

**TOWN OF PATTERSON**  
**PLANNING BOARD MEETING**  
**January 29, 2015**  
*Work Session*

**AGENDA & MINUTES**

	<b>Page #</b>
1) <b>Wilkins Motorsports – Public Hearing</b>	1 – 3
2) <b>Mancini Subdivision – Final Approval</b>	3 – 4
3) <b>Fox Run Active Adult Residential Project – EAF Review - Part 3</b>	4 – 46
4) <b>Other Business</b>	
a) <b>Zoning Code - Restaurants</b>	46 - 81

**PLANNING DEPARTMENT**

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

Sarah Mayes  
Mary Schartau  
*Secretary*

Richard Williams  
*Town Planner*

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



**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF APPEALS**

Lars McNulty, Chairman  
Mary Bodor, Vice Chair  
Marianne Burdick  
Michael Carinha  
Stephanie Fox

**PLANNING BOARD**

Thomas E. McNulty, Chairman  
Ron Taylor, Vice Chair  
Michael Montesano  
Edward J. Brady Jr.  
Robert F. Ladau

**Planning Board  
January 29, 2015 Work Session Meeting Minutes**

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

Present were: Chairman Thomas E. McNulty, Board Member Ron Taylor, Board Member Robert Ladau, Rich Williams, Town Planner, Ted Kozlowski, Environmental Conservation Inspector and Ron Gainer, Town Engineer.

The meeting began at 7:04 p.m.

Sarah Mayes was the Secretary and transcribed the following minutes.

Chairman McNulty called the meeting to order.

Chairman McNulty stated okay, this is the work session for the February 5<sup>th</sup> meeting and we have somewhat of a short agenda here but we'll see how long it takes.

Board Member Ladau stated that's okay.

**1) WILKINS MOTORSPORTS – Public Hearing**

Chairman McNulty stated number 1: Wilkins Motorsports. We're going to have a public hearing. Rich, you said you went out and you measured the...

Rich Williams stated no, I didn't go out. I...

Chairman McNulty stated oh, you didn't go out.

Rich Williams stated I confirmed on the plan that the dimensions are correct with the exception of the one dimension that's shown for the separation between the main building and the proposed shed which I believe is shown as 15' and when I measured it out, it was closer to 20'.

Chairman McNulty stated so 20' is what we prefer to see, correct.

Rich Williams stated 20' is better than 15'.

Chairman McNulty stated okay.

Board Member Ladau stated oh, I see. The...

Chairman McNulty stated so this case we're going to have a public hearing. SEQRA: We're going to have to do SEQRA on this.

Rich Williams stated yes.

Chairman McNulty stated is there any issues that we're going to approve this as a site plan. Are there any...The only thing I was looking at on this, any issues with the entrance in and out of the road to be addressed...

Rich Williams stated the entrance...

Chairman McNulty stated with the driveway.

Rich Williams stated in and out of the road have been there for, you know, fifty plus years.

Chairman McNulty stated yeah, I've been in and out. I've always managed. I just thought I'd bring it up.

Rich Williams stated so, and they're not proposing any changes to the entrance.

Chairman McNulty stated okay.

Rich Williams stated so unless you have identified some specific deficiencies we need to talk about...

Chairman McNulty stated I haven't. Like I said, I've been in and out of there. Been able to negotiate.

Board Member Ladau stated yeah.

Chairman McNulty stated so we'd have a public hearing. Following, probably put a stamp of approval on this if there's no objections.

Rich Williams stated if you'd like.

Board Member Taylor stated can't we put the stamp of approval right then.

Chairman McNulty stated can we.

Board Member Taylor stated if nobody comes and raise hell at the public hearing, why don't we just go ahead.

Chairman McNulty stated I don't have a problem with that.

Board Member Taylor stated I mean, if somebody raises some substantive issues, then we can think about it for a month.

Chairman McNulty stated yup.

Board Member Taylor stated but, I mean, let's move this guy along.

Chairman McNulty stated okay. I'm okay with that.

Board Member Ladau stated okay, then SEQRA is not required.

Chairman McNulty stated it is required.

Board Member Taylor stated it is.

Board Member Ladau stated it is required.

Chairman McNulty stated yeah. And...

Board Member Taylor stated but it's...

Chairman McNulty stated we'll have certain waivers. There's a couple of small waivers to the site plan requirements. We'll have to list those, right.

Rich Williams stated like outcroppings, large trees, you know, a few things like that.

Chairman McNulty stated are you being serious.

Rich Williams stated yeah, they're a requirement of the site plan.

Chairman McNulty stated oh, okay.

Board Member Taylor stated but since it's essentially pre-existing...

Chairman McNulty stated yeah. We're just trying to get this on the record so we have it.

Board Member Taylor stated yeah.

Chairman McNulty stated something established to go by. Okay. So hopefully nobody has any big objections. We can move along at that.

## **2) MANCINI SUBDIVISION – Final Approval**

Chairman McNulty stated Mancini Subdivision.

Rich Williams stated this is on for final approval. As you're all aware, we've been reviewing this subdivision plan. I finally got a subdivision plat in to take a look at. I have a number of comments which I've sent back to the engineer already. They're minor in nature. We'll just make them a condition of the resolution.

Chairman McNulty stated so you're working on that. We'll be able to work on that on Thursday.

Rich Williams stated yup.

Chairman McNulty stated okay, good.

Rich Williams stated you'll have that.

### **3) FOX RUN ACTIVE ADULT RESIDENTIAL PROJECT – EAF Review – Part 3**

Chairman McNulty stated okay. That brings us to Fox Run.

Board Member Ladau stated ta-da.

Rich Williams stated in response to a number of concerns that the Planning Board had on some of the issues out there and the discussions that I had with the Applicant, the Applicant has now submitted a number of items to the Planning Board for their consideration. One is a visual analysis. A plan showing the surrounding land use and identifying line of sight along with a visual representation of that. They submitted a plan showing the elimination of three buildings up on a ridgeline to provide further screening and they've located Ted's very large trees. And they have provided a plan which shifts the driveway about 50' to the west, though they've indicated it's going to the east it's actually going to the west.

Ron Gainer stated that's what you had suggested, Tommy. That was a good call.

Chairman McNulty stated to move it to the west. It gives you a line of sight there.

Board Member Taylor stated and they're still...

Ron Gainer stated improves both directions.

Board Member Taylor stated and they're still going to make those improvements to the east.

Rich Williams stated yes.

Board Member Taylor stated yeah, so good.

Chairman McNulty stated okay. So we're looking at finalizing the EAF Part 3, correct. And Ron has...

Rich Williams stated you're looking at an acceptance of the environmental assessment form as it was submitted and then a SEQRA determination.

Chairman McNulty stated now Ron had outlined some...I don't know...Did you send that to everybody, Ron.

Board Member Ladau stated yup.

Rich Williams stated yup.

Board Member Taylor stated yup.

Chairman McNulty stated I thought I printed it and brought it but I don't see it.

Board Member Ladau stated it was nicely done.

Board Member Taylor stated thanks. It's just continuing...

The Secretary stated do you want my copy [referring to Chairman McNulty].

Board Member Taylor stated continuation of the summary that we'd had.

Chairman McNulty stated yeah, that'd be great. Thanks. Got it somewhere in all these papers. Alright, so from the EAF Part 3, these are the items we've all notated a somewhat significant, correct.

Board Member Ladau stated mmhmm.

Board Member Taylor stated depending on if they're mitigated or not, yeah. I mean, a lot of them you'll see...we assume they will be mitigated by the engineering. But they haven't been mitigated yet because we've got one set of drawings and not the usual. I just had a question on...Do we generally not do SEQRA until later on in the process.

Rich Williams stated you generally are supposed to do SEQRA early on in the process. But you need to have enough information upon which to make a basis. That usually requires the developer to, you know, develop something more than a conceptual plan. But, you know, it's way before you're going to get into your hard engineering of drainage design, stormwater pollution prevention plan.

Ron Gainer stated well before they're drilling test wells. Or anything of that sort.

Rich Williams stated yes.

Board Member Taylor stated are they...

Ron Gainer stated they're not doing any hard engineering or hard...

Chairman McNulty stated before they get any large investment engineering in.

Rich Williams stated.

Board Member Taylor stated well, it's just that I was remembering Watchtower and the detail we had on Watchtower. And...

Rich Williams stated you can't ever use Watchtower as an...

Chairman McNulty stated yeah, that's a tough...

Rich Williams stated example.

Chairman McNulty stated that's a tough...

Board Member Taylor stated ok.

Chairman McNulty stated people to use. They do it just different.

Board Member Taylor stated and then M&S was another one. We had all the slopes figured out. They had the stormwater all figured out because, especially, because we had those issues on where that stuff was going. They had it all drawn and where the rocks were going to go and...

Rich Williams stated mmhmm.

Board Member Taylor stated it was all figured out. So that's kind of what I'm basing this on. We've got none of that. We don't know how many rocks are going to pull out of here, what they're doing with them when they pull them out. Tom's got questions about the grading on the road and it just seems to me like we're not far enough along. I mean, we could certainly do this in terms of write-up section 3, but can we make a determination unless we've...Unless it's a conditional determination.

Rich Williams stated well, you certainly can make a conditional determination on this but, you know, I did take a look at your list. If you want to go down your list we can go down your list. I will give you that the amount of rock removal that they are going to have to do out there has not been fully explored. They don't have a full amount. But I would anticipate that regardless of how much rock they take out and how they're going to do it, if they're going to blast it they're going to have to come up with a blasting plan that we're going to approve and we're going to mitigate all the (inaudible – papers shuffling) blasting plan. When they do take a rock out, I certainly am, from my end, I'm going to encourage them to process it and reuse it on site. With the new processing techniques, that's typically what they're going to do anyway so it's not a hard push, you know. Other than that, they're going to have to take it off site and find a place to lose it. That's not going to be an easy thing around here.

Board Member Taylor stated yeah, right.

Rich Williams stated we certainly don't want the trucking costs and...

Board Member Taylor stated impacts on the road and...

Rich Williams stated nobody...It's not like the old days where you had plenty of places you could just go dump rock and...

Board Member Taylor stated right.

Rich Williams stated and fill those wetlands in.

Board Member Taylor stated yeah.

[Laughter].

Ted Kozlowski stated or Adam Levine's house.

Board Member Taylor stated yeah.

Rich Williams stated yeah, he's out of business.

Ted Kozlowski stated well, that's...

Chairman McNulty stated well then, I guess the real question is how do we...These are our concerns here and we'll go through them...I think the groundwater was somewhat of a concern but I don't know how large that was because we...There's not a lot of groundwater out there.

Rich Williams stated right.

Board Member Taylor stated but then they need to deal with it. That's all I'm saying. We said that with the proper mitigation most of this stuff goes away.

Rich Williams stated correct.

Chairman McNulty stated so the question is how do we...

Board Member Taylor stated it's just we don't have the mitigation yet.

Chairman McNulty stated how do we make a determination to guarantee our mitigations.

Board Member Taylor stated yeah.

Ron Gainer stated has there been a Draft Part 3 written yet or have they issued it, any Part 3.

Rich Williams stated oh, I think we've got a draft floating around some place.

Ron Gainer stated yeah.

Rich Williams stated don't we.

Chairman McNulty stated yeah, I think they did...

Ron Gainer stated a lot of that's going to get addressed as best you can or...

Chairman McNulty stated well, we went through it.

Ron Gainer stated or Rich is going to draft it but...with some understanding of what's appropriate mitigation. And then you don't act until you have that understood.

Board Member Taylor stated oh, well that's what...

Chairman McNulty stated and we...And we hold the ball in the court to get that done.

Rich Williams stated yes. It's our responsibility to do the Part 3.

Board Member Taylor stated Part 3, yeah.

Chairman McNulty stated no, I mean to get the mitigation beyond that. To...After determination's made...

Rich Williams stated well, within the Part 3 you're going to identify if it's a large, significant impact and then whether it could be mitigated. If you think through proper design it could be mitigated, you know, then it kind of falls off the table.

Chairman McNulty stated well, that's the big question.

Board Member Taylor stated I think what he's asking is how do we control the mitigations; be sure that it gets implemented down the road.

Chairman McNulty stated exactly.

Board Member Ladau stated yeah.

Rich Williams stated because you approve the final site plan.

Board Member Taylor stated so we can just keep saying to them you haven't met the conditions that we... Well, maybe we should try the conditional. We've never done one, right.

Rich Williams stated no. We've never done one.

Board Member Taylor stated so...

Rich Williams stated we certainly could do a conditional negative determination.

Board Member Taylor stated yeah. So we could lay it out that way.

Board Member Ladau stated let me ask a question the other way around based on something that you said a while back. Does it make sense rather than a conditional response for you to meet with them again to get to negotiate something that is acceptable where they commit to it.

Rich Williams stated what haven't they addressed that you...

Board Member Ladau stated no, all the things and Ron's...

Rich Williams stated well, I mean, maybe we should...

Chairman McNulty stated let's take a quick look at Ron's notes.

Rich Williams stated maybe we should just...

Chairman McNulty stated yeah.

Rich Williams stated very quickly run through...

Chairman McNulty stated sure.

Rich Williams stated Ron's notes. I don't have them in front of me, but...

Chairman McNulty stated do we have a... Anybody have a copy of the EAF Part 3 that we...

Board Member Ladau stated oh, no. I didn't...

Board Member Taylor stated I took these off the table, I sent out before.

Rich Williams stated yeah.

Board Member Taylor stated I mean, this arose...

Chairman McNulty stated yeah.

Board Member Taylor stated I was going to pick up the specific language from the November 24<sup>th</sup> meeting...

Chairman McNulty stated is that when we went...reviewed the EAF...

Board Member Taylor stated yeah.

Chairman McNulty stated Part 3. But I just...

Board Member Taylor stated and I went to it, I pulled it up, my PDF up, clicked on it to go to page whatever it was...

Chairman McNulty stated mmhmm.

Board Member Taylor stated and I had page 1 and that was it.

Board Member Ladau stated yeah.

Board Member Taylor stated so I couldn't pull it up. Sarah has sent me the full...and I saved it as...

Chairman McNulty stated I have it somewhere, I don't know where it is.

Board Member Taylor stated one page instead of the whole thing. But that's where this came from and there's language that goes with this.

Board Member Ladau stated mmhmm.

Board Member Taylor stated there's particular type of soil in this area. Particular type of...So I don't think they could do what you're saying without...I mean, that's why I was saying we need engineered drawings, we need a SWPPP. You can't deal with the stormwater...

Board Member Ladau stated yeah.

Board Member Taylor stated without a SWPPP. Now we can say they've got to meet these regulations and it's because of this area, but it's still...That was Tom's question. Normally, we've got this stuff in front of us and we can say, okay let's go ahead.

Rich Williams stated well, no. Normally...Normally they're not doing the SWPPP until after there's a negative determination...

Chairman McNulty stated usually after the SEQRA the SWPPP comes.

Rich Williams stated yeah.

Ron Gainer stated yeah, you're not going to get a SWPPP now.

Board Member Taylor stated okay, well...

Chairman McNulty stated no.

Ron Gainer stated you're going to mandate...

Rich Williams stated so...

Ron Gainer stated that that be done but it's...

Rich Williams stated but you know...

Ron Gainer stated that's a statutory requirement.

Chairman McNulty stated mmhmm.

Rich Williams stated you know that there is going to be an impact from stormwater...

Board Member Taylor stated yes.

Rich Williams stated from phosphorous runoff. You know based on the regulations that they have to do a SWPPP which produces a zero net increase in phosphorous so it mitigates that. So, you don't need to make that a condition or part of a conditional negative determination.

Chairman McNulty stated it already is a condition.

Rich Williams stated you know as part of the regulatory process it's going to occur.

Board Member Taylor stated so we can...

Rich Williams stated and...

Board Member Taylor just say that.

Rich Williams stated so you can just acknowledge that.

Board Member Taylor stated yeah. Alright. And I'm probably misusing the SWPPP terminology. I was just talking about the whole drainage. The whole issue with...

Rich Williams stated mmhmm.

Chairman McNulty stated mmhmm.

Board Member Taylor stated drainage on this site. It's just...I mean, you look at this conceptual plan, there's some real issues about where's that water going from the one pond to the other pond. There's a house in between. There's a building in between and they haven't addressed any of that. But again, I think we can do it within the hearing.

Rich Williams stated want to grab a chair [referring to **Dede Lifgren** just walking in].

**Dede Lifgren stated** can I. Thank you. Sorry for being late.

Rich Williams stated so yeah, I mean, I can take a look at the part 3 and, you know, type it up and...

Board Member Taylor stated I'll pull out the specifics.

Rich Williams stated you know, I can look at the conditional negs...neg dec, but you know again, if you want to go down through the list so I have a little bit better guidance...

Board Member Taylor stated yeah, well...

Rich Williams stated I know the first one on the list is concerns about expansive soils.

Board Member Taylor stated well, it was the short depth to the water table which was both groundwater and expansive soils. We've got that one area where they're building in where there's water...

Rich Williams stated right.

Board Member Taylor stated sitting there. Even...It's not a wetland, but still.

Rich Williams stated sure.

Board Member Taylor stated it needs to be dealt...

Rich Williams stated so those soils are generally considered for this area high in clay content due to fluvance. But expansive soils are usually something different.

Board Member Taylor stated okay. I'm using the wrong terms. Again, I couldn't go back to the minutes...

Rich Williams stated okay.

Board Member Taylor stated is what I'm saying. I wanted to pull out the language but that's what you were talking about. You had said yourself that they've got this soil which they haven't dealt with. It's a troublesome soil; whatever one that is.

Rich Williams stated it's troublesome to me in building.

Board Member Taylor stated yeah.

Rich Williams stated they're going to have to remove it and then they're going to have to fill it all back in.

Board Member Taylor stated right.

Rich Williams stated well, I mean, that's how they're going to mitigate that: They're going to eliminate it...

Board Member Taylor stated alright.

Chairman McNulty stated and put bank (inaudible) in.

Rich Williams stated and well, put crushed rock in.

Chairman McNulty stated oh. Well, they're going to have plenty of it.

Board Member Ladau stated of which they will have an abundance.

Rich Williams stated absolutely.

Board Member Taylor stated so that's all...

Rich Williams stated yeah.

Board Member Taylor stated so that's the point. We're just saying you've got to deal with this. And they're going to deal with it and we assume it's going to be mitigated. That's...I don't see this as a problem but I think we need to lay those steps out so we can, ourselves, check them off as we go through the process because I know I get lost in these processes. And you get lost sometimes, too, not...trying to remember...

Rich Williams stated yeah. Sometimes.

Chairman McNulty stated no, no. It's...

Board Member Taylor stated so we just get the list, we can quickly go through it.

Chairman McNulty stated and who knows what we're missing off this list. I mean, based on the EAF Part 3...

Board Member Taylor stated well, this is the EAF. This is off my table.

Chairman McNulty stated yeah.

Board Member Taylor stated this is the way I took it. I pulled these right off the table when...

Chairman McNulty stated as per item number, right.

Board Member Taylor stated yeah.

Chairman McNulty stated yeah.

Board Member Taylor stated so we shouldn't be missing anything. You know, if everybody reviewed the table I assume we, I mean, I don't know. Did I miss anything on the table. Do you remember.

Rich Williams stated I don't remember.

Board Member Taylor stated yeah, so I mean, that's the other thing. We need to look and see if the table was complete.

Chairman McNulty stated yeah. The second item under land was steep slopes. Now, just looking at the new plan, they have some steep slope within the driveway run. Have you noticed that.

Rich Williams stated they've got some areas of steep slope that they're going to have...

Chairman McNulty stated that pitch right into the garages.

Rich Williams stated right.

Board Member Ladau stated yeah.

Rich Williams stated they're going to have to take into consideration in the development of the site through grading.

Chairman McNulty stated okay.

Board Member Ladau stated and a very large drain in the floor of the garage.

Chairman McNulty stated well, they're showing two feet above, but it's very...

Board Member Ladau stated oh, I'm sorry...

Chairman McNulty stated no. They're showing a slope...

Board Member Ladau stated yeah.

Chairman McNulty stated that comes down and the garage slab 2' above that.

Board Member Ladau stated oh.

Chairman McNulty stated it's pretty awkward how they set it up there. Now, whether it changes the determination what we're looking at...

Rich Williams stated it's what they do all the time: They bring the slope down, they bring it over to the garage and then they put the houses a little bit higher. They usually have a trench drain in front of it.

Chairman McNulty stated well I just know...

Rich Williams stated we see that all the time now a days.

Ron Gainer stated well again, and you're trying to shed water from the house back to the roadway system.

Rich Williams stated right.

Chairman McNulty stated it's not going that way.

Ron Gainer stated so it's picked up.

Board Member Ladau stated yeah.

Chairman McNulty stated they have it the...

Ron Gainer stated they say it's not...

Chairman McNulty stated it's the opposite way on that...

Ron Gainer stated okay.

Rich Williams stated well...

Chairman McNulty stated on the western road.

Rich Williams stated these are conceptual plans. I mean, as we get into the actual hard engineering, we're going to make sure that it's pitched properly so that, as Ron says, the water sheds away from the house.

Chairman McNulty stated now, on a roadway...on previous projects we looked at the driveway was like 8% and is a roadway going to be...what's the steep limitations: slopes...

Rich Williams stated generally, we're going to try to keep this below 8%. I think Code says max is 10[percent].

Ron Gainer stated right.

Chairman McNulty stated okay. Because I think they're in that 8-10% range in some of those areas just looking at the topo map.

Board Member Ladau stated yeah.

Chairman McNulty stated so...

Ron Gainer stated and again, you got a Code issue they have to deal with. They have to satisfy that.

Rich Williams stated absolutely.

Chairman McNulty stated yeah.

Ron Gainer stated you're not going to...

Chairman McNulty stated so we have teeth to stay on that.

Ron Gainer stated right.

Board Member Taylor stated yeah.

Chairman McNulty stated okay.

Board Member Taylor stated but also on some of this stuff, I mean, I think we want it on the site plan. We don't want to depend on the Building Department enforcing the building code. We want to see how they're going to solve some of these issues on the site plan.

Chairman McNulty stated well, I think...

Ron Gainer stated again...

Chairman McNulty stated that's what Ron's saying...

Ron Gainer stated again, the part...

Chairman McNulty stated it's on our Code for the site plan.

Ron Gainer stated the Part 3 statement that's going to come to Rich is going to identify those specific criteria that's going to mandate...

Board Member Taylor stated right.

Rich Williams stated right.

Ron Gainer stated those obligations...

Board Member Taylor stated okay. Yeah. Okay.

Ron Gainer stated that's going to have the same teeth as anything else and from that is going to involve final engineered drawings and they're going to be evidence then of hard engineering or details, or whatever comes at the end of the process before you sign off.

Board Member Taylor stated okay.

Chairman McNulty stated and then it brings us to shallow bedrock: same concerns, right.

Rich Williams stated no, shallow bedrock is going to require rock removal either through ripping or through blasting. And then, you know, the resulting material is going to have to be removed from site or it's going to be processed to be used on site.

Chairman McNulty stated now, the only concern I have with blasting other than noise is disruption to other wells in the area. So, is there a way in a blasting plan, do you limit the amount of the blast not to do that or...

Rich Williams stated well, they're certainly going to try to limit the intensity of the blast so as not to impact adjacent wells. Good news and bad news is that Fox Run is served by a limited number of community wells.

Chairman McNulty stated mmhmm.

Rich Williams stated and as part of the blasting plan we would want to see them monitored.

Chairman McNulty stated how about the neighbors to the west; there are a couple of houses to the west...

Rich Williams stated they're pretty...

Chairman McNulty stated and a couple houses across the street.

Rich Williams stated far. They're better than 1500 feet, Adam Stiebeling's property.

Chairman McNulty stated so you're comfortable that would be okay distance wise.

Ron Gainer stated but again, you're talking about blasting. But you're going to be monitoring wells, I suspect, when they drill wells.

Rich Williams stated yeah. They're going to have the drilled...

Ron Gainer stated separately they're going to do the same thing.

Rich Williams stated you're going to have the drilled wells probably in the way and monitoring.

Ron Gainer stated prove out the adequacy that's applied.

Chairman McNulty stated okay.

Ron Gainer stated there're impacts on adjacent wells through that monitoring, they've got an issue to deal with.

Board Member Taylor stated right. Yeah, that's a question down...

Ron Gainer stated the maintitive issue they have to deal with until DOH says they're done.

Board Member Taylor stated right. Okay.

Chairman McNulty stated okay.

Board Member Taylor stated and the wastewater, I mean the ways you've guys talked about I&I, you were saying you've seen it where it's 50% and...

Ron Gainer stated I don't think I said 50%, but it's an issue on older systems. You've got to pay attention.

Board Member Taylor stated yeah.

Ron Gainer stated now, I don't know that they ever gave you the...

Rich Williams stated yeah, I've got them.

Ron Gainer stated oh, you have the records. Yeah.

Rich Williams stated I have now, I think, what did he say, 25 months. And they associated that precipitation, which is nice but it doesn't tell me what happened the day before or a couple days before or what the level of the groundwater is.

Ron Gainer stated did you get dailies or what did you get.

Rich Williams stated no. I got monthlies, average peak and low point...lows for the month.

Ron Gainer stated I think they should just file the DMRs just give you copies of the State filing.

Rich Williams stated are we really going to go through the DMRs.

Ron Gainer stated I would just peek at them. It will take you...It's an exercise...It's just turning the page. All you're doing is looking for precip[itation] and you're looking for a balance. That doesn't take any time to...

Chairman McNulty stated what a DMR.

Ron Gainer stated it's a sheet of paper. A DMR is just a monthly monitoring report for the wastewater system that's filed with State.

Chairman McNulty stated oh, and currently filed reports.

Ron Gainer stated they're tell you, you know, daily wastewater generation. It's going to have precip daily. And it's just one form for the month. I mean it's...

Rich Williams stated mmhmm.

Ron Gainer stated just looking down. It's just 24 pieces of paper, just looking for precip and seeing if there's any cue...any daily flows that exceed the SPDES. If they exceed or they come close to you then say, wait minute. I'm introducing a lot of water to the system, we may have an issue. But if none are close, which I can do pretty quickly, it's not going to be an issue.

Board Member Taylor stated well...

Rich Williams stated right.

Ron Gainer stated so you might want to see those. That's all.

Rich Williams stated yeah. I mean, my concern with them is, you know, the operators. Are they adequately tracking precipitation because that's, you know, it's always somewhat subject to fudging.

Ron Gainer stated anything is and you never know...

Rich Williams stated but...

Ron Gainer stated time of day and you don't know...

Rich Williams stated but I just happen to think about the fact that I have the same operator and I have all the DMRs for the same period so I could...

Board Member Taylor stated you can check.

Ron Gainer stated that's what I'm thinking. That's what I'm thinking.

Rich Williams stated so I could look at both reports and look at the precipitation and see if they are being fudged.

Ron Gainer stated they're not going to do that. That's just too much like work. No one's going to play around with that. I don't see them...Not in the watershed but...

Rich Williams stated yeah.

Chairman McNulty stated and how much is DEC going to say about this after a letter stating they want the...that system formed into a corporation. The waste...

Rich Williams stated well, that's they're regulatory requirements. There's no getting around...

Ron Gainer stated yeah, that's just...

Rich Williams stated that and...

Chairman McNulty stated so there's another level...

Rich Williams stated people...

Chairman McNulty stated beyond our...

Board Member Ladau stated yeah.

Chairman McNulty stated for wastewater that they're going to be involved in.

Rich Williams stated but that has nothing to do with the operation of the plant. That has to do with the administration of the plant and they're not going to allow that...the new 80 units to just tie into that plant without there being some sort of overreaching administrative unit to take it over.

Chairman McNulty stated somebody to claim responsibility.

Rich Williams stated right. Either a transportation corporation or the municipality.

Chairman McNulty stated does that create a separate SPDES permit...

Rich Williams stated no.

Chairman McNulty stated or it just changes the existing one.

Rich Williams stated the existing one would be transferred to the corporation or the municipality.

Board Member Ladau stated I'm assuming that the municipality is not interested.

Rich Williams stated I'm not interested.

[Laughter].

Board Member Ladau stated yeah. Okay.

Rich Williams stated I can only speak for me.

Board Member Ladau stated yeah, well...

Ron Gainer stated who's the operator.

Chairman McNulty stated the municipality...

Rich Williams stated John Muro.

Ron Gainer stated is it John. Yeah.

Board Member Taylor stated well, so in any case, we need some figure for the I&I.

Rich Williams stated no, we need to look at...

Board Member Taylor stated or we need something.

Rich Williams stated we need to look at the flows compared to the daily precipitation to see if there are spikes based on precipitation.

Board Member Taylor stated and then...

Ron Gainer stated that's all you got to do. It's not a hard thing.

Board Member Taylor stated and then you proof out their numbers based on that then.

Ron Gainer stated you can decide if there appears to be an issue that you need further study on or not.

Board Member Taylor stated alright.

Ron Gainer stated and they're suggesting it's not, so...It's not hard to check in on.

Board Member Taylor stated alright, well, it sounds like we should check in on that before we do the conditional because...

Rich Williams stated mmhmm.

Board Member Taylor stated so that's one that needs to be dealt with fairly soon. Now the groundwater, I think that's... You know, it comes from the... The concern we had was the effect on neighboring wells. And that's a required part of this whole monitoring process, is...

Rich Williams stated because it's going to be a community water supply, they're going to have to put the wells in and they're going to have to do drawdown tests on the wells as per the Putnam County Health Department.

Chairman McNulty stated I was going to say, that's a Health Department oversight, right.

Board Member Taylor stated yeah, but do they check the neighboring wells while they're doing that.

Rich Williams stated they generally will monitor the neighboring wells.

Board Member Taylor stated generally.

Chairman McNulty stated is there a distance.

Board Member Taylor stated do we need to...

Rich Williams stated well I...

Board Member Taylor stated specify it.

Rich Williams stated again, I don't know the distance the Health Department's going to require them. Or if the Health Department's going to say there are no wells, you know, we're just going to... You know, they're probably going to have to do at least 2, possibly 3, wells for this project. So, they're going to drill all the wells and then they're going to, you know, drawdown one and look at the others. We're certainly going to ask them to monitor the existing wells for Fox Run.

Board Member Taylor stated right. But we have to ask for that.

Rich Williams stated I don't know if we will have to ask, but we are going to ask.

Board Member Taylor stated well...but that's what I'm trying to...What language we need to put in this thing. Can we rely on the Health Department or do we need to put our own language in requiring that that be done.

Rich Williams stated um I don't know in this regards. We can supersede the Health Department requirements; I've tried to do it a couple of times. They don't like it when I try to do it. But what we're going to put in for language is that the Health Department is going to require, you know, water withdrawal tests...

Chairman McNulty stated

Rich Williams stated to monitor the impact on that the aquafer.

Board Member Taylor stated alright.

Chairman McNulty stated oversight of the Health Department to monitor all the...

Rich Williams stated right. And we're also going to put in there language about, you know, that typically there's adequate water within the area and the neighboring wells are a considerable distance away.

Board Member Taylor stated right, so that's the concern there. And then we had the big unanswered question about whether there's absolutely any effect from the landfill on any of that water. Are they going to test the water.

Rich Williams stated they're going to test the water.

Board Member Taylor stated are they going to test it for those kinds of contaminants.

Rich Williams stated there's a whole list of contaminants that they have to test that...

Board Member Taylor stated right.

Rich Williams stated water for.

Board Member Taylor stated right, so if it comes out with nothing then we're fine. Do we want to require some periodic kind of testing or is that automatic, too.

Rich Williams stated that's really the Health Department's jurisdiction as far as periodic testing.

Chairman McNulty stated yeah.

Rich Williams stated again, you know...

Ron Gainer stated and it all comes down to Part 5 of the State's Sanitary Code.

Rich Williams stated yeah.

Ron Gainer stated and it's...

Rich Williams stated you know, with our community wells that we already have, I mean, you know, I have to test for sodium, manganese. I have to test for POCs, VOCs...

Board Member Taylor stated okay.

Rich Williams stated I've got, you know, a whole list.

Ron Gainer stated right.

Rich Williams stated and they're going to have the same list.

Board Member Taylor stated alright.

Rich Williams stated and because of the proximity to the landfill, they're probably not going to get waivers on a lot of it. They're going to be required to do it annually.

Board Member Taylor stated alright. That's...

Chairman McNulty stated does...

Board Member Taylor stated then we're covered then. That's...

Chairman McNulty stated now, the Board...the Health Department covers the groundwater...

Board Member Taylor stated yeah.

Chairman McNulty stated pretty much. The current Fox Run wells, are they monitored. Is that...

Rich Williams stated yes.

Chairman McNulty stated by the Health Department.

Rich Williams stated by our operators. The reports go to the Health Department.

Chairman McNulty stated when you say our operators, is that a Patterson water district.

Rich Williams stated it is a water district. It's run by the Town of Patterson.

Ron Gainer stated that's got to be a community supply though, right: A number of people. So again, Rich was just talking about monitoring requirements, that applies to the existing well as well as any new wells on that property.

Chairman McNulty stated so does the new...this portion of Fox Run or this new count of 80 units, does that become part of the water district as well.

Rich Williams stated no. That's why they're doing their own system. Is because, you know, they came in and they said, hey jeez, we have an absolute right. We're going to tie into your system. And I said, whoa, wait a minute. You're system you're going to tie into is now defunked. We have a water district out there...

Chairman McNulty stated yeah.

Rich Williams stated really...

Chairman McNulty stated and that was R-4 zoned. It's all...

Rich Williams stated yeah.

Chairman McNulty stated separated.

Rich Williams stated go build your own system. And that's what they're going to do.

Board Member Taylor stated alright. I just think that if we know that's it's covered, I think we could say that. But I think we need to say something in there: our concern...We are...have particular concern because of the landfill and leave it at that. I mean, that's all I'm trying to do with any of this stuff, just so that we've got something...

Chairman McNulty stated on the record that...

Board Member Taylor stated on the record.

Chairman McNulty stated we addressed...

Board Member Taylor stated yeah. And that, again, that we can use it as a checklist so that it's checked off. Energy stuff, just that...They're waiting for a letter from NYSEG saying they're fine which we assume is what NYSEG's going say. We'll see. They need a new substation then a new ball game. Traffic, we've got the two issues. Within the site, and I think they're dealing with all of that stuff. And then still the issues about going down to Ice Pond. You know, did anybody look at Rich's...

Chairman McNulty stated no, I didn't get a chance...

Board Member Taylor stated that he had done.

Chairman McNulty stated to look at it.

Board Member Taylor stated did I read it right.

Rich Williams stated well...

Board Member Taylor stated it was...

Rich Williams stated I went back based on what you, you know, did there. I went back and looked. I didn't see where I had included Pond View with the original analysis.

Board Member Taylor stated yeah, it's on there. It's 50 units and then there's another 12 or something.

Rich Williams stated and I didn't look at the one that you're looking at.

Chairman McNulty stated was it a proposed...

Board Member Taylor stated it's on...

Rich Williams stated the one that I did that we supplied to John Collins Engineer to update they're traffic analysis. I didn't see where Pond View was on there.

Board Member Taylor stated okay. Well, the one...

Rich Williams stated Burdick...

Board Member Taylor stated you sent me, it was on there.

Rich Williams stated okay. But...

Board Member Taylor stated Burdick Farms was on there.

Rich Williams stated Burdick Farms was on there.

Board Member Taylor stated yes.

Rich Williams stated there were a few lots attributed to the property Mancini Subdivision which now is just going to be one lot. And there were, you know, a number of other lots that now have since fallen by the waist side so it dropped down. Ice Pond...If Ice Pond was on there, you know...

Board Member Taylor stated it wasn't.

Rich Williams stated I still maintain the same thing I'd maintained when I did the initial analysis, that that subdivision, the traffic is going to flow mostly south into southeast to 312. You know, I would figure a 35/65% split with 35[%] coming back...back up Ice Pond and then heading north on Bullet Hole out to [Route] 164, 311 and on up. And not really coming back around to Fox Run in that vicinity.

Board Member Taylor stated yeah, but that's...The issue we're concerned with is the flow down Ice Pond to Southeast.

Rich Williams stated mmhmm.

Board Member Taylor stated which is why I added Ice Pond back in. Now, if you want to only do a...two thirds of it, then we can adjust it that way. But...

Rich Williams stated but the traffic typically from Fox Run is not going to flow to Ice Pond. If they're going to head in that direction, what they're going to do is they're going to o Tammany Hall to Holmes Road to [Route] 312.

Chairman McNulty stated Holmes Road or Fields Lane.

Rich Williams stated Holmes Road. You're going to come out of...You're going to come out of Fox Run. You're going to go left. You're going to take your first right.

Chairman McNulty stated right.

Rich Williams stated that's Tammany Hall Road.

Chairman McNulty stated yup.

Rich Williams stated that goes over the intersection of Tommy Thurber, which goes left, and Holmes Road...

Chairman McNulty stated oh, I didn't realize that was Holmes Road.

Ron Gainer stated yeah.

Rich Williams stated and, you know, I say Holmes Road, it's not Holmes Road in Patterson.

Ron Gainer stated right.

Chairman McNulty stated yeah.

Rich Williams stated right. It's still Tommy Thurber, I think...

Chairman McNulty stated it's Levine Lane.

Rich Williams stated yeah, Levine Lane. Thank you.

[Laughter].

Chairman McNulty stated know where that is.

Rich Williams stated yeah. And then as soon as it crosses into Southeast, it's Holmes Road.

Chairman McNulty stated I didn't realize it.

Rich Williams stated it comes out down into Southeast on 312.

Chairman McNulty stated okay.

Rich Williams stated by NYSEG.

Chairman McNulty stated yup.

Board Member Taylor stated okay. I don't know that road so I...

Chairman McNulty stated yeah, it gets real...

Board Member Taylor stated so you don't think people are going to be going down Ice Pond then, that much.

Rich Williams stated they're not going to go...

Chairman McNulty stated no.

Rich Williams stated all the way down Bullet Hole to end...

Ron Gainer stated no.

Rich Williams stated up, you know, basically...

Board Member Taylor stated but they're not going to...

Chairman McNulty stated that far end of Tommy Thurber is a very rural road.

Board Member Taylor stated yeah, I know that.

Chairman McNulty stated dirt and...

Board Member Taylor stated so you're not going to go back and reconnect to Ice Pond and go down Ice Pond that way. They're going to go down the other way.

Rich Williams stated no.

Board Member Taylor stated okay. So are we concerned about the Holmes Road inter...that intersection...those intersections. I mean, you did the studies of these different roads. Are we concerned...The issue is are we concerned about all this stuff. There's not a whole lot we can do about it. We can't make them fix the roads.

Rich Williams stated right.

Board Member Taylor stated but we could use it as an argument for...what the other stuff we're looking at which is mitigate who's living in these units. You know, if they're more retired people, they're not going to be traveling at the same time that the commuters are traveling

Chairman McNulty stated mmhmm.

Rich Williams stated correct. And we're going to force it there. I think you've heard Mike Liguori say that we can absolutely force it there where it's going to be 55 and older.

Board Member Taylor stated well, then that's...

Rich Williams stated so are we concerned. We're absolutely concerned. I mean, the traffic consultant for Fox Run identified Tammany Hall as a roller coaster, right.

Chairman McNulty stated yeah.

Board Member Ladau stated mmhmm.

Rich Williams stated but, you know, again, based on 80 units, how much offsite improvements are we going to make them do. We can't make them, you know, start realigning...

Board Member Taylor stated no, I...

Rich Williams stated Tammany Hall Road.

Chairman McNulty stated no, you know, that. But you're...

Board Member Taylor stated no, I'm not making that argument at all.

Chairman McNulty stated but to maintain the 55 and older...

Board Member Taylor stated yes.

Chairman McNulty stated to, you know, to basically have a record saying the roads are not adequate to support a higher...a density...a denser living population.

Board Member Taylor stated yeah.

Chairman McNulty stated that's what you're getting at.

Board Member Taylor stated yeah, that's part of what I'm getting at. The first step was just to say what contribution is Fox Run making to this. Is it small. Is it moderate or large. Well, I think based on your study, it looks to me that it's moderate or large. So we're over that hurdle. We can say it's going to be a moderate or large impact, however you cut it. Is it significant: that was the next question I was asking. And part of that is...And then the mitigation. We can't require them to go down and straighten out the road. But we can say, as Tom was saying, we can say to mitigate it by eliminating the amount of impact that this is going to have on the traffic system. Let's get more people in here who are really retired. I mean, provide something that will draw these people in, whatever that is. Let's do the 100% of the 55 and older rather than the 80%. It's just it helps that argument.

Rich Williams stated okay.

Board Member Taylor stated I don't see that realistically, as you say, we can't charge them a fee, unfortunately, the way you can with recreation.

Rich Williams stated right.

Board Member Taylor stated but it does give us that... We just note that. Now, do we say it's significant. If we say it's significant does that force us into a situation where we've got to neg dec it because of that one significant thing.

Rich Williams stated no.

Chairman McNulty stated no...

Board Member Taylor stated so...

Chairman McNulty stated the numbers I see in traffic, I don't see it as a significant impact.

Rich Williams stated no. And just to correct... It doesn't force you into a pos dec.

Board Member Taylor stated that's what I mean.

Rich Williams stated yes.

Board Member Taylor stated a pos dec, right.

Chairman McNulty stated I knew what he meant.

Rich Williams stated I know. We all did...

Board Member Taylor stated okay.

Rich Williams stated but...

Board Member Taylor stated for the record.

Rich Williams stated sometimes going back...

Board Member Taylor stated yes.

Rich Williams stated on the tape...

Chairman McNulty stated yeah, yeah, yeah.

Board Member Taylor stated well, she's supposed to correct these mistakes.

[Laughter].

Ron Gainer stated only if she knows it.

Rich Williams stated she does verbatim.

Board Member Taylor stated I know she does.

Rich Williams stated if you say bad things they will appear.

Board Member Taylor stated yes, I know.

[Laughter].

Board Member Ladau stated uh-oh.

Chairman McNulty stated yeah, I know, too.

[Laughter].

Board Member Taylor stated so...

**Dede Lifgren stated** oh, good to know. I might listen to them.

Rich Williams stated ask Ted.

Chairman McNulty stated if you want to go back and read that boring stuff.

Board Member Taylor stated alright, so our determination is then it's not significant.

Chairman McNulty stated my feeling is...

Board Member Taylor stated is that what we're saying.

Chairman McNulty stated the numbers I've seen is it's not...I don't see the numbers bearing a significant impact based on the 55 and older.

Board Member Taylor stated okay. Well, then that's...That's what...

Chairman McNulty stated there's an impact but I don't see it significant.

Board Member Taylor stated alright. Well, that's what we need to say then. And then that will...that eliminates that category right away. That drops out then. So I think we need a vote on that once we have a full board, we need to vote on...I mean, we've got to accept this document...

Rich Williams stated right.

Board Member Taylor stated or not.

Chairman McNulty stated mmhmm.

Board Member Taylor stated and that's one of the things that we need to put in there.

Rich Williams stated right.

Board Member Taylor stated and I've just been making a case. I haven't decided...I haven't made up my mind anyway either. So, alright. So that takes care of traffic. Visual: I haven't looked at the cross sections but it looks...They've done it, right.

Chairman McNulty stated looks like they've made a...

Board Member Taylor stated we're below the...

Rich Williams stated oh, it's definitely better.

Chairman McNulty stated yeah.

Board Member Taylor stated yeah.

Chairman McNulty stated they've definitely made the improvement, I think, we were looking for.

Board Member Taylor stated yeah. As long as they don't put skylights or something way up on the top of the roofs where the light will be shining out the hill.

Chairman McNulty stated well, it's the ball field that they're going to build there with the tower lights [said jokingly].

Board Member Taylor stated right.

[Laughter].

Chairman McNulty stated we asked for the amenities.

Board Member Taylor stated right beneath the big trees. It will be perfect. Picnic ground and ball field. So I think we've done that and I thought it was funny that he said to us afterwards, and it actually improved the layout of the...after them fighting us for months for this, it actually improved the layout, so...

Rich Williams stated yeah.

Board Member Taylor stated okay. So then we're down to this community character thing which is the 55 and older and...They must have some kind of study that they've done of how they're going to sell these things. Who they're going to sell them to. You know...

Chairman McNulty stated well, they have to put a prospectus...

Board Member Taylor stated your marketing plan or something.

Chairman McNulty stated they have to put a prospectus in to the Attorney General, do they not.

Board Member Taylor stated but...

Rich Williams stated well yeah, but that's different from a marketing plan.

Ron Gainer stated right.

Board Member Taylor stated or have they...or don't they. Are they just...

Rich Williams stated I...Listen, I can't tell you what the developer has done as far as his due diligence for whether, you know...

Board Member Taylor stated they can sell these.

Rich Williams stated these things are going to sell. I mean, Burdick Farms took me completely by surprise where he went through the whole process, got approval for 39 units and then decided that it wasn't worth building. Couldn't find a developer to build it because it was too expensive to build.

Board Member Taylor stated right.

Rich Williams stated and walked away from the whole thing.

Board Member Taylor stated yeah.

Rich Williams stated after how many years and how many...

Board Member Taylor stated yeah.

Rich Williams stated battles and...

Board Member Taylor stated so...

Rich Williams stated so I don't know.

Board Member Taylor stated so what I'd like to ask them is...Well, we've still got the question about whether we want them to do a local survey or not. I know you did some research, Rich. But you came back with zero and zero makes no sense to me. It can't be zero.

Board Member Ladau stated yeah.

Board Member Taylor stated we all know it's got to be something.

Board Member Ladau stated mmhmm.

Board Member Taylor stated it may be...

Rich Williams stated I don't disagree...

Board Member Taylor stated rounded off to zero...

Rich Williams stated I don't...Listen. I don't disagree that it doesn't sit well with common sense. But nonetheless, every study that I looked at for traffic generation, for, you know, 55 and older...Or for, not for traffic generation but for the number of school aged children...

Board Member Taylor stated right. Was zero.

Rich Williams stated was zero.

Board Member Taylor stated right.

Rich Williams stated everyone I looked at.

Board Member Ladau stated yeah. I have not gone through the...

Board Member Taylor stated the traffic...

Board Member Ladau stated case studies. There were some that indicated that there were some children but I, you know...

Board Member Taylor stated did...

Board Member Ladau stated there must have...

Board Member Taylor stated did you look back at the traffic study. You said you found a figure in the traffic study. Did you look back for that one.

Chairman McNulty stated that was a separate study, right.

Board Member Ladau stated no. No. No, no, no, no. The...We're talking about the number of children per household. Yes. No.

Board Member Taylor stated no, just the number of children in...At one point you had said that they, in their traffic studies, said there would be 20 some percent of the families who would have children. Didn't say how many children there would be but there was some percentage of children. Did you go back and find that. You couldn't find the reference.

Board Member Ladau stated I...No I did not.

Board Member Taylor stated okay.

Board Member Ladau stated I did not look to be honest.

Board Member Ladau stated okay. So we...But, I mean, you and Mike Liguori keep telling us we can go on our gut. My gut tells me it can't be zero. There's...

Board Member Ladau stated no.

Board Member Taylor stated there's got to be some impact. And I just want to say to them, look. If you came up with a local survey that said it was 10 or 15 or 20 percent, that gives us some data and we may decide based on the data the same way we did with the traffic study. It's not significant. But right now we have no data. And without data we're going to go on our gut and our gut says...

Chairman McNulty stated well...

Board Member Taylor stated let's make it as restrictive as we can and as old as a population as we can to keep the kids out of the schools.

Rich Williams stated and...

Chairman McNulty stated but the data we have you're saying is zero.

Rich Williams stated yeah. I mean, we do data. We do have studies that were done in New Jersey and Massachusetts, you know.

Board Member Ladau stated in Delaware.

Board Member Taylor stated but that data's questionable.

Rich Williams stated it's done by professional individuals who do these studies.

Board Member Ladau stated well, the other way though...

Rich Williams stated can I fathom the fact that, you know, knowing what's going on in our current multi-family housing and how many kids are coming out of those units and, you know, knowing Ed who sits on the Planning Board who's 55 and older with a young, school-aged daughter, you know. Do I think the number's going to be zero. No, I can't fathom it to being zero. But still the demographic analysis and the multipliers that these people are using are always zero.

Board Member Taylor stated I understand that. But also understand there are all these statisticians out there who prove anything you want from any possible direction...

Board Member Ladau stated yeah.

Rich Williams stated that's...

Board Member Taylor stated and that's what my gut is saying: Zero's an impossible number.

Rich Williams stated but if you...Okay, so you don't want to accept zero. You're not going to accept a multiplier based on something that's not 55 and older because, you know, that's going to be way too high. So you're going to accept some lesser number.

Board Member Taylor stated yeah.

Rich Williams stated so let's assume for argument that it's 5%. You know, 5% of the units have a school aged children. So that's four units. That's four children.

Board Member Taylor stated alright.

Rich Williams stated is that significant.

Board Member Taylor stated no. I mean, that's...But I'd like to know what that percent is.

Board Member Ladau stated okay, but...

Chairman McNulty stated yeah, but we don't know how to get to that percent.

Board Member Ladau stated alright.

Board Member Taylor stated that's why I...

Rich Williams stated if that's...

Board Member Taylor stated suggested the local survey. Go over and...Ask the schools how many people they're picking up at a bus...

Chairman McNulty stated at Cold Spring.

Board Member Taylor stated in Cold Spring. That's all.

Chairman McNulty stated all I know is when you go to their website the opening page is a gentleman standing with his two young children looking over the lake.

[Laughter].

Board Member Taylor stated yeah. It would be simple enough to call the school. Call the bus garage...

Chairman McNulty stated I know I...

Board Member Taylor stated you know a bus stop in there, how many kids are they picking up.

Chairman McNulty stated I can tell you I pass there in the morning...

Rich Williams stated I don't know you're going to get an answer. I don't know you're going to get an answer but...

Board Member Taylor stated well...

Rich Williams stated you know, you can ask...

Chairman McNulty stated the bus garage would be the place to call.

Ted Kozlowski stated hey, all they have to do is...

Board Member Taylor stated the bus garage.

Ted Kozlowski stated send somebody out at 8 o'clock in the morning when the bus comes.

Board Member Taylor stated or count them.

Chairman McNulty stated I'll tell you...

Ted Kozlowski stated or count heads.

Board Member Taylor stated yeah.

Chairman McNulty stated I pass there every morning around 7 o'clock.

Rich Williams stated well stop for crying out loud and...

Chairman McNulty stated no. I don't have to stop...

Rich Williams stated then solve our problem.

Chairman McNulty stated there's never a car coming in or out of the place. I don't know if they sold any yet.

Board Member Ladau stated well, there's that...

Chairman McNulty stated I've...

Rich Williams stated well, that's the other...

Chairman McNulty stated in Cold Spring, I forget the name of it...

Board Member Taylor stated or we do the one in Brewster.

Chairman McNulty stated there's a brand new...

Board Member Ladau stated yeah.

Board Member Taylor stated or the one in Milford. Or...Let's get some figures that make some sense.

Board Member Ladau stated alright, if we...

Board Member Taylor stated you know.

Board Member Ladau stated can't get figures though or using the zero that we can't deal with, can you deal with this in terms of deed restrictions. That...

Board Member Taylor stated yes.

Board Member Ladau stated it's an adult...active adult...

Chairman McNulty stated I think Mike [Liguori] said we could.

Board Member Ladau stated community so that you cannot have any residents under the age of 55.

Board Member Taylor stated yes.

Board Member Ladau stated end of story.

Board Member Taylor stated yes. And the other part is I'd like to see some amenities that would draw senior citizens as opposed to the young 55s with three kids.

Board Member Ladau stated shuffle board on the steep slopes.

Ron Gainer stated yeah, I was going to say besides shuffle board.

[Laughter].

Board Member Taylor stated well, something. That's why I was asking if...Have they...

Chairman McNulty stated well, they're talking about hiking trails. They talked about the...a community building.

Board Member Taylor stated yeah.

Chairman McNulty stated and...

Rich Williams stated they're talking about a clubhouse over by the pool and...

Chairman McNulty stated clubhouse. Yeah.

Rich Williams stated improving the pool and...

Board Member Taylor stated yeah. But something that...

Chairman McNulty stated and some hiking trails (inaudible – coughing). That's about it so far.

Board Member Taylor stated but are they going to be ADA compliant, these buildings.

Ron Gainer stated it's a building it's not a...

Chairman McNulty stated well, they have to. That's a building...

Ted Kozlowski stated they have to.

Chairman McNulty stated code.

Board Member Taylor stated yeah. Okay.

Chairman McNulty stated they'd have to be as a public building.

Ted Kozlowski stated they'd have to be.

Board Member Taylor stated so that's...And I don't know what that means in terms of the...in size of the buildings. Are they...Are they building these buildings for senior citizens so people would want to stay there until they're 65 and 75 and...

Rich Williams stated I don't know. Typically we don't...

Chairman McNulty stated well, we brought that up...

Rich Williams stated we don't deal with the interior of the building.

Board Member Taylor stated no.

Rich Williams stated they have to meet New York State Building Code.

Board Member Taylor stated right. No, I understand that. But if they would present us a marketing plan that that was what they were doing as part of all these other things... That's all I'm trying to say is what are they doing...

Chairman McNulty stated so you'll feel more comfortable.

Board Member Taylor stated to attract older people to live in these...

Board Member Ladau stated unless I misread these drawings, there are almost... Not almost, all of the units are...

Board Member Taylor stated are two-story.

Board Member Ladau stated multi-story. Yeah.

Chairman McNulty stated yeah, while, we brought up in a meeting, I think I brought it up, that, you know, do you propose any ranch style, single level homes.

Board Member Ladau stated and the answer is no.

Chairman McNulty stated no, they don't.

Rich Williams stated no. So...

Chairman McNulty stated or increased one bedroom, and they didn't...

Rich Williams stated but Ron your question you've got to ask them at the meeting.

Board Member Taylor stated yeah. Alright, well that's what I'll do.

Chairman McNulty stated what's that question exactly. There's a lot of questions here.

Board Member Taylor stated I had...

Rich Williams stated what are they doing in furtherance...

Chairman McNulty stated as a marketing plan.

Rich Williams stated of marketing these units for seniors: on the interior of the building and on the exterior for amenities.

Chairman McNulty stated okay. And then the other issue is as far as the EAF goes, is this a significant impact. And without the percentage you're saying...

Board Member Taylor stated again...

Chairman McNulty stated I mean, what percentage becomes significant. Fifty percent of the units have...

Board Member Taylor stated well the...

Chairman McNulty stated school aged children.

Ron Gainer stated you don't get that out of single-family. I mean, this doesn't exist, you know. You don't get that many.

Board Member Taylor stated the...

Chairman McNulty stated yeah.

Board Member Taylor stated the figure we've thrown around before as our threshold was what it would have been if there were 24 units there.

Chairman McNulty stated R-4 type zoning we based it on.

Board Member Taylor stated whatever number of kids that comes out as. That was a threshold. If it's above that by...I mean, we're talking about what, \$20,000 a kid. That's a big chunk. Per kid. Kids are significant in terms of their impact on the overall community; the tax base of the community.

Chairman McNulty stated so can we use that as a basis if we look...Go back...If it was an R-4 Zone that had, I think we said it was 40 bedrooms or 48 bedrooms. 16 homes possible.

Rich Williams stated well, you're going to do 8 single family homes and the number of kids that are being generated from 8 single family homes.

Board Member Taylor stated right.

Chairman McNulty stated so if this dense population...dense development would create more than that, that becomes significant to our community.

Board Member Taylor stated I would say yeah but we don't know, that's the problem. We don't have any figures to...

Chairman McNulty stated that's a good place to start.

Rich Williams stated well I mean, I certainly could figure out the number of school aged children generated by single family homes assuming, you know, young families. You know, and I could back into, you know, what percentage of 80 units would that be if each one had one child. So...

Board Member Taylor stated and then we could compare it with the other. I mean, we could just...

Chairman McNulty stated but to be fair...

Board Member Taylor stated that gives us...

Chairman McNulty stated we have to compare it as an active adult community with children and we don't have the data for that. In other words...

Board Member Taylor stated he was saying he's going to come up with whatever...One per each unit or something. Or...

Rich Williams stated well typically, single family units, and don't hold me to this because...

Chairman McNulty stated 1.8 or something, wasn't it the number.

Rich Williams stated I can tell you that the multiplier for an average town-wide with all the different housing we've got is about 3.2 or 3.6. I think if you're looking at just single family homes it was 4, 4.1, something like that. But I've got to go back and look at...

Board Member Taylor stated yeah.

Rich Williams stated the census data.

Board Member Taylor stated and once we have that I figure then we can talk about backing it off for...

Rich Williams stated right.

Board Member Taylor stated the 55 and older.

Rich Williams stated so you're talking about 16 to 20 kids if they were just single family homes up there.

Board Member Ladau stated mmhmm.

Board Member Taylor stated I mean, it's like an unresolved. So do we want to decide it's significant or don't we. Or do we simply want to say it's significant and we're going to ask you to mitigate by 100% 55 and whatever amenities you can stick in there.

Ron Gainer stated I think you've got to wait till Rich goes through his analysis, tries to come up with some...

Board Member Taylor stated some figure.

Ron Gainer stated data.

Chairman McNulty stated well, as far as...

Ron Gainer stated well, it's still a supposition, but at least it's a basis to say, you know, maybe it is important or no, it can't be important at all.

Chairman McNulty stated if it's the...If it does become significant, concerned, school aged children, how do you address that in a conditional SEQRA. Does it get that specific. It sounds like it's getting a little...

Rich Williams stated well, yeah. I mean...

Chairman McNulty stated because SEQRA's so broad.

Rich Williams stated so the 80 units now has a potential for generating 20 children. What do you do to mitigate the design of the project so as to eliminate the generation of 20 children.

Chairman McNulty stated or to maintain 20 or less.

Rich Williams stated I...

Chairman McNulty stated to keep it less insignificant. Can you get that specific in that...

Rich Williams stated I have no idea how you would do that.

Board Member Taylor stated well, this...

Chairman McNulty stated see, that's the dilemma we're in is how...

Board Member Taylor stated I know. The only two things we've come up with is make it more restrictive: make it 100% 55 and older. That may help, we don't know that it's going to and we don't know how many it's going to. But that's something that might help. And the other thing I was saying was let's put some amenities for older people there.

Rich Williams stated but I don't know if putting amenities in for older people is going to prevent somebody who wants to buy in there with a school aged child from not doing it.

Board Member Taylor stated right. No, I understand it. It won't prevent it.

Rich Williams stated but whether they're going to buy in or not buy in is going to be based on...

Ron Gainer stated excuse me [for sneezing].

Chairman McNulty stated bless you.

Ted Kozlowski stated bless you.

Ron Gainer stated thank you.

Rich Williams stated the cost of the unit.

Board Member Taylor stated yeah.

Ted Kozlowski stated what do you do if, you know, a 60 year old couple moves in there and they're...

Ron Gainer stated their grandkids come.

Ted Kozlowski stated their child, their adult child dies or gets divorced and they're stuck with grandkids.

Rich Williams stated right.

Ted Kozlowski stated what do you do. You kick them out.

Board Member Taylor stated we do nothing.

Chairman McNulty stated no.

Board Member Taylor stated no, you can't kick them out.

Rich Williams stated and, yeah, for the most part it's not going to be enforceable by our zoning. It's going to be enforceable by the...

Chairman McNulty stated by the deed, no.

Board Member Taylor stated community association.

Rich Williams stated well, not by the...

Ron Gainer stated your bylaws would say.

Board Member Ladau stated no. Now you're back to the deed restriction.

Rich Williams stated yeah, by the bylaws which are contained in the offering documents.

Board Member Ladau stated doesn't even have to be grandchildren dying. I mean...

Ted Kozlowski stated or any given scenario...

Board Member Ladau stated yeah.

Ted Kozlowski stated where this couple had no intention of having kids but because of a family...

Board Member Ladau stated yeah.

Ted Kozlowski stated situation they now have them.

Board Member Ladau stated mmhmm.

Ted Kozlowski stated are you kicking these people out.

Chairman McNulty stated but before next week's meeting, is there any way to reach out to Curt Johnson and ask him, you know...

Board Member Taylor stated well, we could just ask him at the meeting. I don't think we have to reach out beforehand, do we.

Chairman McNulty stated well, it's just...

Board Member Taylor stated it's not like we're going to make this decision at the meeting.

Ted Kozlowski stated that would be a hole in the (inaudible – too distant).

Chairman McNulty stated no, that's true.

Ron Gainer stated yeah, you're not doing anything.

Ted Kozlowski stated that would... You wouldn't win that. Nor would I want to be the person kicking them out.

Board Member Taylor stated yeah, but I know of community of associations that have kicked people out...

Board Member Ladau stated yeah.

Board Member Taylor stated for having kids there.

Board Member Ladau stated yeah.

Chairman McNulty stated I just don't know how we address that in SEQRA. I think it comes down the line.

Rich Williams stated well, why don't you let me tackle the Part 3; I'll write it up and then you can have something to start reviewing.

Chairman McNulty stated okay.

Rich Williams stated alright.

Ted Kozlowski stated can I say something about these trees.

Chairman McNulty stated go ahead.

Ted Kozlowski stated if...It's nice that they are saying on the plans to be protected. And they're obviously showing the trees on the plans and the two biggest ones, the two most significant ones, unfortunately are the ones that are going to be most impacted. And if they're serious about it then they've got to do a little adjusting and I was just looking at these plans. They can do it. The question I have, Rich, is there some reason all the buildings have to be 6 units. They're in blocks of 6. So, is there...And I see there's then blocks of three and blocks of two, but can they have a block of ten. Is there a reason...

Chairman McNulty stated why would you do that though.

Ted Kozlowski stated because you could squeeze...

Ron Gainer stated let's not worry about...

Ted Kozlowski stated well, my point is this. If you could see what I'm saying here, you've got the oak...the two oaks. You've got this white oak and the red oak.

Rich Williams stated yeah, but we decided they were coming done because they were incestuous to begin with.

[Laughter].

Ted Kozlowski stated okay. Well...

Chairman McNulty stated and my thought was...

Ted Kozlowski stated let's just say we fall back in love with these incestuous sinners.

Chairman McNulty stated and my thought was if we require that they sell to a hardwood supplier so they become furniture and last forever.

[Laughter].

Ted Kozlowski stated why you picking on me.

Chairman McNulty stated I'm not picking. No, I'm serious.

[Laughter].

Rich Williams stated wait, I wanted the areas for parking.

Ted Kozlowski stated hold on. If we...The root zones and all of that...If this building...If these two buildings can go this way a little bit or get rid of that and join the two buildings and then push this building 15 to...13 to the north, 12 to the south, and then adjust these, you probably would get enough space to try to protect those trees even better.

Ron Gainer stated what number do you want to see. What separation...

Ted Kozlowski stated well...

Ron Gainer stated

Ted Kozlowski stated this plan is showing 1 inch is 50 feet. You're not getting that with the two trees and that's way too small. The drip...there's no such thing...

Ron Gainer stated right. Understood.

Ted Kozlowski stated the drip line is bologna.

Ron Gainer stated just pick a number...

Chairman McNulty stated down the street here, they put that sidewalk...

Ted Kozlowski stated as much as I can get, Ron.

Ron Gainer stated yeah.

Chairman McNulty stated the sidewalk around that maple.

Ted Kozlowski stated there is no magic number.

Ron Gainer stated I understand. I'm just trying to...

Ted Kozlowski stated but it's as far away as they can.

Ron Gainer stated say.

Ted Kozlowski stated and then we'd have to say no lawns. You know, you're saving these trees, it doesn't become lawn now. It becomes mulch, it becomes a natural area. And I know these condo units love to put those lawns in.

Board Member Ladau stated mmhmm.

Ted Kozlowski stated and that will be just as detrimental to those trees.

Chairman McNulty stated are you talking about...Oh, around the trees.

Ted Kozlowski stated yeah. No lawns. No park-like settings. You're going to do everything you can to protect those root zones.

Chairman McNulty stated those are the amenities we're asking for.

Ted Kozlowski stated no. The amenities...You've got amenities all over the place. But if they're taking the time and spending the energy and money on trying to protect these trees then they should do it the right way to make the chances of these trees surviving better.

Chairman McNulty stated those...

Ted Kozlowski stated because the way they have it now...

Chairman McNulty stated those two trees don't look...

Ted Kozlowski stated especially the white oak...

Chairman McNulty stated like they're going to make it though. The two on the bottom half of the road.

Ted Kozlowski stated well, the white oak is the one that's...and that's on...sitting on a knoll. They've got all sorts of grade changes there. That...you know. And then they could also adjust this road a little bit. This is just a plan. This is just paper.

Chairman McNulty stated mmhmm.

Ted Kozlowski stated they can move this around.

Rich Williams stated and you know what that's made out of.

[Laughter].

Ted Kozlowski stated trees are renewable resources, Rich.

Rich Williams stated thank you.

Chairman McNulty stated that's why I said we can make furniture out of it.

[Laughter].

Ted Kozlowski stated but a 45 inch oak is more than a lifetime.

Chairman McNulty stated that's a big...That's an old tree.

Ted Kozlowski stated so...

Chairman McNulty stated okay.

Ted Kozlowski stated that's my two cents.

Chairman McNulty stated anybody else on Fox Run. Any comment. So we'll look to discuss this EAF...

Board Member Taylor stated oh, I got one more thing.

Ted Kozlowski stated oh no.

Board Member Taylor stated the traffic stuff. The parking. The, you know, in front.

Ted Kozlowski stated the new...

Board Member Taylor stated the stuff in front. Not the parking.

Ted Kozlowski stated the new entry.

Board Member Taylor stated the new entry.

Ron Gainer stated the new entry, right.

Board Member Taylor stated yeah. I just...At the end of the meeting last week, they were talking about the problems...somebody was talking about the problems in the morning, I don't remember who it was. With the buses there picking people up. The bus parks in the street.

Rich Williams stated okay.

Board Member Taylor stated could they do a bus pullout.

Rich Williams stated I got to look at the plan a little bit closer...

Chairman McNulty stated you know, one thing...

Rich Williams stated but they've got an area to pull in to pull off of the main driveway. They also have a divider in the driveway. I'm not a big fan of that divider. I don't know how anybody else feels about it. It's 5' wide. It's never going to be used for much of anything except an obstacle for people to run over for, you know, snowplows to break up. So, I just assume see that eliminated. But they do have an area that, you know, a vehicle is going to be able to pull in and park and...I haven't looked at it to see if it's got enough turn...

Chairman McNulty stated keep in mind for school buses...

Rich Williams stated radius...

Chairman McNulty stated I don't think the school bus operators prefer a turnout because it takes them road...

Ron Gainer stated how do they pull up and out; they stop in the street.

Rich Williams stated I don't know what they do.

Ron Gainer stated do they pull into the property.

Chairman McNulty stated for when the stop goes out and traffic tends not to pay attention to it.

Board Member Taylor stated if you watch the school bus drivers, every so often they will pull off the street and let the traffic go by them.

Chairman McNulty stated like...but at a traffic pickup, I don't think they'd prefer...because I talked to a bus driver once and they want to stop in the street because they want to be visible and they want traffic to see that they're stopped. If you create a pull off now, they're out of the traffic lane and to become less visible and a bigger hazard. So...

Ted Kozlowski stated well, they also...

Chairman McNulty stated that's something to think about.

Board Member Ladau stated kids running across the road to get to...

Ted Kozlowski stated people aren't going to let them in...

Board Member Ladau stated get to the pullout area.

Ted Kozlowski stated nobody wants to get stuck behind a bus.

Board Member Ladau stated yeah.

Chairman McNulty stated yeah. And if they're off the road, even with their stop sign out, they're going to think, you know, people aren't thinking and they tend to go around.

Board Member Taylor stated well they won't. Yeah, if they're off the road they'll go around them.

Ted Kozlowski stated what's wrong with them going...

Chairman McNulty stated that's why they prefer not to have a pull off and stay in the road.

Ted Kozlowski stated what's wrong with them just going into the thing. I see them every day going into Reed Farm. They're not pulling off on the side of Route 22.

Chairman McNulty stated well that's...I think [Route] 22 is different.

Rich Williams stated I don't know, but with that corner right there at Tammany Hall Road, I sure wouldn't want to leave a bus parked right there to pick up kids.

Chairman McNulty stated well, that's what they do now, right.

Rich Williams stated I don't know what they do now.

Board Member Taylor stated so that maybe needs to be looked at a little bit more. I mean, you're talking about commuting time. It's the stress time of the day: the buses are there and all the commuters are trying to get to work.

Chairman McNulty stated well, maybe get up there and look at it in the dark, some 6:30 in the morning when high school gets picked up. The middle school bus is probably the... Well, the middle school and the primary school.

Board Member Taylor stated would be the big ones, yeah...

Chairman McNulty stated yeah.

Board Member Taylor stated I would think.

Chairman McNulty stated okay.

Board Member Taylor stated right.

#### **4) OTHER BUSINESS**

##### **a) Zoning Code – Restaurants**

Chairman McNulty stated does that bring us to restaurants.

Board Member Taylor stated sure.

Rich Williams stated if we must.

[Laughter].

Chairman McNulty stated restaurants. I didn't print out my comments. Did anybody take a look at this; Rich's notes he put together.

Board Member Taylor stated no. I just got it tonight.

Chairman McNulty stated **Dede Lifgren**. Is that you.

Board Member Taylor stated that's her.

**Dede Lifgren** stated that's right.

Chairman McNulty stated okay. You live next to the barbeque restaurant.

**Dede Lifgren** stated unfortunately, yeah.

Chairman McNulty stated okay.

Ted Kozlowski stated you don't like barbeque.

[Laughter].

**Dede Lifgren** stated I don't now. Let me tell you.

Chairman McNulty stated well I had looked at Rich's notes and his proposed code change and I kind of took a little different tack and send a note to Rich to maybe modify the definitions of restaurants like we did research development. Did you have any thought on that, Rich.

Rich Williams stated refresh my memory.

Chairman McNulty stated well, Rich's notes kind of...is for §154-77 which...What is that code called for. It's the...

Rich Williams stated it has to do with...

Chairman McNulty stated I have it here.

Rich Williams stated an internal review of a proposed change in the use of a site.

Chairman McNulty stated yup. And my thought was that covers any type of site, correct.

Rich Williams stated correct.

Chairman McNulty stated so rather than make this something hard to interpret and encompass any kind of site, I thought maybe to make it more site specific to restaurants and fast food restaurants. That if a fast food restaurant or restaurant emits and emissions or order or nuisance or noise within "x" amount of distance of a residential area, excluding mixed use, they would be responsible to mitigate that and stay within...not create that nuisance. And be specific to restaurants and fast food.

Rich Williams stated well, you certainly could put something in the Code under the section that has to do with the criteria for site plan review to say if, you know, anything is going to emit some sort of bad odor, produce some sort of...

Chairman McNulty stated but the...

Rich Williams stated impact to the neighborhood that it has to mitigated or eliminated.

Chairman McNulty stated yeah. I think...

Rich Williams stated similar to...We have that requirement in certain sections now. But it's not all encompassing; it doesn't encompass restaurants. We certainly can add that in but that is part of the criteria

the Planning Board would review when they are reviewing a site plan application. What I'm trying to do based on issues that Dede has brought to light, as well, you know, some guidance from the Town Board, is to provide better internal triggers for when a business comes in where there might be a potential impact that needs to get back to the Planning Board for a review.

Chairman McNulty stated create that trigger...

Rich Williams stated right.

Chairman McNulty stated so it comes back to us.

Rich Williams stated right.

Chairman McNulty stated and that's what I understand. But I don't see that...we could change the Code, but I don't know if that creates the trigger. So my thought was if we don't have a trigger, say it goes from like...My example was a Mexican restaurant or a yogurt shop/ice cream shop to a Mexican restaurant or some other restaurant.

Rich Williams stated mmhmm.

Chairman McNulty stated it's not really a change of use. It's still a restaurant of some sort, correct. So there's no real trigger mechanism to send it back to us to look at it because there's not a change of use. That's why my thought was if we modify the definitions, that even if it wasn't a change of use but they created an annoyance or a nuisance of some sort with the new operation...

Rich Williams stated but you can't...

Chairman McNulty stated then that's the trigger for the Code Enforcement to say, listen you have to mitigate this.

Rich Williams stated you can't go after somebody after the fact. You can't say, jeez, initially it's okay for you to make an investment in the building, you know, dump \$50,000, dump \$100,000 into a building and then start operating, find out there's an impact and say oops, we made a mistake. Now you got to go back and you may lose your business. That's, to me, not reasonable. You want to have a trigger right up front whereby somebody...When they first come in the door and they say, jeez I want to occupy this building. And this is what I want to do there, that you have something in the Code that says well based on what you're going to do, there's no additional parking required, there's no additional wastewater be generated. There's no additional groundwater being withdrawn in excessive quantities. There's no additional lighting. There's no additional loaders.

Chairman McNulty stated so it's basically a new site plan assessment.

Rich Williams stated it's basically an internal assessment to see if there's a need to amend the site plan to address issues.

Chairman McNulty stated well, that's when it goes back to you have a restaurant facility of one type. Goes out of business, landlord rents it to another person who wants to run a restaurant of a different type.

Rich Williams stated right.

Chairman McNulty stated how are they going to know to come into the Town.

Board Member Ladau stated yeah.

Chairman McNulty stated that's where the...There's no real trigger there.

Rich Williams stated they almost always come back into the Town...

Chairman McNulty stated it's the almost part, though.

Rich Williams stated for something. Well, yeah. I mean, they don't always. I can't guarantee that they're always going to come in. But typically, they're going to be doing some sort of renovations. They're going to come into the Building Department and say do I need a building permit.

Chairman McNulty stated that part I...

Rich Williams stated they're going to have to change the sign. They're going to have to come in for a sign permit.

**Dede Lifgren** stated may I interject.

Chairman McNulty stated mmhmm.

**Dede Lifgren** stated I'm just using our situation as an example. So, they changed from a pizzeria to a barbeque. And off...In the beginning, it didn't seem like there was any significant change...

Chairman McNulty stated sure.

**Dede Lifgren** stated right. Restaurant to restaurant. But in so doing they changed fans. They went to a utility fan. They changed the walk-in freezer so that the compressor was on all the time. And they changed the process that all the sudden rather than cooking during the day for meals for dinner and closing down, they had a new process that required them to cook 24 hours a day. So within the restaurant definition, they were still a restaurant, but the significantly changed all those things, none of which apparently required any supervision from the Planning Board. And so, I guess, the situation would be that a business would have to come forward and state what they're doing. Yes, it's a restaurant in my mind. But the operation of the restaurant or what they're doing, is it significantly changing from before. So, are they changing ovens. Are they putting in smokers. Are they changing from one thing to the next...

Chairman McNulty stated mmhmm.

**Dede Lifgren** stated that would cause an impact. That's number one. And then, as I see it, even if those triggers are caught or if they're not because they we're significantly explained, let's say, in my letter I also said what's significant is that after the fact should impacts occur as it now they resident next door has absolutely no recourse. We were, you know, we not only have the impacts of smelling barbeque all day long, but all night long and all night long during the summer.

Chairman McNulty stated mmhmm.

**Dede Lifgren** stated and we went to the Town and the Town said there's nothing we can do. And so I, you know, I would suggest that there's something built in that says if there is significant, you know, impact

from such and such and such, even though we thought there wouldn't be because we didn't think there was any significance, if there's access odor or smoke, or whatever, there...it has some kind of ways to impact...I mean to remediate the impact..

Chairman McNulty stated sure.

**Dede Lifgren** stated for the neighbor.

Chairman McNulty stated we need a way after the fact to be able to...

Board Member Ladau stated yeah.

Chairman McNulty stated mitigate the problem.

**Dede Lifgren** stated exactly.

Chairman McNulty stated that's why I had recommended to Rich that we change the definition somehow but you're saying now it's not fair to go back. But if...Is it...

**Dede Lifgren** stated but this is beforehand.

Chairman McNulty stated yeah. I understand.

**Dede Lifgren** stated that if...yeah.

Chairman McNulty stated we would...The optimum way to do it would be trigger beforehand to get the review. Hopefully amongst us we would have enough knowledge of the operation to say, okay, you're not going to impact, you are going to impact.

**Dede Lifgren** stated right. So...

Chairman McNulty stated but the problem we see in this Board all the time is everything's after the fact because...

**Dede Lifgren** stated right.

Rich Williams stated well...

Chairman McNulty stated they don't come to the Board.

Rich Williams stated it's...It's...

Chairman McNulty stated they don't read the Code.

Rich Williams stated it's a matter of internal process that we need to work on.

Chairman McNulty stated mmhmm.

Rich Williams stated alright. And I'm going to give you, you know, the two examples. I had a barbeque place that wanted to open up in a diner. I asked for a detailed explanation of what they were going to do.

When I got it they identified that they were going to put a smoker on the site. And I said at that point you're going to need site plan approval and it's not likely you're going to get it because of the impacts. They ended up going to Wingdale.

Chairman McNulty stated okay.

Rich Williams stated when Big W's came in...Not Big W's.

**Dede Lifgren** stated Triple B.

Rich Williams stated Triple B came in, you know, Nick [Lamberti] reviewed it. You know, he talked to them a little bit and he said, well, it's going to be a barbeque. You know, it was a restaurant. It's going to be a restaurant. There's no impact. Didn't get a lot of information. Didn't take a hard look.

**Dede Lifgren** stated and I don't think the smokers and the process and the...

Chairman McNulty stated was explained.

**Dede Lifgren** stated duration was any of that probably, I'm guessing.

Board Member Ladau stated well.

**Dede Lifgren** stated it was probably not even mentioned.

Rich Williams stated well, Nick never saw any of that until after the fact, you know.

Board Member Ladau stated let me ask a question. I...

Rich Williams stated there was somebody else looking at it.

Board Member Ladau stated I seem to remember, and I could be wrong, but somewhere in our Code, Building Codes, there's a prescription against flood lights that will invade, for a want of a better word, but will be visible from adjoining properties where it would be a problem.

Rich Williams stated residentially.

Board Member Ladau stated residentially.

Rich Williams stated yeah.

Board Member Ladau stated and even in terms of business and...

Rich Williams stated well actually, business, too.

Board Member Ladau stated yeah.

Rich Williams stated yeah.

Board Member Ladau stated is this not an extension of that kind of thing with a spotlight that what you're doing is that you're introducing another piece of interference and quiet and peaceful possession...

Rich Williams stated sure.

Board Member Ladau stated i.e. smell and noise.

Rich Williams stated you're saying...yes.

**Dede Lifgren** stated we have that, too. The thing is is that, I guess, I guess it doesn't compute that we cannot have restful time during the night. And I'm just shocked that the Town can't help us with that. There's just...it's just not fair that 24 hours a day and while we sleep we have to smell barbeque. It's bad enough during the day but when you wake up at 3 o'clock in the morning smelling barbeque it's just not fair.

Chairman McNulty stated I...

**Dede Lifgren** stated and we hear the fan and that activity goes on all day long and it seems to me that we're in a catch 22 because what's in the Code doesn't help us. What's not in the Code what's...doesn't help us. And the other things that are in the Code doesn't help us either. So, we're like in limbo. And when I proposed that...or I suggested changing the Code and putting my two cents in, I think that...Of course this effects everyone in Patterson but, you know, selfishly, even if this was business to go...out of business, by what the Code says now the next one could come in and smoke fish all day long and we would still have the same problem.

Chairman McNulty stated yeah.

**Dede Lifgren** stated and there's nothing in the Code that says that you can't process all night long. And again, this restaurant is only 70 feet from my house. I mean, most of the properties...

Chairman McNulty stated yeah.

**Dede Lifgren** stated are larger than that and I...We cannot open our windows...

Chairman McNulty stated see, some of that poses the problem...

Ted Kozlowski stated don't we have in our Code something called public nuisance.

Chairman McNulty stated when you live next to a commercial area. Like I live next to the train...

Rich Williams stated yeah, it's...

Chairman McNulty stated bought here 30 years ago.

Rich Williams stated it doesn't trigger any issues on this.

Chairman McNulty stated it was a bud car. Train would go by and you...

Ted Kozlowski stated why not.

Rich Williams stated because it doesn't.

Chairman McNulty stated never heard it. Well now there's a siding there...

**Dede Lifgren** stated right. It escalates and escalates.

Chairman McNulty stated and they idle for 20, 40 minutes at a time.

Ted Kozlowski stated if it's interfering for quality of life, wouldn't that...

**Dede Lifgren** stated well, when we first went in there was no...It wasn't approved for restaurants and it has...

Rich Williams stated not under our Code.

Chairman McNulty stated yeah. So it's...And I know there's some history with that property about how the zoning went.

Rich Williams stated if they're impacting her quality of life then she can sue civilly.

Chairman McNulty stated but unfortunately part of the problem is when you live next to adjoining zones, that's part of the risk.

**Dede Lifgren** stated right.

Chairman McNulty stated just like the people at Patterson Crossing that lived up on the back they objected strongly but at the same point, it's two zones that meet together. The person that owns...

Board Member Ladau stated yeah but Tom, I...

Chairman McNulty stated and the zoning...But you shouldn't...I agree our Code doesn't catch the annoyance and the nuisance part.

Board Member Ladau stated yeah. I mean, the fundamental concept here is quiet and peaceful possession of property.

Chairman McNulty stated yeah.

Board Member Ladau stated and I don't see why or how something...An activity in a commercial zone should not be in any way allowed to impact, adversely impact, a residential use in...adjacent to it. It makes no sense.

Chairman McNulty stated I agree. In a nuisance kind of way. I mean, they can adjoin and be in...

Board Member Ladau stated right.

Chairman McNulty stated harmony, but...

**Dede Lifgren** stated well, we had one for 25 years next door and...

Chairman McNulty stated and you never had a problem.

**Dede Lifgren** stated and we never had a problem.

Board Member Ladau stated yeah.

**Dede Lifgren** stated and may I say that if I had a party and had...cooked barbeque all night long and had a fan blowing onto someone's next door property, I would have a sheriff there saying, you know, you can't...

Board Member Ladau stated can't do it.

**Dede Lifgren** stated you can't do this and my next door neighbor.

Chairman McNulty stated and I sympathize with you. I understand what you're saying. It's just a matter of...

**Dede Lifgren** stated how do we deal with it...

Chairman McNulty stated how do we implement it...

**Dede Lifgren** stated right.

Chairman McNulty stated and get that trigger so we know. That's why I recommended we change the definition and...Or...I went back to the research and development that was amended in...

Rich Williams stated correct.

Chairman McNulty stated 2010 the put restrictions on research and development and thought we could put similar restrictions on fast food and restaurants so they aren't a nuisance.

Board Member Ladau stated but it doesn't even have to be restricted to fast food and restaurants.

Rich Williams stated right.

Chairman McNulty stated well that's how our Code is broken up.

Board Member Ladau stated yeah, but I mean...

Rich Williams stated yeah, but that's what I'm saying. You don't want to just restrict it to restaurants or fast food...

Board Member Ladau stated yeah.

Rich Williams stated you want to identify those areas of potential impact...

Board Member Ladau stated yeah.

Rich Williams stated and put them as criteria within the site plan review procedures so that, you know, somebody coming the Planning Board has the ability to say wait a minute, this is going to produce a very negative impact you're not going to be sufficiently able to mitigate therefore you're not going to get an approval.

Chairman McNulty stated yeah, but...

Board Member Ladau stated Rich, let me ask a question because the Eveready Diner in it's...

Rich William stated mmhmm.

Board Member Ladau stated earlier iteration was a Mexican restaurant...Oh yeah.

Chairman McNulty stated yeah, when it first opened.

Rich Williams stated no...

Ted Kozlowski stated yeah, Sol...

Rich Williams stated I don't remember that.

Board Member Ladau stated yeah.

Chairman McNulty stated yeah, Fiesta Sol or something.

Board Member Ladau stated and as far as I know...

Rich Williams stated oh, yeah. I remember. Now I do remember that.

Board Member Ladau stated yeah, it bombed early and quickly but be that as it may...

Chairman McNulty stated yeah, my boss built it, didn't get paid.

Board Member Ladau stated as far as I know and in talking to the guy that manages it, they really...I don't think they were even required to have a building permit because they didn't make any substantial alterations to the interiors other than some paint and some light fixtures...

Rich Williams stated right.

Board Member Ladau stated so you have a situation like this where it started out as a pizza joint, it became a barbeque joint but they...I don't see where they would have been required to make any kind of alterations that would have put that in front of either the Building Department or us. So you're right back to square one. I mean, somehow or other what they've done, other than a fan blowing but, you know, hell, I don't think you need a building permit to out in a fan unless...You do.

Rich Williams stated yeah. If it's a big commercial fan like they've got.

Board Member Ladau stated well, but...

Chairman McNulty stated there's...I don't know if there's...

Board Ladau stated it's the notion of the big...

Chairman McNulty stated if there's no structural alterations, I don't think you would need a building permit.

Board Member Ladau stated I agree with Tom on that.

Rich Williams stated I don't know if I agree.

Chairman McNulty stated if you're not structurally altering the building I...

Board Member Ladau stated that's right.

Chairman McNulty stated don't believe you need a building permit.

**Dede Lifgren** stated well, therein lies the issue, too. I mean, what size fan is too big for something 70 feet from someone's house.

Chairman McNulty stated again, that might be the Health Department when they review the kitchen layout because any restaurant would need Health Department approval even if it changed use, correct.

**Dede Lifgren** stated according to the Health Department...

Board Member Ladau stated but even...

**Dede Lifgren** stated when I talked to them, they were only concerned about the emissions out of the... what came out.

Board Member Ladau stated and that assumes major changes to the restaurant. If they're not changing equipment other than a fan...

Chairman McNulty stated well, I think any proprietor would need Health Department approval with...

Board Member Ladau stated yeah, but that's...

Chairman McNulty stated with a change.

Board Member Ladau stated I...

Rich Williams stated I could be wrong but I'm pretty sure they pulled a building permit for all the renovations, the changes to the kitchen...

Chairman McNulty stated well, they may have.

Board Ladau stated they may well have. I'm not dealing with this situation specifically. I'm just saying that in the general sense I could see where you could change the type of restaurant from one to another without going for a building permit and consequently not coming in front of the Planning Board because there have been no changes.

Chairman McNulty stated that's why I think we need something that has some meat for...

Board Member Ladau stated yeah.

Chairman McNulty stated after the fact. That was my...

Board Member Ladau stated that's...

Chairman McNulty stated point to...

Board Member Ladau stated that's the... Yeah.

Chairman McNulty stated going to change... With your wording, Rich, I understand what you're trying to achieve here, I just find it the way it's written on 154-77 difficult to interrupt. It's very broad the...

Rich Williams stated what's difficult to interpret and maybe we can...

Chairman McNulty stated well...

Rich Williams stated clarify it. Let's start off.

Chairman McNulty stated yeah.

Rich Williams stated it says:

“The owner of any building or site is required to notify the Code Enforcement Officer and the Planning Department of any proposed change in the use of said building or any change in the site plan or improvement shown thereon, or any change in the type of business, or any substantial change in the hours of operation or any change in the potential for emissions, odor or noise from the proposed business.”

Board Member Ladau stated yeah.

Rich Williams stated so, somebody...

Board Ladau stated that's had last...

Rich Williams stated somebody wants to do a change to their business, change to the building, change to the site plan and pretty much conform...

Chairman McNulty stated but the only...

Rich Williams stated they're required to notify us.

Chairman McNulty stated I understand.

Rich Williams stated now if they don't notify us and they go ahead and do it then...

**Dede Lifgren** stated then they're in...

Rich Williams stated all bets are off.

Board Member Taylor stated then you have a...

Chairman McNulty stated but the phrase: “or any change in the potential for emissions, odors and noise”.

Board Member Ladau stated yeah.

Rich Williams stated correct.

Board Member Ladau stated that's...

**Dede Lifgren** stated well, that would cover...

Chairman McNulty stated well, what...How do you determine how much change and what kind of change.

Rich Williams stated any change.

Board Member Taylor stated any change.

Rich Williams stated yeah, see it's got to be somewhat...

Chairman McNulty stated see, I could find out that I could...

Rich Williams stated it's somewhat subjective but you know...

Chairman McNulty stated well, it is and that's where the difficulty I have with it because it could be taken either way at that point. It could...

Board Member Taylor stated it doesn't go either way...

**Dede Lifgren** stated but isn't it a report of a change, not necessarily that it would be a problem but that it triggers the possibility of reviewing it.

Chairman McNulty stated well, I'm saying you legitimately have a problem. There's no doubt for...We've known about it. But there are people that if the fan ran for 20 minutes between 9 and 9:30 at night, are going to have a problem. Is that a problem then. If somebody comes forward and says this fan runs for a half hour ever night, I can't take it.

Board Member Taylor stated well, that's for us and the Building Department...

**Dede Lifgren** stated right.

Board Member Taylor stated to determine.

**Dede Lifgren** stated right.

Rich Williams stated correct.

Board Member Taylor stated they have to come to us...

**Dede Lifgren** stated at least it's voiced, too...

Chairman McNulty stated I understand and that's where it becomes would you consider it a problem.

Board Member Taylor stated it doesn't matter what I would consider at this point.

Chairman McNulty stated well, you're part of the Board.

Board Member Taylor stated all he's trying to do is get them before the Board.

Chairman McNulty stated alright...

**Dede Lifgren** stated for it to be...

Board Member Taylor stated and once they're here...

Chairman McNulty stated and I understand that. I'm worried about when it gets to the Board.

Rich Williams stated and un...Wait.

Chairman McNulty stated because we have all these grey areas now that were...are broad and we can't...

Board Member Taylor stated it's another grey area, I think.

Board Member Ladau stated yeah.

Rich Williams stated so to be clear, I'm not trying to get it before the Board. I'm trying to get it before the Town...

Board Member Taylor stated Town.

Rich Williams stated so somebody...

Board Member Taylor stated somebody.

Rich Williams stated can assess the impacts.

Chairman McNulty stated mmhmm.

Rich Williams stated and if there is a finding that there potential impacts, then get it before the Board.

Chairman McNulty stated so we get stuck with making the wrong call.

Rich Williams stated so you get...no. Because you have the ability to approve through a resolution the site plan or any changes to the site plan.

Chairman McNulty stated no, I understand.

Rich Williams stated and in doing that, you can mitigate any potential impacts. Administrative officials can't really mitigate impacts unless they're black and white in the Code and generally that's all laid out in the Building Code.

Chairman McNulty stated okay.

Rich Williams stated so, we can't mitigate. You can, by your approval authority, mitigate those impacts.

Chairman McNulty stated now, just to play another scenario: restaurant changes and the neighbor comes in and says listen, there's been a big change. And the restaurateur or proprietor of the business says there hasn't been any significant change.

Board Member Ladau stated yeah.

Chairman McNulty stated now you get into a battle.

Rich Williams stated we get to review it. If we feel that there has been a significant change, it's in violation of our Code.

**Dede Lifgren** stated at the very least say if...

Chairman McNulty stated it gets us...

**Dede Lifgren** stated significant change in impact from that...

Chairman McNulty stated it gets us here.

**Dede Lifgren** stated change.

Chairman McNulty stated I'm just thinking down the line when it gets to us because we've got a lot of issues that come to us that we get stuck on.

**Dede Lifgren** stated I get it.

Chairman McNulty stated and I want to make it as clear as possible...

Board Member Ladau stated yeah.

Chairman McNulty stated so we can get it done.

Board Member Ladau stated in some cases it would make sense if you could do it prescriptively which is to say you can limit the number of decibels of noise, etcetera, but I don't know how you deal with it in terms of odor.

Board Member Taylor stated don't we have something about odor somewhere.

Chairman McNulty stated that as soon as I get out of the car tonight...

Board Member Taylor stated industrial buildings or commercial buildings.

**Dede Lifgren** stated it doesn't apply to restaurants, though.

Rich Williams stated yeah, it doesn't apply to restaurants. And that's where I was going with we could put that same verbiage in so it covers everything.

Board Member Taylor stated okay, then that's... Yeah. Then we...

**Dede Lifgren** stated if the retail store was in that same place they couldn't do it. But the restaurants somehow has a...

Board Member Taylor stated yeah, but we do have something. We have criteria...

**Dede Lifgren** stated yeah.

Board Member Taylor stated that...

Rich Williams stated yes.

Board Member Ladau stated oh, okay.

Board Member Taylor stated yeah, okay. So we've got that.

Board Member Ladau stated alright.

Rich Williams stated so we've got that.

Board Member Taylor stated so that takes care of some of the grey area at least.

Chairman McNulty stated yeah. I just worry about that person that has a grudge or a chip on their shoulder and is going to make a stink or an uproar over something that is possibly...they do have odor...

Board Member Taylor stated yeah.

Chairman McNulty stated but becomes unfair to that restaurateur or that person. So you have to think about it in both directions.

Board Member Taylor stated well, but that's for us to weigh. I mean, we're put in that situation all the time which I don't like either...

Chairman McNulty stated yeah.

Board Member Taylor stated but at least there's somebody dealing with it.

Rich Williams stated right.

**Dede Lifgren** stated may I say that in the...what you read that the...I had also suggested that the hours of operation sort of can work both ways. When one says hour of operation, does that mean the hours posted to be opened or is it the hours that they're operating...

Board Member Ladau stated yeah.

**Dede Lifgren** stated inside. And that's where we have the problem. And I'm just using this again, as an example. So the hours of operation say that they close hours ahead of time but they are still operating within the restaurant all night long.

Board Member Ladau stated well that's true not only of restaurants but bakeries, for example, that regularly...

Chairman McNulty stated yeah.

Board Member Ladau stated bake from 2 o'clock in the morning until when they open,

Rich Williams stated right.

Chairman McNulty stated yeah, I would think hours...

Board Member Ladau stated and they...

Chairman McNulty stated of operation's any time you're operating.

Board Member Ladau stated well...

Chairman McNulty stated if you're cooking you're operating.

Rich Williams stated right, but...

**Dede Lifgren** stated I think the average definition...

Rich Williams tatted but Dede's right: the ZBA did agree with Dede's language. I do agree with Dede's language. I've just got to figure out how to write it in the Code so that we define what hours of operation means.

Board Member Ladau stated yeah.

Chairman McNulty stated is there a definition now...

Rich Williams stated no.

Chairman McNulty stated hours of operation.

Board Member Ladau stated no. Or hour hours of relevant activity almost. Business activity, relevant.

Rich Williams stated something. Yeah.

Board Member Taylor stated it...

Chairman McNulty stated did they get the bamboo approved: the code on bamboo.

Rich Williams stated they did.

Chairman McNulty stated if they can do that, we could do anything.

[Laughter].

Rich Williams stated really.

Chairman McNulty stated I don't think that would be a pretty sensitive issue, bamboo. How do you stop in from growing. I mean, they say it just keeps going and going.

Board Member Taylor stated go out there and muck it out, year after year after year. Throw everything you can at it until it finally dies.

[Laughter].

**Dede Lifgren** stated if I could just add one more thing...

Chairman McNulty stated mmhmm.

**Dede Lifgren** stated is, again, this is coming back and I'm just...Permit me, I'm just using our situation...

Board Member Ladau stated no, no.

**Dede Lifgren** stated that, okay, so the Town approved it and it went ahead and it was a restaurant and according to the Town everything is fine. So the impacts come along and we ask the Town to mitigate the impacts and the Town says they, you know, it's been approved, there's nothing that can be done. And so, in my mind there should be some relief for someone to come to the Town and say, well regardless of what was approved, this is now what's happening. And there's...Is there is a way to be able to have the Planning Board, the Town Board, the Zoning Board, review these things if an impact should occur.

Board Member Taylor stated you think that...

Chairman McNulty stated well that's what this Code would do.

Board Member Taylor stated haven't you written that in there.

Chairman McNulty stated in your case, you're in a tough spot because it's before the Code.

Board Member Ladau stated yeah, but...

**Dede Lifgren** stated right.

Board Member Ladau stated one of the things that's been drilled into my head since I started in architectural school is that any board approval or any building department approval does not mitigate responsibility to the professionals who have created the problem. So in other words, I can go...Well, the Excelsior apartment fire in that...in New Jersey recent, the last couple of days...

Chairman McNulty stated mmhmm.

Board Member Ladau stated the big stink there is that though the Code allows this lightweight...

Chairman McNulty stated construction.

Board Member Ladau stated wood construction, that does not get the architect, the engineer, the contractors, the developers, etcetera, off the hook because it was not adequate protection against fire. So are we in a position here, I mean, even though the Town has approved the use, that does not relieve the

owner or the operator of that business of the responsibility of not intruding on the use of your property. I mean, I realize that's a weird kind of negative way approaching...

Chairman McNulty stated that gets into a court issue at that point.

Board Member Ladau stated well, that's sort of where I'm going is that there's a limit to what the Town can do and I'm not trying to duck out from...

**Dede Lifgren** stated yeah.

Board Member Ladau stated the responsibility. But whether this is something that I really...

**Dede Lifgren** stated so you mean after you've reviewed it and after it's approved...I guess I'm coming back to our situation that if it was approved and if it was an unforeseen process or smell or let's say one restaurant came in and the next one, it's the same thing, except for cooking another thing, another...

Board Member Ladau stated well, I guess...

**Dede Lifgren** stated let's say fish, and all of the sudden fish smell gets permeated throughout the neighborhood, well, according to that there's no way...

Board Member Ladau stated no, wait. Dede, I think what I'm saying here is if the approval by the Town...

**Dede Lifgren** stated right.

Board Member Ladau stated whether it be the Planning Board, the Building Department, the Town Board, whatever, does not give the occupant the right to impact the use of your property adversely.

**Dede Lifgren** stated if the odor and...

Board Member Ladau stated then...

**Dede Lifgren** stated if it's put in there, right...

Board Member Ladau stated what. But even if it's not put in there...

**Dede Lifgren** stated then there isn't.

Board Member Ladau stated the Code is a guideline but it is not permissive. It does not allow...

**Dede Lifgren** stated well, I have been...it has been suggested just the opposite.

Board Member Ladau stated well, I'm not sure...

**Dede Lifgren** stated because...

Board Member Ladau stated that's correct. The other way, and Tom's sort of eluded to it, is this really a legal problem. Should this...Should the courts address this problem. Do you need a really nasty lawyer who can go after these people to cease and desist...

**Dede Lifgren** stated well, it would be difficult for us, I think, to try to do a suit against them if the Town...

Chairman McNulty stated because of the Code.

**Dede Lifgren** stated is basically saying that it's okay. And so...

Chairman McNulty stated well, then you have to take it to the next level.

Rich Williams stated no. And you've been advised at the Town Board meeting by the Town Attorney that you may have a case civilly where the Town...

Board Member Ladau stated yeah.

Rich Williams stated you know, Town Code doesn't go far enough...

Board Member Ladau stated that's right.

Rich William stated you know, for you. If you're being impacted.

Board Member Ladau stated that's right.

**Dede Lifgren** stated well, yeah, unless they go out of business and we have to do it all over again to the next person comes in but...

Board Member Ladau stated well, yeah. I mean, that's...

**Dede Lifgren** stated and again...

Chairman McNulty stated well, I think we're...

**Dede Lifgren** stated this issue is because we're so close. This is a nonconforming, you know, it's right next door and...

Chairman McNulty stated but we're going to come to some kind of progress here that would change our Code to help prevent this.

**Dede Lifgren** stated right.

Board Member Ladau stated yeah.

Chairman McNulty stated we're going in that direction. It's just a matter of...

Ted Kozlowski stated but that doesn't matter. It's your problem now.

Chairman McNulty stated no, you're in a tough spot...

**Dede Lifgren** stated yeah.

Chairman McNulty stated because what we do now, really, isn't...

Board Member Ladau stated it's after the fact.

Chairman McNulty stated it's after the fact. It's not going to help you.

**Dede Lifgren** stated just to be clear, it...and I agree. But just let me stating it just to make sure that anything that gets done within this zoning...the zoning codes if they get changed, will have no impact on the existing...

Chairman McNulty stated no the way I understand it.

Board Member Ladau stated yeah.

**Dede Lifgren** stated is that right.

Board Member Ladau stated yeah.

Chairman McNulty stated that's the way I understand it. Is that right, Rich. Yeah.

Rich Williams stated for the most part.

Board Member Ladau stated yeah.

Chairman McNulty stated that's where, you know, in your case, you're looking at some kind of suit to see if you can...

Board Member Ladau stated mmhmm.

Chairman McNulty stated directly with that owner.

Ted Kozlowski stated yeah, your quality of life is being affected. It's...

**Dede Lifgren** stated I...

Ted Kozlowski stated and...

**Dede Lifgren** stated I'm shocked. I'm really shocked. I mean, when you wake up at 3 o'clock in the morning...

Chairman McNulty stated mmhmm.

**Dede Lifgren** stated thinking that, oh my god I left the oven on...

Board Member Ladau stated oh god.

**Dede Lifgren** stated you can't...You know, you can't leave the windows open in the summer. We just can't believe it. We cannot believe it.

Chairman McNulty stated you're neighbors affected, too. Are you...Because...

**Dede Lifgren** stated well...

Chairman McNulty stated are the houses close there.

**Dede Lifgren** stated okay, so we have a little problem on our street because there's three houses that are for sale and they don't want to go near this because they don't...

Board Member Ladau stated oh, sure.

**Dede Lifgren** stated want to declare a thing.

Chairman McNulty stated oh.

**Dede Lifgren** stated and there's...it comes...

Board Member Ladau stated although the brokers are required to...

**Dede Lifgren** stated you know, the wind comes in one direction and further down the street, you know, they can smell it but it's not an issue...

Chairman McNulty stated it's not in their backyard.

**Dede Lifgren** stated that they want to pursue. We're right next door so of course...

Board Member Ladau stated not for nothing, but you may want to send letters to the brokers handling the sale of those properties notifying them that there is a problem with noise and odor and so...

Chairman McNulty stated yeah, but...

Board Member Ladau stated odor and so on and so forth because...

Chairman McNulty stated you want to be friends with your friends there, right.

Board Member Ladau stated because...

**Dede Lifgren** stated they're going to be my next door neighbors.

Board Member Ladau stated no, no, no, no. Because the brokers are required...

**Dede Lifgren** stated oh, wow.

Board Member Ladau stated to let potential buyers know this.

**Dede Lifgren** stated I...

Board Member Ladau stated I mean...yeah.

**Dede Lifgren** stated I appreciate it. I didn't want to talk about this particular problem...

Chairman McNulty stated yeah.

**Dede Lifgren** stated because I know that's not an issue...

Board Member Ladau stated yeah.

**Dede Lifgren** stated but I can't tell you how stressful it's been.

Board Member Ladau stated I can imagine.

**Dede Lifgren** stated it's like...

Chairman McNulty stated no...

**Dede Lifgren** stated it's like a constant reminder you can't get away from and...

Chairman McNulty stated I feel that way when the train idles...

**Dede Lifgren** stated yeah.

Chairman McNulty stated in my backyard.

**Dede Lifgren** stated like...right. You can't get away from it...

Chairman McNulty stated it's not constant though.

**Dede Lifgren** stated if it goes inside your house...

Board Ladau stated yeah.

**Dede Lifgren** stated and stuff. You just can't get away from it.

Chairman McNulty stated yeah, so...

**Dede Lifgren** stated I'm sorry. I didn't mean to...

Chairman McNulty stated okay, I have not...

**Dede Lifgren** stated go into it.

Chairman McNulty stated I just got your letter tonight. I haven't read it yet.

**Dede Lifgren** stated I appreciate you looking at that.

Chairman McNulty stated what does everybody feel. Did everybody get to look at Rich's notes and how he's...

Board Member Ladau stated yup.

Chairman McNulty stated changed the Code on this 154-77.

Board Member Taylor stated I just picked them tonight.

Chairman McNulty stated so...

Board Member Ladau stated I think that it's the notion of emphasis that there's...I agree with the way you've worded it. Is there some way, either in terms of positioning bold face type whatever it takes, to really make that issue stand out. That it goes well beyond the physical changes; that there can't be environmental changes as a result of a different use or a different occupancy.

Rich William stated I...No. It...As far as bold facing it, that's not going to make...

Board Member Ladau stated no, I...

Rich Williams stated a difference.

Board Member Ladau stated yeah.

Rich Williams stated that is more in tune with the internal policies of procedures and making sure that...

Board Member Ladau stated okay.

Rich William stated the staff is adequately trained so that...

Board Member Ladau stated okay. Fair enough.

Rich Williams stated you know...

Chairman McNulty stated yeah.

Rich Williams stated so that they deal with these issues.

Board Member Ladau stated mmhmm.

Rich Williams stated something we've not done very well in the past.

Board Member Ladau stated yeah.

Ted Kozlowski stated Dede, can I ask you a question. In your analyzing this problem with you house and by the way, this is the lady that lives across the street from Mr. Danial. So she had to...

Chairman McNulty stated oh.

Ted Kozlowski stated she had to breath in oil...

Chairman McNulty stated diesel.

Ted Kozlowski stated oil fumes for weeks.

**Dede Lifgren** stated it's been a hard couple of...

Ted Kozlowski stated is there a scrubber that can eliminate the odor as it comes out of...

Board Member Ladau stated yeah.

Ted Kozlowski stated the exhaust. And is there some way that you can have a discussion with the owner of that.

**Dede Lifgren** stated well, I believe there was a discussion with him and the price would be prohibitive...

Board Member Ladau stated yeah.

**Dede Lifgren** stated for him to do that. And don't forget, I don't think the exhaust is above the ridgeline either, and so I think if you stand right underneath you're not going to, you know, smell as much as what's happening as it leaves...

Board Member Taylor stated downwind.

**Dede Lifgren** stated and we're right next door and that's the prevailing winds and...

Board Member Ladau stated yeah.

**Dede Lifgren** stated that's the way...

Board Member Ladau stated Ted, to answer your question, there are odor attenuators.

**Dede Lifgren** stated right.

Board Member Ladau stated but they are unbelievably expensive.

**Dede Lifgren** stated I wish we could do something...

Ted Kozlowski stated really.

Board Member Ladau stated yeah.

**Dede Lifgren** stated for it and I thought of every way we could attack it from our...but there's nothing that would stop...

Board Member Ladau stated no.

**Dede Lifgren** stated the smell. The sound, possibly. But...

Board Member Ladau stated yeah.

**Dede Lifgren** stated we can't go up that high. So, you know, I don't know.

Board Member Ladau stated well, you can introduce sound attenuation in our house, the so called white noise. They do this all the time whether some people like it, some people don't. But the real issue in terms of smell, there's nothing you can do at your house. It would have to come on the...

**Dede Lifgren** stated yeah.

Board Member Ladau stated side of the exhaust fan.

Ted Kozlowski stated yeah, that would have to come from the exhaust fan.

Board Member Ladau stated yeah.

**Dede Lifgren** stated and, if I could, I just have one more question. I don't know if this applies as far as the definition of the restaurant. Okay, so another issue we have is that we believe that much of the impact is coming because they are catering. And the catering issue is that they're running different jobs at state fairs and stuff where you have hundreds and hundreds of meals, and I think this is what's requiring them to run on a 24 hour basis because when they stopped, cooking during the night stopped, too.

Board Member Ladau stated yeah.

**Dede Lifgren** stated so my question to the Board, as I put it, is that my...I had asked the Board to assess their business because our contention is they're really a catering...because they're closed now as a restaurant.

Board Member Ladau stated mmhmm.

**Dede Lifgren** stated and they have a sign up that says if you want catering, you know, to call us but we're not opening the restaurant. And we believe that it's clearly, really, a caterer...

Board Member Ladau stated yeah.

**Dede Lifgren** stated which is not a permitted use in that zone. However, I'm asking you if that is like a further definition that has to be put in there, that the preponderance of, well, how much of the catering...and I understand that an aspect of catering is involved in most restaurants, but the question is at what point is...does...

Chairman McNulty stated does the...

**Dede Lifgren** stated catering teeter into catering and not into restaurant. And so I don't know if that is a definition that should go in there. Or is something...

Board Member Ladau stated I don't think that's going to give you the relief...

Chairman McNulty stated I think...

Board Member Ladau stated you're looking for. I mean...

Chairman McNulty stated yeah, but I know what you're saying but...

Board Ladau stated I'm a vegetarian so I'm the wrong one to say this but as I understand it with barbeque it...the smoking is something that goes on for extended periods of time...

**Dede Lifgren** stated except that when they...

Board Member Ladau stated 24 hours a day.

**Dede Lifgren** stated when they're just doing the restraint they only smoke during the day. There's no necessity for the volume to cook 24 hours, all day and night.

Board Member Ladau stated but I think that with barbeque, don't you have to...I mean, I...there are all kinds of people on Route 22 and they're smokers seem to be going nonstop for...

Rich Williams stated yeah, I understand...

**Dede Lifgren** stated at least that's during the day. It's not all through the night.

Board Member Ladau stated I think it goes at night, as well.

Chairman McNulty stated yeah. Any barbeque is going 18 hours to barbeque meat.

Board Member Ladau stated yeah, I don't know.

**Dede Lifgren** stated well, I can only go from what we've seen.

Chairman McNulty stated yeah.

Board Member Ladau stated yeah.

**Dede Lifgren** stated when their summer catering stopped, because we know from their website where there doing it, and they're doing it at state fairs and stuff. And when that stopped for the summer, it didn't...

Board Member Ladau stated yeah.

**Dede Lifgren** stated cook during the night anymore. So, that seems...

Board Member Ladau stated yeah.

**Dede Lifgren** stated to be an issue for us, is the volume and the volume that they're...

Board Member Ladau stated yeah.

**Dede Lifgren** stated from the catering. And so I don't know, again, I just...

Chairman McNulty stated some of the things we have to weigh is not to be overly restrictive...

**Dede Lifgren** stated I get it.

Chairman McNulty stated because restaurants and catering kind of come hand in hand, but our restaurant definition, this is the actual definition in your notes, I believe, states they have to substantially sell a portion of the food and beverages are sold to patrons at a drive-up window or accepted drive-up window.

Rich Williams stated is that take out.

Chairman McNulty stated customer seated...

**Dede Lifgren** stated take out.

Chairman McNulty stated within the building. So...

**Dede Lifgren** stated well, I brought that to the Town Board and they will dismiss that definition in saying that, you know, yes they can cater. But the question is how much catering makes it a caterer...

Board Member Ladau stated but Dede, that...

**Dede Lifgren** stated which is not an allowed...

Board Member Ladau stated yeah.

**Dede Lifgren** stated in that...

Board Member Ladau stated but let's assume for the sake of argument that their catering involved only the making of bologna sandwiches...

**Dede Lifgren** stated right.

Board Member Ladau stated which they sliced and they didn't...

**Dede Lifgren** stated right.

Board Member Ladau stated make the bologna, it would not impact you at all.

**Dede Lifgren** stated I agree.

Board Member Ladau stated so, that...

**Dede Lifgren** stated so, it's the volume and the amount of catering that is exactly the issue. Then...

Rich Williams stated how did...and I understand what she's saying and certainly there's a consideration right now for changing the definition of restaurant and...

Board Member Ladau stated yeah.

Rich Williams stated take, you know fast food restaurant.

Chairman McNulty stated mmhmm.

Rich Williams stated to account for the fact that it is typical of restaurants that, you know, most of them do catering, most of them do takeout food. You know, go to Rocco's, you pick up...

Chairman McNulty stated sure.

Rich Williams stated pizza. You go up to Abruzzi's...

Chairman McNulty stated something you eat you can sit here or take out.

**Dede Lifgren** stated right.

Rich Williams stated yeah.

Board Member Ladau stated yeah.

Rich Williams stated but, you know, to better define the fact that they can do that, but if they're doing that it is clearly an accessory use, meaning that it is incidental and subordinate to the primary use of there being a restaurant where people come in and sit and eat.

Chairman McNulty stated it falls into that gas station category with the service. Isn't a gas station have a special...

Board Member Taylor stated use.

Chairman McNulty stated use permit to have a service bay in our Code.

Rich Williams stated no.

Chairman McNulty stated I thought a gas station and a service station are separate. Or is the vice versa.

Rich Williams stated a gas station is defined different from a public garage. So you can come in and get a special use permit for a gas station and/or public garage.

Board Member Taylor stated that's the difference you want.

Chairman McNulty stated yeah.

Board Member Taylor stated yeah.

Board Member Ladau stated yeah, but what you're talking about is like the Mobil station here on the corner where you can go in and they're running what amounts to a delicatessen and small grocery store.

Rich William stated but...

Chairman McNulty stated well...

Rich William stated you can have...Those are two principal uses and you can have both principal uses...

Board Member Ladau stated okay.

Rich William stated on the same site.

Chairman McNulty stated yeah.

Rich Williams stated this is different in the fact that the primary use of Abruzzi's, people coming in and sitting down and...

**Dede Lifgren** stated a restaurant.

Rich Williams stated ordering food at...and consuming it on the premises.

Chairman McNulty stated they still have takeout pizza, too.

Rich Williams stated but they still have takeout pizza.

Board Member Ladau stated mmhmm.

Chairman McNulty stated or meals.

Rich Williams stated now, if 90% of their business is...90% of their income is generated from people coming in and sitting down and consuming the food on the premises, and 10% is take out, well, that 10% is clearly accessory: it's incidental and subordinate to the principal use.

Chairman McNulty stated mmhmm.

Rich Williams stated well, what is the trigger where, you know, if they're doing take out and the volume of take is such that they're making more income from the take out then they are from the people coming in and sitting down, well then the take out business is no longer an accessory use. It's now primary...

Chairman McNulty stated principal.

Rich Williams stated use.

Board Member Ladau stated use. Yeah.

**Dede Lifgren** stated and they're closing down the restaurant to do this. Well, now they're closed altogether. But during the summer they closed down during the week.

Chairman McNulty stated so what we don't have is any kind of definition for a caterer in our Code.

Rich Williams stated we don't have any definition for a caterer and we don't have any definition for, you know...

**Dede Lifgren** stated that criteria.

Rich Williams stated yeah, the criteria: the volume. You know, is an accessory use 20% by volume, 20% by income, you know, 30%, 40%.

Board Member Ladau stated Dede...

Chairman McNulty stated but...

Board Member Ladau stated they've closed the restaurant...

Chairman McNulty stated if they're not creating a nuisance, it's not an issue.

Board Member Ladau stated so that you can't go in there for a meal.

**Dede Lifgren** stated right now the restaurant part is closed.

Rich Williams stated it's always an issue under the zoning. You don't want you're accessory becoming...

**Dede Lifgren** stated they will cater but the restaurant...

Board Member Ladau stated no, I...But...

Rich Williams stated your principal use.

**Dede Lifgren** stated yeah.

Board Member Ladau stated is there some way of claiming that it's now no longer a restaurant but it's light manufacturing.

Rich Williams stated no.

Board Member Ladau stated food manufacturing.

Rich Williams stated yeah, no.

Board Member Ladau stated why not.

Rich Williams stated no. Well, you can say food processing...

Board Member Ladau stated food processing. Okay.

Rich Williams stated but not light manufacturing.

Board Member Ladau stated alright, food processing.

Rich William stated maybe food processing. Maybe it's now a catering facility rather than a restaurant, I don't know. Bob's [McCarthy] going to have to make that determination. The Town Board's going to have to weigh in on this.

Board Member Ladau stated mmhmm.

Chairman McNulty stated yeah, because cater becomes broad. I mean, do they store their materials there. Do they store tables, chairs so they can...Are they truly just catering food or are they catering events.

Rich Williams stated it could be any...

Chairman McNulty stated I mean...

Rich Williams stated any or all of the above...

**Dede Lifgren** stated well, these...

Rich William stated or each of the above.

**Dede Lifgren** stated they're selling...they're cooking to sell at the fairs and stuff.

Board Member Ladau stated mmhmm.

**Dede Lifgren** stated that's a total different concept then...

Board Member Ladau stated yeah.

**Dede Lifgren** stated having Branuzi [referring to Abruzzi] selling a meal to go home and bring...

Chairman McNulty stated and brings up a good point and Bob makes it, is it now a food processing plant rather than...

Board Member Ladau stated and if it's food processing, it's a change of use and it comes before our Board.

Rich Williams stated don't disagree but that's something Bob's got to wrestle with.

Board Member Ladau stated Bob...

Rich Williams stated Bob McCarthy.

Chairman McNulty stated Code Enforcement.

Rich Williams stated Building Inspector.

Board Member Ladau stated oh, okay.

Board Member Taylor stated he's not here tonight. His office is down the hall.

Board Member Ladau stated oh, alright.

Board Member Taylor stated that's why he keeps pointing that way [referring to Rich Williams].

Ron gainer stated that's where they're pointing to.

Chairman McNulty stated if you were looking. Not you, Bob.

Board Member Ladau stated yeah.

Chairman McNulty stated another Bob.

Board Member Ladau stated no. I didn't see the other Bob.

Ted Kozlowski stated Dede, is the smoking done inside the building.

Board Member Ladau stated that was my problem.

**Dede Lifgren** stated well, they did have an exterior smoker which was stopped. But their smoke...It's the same thing, basically, except it's going out of the...

Chairman McNulty stated it's inside the building now.

**Dede Lifgren** stated it's going to (inaudible)...

Board Member Ladau stated yeah.

Chairman McNulty stated they wood fire that. Is that burning with wood.

**Dede Lifgren** stated it's just so strong...

Chairman McNulty stated no, I...

Board Member Ladau stated oh, yeah.

Chairman McNulty stated I'm a fan of barbeque and I know after eating...

**Dede Lifgren** stated alright. Can't even smell it now.

Chairman McNulty stated it all day you stink of it.

Board Member Ladau stated yeah.

**Dede Lifgren** stated you can't even...when you're inside your house you smell it.

Board Member Ladau stated yeah. And I'm a vegetarian so I hate it all together.

[Laughter]

**Dede Lifgren** stated well, that was the first (inaudible) question that was asked.

Chairman McNulty stated so Rich, did you get anything out of this. Do you know what direction to...

**Dede Lifgren** stated well, that was my question.

Chairman McNulty stated I'm kind of...

**Dede Lifgren** stated I'm like where do I...

Chairman McNulty stated where are we at now.

Board Member Ladau stated yeah.

Chairman McNulty stated we want to make a recommendation to the Town Board.

Rich Williams stated Town Board's looking for a recommendation from the Planning Board. So, I have some thoughts listening to everybody about, you know, some of the recommendations that the Planning Board is looking to make.

Chairman McNulty stated mine is...

Rich Williams stated I can start drafting that up and you can take a look at that...

Board Member Ladau stated yeah.

Rich Williams stated and see if that's the correct direction and...

Chairman McNulty stated okay.

Board Member Ladau stated alright.

Chairman McNulty stated you'll address the definitions and what I was saying to you about maybe beefing up the definition of the restaurants.

Rich Williams stated well, you know, the rest of the Board Members anyway.

[Laughter].

Chairman McNulty stated gee, thanks. I'm only the lonely Chairman. I depend on these guys to do all the work which they usually do.

**Dede Lifgren** stated I really appreciate you...

Chairman McNulty stated I learned that from Shawn.

**Dede Lifgren** stated you listening and...

Board Member Ladau stated no. I hope we can help.

**Dede Lifgren** stated spending some time on this.

Chairman McNulty stated yeah, it's a tough issue.

Ted Kozlowski stated good luck.

**Dede Lifgren** stated I know it is.

Rich Williams stated alright. I've got a real quick question for you, personal question.

**Dede Lifgren** stated yeah. Uh-oh.

Rich Williams stated who's Katie. Kathie. Katie.

**Dede Lifgren** stated that's my legal name. Kathie. Never been referred to by that but I still sign...

Rich Williams stated no, but you sent a letter in.

**Dede Lifgren** stated I did.

Rich Williams stated yeah.

**Dede Lifgren** stated I signed it Kathie.

Rich Williams stated yeah.

**Dede Lifgren** stated that was a slip.

Rich Williams stated was it.

**Dede Lifgren** stated are you sure. Really.

Rich Williams stated mmhmm.

Chairman McNulty stated maybe she didn't write it.

Rich Williams stated 1992-93; about a beauty parlor.

**Dede Lifgren** stated what.

Rich Williams stated on a beauty parlor.

**Dede Lifgren** stated about a beauty parlor.

Rich Williams stated about a beauty parlor.

Chairman McNulty stated and we can't vote on the minutes, so...

Rich Williams stated right behind your house.

**Dede Lifgren** stated oh. Well, that's a whole nother issue that... We had an issue with that because, again, that's not... That was not approved...

Board Member Ladau stated it's not a restaurant.

**Dede Lifgren** stated for a beauty parlor.

Rich Williams stated well, yeah. Unfortunately...

**Dede Lifgren** stated and they took a...

Rich Williams stated same situation...

**Dede Lifgren** stated a bulldozer and just made a parking lot back and...right against our fence.

Rich Williams stated mmhmm.

**Dede Lifgren** stated and the water could...

Rich Williams stated that...

**Dede Lifgren** stated but that's a whole nother...

Chairman McNulty stated alright. Does anybody have any other comment tonight on anything.

Board Member Ladau stated no.

Chairman McNulty stated I'll make a motion to...

Board Member Ladau stated adjourn.

Chairman McNulty stated adjourn.

Board Member Ladau stated move.

Chairman McNulty stated second.

Board Member Taylor stated second.

Chairman McNulty stated all in favor. *Motion carried by a vote of 3 to 0.*

Meeting was adjourned at 8:47 p.m.