.

Chairman Rogan stated yes.

Board Member Montesano stated oh wait, the color was going to be changed.

Rich Williams stated that was, yeah...

Ted Kozlowski stated and the one in Brewster is beautiful.

Board Member McNulty stated and Mahopac too.

Chairman Rogan stated different owners too, well not than this, the Brewster one and this are the same...

Ted Kozlowski stated he owns the Brewster one.

Rich Williams stated and then to top it off, they threw in the outdoor speaker system so they could take orders with their not being any real ability to have queuing of the vehicles on the site, that's where we are...

Board Member McNulty stated okay now...

Rich Williams stated the Planning Board went out there right after this all went down and was getting ready to open, recognizing that there were problems with the site, you do have that memo here...

Chairman Rogan stated yup.

Rich Williams stated they identified a number of deficiencies, they informed the property owners, they came up with what they felt might be some possible solutions and made Benderson and the owner of Dunkin Donuts sign off on that and you have all that in your packet.

Board Member McNulty stated Rich, you said a complaint came in, what was the actual complaint.

Rich Williams stated that cars are backing up on to [Route] 22 waiting to get into Dunkin Donuts.

Board Member McNulty stated on to [Route] 22.

Rich Williams stated on to [Route] 22.

Board Member Montesano stated yeah that's a very because of the redesign of it, when they come in...

Chairman Rogan stated wow, amazing.

Board Member Montesano stated to the lot, you can't make the turn.

Ted Kozlowski stated that's been going on for a long time.

Board Member McNulty stated I've never seen that, I don't know what time of day...

Rich Williams stated I've seen up the drive aisle, I've never seen on them on [Route] 22.

Board Member Montesano stated in the morning it can be...

Board Member McNulty stated I've seen them out to this, in this roadway in past driveway but never out to [Route] 22...

Rich Williams stated and they will block you from coming into the A&P and (inaudible).

Board Member Montesano stated they'll come in, in the morning is when you usually see them.

Rich Williams stated so again this goes back to Rich's pet peeve about...

Chairman Rogan stated about not building what...

Rich Williams stated we design sites, the Planning Board designs sites and then they don't get build and you know, how do we ensure that they get built the way that they're designed.

Board Member McNulty stated now let's look, the original site plan would alleviate that problem.

Rich Williams stated oh yeah.

Board Member Montesano stated yeah, look at the distances around the building, that's what was built.

Rich Williams stated you had the ability to stack cars all the way around that building in theory.

Board Member McNulty stated you were going to go this way.

Rich Williams stated right.

Board Member McNulty stated you were going to go in the reverse direction through the drive-thru and then out.

Rich Williams stated right and then once you got down where the septic parcel was, that was all one way through that drive-thru.

Board Member McNulty stated this way.

Rich Williams stated right.

Board Member Montesano stated and then they moved the building.

Board Member McNulty stated so now you can't stack cars because you're right here.

Ted Kozlowski stated what was the purpose of them altering the plan...

Board Member McNulty stated now could they alleviate that by just changing this direction.

Ted Kozlowski stated cost.

Rich Williams stated they ran into all sorts of issues, they blew the grading when they were doing it...

Board Member McNulty stated there is no way in and out of here.

Rich Williams stated they thought DOT had done a taking and then DOT hadn't done the taking, they relocated the position of the building on the site...

Chairman Rogan stated I don't see how to fix it, other than trying to queue them up along here...

Rich Williams stated it was just, it was a mess.

Chairman Rogan stated somehow they can...

Board Member McNulty stated put a no left turn here.

Board Member Montesano stated that was from our former Building Inspector.

Rich Williams stated then we had Paul Piazza out there saying yeah, it looks good to me, go for it.

Board Member McNulty stated no turn, you can't make that left.

Board Member Montesano stated he signed off on it.

Ted Kozlowski stated I remember that.

Board Member McNulty stated stack up in here.

Board Member Montesano stated and then he came back.

Chairman Rogan stated because this area through here especially, this is in the morning this is really occurring, right...

Rich Williams stated yeah.

Chairman Rogan stated 7 o'clock in the morning.

Board Member Montesano stated six.

Board Member McNulty stated you go.

Chairman Rogan stated to me and I don't know how to achieve it, to be able to stack cars along the edge of the, below the septic area, that long lane way, somewhere in there you have all the room in the world, you could stack 50 cars in there along the back, you know the back of this parking lot, I just don't know how to get them there.

Board Member McNulty stated well not necessarily, that's a two lane passage there, if you stacked up here, anybody that caee through would get stuck in that traffic.

Chairman Rogan stated yeah but it's kind of four or five lanes wide.

Board Member Montesano stated the idea is not to allow a left hand turn...

Board Member McNulty stated it pinches out pretty tight there...

Chairman Rogan stated they can cut into this bank...

Board Member McNulty stated that they could do.

Chairman Rogan stated and make a lane for it.

Board Member McNulty stated as long as the septic...

Ted Kozlowski stated so what is, what is the charge of the Board right now.

Rich Williams stated the Town Board started wrestling this site, they were going back and forth by e-mails, I sent an e-mail out saying listen this is really a site plan issue you know, the Planning Board has considered some ways to mitigate this in the past and it really should be thrown back on the Planning Board if you want to see the issue addressed.

Ted Kozlowski stated is the state police or the state having a problem with the cars on the road.

Rich Williams stated we'd have to get them out of here first.

Board Member Montesano stated the trick would be that you cannot make a left hand turn...

Ted Kozlowski stated what about no standing signs along the [Route] 22...

Chairman Rogan stated well we only have one complaint right now, you know.

Ted Kozlowski stated right along the edge there.

Chairman Rogan stated we have one complaint which was very articulate and well written, it wasn't like one of these complaints that you know somebody is just pissed at the moment and they write it, it was very well thought out but you have one complaint, as far as I know the property owner doesn't even know about this, at this point, right...

Board Member Montesano stated could care less.

Chairman Rogan stated he hasn't been notified that the Town is considering this.

Rich Williams stated no, he does not.

Chairman Rogan stated so you know, the reality is, part of it is if it's determined that this is a problem, it needs to be addressed, we should contact the property owner and say look, in a form letter, saying you

know we have concerns and back ten years ago, not quite ten years ago when you opened, this was a concern that you stated you would work to correct, if the Planning Board determined it needed to be, we need your engineers to get in and start thinking of ways to you know, it's really not up to us to come up with a solution but it would be good if we had a couple of ideas.

Board Member Montesano stated the easiest thing, no left turn coming off on [Route] 22.

Rich Williams stated I mean my purpose here tonight is just to get you guys up to speed...

Chairman Rogan stated yeah.

Board Member Montesano stated make them go down into the parking lot, turn around and you can only make a right.

Rich Williams stated moving forward...

Board Member McNulty stated the problem is private lot and there is nowhere, I agree with you, that was my initial thought but no one is going to enforce that, people don't obey the one out on [Route] 22 out of Mobil, they constantly make the left out of there, including my son who got nailed for it.

Rich Williams stated yeah, just so you're all aware, we've been approached by Benderson Development and Martin Associates to consider abandoning the septic systems that are out there and tying them into the wastewater treatment plan. My understanding is that there are operational problems with both systems that there is a Notice of Violation for one of them that has been sitting on somebody's desk for quite some time, so they are actively pursuing a design to see if they can make it work to get it over and tie into our wastewater treatment plant.

Board Member McNulty stated are we looking to extend it that far, right now.

Rich Williams stated because there's a Notice of Violation, it likely that DEP would allow us to tie the A&P center in.

Board Member McNulty stated enough to capacity.

Rich Williams stated yeah we do have enough capacity, it is unlikely they would allow us to tie anybody else that has a functioning septic system.

Chairman Rogan stated well like you said both Dunkin Donuts and the whole Benderson Commons have had failing septic in the last, recently, both of them, right.

Rich Williams stated Dunkin Donuts since they opened up.

Chairman Rogan stated this is third time.

Board Member McNulty stated third time violated.

Rich Williams stated third time the system has failed.

Chairman Rogan stated third time and they've made corrections and it's very difficult.

Board Member McNulty stated it's just not percable out there.

Board Member Montesano stated what about the...

Rich Williams stated well it's a mound system...

Chairman Rogan stated the flour and all the sugars that end up in their wastewater and you probably understand this better than I do with the way the, it basically clogs the soil pores...

Rich Williams stated it makes almost like a glue...

Chairman Rogan stated it's all that dissolved sediment, it's like a glue, yeah, it makes a big doughnut in the ground.

Board Member Montesano sated big molasses problem.

Ted Kozlowski stated imagine what that's doing in your body.

Rich Williams stated if that's the case, then there's perhaps some ability to eliminate that mound septic system and you know, make some changes to the site, to address the problem.

Chairman Rogan stated yeah, that would be huge, could have a whole different access...

Board Member McNulty stated yeah.

Rich Williams stated oh move the entrance way down.

Chairman Rogan stated that would be awesome.

Board Member McNulty stated could make a loop here and twist the cars around.

Chairman Rogan stated so maybe, 2 to 3 years we would be in a position to do that, I mean no, realistically, no honestly...

Rich Williams stated yeah, no, I agree.

Board Member McNulty stated no, I agree.

Chairman Rogan stated because by the time it goes to a moving the, running a sewage line across the swamp and over there and you know, that's got to be a year and a half process...

Board Member Montesano stated what do you think Ted, they'd going to be allow to go...

Ted Kozlowski stated never had this one.

Chairman Rogan stated it will go under the bridge and over the swamp...

Board Member Montesano stated are we going to make an Alaskan pipeline out of this.

Rich Williams stated well they can dredge the water now and they are going to...

Chairman Rogan stated oh, that'd be cool, underneath the stream bed.

Rich Williams stated they, well we had to do this over here, this is great...

Chairman Rogan stated cool.

Rich Williams stated we're working with DEP because we know eventually we're going to build the wastewater treatment plant over there, we're not sure what we're going to build but we know we need one...

Chairman Rogan stated yeah.

Rich Williams stated we know that's where it's going to go, we took the property...

Board Member McNulty stated where is this.

Rich Williams stated the back side of Dorset Hollow where the plant is now, so when Dorset Hollow came in, we had the bridge, we had the people from Dorset Hollow, design and construct that bridge so that we could get across and that bridge is designed to carry a 6 inch main across, to hold the weight, then we go to build...

Board Member McNulty stated I always wondered why that bridge was that big.

Rich Williams stated and then we go to build the wastewater treatment plant and DEP who knows all this, says oh no, you're putting it over the stream, we don't want it hanging over the stream, where we can see the leaks...

Chairman Rogan stated right, right, we want them underground.

Rich Williams stated we want it underground...

Chairman Rogan stated where it takes years for people to know.

Rich Williams stated we got directional bore.

Board Member McNulty stated under the stream.

Rich Williams stated yeah.

Board Member Montesano stated amazing.

Ted Kozlowski stated must have been the same person that wrote the memo about Norway spruce...

Board Member McNulty stated either that or his cousin owns a directional boring machine.

Chairman Rogan stated Norway spruce, so at this point there is no action required by the Board but it's bringing us up to speed...

Rich Williams stated yeah, to see if there is anything you want to do or...

Board Member Montesano stated we're having good laughs.

Rich Williams stated look at or address.

Chairman Rogan stated I agree with what you just said, septic system is a great area, the only logical area to expand to make this safer parking and short term might be this no, directional traffic sol...

Rich Williams stated I honestly don't see any other solution out there, the solutions that the Planning Board came up with 4 or 5 years ago, I don't think are actually workable.

Chairman Rogan stated but I think it would be important for you to consider how soon you want to put the property owner on notice that there is a concern, that the Town is, you know, I mean, you want people to at least have some foresight on this too...

Rich Williams stated no, absolutely, if you want us to send a letter out, I would be happy to do that.

Chairman Rogan stated I think that makes a lot of sense to at least put people on notice, there is a concern for traffic safety on queuing of cars on [Route] 22 and you know, the Town is considering and you should be aware that the Town is considering options to alleviate this.

Board Member Taylor stated also, they are currently involved in the discussion about tying into the septic, Dunkin Donuts is...

Chairman Rogan stated Benderson.

Rich Williams stated well Benderson is responsible for the septic on the site I believe...

Board Member McNulty stated the development, the site owner.

Rich Williams stated I don't know what their lease agreement is with the owner of Dunkin Donuts, the meetings that I have been at where this has been discussed, the owner of Dunkin Donuts has not been there.

Chairman Rogan stated so it's possible that Benderson is the property owner for the whole basically, not, all right.

Board Member Taylor stated so we have another.

Rich Williams stated well he is the property owner, I just don't know the lease agreement with him and Dunkin Donuts...

Chairman Rogan stated whether he is responsible for the septic or not.

Rich Williams stated I, you know.

Chairman Rogan stated okay.

Board Member Taylor stated so then I would agree, I think we need to get the owner or the lessee involved in the process...

Chairman Rogan stated both.

Rich Williams stated I certainly can him a letter saying that you know, we received this complaint because of stacking, you know just to remind you there was a discussion about it, this was going to be a problem, you'll need to address it, you know.

Board Member Taylor stated I think you also should though make him aware of the fact that this septic discussion is underway because that ties into how he's going to deal with the traffic, that's what you just said.

Rich Williams stated again, I think Benderson owns the property, so any use of that septic area for parking and or drive aisles to alleviate this problem would go back to Benderson...

Board Member Taylor stated right.

Rich Williams stated so I probably should send the letter both to the owner of Dunkin Donuts and Benderson...

Board Member McNulty stated yes.

Chairman Rogan stated yeah, absolutely.

Board Member Taylor stated yes, get them to start talking to each other.

Rich Williams stated well I'm sure they're talking, just not about this.

Chairman Rogan stated not about this, right.

Board Member Taylor stated about this I mean though.

Board Member Montesano stated no, it's the same instance.

Board Member Taylor stated I'm talking about this, I mean though, about this because it's going to take a mutual solution down the line, okay.

Board Member Montesano stated you can't get the liquor store, et cetera...

Chairman Rogan stated okay.

Board Member McNulty stated the other option is if it poses a...

Board Member Montesano stated tie into that too, if they don't have because they used to have the problem back there.

Board Member McNulty stated safety hazard, they may have to lose the drive-thru at least certain periods of the day.

Board Member Montesano stated with the flooding and whatever else have you, I realize it's not Benderson, that would be Ryder...

Chairman Rogan stated it's amazing how popular these Dunkin Donuts are.

Board Member McNulty stated it's amazing how lazy people are, they don't want to get out of their car.

Board Member Montesano stated excuse me, it just reminded me, forget it.

Ted Kozlowski stated I know.

Board Member Montesano stated it would be great if it could be done.

Chairman Rogan stated okay.

Rich Williams stated in the future it may be possible to do something.

The Secretary stated do you know how dangerous it is to walk across the parking lot.

Chairman Rogan stated excuse me.

The Secretary stated the Dunkin Donuts parking lot, do you know how dangerous it is to walk across it, you don't want to get out of your car, you'll get run over.

Chairman Rogan stated the one up by office, by the Home Depot, the, it's amazing the cars will cue, because that goes all the way around the back of Applebee's and they will be all the way to the Applebee's entrance, that's got to be 30 cars at least backed-up, and you pull up front and you can go inside and you know there's maybe still 10 or 15 people waiting...

Rich Williams stated I go in, I always go in.

Ted Kozlowski stated think of the gas you're wasting...

Chairman Rogan stated but I'm saying, even going in there, it's crazy the business they do.

Ted Kozlowski stated think of the gas you're wasting just idling away.

Chairman Rogan stated yeah.

Board Member McNulty stated but you can listen to the radio.

Board Member Montesano stated but you have to understand something, gas is not in their mentality at the present time...

Ted Kozlowski stated people are lazy, that's what it is, people are lazy.

Board Member Montesano stated to get out, that would be like exercise and I'm going to get a doughnut, why would I exercise.

Board Member McNulty stated what's that...

b. Patterson Garden Center

Chairman Rogan stated Patterson Garden Center.

Rich Williams stated all right, you were all made aware of a problem with had out there with an oil spill...

Chairman Rogan stated oil spill.

Rich Williams stated I think that has been reasonable cleaned up...

Board Member McNulty stated a quick update, I missed all that.

Rich Williams stated okay, Ted went out onto the site, he saw some containers of what looked like petroleum products, he notified Dave Raines, Fire Inspector, who went out, December 31st he went out there and found that there was indeed containers that were leaking petroleum onto the ground and into the stream water...

Ted Kozlowski stated there was also waste gas, it wasn't leaking but...

Board Member McNulty stated stored.

Ted Kozlowski stated water coolers of waste gasoline.

Rich Williams stated right, the prior tenant had abandoned the site, in doing so he had left rubble and piles of soil and garbage and the site is just an absolute mess. The property is starting to, you know, clean everything up and I was contacted by the property owner who indicated that she had a new tenant that was interested in occupying the site to use it as a nursery which is what was essentially approved the last time, so I went back through the past correspondence and I've given that to you and took a look at what the outstanding issues were and what the process that I believe would need to be followed for that nursery to occupy the site and the short of it is, I think if the property owner and/or the nursery went in there, cleaned up all the garbage and rubble that was on the site, stabilized the area, put up the post and rail that was supposed to be put up around the usable area that was going to be allowed and then submitted an application for a site plan based on the original site plan shown by Insite Engineering, it would be all basically procedural because we have that approved site that that would satisfy the needs of this Board and the Town, that is my recommendation.

Board Member McNulty stated basically bring it back to the originally approved site plan.

Rich Williams stated right.

Ted Kozlowski stated I would like to add to Rich's memo though a couple of things and one is that the stream when I went out there this time, the stream gets beat up by whatever activity goes on there, stuff gets dumped in there and all that so we need to demarcate or have it either a fence or a stonewall or

something on the top so the stream isn't constantly receiving crap and stuff dumped in there and the last tenant was really abusive to that...

Rich Williams stated more so than the post and rail fence.

Ted Kozlowski stated if they put up a post and rail fence, I don't have a problem with it.

Rich Williams stated because that's what was on the plans...

Ted Kozlowski stated right.

Chairman Rogan stated yeah.

Rich Williams stated that's what they were supposed to do with a 20 foot buffer around the stream.

Ted Kozlowski stated right, which they didn't do but the other thing Rich, I think we let it go as a nursery when Martin came in and it almost became a contractors' yard with that because he brought in more than what he told us and I think the Board should be more explicit, is this going to be a nursery or this going to be a contractors' yard.

Rich Williams stated there were specific limitations on the vehicles and number of vehicles and type of vehicles...

Ted Kozlowski stated right.

Rich Williams stated he could keep on the site.

Ted Kozlowski stated right.

Rich Williams stated he never even did that.

Ted Kozlowski stated no.

Rich Williams stated now we're back to Rich's pet peeve which is nobody looks and nobody enforces...

Ted Kozlowski stated right.

Rich Williams stated and you know we don't need to let these things get so far out of hand if we're just being friendly and reasonable and making sure we have compliance but we don't do that.

Ted Kozlowski stated I remember, I remember Martin coming and you probably remember when it was his operation, he came in and said well you know I need these areas of stone and I need these areas of fill because I'm making landscape things but it really was an exaggeration of what it was and when you went back to him and challenged him on it, he made the argument that is was part of landscaping which is part of a nursery business. So there is a grey area that they play with there and you know, is it just going to be trees plants and stuff that you see for instance at Patterson, at Nina's, what is the name of next to...

Rich Williams stated Lopane's, Berkshire's...

Board Member Montesano stated Berkshire's...

Ted Kozlowski stated Lopane, Berkshire, is it going to be like Berkshire Nursery or is going to be a landscape company and nursery so that I think needs to really be a little more defined to the applicant coming in.

Rich Williams stated that's a question that would be asked when she comes in for site plan.

Ted Kozlowski stated right.

Board Member McNulty stated I think most nurseries do landscaping now.

Chairman Rogan stated the thing is, they need to be, there's not hardly a place out there that can do just what Berkshire says...

Ted Kozlowski stated but Shawn that whole rear portion...

Chairman Rogan stated no I'm not saying it's the right site for it...

Ted Kozlowski stated was not, it became something that wasn't a landscape construction company.

Chairman Rogan stated it's amazing any businesses are opening in this, the way things are going, I don't know how any of them make it, especially with all these planning regulations...

Board Member Taylor stated well if they propose that, I mean, does there's the nursery over on [Route] 52, they have bins for that stuff, we can say if you want to do that then put some bins out and that limits what you do with your stuff, you know.

Board Member Montesano stated we did.

Rich Williams stated that's what we did, the site plan shows 7 bins.

Ted Kozlowski stated we did Ron.

Board Member Taylor stated okay, all right, then that's...

Ted Kozlowski stated we did, we worked with him but it was always, you give a little and then take more.

Board Member Taylor stated all right, yeah, all right, I understand that, so that is the issue with enforcement which is another issue I think we need in the long run, we should be discussing this issue and make recommendations to the Town Board...

Board Member McNulty stated and that Code Enforcement is all, is that Nick or is that Nick and Buddy...

Board Member Montesano stated Buddy.

Rich Williams stated well Nick is Code Enforcement, Buddy is Code Compliance who is supposed to be just looking at very specific areas of the Code, littering, parking...

Chairman Rogan stated signage.

Rich Williams stated junk cars, property maintenance, things like that but he seems to be needed in other areas as well...

Board Member Montesano stated got to get him a bigger gun.

Board Member McNulty stated I know Nick has come to our meetings before but maybe we should as the Code Enforcement to come to one of our meetings and put him on the, as discussion.

Rich Williams stated well here's my pet peeve is that I don't care if Nick is sitting here or he's not sitting here, Nick is a building official and he cares about the four walls in, he doesn't care about the four walls out and we see that time and time again, Ray See most recently where he allowed him to do all sorts of grading, brought all sorts of fill on the site, the garage is built right and this is a reoccurring problem, Tractor Supply, I mentioned the dumpster location, there were several issues where it was decided we were going to let the Town Engineer and the Building Inspector look at the site and at the very end of the process, they brought me in to see if anything was missing and that's you know, I'm coming in at the tail end.

Chairman Rogan stated now I remember the process, you were very well kept away from that.

Rich Williams stated yeah.

Board Member McNulty stated it's no different than any other building department I deal with because when they come to the site, they never address the site issue, other than some erosion control to see if it's in place...

Rich Williams stated no, never.

Board Member Taylor stated yeah right, right, could you put together a list of recommendations of how this could change.

Rich Williams stated my opinion is I need to be out on the sites.

Board Member Taylor stated then that is what the recommendation, it's...

Board Member McNulty stated or do we let the Code Compliance Officer have a role with the Planning Board.

Board Member Taylor stated he doesn't do it.

Rich Williams stated even if you do, they don't do it, that's my problem is they focus on the buildings, they go to all this training and all this training is energy efficient how to put the buildings together...

Board Member McNulty stated I understand.

Rich Williams stated and not on the site that they don't focus on the site.

Board Member McNulty stated but I don't, I can't think of Bud's first, I just know him as Bud...

The Secretary stated Lew.

Board Member McNulty stated Lew, Lew, he works for Nick.

Rich Williams stated yes.

Board Member McNulty stated okay.

Board Member Taylor stated so...

Board Member McNulty stated I didn't know if he worked for the Town Board or was separate.

Rich Williams stated my argument always has been that I'm guy that needs to tie it all together, you know I'm sitting here on a daily basis, the engineer is over in Newburgh, he can't just jump right down the street to Tractor Supply and I need to be more involved in what's going on, on the site, no so I can go out and write summons and stop work orders and everything but so I can say it's being built correctly, Andrew you need to be over here looking it because this is what they're doing today, Nick you need to be looking at this because that's what they're doing and I think that ties the whole process together.

Chairman Rogan stated Rich, what specifically prevents you from doing that now.

Rich Williams stated well I was doing that for a long time and I think it was, things were getting better, I wouldn't say a long time, a couple years I was really getting into it and then we ran into the problem out on Field and Forest...

Chairman Rogan stated right.

Rich Williams stated and we ran into the problem where they wanted to fire me and I was told do no go out into the field anymore.

Chairman Rogan stated ah.

Rich Williams stated I think things have changed back so...

Chairman Rogan stated I understand.

Rich Williams stated you know, I can do that but the problem that I have with doing that right now...

Board Member McNulty stated you're too busy.

Rich Williams stated there ain't nothing going on.

Chairman Rogan stated no, it's, yeah...

Rich Williams stated I've got nothing to go look at to begin with, Andrew is not, I haven't logged a site inspection from Andrew in 8 months.

Chairman Rogan stated just as...

The Secretary stated at least.

Board Member Taylor stated well but now is the time to put this stuff in place.

Rich Williams stated yeah, well...

Board Member Taylor stated again, it was what you're doing, is it under the Code, is it under your job description, is it there so and then somebody just told you to back off from that or you just assumed this responsibility because it was necessary and it's not structured.

Rich Williams stated yes.

Board Member Taylor stated it's not structured.

Rich Williams stated no, I, listen, I just kind of take over...

Board Member Taylor stated I understand that, I know that.

Rich Williams stated you know, so I kept doing more and more and more like I always end up doing and from time to time I need to get reigned back in, in addition to that though the way the Code is written, when it comes to soil erosion and stormwater, I'm the guy that's supposed to be out on the site doing the inspections, that's what way the Code was written, I don't know who wrote it that way but that's what happened, so I...

Board Member Taylor stated but in terms of...

Rich Williams stated I have the authority to go out on the site and do soil erosion inspections.

Board Member Taylor stated right but in terms of the coordination, that's what I'm talking about.

Rich Williams stated right, that's not really written anywhere, that was just something I did, you know everybody kept looking at me to do that, I mean the Town Engineer at that time was Stantec, I had a good relationship with them, they were looking to do that, I, you know, first it was John, I had no relationship with him so it wasn't working, then I had Paul and prayed John would come back...

Board Member McNulty stated John was great.

Board Member Taylor stated I think it should be written though, is what I'm trying to get at, one our recommendations to the Board should be that this kind of structure be set up so that the people who are responsible for these areas get out there or look at the plans because we've got Ted too and there's you and there's a Building Inspector...

Rich Williams stated well yeah I mean...

Board Member Taylor stated and these people should be working together on these plans and if there is a problem then it should come back to us instead of getting...

Chairman Rogan stated right.

Rich Williams stated right after...

Board Member Taylor stated filed away in the Building Department.

Rich Williams stated yes.

Ted Kozlowski stated why do you suppose the Building Inspector is not doing that.

Board Member McNulty stated well it's not uncommon Ted, like I said I deal with...

Board Member Montesano stated he's busy.

Board Member McNulty stated Building Departments all the time, they deal with buildings...

Ted Kozlowski stated this discussion, you've, you've had discussions with Nick...

Rich Williams stated I am going to use you as an example, all right, we've got a wetlands permit where they are disturbing the wetlands buffer, you're going to go out and you're going to look at the disturbance that they are doing on the wetland buffer because that's your training, that's your expertise, that's what you do, while you're out there, you're not going to take the time to necessarily look at the building and whether the foundation is being put in properly, that's not what you do...

Ted Kozlowski stated right but for instance, Raymond See, okay...

Rich Williams stated well that's...

Ted Kozlowski stated the building is there and that is a ton of stuff that's, Nick didn't notice that.

Rich Williams stated when we get into specific applications then we probably need to have discussions about why specifically that happened and that is probably a personnel issue subject to an executive session privilege.

Chairman Rogan stated yeah.

Board Member Taylor stated but that's an issue where because it was a wetlands thing, there should be some way, some checklist somewhere that automatically goes to Ted because the property adjoins a wetland.

Ted Kozlowski stated but Ron it was presented...

Rich Williams stated but see what I'm saying is...

Ted Kozlowski stated it was presented though, correct me if I'm wrong, when that building came in for a permit...

Chairman Rogan stated building permit.

Ted Kozlowski stated there was no thing on there saying it was within a wetland buffer.

Board Member Taylor stated but it should have been.

Ted Kozlowski stated well it should have been but it wasn't that's why I didn't know about it until...

Board Member Taylor stated right, I understand that.

Ted Kozlowski stated I went with you guys.

Board Member Taylor stated but there should be something in the process.

Rich Williams stated but suppose there wasn't any wetlands out there, just where they were siting the building raised grading issues...

Chairman Rogan stated right.

Rich Williams stated that were never looked at...

Chairman Rogan stated erosion control issues.

Board Member Taylor stated right, that's another issue.

Rich Williams stated and, okay now you're back to you know, you want the checklist but if it comes in here and I take a look at it separate from the building...

Board Member Taylor stated yes.

Rich Williams stated I take a look at the site...

Board Member Taylor stated yes.

Rich Williams stated then I say oh jeez, we may have wetlands issue, Ted's got to go look...

Board Member Taylor stated right, exactly, that's what I'm saying.

Rich Williams stated or we've got a grading issue, listen this looks like we're going to need some retaining walls, we need the engineer to weigh in on this and that's where I think I would best serve coordinating all this.

Board Member Taylor stated yes, I agree.

Board Member McNulty stated I think a simple procedure, just like I had mentioned before, applied for a permit in another town, have to go to the tax collector before you even go back to the Building Department, well maybe when Nick gets his call for his final inspection on a building even before it gets to a C.O., final inspection maybe part of the process should be Planning Board has a piece of the final inspection...

Chairman Rogan stated this would have been better at the foundation inspection.

Board Member Taylor stated the building permit, before the building permit is issued.

Ted Kozlowski stated but Rich are you suggesting when a building permit comes in...

Chairman Rogan stated no, no...

Board Member Taylor stated it should be reviewed.

Ted Kozlowski stated they just run it by you for a quick review.

Rich Williams stated yes.

Ted Kozlowski stated well then that...

Board Member McNulty stated we approve a plan.

Board Member Taylor stated no, we're talking about where it doesn't even come to us though.

Ted Kozlowski stated that should always be the case.

Rich Williams stated that's part of it though, yes.

Board Member Taylor stated we don't even see the plan.

Chairman Rogan stated oh.

Ted Kozlowski stated I agree, I mean that should be part of the case because...

Chairman Rogan stated I...

Board Member Taylor stated with See we had no reason to see the plan.

Chairman Rogan stated we're not talking about replacing a roof, we're not talking about putting a deck in the same location as the old one, we're talking about significant site improvements, an addition on a house...

Board Member McNulty stated so I see what you're saying, the plans that don't come in front of the Planning Board...

Chairman Rogan stated a brand new garage.

Board Member McNulty stated maybe because we're involved with that, we should be part of the final inspection, so in other words not only does Nick have to sign off but the Planning Board has to sign off or the Town Planner...

Board Member Montesano stated on a single.

Rich Williams stated with site plans, our Code requires that there be a final inspection by the professionals and then the Planning Board sign off...

Board Member Taylor stated right.

Rich Williams stated that's required before you can get a C.O.

Board Member McNulty stated does that happen.

Rich Williams stated not consistently. It's happening more, only because I'm making sure it happens more.

Ted Kozlowski stated but Rich, if Joe Smith comes in for a garage in Putnam Lake, okay and he wants to put up a garage and he conforms to whatever the requirements are to have a garage, he doesn't exceed anything where he's going to need a variance. He comes in, he goes to Nick and that's it, right, that's a done deal...

Board Member McNulty stated yeah.

Rich Williams stated that's it.

Ted Kozlowski stated but we don't know that that garage is going to be next to a stream and unless the guy is honest and says well I'm next to a stream, Nick doesn't know until the garage is up and the...

Rich Williams stated correct.

Ted Kozlowski stated and the stuff is done so it makes sense to me that someone who is here full time, at least checks off...

Rich Williams stated well...

Board Member McNulty stated again, I recently...

Ted Kozlowski stated you know 32 Haviland Hollow Road, a garage is going up, okay, let's just take a quick, well it might be next to a wetland or it's on the side of a mountain.

Board Member McNulty stated that happened to me in South Salem, applied for a permit to renovate a kitchen, it was like 15 feet of foundation that we had to expose by hand, check it and reinforce it and the Building Inspector before he'd issue the permit stopped it right there and said I have to send the ECI out and we're ECI what, well I have to see if you're within wetlands, you're digging.

Rich Williams stated and God help you if you got Bruce Barber.

Board Member McNulty stated I don't know who it was, I didn't deal with him but I was hot.

Ted Kozlowski stated this was in North Salem.

Board Member McNulty stated it was South Salem.

Ted Kozlowski stated oh that's Bruce Barber.

Board Member McNulty stated oh but he came out and saw what we were doing and it was between a

garage and a house and there were no wetlands anywhere in sight but my point is the Building Inspector stopped it...

Board Member Taylor stated right.

Board Member McNulty stated and said oh you're digging, well we're digging 22 feet, 12 inches wide, nope, somebody has to look at it.

Board Member Taylor stated right, okay.

Board Member McNulty stated stopped things for 3 days.

Chairman Rogan stated but from your perspective, you're saying that even there is a wetland somewhere on site, what I'm doing isn't going to impact, in your mind you're thinking reasonably to say yes I understand there might be an impact but what I'm doing can't possibly have an impact, so you have to be (inaudible)...

Board Member McNulty stated and he saw that and he said this is no problem so from that standpoint it was good, just my point is it stopped the process and it was flagged which I guess we don't do.

Board Member Taylor stated yeah.

Chairman Rogan stated yeah.

Rich Williams stated we don't and unfortunately and we should but a lot of times we also get into situations where we don't, you know, we don't realize it's a problem until after it becomes a problem and then you do have to stop, and we never want to be there, we want to proactive, we want to look at this before so when you put that shovel in the ground, you don't have to sit there and leave the machine there for two weeks while we figure out what we're going to do next.

Board Member McNulty stated well maybe it doesn't have to be a Planning Board issue, maybe it's just the ECI's involved, well they're going to dig a footing...

Ted Kozlowski stated well no, I think, but Tom, I'm part time, everybody else is part time, Rich is full time, he's here, it makes sense that it goes to him...

Board Member Taylor stated to Rich.

Board Member McNulty stated come on, I'm trying to get you hours.

Ted Kozlowski stated I'll get out but, you know...

Board Member McNulty stated no, I'm only kidding.

Rich Williams stated well I'll give you case in point, recently...

Ted Kozlowski stated he's going to have a checklist of things.

Rich Williams stated that just happened, I mean a gentleman came in, who wanted to build a house in an old subdivision, came in and got a blasting permit, went out blasted all sorts of rock, went in, put the septic

system in and got ready to put the foundations in, at that point Cheryl brought the plans into me and said he's changing the driveway location, this may be an issue, what...

The Secretary stated she brought the plan into me and said that it looked, it looked different...

Rich Williams stated yeah.

The Secretary stated and I pulled the plan and it was completely different.

Rich Williams stated at which time I got brought into it.

The Secretary stated mhmm.

Rich Williams stated and then started taking a look at what they were doing and realize, they put the septic, they moved the septic, they had moved the well, completely redone everything on the site, were significantly impacting an easement, a conservation easement that they weren't supposed to be going in, said the plan is totally unworkable, made them resubmit, they resubmitted another plan, that was equally unworkable, took that plan, went out onto the site and found out that most of the work had already been done and the access to the septic they have brought in from the adjoining piece of property. So it wasn't even they were doing what was on any of the plans...

Board Member McNulty stated was this a subdivision lot that was sold and resold...

The Secretary stated no, it's the original owner, original subdivider.

Rich Williams stated it was done by the subdivider.

Board Member McNulty stated by the developer.

Rich Williams stated right but...

Board Member McNulty stated wow.

Rich Williams stated all he cared about was issuing the blasting permit and not how everything was going to be integrated on the site.

Board Member McNulty stated he just assumed there's an approved plan, he's going to follow the plan, I would probably do the same thing if I was him.

Rich Williams stated yeah, yeah, right but in truth everything was moved around, so you know I had to get involved, we had to you know issue the permits hastily after the fact to do what he had to do and get him squared away but he was stopped for a week.

The Secretary stated and was not happy about.

Rich Williams stated nope, not but...

Board Member Montesano stated at least he wasn't stopped for two weeks; at least you got out there.

Chairman Rogan stated but in fairness, even somebody like that should be reasonable enough to say oh here's what was approved and here's what I did, whoa the two...

Board Member McNulty stated especially since he's a developer, it's not like he's just a homeowner building.

The Secretary stated and I don't do measurements so for me to pull the plat and then for Cheryl to bring in what she had, visually it being that different, so...

Chairman Rogan stated sure.

Board Member Montesano stated but we can't give him a ten thousand dollar a day fine either.

Chairman Rogan stated yeah.

Rich Williams stated now if there had been some sort of requirement that had been run through this department before the building permit, blasting permit got issued, none of that would have happened.

Board Member Montesano stated you're not taking my carrier away.

Chairman Rogan stated it sounds like the first concern is that Building Inspectors have a more global or wholistic approach to their job and I do know Building Inspectors that approach their job more in that manner...

Rich Williams stated oh absolutely.

Chairman Rogan stated and I mean there are some really goods that I get the chance to work with in Putnam, in lieu of that obviously more involved from you is needed and warranted but I'd still promote that either now or in the future with whomever's in that office that you build a, you know build that kind of that, part of their job that they have that vision that isn't just the four walls, that that is incorporated into their checklist mentality of okay, am I assessing what the erosion controls are, what's going on with site development, am I looking back to the approved plan and comparing the two, that is just someone doing a job to the best of their ability and making sure they are considering the impacts and being held accountable when it doesn't go that way to say hey, we have something to prove that you have in your file or it's in this office, you have something else and they don't match, that's on you, that shows that you're not following and doing your job and that goes back to just us doing our fundamental job.

Board Member Montesano stated when you go down to these things...

Chairman Rogan stated yeah.

Board Member Montesano stated if you ever walk in on a Building Inspectors class, you can sit there, go to sleep, get up, walk out the door and you know as much then as you do...

Chairman Rogan stated they're that bad, huh.

Board Member Montesano stated some of them are terrible but then again, it all depends on who the guy is that's giving it.

Rich Williams stated in an ideal world Shawn you're absolutely right and I agree with you wholeheartedly...

Chairman Rogan stated yeah it depends on the talent.

Rich Williams stated 25 years I have not seen it here...

Chairman Rogan stated I realize.

Rich Williams stated I've not seen it in a lot of other towns.

Chairman Rogan stated no and it takes years to develop those skills.

Rich Williams stated so...

c. Reilly Zoning Change

Chairman Rogan stated all right and we have a request from Mr. Reilly...

Board Member McNulty stated Joe Reilly.

Chairman Rogan stated to rezone a piece of property.

Rich Williams stated yup, Mr. Reilly owns a piece of property...

The Secretary stated second request.

Rich Williams stated just north of Justin's Auto...

Chairman Rogan stated yup.

Rich Williams stated it is a long linear piece of property, it's got a very steep driveway with a garage that they recently put a roof on, on the bottom. The driveway is up such a grade, it's really not suitable for commercial property, Mr. Reilly has requested that it, the property be rezoned, we can simply redraw the line so that the R-4 zoning boundaries come out to the road. Having said all that, the property immediately to the north of Mr. Reilly's property mirrors Mr. Reilly's property in regards to the linear nature of the property, the steep driveway, it's not gated up front and it really, both of them are more conducive to a residential use than they ever will be for a commercial use. My recommendation is that we change the zoning but we consider changing the zoning for both parcels.

Ted Kozlowski stated can I ask you a question about that though, should you ask that owner of the second parcel, not the Reilly, the second parcel, would you want to ask him if he wants that changed.

Rich Williams stated no, what the hell do I care.

Ted Kozlowski stated what happens...

Board Member McNulty stated of course you would.

Ted Kozlowski stated what happens if he's Tommy McNulty who just bought it, thinks its commercial and is planning to put a commercial there...

Rich Williams stated well that's just sauce for the goose Ted.

Ted Kozlowski stated you know and...

Board Member McNulty stated that owner should come (inaudible).

Rich Williams stated yes Theodore, yes, before we do anything, I've got to send him a letter saying this is what we're considering because we would never, ever change the zoning on somebody without some sort of notice to them.

Ted Kozlowski stated well Denis Rocchio says we did that to him.

Rich Williams stated yes, I know he does.

Board Member McNulty stated is that considered, that's not considered spot zoning.

Rich Williams stated no, if there's a legitimate, listen, if you've got a parcel in the center of a whole big area and you want to zone that parcel something different, just that one little parcel, that's still not spot zoning, as long as there is a legitimate purpose and reason for doing it...

Board Member McNulty stated and existing use.

Rich Williams stated and there is no personal benefit to anybody who is involved in doing that rezoning.

Board Member McNulty stated does that change your tax structure from commercial to residential or vice versa.

Board Member Montesano stated they charge more.

Rich Williams stated I don't know if changes the assessed value of the property.

Board Member Montesano stated uh-oh, you've got to change that.

Board Member McNulty stated will it change the mill rates though.

Rich Williams stated Teddy seems to have an opinion on this.

Board Member Montesano stated talk low, talk low.

Ted Kozlowski stated does that rezoning, does that rezoning to R-4, is there a minimum number of inhabitants for that zone.

Rich Williams stated the zoning in and of itself does not establish a...

Board Member McNulty stated occupancy.

Rich Williams stated occupancy.

Board Member Montesano stated enforcement does.

Rich Williams stated there are occupancy requirements for bedrooms within our Code...

Ted Kozlowski stated right.

Rich Williams stated and within the Building Code.

The Secretary stated New York State Code dictates that.

Board Member Taylor stated I don't see any problem with it.

Board Member Montesano stated that thing on Haviland Hollow...

Board Member Taylor stated it makes sense.

Board Member McNulty stated as long as if he wants it and if the other person wants it, I don't have a clutch.

Board Member Montesano stated did we ever hear anything from Michael.

Chairman Rogan stated so which parcel is it.

Board Member McNulty stated this is Reilly's...

Board Member Montesano stated he was looking into going to talk to George...

Chairman Rogan stated oh this is Justin's...

Board Member McNulty stated Justin's, this is Ballyhack...

Rich Williams stated I talked to the attorneys today...

Board Member McNulty stated Taggart Estates...

Rich Williams stated that is one of the things Michelle has to do in the morning, is get a list of property owners.

Board Member McNulty stated I think this is Taggart...

Chairman Rogan stated right here.

Board Member McNulty stated where is it.

Chairman Rogan stated it goes right up this way.

Rich Williams stated did you, do you have a gas problem.

The Secretary stated yup, only when I'm here.

Board Member McNulty stated oh it continues and this branches.

Chairman Rogan stated oh you're probably right.

Board Member McNulty stated what is this.

Chairman Rogan stated it's a line.

Board Member McNulty stated oh I see it.

Chairman Rogan stated it's a zoning line for something.

Board Member Taylor stated it's the existing zoning line.

Board Member Montesano stated so when they sell the two pieces of property and combine it into a commercial and ask to have it rezoned back to commercial...

Board Member Taylor stated they want to move it, this is the R-4 zone line, they want to bring it down here and then back.

Board Member McNulty stated encompass this here.

Rich Williams stated funny part of this is he came in, he saw me, asked to rezone it, so I could put it on the Town Board agenda, he sent a letter in saying I don't want it rezoned.

Board Member Taylor stated it makes sense.

Board Member McNulty stated yeah.

Ted Kozlowski stated Rich, is it a four acre parcel.

Chairman Rogan stated no.

Rich Williams stated no.

Ted Kozlowski stated so...

Board Member McNulty stated well it doesn't conform commercially either.

Board Member Taylor stated it's already built, they've got houses on it already.

Rich Williams stated yes.

Ted Kozlowski stated so why don't you make it R-1.

Rich Williams stated we don't have an R-1 zoning district there.

Chairman Rogan stated isn't this the lot, which one is it again, this one or this one that Reilly owns, which one.

Board Member McNulty stated I think it's this one, this is the big garage.

Chairman Rogan stated oh, the adjacent parcel the one that Reilly does not own, the one closer to the north...

Board Member Montesano stated north bound.

Chairman Rogan stated isn't that one when we were walking the vacant commercial property we saw all the like, it looked like a construction yard or something, you remember.

Rich Williams stated it was a landscape yard, I know the one, yeah.

Chairman Rogan stated landscape yard, that was up in here, I don't know how many years ago, awhile.

Board Member McNulty stated I went on that site walk.

Board Member Montesano stated that's when we were going to get Honda to put in...

Chairman Rogan stated four wheelers down over the hill.

Board Member Montesano stated yes, there's been, I remember when we were going to have a waterpark on Haviland Hollow and [Route] 22...

Rich Williams stated yup.

Chairman Rogan stated all right, for purposes of the record and 99 pages, what do you say we adjourn the record discussion for tonight.

Board Member Montesano stated second, oops.

Board Member McNulty stated I just want to say I read the notes and thank you Shawn and the Board for making me Vice Chairman, hopefully I'll do a good job.

Board Member Montesano stated yes.

Board Member Taylor stated you were gone, that's what happens when you're gone.

Board Member Montesano stated you should have been at the meeting.

Rich Williams stated whose missing, Tommy, he's it.

Chairman Rogan stated motion to adjourn.

Board Member McNulty seconded the motion.

The meeting adjourned at 9:17 p.m.